BILL NO. 32 OF 2026

A BILL

FOR AN ACT TO AMEND THE CONSTITUTION OF THE REPUBLIC OF FIJI, AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Constitution (Amendment) Act 2026.

(2) This Act comes into force on 31 March 2028.

(3) In this Act, the Constitution of the Republic of Fiji is referred to as the "2013 Constitution".

2013 Constitution amended

2. This Act amends the 2013 Constitution by—

(a) repealing all provisions of the 2013 Constitution other than Chapter 10; and

(b) substituting for the repealed provisions the new provisions set out in the Schedule.

Amendment to the 2013 Constitution

3.—(1) The Schedule sets out the new provisions of the Constitution may be published and cited as the Constitution of the Republic of Fiji 2026.

(2) Wherever it may hereafter be neccessary for the Constitution to be printed, it shall be lawfull to omit all parts of this Act apart from the Schedule and the Constitution of the Republic of Fiji 2026 as so printed shall have the force of law notwithstanding the ommission.

(3) For the avoidance of doubt, the Schedule to this Act shall be construed and have effect as part of this Act.

SCHEDULE
(Sections 2(b) and 3)

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(BILL NO. 32 OF 2026)

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CONSTITUTION OF THE REPUBLIC OF FIJI 2026

PREAMBLE

WE, THE PEOPLE OF FIJI,

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

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

ACKNOWLEDGING our unique constitutional history;

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

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

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

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

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

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

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

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

TAKING PRIDE in our common citizenship, our common sense of belonging, and in the development of our economy and political institutions;

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

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

RECOGNISING this Constitution as the supreme law of our country;

WITH GOD AS OUR WITNESS, GIVE OURSELVES THIS CONSTITUTION.

CHAPTER 1—THE STATE AND FOUNDING PROVISIONS

The Republic of Fiji

1.—(1) The Republic of Fiji is a sovereign democratic State founded on the values of—

(a) Christianity and family values;

(b) respect for human rights, freedom and the rule of law;

(c) an independent, impartial, competent and accessible system of justice;

(d) equality for all and care for the less fortunate based on the values inherent in this section and in the Bill of Rights contained in Chapter 2;

(e) human dignity, respect for the individual, personal integrity and responsibility, civic involvement and mutual support;

(f) good governance, including the limitation and separation of powers;

(g) transparency and accountability;

(h) common and equal citizenry and national unity; and

(i) a prudent, efficient and sustainable relationship with nature.

(2) Although religion and the State are separate, the people of the Republic of Fiji acknowledge that worship and reverence for God are the source of good governance and leadership.

Supremacy of Constitution

2.—(1) This Constitution is the supreme law of the State.

(2) Any law inconsistent with this Constitution is invalid to the extent of the inconsistency.

(3) This Constitution is to be upheld and respected by all citizens of Fiji and the State, including all persons holding public office, and the obligations imposed by this Constitution must be fulfilled.

(4) This Constitution must be enforced through the courts, to ensure that—

(a) laws and conduct are consistent with this Constitution;

(b) rights and freedoms are protected; and

(c) duties under this Constitution are performed.

(5) This Constitution cannot be abrogated or suspended by any person and may only be amended in accordance with the procedures prescribed in this Constitution.

(6) Any attempt to establish a Government other than in compliance with this Constitution is unlawful, and—

(a) anything done to further that attempt is invalid and of no force or effect; and

(b) no immunities can lawfully be granted under any law to any person in respect of actions taken or omitted in furtherance of such an attempt.

Principles of constitutional interpretation

3.—(1) Any person interpreting or applying this Constitution must promote the spirit, purpose and objects of this Constitution as a whole, and the values that underlie a democratic society based on human dignity, equality and freedom.

(2) If a law appears to be inconsistent with a provision of this Constitution, the court must adopt a reasonable interpretation of that law that is consistent with the provisions of this Constitution over an interpretation that is inconsistent with this Constitution.

(3) This Constitution is to be adopted in the English language and translations in the iTaukei, Rotuman and Hindi languages, and transcribed into Braille, and made available.

(4) If there is an apparent difference between the meaning of the English version of a provision of this Constitution, and its meaning in the iTaukei, Rotuman, Hindi or Braille versions, the English version prevails.

Religious liberty

4.—(1) Religious liberty is a founding principle of the State.

(2) Religious belief is personal.

(3) Religious liberty means—

(a) the State and all persons holding public office must treat all religions equally;

(b) the State and all persons holding public office must not dictate any religious belief;

(c) the State and all persons holding public office must not prefer or advance, by any means, any particular religion, religious denomination, religious belief, or religious practice over another, or over any non-religious belief; and

(d) no person may assert any religious belief as a legal reason to disregard this Constitution or any other written law.

Citizenship

5.—(1) Subject to the provisions of this Constitution, all citizens of Fiji have equal status and identity, which means that they are equally—

(a) entitled to all the rights, privileges and benefits of citizenship; and

(b) subject to the duties and responsibilities of citizenship.

(2) Citizenship of Fiji may be acquired by—

(a) birth;

(b) registration; or

(c) naturalisation.

(3) Every child born in Fiji becomes a citizen at the date of birth unless, at the date of birth neither parent is a citizen.

(4) A child born outside Fiji may become a citizen by registration if, at the date of the child's birth, either parent was a citizen and written law may make further provision in relation to citizenship by registration.

(5) A person may become a citizen by naturalisation, but it is a condition of naturalisation that the person has been lawfully present in Fiji for a period prescribed by law, immediately before the application for naturalisation is made.

(6) Citizens of Fiji may hold multiple citizenship, which means that—

(a) upon accepting the citizenship of a foreign country, a person remains a citizen of Fiji unless he or she renounces that status;

(b) a former citizen of Fiji, who lost that citizenship upon acquiring foreign citizenship, may regain citizenship of Fiji, while retaining that foreign citizenship unless the laws of that foreign country provide otherwise; and

(c) upon becoming a citizen of Fiji, a foreign person may retain his or her existing citizenship unless the laws of that foreign country provide otherwise.

(7) A written law must make provision for matters relating to citizenship, including the following—

(a) the conditions upon which citizenship of Fiji may be acquired and the conditions upon which a person may become a citizen of Fiji;

(b) procedures relating to the making of applications for citizenship by registration or naturalisation;

(c) conditions relating to the right to enter and reside in Fiji;

(d) provisions for the prevention of statelessness;

(e) rules for the calculation of periods of a person's lawful presence in Fiji for the purpose of determining citizenship;

(f) provisions relating to the renunciation and deprivation of citizenship; and

(g) such other matters as are necessary to regulate the granting of citizenship.

(8) A written law made under subsection (7)*(f)* must provide that the person concerned is accorded procedural fairness.

National identity

6.—(1) All citizens of Fiji are to continue to be known as Fijians.

(2) Indigenous Fijians may be referred to as iTaukeinivanua o Viti.

CHAPTER 2—BILL OF RIGHTS

Part A—APPLICATION, INTERPRETATION AND ENFORCEMENT

Application

7.—(1) This Chapter binds the legislative, executive and judicial branches of government at all levels and every person performing the functions of any public office.

(2) The State and every person holding public office must respect, protect, promote and fulfil the rights and freedoms recognised in this Chapter.

(3) A provision of this Chapter binds a natural or legal person, taking into account—

(a) the nature of the right or freedom recognised in that provision; and

(b) the nature of any restraint or duty imposed by that provision.

(4) A legal person has the rights and freedoms recognised in this Chapter, to the extent required by the nature of the right or freedom, and the nature of the particular legal person.

(5) Subject to the provisions of this Constitution, this Chapter applies to all laws in force at the commencement of this Constitution.

(6) Subject to the provisions of this Constitution, laws made, and administrative and judicial actions taken, after the commencement of this Constitution, are subject to the provisions of this Chapter.

(7) To the extent that it is capable of doing so, this Chapter extends to things done or actions taken outside Fiji.

Limitation of Rights under law

8.—(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 section have been satisfied.

(3) A proposed law that will limit a right or freedom contained in this Chapter must be accompanied by explanatory material setting out the nature and extent of the limitation and the reasons for it.

(4) When considering a proposed law intending to limit a right or freedom, Parliament must consider whether the proposed law involves an objective that would justify interference with that right or freedom.

Interpretation of this Chapter

9.—(1) In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority—

(a) must promote the values that underlie a democratic society based on human dignity, equality and freedom; and

(b) must, if relevant, consider international law, applicable to the protection of the rights and freedoms in this Chapter.

(2) This Chapter does not deny, or prevent the recognition of, any other right or freedom recognised or conferred by common law or written law, except to the extent that it is inconsistent with this Chapter.

(3) A law that limits a right or freedom set out in this Chapter is not invalid solely because the law exceeds the limits imposed by this Chapter if the law is reasonably capable of a more restricted interpretation that does not exceed those limits, and in that case, the law must be construed in accordance with the more restricted interpretation.

(4) When deciding any matter according to common law, a court must apply and, where necessary, develop common law in a manner that respects the rights and freedoms recognised in this Chapter.

Enforcement

10.—(1) If a person considers that any of the provisions of this Chapter has been or is likely to be contravened in relation to him or her (or, in the case of a person who is detained, if another person considers that there has been, or is likely to be, a contravention in relation to the detained person), then that person (or the other person) may apply to the High Court for redress.

(2) The right to make application to the High Court under subsection (1) is without prejudice to any other action with respect to the matter that the person concerned may have.

(3) The High Court has original jurisdiction—

(a) to hear and determine applications under subsection (1); and

(b) to determine questions that are referred to it under subsection (5),

and may make such orders and give such directions as it considers appropriate.

(4) The High Court may exercise its discretion not to grant relief in relation to an application or referral made under this section if it considers that an adequate alternative remedy is available to the person concerned.

(5) If in any proceedings in a subordinate court any question arises as to the contravention of any of the provisions of this Chapter, the judicial officer presiding in the proceedings may, and must if a party to the proceedings so requests, refer the question to the High Court unless, in the judicial officer's opinion (which is final and not subject to appeal), the raising of the question is frivolous or vexatious.

(6) When the High Court gives its decision on a question referred to it under this section, the court in which the question arose must dispose of the case in accordance with—

(a) the decision; or

(b) if the decision is the subject of appeal to the Court of Appeal or to the Supreme Court, the decision of the Court of Appeal or the Supreme Court, as the case may be.

(7) The Attorney-General may, on behalf of the State, intervene in proceedings before the High Court that relate to a matter concerning a provision in this Chapter.

(8) If the proceedings before the High Court relate to a matter concerning a provision of this Chapter, the High Court must not proceed to hear and determine the matter until it is satisfied that sufficient notice of the matter has been given to the Attorney-General and a reasonable time has elapsed since the giving of the notice for consideration by the Attorney-General of the question of intervention in the proceedings.

(9) A notice under subsection (8) is not required to be given to the Attorney-General if the Attorney-General or the State is a party to the proceedings.

(10) The Chief Justice may make rules for the purposes of this section with respect to the practice and procedure of the High Court (including rules with respect to the time within which applications are to be made to the High Court).

Part B—CIVIL AND POLITICAL RIGHTS

Right to life

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

Right to personal liberty

12.—(1) A person must not be deprived of personal liberty except—

(a) for the purpose of executing the sentence or order of a court, whether handed down or made in Fiji or elsewhere, in respect of an offence of which the person had been convicted;

(b) for the purpose of executing an order of a court punishing the person for contempt of the court or of another court or tribunal;

(c) for the purpose of executing an order of a court made to secure the fulfilment of an obligation imposed on the person by law;

(d) for the purpose of bringing the person before a court in execution of an order of a court;

(e) if the person is reasonably suspected of having committed an offence;

(f) with the consent of the person's parent or lawful guardian or upon an order made by a court, for the purpose of the person's education or welfare during any period ending not later than the date of his or her 18th birthday;

(g) for the purpose of preventing the spread of an infectious or contagious disease;

(h) for the purpose of the person's care or treatment or for the protection of the community if he or she is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant; or

(i) for the purpose of preventing the unlawful entry of the person into Fiji or of effecting the expulsion, extradition or other lawful removal of the person from Fiji.

(2) Subsection (1)*(c)* does not permit a court to make an order depriving a person of personal liberty on the ground of failure to pay maintenance or a debt, fine or tax, unless the court considers that the person has wilfully refused to pay despite having the means to do so.

(3) If a person is detained pursuant to a measure authorised under a state of emergency—

(a) the person must, as soon as is reasonably practicable and in any event within 7 days after the start of the detention, be given a statement in writing, in a language that the person understands, specifying the grounds of the detention;

(b) the person must be given the opportunity to communicate with, and to be visited by—

(i) his or her spouse, partner or next-of-kin;

(ii) a legal practitioner;

(iii) a religious counsellor or a social worker; and

(iv) a medical practitioner;

(c) the person must be given reasonable facilities to consult with a legal practitioner of his or her choice;

(d) the detention must, within one month and thereafter at intervals of not more than one month, be reviewed by a court; and

(e) at any review by a court, the person may appear in person or be represented by a legal practitioner.

(4) At any review of the detention under subsection (3), the court may make orders as to the continued detention of the person.

Freedom from slavery, servitude, forced labour and human trafficking

13.—(1) A person must not be held in slavery or servitude, or subjected to forced labour or human trafficking.

(2) In this section, "forced labour" does not include—

(a) labour required in consequence of a sentence or order of a court;

(b) labour reasonably required of a person serving a term of imprisonment, whether or not required for the hygiene or maintenance of the prison;

(c) labour required of a member of a disciplined force as part of his or her duties; or

(d) labour reasonably required as part of reasonable and normal communal or civic obligations.

Freedom from cruel and degrading treatment

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

(2) Every person has the right to security of the person, which includes the right to be free from any form of violence from any source at home, school, work or in any other place.

(3) Every person has the right to freedom from scientific or medical treatment or procedures without an order of the court or without his or her informed consent, or if he or she is incapable of giving informed consent, without the informed consent of a lawful guardian.

Freedom from unreasonable search and seizure

15.—(1) Every person has the right to be secure against unreasonable search of his or her person or property and against unreasonable seizure of his or her property.

(2) Search or seizure is not permissible otherwise than under the authority of the law.

Rights of arrested and detained persons

16.—(1) Every person who is arrested or detained has the right—

(a) to be informed promptly, in a language that he or she understands, of—

(i) the reason for the arrest or detention and the nature of any charge that may be brought against that person;

(ii) the right to remain silent; and

(iii) the consequences of not remaining silent;

(b) to communicate with a legal practitioner of his or her choice in private in the place where he or she is detained, to be informed of that right promptly and, if he or she does not have sufficient means to engage a legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission;

(c) to be promptly released if not charged;

(d) to be brought before a court as soon as reasonably possible, and in a case of an adult, no later than 48 hours, and in the case of a child no later than 24 hours, after the time of arrest or if that is not reasonably possible as soon as possible thereafter;

(e) at the first court appearance, to be charged or informed of the reasons for the detention to continue, or to be released;

(f) to be released on reasonable terms and conditions, pending a charge or trial, unless the interests of justice otherwise require;

(g) not to be compelled to make any confession or admission that could be used in evidence against that person;

(h) to be held separately from persons who are serving a sentence, and in the case of a child, to be kept separate from adults unless that is not in the best interests of the child;

(i) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;

(j) to conditions of detention that are consistent with human dignity, including at least the opportunity to exercise regularly and the provision, at State expense, of adequate accommodation, nutrition, and medical treatment; and

(k) to communicate with, and be visited by—

(i) his or her spouse or partner or next-of-kin; and

(ii) a religious counsellor or a social worker.

(2) Whenever this section requires information to be given to a person, that information must be given simply and clearly in a language that the person understands.

(3) A person who is deprived of liberty by being detained, held in custody or imprisoned under any law retains all the rights and freedoms set out in this Chapter, except to the extent that any particular right or freedom is incompatible with the fact of being so deprived of liberty.

Rights of accused persons

17.—(1) A person must not be tried for—

(a) any act or omission that was not an offence under either domestic or international law at the time it was committed or omitted; or

(b) an offence in respect of an act or omission for which that person has previously been either acquitted or convicted.

(2) Every person charged with an offence has the right—

(a) to be presumed innocent until proven guilty according to law;

(b) to be informed in legible writing, in a language that he or she understands, of the nature of and reasons for the charge;

(c) to be given adequate time and facilities to prepare a defence, including if he or she so requests, a right of access to witness statements;

(d) to defend himself or herself in person or to be represented at his or her own expense by a legal practitioner of his or her own choice, and to be informed promptly of this right or, if he or she does not have sufficient means to engage a legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission, and to be informed promptly of this right;

(e) to be informed in advance of the evidence on which the prosecution intends to rely, to disclosure of all other evidence regardless of whether the prosecution intends to rely on it and to have reasonable access to all evidence;

(f) to a public trial before a court of law, unless the interests of justice otherwise require;

(g) to have the trial begin and conclude without unreasonable delay;

(h) to be present when being tried, unless—

(i) the court is satisfied that the person has been served with a summons or similar process requiring his or her attendance at the trial, and has chosen not to attend; or

(ii) the conduct of the person is such that the continuation of the proceedings in his or her presence is impracticable and the court has ordered him or her to be removed and the trial to proceed in his or her absence;

(i) to be tried in a language that the person understands or, if that is not practicable, to have the proceedings interpreted in such a language at State expense;

(j) to remain silent, not to testify during the proceedings, and not to be compelled to give self-incriminating evidence, and not to have adverse inference drawn from the exercise of any of these rights;

(k) not to have unlawfully obtained evidence adduced against him or her unless the interests of justice require it to be admitted;

(l) to call witnesses and present evidence, and to challenge evidence presented against him or her;

(m) to a copy of the record of proceedings within a reasonable period of time and on payment of a reasonably prescribed fee;

(n) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and the time of sentencing; and

(o) of appeal to, or review by, a higher court.

(3) Whenever this section requires information to be given to a person, that information must be given as simply and clearly as practicable, in a language that the person understands.

(4) A law is not inconsistent with subsection (1)*(b)* to the extent that it—

(a) authorises a court to try a member of a disciplined force for a criminal offence despite his or her trial and conviction or acquittal under a disciplinary law; and

(b) requires the court, in passing sentence, to take into account any punishment awarded against the member under the disciplinary law.

Access to courts or tribunals

18.—(1) Every person charged with an offence has the right to a fair trial before a court of law.

(2) Every party to a civil dispute has the right to have the matter determined by a court of law or if appropriate, by an independent and impartial tribunal.

(3) Every person charged with an offence and every party to a civil dispute has the right to have the case determined within a reasonable time.

(4) The hearings of courts and tribunals established by law must be open to the public unless the interests of justice require otherwise.

(5) Subsection (4) does not prevent—

(a) the making of laws relating to the trials of children, or to the determination of family or domestic disputes, in a closed court; or

(b) the exclusion by a court or tribunal from particular proceedings (except the announcement of the decision of the court or tribunal) of a person other than parties and their legal representatives if a law empowers it to do so in the interests of justice, public morality, the welfare of children, personal privacy, national security, public safety or public order.

(6) Every person charged with an offence, every party to civil proceedings, and every witness in criminal or civil proceedings has the right to give evidence and to be questioned in a language that he or she understands.

(7) Every person charged with an offence and every party to civil proceedings has the right to follow the proceedings in a language that he or she understands.

(8) To give effect to the rights referred to in subsections (6) and (7), the court or tribunal concerned must, when the interests of justice so require, provide, without cost to the person concerned, the services of an interpreter or of a person competent in sign language.

(9) If a child is called as a witness in criminal proceedings, arrangements for the taking of the child's evidence must have due regard to the child's age.

(10) The State, through law and other measures, must provide legal aid through the Legal Aid Commission to those who cannot afford to pursue justice on the strength of their own resources, if injustice would otherwise result.

(11) If any fee is required to access a court or tribunal, it must be reasonable and must not impede access to justice.

(12) In any proceedings, evidence obtained in a manner that infringes any right in this Chapter, or any other law, must be excluded unless the interest of justice require it to be admitted.

Executive and administrative justice

19.—(1) Subject to the provisions of this Constitution and such other limitations as may be prescribed by law—

(a) every person has the right to executive or administrative action that is lawful, rational, proportionate, procedurally fair, and reasonably prompt;

(b) every person who has been adversely affected by any executive or administrative action has the right to be given written reasons for the action; and

(c) any executive or administrative action may be reviewed by a court, or if appropriate, another independent and impartial tribunal, in accordance with law.

(2) The rights mentioned in subsection (1) may not be exercised against any company registered under a law governing companies.

(3) This section does not have retrospective effect and applies only to executive and administrative actions taken after the first sitting of the first Parliament elected under this Constitution.

Freedom of speech, expression and publication

20.—(1) Every person has the right to freedom of speech, expression, thought, opinion and publication, which includes—

(a) freedom to seek, receive and impart information, knowledge and ideas;

(b) freedom of the press, including print, electronic and other media;

(c) freedom of imagination and creativity; and

(d) academic freedom and freedom of scientific research.

(2) Freedom of speech, expression, thought, opinion and publication does not protect—

(a) propaganda for war;

(b) incitement to violence or insurrection against this Constitution; or

(c) advocacy of hatred that—

(i) is based on any prohibited ground of discrimination listed or prescribed under section 29; and

(ii) constitutes incitement to cause harm.

(3) To the extent that is necessary, a law may limit, or may authorise the limitation of, the rights and freedoms mentioned in subsection (1) in the interests of—

(a) national security, public safety, public order, public morality, public health or the orderly conduct of elections;

(b) the protection or maintenance of the reputation, privacy, dignity, rights or freedoms of other persons, including—

(i) the right to be free from hate speech, whether directed against individuals or groups; and

(ii) the rights of persons injured by inaccurate or offensive media reports to have a correction published on reasonable conditions established by law;

(c) preventing the disclosure, as appropriate, of information received in confidence;

(d) preventing attacks on the dignity of individuals, groups of individuals or respected offices or institutions in a manner likely to promote ill will between ethnic or religious groups or the oppression of, or discrimination against, any person or group of persons;

(e) maintaining the authority and independence of the courts;

(f) imposing reasonable restrictions on the holders of public offices in order to secure their impartial and confidential service; and

(g) regulating the technical administration of telecommunications.

(4) In this section, "hate speech" means an expression in whatever form that encourages, or has the effect of encouraging discrimination on a ground listed or prescribed under section 29.

Freedom of assembly

21.—(1) Every person has the right, peaceably and unarmed, to assemble, demonstrate, picket and to present petitions.

(2) A law may limit, or may authorise the limitation of, the right mentioned in subsection (1) only to the extent that the limitation is reasonable and justifiable—

(a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;

(b) for the purpose of protecting the rights and freedoms of others; or

(c) for the purpose of imposing restrictions on the holders of public offices in order to secure their impartial and confidential service.

Freedom of association

22.—(1) Every person has the right to freedom of association.

(2) A law may limit, or may authorise the limitation of, the right mentioned in subsection (1)—

(a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;

(b) for the purpose of protecting the rights and freedoms of others; or

(c) for the purpose of imposing reasonable restrictions on the holders of public offices in order to secure their impartial and confidential service.

Employment relations

23.—(1) Every person has the right to fair employment practices, including humane treatment and proper working conditions.

(2) Every worker has the right to form or join a trade union, to participate in its activities and programmes and to strike.

(3) Every employer has the right to form or join an employers' organisation, and to participate in its activities and programmes.

(4) Trade unions and employers have the right to bargain collectively.

(5) A law may limit, or may authorise the limitation of, the rights mentioned in this section—

(a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;

(b) for the purposes of protecting the rights and freedoms of others; or

(c) for the purpose of imposing reasonable restrictions on the members of a disciplined force.

Freedom of movement and residence

24.—(1) Every person has the right to freedom of movement.

(2) Every citizen has the right to apply for and be issued a passport or similar travel document, in accordance with any condition prescribed by written law.

(3) Every citizen, and every other person lawfully in Fiji, has the right to move freely throughout Fiji and the right to leave Fiji.

(4) Every citizen, and every other person who has a right to reside in Fiji, has the right to reside in any part of Fiji.

(5) Every person who is not a citizen but is lawfully in Fiji has the right not to be expelled from Fiji except pursuant to an order of a court or a decision of the Minister responsible for immigration on a ground prescribed by law.

(6) A law, or anything done under the authority of a law, is not inconsistent with the rights granted by this section to the extent that the law—

(a) provides for the detention of the person or enables a restraint to be placed on the person's movements, whether—

(i) for the purpose of ensuring his or her appearance before a court for trial or other proceedings;

(ii) in consequence of his or her conviction for an offence; or

(iii) for the purpose of protecting another person from apprehended violence;

(b) provides for a person who is a non-citizen to be detained or restrained as a consequence of his or her arrival in Fiji without the prescribed entry documentation;

(c) provides for the extradition, on the order of the High Court, of a person from Fiji;

(d) provides for the removal from Fiji, on the order of the High Court, of any child who had previously been unlawfully removed from another country, for the purpose of restoring the child to the lawful custody of his or her parent or lawful guardian;

(e) provides for the removal from Fiji of a person who is not a citizen for the purpose of enabling the person to serve a sentence of imprisonment in the country of the person's citizenship in relation to a criminal offence of which he or she has been convicted in Fiji; or

(f) regulates, controls or prohibits the entry of persons on to land or property owned or occupied by others.

(7) A law may limit, or may authorise the limitation of, the rights mentioned in this section—

(a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;

(b) for the purpose of protecting the rights and freedoms of others;

(c) for the purpose of implementing a decision of customary authorities under the iTaukei Affairs Act 1944 made in the interests of maintaining peace and good order in the community;

(d) for the purpose of protecting the economy of a particular area or the ecology or distinctive culture of an area;

(e) for the purpose of imposing a restriction on the person that is reasonably required to secure the fulfilment of an obligation imposed on the person by law; or

(f) for the purpose of imposing reasonable restrictions on the holders of public offices as part of the terms and conditions of their employment.

(8) Sections 12(3) and (4) apply to a person whose right to freedom of movement is restricted pursuant to a measure authorised under a state of emergency in the same way as they apply to a person detained pursuant to such a measure.

Freedom of religion, conscience and belief

25.—(1) Every person has the right to freedom of religion, conscience and belief.

(2) Every person has the right, either individually or in community with others, in private or in public, to manifest and practice their religion or belief in worship, observance, practice or teaching.

(3) Every person has the right not to be compelled to—

(a) act in any manner that is contrary to the person's religion or belief; or

(b) take an oath, or take an oath in a manner, that—

(i) is contrary to the person's religion or belief; or

(ii) requires the person to express a belief that the person does not hold.

(4) Every religious community or denomination, and every cultural or social community, has the right to establish, maintain and manage places of education whether or not it receives financial assistance from the State, provided that the educational institution maintains any standard prescribed by law.

(5) In exercising its rights under subsection (4), a religious community or denomination has the right to provide religious instruction as part of any education that it provides, whether or not it receives financial assistance from the State for the provision of that education.

(6) Except with his or her consent or, in the case of a child, the consent of a parent or lawful guardian, a person attending a place of education is not required to receive religious instruction or to take part in or attend a religious ceremony or observance if the instruction, ceremony or observance relates to a religion that is not his or her own or if he or she does not hold any religious belief.

(7) The rights and freedoms set out in this section may be made subject to such limitations prescribed by law as are necessary—

(a) to protect—

(i) the rights and freedoms of other persons; or

(ii) public safety, public order, public morality or public health; or

(b) to prevent public nuisance.

Political rights

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

(a) form or join a political party;

(b) participate in the activities of, or recruit members for, a political party; and

(c) campaign for a political party, candidate or cause.

(2) Every citizen has the right to free, fair and regular elections for any elective institution or office established under this Constitution.

(3) Every citizen who has reached the age of 18 years has the right—

(a) to be registered as a voter;

(b) to vote by secret ballot in any election or referendum under this Constitution;

(c) to be a candidate for public office, or office within a political party of which the citizen is a member, subject to satisfying any qualifications for such an office; and

(d) if elected, to hold office.

(4) A law may limit, or may authorise the limitation of, the rights mentioned in this section—

(a) for the purpose of regulating the registration of voters, and prescribing persons who do not have or have ceased to have the right to be registered as a voter;

(b) for the purpose of regulating the registration of political parties and prescribing persons who do not have the rights prescribed under subsection (1) and subsections (3)*(c)* and *(d)*;

(c) for the purpose of regulating persons who are not eligible to contest for a place in Parliament or in a public office, or an office within a political party; or

(d) for the purpose of imposing restrictions on the holders of public offices as defined in any law from the rights set out in this section.

Right to privacy

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

(a) confidentiality of their personal information and data;

(b) confidentiality of their communications; and

(c) respect for their private and family life.

Access to information

28.—(1) Every person has the right of access to—

(a) information held by any public office; and

(b) information held by another person and required for the exercise or protection of any legal right.

(2) Every person has the right to the correction or deletion of untrue or misleading information that affects that person.

(3) To the extent that is necessary, a law may limit, or may authorise the limitation of, the rights set out in subsection (1) and may regulate the procedure under which information held by a public office may be made available.

Right to equality and freedom from discrimination

29.—(1) Every person is equal before the law and has the right to equal protection, treatment and benefit of the law.

(2) Equality includes the full and equal enjoyment of all rights and freedoms recognised in this Chapter or any other written law.

(3) A person must not be unfairly discriminated against, directly or indirectly on the grounds of his or her—

(a) actual or supposed personal characteristics or circumstances, including race, culture, ethnic or social origin, colour, place of origin, sex, gender, sexual orientation, gender identity and expression, birth, primary language, economic or social or health status, disability, age, religion, conscience, marital status or pregnancy; or

(b) opinions or beliefs, except to the extent that those opinions or beliefs involve harm to others or the diminution of the rights or freedoms of others, or on any other ground prohibited by this Constitution.

(4) A law or an administrative action taken under a law may not directly or indirectly impose a limitation or restriction on any person on a prohibited ground.

(5) Every person has the right of access, membership or admission, without discrimination on a prohibited ground, to shops, hotels, lodging-houses, public restaurants, places of public entertainment, clubs, education institutions, public transportation services, taxis and public places.

(6) The proprietor of a place or service referred to in subsection (5) must facilitate reasonable access for persons with disabilities to the extent prescribed by law.

(7) Treating one person differently from another on any of the grounds prescribed under subsection (3) is discrimination, unless it can be established that the difference in treatment is not unfair in the circumstances.

(8) A law, or an administrative action taken under a law, is not inconsistent with the rights mentioned in this section on the ground that it—

(a) appropriates revenues or other moneys for particular purposes;

(b) imposes a retirement age on a person;

(c) imposes a restriction on persons employed or engaged in a State service, or confers on them a privilege or advantage not imposed or conferred on other persons;

(d) imposes restrictions on persons who are not citizens, or confers on them a privilege or advantage, not imposed or conferred on citizens;

(e) makes provision with respect to adoption, marriage, devolution of property on death, and pension;

(f) excludes persons from holding certain public offices; or

(g) limits a right or freedom to the extent necessary and without infringing the right of freedom in accordance with subsections (9), (10) and (11) relating to communal ownership of iTaukei, Rotuman and Banaban lands and access to marine resources, or the bestowing of iTaukei, Rotuman and Banaban chiefly title or rank.

(9) A law, or an administrative action taken under a law, may limit a right or a freedom for the purpose of—

(a) providing for the application of the customs of iTaukei or Rotuman or of the Banaban community—

(i) to the holding, use or transmission of, or the distribution of the produce of, land or fishing rights; or

(ii) to the entitlement of any person to any chiefly title or rank;

(b) imposing a restriction on the alienation of land or fishing rights held in accordance with iTaukei or Rotuman custom or in accordance with Banaban custom; or

(c) permitting the temporary alienation of that land or those rights without the consent of the owners.

(10) To the extent permitted by subsection (11), a law or an administrative action taken under a law, may limit a right or a freedom set out in this section for the purpose of providing for the governance of iTaukei or Rotuman or of the Banaban community and of other persons living as members of an iTaukei, Rotuman or Banaban community.

(11) A limitation referred to in subsection (10) is valid only if it—

(a) accords to every person to whom it applies the right to equality before the law without discrimination other than on the ground of race or ethnic origin; and

(b) does not infringe a right or freedom set out in any other section of this Chapter.

Freedom from compulsory or arbitrary acquisition of property

30.—(1) Every person has the right not to be deprived of property by the State other than in accordance with a written law referred to in subsection (2), and no law may permit arbitrary acquisition or expropriation of any interest in any property.

(2) A written law may authorise compulsory acquisition of property—

(a) when necessary for a public purpose; and

(b) on the basis that the owner will be promptly paid the agreed compensation for the property, or failing agreement, just and equitable compensation as determined by a court or tribunal, after considering all relevant factors, including—

(i) the public purpose for which the property is being acquired;

(ii) the history of its acquisition by the owner;

(iii) the market value of the property;

(iv) the interests of any person affected by the acquisition; and

(v) any hardship to the owner.

(3) Nothing contained in, or done under the authority of, a law is inconsistent with this section to the extent that the law makes provision for the acquisition of property by way of—

(a) taxation;

(b) sequestration of bankrupt estates;

(c) confiscation of the proceeds of crime;

(d) penalty for breach of the law;

(e) satisfaction of a mortgage, charge or lien; or

(f) execution of a judgment of a court or tribunal.

PART C—SOCIAL, ECONOMIC AND CULTURAL RIGHTS

Application

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

Right to education

32.—(1) Every person has the right to—

(a) free early childhood education;

(b) free primary and secondary education; and

(c) free further education for persons who were unable to complete their primary and secondary education.

(2) Conversational and contemporary iTaukei, Rotuman and Hindi languages must be taught in all primary schools.

(3) The State may direct any educational institution to teach subjects pertaining to health, civic education and issues of national interest, and any educational institution must comply with any such directions made by the State.

Right to economic participation

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

Right to work and a just minimum wage

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

Right to reasonable access to transportation

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

Right to housing and sanitation and freedom from arbitrary evictions

36.—(1) Every person has the right to—

(a) accessible and adequate housing and sanitation; and

(b) freedom from arbitrary evictions from his or her home or to have his or her home demolished, without an order of a court made after considering all the relevant circumstances.

(2) No law may permit arbitrary evictions.

Right to adequate food and water

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

Right to social security schemes

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

Right to health

39.—(1) The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to health, and to the conditions and facilities necessary to good health, and to health care services, including reproductive health care.

(2) A person must not be denied emergency medical treatment.

Rights of children

40.—(1) Every child has the right—

(a) to be registered at or soon after birth, and to have a name and nationality;

(b) to basic nutrition, clothing, shelter, sanitation and health care;

(c) to family care, protection and guidance, which includes the equal responsibility of the child's parents to provide for the child—

(i) whether or not the parents are, or have ever been, married to each other; and

(ii) whether or not the parents are living together, have lived together, or are separated;

(d) not to be detained, except as a measure of last resort, and when detained, to be held—

(i) only for such period of time as is necessary; and

(ii) separate from adults, and in conditions that take account of the child's sex and age; and

(e) to be protected from abuse, neglect, harmful cultural practices, any form of violence, hazardous or exploitative labour, and inhumane treatment and punishment. Notwithstanding the right to be protected from punishment under this subsection, lawful and moderate chastisement is permissible for the purposes of correction.

(2) The best interests of a child are the primary consideration in every matter concerning the child.

Rights of persons with disabilities

41.—(1) A person with any disability has the right—

(a) to reasonable access to all places, public transport and information;

(b) to use sign language, Braille or other appropriate means of communication; and

(c) to reasonable access to necessary materials, substances and devices relating to the person's disability.

(2) A person with any disability has the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realisation of their rights.

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

Human Rights and Anti-Discrimination Commission

42.—(1) There is a Human Rights and Anti-Discrimination Commission.

(2) The Commission consists of—

(a) a chairperson, who must be a person who is or is qualified to be appointed as a Judge; and

(b) 4 other members, appointed by the President on the advice of the Constitutional Offices Commission.

(3) In advising the President as to the person to be appointed as chairperson or other members of the Commission, the Constitutional Offices Commission must have regard not only to their personal attributes but also to their knowledge or experience of the various aspects of matters likely to come before the Commission.

(4) Subject to this Constitution, the Commission is responsible for—

(a) promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a culture of human rights in Fiji;

(b) education about the rights and freedoms recognised in this Chapter, as well as other internationally recognised rights and freedoms;

(c) monitoring, investigating and reporting on the observance of human rights in all spheres of life;

(d) making recommendations to Government concerning matters affecting the rights and freedoms recognised in this Chapter, including recommendations concerning existing or proposed laws;

(e) receiving and investigating complaints about alleged abuses of human rights and take steps to secure appropriate redress if human rights have been violated, including making applications to court for redress or for other forms of relief or remedies;

(f) investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of human rights, and make recommendations to improve the functioning of public or private entities;

(g) monitoring compliance by the State with obligations under treaties and conventions relating to human rights; and

(h) performing any other functions or exercising any powers as are conferred on the Commission by a written law.

(5) Subject to this Constitution, any person has the right to lodge a complaint with the Commission, alleging that a right or freedom in this Chapter has been denied, violated or infringed, or is threatened.

CHAPTER 3—LAND AND ENVIRONMENT, AND GROUP RIGHTS

Part A—LAND AND ENVIRONMENT

Meaning of natural resources

43. In this chapter, "natural resources" includes—

(a) minerals, oil and gas;

(b) forests, and other natural and genetic resources from the land; and

(c) marine resources, including genetic resources and other extracted resources from or under the seabed.

Principles of land use and environmental protection

44.—(1) The security of land rights is assured for all legitimate users and occupiers.

(2) 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.

(3) The State may—

(a) promote good land use; and

(b) regulate the use of any land, or any interest in or right of way over any land, to promote public safety, public order, public health or sound rural or urban development.

(4) Land use planning laws and procedures for granting permits, must require owners to provide reasonable notice to neighbouring owners and occupiers before undertaking any alteration in land use that may be anticipated to affect their rights or interests.

(5) 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.

Duty to consult with respect to land and resources

45.—(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 duty, before licensing, permitting or undertaking that project to—

(a) inform those persons or that community about the project in sufficient detail for the affected persons to assess the possible effects of the project on their rights and interests;

(b) engage in constructive discussions with the affected persons to identify any reservations they may have about the effects of the project;

(c) obtain the free, prior and informed consent of the landowners or communities in accordance with their traditions and customs; and

(d) seek consensus with the affected persons or communities by making any reasonable and necessary modifications to the project to protect their rights and interests and accommodate their reservations.

(2) State bodies, when licensing or permitting a project, must impose conditions that, so far as reasonably possible, protect the rights and interests and accommodate the reservations of the affected person with respect to the project.

(3) The duty to obtain consent, as required under subsection(1)*(c),* only applies to large proposed projects prescribed by written law, taking into account whether it is likely to—

(a) significantly alter the landscape or shoreline in a lasting way;

(b) interfere with the livelihood or amenity of landowners or a community in a significant way; or

(c) affect the food security of landowners or a community.

(4) Parliament may, by written law, prescribe processes for the fulfilment of the duties under subsection (1).

Environmental rights

46.—(1) Every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.

(2) In applying an environmental right under this section, the State must make reasonable measures within its available resources to achieve the progressive realisation of the right.

Ownership of minerals

47.—(1) All minerals in or under any land or water, are owned by the State, provided however, that the owners of any particular land whether customary or freehold or of any particular registered customary fishing rights are entitled to receive a fair share of royalties or other money paid to the State in respect of the grant by the State of rights to extract minerals from that land or the seabed in the area of those fishing rights.

(2) Any distribution of royalties or other benefits amongst the owners of land or fishing rights must be fair and equitable in respect of the product of the extraction of minerals from the land or seabed.

(3) A written law may prescribe the framework for calculating fair shares under subsection (1), taking into account all relevant factors, including the following—

(a) any benefit that the owners received or may receive as a result of mineral exploration or exploitation;

(b) the risk of environmental damage;

(c) any legal obligation of the State to contribute to a fund to meet the cost of preventing, repairing or compensating for any environmental damage;

(d) the cost to the State of administering exploration or exploitation rights; and

(e) the appropriate contribution to the general revenue of the State to be made by any person granted exploration or exploitation rights.

Land—iTaukei, Rotuman and Banaban

48.—(1) The ownership of iTaukei land and customary rights over foreshore, seabed, reefs and riverbeds remain with the customary owners and, iTaukei land and customary rights over foreshore, seabed, reefs and riverbeds cannot be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 30.

(2) Any iTaukei land acquired by the State for a public purpose in accordance with section 30 reverts to the customary owners if the land is no longer required by the State.

(3) The ownership of Rotuman land and customary rights over foreshore, seabed, reefs and riverbeds remains with the customary owners and, Rotuman land and customary rights over foreshore, seabed, reefs and riverbeds cannot be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 30.

(4) Any Rotuman land acquired by the State for a public purpose in accordance with section 30 reverts to the customary owners if the land is no longer required by the State.

(5) The ownership of Banaban land and customary rights over foreshore, seabed, reefs and riverbeds remains with the customary owners and, Banaban land and customary rights over foreshore, seabed, reefs and riverbeds cannot be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 30.

(6) Any Banaban land acquired by the State for a public purpose in accordance with section 30 reverts to the customary owners if the land is no longer required by the State.

(7) All iTaukei, Rotuman and Banaban customary rights of use and access to the foreshore, seabed, reefs, and riverbeds are inalienable and are not extinguished by the alienation of any land to the State in accordance with section 30.

(8) In this section "land" includes foreshore, seabed, reefs, genetic resources and riverbeds.

Land-Freehold and rights of lessees and tenants

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

(2) All land that existed as freehold land immediately before the commencement of this Constitution remains as freehold land even if it is sold or purchased, unless it is sold to the State or is acquired by the State for a public purpose in accordance with section 30.

(3) No law may be made to diminish or adversely affect the customary rights and interests in land leases and land tenancies, whether existing immediately before the commencement of this Constitution or made or issued after the commencement of this Constitution.

(4) All land leases and land tenants have the right to not have their land leases or land tenancies terminated other than in accordance with their land leases or land tenancies.

(5) Parliament and Cabinet, through legislative and other measures, must ensure that all land leases and land tenancies provide for a fair and equitable return to the landowners while protecting land lessees and land tenants, including security and protection of tenure of land leases and land tenancies and terms and conditions of land leases and land tenancies which must be just, fair and reasonable.

(6) For the purposes of this section—

"land leases" or "land tenancies" includes sub-leases, sub-tenancies and tenancies-at-will, but does not include leases, agreements or tenancies for any building, structure or dwelling, whether used for residential, commercial, industrial or for tourism purposes, or any leases, agreements or tenancies for any fixture, equipment, plant or fittings on any land; and

"land lessees" or "land tenants" includes sub-lessees, sub-tenants or tenants-at-will of land leases or land tenancies.

Entrenchment of statutes on land and natural resources

50.—(1) A Bill that alters any of the Acts listed in subsection (2), including a Bill prepared in consequence of the enactment of this Constitution—

(a) must be expressed as a Bill for an Act to alter the Act concerned;

(b) must not be presented for the President's assent unless it has been read 3 times in each House and motions for the second and third readings are carried in each House;

(c) is taken not to have been passed by the Senate unless at its third reading it is supported by the votes of at least 9 of the 14 members of the Senate appointed under section 76(1)*(a)*; and

(d) for the Acts listed under subsection (2)*(f)* and *(g)*, it is not taken to have been passed by the Senate unless at this third reading it is also supported by the vote of the member of the Senate appointed under section 76(1)*(d)*.

(2) The Acts are—

(a) iTaukei Affairs Act 1944;

(b) iTaukei Development Fund Act 1965;

(c) iTaukei Lands Act 1905;

(d) iTaukei Land Trust Act 1940;

(e) iTaukei Trust Fund Act 2004;

(f) Rotuma Act 1927;

(g) Rotuman Lands Act 1959;

(h) Banaban Lands Act 1965; and

(i) Banaban Settlement Act 1970.

(3) In addition to the Acts mentioned in subsection (2), any written law relating iTaukei matters enacted after the commencement of this Constitution—

(a) must be expressed as a Bill for an Act relating to iTaukei matters;

(b) must not be presented for the President's assent unless it has been read 3 times in each House and motions for the second and third readings are carried in each House; and

(c) is taken not to have been passed by the Senate unless at its third reading it is supported by the votes of at least 9 of the 14 members of the Senate appointed under section 76(1)*(a)*.

(4) A Bill that alters the Agricultural Landlord and Tenant Act 1966—

(a) must be expressed as a Bill for an Act to alter that Act; and

(b) must not be presented for the President's assent unless—

(i) it has been read 3 times in each House and motions for the second and third readings are carried in each House; and

(ii) at its third reading in that House it is supported by the votes of at least two-thirds of the members of the House of Representatives and two-thirds of the members of the Senate.

Part B—GROUP RIGHTS

Respect for rights of all individuals, communities and groups

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

(a) the rights of all individuals, communities and groups are fully respected; and

(b) as citizens, the members of all communities enjoy equal rights, including the right to make their permanent homes in Fiji.

Languages of Fiji and its communities

52.—(1) iTaukei and Rotuman are indigenous languages and all State bodies must respect, protect and promote the use of indigenous languages.

(2) All other languages used in Fiji must be recognised and respected.

Recognition of customary law

53.—(1) Parliament recognises iTaukei and Rotuman custom as a source of law for the iTaukei and Rotuman communities, subject to this Constitution and any written law, including in relation to—

(a) customary land, management of natural and genetic resources in, on or under the land and customary fishing rights; and

(b) the right of the iTaukei and Rotuman people to governance through their separate administrative systems, including those provided in the iTaukei Affairs Act 1944 and any other relevant written law relating to those systems.

(2) Parliament must make provision for the application of customary law.

(3) In doing so, Parliament may have regard to the customs, traditions, usages, values and aspirations of the iTaukei and Rotuman people.

(4) This section does not deny, or prevent recognition of, any other right or freedom recognised or conferred by common law or written law, except to the extent it is inconsistent with this section.

Heritage and cultures of all communities of Fiji

54.—(1) The people of Fiji recognise the contribution of all communities to the unity, harmony and wellbeing of Fiji derived from the language, arts, customs, festival traditions and histories of each of Fiji's communities.

(2) The State and all of Fiji's communities recognise the need to—

(a) respect the equal rights of all communities to the recognition, use of, and respect for their respective cultures and heritage and heritage infrastructure; and

(b) nurture the heritage and culture of all communities by—

(i) promoting increased awareness of Fiji and its history and cultures; and

(ii) protecting sites of historical, spiritual or cultural significance and cultural artefacts.

(3) The State, in consultation with all of Fiji's communities, must develop policies, programmes and law to give effect to this section.

CHAPTER 4—PARLIAMENT

Part A—COMPOSITION AND LEGISLATIVE AUTHORITY OF PARLIAMENT

Legislative power

55. The power to make laws for the State is vested in Parliament, which consists of the President, the House of Representatives and the Senate.

Exercise of legislative powers

56.—(1) Any member of the House of Representatives may introduce a Bill in the House of Representatives, but only the Minister responsible for finance, or another Minister authorised by Cabinet, may introduce a Money Bill, as described in section 57.

(2) Parliament may proceed to consider any Bill in accordance with its standing orders, which must provide a structured process for the introduction, deliberation, amendment and enactment of Bills.

(3) A Bill that is sent to the Senate from the House of Representatives may be rejected by the Senate on one occasion only and, if the House of Representatives passes and resubmits a Bill that has been once rejected by the Senate, the Senate must approve the Bill.

(4) A Bill may proceed more quickly than permitted by a standing order and be presented to the President for assent with amendments, if any agreed to by both Houses if—

(a) the Prime Minister certifies in writing to the President of the Senate that a Bill passed by the House of Representatives is an urgent measure;

(b) the Bill is sent to the Senate at least 7 sitting days before the end of the session; and

(c) the Senate does not pass the Bill within a period of 7 sitting days after the Senate receives it; or

(d) the Senate passes it with an amendment to which the House of Representatives does not agree within that period.

Money Bills

57. A Money Bill is a Bill that—

(a) imposes, increases, alters, remits, grants exemptions from, reduces or abolishes taxes;

(b) imposes, varies or repeals charges on a public fund;

(c) appropriates public money or otherwise relates to public moneys;

(d) raises or guarantees any loan, or its repayment;

(e) deals with the receipt, custody, investment, issue or audit of money; or

(f) deals with anything incidental to those matters.

Limitation on powers of Senate with respect to Money Bills

58.—(1) The Senate may not amend Bills imposing taxation or appropriating revenue or moneys.

(2) The Senate may not amend any Bill so as to increase any proposed charge or burden on the people.

(3) A Bill must, unless the House of Representatives otherwise resolves, be presented to the President for assent if—

(a) the Bill passed by the House of Representatives is certified by the Speaker as an appropriation Bill; and

(b) the Bill is not passed by the Senate without amendment by the end of the sitting day after the day on which it was sent to the Senate.

(4) A Bill must, unless the House of Representatives otherwise resolves, be presented to the President for assent if—

(a) a Money Bill other than a Bill referred to in subsection (3), passed by the House of Representatives is certified by the Speaker as a Money Bill;

(b) the Bill is sent to the Senate at least 21 sitting days before the end of the session; and

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

Presidential assent

59.—(1) When a Bill has been passed by both Houses, the Speaker must present it to the President for assent.

(2) Within 7 days after receipt of a Bill, the President must provide his or her assent.

(3) If the President does not assent to a Bill within the period set out in subsection (2), the Bill is taken to have been assented to on the expiry of that period.

Coming into force of laws

60.—(1) Within 7 days after a Bill has been assented to, the Bill must be published in the Gazette as an Act of Parliament.

(2) An Act of Parliament comes into force—

(a) on a date determined by or in accordance with the Act; or

(b) on the 7th day after its publication in the Gazette, if the Act does not determine a date or does not provide for a date to be determined.

Subordinate laws

61.—(1) A person must not make a subordinate law, except as expressly authorised by this Constitution or an Act of Parliament.

(2) A person that makes a subordinate law must, so far as practicable, provide reasonable opportunity for public participation in the development and review of the law before it is made.

Parliamentary authority over international treaties and conventions

62.—(1) An international treaty or convention binds the State only after it has been approved by Parliament.

(2) Notwithstanding subsection (1), an international treaty or convention that requires domestic implementation is part of the written law of the State only to the extent that Parliament enacts a written law to give effect to the provisions of the treaty or convention.

Part B—HOUSE OF REPRESENTATIVES

Members of the House of Representatives

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

Composition of the House of Representatives

64.—(1) The House of Representatives is to be composed in a manner that reflects, as closely as practicable, the proportion of votes cast for political parties.

(2) The election of members of the House of Representatives comprise the following—

(a) 33 constituency members or such number as Parliament may by written law prescribe, which includes 5 maritime constituencies listed in subsection (9), chosen directly by the registered voters of those constituencies in a first-past-the-post election; and

(b) 22 party list members or such number as Parliament may by written law prescribe, allocated to political parties in proportion to the total number of votes for the candidates of that party in the constituency seats.

(3) A political party is entitled to proportional representation if it secures not less than 5% of the party vote.

(4) Constituency seats won are deducted from each party's proportional entitlement, with the balance filled from party lists.

(5) Party list seats must be allocated in accordance with a written law prescribing an appropriate mathematical rounding method, which rounds fractions to whole numbers to determine seat allocations.

(6) Candidates unaffiliated with a political party may contest constituency seats, and if elected, serve as independent members without affecting proportional allocation.

(7) A candidate of a party can stand for election in a constituency seat and be included in the party's list for a party list seat.

(8) Parliament may provide, by written law, for temporary special measures relating to the way in which party lists must be constituted, for example—

(a) measures to ensure, as far as possible, equal numbers of male and female candidates; or

(b) measures to otherwise facilitate diverse representation on party lists.

(9) The maritime constituencies are Rotuma, Yasawa, Kadavu, Lomaiviti and Lau.

Qualifications for candidates for election to House of Representatives

65.—(1) A candidate for election to the House of Representatives must be either nominated by a registered political party or nominated as an independent candidate in accordance with the laws governing elections.

(2) A person may be a candidate for election to the House of Representatives only if the person—

(a) is a citizen of Fiji;

(b) is qualified to be registered as a voter and is registered on the Register of Voters;

(c) is ordinarily resident in Fiji for at least 2 years immediately before being nominated;

(d) is not an undischarged bankrupt;

(e) is not a member of the Electoral Commission and has not been a member of that Commission at any time during the 4 years immediately before being nominated;

(f) is not subject to a sentence of imprisonment when nominated;

(g) has not, at any time during the 8 years immediately before being nominated, been convicted of an offence under any law for which the maximum penalty is a term of imprisonment of 12 months or more; and

(h) has not, in the 5 years immediately before being nominated, been found guilty of any offence under a law relating to elections, registration of political parties or registration of voters.

(3) The total number of candidates that a political party may nominate for any general election must not be more than the total number of seats in the House of Representatives, and the total number of candidates that a political party may nominate for any by-election must not be more than the total number of vacant seats in the House of Representatives for which the by-election is held.

(4) A written law may make provision relating to the nomination of candidates for election to the House of Representatives.

(5) Every candidate, and every political party nominating a candidate, must comply with any written law governing elections.

Term of House of Representatives

66.—(1) The House of Representatives continues for 5 years from the date of its first meeting after a general election of the members of the House of Representatives, unless sooner dissolved in accordance with this Constitution.

(2) The President may, acting on the advice of the Prime Minister, from time to time in the like manner prorogue Parliament by proclamation.

(3) The President may, acting on the advice of the Prime Minister, dissolve Parliament by proclamation, but only after a lapse of 4 years and 6 months from the date of its first meeting after a general election of the members of the House of Representatives.

Early dissolution of Parliament

67.—(1) Notwithstanding section 66(3), the President must declare Parliament dissolved early if the House of Representatives has adopted a resolution to dissolve early, supported by at least two-thirds of the members of the House of Representatives.

(2) A resolution for early dissolution of the House of Representatives under subsection (1) may be moved—

(a) only on the grounds that the Government lacks the confidence of the House of Representatives;

(b) only by the Leader of the Opposition; and

(c) only if the House of Representatives has first rejected a motion of no confidence in the Prime Minister under section 113.

(3) No motion for early dissolution may be moved within—

(a) 18 months immediately after the beginning of the House of Representative's term; or

(b) 6 months immediately before the end of the House of Representative's ordinary 5 year term.

Writ for election

68.—(1) The writ for the election of members of the House of Representatives must be issued by the President on the advice of the Prime Minister.

(2) The writ for a general election must be issued within 7 days from the expiry of the House of Representatives term or from the date of the proclamation of its dissolution by the President.

(3) The writ for a by-election must be issued within 7 days from the date when a constituency seat in the House of Representatives becomes vacant, or within 7 days from the date of determination by the Court of Disputed Returns if an application is made to it under sections 70(5) or 97.

Dates of nomination and polling

69.—(1) The last day for the receipt of a nomination of a candidate for election to the House of Representatives is 14 days after the date of the issue of the writ.

(2) Polling commences no later than 70 days after the last day for the receipt of nominations.

Vacation of seat of member of House of Representatives

70.—(1) The seat of a member of the House of Representatives becomes vacant if the member—

(a) dies, or resigns by giving to the Speaker a signed resignation;

(b) ceases to be qualified to be a candidate for election to the House of Representatives;

(c) is convicted of an offence punishable by imprisonment for 12 months or longer;

(d) is an undischarged bankrupt;

(e) is absent from 2 consecutive sittings of the House of Representatives without having obtained the permission of the Speaker;

(f) resigns from the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives within 18 months from a Prime Minister taking office;

(g) votes or abstains from voting in the House of Representatives contrary to any direction issued by the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives, without obtaining the prior permission of the political party within 18 months after a general election of the members of the House of Representatives;

(h) is expelled from the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives within 18 months after a general election of the members of the House of Representatives and—

(i) the expulsion was in accordance with the rules of the political party relating to party discipline; and

(ii) the expulsion did not relate to any action taken by the member in his or her capacity as a member of a committee of Parliament; or

(i) is appointed as a member of the Senate.

(2) The seat of a member of the House of Representatives becomes vacant on the day immediately before the first sitting of the House of Representatives after a general election.

(3) The seat of a member of the House of Representatives becomes vacant on receipt by the Speaker of a written notification signed by the leader and the secretary of the political party notifying the Speaker that—

(a) the member has resigned from the political party;

(b) the member has voted or abstained from voting in the House of Representatives contrary to any direction issued by the political party, without obtaining the prior permission of the political party; or

(c) the member has been expelled from the political party.

(4) If the political party of which a member of the House of Representatives is a member is deregistered, the member retains their seat as an independent member of the House of Representatives.

(5) If a member of the House of Representatives whose seat becomes vacant under subsection (1) seeks to question or challenge the validity of his or her seat in the House of Representatives becoming vacant, the member must, within 7 days of the member's seat becoming vacant, by way of a proceeding, make an application to the Court of Disputed Returns for a declaration on whether the seat of the member has become vacant.

(6) Any application made to the Court of Disputed Returns under this section must be determined by the Court of Disputed Returns within 21 days of the date when the application is made to it.

(7) A determination by the Court of Disputed Returns under this section is final and not subject to any appeal.

(8) If the member of the House of Representatives whose seat becomes vacant under subsection (1) makes an application to the Court of Disputed Returns under subsection (5), the member is taken to be suspended from the House of Representatives pending the determination by the Court of Disputed Returns.

Vacancies

71. If a seat in the House of Representatives becomes vacant, the vacancy must be filled—

(a) in the case of a constituency seat, by a by-election; and

(b) in the case of a party list seat—

(i) by the next candidate on the party list; or

(ii) if there is no next candidate on the party list, by a by-election.

By-elections

72. A by-election must be held for the purpose of filling a vacant constituency seat in the House of Representatives for the remainder of the term unless the vacancy occurs more than 4 years and 6 months after the first meeting of the House of Representatives following the last general election.

Speaker and Deputy Speaker of Parliament

73.—(1) The House of Representatives must, at its first sitting after a general election and whenever required to fill a vacancy, elect, with support of the votes of a majority of the members of the House of Representatives—

(a) a Speaker, who is either—

(i) a member of the House of Representatives, but not a Minister; or

(ii) not a member of the House of Representatives but qualified to be a candidate for election as a member of the House of Representatives; and

(b) a Deputy Speaker from amongst the members of the House of Representatives who is not a Minister.

(2) The Speaker and the Deputy Speaker assume office by taking the oath or affirmation of allegiance and office set out in the Schedule, as administered by the Secretary-General to the House of Representatives or the Secretary-General to the Senate, as the case may be.

(3) The Speaker presides over sittings of the House of Representatives.

(4) The Deputy Speaker must perform the duties of the Speaker if the Speaker is absent from duty or from Fiji or is, for any other reason, unable to perform those duties.

(5) If neither the Speaker nor the Deputy Speaker is able to perform the duties of the Speaker, the members of the House of Representatives must elect one of their members to preside at meetings of the House.

(6) The Speaker, Deputy Speaker, or any other person presiding at any time, in the performance of the functions of the Speaker—

(a) is independent and subject only to this Constitution and any other law;

(b) serves to secure the honour and dignity of Parliament;

(c) is responsible for ensuring—

(i) the rights and privileges of all members; and

(ii) public access to the proceedings of the House of Representatives and its committees;

(d) has authority to maintain order and decorum in the House of Representatives, in accordance with its standing orders and parliamentary tradition; and

(e) must act impartially, and without fear, favour or prejudice.

(7) The office of the Speaker becomes vacant—

(a) on the day immediately before the first sitting of the House of Representatives after a general election; or

(b) if, before that day, the Speaker—

(i) resigns by giving to the President a written notice of resignation;

(ii) becomes the holder of another public office;

(iii) ceases to have the right to be registered as a voter in an election to the House of Representatives;

(iv) is absent without leave from 2 consecutive sittings of the House of Representatives; or

(v) is removed from office by a resolution supported by not less than two-thirds of the members of the House of Representatives.

(8) The office of the Deputy Speaker becomes vacant if the Deputy Speaker—

(a) resigns by giving to the Speaker a written notice of resignation;

(b) vacates his or her seat as a member of the House of Representatives;

(c) is appointed as a Minister; or

(d) is removed from office by a resolution supported by a majority of the members of the House of Representatives.

Leader of the Opposition

74.—(1) The members of the House of Representatives who—

(a) do not belong to the Prime Minister's political party or any party which is in coalition with, or which supports, the Prime Minister's political party; or

(b) are independent candidates who do not support the Prime Minister or the Prime Minister's political party,

must elect a person from amongst themselves to be the Leader of the Opposition, in accordance with this section.

(2) At the first sitting of the House of Representatives after a general election, the Speaker must call for nominations from those members of the House mentioned in subsection (1), and, if only one person is nominated and seconded, the Speaker must declare that person elected as the Leader of the Opposition, but if more than one person is nominated and seconded, the Speaker must conduct a vote, as follows—

(a) if after the first vote, any nominee has the support of the majority of the members of the House of Representatives referred to in subsection (1), the Speaker must declare that person elected as the Leader of the Opposition; and

(b) if no nominee in the first vote receives the support of the majority of the members of the House of Representatives referred to in subsection (1), a second vote must be held within 24 hours of the first vote and the nominee who has the support of the majority of the members of the House of Representatives in the second vote must be declared by the Speaker as being elected as the Leader of the Opposition.

(3) If after the second vote held under subsection (2), no person receives the support of the majority of the members of the House of Representatives mentioned in subsection (1), the position of the Leader of the Opposition remains vacant until such time the majority of the members of the House of Representatives write to the Speaker requesting the Speaker to call for fresh nominations for the election of the Leader of the Opposition in accordance with the procedure set out in subsection (2).

(4) If a majority of the members mentioned in subsection (1) consider that the person who is the Leader of the Opposition should no longer hold the position of the Leader of the Opposition, they must inform the Speaker of their decision and they may elect another member of the House of Representatives, in accordance with the procedure set out in subsection (2).

(5) On the expiry or dissolution of Parliament, the Leader of the Opposition continues in office until the next appointment of a Prime Minister.

(6) If the Leader of the Opposition is unable to be elected in accordance with this section, then the provisions of this Constitution providing for any action by the Leader of the Opposition, including any advice, nomination or consultation of the Leader of the Opposition, are of no effect, and an appointment may be made or an action may be taken under a provision of this Constitution without reference to the Leader of the Opposition.

Part C—SENATE

Role of Senate

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

Members of Senate

76.—(1) The Senate consists of 23 members, of whom—

(a) 14 are appointed by the President on the advice of the BLV;

(b) 6 are appointed by the President on the advice of the Prime Minister;

(c) 2 are appointed by the President on the advice of the Leader of the Opposition; and

(d) one is appointed by the President on the advice of the Rotuma Island Council.

(2) The advice for appointments made by the Prime Minister and the Leader of the Opposition must reflect the diversity of Fiji, including descendants of Girmitiyas and other minority groups.

(3) If, at the time when an appointment is to be made to the Senate, and the position of the Leader of Opposition is vacant, the Prime Minister must adopt the role of the Leader of Opposition as to the 2 persons proposed for appointment under subsection (1)*(c)*.

(4) A person is not eligible to be appointed as a member of the Senate unless the person is eligible to be a candidate for election to the House of Representatives.

Term of Senate

77. The term of the Senate expires on—

(a) the expiry of the House of Representatives; or

(b) the earlier dissolution of the House of Representatives.

Vacation of seat of member of Senate

78.—(1) The seat of a member of the Senate other than the President of the Senate becomes vacant if the member—

(a) dies, or resigns by giving to the Speaker a signed resignation notice;

(b) is convicted of an offence punishable by imprisonment for 12 months or longer;

(c) ceases to be eligible to be a candidate for election to the House of Representatives;

(d) is absent from 2 consecutive sittings of the Senate without having obtained the permission of the President or the Vice-President of the Senate; or

(e) is nominated as a candidate for election to the House of Representatives.

(2) The seat of a member of the Senate becomes vacant on the day immediately before the first sitting of the Senate and after a general election.

Vacancies

79. If the seat of a Senator becomes vacant before the end of his or her term of service, an appointment to fill the vacancy may be made under section 76(1) under which the Senator was appointed.

President and Vice-President of Senate

80.—(1) The members of the Senate must, at its first sitting after a general election for members of the House of Representatives and whenever the office of President of the Senate is vacant, elect from their members a President of the Senate.

(2) A person elected as President of the Senate must make an oath before the Secretary-General to the Senate.

(3) The members of the Senate must, at their first sitting after a general election for members of the House of Representatives and whenever the office of Vice-President of the Senate is vacant, elect one of their members as Vice-President of the Senate.

(4) The Vice-President of the Senate must perform the duties of President of the Senate if the President of the Senate is absent from duty or from Fiji or is, for any other reason, unable to perform those duties.

(5) If neither the President nor the Vice-President is able to perform the duties of the Senate, the members of the Senate must elect one of their members to preside at meetings of the Senate.

(6) The office of President of the Senate does not become vacant on the expiry of the term of the Senate but becomes vacant—

(a) on the day immediately before the first sitting of the Senate after a general election for members of the House of Representatives; or

(b) if, before that day, the President of the Senate—

(i) resigns by giving to the Secretary-General to the Senate a written notice of resignation;

(ii) with the consent of the President of the Senate, becomes the holder of another public office;

(iii) would, if he or she were a member of the House of Representatives, vacate his or her place by reason of the operation of section 70;

(iv) is absent from 2 consecutive sittings of the Senate;

(v) is nominated as a candidate for the election to the House of Representatives;

(vi) is appointed as Attorney-General; or

(vii) is removed from office by a resolution supported by not less than two-thirds of the members of the Senate.

(7) The office of Vice-President of the Senate becomes vacant if the Vice-President—

(a) resigns by giving to the President of the Senate a written notice of resignation;

(b) vacates his or her place in the Senate;

(c) is appointed as Attorney-General; or

(d) is removed from office by a resolution supported by not less than two-thirds of the members of the Senate.

Part D—PARLIAMENTARY SITTINGS, BUSINESS AND ADMINISTRATION

Standing orders and rules

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

(a) the way in which its powers, privileges and immunities may be exercised and upheld; and

(b) the order and conduct of its business and proceedings either separately or jointly with the other House and its committees.

Sessions of Parliament

82.—(1) After a general election of members of the House of Representatives, the Parliament must be summoned to meet by the President no later than 14 days after the announcement of the results of the general election.

(2) At the first meeting, the agenda of business includes—

(a) swearing-in of members, presided over by the Secretary-General to the House of Representatives;

(b) the election of the Speaker in accordance with section 73, presided over by the Secretary-General to the House of Representatives;

(c) swearing-in of the Speaker, presided over by the Secretary-General to the House of Representatives;

(d) the election and swearing-in of the Deputy Speaker, presided over by the Speaker;

(e) in the event that the Prime Minister has not assumed office under section 112(2), the appointment of the Prime Minister by the members of the House of Representatives in accordance with section 112(3); and

(f) the election of the Leader of the Opposition, presided over by the Speaker, and conducted in accordance with section 74.

(3) Other sessions of Parliament commence on a date appointed by the President on the advice of the Prime Minister but no longer than 6 months must elapse between the end of one session and the start of another.

(4) If—

(a) Parliament is not in session; and

(b) the President receives a request in writing from not less than one-third of the members of the House of Representatives requesting that Parliament be summoned to meet to consider without delay a matter of public importance,

the President must summon Parliament to meet.

(5) If—

(a) Parliament is in session, but more than 2 months have elapsed between the sittings of the House of Representatives; and

(b) the Speaker receives a request in writing from the Prime Minister or from not less than one-third of the members of House of Representatives requesting that a sitting be held to consider without delay a matter of public importance,

the Speaker must call a sitting of the House of Representatives within one week of the date on which the request was made.

(6) Subject to this section, the sittings of each House of Parliament are held at such times and places as the House determines in accordance with its rules and orders.

Committees

83.—(1) Parliament must, under its rules and orders, establish committees with the functions of scrutinising Government administration and examining Bills and subordinate legislation and such other functions as are specified from time to time in its rules and orders.

(2) Members of the House of Representatives and the Senate may serve on any committees.

(3) Ministers are not eligible for election to committees of the House of Representatives or the Senate.

Quorum

84.—(1) A sitting of either House may not begin or continue, unless a majority of the members of that House are present.

(2) A vote on a Bill may not be held in either House of Parliament unless a majority of the members are present.

(3) The Speaker must adjourn a sitting if a quorum is not present.

Voting

85.—(1) Except as otherwise provided in this Constitution, any question proposed for decision in either House must be determined by a majority vote of the members present.

(2) On a question proposed for decision in either House—

(a) the person presiding does not have a casting vote; and

(b) in the case of an equality of votes, the question is deemed to be lost.

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

Powers, privileges, immunities and discipline

86.—(1) Every member of Parliament, and anyone else speaking in Parliament, has—

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

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

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

Vacancies in House membership

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

Power to call for evidence

88.—(1) Parliament and each of its committees, has the power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of subsection (1), Parliament and each of its committees has the same powers as the High Court to—

(a) enforce the attendance of witnesses and examine them on oath, affirmation or otherwise; and

(b) compel the production of documents or other materials or information as required for its proceedings.

Petitions, public access and participation

89.—(1) Parliament must—

(a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and

(b) facilitate public participation in the legislative and other processes of Parliament and its committees.

(2) Parliament and its committees may not exclude the public, including the media, from any sitting unless, in exceptional circumstances, the Speaker has ordered the exclusion of the public on grounds that are reasonable and justifiable.

Languages of Parliament

90.—(1) The business of Parliament may be conducted in English, iTaukei, Rotuman or Hindi.

(2) Acts of Parliament must be enacted and published in English, and may be published in iTaukei, Rotuman, Hindi or Braille.

(3) In the case of a conflict between different language versions of an Act of Parliament, the English language version prevails.

(4) Nothing in this section prevents Parliament from conducting business, or publishing Acts, in one or more languages additional to those mentioned in subsections (1) and (2).

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

91.—(1) This section establishes the office of the Secretary-General to the House of Representatives and the office of the Secretary-General to the Senate.

(2) The Secretaries-General are appointed by the President on the advice of the Constitutional Offices Commission following consultation with the Speaker.

(3) The Secretaries-General have the same status as that of a Permanent Secretary and are responsible to the Speaker for the efficient, effective and economical management of the House of Representatives and the Senate, as the case may be.

(4) The Secretaries-General are the principal procedural advisors to the Speaker, and to all members and committees of the House of Representatives and the Senate, as the case may be.

(5) The Secretaries-General are responsible for the functions conferred on them by the standing orders of Parliament and written law.

Part E—ELECTORAL INSTITUTIONS AND OTHER ELECTORAL MATTERS

Electoral Commission

92.—(1) There is an Electoral Commission.

(2) The Commission consists of 5 members, one of which is to be appointed as chairperson.

(3) The chairperson and the members of the Commission are appointed by the President, on the advice of the Constitutional Offices Commission having regard to the appointees' knowledge, skills and experience relevant to the functions and powers of the Commission.

(4) The Commission has the responsibility for the registration of voters and the conduct of free and fair elections in accordance with the written law governing elections, in particular—

(a) the registration of citizens as voters, and the regular revision of the Register of Voters;

(b) voter education;

(c) the registration of candidates for election;

(d) the registration and deregistration of political parties;

(e) the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results; and

(f) the monitoring and enforcing compliance with any written law governing elections and political parties.

(5) The Commission may at other times make such reports to the President and Parliament as it thinks fit.

(6) At a meeting of the Commission, the presence of 3 members including the chairperson constitutes a quorum.

Supervisor of Elections

93.—(1) This section establishes the office of the Supervisor of Elections.

(2) The Supervisor of Elections, acting under the direction of the Electoral Commission—

(a) administers the registration of voters for elections of members to the House of Representatives;

(b) conducts—

(i) elections of members of the House of Representatives; and

(ii) such other elections as Parliament prescribes; and

(c) performs any other functions conferred by written law.

(3) The Supervisor of Elections is accountable to the Electoral Commission and must comply with any directions that the Electoral Commission gives the Supervisor concerning the performance of the Supervisor's functions.

(4) The Supervisor of Elections serves as an *ex officio* member, not being one of the 5 members, of the Electoral Commission and may attend meetings of the Commission and may participate in its deliberations but is not entitled to vote on any matter before the Commission.

(5) The Supervisor of Elections is appointed by the President on the advice of the Constitutional Offices Commission following consultation by the Constitutional Offices Commission with the Electoral Commission.

Constituency Boundaries Commission

94.—(1) This section establishes the Constituency Boundaries Commission.

(2) The Commission consists of—

(a) a chairperson appointed by the President on the advice of the Prime Minister, after consultation with the Electoral Commission, having regard to the appointee's knowledge, skills and experience relevant to the functions and powers of the Commission;

(b) one member appointed by the President on the advice of the Leader of the Opposition, after consultation with the Electoral Commission, having regard to the appointee's knowledge, skills and experience relevant to the functions and powers of the Commission; and

(c) the following *ex officio* members—

(i) the permanent secretary responsible for land;

(ii) the permanent secretary responsible for iTaukei affairs;

(iii) the permanent secretary responsible for multi-ethnic affairs; and

(iv) the chief executive of the authority responsible for statistics.

(3) A person is qualified for appointment as chairperson or as a member only if the person—

(a) has had a distinguished career in any aspect of national or international life, whether in the public or private sector;

(b) is a Fijian citizen;

(c) is not a member of, or office holder in, a political party;

(d) has not held office in a political party or been an election candidate in the 8 years prior to being nominated;

(e) is not a candidate for election to Parliament; and

(f) has not, at any time been convicted of any offence with a term of imprisonment of 12 months or more under any written law.

(4) The Commission may co-opt up to 3 persons who meet the qualifications under subsection (3), and who have technical knowledge or expertise relevant to the functions of the Commission, to be non-voting members of the Commission.

(5) The Commission must determine the boundaries of the constituencies.

(6) In determining the boundaries of the constituencies, except for the maritime constituencies, the Commission—

(a) must try to ensure that the number of voters in each constituency seat is, as far as reasonably practicable, the same;

(b) subject to paragraph *(a)*, must give due consideration, in relation to each proposed constituency to—

(i) the physical features of the proposed constituency;

(ii) the boundaries of the existing administrative and recognised traditional areas;

(iii) means of communication and travel within the proposed constituency; and

(iv) any relevant communities of interest within the proposed constituency.

(7) The Commission must, in the year following each official census, and may, at other times, review the boundaries of constituencies and determine whether or not the boundaries should be changed to give effect to subsection (6).

(8) Parliament may make laws relating to reviews conducted by the Commission, including laws requiring the Commission to give notice of proposed redistributions and to hear objections before making a determination.

(9) Upon the making of a determination on a redistribution, the Commission must report its findings to the House of Representatives, together with—

(a) a summary of any objections made to it; and

(b) the reasons for its determination.

(10) A determination of the Commission is final.

(11) The President may, on the advice the Prime Minister, remove a person appointed under subsection (2)*(a)*.

(12) The President may, on the advice of the Leader of the Opposition, remove a person appointed under subsection (2)*(b)*.

Registration of voters

95.—(1) Every citizen who is or will be at least 18 years of age on or before the date of the issue of the writ for the next election of members to the House of Representatives has the right to be registered as a voter.

(2) Every person who is registered as a voter has the right to vote in the election of members of the House of Representatives.

(3) The Electoral Commission must maintain a national common Register of Voters, and a roll of voters for each constituency, in accordance with a written law on electoral matters and voter registration.

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

96. Parliament must not enact any major new election laws, including any amendments to existing election laws, in the 9 months before the end of the 5 year term of Parliament.

Court of Disputed Returns

97.—(1) The High Court is the Court of Disputed Returns and has original jurisdiction to hear and determine—

(a) by way of a petition, a question whether a person has been validly elected as a member of the House of Representatives; and

(b) by way of a proceeding, an application for a declaration on whether the seat of a member of the House of Representatives has become vacant.

(2) The validity of an election of a person as a member of the House of Representatives may only be disputed by petition addressed to the Court of Disputed Returns and not otherwise.

(3) The petition—

(a) may only be brought by—

(i) a person who had the right to vote in the election concerned; or

(ii) a person who was a candidate in the election concerned; and

(b) except if corrupt practice is alleged, must be brought within 21 days of the declaration of the poll.

(4) Proceedings pursuant to subsection (1)*(b)* may only be brought by—

(a) a member of the House of Representatives; or

(b) a registered voter.

(5) Notwithstanding anything contained in subsection (4), proceedings under subsection (1)*(b)* cannot be brought under this section by the member of the House of Representatives whose seat is the subject of the proceeding, and any proceeding by any such member which seeks to question or challenge the validity of his or her seat in the House of Representatives becoming vacant must only be brought under section 70.

(6) The Court of Disputed Returns must make a determination on any petition or proceeding within 21 days of the date when the petition or proceeding is brought before it.

(7) A petition—

(a) may only be brought by—

(i) a person who had a right to vote in the election concerned;

(ii) a person who was a candidate in that election; or

(iii) the Attorney-General; and

(b) must be brought within 6 weeks of the declaration of the poll.

(8) A determination by the Court of Disputed Returns under this section is final and not subject to any appeal.

CHAPTER 5—THE EXECUTIVE

Part A—THE PRESIDENT AND VICE-PRESIDENT

The President of Fiji

98.—(1) This section establishes the office of the President.

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

Functions and powers of the President

99.—(1) As Head of State, the President—

(a) represents Fiji to other nations and in international forums;

(b) receives advice from the Prime Minister about the issues relating to the governance of Fiji;

(c) receives foreign diplomatic and consular representatives;

(d) exercises the power of mercy in accordance with section 140;

(e) may confer honours in the name of Fiji, in accordance with written law; and

(f) and any other powers as prescribed under this Constitution or written law.

(2) The President performs ceremonial functions and responsibilities as the Commander-in-Chief of the Republic of Fiji Military Forces.

(3) The President opens each annual session of Parliament with an address outlining the policies and programmes of the Government.

(4) The President may address Parliament, at the request of the Speaker and the Prime Minister.

(5) The President must assent to and sign each Act of Parliament.

President acts on advice

100.—(1) In the exercise of his or her powers and executive authority, the President acts only on the advice, and must act in accordance with that advice, of the Prime Minister, Cabinet or a Minister or of some other body or authority prescribed by this Constitution for a particular purpose as the body or authority on whose advice the President acts unless this Constitution provides otherwise.

(2) Where any written law is silent as to the source of advice to the President, Cabinet is the source of that advice.

The Vice-President of Fiji

101.—(1) This section establishes the office of the Vice-President.

(2) The Vice-President is the deputy head of state.

Qualification for appointment

102.—(1) A person is qualified to be appointed to the office of the President or the Vice-President only if the person—

(a) has had a distinguished career in any aspect of national or international life, whether in the public or private sector;

(b) is a citizen of Fiji;

(c) is not a member of a political party;

(d) is not a candidate for election to any other office in the State; and

(e) is not under sentence or subject to be sentenced for an offence punishable by a term of imprisonment of 12 months or more.

(2) If a person holding a public office is appointed as the President or the Vice-President, the appointment has the effect of terminating the person's service in that public office.

(3) Nothing in this section prevents the President or the Vice-President from holding a public office, by virtue of their appointment as the President or Vice-President, under any written law.

Appointment of President and Vice-President

103. The President and Vice-President are appointed by the Bose Levu Vakaturaga after consultation with the Prime Minister.

Term of office and remuneration

104.—(1) The President and Vice-President hold office for 4 years, and each is eligible for re-appointment for one further term of 4 years, but is not eligible for re-appointment after that.

(2) For the purposes of subsection (1), in determining whether a person is eligible for appointment or re-appointment, any period served before the commencement of this Constitution must be taken into account.

Oath of office

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

Resignation

106.—(1) The President may resign from office by delivering a written notice of resignation to the Bose Levu Vakaturaga.

(2) The Bose Levu Vakaturaga must advise the Speaker and the President of the Senate of the resignation and the Speaker must table the notice in the House of Representatives and a new President be appointed in accordance with section 103.

(3) The Vice-President may resign from office by delivering a written notice of resignation to the President or, if the office of President is vacant or the President is absent from duty, to the Bose Levu Vakaturaga and a new Vice-President be appointed in accordance with section 103.

Removal from office of President or Vice-President

107.—(1) The President or Vice-President may be removed from office only—

(a) for incapacity or misbehaviour; and

(b) by the Bose Levu Vakaturaga in accordance with this section.

(2) If the Prime Minister considers that the question of removing the President or Vice-President from office ought to be investigated, then—

(a) the Prime Minister requests the Chief Justice to establish—

(i) in a case of alleged misbehaviour, a tribunal, consisting of a chairperson and 2 other members each of whom is, or is eligible to be, a judge; and

(ii) in a case of alleged incapacity to perform the functions of office, a medical board, consisting of a chairperson and two other members, each of whom is a qualified medical practitioner,

and notifies the President or Vice-President, as the case may be, of the request;

(b) the Chief Justice, who must act on the request, establishes the tribunal or medical board, as the case may be;

(c) the tribunal or medical board enquires into the matter and furnishes a written report to the Chief Justice;

(d) the Chief Justice refers the report to the Prime Minister together with, in the case of a report on alleged misbehaviour, written recommendations of the Chief Justice;

(e) the Prime Minister considers the report and any recommendations and—

(i) if he or she considers that the matter should be considered by the Bose Levu Vakaturaga, he or she refers the report and any recommendations to the Bose Levu Vakaturaga, with a request that it consider the matter, and notifies the President or Vice-President, as the case may be, accordingly; or

(ii) if he or she considers that the matter should not be considered by the Bose Levu Vakaturaga, he or she notifies the President or Vice-President, as the case may be, accordingly;

(f) upon receipt of a request from the Prime Minister under subparagraph *(e)* (i), the Bose Levu Vakaturaga convenes to consider whether the President or Vice-President, as the case may be, should be removed from office.

(3) The President or Vice-President is taken to be unable to perform the functions or his or her office during the period starting on the day on which the President or Vice-President received notification under subsection (2)*(a)* and ending on—

(a) if the matter is not referred to the Bose Levu Vakaturaga, the day on which the President or Vice-President receives notification under subsection (2) *(e)*(ii); or

(b) if the matter is referred to the Bose Levu Vakaturaga, the day on which the matter is finally dealt with by the Bose Levu Vakaturaga.

Performance of functions in absence of President

108.—(1) If the President is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of the President or if the office of the President becomes vacant for any reason, then the functions of the office of the President are to be performed by the Vice-President.

(2) If the Vice-President is, for any reason, unable to perform the functions of the President under subsection (1), then the functions of the office of the President are to be performed by the Speaker.

Part B—PRIME MINISTER AND CABINET

Responsible Government

109. Governments must have the confidence of Parliament.

Cabinet

110.—(1) Cabinet consists of the Prime Minister as chairperson, and such number of Ministers as determined by the Prime Minister.

(2) Cabinet members are accountable individually and collectively to Parliament, for the exercise of their powers and the performance of their functions.

(3) A Minister must appear before Parliament, or a committee of Parliament, when required, and answer any question concerning a matter for which the Minister is responsible.

(4) Cabinet members must provide Parliament with full and regular reports concerning matters for which they are responsible.

(5) Cabinet may seek an opinion from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

Office of the Prime Minister

111.—(1) The Prime Minister is the head of the Government.

(2) The Prime Minister must keep the President generally informed about the issues relating to the governance of Fiji.

(3) The Prime Minister—

(a) appoints Ministers with such titles, portfolios and responsibilities as the Prime Minister determines from time to time;

(b) dismisses Ministers; and

(c) by notice published in the Gazette, assigns to any Minister or to himself or herself responsibility for the conduct of a specified part of the business of the Government, including responsibility for the general direction and control over a branch or branches of the public service or over a disciplined force and responsibility for the implementation and administration of each Act, provided however that the responsibility for any part of the business of Government that is not specifically assigned remains with the Prime Minister.

(4) The Prime Minister must appoint a Minister to act in the office of the Prime Minister during any period, or during all periods, when the Prime Minister is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office, and a notification of the appointment of the Acting Prime Minister must be published in the Gazette.

Appointment of Prime Minister

112.—(1) The Prime Minister must be a member of the House of Representatives.

(2) After a general election, if one political party has won more than 50% of the total number of seats in the House of Representatives then that political party has the right to name the person who is to become the Prime Minister and that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office which the President must administer as set out in the Schedule.

(3) After a general election, if no one political party has won more than 50% of the total number of seats in the House of Representatives, then, at the first sitting of the House of Representatives, the Speaker must call for nominations from members of the House of Representatives and, if only one person is nominated and seconded, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office which the President must administer as set out in the Schedule; but if more than one person is nominated and seconded, the Speaker must conduct a vote, as follows—

(a) if after the first vote, a person who is nominated has the support of more than 50% of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule;

(b) if after the first vote, no person who is nominated receives the support of more than 50% of the members of the House of Representatives, a second vote must be held within 24 hours of the first vote and, if after the second vote, a person who is nominated has the support of more than 50% of the members of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office which the President must administer as set out in the Schedule;

(c) if after the second vote, no person who is nominated receives the support of more than 50% of the members of the House of Representatives, a third vote must be held within 24 hours of the second vote and, if after the third vote, a person who is nominated has the support of more than 50% of the members of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office which the President must administer as set out in the Schedule; and

(d) if after the third vote, no person receives the support of more than 50% of the members of the House of Representatives, the Speaker must notify the President in writing of the inability of the House of Representatives to appoint a Prime Minister, and the President must, within 24 hours of the notification, dissolve Parliament and issue the writ for a general election to take place in accordance with this Constitution.

(4) A vacancy arises if the Prime Minister—

(a) resigns, by written notice to the President;

(b) ceases to be, or ceases to qualify to be, a member of the House of Representatives;

(c) is dismissed through a motion of no confidence; or

(d) dies.

(5) If a vacancy arises in the office of the Prime Minister under subsection (4), then the Speaker must immediately convene the House of Representatives and call for nominations from members of the House of Representatives for the office of the Prime Minister and, if only one person is nominated and seconded, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office which the President must administer as set out in the Schedule, but if more than one person is nominated and seconded, the Speaker must conduct a vote in the same manner set out in subsection (3) for election of the Prime Minister after a general election to which that subsection applies.

Motion of no confidence

113.—(1) The Prime Minister may only be dismissed by a motion of no confidence, which must also propose the name of another member of the House of Representatives to be the Prime Minister.

(2) A motion of no confidence must be called for a vote within 24 hours of it being introduced.

(3) A motion of no confidence passes if it is supported by a majority of the members of the House of Representatives.

(4) If a motion of no confidence passes—

(a) the incumbent Prime Minister immediately ceases to hold office;

(b) every other member of Cabinet is deemed to have resigned; and

(c) the person proposed to be the Prime Minister, in the motion, assumes that office immediately upon being sworn in by the President.

(5) If a motion of no confidence fails against the incumbent Prime Minister, no further motion of no confidence may be introduced against him or her for at least 6 months.

Appointment of Ministers

114.—(1) Subject to section 116(3), a Minister must be a member of the House of Representatives.

(2) Each member of Cabinet assumes office by taking the oath or affirmation of allegiance and office as set out in the Schedule, as administered by the President.

(3) Each Minister continues in office unless he or she—

(a) is removed by the Prime Minister;

(b) ceases to be, or ceases to qualify to be, a member of the House of Representatives; or

(c) resigns by delivering a written notice of resignation to the Prime Minister.

(4) The Prime Minister may appoint a Minister to act in the office of another Minister during any period, or during all periods, when the other Minister is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office, and a notification of the appointment of an Acting Minister must be published in the Gazette.

Caretaker government

115.—(1) Upon the issue of the writ for the general election, the Government continues in office in a caretaker capacity, and each member of Cabinet retains their office as a Minister until the day immediately before the first sitting of the House of Representatives after that election.

(2) During the caretaker period, the Government may exercise executive authority only in accordance with established caretaker conventions and must avoid making major policy decisions, entering significant commitments, or taking actions that would bind an incoming Government, except where required in the public interest.

Attorney-General

116.—(1) The Attorney-General may be a member of either the House of Representatives or the Senate and—

(a) is the chief legal advisor to Government; and

(b) has ministerial responsibilities as determined by the Prime Minister.

(2) A person is not qualified to be appointed as the Attorney-General unless he or she—

(a) is admitted as a legal practitioner in Fiji and has at least 15 years post-admission practice as a legal practitioner whether in Fiji or abroad; and

(b) has not, in the 8 years immediately before the appointment, been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

(3) If the Prime Minister considers that there are no members of Parliament who are qualified, suitable or available to be appointed as the Attorney-General, then the Prime Minister may appoint a person who is not a member of Parliament as the Attorney-General.

(4) A person appointed as the Attorney-General under subsection (3) is entitled to take part in Cabinet as a Minister, and to sit in the House of Representatives, provided however that they are not eligible to vote in the House of Representatives.

(5) Any person appointed as the Attorney-General must not, during their term of appointment as the Attorney-General, practice as a legal practitioner in a law firm or have any interest in a law firm or have any law firm practice under their name.

CHAPTER 6—JUDICIARY

Part A—COURTS AND JUDICIAL OFFICERS

Judicial authority

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

Judicial independence

118.—(1) The courts and all judicial officers are independent of the legislative and executive branches of Government, and are subject only to this Constitution and the law, which they must apply without fear, favour or prejudice.

(2) No person may interfere with the judicial functioning of the courts, or unreasonably interfere with the administrative functioning of the courts.

(3) A judicial officer is protected from civil or criminal action for anything said or done, or omitted to be done, in the performance of a judicial function.

(4) In the performance of their functions and the exercise of their authorities and powers, a judicial officer is independent and is not subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by law.

(5) The Chief Justice and the President of the Court of Appeal are entitled to the renumeration and allowances determined by the President on the advice of the Prime Minister, following recommendation from an independent committee appointed by the Prime Minister, and the remuneration and allowances must not be varied to the disadvantage of the Chief Justice of the President of the Court of Appeal during their term of Office, except as part of an overall austerity reduction applicable to all officers of the State.

(6) A judicial officer other than the Chief Justice and the President of the Court of Appeal is entitled to the renumeration and allowances determined by the President on the advice of the Judicial Services Commission, following recommendation from an independent Committee appointed by the Judicial Services Commission, and the remuneration and allowances must not be varied to the disadvantage, except as part of an overall austerity reduction applicable to all officers of the State.

(7) The State must ensure that adequate funding and resources are made available to the judiciary to enable it to independently and effectively exercise its powers and perform its functions and duties.

(8) The judiciary has control of its own budget and finances, as approved by Parliament.

(9) The salaries, benefits and allowances payable to any person employed by the judiciary are a charge on the Consolidated Fund.

(10) The judiciary may regulate its own procedure and may make such rules and regulations it deems fit for regulating and facilitating the performance of its functions.

(11) This section is subject to section 130.

Jurisdiction of courts of State

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

Supreme Court

120.—(1) The Supreme Court consists of—

(a) the Chief Justice, who is the President of the Supreme Court; and

(b) such other Judges as are appointed as Judges of the Supreme Court, to serve as the occasion requires.

(2) If deemed necessary by the Chief Justice, any of the Justices of Appeal may sit on a matter being heard by the Supreme Court.

(3) The Supreme Court—

(a) is the final appellate court;

(b) has exclusive jurisdiction, subject to any requirements prescribed by written law, to hear and determine appeals from all final judgments of the Court of Appeal; and

(c) has original jurisdiction to provide an advisory opinion on any questions relating to the interpretation or application of any provision of this Constitution, referred to it by Cabinet.

(4) An appeal may not be brought from a final judgment of the Court of Appeal unless—

(a) the Court of Appeal gives leave to appeal on a question certified by it to be of significant public importance; or

(b) the Supreme Court gives special leave to appeal.

(5) In the exercise of its appellate jurisdiction, the Supreme Court may—

(a) review, vary, set aside or affirm decisions or orders of the Court of Appeal; or

(b) make any other order necessary for the administration of justice, including an order for a new trial or an order awarding costs.

(6) Decisions of the Supreme Court are, subject to subsection (7), binding on all other courts of the State.

(7) The Supreme Court may review any judgment, pronouncement or order made by it.

Court of Appeal

121.—(1) The Court of Appeal consists of—

(a) a Judge, other than the Chief Justice, who is appointed as the President of the Court of Appeal; and

(b) such other Judges as are appointed as Justices of Appeal.

(2) If deemed necessary by the President of the Court of Appeal, any of the Judges of the High Court, other than the Chief Justice, may sit on a matter being heard by the Court of Appeal.

(3) The Court of Appeal has jurisdiction, subject to this Constitution and to any requirements prescribed by written law, to hear and determine appeals from all judgments of the High Court and Military Court and has such other jurisdiction as is conferred by written law.

(4) Appeals lie to the Court of Appeal as of right from a final judgment of the High Court in any matter arising under this Constitution or involving its interpretation.

(5) A written law may provide that appeals lie to the Court of Appeal, as of right or with leave, from other judgments of the High Court in accordance with any requirements prescribed in that written law or under the rules pertaining to the Court of Appeal.

High Court

122.—(1) The High Court consists of—

(a) the Chief Justice;

(b) such other Judges as are appointed as Judges of the High Court;

(c) Masters of the High Court; and

(d) Chief Registrar of the High Court.

(2) The jurisdiction and powers of the Masters of the High Court and the Chief Registrar of the High Court must be prescribed by written law.

(3) The High Court has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other original jurisdiction as is conferred on it under this Constitution or any written law.

(4) The High Court also has original jurisdiction on any matter arising under this Constitution or involving its interpretation.

(5) The High Court has jurisdiction, subject to conferral by written law of rights of appeal and to any requirements prescribed by written law, to hear and determine appeals from all judgments of the Magistrates Court and other subordinate courts.

(6) The High Court has jurisdiction to supervise any civil or criminal proceedings before a Magistrates Court or other subordinate courts and may, on an application duly made to it, make such orders, issue such writs and give such directions as it considers appropriate to ensure that justice is duly administered by the Magistrates Court and other subordinate courts.

(7) If in any proceedings in a subordinate court any question arises as to the interpretation of this Constitution and the presiding officer in the proceedings considers that a substantial question of law is involved, the presiding officer must refer the question to the High Court.

(8) When the High Court gives its decision on a question referred to it under subsection (7), the court in which the question arose must dispose of the case in accordance with—

(a) the decision; or

(b) if the decision is the subject of an appeal to the Court of Appeal or to the Supreme Court, the decision of the Court of Appeal or Supreme Court, as the case may be.

Military Court

123.—(1) The Military Court consists of the Military Judge, who is a Judge of the High Court.

(2) The Military Court has unlimited original jurisdiction inclusive of inherent jurisdiction to hear and determine any criminal proceeding triable under military law.

(3) The authority, functions and responsibilities of the Military Court must be prescribed by written law, and a written law may make further provisions for the Military Court.

(4) The Military Court may regulate its own procedure and make such rules and regulations as it deems fit for regulating and facilitating the performance of its functions.

Magistrates Court

124.—(1) The Magistrates Court consists of—

(a) the Chief Magistrate; and

(b) such other Magistrates as are appointed by the Judicial Services Commission.

(2) The Magistrates Court has such jurisdiction as conferred by a written law.

Other courts

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

Court rules and procedures

126.—(1) The President of the Supreme Court may make rules of court and issue directions, consistent with this Constitution and any relevant written law, for regulating and prescribing the practice and procedure to be followed in the Supreme Court.

(2) The President of the Court of Appeal may make rules of court and issue directions, consistent with this Constitution and any relevant written law, for regulating and prescribing the practice and procedure to be followed in the Court of Appeal.

(3) The Chief Justice may make rules of court and issue directions, consistent with this Constitution and any relevant written law, for regulating and prescribing the practice and procedure to be followed in the High Court, the Military Court, and the Magistrates Court.

Judicial Services Commission

127.—(1) There is a Judicial Services Commission.

(2) The Commission consists of—

(a) the Chief Justice or their nominee, who is to be the chairperson;

(b) the President of the Court of Appeal or their nominee;

(c) the Permanent Secretary responsible for justice;

(d) the chairperson of the Public Service Commission;

(e) the President of the Fiji Law Society or their nominee who must be a legal practitioner who—

(i) has not less than 15 years post-admission practice; and

(ii) has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission; and

(f) a person, not being a legal practitioner, nominated by the Constitutional Offices Commission.

(3) The Commission is responsible for—

(a) overseeing the adequacy and efficiency of the funding for the judiciary;

(b) promoting programmes for the continuing education and training of judges and judicial officers;

(c) overseeing and providing advice and guidance to the judiciary on the implementation and operation of its independence and accountability measures applicable including setting timetables and procedures for managing discipline and removal from office proceedings;

(d) appointing women and men to serve as Judges and judicial officers, taking into account the need to represent the diversity of Fiji;

(e) reviewing the conduct of Judges and judicial officers and convening a tribunal, when required, and in accordance with the processes set out in Chapter 12;

(f) appointing, removing and disciplining all staff of the judiciary; and

(g) performing other functions that may be conferred on the Commission by written law.

(4) The secretary of the Commission is the Chief Registrar, or any other person performing the functions of that office.

(5) The quorum for the meetings of the Commission is the chairperson and 2 other members.

(6) A member of the Commission nominated under subsection 2*(a)*, *(b)*, *(e)* and *(f)* may be removed from the Commission by the nominating member.

Qualifications for appointment to judicial offices

128.—(1) The making of appointments to a judicial office is governed by the principle that judicial officers should be of the highest competence and integrity.

(2) A person is not qualified for appointment as a Judge unless he or she—

(a) holds, or has held a high judicial office in Fiji or in another country prescribed by law; or

(b) has had not less than 15 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not, in the past 10 years, been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

(3) A person is not qualified for appointment as a Magistrate unless he or she—

(a) holds, or has held a judicial office in Fiji or in another country prescribed by law; or

(b) has had not less than 10 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not, in the past 10 years, been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

Appointment of Judges

129.—(1) The Chief Justice and the President of the Court of Appeal are appointed by the President on the advice of the Prime Minister.

(2) The Judges of the Supreme Court, the Justices of Appeal, the Judges of the High Court and the Judge of the Military Court are appointed by the President on the advice of the Judicial Services Commission.

(3) The President, on the advice of the Prime Minister following consultation with the Judicial Services Commission, may appoint a Judge to act as the Chief Justice or the President of the Court of Appeal during any period, or during all periods, when the office of the Chief Justice or the President of the Court of Appeal is vacant or when the Chief Justice or the President of the Court of Appeal is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

(4) The President may, on the advice of the Judicial Services Commission, appoint a person to act as a Judge of the High Court during any period or during all periods, when an office of a Judge of the High Court is vacant or when a Judge is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

(5) A person is not eligible to be appointed under subsection (4) unless he or she is qualified for appointment as a Judge.

Other appointments

130.—(1) The Judicial Services Commission has the authority to appoint Magistrates, Masters of the High Court, the Chief Registrar, and other judicial officers prescribed by written law.

(2) The Judicial Services Commission has the authority to appoint members of the following tribunals—

(a) the Employment Relations Tribunal established under the Employment Relations Act 2007;

(b) the Agricultural Tribunal established under the Agricultural Landlord and Tenant Act 1966;

(c) the Environment Tribunal established under the Environment Management Act 2005; and

(d) members of any other tribunals prescribed by written law.

(3) The Judicial Services Commission has the Authority to appoint, remove and discipline all staff of judiciary (including administrative staff).

(4) The Judicial Services Commission has the authority to determine all matters pertaining to the employment of all staff, including—

(a) the terms and condition of employment;

(b) the qualification requirements for appointments and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with this budget as approved by Parliament; and

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

Oath of office

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

Term of office of judicial officer

132.—(1) An appointment as a Judge continues until the Judge reaches retirement age of 75.

(2) However, a Judge who has attained the age of 75 years may be reappointed if, in the opinion of the Judicial Services Commission, the Judge demonstrates the continued possession of full mental and physical faculties necessary for the performance of judicial duties.

(3) The reappointment of a Judge under subsection (2) is for a period determined by the Judicial Services Commission as being appropriate in all circumstances.

(4) Notwithstanding subsection (1), a person who is not a citizen of Fiji and who is appointed to be a Judge in Fiji serves for a period not exceeding 3 years determined in each case by the Judicial Services Commission at the time of appointment and may be eligible for re-appointment.

Removal of Chief Justice or President of the Court of Appeal

133.—(1) The Chief Justice and the President of Court of Appeal may be removed from office only—

(a) for incapacity or misbehaviour; and

(b) by the President in accordance with this section.

(2) If the President, acting on the advice of the Prime Minister, considers that the question of removing the Chief Justice or the President of Court of Appeal from office ought to be investigated, then—

(a) the President must appoint—

(i) in the case of alleged misbehaviour, a tribunal consisting of a chairperson and not less than 2 other members, selected by the President from among persons who hold or have held high judicial office in Fiji or in another country prescribed by the Parliament; and

(ii) in the case of alleged incapacity, a medical board, consisting of a chairperson and 2 other members, each of whom is a qualified medical practitioner;

(b) the tribunal or medical board must enquire into the matter and—

(i) give a written report of the facts to the President; and

(ii) advise the President whether the Chief Justice or the President of Court of Appeal should be removed from office; and

(c) if the tribunal or medical board advices that the Chief Justice or the President of Court of Appeal, as the case may be, should be removed from Office, the President may remove that person from office.

(3) If the question of removing the Chief Justice or the President of Court of Appeal, from office has been referred to a tribunal or medical board under subsection (2), the President may, on the advice of the Prime Minister, suspend that person from office and may, at any time, revoke that suspension.

(4) The suspension of the Chief Justice or the President of Court of Appeal, from office ceases to have effect if the tribunal or medical board advises the President that the person should not be removed from office.

Removal of judicial officers for cause

134.—(1) A judicial officer other than the Chief Justice and the President of the Court of Appeal may be removed from office only—

(a) for incapacity or misbehaviour; and

(b) by the President in accordance with this section.

(2) If the President, acting on the advice of the Judicial Services Commission, considers that the question of removing a judicial officer from office ought to be investigated, then—

(a) the President must appoint—

(i) in the case of alleged misbehaviour, a tribunal consisting of a chairperson and not less than 2 other members, selected by the President from among persons who hold or have held high judicial office in Fiji or in another country prescribed by the Parliament; and

(ii) in the case of alleged incapacity, a medical board, consisting of a chairperson and 2 other members, each of whom is a qualified medical practitioner;

(b) the tribunal or medical board must enquire into the matter and—

(i) give a written report of the facts to the President; and

(ii) advise the President whether the judge should be removed from office; and

(c) if the tribunal or medical board advises that the judicial officer should be removed from office, the President may remove that person from office.

(3) If the question of removing the judicial officer from office has been referred to a tribunal or medical board under subsection (2), the President may, on the advice of the Judicial Services Commission, suspend that person from office and may, at any time, revoke that suspension.

(4) The suspension of a judicial officer from office ceases to have effect if the tribunal or medical board advises the President that the person should not be removed from office.

Part B—INDEPENDENT JUDICIAL AND LEGAL INSTITUTIONS

Independent Legal Services Commission

135.—(1) There is an Independent Legal Services Commission.

(2) The Commission consists of a Commissioner, who is or is qualified to be a Judge, appointed by the President on the advice of the Judicial Services Commission.

(3) In advising the President as to the person to be appointed as Commissioner, the Judicial Services Commission must be satisfied that the person—

(a) is familiar with the nature of the legal system and legal practice in Fiji; and

(b) possesses appropriate qualities of independence, integrity and fairness.

(4) The President may appoint a person who is not a citizen of Fiji as the Commissioner.

(5) The Commissioner may be appointed either on a part-time or full-time basis.

(6) The Commission has the functions prescribed by written law.

(7) The Commissioner may be removed from office for incapacity or misbehaviour and may not otherwise be removed.

(8) The procedure for removal of the Commissioner from office shall be the same as the procedure for removal of a judicial officer under section 134.

Solicitor-General

136.—(1) There is an office of the Solicitor-General.

(2) The Solicitor-General is responsible for—

(a) providing independent legal advice to the Government and to the holder of a public office, on request;

(b) preparing draft laws on the request of Cabinet;

(c) maintaining a publicly accessible register of all written law;

(d) representing the State in court in any legal proceedings to which the State is a party, other than criminal proceedings; and

(e) performing any other functions assigned by this Constitution or any written law.

(3) The Solicitor-General is appointed by the President on the advice of the Judicial Services Commission following consultation with the Attorney-General.

(4) The Solicitor-General must be a person who is qualified to be appointed as a Judge.

(5) The Solicitor-General, with the permission of the court, may appear as a friend of the court in any civil proceedings to which the State is not a party.

(6) Any functions assigned to the Solicitor-General may be exercised in person or by subordinate officers acting in accordance with general or special instructions.

(7) The President may, on the advice of the Judicial Services Commission following consultation with the Attorney-General, appoint a person to act as the Solicitor-General during any period or during all periods when the office of the Solicitor- General is vacant or when the Solicitor-General is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

(8) The Solicitor-General also has the status of a permanent secretary who is responsible for the Office of the Attorney-General and may be assigned additional responsibilities by the Attorney-General or by Cabinet.

(9) The Solicitor-General has the same term of office as a Judge of the High Court and is paid the remuneration determined by the Judicial Services Commission in consultation with the Attorney-General, which must be not less than the remuneration payable to a Judge of the High Court or a permanent secretary and must not be varied to the disadvantage of the Solicitor-General other than as part of an overall austerity reduction similarly applicable to all officers of the State.

(10) The Solicitor-General may be removed from office only for incapacity or misbehaviour, and in accordance with the procedure for removal of a judicial officer under section 134.

(11) The Solicitor-General shall have the authority to appoint, remove and institute disciplinary action against all staff (including administrative staff) in the Office of the Attorney-General.

(12) The Solicitor-General has the authority to determine all matters pertaining to the employment of all staff in the Office of the Attorney-General, including—

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and

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

(13) Any functions assigned to the Solicitor-General may be exercised in person or by subordinate officers acting in accordance with general or special instructions.

Director of Public Prosecutions

137.—(1) There is an office of the Director of Public Prosecutions.

(2) The Director of Public Prosecutions must be a person who is qualified to be appointed as a Judge.

(3) The Director of Public Prosecutions is appointed by the President on the recommendation of the Judicial Services Commission for a term of 7 years and is eligible for reappointment.

(4) The President may, on the recommendation of the Judicial Services Commission, appoint a person to act as the Director of Public Prosecutions during any period or during all periods, when the office of the Director of Public Prosecutions is vacant or when the Director of Public Prosecutions is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

(5) The Director of Public Prosecutions may—

(a) institute and conduct criminal proceedings;

(b) take over criminal proceedings that have been instituted by another person or authority;

(c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or conducted by the Director of Public Prosecutions or another person or authority; and

(d) intervene in proceedings that raise a question of public interest that may affect the conduct of criminal proceedings or criminal investigations.

(6) The powers of the Director of Public Prosecutions may be exercised by the Director personally, or through other persons acting on the Director's instructions.

(7) The Director of Public Prosecutions may—

(a) after consulting with the Commander of the Fiji Military Forces, appoint a legal practitioner as a prosecutor for the purposes of any military criminal proceeding in the Military Court; and

(b) appoint a legal practitioner to be a public prosecutor for the purposes of any criminal proceeding.

(8) The Director of Public Prosecutions has the authority to appoint, remove and institute disciplinary action against all staff (including administrative staff) in the office of the Director of Public Prosecutions.

(9) The Director of Public Prosecutions may be removed from Office only for incapacity or misbehaviour, and in accordance with the procedure for removal of a judicial officer under section 134.

Legal Aid Commission

138.—(1) The Legal Aid Commission established by the Legal Aid Act 1996 continues in existence.

(2) The main function of the Commission is to provide free legal aid services to members of the public who cannot afford the services of a legal practitioner, in accordance with any rules and guidelines prescribed by written law.

(3) The Commission must provide regular updates and advice to the Attorney-General on any matter relating to its functions and responsibilities.

Fiji Law Reform Commission

139. There is a Fiji Law Reform Commission and its membership and functions must be prescribed by written law.

Mercy Commission

140.—(1) There is a Commission on the Prerogative of Mercy.

(2) The Commission consists of—

(a) the Attorney-General, who is to be its chairperson; and

(b) 4 other members appointed by the President, acting on the advice of the Judicial Services Commission.

(3) On the petition of any convicted person, the Commission may recommend that the President exercise a power of mercy by—

(a) granting a free or conditional pardon to a person convicted of an offence;

(b) postponing the carrying out of a punishment, either for a specific or indeterminate period; or

(c) remitting all or a part of a punishment.

(4) The Commission may dismiss a petition that it reasonably considers to be frivolous, vexatious or entirely without merit, but otherwise—

(a) must consider a report on the case prepared by—

(i) the Judge who presided at the trial; or

(ii) the Chief Justice, if a report cannot be obtained from the presiding Judge;

(b) must consider any other information derived from the record of the case or elsewhere that is available to the Commission; and

(c) may consider the views of the victims of the offence.

(5) The President may, on the recommendation of the Judicial Services Commission, appoint a person to act as a member of the Commission during any period or during all periods, when there is a vacancy in the membership of the Commission or when a member is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

(6) The quorum for the meetings of the Commission consists of the chairperson and 2 other members.

Public Service Disciplinary Tribunal

141.—(1) There is a Public Service Disciplinary Tribunal.

(2) The Tribunal consists of a chairperson and 2 other members, appointed by the President, on the advice of the Judicial Services Commission following consultation by it with the Attorney-General.

(3) The chairperson of the Tribunal must be a person who is, or is qualified to be appointed as a Judge.

(4) The members of the Tribunal must be appointed for a term of 3 years and are eligible for re-appointment.

(5) The President may, on the recommendation of the Judicial Services Commission following consultation by it with the Attorney-General, appoint a person to act as a member of the Tribunal during any period or during all periods, when there is a vacancy in the membership of the Tribunal or when a member is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

(6) The members of the Tribunal may be removed from office only for incapacity or misbehaviour, and in accordance with the procedure for removal of a judicial officer under section 134.

(7) The authority, functions and responsibilities of the Tribunal will be prescribed by written law, and a written law may make further provisions for the Tribunal.

(8) In addition to such other functions as may be conferred by written law, the Tribunal has the function of hearing and determining disciplinary action instituted by—

(a) the Public Service Commission, against any permanent secretary; or

(b) a permanent secretary, the Solicitor-General, the Director of Public Prosecutions or the Secretary-General to Parliament, against any person employed in their respective ministries or offices.

(9) Any decision of the Tribunal must be subject to review by the High Court.

(10) A written law may make further provision for the Tribunal, including rules and procedures for the hearings before the Tribunal.

(11) In the performance of its functions or the exercise of its authority and powers, the Tribunal must be independent and shall not be subject to the direction or control of any person or authority, except by a court of law or as otherwise prescribed by written law.

(12) The members of the Tribunal are entitled to such remuneration as determined by the President acting on the advice of the Judicial Services Commission following consultation by the Judicial Services Commission with the Attorney-General, and any such remuneration must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.

(13) The Tribunal may regulate its own procedure and may make such rules and regulations as it deems fit for regulating and facilitating the performance of its functions.

(14) The Tribunal must provide regular updates and advice to Parliament on any matter relating to its functions and responsibilities.

(15) The salaries, benefits and allowances payable to the members of the Tribunal are a charge on the Consolidated Fund.

(16) Parliament must ensure that adequate funding and resources are made available to the Tribunal, to enable it to independently and effectively exercise its powers and perform its functions and duties.

Existing appointments

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

CHAPTER 7—STATE SERVICES

Part A—PUBLIC SERVICE

Values and principles

143.—(1) The values and principles of public service include—

(a) high standards of professionalism, including professional ethics and integrity;

(b) prompt and faithful implementation of Government policies and administration of laws;

(c) being free from corruption;

(d) efficient, effective and economic use of public resources;

(e) prompt response to requests and questions from the public, and delivery of service to the public, in a manner that is respectful, effective, impartial, fair, and equitable;

(f) accountability for administrative conduct;

(g) transparency, including—

(i) timely, accurate disclosure of information to the public; and

(ii) prompt, complete and candid reporting to Parliament, as required by law;

(h) cultivation of good human resource management and career development practices, to maximise human potential; and

(i) recruitment and promotion based on—

(i) objectivity, impartiality and fair competition;

(ii) ability, education, experience and other characteristics of merit; and

(iii) the need to broadly represent the diversity of Fiji.

(2) Parliament must enact a law to give full effect to this section.

Public officers must be citizens

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

Public Service Commission

145.—(1) There is an independent Public Service Commission.

(2) The Public Service Commission consists of the following members, who are appointed by the President on the advice of the Constitutional Offices Commission—

(a) a chairperson; and

(b) not less than 3 and not more than 5 other members.

(3) The President may, on the advice of the Constitutional Offices Commission, appoint a person to act as chairperson or as a member of the Public Service Commission during any period, or during all periods, when the chairperson or a member is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office.

Functions of the Public Service Commission

146.—(1) Subject to this section and other sections of this Constitution, the Public Service Commission has the following functions—

(a) to appoint permanent secretaries in consultation with the responsible minister;

(b) to remove permanent secretaries in consultation with the responsible minister;

(c) to institute disciplinary action against permanent secretaries; and

(d) to make such other appointments and perform such other duties, functions and responsibilities as prescribed by written law.

(2) The functions of the Public Service Commission do not extend to—

(a) an office of a Judge or an office that is the responsibility of the Judicial Services Commission;

(b) an office that is the responsibility of another body prescribed by written law;

(c) an office in the Republic of Fiji Military Forces, Fiji Police Force or the Fiji Corrections Service; or

(d) an office in respect of which this Constitution makes provision.

Permanent secretaries

147.—(1) There is established within each ministry the office of a permanent secretary, which is an office in the public service.

(2) Each ministry is to be under the administration of a permanent secretary.

(3) The permanent secretary of a ministry is responsible for the efficient, effective and economical management of the ministry and is accountable to the minister responsible for the ministry for the performance of those functions.

(4) The Public Service Commission may at any time re-assign one or more permanent secretaries amongst the various ministries of the State.

(5) The permanent secretary of each ministry has the authority to appoint, remove and institute disciplinary action against all staff of the ministry.

(6) However, in relation to the appointment or removal of staff at the level of director or above, a permanent secretary must consult with the minister responsible for the ministry.

(7) The permanent secretary of each ministry has the authority to determine all matters pertaining to the employment of all staff in the ministry, including—

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and

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

Appointment of ambassadors

148.—(1) The Prime Minister may, on the advice of the Minister responsible for foreign affairs, make appointments to offices of ambassador, or of any other principal representative, of the State to another country or an international organisation.

(2) The Prime Minister may, on the advice of the Minister responsible for foreign affairs, remove a person from an office in subsection (1).

Part B—DISCIPLINED FORCES

Fiji Police Force

149.—(1) There is a Fiji Police Force.

(2) There is an office of the Commissioner of Police, and the Fiji Police Force is under the command of the Commissioner of Police.

(3) The Commissioner of Police is appointed by the President, on the advice of the Constitutional Offices Commission following consultation with the Minister responsible for the Fiji Police Force.

(4) The Commissioner of Police is responsible for—

(a) the organisation and administration of the Fiji Police Force; and

(b) the deployment and control of its operations,

and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.

(5) The Minister responsible for the Fiji Police Force may from time to time issue general policy directions to the Commissioner of Police and, if such a direction has been issued, the Commissioner of Police must act in accordance with it.

(6) The Commissioner of Police has the following powers in relation to the Fiji Police Force for all ranks, members and other employees, of the Fiji Police Force—

(a) to appoint persons to the Fiji Police Force;

(b) to remove persons from the Fiji Police Force; and

(c) to take disciplinary action against persons in the Fiji Police Force.

(7) The Commissioner of Police, with the agreement of the Minister responsible for the Fiji Police Force, has the authority to determine all matters pertaining to the employment of all staff in the Fiji Police Force, including—

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and

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

Fiji Corrections Service

150.—(1) There is a Fiji Corrections Service.

(2) There is an office of the Commissioner of the Fiji Corrections Service and the Fiji Corrections Service is under the command of the Commissioner of the Fiji Corrections Service.

(3) The Commissioner of the Fiji Corrections Service is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Fiji Corrections Service.

(4) The Commissioner of the Fiji Corrections Service is responsible for—

(a) the organisation and administration of the Fiji Corrections Service; and

(b) the deployment and control of its operations,

and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.

(5) The Minister responsible for the Fiji Corrections Service may from time to time issue general policy directions with respect to the Fiji Corrections Service and, if such a direction has been issued, the Commissioner of the Fiji Corrections Service must act in accordance with it.

(6) The Commissioner of the Fiji Corrections Service has the following powers in relation to the Fiji Corrections Service for all ranks, members and other employees of the Fiji Corrections Service—

(a) to appoint persons to the Fiji Corrections Service;

(b) to remove persons from the Fiji Corrections Service; and

(c) to take disciplinary action against persons in the Fiji Corrections Service.

(7) The Commissioner of the Fiji Corrections Service has the authority, in agreement with the Minister responsible for the Fiji Corrections Service, to determine all matters pertaining to the employment of all staff in the Fiji Corrections Service, including—

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and

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

Republic of Fiji Military Forces

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

(2) The Republic of Fiji Military Forces—

(a) are responsible for the defence and protection of the sovereignty and territorial integrity of the Republic from external threat;

(b) may provide support to a civilian authority for limited periods and for specified purposes as prescribed by written law; and

(c) may assist and cooperate with other authorities in the event of a natural disaster or a state of emergency when authorised by Cabinet but must act only on, and to the extent specified in, a request by the appropriate civilian authority in accordance with an Act of Parliament.

(3) The Commander of the Republic of Fiji Military Forces is responsible for exercising military executive command of the Republic of Fiji Military Forces, however in the exercise of military executive command the Commander is subject to the direction of Cabinet, through the Minister responsible for the Republic of Fiji Military Forces.

(4) The Commander of the Republic of Fiji Military Forces is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Republic of Fiji Military Forces.

(5) The Commander of the Republic of Fiji Military Forces has the following powers in relation to the Republic of Fiji Military Forces for all ranks, members and other employees of the Republic of Fiji Military Forces—

(a) to appoint persons to the Republic of Fiji Military Forces;

(b) to remove persons from the Republic of Fiji Military Forces; and

(c) to take disciplinary action against persons in the Republic of Fiji Military Forces.

(6) The Commander of the Republic of Fiji Military Forces, with the agreement of the Minister responsible for the Republic of Fiji Military Forces, has the authority to determine all matters pertaining to the employment of all staff in the Republic of Fiji Military Forces, including—

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and

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

CHAPTER 8—BOSE LEVU VAKATURAGA (BLV)

Bose Levu Vakaturaga

152.—(1) The Bose Levu Vakaturaga (BLV) established under the iTaukei Affairs Act 1944 continues in existence.

(2) The BLV has—

(a) the functions and powers conferred on it under this Constitution; and

(b) the additional functions and powers conferred on it by written law.

(3) Parliament must provide, by written law, for the membership of the BLV and may provide for other matters relating to the BLV including, for example, its funding and operational matters.

(4) Upon the request by the BLV, the State must provide or facilitate adequate funding for the BLV to perform its constitutional functions, subject to available resources.

Entrenchment of constitutional arrangements

153.—(1) Any amendment of this Chapter or any of the provisions in this Constitution relating to the BLV set out in subsection (2) is subject to the prior approval of at least 9 of the 14 members of the Senate appointed under section 76(1)*(a)*.

(2) The provisions are—

(a) section 76(1)*(a)*; and

(b) sections 103, 106 and 107.

CHAPTER 9—ROTUMA

Recognition of Rotuma and the Rotuman people

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

Autonomy and self-government

155.—(1) The existing Rotuma Island Council (RIC) is vested with the powers and functions necessary to provide for the internal government and administration for Rotuma and the welfare of its inhabitants.

(2) The RIC has the power to make laws and regulations in relation to subjects prescribed by written law in relation to—

(a) the peace, order and good governance of Rotuma;

(b) internal revenue raising;

(c) control and management of Rotuman land and the area of territorial sea and archipelagic waters, if any, associated with the island of Rotuma, and all resources on, in or under that land, territorial sea, and archipelagic waters; and

(d) nurturing the practice and transmission of Rotuman language, culture, customs and traditions and heritage.

(3) The RIC may propose amendments to the Rotuma Act 1927 and the Rotuma Lands Act 1905, including amendments relating to transferring to the RIC authority to determine its own structures, procedures and functions consistent with Rotuman culture and tradition.

(4) Any proposed amendments must be agreed to by the Government.

(5) Any decision of the Government relating to the enactment of laws, the formulation or implementation of policy or the approval of any form of development insofar as the decision has application to Rotuma, must be subject to the free prior and informed consent of the Rotuman people.

(6) The RIC is the competent authority to determine whether free, prior and informed consent has been obtained from the Rotuman people.

(7) The State must ensure that adequate funding is made available to the RIC to enable it to—

(a) effectively exercise its powers and functions; and

(b) fund development of infrastructure and other forms of development agreed to by the RIC.

(8) The RIC may initiate development proposals for funding by the Government.

Right to initiate an external self-determination process

156.—(1) The RIC, after consulting with the Rotuman people, may by unanimous vote of all its members resolve to initiate consultation with the Government concerning the possibility of Rotuma becoming an independent state.

(2) A resolution under subsection (1) authorises the RIC to—

(a) formally notify the Government of its intent to consult; and

(b) engage, in good faith, with representatives of the Government for the purposes of consultation.

(3) Rotuma may become an independent state only if—

(a) a cooperative consultation process has been undertaken;

(b) the Government formally agrees to independence;

(c) a referendum conducted to determine the majority view of the Rotuman people;

(d) two-thirds of the members of the RIC have voted for Rotuma to become an independent state; and

(e) an amendment to this Constitution has been made.

Entrenchment of constitutional arrangements

157.—(1) Any amendment to this Chapter or any of the provisions in this Constitution relating to Rotuma set out in subsection (2) is subject to prior approval of a two-thirds majority vote of the members of the RIC.

(2) The provisions are—

(a) section 64(2)*(a)* and (9) which provides for the Rotuma constituency representation in the House of Representatives;

(b) section 76 which provides for the appointment of a member of the Senate by the RIC; and

(c) provisions in Chapter 3 that relate to Rotuma and the Rotuman people.

CHAPTER 10—REVENUE AND EXPENDITURE AND ACCOUNTABILITY

Part A—REVENUE AND EXPENDITURE

Principles of public finance

158. The following principles apply to public finance in Fiji—

(a) State bodies must promote public participation, transparency and accountability in public financial decision making and reporting;

(b) the public finance system must promote a just society, and in particular—

(i) the burden of taxation must be shared fairly; and

(ii) expenditures must promote the fair and balanced development of the country, including by making special provision for local government and remote areas;

(c) the burdens and benefits of the use of resources and public borrowing must be shared equitably between present and future generations;

(d) public money must be used in a prudent and responsible way and accounted for in accordance with law and accounting principles that are generally accepted in the public sector; and

(e) financial management must be responsible, and fiscal reporting must be clear.

Raising of revenue

159.—(1) The raising by the Government of revenue or moneys, whether through the imposition of taxation or otherwise, must be authorised by written law.

(2) No taxation or fee may be imposed, waived or varied by the State, except as provided by written law.

(3) If a written law permits the waiver or variation of any tax or fee—

(a) a record of each waiver or variation must be maintained together with the reason for it; and

(b) each waiver or variation, and the reason for it, must be reported to the Auditor-General.

(4) No law may exempt, or 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.

Consolidated Fund

160.—(1) All revenue or moneys raised or received for the purposes of the State or Government must be paid into one Consolidated Fund.

(2) Subsection (1) does not apply to revenue or moneys that are payable under a written law into some other fund established for a specific purpose or that may, under a written law, be retained by the authority receiving them for the purposes of defraying the expenses of that authority.

Appropriations to be authorised by law

161. Moneys must not be withdrawn from the Consolidated Fund or from a fund referred to in section 160(2) except under an appropriation made by law.

Authorisation of expenditure in advance of appropriation

162.—(1) Subject to any written law, if the Appropriation Act for a year has not come into operation by the beginning of the year, the Minister responsible for finance may, to the extent and subject to the conditions prescribed by any written law, authorise the withdrawal of moneys from the Consolidated Fund for the ordinary services of Government.

(2) The total amount authorised for withdrawal under subsection (1) must not exceed one-third of the appropriations made for the ordinary services of Government in respect of the immediately preceding year.

Appropriation and taxing measures require ministerial consent

163. Any written law that—

(a) appropriates revenue or moneys or increases such an appropriation;

(b) imposes taxation or an increase in taxation; or

(c) reduces the amount of any debt due to the State,

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

Annual budget

164.—(1) In respect of each year ending on 31 December or on such other day as Parliament prescribes, the Minister responsible for finance must cause to be laid before the House of Representatives an annual budget, reflecting estimates of revenue and of capital and current expenditure for the year, in respect of the ordinary services of the Government and services of Parliament.

(2) A written law may prescribe the manner in which annual estimates are to be prepared.

Guarantees by Government

165.—(1) The Government must not guarantee the financial ability of any person or body in respect of a loan or otherwise unless the giving of the guarantee is authorised by Parliament in accordance with conditions prescribed by law.

(2) The House of Representatives, by resolution, may require the Minister responsible for finance to present to the House of Representatives, within 7 days after the resolution, information concerning any particular loan or guarantee, including all information necessary to show—

(a) the extent of the total indebtedness by way of principal and accumulated interest;

(b) the use made or to be made of the proceeds of the loan or the purpose of the guarantee;

(c) the provisions made for servicing or repayment of the loan; and

(d) the progress made in the repayment of the loan.

Public moneys to be accounted for

166. All public moneys must be dealt with and accounted for in accordance with law and otherwise in accordance with accounting principles generally accepted in the public sector.

Control of public money and tendering

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

(2) When a State body or any other public entity contracts for goods and services, it must do so in accordance with a system that is fair, transparent, competitive and cost effective.

(3) Parliament must enact a law prescribing a framework within which policies relating to procurement and asset disposal are to be implemented.

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

168.—(1) This section applies to—

(a) the President;

(b) a judicial officer;

(c) the Supervisor of Elections;

(d) the Secretaries-General to the House of Representatives and the Senate;

(e) the Solicitor-General;

(f) the Director of Public Prosecutions;

(g) the members of the Public Service Disciplinary Tribunal;

(h) the Commissioner of Police;

(i) the Commissioner of the Fiji Corrections Service;

(j) the Commander of the Republic of Fiji Military Forces;

(k) the Auditor-General;

(l) the Ombudsman;

(m) the chairperson and members of the Human Rights and Anti-Discrimination Commission;

(n) the chairperson and members of the Electoral Commission;

(o) the members of the Judicial Services Commission referred to in section 127(2)*(e)* and *(f)*;

(p) the members of the Mercy Commission referred to in section 146(2)*(c)*, *(d)* and *(e)*;

(q) the chairperson and members of the Public Service Commission;

(r) the members of the Constitutional Offices Commission;

(s) the members of the Salaries and Benefits Commission Appointed under Section 173(2)*(b);* and

(t) the chairperson and members of any tribunal or medical board established or appointed under this Constitution to consider the question of removal from office of any person.

(2) The salaries or allowances payable to a person to whom this section applies are payable out of the Consolidated Fund, which is appropriated accordingly.

Standing appropriation of Consolidated Fund for other purposes

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

(2) In this section—

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

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

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

Part B—FINANCIAL ACCOUNTABILITY

Auditor-General

170.—(1) There is an office of the Auditor-General.

(2) The Auditor-General is appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance.

(3) The President may, on the advice of the Constitutional Offices Commission, appoint a person to act as the Auditor-General during any period, or during all periods, when the office of the Auditor-General is vacant or when the Auditor-General is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

Functions of Auditor-General

171.—(1) At least once in every year, the Auditor-General must inspect, audit and report to Parliament on—

(a) the public accounts of the State;

(b) the control of public money and public property of the State; and

(c) all transactions with or concerning the public money or public property of the State.

(2) In the report, the Auditor-General must state whether, in his or her opinion—

(a) transactions with or concerning the public money or public property of the State have been authorised by this Constitution or any written law; and

(b) expenditure has been applied to the purpose for which it was authorised.

(3) In the performance of his or her duties, the Auditor-General or a person authorised by him or her has access to all records, books, vouchers, stores or other Government property in the possession, custody or control of any person or authority.

(4) A written law may provide that the accounts of a specified body corporate are not subject to audit by the Auditor-General but are to be audited as prescribed in that written law.

(5) If the written law under subsection (4) so provides, it must also empower the Auditor-General to review those audits and report the results of a review.

(6) The Auditor-General must submit their report to the Speaker of Parliament and must submit a copy to the Minister responsible for finance.

(7) Within 30 days of receipt, or if Parliament is not sitting, on the first day after the end of that period, the Minister responsible for finance must lay the report before Parliament.

Reserve Bank of Fiji

172.—(1) The Reserve Bank of Fiji is the central bank of the State, whose primary objects are—

(a) to protect the value of the currency in the interest of balanced and sustainable economic growth;

(b) to formulate monetary policy;

(c) to promote price stability;

(d) to issue currency; and

(e) to perform other functions conferred on it by a written law.

(2) In pursuing its primary objects, the Reserve Bank of Fiji must perform its functions independently and without fear, favour or prejudice, but there must be regular consultation between the Reserve Bank of Fiji and the Minister responsible for finance.

(3) The powers and functions of the Reserve Bank of Fiji are those customarily exercised and performed by central banks.

(4) The Governor of the Reserve Bank of Fiji is appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance.

(5) A written law must provide for the composition, powers, functions and operations of the Reserve Bank of Fiji.

(6) The Reserve Bank of Fiji must deliver quarterly and annual reports to Parliament, and any other reports when required by law, or requested by resolution.

Salaries and Benefits Commission

173.—(1) This section establishes the Salaries and Benefits Commission as an Independent Commission.

(2) The Salaries and Benefits Commission consists of—

(a) the Vice-President as the chairperson; and

(b) 4 other members, 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

(iii) represent the interests of the public.

(3) The members of the Commission referred to in subsection 2*(b)* are appointed by the President as follows:

(a) two members of the Commission appointed on the advice of the Prime Minister; and

(b) two members of the Commission appointed on the advice of the Leader of Opposition.

(4) The members of the Commission referred to in subsection (2)*(b)*, are entitled to the remuneration determined by the President acting on the advice of the Prime Minister, and any such remuneration must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.

(5) The Salaries and Benefits Commission must convene once every 4 years to review and determine the framework and upper limits of the salaries and benefits applicable to officers of the State other than members of Parliament, the Speaker, the Deputy Speaker, the President and the Vice-President.

(6) 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.

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

(8) The members of the Commission referred to in subsection (2)*(b)* may be removed from office only for incapacity or misbehaviour, and in accordance with the procedure for removal of a judicial officer under section 134.

CHAPTER 11—CODE OF CONDUCT FOR OFFICERS OF THE STATE AND REMOVAL FROM OFFICE

Code of conduct

174.—(1) An officer of the State must, in the performance of their public duties, conduct themselves in a way that does not—

(a) place them in positions in which they have, or could be seen as having, a conflict between their private interests and their public duties;

(b) compromise the fair exercise of their public duties;

(c) use their offices for private gain;

(d) allow their integrity to be called into question; or

(e) cause respect for, or confidence in, the integrity of the Government to be diminished.

(2) The Parliament must, as soon as practicable after the commencement of this Constitution, make a written law—

(a) to implement more fully the conduct rules set out in subsection (1);

(b) to provide for the monitoring of standards of conduct in relation to the performance of public duties; and

(c) if the Parliament considers it appropriate to make provision in relation to the investigation of alleged breaches of those standards and the enforcement of those standards.

Automatic removal for commission of serious criminal offence

175.—(1) This section applies to an officer of the State, other than a member of Parliament, President and Vice-President.

(2) If an officer to whom this section applies is convicted of an offence punishable by a term of imprisonment of 12 months or longer, the officer automatically loses office.

(3) If the convicted officer of the State is a judicial officer, the Judicial Services Commission must declare the officer removed from office.

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

CHAPTER 12—INDEPENDENT INSTITUTIONS AND GOVERNANCE

Part A —PRINCIPLES AND APPLICATION

General guiding principles

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

Leadership principles

177.—(1) The guiding principles of democratic leadership for those in public office are—

(a) service based solely on the public interest;

(b) honesty, diligence, commitment and discipline in service to the people;

(c) integrity, objectivity and impartiality in decision making without favouritism, nepotism or other improper motives or corrupt practices;

(d) avoidance and declaration of any interest that may conflict with public duties; and

(e) accountability to the public for decisions and actions.

(2) Every person appointed to a public office under this Constitution must be a person of integrity and good character.

Part B—INDEPENDENT COMMISSIONS AND OFFICERS

Independent Commissions and Officers

178.—(1) In order to give effect to the principles in section 176, this Constitution applies to the offices listed in this section as Independent Commissions and Independent Officers.

(2) The Independent Commissions are—

(a) Constitutional Offices Commission;

(b) Constituency Boundaries Commission;

(c) Electoral Commission;

(d) Human Rights and Anti-Discrimination Commission;

(e) Independent Legal Services Commission;

(f) Judicial Services Commission;

(g) Legal Aid Commission;

(h) Mercy Commission;

(i) Public Service Commission; and

(j) Salaries and Benefits Commission.

(3) The Independent Officers are—

(a) the Auditor-General;

(b) the Director of Public Prosecutions;

(c) the Ombudsman;

(d) Secretary-General to the House of Representatives; and

(e) Secretary-General to the Senate.

Constitutional Offices Commission

179.—(1) This section establishes the Constitutional Offices Commission.

(2) The Commission consists of the following members—

(a) the Prime Minister as the chairperson;

(b) the Leader of Opposition;

(c) the Attorney-General;

(d) 2 persons appointed by the President on the advice of the Prime Minister; and

(e) one person appointed by the President on the advice of the Leader of Opposition.

(3) A member of the Commission referred to in subsection 2*(d)* and *(e)* hold office for 5 years and are eligible for reappointment.

(4) The quorum for the meetings of the Commission is the chairperson and 2 other members.

(5) The secretary of the Commission shall be the Solicitor-General.

(6) The Commission has such functions and responsibilities as prescribed in this Constitution or by any other written law, and is responsible for providing advice to the President for the appointment of the following offices—

(a) the chairperson and the members of the Human Rights and Anti-Discrimination Commission;

(b) the chairperson and the members of the Electoral Commission;

(c) the Supervisor of Elections;

(d) the Secretary-General to the House of Representatives;

(e) the Secretary-General to the Senate;

(f) the chairperson and the members of the Public Service Commission;

(g) the Commissioner of Police;

(h) the Commissioner of the Fiji Corrections Service;

(i) the Commander of the Republic of Fiji Military Forces;

(j) the Auditor-General;

(k) the Governor of the Reserve Bank of Fiji; and

(l) the Ombudsman.

(7) Removal from office of the members of the Commission referred to in subsection (2)*(d)* and *(e)* must be pursuant to subsection (8).

(8) If the Chief Justice considers that the question of removal of the member of the Commission referred to in subsection (2)*(d)* or *(e)* from office ought to be investigated, then—

(a) the Chief Justice appoints—

(i) in the case of alleged misbehaviour, a tribunal, consisting of a chairperson and not less than 2 other members, selected from amongst persons who hold or are qualified to hold the office of a Judge; and

(ii) in the case of alleged incapacity, a medical board, consisting of a chairperson and 2 other members, each of whom is a qualified medical practitioner;

(b) the tribunal or medical board must enquire into the matter and—

(i) gives a written report of the facts to the President; and

(ii) advises the President of its recommendations whether or not the member of the Commission referred to in subsection (2)*(d)* or *(e)* should be removed from office; and

(c) in deciding whether or not to remove the member of the Commission referred to in subsection (2)*(d)* or *(e)* from office, the President must act in accordance with the advice of the tribunal or medical board, as the case may be.

(9) The President on the advice of the Chief Justice following consultation by the Chief Justice with the Attorney-General may, on such terms and conditions as he or she deems fit, suspend the member of the Commission referred to in subsection (2)*(d)* or *(e)* from office pending investigation and pending referral to and appointment of a tribunal or a medical board under subsection (8), and may at any time, revoke the suspension.

(10) The suspension of the member of the Commission referred to in subsection (2)*(d)* or *(e)* from office under subsection (9) ceases to have effect if the President determines that the person should not be removed from office.

Qualifications

180.—(1) A person is not qualified for appointment or nomination as a member of an Independent Commission or an Independent Officer unless the person—

(a) has had a distinguished career in any aspect of national or international life whether in the public or private sector;

(b) has a record of service to the public;

(c) is a citizen of Fiji;

(d) is not a member of, or office holder in, a political party;

(e) has not held office in a political party or been an election candidate in the 8 years prior to being nominated for appointment; and

(f) has not, at any time, been convicted of an offence with a term of imprisonment of 12 months or more under any law.

(2) Subsection (1) does not apply to a person who is a member of an Independent Commission or Independent Officer by virtue of holding another office or position *ex officio* specified by this Constitution or any other written law.

Term of office

181.—(1) A member of the following Independent Commissions holds office for 5 years and is eligible for reappointment—

(a) Constitutional Offices Commission;

(b) Electoral Commission; and

(c) Constituency Boundaries Commission.

(2) A member of any other Independent Commission holds office for 3 years and is eligible for reappointment.

(3) An Independent Officer, other than the Director of Public Prosecutions, holds office for 5 years and is eligible for reappointment.

(4) The appointment of a member of an Independent Commission and an Independent Officer is subject to the terms and conditions, if any, set out in the appointment.

Freedom from direction and control

182. In the performance of its functions or the exercise of its authorities and powers, a member of the Independent Commission and an Independent Officer is independent and is not subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by written law.

Remuneration and allowances

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

State to provide adequate funding and resources

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

Control of own budget

185. An Independent Commission or an Independent Officer has the control of its own budget and finances, as approved by Parliament.

Employment of staff

186.—(1) An Independent Commission or an Independent Officer has the authority to appoint, remove and discipline all staff including administrative staff.

(2) An Independent Commission or an Independent Officer has the authority to determine all matters pertaining to the employment of all staff, including—

(a) the terms and conditions of employment;

(b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament;

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

(3) The salaries, benefits and allowances payable to any person employed in an Independent Commission or an Independent Officer are a charge on the Consolidated Fund.

Decisions of Independent Commission

187. Decisions of an Independent Commission requires the concurrence of a majority of its members and it may act despite the absence of a member but, if, in a particular case, a vote is taken to decide a question and the votes cast are equally divided, the person presiding must exercise a casting vote.

Validity of transaction of business in an Independent Commission

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

Regulation of procedures

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

Further provision for authority, functions and responsibilities

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

Annual report

191. Each Independent Commission or an Independent Officer must make provide an annual report to Parliament concerning—

(a) the exercise of its authority, functions and responsibilities; and

(b) its revenue and expenditure.

Removal from office for cause

192.—(1) A person appointed under section 179(6) may be removed from office only for incapacity or misbehaviour in accordance with this section.

(2) If the Constitutional Offices Commission considers that the question of removal from office ought to be investigated, then—

(a) the Constitutional Offices Commission appoints—

(i) in the case of alleged misbehaviour, a tribunal, consisting of a chairperson and not less than 2 other members, selected from amongst persons who hold or are qualified to hold the office of a Judge; and

(ii) in the case of alleged incapacity, a medical board, consisting of a chairperson and 2 other members, each of whom is a qualified medical practitioner;

(b) the tribunal or the medical board must enquire into the matter and—

(i) give a written report of the facts to the President; and

(ii) advise the President whether that person should be removed from office; and

(c) if the tribunal or the medical board advises that the officer should be removed from office, the President may remove that person from office.

(3) The President on the advice of the Constitutional Offices Commission may, on such terms and conditions as he or she deems fit, suspend the person concerned from office pending investigation and pending referral to and appointment of a tribunal or a medical board under subsection (3), and may at any time, revoke the suspension.

(4) If the question of removing the person concerned from office has been referred to a tribunal or medical board under subsection (2), the President may, on the advice of the Constitutional Offices Commission, suspend that person from office and may, at any time, revoke that suspension.

(5) The suspension of the person concerned from office ceases to have effect if the tribunal or medical board advises the President that the person should not be removed from office.

Part C—GOVERNANCE

Conduct of officers of the State—Code of Conduct

193. An officer of the State must—

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

(i) any conflict between personal interest and public or official duties;

(ii) compromising any public or official interest in favour of a personal interest; or

(iii) demeaning the office the officer holds; and

(b) comply with the code of conduct rules in Chapter 11, and with any other applicable written law made under that chapter.

Process for access to information

194. Every State body must develop a process to enable members of the public to exercise their right to access to information under section 28 of this Constitution.

Protection of whistle blowers

195.—(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 body; and

(b) at the time of the disclosure, the person making the disclosure reasonably believes that the information shows or tends to show that a State body or public officer in the performance of official functions—

(i) has contravened this Constitution or the law; or

(ii) has engaged or is engaging in conduct that has endangered or is likely to endanger the health or safety of any individual, or has damaged or is likely to damage the environment.

(2) A person who makes a disclosure contemplated in this section is immune from any civil, criminal or administrative liability for that disclosure.

(3) A State body must directly or indirectly—

(a) establish and maintain a system to receive confidential disclosures contemplated in this section, and to act on them; and

(b) regularly publicise the availability of that system to the public.

Ombudsman

196.—(1) This section establishes the office of the Ombudsman.

(2) The Ombudsman is appointed by the President on the advice of the Constitutional Offices Commission after consultation with the Public Service Commission.

(3) A person appointed as Ombudsman must have a record of high integrity and extensive experience in either public sector administration or the law and justice sector, or both.

(4) The office of the Ombudsman has the functions prescribed by written law.

Part D—PROVISIONS RELATING TO CERTAIN PUBLIC OFFICES

Application

197. This Part applies to—

(a) Supervisor of Elections;

(b) Commissioner of Police;

(c) Commissioner of the Fiji Corrections Service;

(d) Commander of the Republic of Fiji Military Forces; and

(e) Governor of the Reserve Bank of Fiji.

Terms and conditions of office

198.—(1) A person to whom this Part applies holds office for 5 years and is eligible for re-appointment.

(2) The appointment of a person to whom this Part applies is subject to the terms and conditions, if any, set out in it.

Remuneration and allowances

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

CHAPTER 13—EMERGENCY POWERS

State of emergency

200.—(1) The Cabinet may, on the recommendation of the National Security Council, declare a state of emergency in Fiji, or in a part of Fiji, and may make regulations relating to a state of emergency, if there are reasonable grounds to believe that—

(a) the security and safety of all or part of Fiji is threatened; and

(b) it is necessary to declare a state of emergency to deal effectively with the threatening circumstances.

(2) If the declaration of a state of emergency is made when the House of Representatives is sitting, the Prime Minister must, within 24 hours upon making the declaration, refer the declaration to the House of Representatives for confirmation of the declaration.

(3) If the declaration of a state of emergency is made when the House of Representatives is not sitting, the Speaker must, within 48 hours upon the making of the declaration, seek confirmation of the declaration from the members of the House of Representatives through such measures of communication as necessary.

(4) If a majority of the members of the House of Representatives confirm the declaration made by the Prime Minister, then the declaration continues for a period of one month from the date of confirmation and may be renewed by a further vote in the House of Representatives.

(5) If the declaration made by the Prime Minister is not confirmed by a majority of the members of the House of Representatives, then the declaration and any actions taken under the declaration are deemed to be of no effect.

(6) At any time the House of Representatives may—

(a) disallow or terminate the declaration of the state of emergency; or

(b) amend or disallow regulations relating to the state of emergency.

Summoning the House of Representatives

201.—(1) If the declaration is made during the period after a dissolution of the House of Representatives and before the holding of the next following general election of members of the House of Representatives, the President must summon the members of the dissolved House of Representatives, and those members may exercise all the powers conferred on the House of Representatives under this Chapter.

(2) Notwithstanding the summoning under subsection (1) of members of the dissolved House of Representatives, the general election must proceed, and the recalled House of Representatives again stands dissolved on the day immediately before the day fixed for the polling at the general election.

(3) If, during a period while a state of emergency is in force, the term of the House of Representatives is due to expire under section 66, the President may, on the advice of Cabinet, declare an extension for a period specified in the declaration.

(4) The term of the House of Representatives must not be extended under subsection (3) for a total of more than 12 months.

Limitation of rights under states of emergency

202.—(1) Any law enacted or promulgated in consequence of a declaration of a state of emergency under this Constitution—

(a) may limit a right or freedom set out in Chapter 2 with the exception of the rights and freedoms set out in sections 11, 13, 14, 16, 17, 18, 19, 25 and 29 only to the extent that—

(i) the limitation is strictly required by the emergency, and is justifiable under section 8; and

(ii) the law is consistent with Fiji's obligations under international law applicable to a state of emergency; and

(b) takes effect only when it has been published in the Gazette.

(2) A person detained under a law contemplated in subsection (1) retains all the rights recognised in Chapter 2, subject only to the limitations referred to in subsection (1).

National Security Council

203.—(1) This section establishes a National Security Council.

(2) The composition, functions and powers of the Council must be prescribed by written law.

CHAPTER 14—IMMUNITY

Immunity granted under the Constitution of 1990 continues

204. Notwithstanding the abrogation of the Constitution Amendment Act 1997 and despite the repeal of the Constitution of 1990, Chapter XIV of the Constitution of 1990 continues in force in accordance with its tenor, and the immunity granted in Chapter XIV of the Constitution of 1990 shall continue.

Immunity granted under the Limitation of Liability for Prescribed Political Events Act 2010 continues

205.—(1) The immunities granted to prescribed persons for prescribed political events under the Limitation of Liability for Prescribed Political Events Act 2010 shall continue in existence.

(2) Notwithstanding anything contained in this Constitution, the Limitation of Liability for Prescribed Political Events Act 2010 shall, in its entirety, continue in existence and shall not be reviewed, amended, altered, repealed or revoked by Parliament.

Further immunity

206. Absolute and unconditional immunity is irrevocably granted to any person (whether in their official or personal or individual capacity) holding the office of, or holding the office in, as the case may be—

(a) the President;

(b) the Prime Minister and Cabinet Ministers;

(c) Republic of Fiji Military Forces;

(d) Fiji Police Force;

(e) Fiji Corrections Service;

(f) Judiciary;

(g) public service; and

(h) any public office,

from any criminal prosecution and from any civil or other liability in any court, tribunal or commission, in any proceeding including any legal, military, disciplinary or professional proceedings and from any order or judgment of any court, tribunal or commission, as a result of any direct or indirect participation, appointment or involvement in the Government from 5 December 2006 to the date of the first sitting of the first Parliament elected after the commencement of this Constitution, provided however any such immunity shall not apply to any act or omission that constitutes an offence under sections 133 to 146, 148 to 236, 288 to 351, 356 to 361, 364 to 374, and 377 to 386 of the Crimes Act 2009 (as prescribed in the Crimes Act 2009 at the date of the commencement of this Constitution).

Immunity entrenched

207.—(1) Notwithstanding anything contained in this Constitution, this Chapter and any immunity granted or continued in this Chapter shall not be reviewed, amended, altered, repealed or revoked.

(2) Notwithstanding anything contained in this Constitution, no court or tribunal shall have the jurisdiction to accept, hear or make any decision or order with respect to any challenge against the provisions of this Chapter and any immunity granted or continued in this Chapter.

(3) No compensation shall be payable by the State to any person in respect of damage, injury or loss to his or her property or person caused by or consequent upon any conduct from which immunity has been granted under this Chapter.

CHAPTER 15—AMENDMENT OF CONSTITUTION

Amendment of Constitution

208. This Constitution, or any provision of this Constitution, may be amended only in accordance with the procedure prescribed in this Chapter.

Procedure for amendment

209.—(1) A Bill for the amendment of this Constitution must be expressed as a Bill for an Act to amend this Constitution.

(2) The Bill, with or without amendments, must be passed by both Houses in accordance with the following procedure—

(a) the Bill is read 3 times in each House and motions for the second and third readings are carried in each House;

(b) at the second and third readings, it is supported by—

(i) the votes of at least two-thirds of the members of each House; or

(ii) in the case of a Bill to amend an entrenched provision of this Constitution, the votes of at least three-quarters of the members of each house;

(c) in each House an interval of at least 30 days elapses between the second and third readings and each of those readings is preceded by full opportunity for debate; and

(d) the third reading of the Bill in each House does not take place until after the relevant committee has reported on the Bill to House of Representatives.

(3) If a Bill for the amendment of this Constitution is passed by Parliament in accordance with subsection (2), the Speaker must notify the President and the President must assent to the Bill.

(4) In this section, "entrenched provision" of this Constitution means any of sections 204, 205, 206 and 207 .

Veto powers of certain members

210.—(1) A Bill to amend section 50, 76(1)*(a)*, 103, 107, 152, 153, or this subsection, must not be taken to have been passed by the Senate unless, at its third reading in the Senate, it is supported by the votes of at least 9 of the 14 members appointed under section 76(1)*(a)*.

(2) A Bill to amend section 64(2) and (9), 76(1)*(d)*, Chapter 9 or any provision of Chapter 3 that relates to Rotuma or the Rotuma people, or this subsection must not be introduced in Parliament unless it has first been approved by a two-thirds of the members of the Rotuma Island Council.

CHAPTER 16—COMMENCEMENT, INTERPRETATION, REPEALS AND TRANSITIONAL PROVISIONS

Part A—SHORT TITLE AND COMMENCEMENT

Short title and commencement

211.—(1) This Constitution may be cited as the Constitution of the Republic of Fiji 2026.

(2) This Constitution comes into force on 31st March 2028.

(3) The President may, by Proclamation published in the *Gazette*, fix a date earlier than the date referred to in subsection (2) as the date of the commencement of this Act.

Part B—INTERPRETATION

Interpretation

212.—(1) In this Constitution, unless the contrary intention appears—

"Act" means an Act of Parliament, a Decree or a Promulgation;

"adult" means an individual who is 18 years of age or over;

"BLV" means the Bose Levu Vakaturaga;

"Bill of Rights" means the rights and freedoms set out in Chapter 2;

"child" means an individual who has not reached the age of 18 years;

"commission" means a commission established by, or continued in existence under, this Constitution;

"Constitution of 1990" means the Constitution set out in the Constitution of the Sovereign Democratic Republic of Fiji (Promulgation) Decree 1990;

"corrupt practices" includes—

(a) any attempt to improperly influence a public officer;

(b) to influence peddling, bribery, or extortion;

(c) misuse of inside information for personal gain;

(d) requesting or accepting any benefit to which a person is not lawfully entitled;

(e) withholding any service, benefit, decision or judgment, or threatening a person with the exercise of a lawful power against that person, or implying any such practice, in order to extort a personal benefit or to improperly obtain the person's consent to any action or omission;

(f) unlawfully taking or demanding any private property;

(g) misuse or misapplication of public property for personal purposes, or theft of public property; and

(h) converting or selling public assets for personal gain;

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

"department" means a department of the public service, under a ministry;

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

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

(b) forms the basis of unfair discrimination;

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

"disciplined force" means—

(a) the Republic of Fiji Military Forces;

(b) the Fiji Police Force; or

(c) the Fiji Corrections Service;

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

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

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

"Government" means the Government of the State;

"iTaukeinivanua o Viti" means the indigenous people of Fiji, and "iTaukei" has the corresponding meaning;

"Judge" means a Judge of the High Court including the Chief Justice, a Justice of Appeal including the President of the Court of Appeal or a Judge of the Supreme Court;

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

"law" includes all written law;

"member of Parliament" means a member of the House of Representatives or a member of the Senate;

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

"oath" includes affirmation;

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

"officer of the State" means the holder of any of the following offices—

(a) the President and the Vice-President;

(b) the Speaker and Deputy Speaker of Parliament;

(c) members of the Cabinet and Leader of the Opposition;

(d) members of Parliament;

(e) Judges and other judicial officers;

(f) members of the Independent Commissions and holders of Independent Offices;

(g) Supervisor of Elections;

(h) Ambassadors, High Commissioners and Consuls General;

(i) Governor of the Reserve Bank of Fiji;

(j) permanent secretaries and any holder of an equivalently ranked officer;

(k) Commissioner of Police;

(l) Commissioner of the Fiji Corrections Service;

(m) the Commander of the Republic of Fiji Military Forces; and

(n) any other office holder prescribed by written law;

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

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

"prescribed" means prescribed by a written law;

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

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

(a) land, or permanent fixtures on, or improvements to land;

(b) goods or personal property;

(c) intellectual property including traditional knowledge, traditional cultural expression and genetic resources; or

(d) money or negotiable instruments;

"public office" means—

(a) an office created by, or continued in existence under, this Constitution;

(b) an office in respect of which this Constitution makes provision;

(c) an office of a member of a commission;

(d) an office in a State service;

(e) an office of Judge;

(f) an office of Magistrate or an office in a court created by written law;

(g) an office in, or as a member of, a statutory authority; or

(h) an office established by written law;

"public officer" means the holder of a public office;

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

(a) service in the judicial branch;

(b) service in the office of a member of a commission; or

(c) service in an office created by, or continued in existence under, this Constitution;

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

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

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

"Speaker" means the Speaker of Parliament;

"State" means the Republic of Fiji;

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

"state of emergency" means a state of emergency declared under Chapter 13;

"State service" means the public service and the disciplined force;

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

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

"this Constitution" means the Constitution Amendment Act 2026;

"2013 Constitution" means the 2013 Constitution of the Republic of Fiji; and

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

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

(3) A reference in this Constitution to a power to make appointments to a public office includes a reference to—

(a) a power to make appointments on the promotion or transfer to the office; and

(b) a power to appoint a person to act in the office while it is vacant or its holder is unable to perform the functions of the office.

(4) In this Constitution, unless the contrary intention appears, a reference to the holder of an office by the term designating his or her office includes a reference to any person for the time being acting in the office.

(5) A person who has been appointed to an office established by this Constitution may resign from the office by notice in writing signed by him or her addressed to the person or authority by whom he or she was appointed, and the resignation takes effect—

(a) at the time or on the date specified in the notice; or

(b) when the notice is received by the person or authority to whom it is addressed, whichever is the later.

(6) A reference in this Constitution to a power to remove a person from a public office includes a reference to—

(a) a power to require the person to retire from office;

(b) a power to terminate the contract on which the person is employed; or

(c) a power not to renew the contract on which the person is employed.

(7) A reference in this Constitution to amending any law, including this Constitution, is a reference to—

(a) repealing it with or without replacing it by another law;

(b) modifying, varying, revising or altering it by amendment or otherwise;

(c) suspending its operation; or

(d) making other provision that is inconsistent with it.

(8) A person, authority or body upon whom the functions are conferred by this Constitution has power to do everything necessary or convenient to be done for, or in connection with, the performance of those functions.

(9) A reference in this Constitution to the Minister in relation to the doing of anything, the participation in any consultation or the receipt of any report is a reference to the Minister who, for the time being, has been assigned responsibility for the part of the business of the Government relating to the subject matter of the activity concerned.

(10) Unless the contrary intention appears, a reference in this Constitution to a Minister includes a reference to the Minister for the time being acting for and on behalf of the first mentioned Minister.

(11) A provision of this Constitution to the effect that a person or authority is not subject to the direction or control of any other person or authority in the performance of functions or the exercise of powers is not to be construed as precluding a court of law from exercising jurisdiction in relation to a question whether the first mentioned person or authority has performed the functions or exercised the powers in accordance with this Constitution or whether that person or authority should or should not perform the functions or exercise the powers.

(12) A power conferred by this Constitution to make, grant or issue any instrument (including a proclamation, order, regulation or rule), or to give any direction, includes the power, exercisable in the like manner, to repeal, rescind, revoke, amend or vary the instrument or direction.

(13) A reference in this Constitution to an office named in this Constitution is to be read with any formal alteration necessary to make it applicable in the circumstances.

(14) In this Constitution, unless the context otherwise requires—

(a) if a word or expression is defined in this Constitution, any grammatical variation or cognate expression of the word or expression has a corresponding meaning, read with the changes required by the context; and

(b) the word "includes" means "includes, but is not limited to".

(15) In calculating time between 2 events for any purpose under this Constitution, if the time is expressed—

(a) as days, the day on which the first event occurs is to be excluded, and the day by which the last event may occur is to be included;

(b) as months, the time period ends at the beginning of the day in the relevant month—

(i) that has the same number as the date on which the period began, if that month has a corresponding date; or

(ii) that is the last day of that month, in any other case; or

(c) as years, the period of time ends at the beginning of the date of the relevant year that corresponds to the date on which the period began.

(16) If a period of time prescribed by this Constitution for any purpose is 6 days or less, Sundays and public holidays are not to be counted when calculating the time.

(17) If, in any particular circumstance, the period of time prescribed by this Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or public holiday.

(18) If a particular time is not prescribed by this Constitution for performing a required act, the act must be done without unreasonable delay, and as often as the occasion requires.

(19) If any person has authority under this Constitution to extend a period of time prescribed by this Constitution, the authority may be exercised either before or after the end of the period, unless a contrary intention is expressly mentioned in the provision conferring the authority.

(20) Except to the extent that this Constitution provides otherwise, if a person has vacated an office established under this Constitution, the person may, if qualified, again be appointed, elected or otherwise selected to hold the office in accordance with this Constitution.

(21) The Schedule is a part of this Constitution, and every use of the expression "this Constitution" includes the Schedule.

(22) Any person required under any law to take an oath or affirmation of allegiance and office must take the appropriate oath or affirmation set out in the Schedule.

Part C—TRANSITIONAL RELATING TO CONSTITUTION AMENDMENT ACT 2026

Interpretation

213. In this Part—

'Commencement day' means the day on which the Constitution Amendment Act 2026 comes into force; and

'This Constitution' means the Constitution of the Republic of Fiji as amended by the Constitution Amendment Act 2026.

Constitution implementation

214.—(1) The Government is responsible for the implementation of this Constitution and, in particular, must facilitate, monitor and oversee the development of legislation and administrative procedures and related measures required to implement this Constitution.

(2) Government must, in the first 5 years after the commencement, report regularly to the Parliament, or to a parliamentary committee established under section 215, on—

(a) progress in the implementation of this Constitution; and

(b) any impediments to the implementation of this Constitution and proposals for overcoming the impediments.

House of Representatives may establish implementation oversight committee

215.—(1) The House of Representatives may establish a committee to oversee the implementation of this Constitution.

(2) The responsibilities of a committee established under subsection (1) may include—

(a) receiving regular reports from the Government about the matters mentioned in section 214(2);

(b) coordinating with the Government to ensure the timely introduction and passage of the laws required by this Constitution; and

(c) taking appropriate action on any reports received, including addressing any impediments to the implementation of this Constitution.

Electoral Commission

216.—(1) Notwithstanding any prior appointment, the terms of members serving on the Electoral Commission at the commencement of this provision are adjusted to establish staggered expiration dates.

(2) Within 30 days of the commencement of this provision, the President, on the advice of the Constitutional Offices Commission, by a fair and transparent method, designate—

(a) 2 members to serve for a term of 2 years from the commencement date;

(b) 2 members to serve for a term of 3 years from the commencement date;

(c) 2 members to serve for a term of 4 years from the commencement date; and

(d) one member to serve for a term of 5 years, who is the chairperson.

(3) On the expiration of each adjusted term, the vacancy must be filled by the appointment of a new member for a full term of 5 years.

(4) Members continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

Mercy Commission

217.—(1) On the commencement of this provision the terms of all members serving on the Mercy Commission expire.

(2) The following 4 members first appointed to the Commission hold office for staggered terms to ensure continuity of membership—

(a) the member appointed under section 140(2)*(b)* serves until the expiration of one year from the commencement date;

(b) the member appointed under section 140(2)*(b)* serves until the expiration of 2 years from the commencement date; and

(c) 2 members appointed under section 140(2)*(b)* serves until the expiration of 3 years from the commencement date.

(3) On the expiration of each adjusted term, the vacancy must be filled by the appointment of a new member for a full term of 3 years.

(4) Each member continues to hold office until their successor is appointed and assumes office, unless otherwise removed in accordance with this Constitution.

Registered voters remain registered

218. A citizen who is registered to vote immediately before the commencement of this Constitution remains registered to vote in the next general election.

Parliament continues

219.—(1) On the commencement, the Parliament in existence immediately before the commencement (the 'first Parliament') continues until it is prorogued or dissolved in accordance with section 58 of the 2013 Constitution.

(2) Despite the commencement, section 58 of the 2013 Constitution continues to apply to the first Parliament, and the maximum term of the first Parliament remains 4 years from the date of the first meeting of the first Parliament .

(3) From the commencement—

(a) each member of the first Parliament is taken to be a member of the House of Representatives; and

(b) the members of the first Parliament are taken collectively to be the House of Representatives under this Constitution.

Part D—GENERAL TRANSITIONAL AND SAVINGS

Office of the President

220.—From the commencement—

(a) the President appointed under the 2013 Constitution continues to hold office for the term of that appointment;

(b) the President is taken to be the President appointed under this Constitution; and

(c) any re-appointment or subsequent appointment to the office of President must be made in accordance with this Constitution.

Prime Minister and Ministers

221. From the commencement, the Prime Minister and other Ministers appointed under the 2013 Constitution are taken to be the Prime Minister and Ministers appointed under this Constitution.

Continuation of Public officers

222. —(1) Any person who immediately before the commencement holds or is acting in a public office, from the date of the commencement holds or acts in that office or the corresponding public office established by this Constitution as if he or she had been appointed to do so in accordance with the provisions of this Constitution and is deemed to have taken any oath or affirmation required upon such appointment by any existing law.

(2) The provisions of this section do not affect any power conferred by or under this Constitution to make provision for the abolition of offices or for the removal from office of persons holding or acting in any office.

Finance

223.—(1) All public funds, accounts and appropriations existing immediately before the commencement continue after the commencement.

(2) Money appropriated before the commencement may continue to be applied for the purpose for which it was appropriated.

(3) A person authorised to operate a public account immediately before the commencement continues to have that authority until a successor is established in accordance with this Constitution or any written law.

Succession of institutions

224. An office or institution established under this Constitution is the legal successor of the corresponding office or institution existing under the 2013 Constitution.

Preservation of rights and obligations

225.—(1) Except to the extent that this Constitution expressly provides otherwise, all rights and obligations, however arising, of the State and subsisting immediately before the commencement shall continue as rights and obligations of the State under this Constitution.

(2) All permits, licences, rights or similar undertakings of the State issued to any person, and in force immediately before the commencement continue on the same terms from the commencement.

(3) All delegations that had been given before the commencement by a person who held an office that is abolished under this Constitution and that were in force immediately before the commencement, continue in force after the commencement, as if given by a corresponding office or person referred to in this Constitution.

(4) All proceedings before a commission, including an abolished commission, that had commenced but had not been determined before the commencement continue after the commencement as if they had been commenced before the corresponding commission or person referred to in this Constitution.

Preservation of existing laws

226.—(1) Subject to subsection (2), all written laws in force immediately before the commencement continue in force as if they had been made under or pursuant to this Constitution, and must be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.

(2) No court or tribunal (including any court or tribunal established or continued in existence by this Constitution) has jurisdiction to accept, hear, determine, or in any other way entertain, or to grant any order, relief or remedy, in any proceeding of a kind referred to in section 173(4) of the 2013 Constitution as if in force immediately before the commencement.

Pending appointments

227.—A process for the appointment, nomination, election or selection of a person into a public office that was commenced before the commencement may continue after the commencement.

Pending proceedings and investigations

228.—(1) Any proceeding in a court or tribunal that had commenced but had not been determined immediately before the commencement continue in accordance with the provisions of this Constitution.

(2) An investigation commenced, but not completed, before the commencement may continue and be completed by the person or institution responsible for the investigation immediately before the commencement or the corresponding person or institution under this Constitution.

(3) A warrant, summons, writ, injunction, order or other process issued by a court before the commencement remains valid according to its terms unless varied, discharged or set aside by a court of competent jurisdiction.

Part E—REPEALS

Repeals

229. Subject to Part E of this Chapter and other provisions of this Constitution, the following written laws are repealed—

(a) Constitution of the Republic of Fiji (Promulgation) Decree 2013; and

(b) Fiji Independent Commission Against Corruption Act 2007.

SCHEDULE—OATHS AND AFFIRMATIONS

Part A—Allegiance

OATH OF ALLEGIANCE

I, ..., swear that I will be faithful and bear true allegiance to the Republic of Fiji according to law, and I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026. So help me, God!

AFFIRMATION OF ALLEGIANCE

I, ..., do solemnly, sincerely and truly declare that I will be faithful and bear true allegiance to the Republic of Fiji according to law, and I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026.

Part B—FOR TAKING OFFICE

OATH FOR PRESIDENT

I, ..., swear that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the President. So help me, God!

AFFIRMATION FOR PRESIDENT

I, ..., do solemnly and sincerely and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the President.

OATH FOR VICE-PRESIDENT

I, ..., swear that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the Vice-President. So help me, God!

AFFIRMATION FOR VICE-PRESIDENT

I, ..., do solemnly and sincerely and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the Vice-President.

OATH FOR MINISTERS

I, ..., being appointed as Prime Minister/Minister, swear that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise to hold my office with honour, dignity and integrity, to be a true and faithful counsellor, not to divulge any secret matter entrusted to me, and to perform the functions of my office conscientiously and to the best of my ability. So help me, God!

AFFIRMATION FOR MINISTERS

I, ..., being appointed as Prime Minister/Minister, do solemnly and sincerely and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise to hold my office with honour, dignity and integrity, to be a true and faithful counsellor, not to divulge any secret matter entrusted to me, and to perform the functions of my office conscientiously and to the best of my ability.

OATH FOR JUDICIAL OFFICERS

I, ..., swear that, as a judicial officer within the courts of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji 2026 and the law. So help me, God!

AFFIRMATION FOR JUDICIAL OFFICERS

I, ..., do solemnly and sincerely and truly declare and affirm that, as a judicial officer within the courts of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji 2026 and the law.

OATH FOR MEMBERS OF PARLIAMENT

I, ..., swear that, as a member of Parliament of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will act with integrity and diligently carry out my responsibilities, in accordance with the Constitution of the Republic of Fiji 2026 and the law. So help me, God!

AFFIRMATION FOR MEMBERS OF PARLIAMENT

I, ..., do solemnly and sincerely and truly declare and affirm that, as a member of Parliament of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will act with integrity and diligently carry out my responsibilities, in accordance with the Constitution of the Republic of Fiji 2026 and the law.

OATH FOR SPEAKER/DEPUTY SPEAKER OF PARLIAMENT

I, ..., swear that, as the Speaker/Deputy Speaker of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji 2026 and the law. So help me, God!

AFFIRMATION FOR SPEAKER/DEPUTY SPEAKER OF PARLIAMENT

I, ..., do solemnly and sincerely and truly declare and affirm that, as the Speaker/Deputy Speaker of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji 2026 and the law.

OATH FOR PRESIDENT/VICE-PRESIDENT OF THE SENATE

I, ..., swear that, as the President/Vice-President of the Senate of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji 2026 and the law. So help me, God!

AFFIRMATION FOR PRESIDENT/VICE-PRESIDENT OF THE SENATE

I, ..., do solemnly and sincerely and truly declare and affirm that, as the President/Vice-President of the Senate of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji 2026 and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji 2026 and the law.

Office of the Attorney-General
Suvavou House
Suva

September-October 2026

CONSTITUTION OF THE REPUBLIC OF FIJI BILL 2026

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

1.1 The Constitution of the Republic of Fiji Bill 2026 (**'Bill'**) seeks to revise the Constitution of the Republic of Fiji (**'2013 Constitution'**) and to provide for the Constitution of the Republic of Fiji 2026. The Bill gives effect, with modifications, to the recommendations of the Fiji Constitution Review Commission 2026 (**'Commission'**).

1.2 The Commission was appointed by His Excellency the President of the Republic of Fiji (**'His Excellency'**) under the Commissions of Inquiry Act 1946, with Terms of Reference published in the Gazette on 27 March 2026, to undertake a comprehensive inquiry into the democratic deficit identified in the 2013 Constitution. The review followed the Supreme Court's Advisory Opinion of 29 August 2025 (Miscellaneous Case No. 1 of 2025) on the amendment provisions of the 2013 Constitution. The Commission consulted widely throughout Fiji and delivered its report to His Excellency on 31 August 2026.

1.3 The Bill reflects most of the Commission's principal recommendations, including the prohibition of future immunities for unconstitutional seizures of government, a narrower and justiciable test for limiting rights, the regrouping of social, economic and cultural rights, a new chapter on land, environment, and group rights, a bicameral Parliament with a House of Representatives elected under a mixed member proportional system, fixed parliamentary terms and a caretaker government, an independent Constituency Boundaries Commission, an Independent Salaries and Benefits Commission, the reintroduction of the Ombudsman, a Military Court staffed by a High Court Judge, the primacy of civilian authority over the military, and separate chapters for the BLV and Rotuma.

1.4 The Preamble recalls the settlement of Fiji by the ancestors of the iTaukei and Rotuman people and the arrival of later communities, and acknowledges Fiji's constitutional history, from the Deed of Cession of 10 October 1874 and the cession of Rotuma in 1881, through the Constitutions of 1970, 1990, 1997 and 2013, to the review of the 2013 Constitution undertaken in 2026. It affirms common citizenship, the contribution of all communities, human rights and the rule of law, and recognises the Constitution as the supreme law.

2.0 CLAUSES

Chapter 1—The State and Founding Provisions

2.1 Clause 1 declares the Republic of Fiji to be a sovereign democratic State and sets out its founding values, including common and equal citizenry and national unity, respect for human rights and the rule of law, an independent and accessible system of justice, good governance through the limitation and separation of powers, transparency and accountability, Christian values and family values, and a sustainable relationship with nature. It also records that, although religion and the State are separate, the people of Fiji acknowledge worship and reverence for God as the source of good governance and leadership.

2.2 Clause 2 provides that the Constitution is the supreme law of the State and that any law inconsistent with it is invalid to the extent of the inconsistency. The Constitution must be upheld by all citizens and public office holders, may be enforced through the courts, and cannot be abrogated or suspended. Subclause (6) declares unlawful any attempt to establish a Government other than in accordance with the Constitution and prohibits the granting of any immunity for such an attempt.

2.3 Clause 3 sets out the principles of constitutional interpretation, requiring any person interpreting the Constitution to promote its spirit, purpose and objects, and requiring courts to prefer an interpretation of a law that is consistent with the Constitution. The Constitution is to be adopted in English and made available in iTaukei, Rotuman, Hindi and Braille, with the English version prevailing.

2.4 Clause 4 establishes religious liberty as a founding principle of the State. It provides that religious belief is personal, that the State and public office holders must treat all religions equally and must not prefer any religion or belief, and that religious belief is not a legal reason to disregard the Constitution or any other law.

2.5 Clause 5 provides that all citizens of Fiji have equal status and identity, and that citizenship may be acquired by birth, registration or naturalisation. A child born in Fiji is a citizen unless neither parent is a citizen at their time of birth; naturalisation requires lawful presence in Fiji for a prescribed period; and multiple citizenship is permitted. A written law must regulate citizenship, including the prevention of statelessness and procedural fairness in the deprivation of citizenship.

2.6 Clause 6 provides that all citizens of Fiji continue to be known as Fijians, and that indigenous Fijians may also be referred to as iTaukeinivanua o Viti.

Chapter 2—Bill of Rights

2.7 Clause 7 provides that the Bill of Rights binds the legislative, executive and judicial branches at all levels and every person performing a public function, and requires the State to respect, protect, promote and fulfil those rights. It also sets out the extent to which the rights bind, and apply to, natural and legal persons, and applies the Chapter to existing and future laws and actions.

2.8 Clause 8 provides a general limitation test under which a right may be limited only by law and only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, having regard to the listed factors. The party seeking to justify a limitation bears the burden of doing so, and a proposed law that limits a right must be accompanied by explanatory material setting out the nature and extent of, and the reasons for, the limitation.

2.9 Clause 9 sets out how Chapter 2 is to be interpreted, requiring courts to promote democratic values and to consider applicable international law. It preserves other rights recognised by common law or written law, requires laws to be read consistently with the rights where reasonably possible, and requires courts to develop the common law in a manner that respects the rights.

2.10 Clause 10 provides for the enforcement of rights in the High Court either on its own initiative or on application by a person with an interest, including a person acting on behalf of another. It provides for references from subordinate courts, intervention by the Attorney-General on behalf of the State, notice, the refusal of relief where an adequate alternative remedy exists, protection of public interest applicants from costs, and the making of rules by the Chief Justice.

2.11 Clause 11 provides for the right to life, and that no person may be arbitrarily deprived of life.

2.12 Clause 12 provides for the right to personal liberty and sets out the limited grounds on which a person may be deprived of liberty. It prevents imprisonment for non-payment of a debt, fine, tax or maintenance unless the person wilfully refuses to pay despite having the means, and provides safeguards for persons detained during a state of emergency, including written grounds within 7 days, access to family, a doctor and a lawyer, and review by a court at least monthly.

2.13 Clause 13 provides for freedom from slavery, servitude, forced labour and human trafficking, and clarifies that forced labour does not include labour required by a court sentence, reasonable prison labour, duties of the disciplined forces, or reasonable communal or civic obligations.

2.14 Clause 14 provides for freedom from torture and from cruel, inhumane, degrading or disproportionately severe treatment or punishment, the right to security of the person (including freedom from violence from any source at home, school, work or any other place), and freedom from medical or scientific treatment without informed consent or a court order.

2.15 Clause 15 provides for freedom from unreasonable search of the person or property and unreasonable seizure of property, and requires any search or seizure to be authorised by law.

2.16 Clause 16 provides for the rights of arrested and detained persons, including the right to be told promptly of the reasons for the arrest and of the right to remain silent, to consult a lawyer (with legal aid where the interests of justice require), to be brought before a court within 48 hours for adults and 24 hours for children, to be released on reasonable conditions, and to humane conditions of detention.

2.17 Clause 17 provides for the rights of accused persons, including protection against retrospective offences and double jeopardy, the presumption of innocence, disclosure of evidence, a public trial without unreasonable delay, the right to remain silent without any adverse inference, the benefit of the lesser penalty, and the right of appeal.

2.18 Clause 18 provides for access to courts and tribunals, including the right to a fair trial, the determination of civil disputes within a reasonable time, open hearings, interpretation, special arrangements for child witnesses, legal aid through the Legal Aid Commission, and reasonable court fees. It also requires evidence obtained in breach of the Bill of Rights or any other law to be excluded.

2.19 Clause 19 provides for the right to executive and administrative action that is lawful, rational, proportionate, procedurally fair and reasonably prompt, the right to written reasons for adverse decisions, and review by a court or independent tribunal. The right does not apply against registered companies and applies only to actions taken after the first sitting of the first Parliament elected under the Constitution.

2.20 Clause 20 provides for freedom of speech, expression, thought, opinion and publication, including freedom of the press and academic freedom. The freedom does not extend to propaganda for war, incitement to violence or advocacy of hatred that incites harm, and may be limited by law on the grounds specified. The clause also defines "hate speech".

2.21 Clause 21 provides for the right to assemble peaceably and unarmed, to demonstrate, to picket and to present petitions, subject to limitations prescribed by law on the grounds specified.

2.22 Clause 22 provides for freedom of association, subject to limitations prescribed by law on the grounds specified.

2.23 Clause 23 provides for rights in employment relations, including fair employment practices, the right of workers to form and join trade unions and to strike, the right of employers to form organisations, and the right to bargain collectively, subject to limitations prescribed by law.

2.24 Clause 24 provides for freedom of movement and residence, including the right of citizens to a passport, to move freely within and leave Fiji, and to reside anywhere in Fiji, and protects lawful non-citizens from expulsion except by court order or ministerial decision on prescribed grounds. It sets out the permitted restrictions, including decisions of customary authorities under the iTaukei Affairs Act 1944 for maintaining peace and good order.

2.25 Clause 25 provides for freedom of religion, conscience and belief, including the right to manifest one's religion, freedom from compulsion to act or take an oath contrary to one's belief, the right of communities to establish and manage educational institutions and provide religious instruction.

2.26 Clause 26 provides for political rights, including the right to form and join political parties and to campaign, the right to free, fair and regular elections, and the right of every citizen aged 18 years or over to register, vote by secret ballot and stand for public office, subject to limitations prescribed by law.

2.27 Clause 27 provides for the right to privacy, including the confidentiality of personal information, data and communications, and respect for private and family life.

2.28 Clause 28 provides for the right of access to information held by public offices, and to information held by other persons that is required to exercise or protect a legal right, as well as the right to have false or misleading information corrected.

2.29 Clause 29 provides for equality before the law and freedom from unfair discrimination on the listed grounds, including *inter alia*, race, sex, gender, sexual orientation, gender identity and expression, disability, religion and opinion, and for non-discriminatory access to places and services open to the public. It sets out permitted differentiation, including in relation to retirement ages, non-citizens, and the customary ownership of iTaukei, Rotuman and Banaban land, fishing rights and chiefly titles.

2.30 Clause 30 protects against compulsory or arbitrary acquisition of property, permitting compulsory acquisition only under a written law for a public purpose and on prompt payment of agreed compensation or, failing agreement, just and equitable compensation determined by a court or tribunal having regard to the listed factors. Acquisition by taxation, bankruptcy, confiscation of the proceeds of crime and similar means is excluded.

2.31 Clause 31 provides that the State must take reasonable measures within its available resources to achieve the progressive realisation of the social, economic and cultural rights in Part C. Grouping these rights in a separate Part gives effect to the Commission's recommendation.

2.32 Clause 32 provides for the right to free early childhood, primary and secondary education, and to free further education for persons who were unable to complete their schooling. Conversational iTaukei, Rotuman and Hindi must be taught in all primary schools, and the State may direct educational institutions to teach health, civic education and matters of national interest.

2.33 Clause 33 provides for the right to full and free participation in the economic life of the State, including the right to choose one's work, trade, occupation or profession.

2.34 Clause 34 provides for the right to work and to a just minimum wage.

2.35 Clause 35 provides for the right to reasonable access to transportation, a matter raised in submissions to the Commission, particularly by maritime communities.

2.36 Clause 36 provides for the right to accessible and adequate housing and sanitation, and protects against arbitrary eviction or demolition of a person's home without a court order.

2.37 Clause 37 provides for the right to be free from hunger, to adequate food of acceptable quality, and to clean and safe water in adequate quantities.

2.38 Clause 38 provides for the right to social security schemes, including support from public resources for persons unable to support themselves and their dependants.

2.39 Clause 39 requires the State to take reasonable measures within its available resources to progressively realise the right to health, including health care services and reproductive health care, and provides that no person may be denied emergency medical treatment.

2.40 Clause 40 provides for the rights of children, including registration, a name and nationality, basic necessities, parental care, protection from abuse, neglect, harmful cultural practices, exploitative labour, and inhumane treatment or punishment (subject to lawful and moderate chastisement for the purposes of correction), and detention only as a last resort. The best interests of the child are the primary consideration in every matter concerning the child.

2.41 Clause 41 provides for the rights of persons with disabilities, including reasonable access to places, public transport and information, the use of sign language and Braille, and reasonable adaptation of buildings, infrastructure and working arrangements.

2.42 Clause 42 establishes the Human Rights and Anti-Discrimination Commission, consisting of a chairperson qualified to be a judge and 4 other members appointed by the President on the advice of the Constitutional Offices Commission, and sets out its functions, including education, monitoring, investigating complaints and seeking redress. The Commission is an Independent Commission under Chapter 12.

Chapter 3—Land and Environment, and Group Rights

2.43 Clause 43 defines "natural resources" for the purposes of Chapter 3, which is a new chapter recommended by the Commission. The term includes minerals, oil and gas, forests and marine resources.

2.44 Clause 44 sets out the principles of land use and environmental protection, including security of land rights for all legitimate users and occupiers, the protection and management of land and natural resources for present and future generations, the regulation of land use, notice to neighbours of changes in land use, and participatory and transparent land administration.

2.45 Clause 45 imposes a joint on the State and the proponent of a project to consult persons and communities whose rights or interests in land may be adversely affected. The duty includes providing information, engaging in constructive discussion, obtaining free, prior and informed consent for large projects, and seeking consensus.

2.46 Clause 46 provides for the right to a clean and healthy environment, to be progressively realised within available resources.

2.47 Clause 47 provides that all minerals are owned by the State, and that owners of land and registered customary fishing rights are entitled to a fair share of royalties from mineral extraction, to be distributed fairly under a framework prescribed by written law.

2.48 Clause 48 provides that the ownership of iTaukei, Rotuman and Banaban land, including customary rights over foreshore, seabed, reefs and riverbeds, remains with the customary owners and cannot be permanently alienated except to the State for a public purpose. Such land reverts to the customary owners when no longer required, and customary rights of use and access are inalienable.

2.49 Clause 49 preserves existing ownership, leases and tenancies, provides that freehold land remains freehold, prohibits laws that diminish the rights of lessees and tenants, and requires Parliament and Cabinet to ensure a fair return to landowners while protecting security of tenure.

2.50 Clause 50 entrenches the listed statutes on iTaukei, Rotuman and Banaban land and affairs, and any future law on iTaukei matters, by requiring the support of at least 9 of the 14 Senators appointed by the BLV. Amendments to the Agricultural Landlord and Tenant Act 1966 require the support of two-thirds of the members of each House.

2.51 Clause 51 provides that the conduct of government is based on respect for the rights of all individuals, communities and groups, and on the equal rights of all citizens, including the right to make their permanent homes in Fiji.

2.52 Clause 52 recognises iTaukei and Rotuman as indigenous languages to be protected and promoted.

2.53 Clause 53 recognises iTaukei and Rotuman custom as a source of law for those communities, subject to the Constitution and written law, including in relation to customary land, natural resources, fishing rights and their separate administrative systems. Parliament may provide for the application of customary law.

2.54 Clause 54 recognises the contribution of all communities to the unity and wellbeing of Fiji and requires the State, in consultation with all communities, to develop policies, programmes and laws to respect and nurture the heritage and cultures of all communities.

Chapter 4—Parliament

2.55 Clause 55 vests the power to make laws for the State in Parliament, which consists of the President, the House of Representatives and the Senate. This gives effect to the Commission's recommendation for a bicameral Parliament.

2.56 Clause 56 provides for the exercise of legislative powers. Any member of the House of Representatives may introduce a Bill, but only the Minister responsible for finance or an authorised Minister may introduce a Money Bill. The standing orders must provide a structured legislative process, the Senate may reject a Bill only once, and a Bill certified by the Prime Minister as urgent may proceed more quickly if the Senate does not pass it within 7 sitting days.

2.57 Clause 57 defines a Money Bill.

2.58 Clause 58 provides that the Senate may not amend taxation or appropriation Bills or increase any burden on the people, and sets the periods after which appropriation Bills and other money Bills may be presented for assent without the Senate's approval.

2.59 Clause 59 requires the President to assent to a Bill passed by both Houses within 7 days, failing which the Bill is taken to have been assented to.

2.60 Clause 60 requires an Act to be published in the Gazette within 7 days of assent, and provides for its commencement.

2.61 Clause 61 provides that subordinate laws may be made only as authorised by the Constitution or an Act, and requires public participation in their development so far as practicable.

2.62 Clause 62 provides that an international treaty or convention binds the State only after it has been approved by Parliament, and that a treaty or convention requiring domestic implementation forms part of the law of Fiji only to the extent given effect by a written law.

2.63 Clause 63 provides that members of the House of Representatives are chosen by secret ballot in free and fair elections administered by the Electoral Commission.

2.64 Clause 64 provides for a mixed member proportional electoral system for the House of Representatives, comprising 33 constituency members elected by first-past-the-post (including 5 maritime constituencies for Rotuma, Yasawa, Kadavu, Lomaiviti and Lau) and 22 party list members, with a 5% threshold for proportional representation. Parliament may increase the number of seats by written law and may provide for temporary special measures on party lists, such as equal numbers of male and female candidates.

2.65 Clause 65 sets out the qualifications for candidates for election to the House of Representatives, including citizenship, registration as a voter, ordinary residence in Fiji for 2 years, and the absence of disqualifying bankruptcy, imprisonment, electoral offences or convictions for offences punishable by imprisonment of 12 months or more in the preceding 8 years.

2.66 Clause 66 provides that the House of Representatives continues for 5 years from its first meeting after a general election, and that Parliament may be dissolved on the advice of the Prime Minister only after 4 years and 6 months.

2.67 Clause 67 provides for the early dissolution of Parliament by a resolution of two-thirds of the members of the House of Representatives, which may be moved only by the Leader of the Opposition on the ground that the Government lacks confidence, and only after a motion of no confidence has failed. No such motion may be moved in the first 18 months or the last 6 months of a term.

2.68 Clause 68 provides for the issue of the writ for a general election or by-election by the President, on the advice of the Prime Minister, within 7 days.

2.69 Clause 69 provides that nominations close 14 days after the issue of the writ and that polling must commence no later than 70 days after the close of nominations.

2.70 Clause 70 sets out when the seat of a member of the House of Representatives becomes vacant, including on resignation from, voting against, or expulsion from the member's political party. A member whose party is deregistered retains the seat as an independent member. A member may challenge the vacancy in the Court of Disputed Returns within 7 days, and the Court must decide within 21 days.

2.71 Clause 71 provides that a vacant constituency seat is filled by a by-election and a vacant party list seat by the next candidate on the party list, or by a by-election if there is no further candidate on the list.

2.72 Clause 72 provides that a by-election must be held to fill a vacant constituency seat unless the vacancy occurs in the last 6 months of the term.

2.73 Clause 73 provides for the election of the Speaker and the Deputy Speaker. The Speaker may be a member of the House (other than a Minister) or a person from outside the House who is qualified to be a candidate, and the Deputy Speaker must be a non-ministerial member. The clause sets out the Speaker's duty of impartiality and the circumstances in which the offices become vacant.

2.74 Clause 74 provides for the election of the Leader of the Opposition by the members of the House who do not support the Government, through up to 2 rounds of voting, and for the Leader's replacement.

2.75 Clause 75 provides that the role of the Senate is to review Bills passed by the House of Representatives and to perform any other functions under the Constitution or written law.

2.76 Clause 76 provides for a Senate of 23 members, of whom 14 members are appointed President on the advice of the BLV, 6 members appointed by the President on the advice of the Prime Minister, 2 members appointed by the President on the advice of the Leader of the Opposition and 1 member appointed by the President on the advice by the RIC, and requires appointments to reflect the diversity of Fiji, including its minority groups.

2.77 Clause 77 sets out the terms of Senate.

2.78 Clause 78 sets out the vacancy seat of the Senator.

2.79 Clause 79 provides that a vacancy in the Senate is filled by the authority that appointed the Senator.

2.80 Clause 80 provides for the election of the President and Vice-President of the Senate from among its members.

2.81 Clause 81 provides that each House may make standing orders and rules for the exercise of its powers and the conduct of its business.

2.82 Clause 82 provides for the summoning of Parliament within 14 days after the announcement of election results, sets the agenda for the first meeting, requires that no more than 6 months elapse between sessions, and allows one-third of the members of the House of Representatives to require a sitting on a matter of public importance.

2.83 Clause 83 requires Parliament to establish committees to scrutinise Government administration and examine Bills and subordinate legislation. Members of either House may serve on committees, but Ministers may not.

2.84 Clause 84 provides that the quorum for a sitting of either House, and for a vote on a Bill, is a majority of the members of that House.

2.85 Clause 85 provides that questions are decided by a majority of the members present and voting, that the presiding member has no casting vote, and that a question is lost if the votes are equal.

2.86 Clause 86 provides for freedom of speech and parliamentary privilege in Parliament and its committees, and allows Parliament to prescribe the powers, privileges, immunities and discipline of members.

2.87 Clause 87 provides that each House may act despite a vacancy in its membership.

2.88 Clause 88 gives Parliament and its committees the powers of the High Court to summon witnesses and compel the production of documents.

2.89 Clause 89 requires Parliament to conduct its business openly, hold its sittings in public, and facilitate public participation, and permits the exclusion of the public only in exceptional circumstances.

2.90 Clause 90 provides that the business of Parliament may be conducted in English, iTaukei, Rotuman or Hindi, that Acts are enacted in English and may be published in the other languages and in Braille, and that the English version prevails.

2.91 Clause 91 establishes the offices of the Secretary-General to the House of Representatives and the Secretary-General to the Senate, appointed by the President on the advice of the Constitutional Offices Commission after consultation with the Speaker.

2.92 Clause 92 establishes a 5-member Electoral Commission appointed by the President on the advice of the Constitutional Offices Commission, and sets out its responsibilities, including voter registration and education, the registration and deregistration of political parties, and the settlement of electoral disputes. Requirements for political parties are left to written law.

2.93 Clause 93 establishes the office of the Supervisor of Elections, who administers the registration of voters and conducts elections under the direction of, and is accountable to, the Electoral Commission, and is an *ex officio* member of that Commission.

2.94 Clause 94 establishes the Constituency Boundaries Commission, sets out its membership and qualifications, and requires it to determine constituency boundaries so that constituencies (other than maritime constituencies) have, as far as practicable, equal numbers of voters, and to review the boundaries after each census.

2.95 Clause 95 provides that every citizen who will be 18 years of age by the issue of the writ may register and vote, and requires the Electoral Commission to maintain a national common Register of Voters and a roll of voters for each constituency, in accordance with written law.

2.96 Clause 96 prohibits the enactment of major new election laws in the 9 months before the end of a Parliament's term, giving effect to the Commission's recommendation.

2.97 Clause 97 provides that the High Court is the Court of Disputed Returns, with jurisdiction to determine election petitions and whether a seat has become vacant, and requires its decisions to be made within 21 days. Its decisions are final.

Chapter 5—The Executive

2.98 Clause 98 establishes the office of the President as the Head of State, in whom the executive authority of the State is vested.

2.99 Clause 99 sets out the functions of the President, including representing Fiji, making appointments on the advice of the relevant bodies, exercising the power of mercy, performing the ceremonial role of Commander-in-Chief, opening Parliament and assenting to Acts.

2.100 Clause 100 provides that the President acts only on, and in accordance with, the advice of the Prime Minister, Cabinet, a Minister or a body prescribed by the Constitution, with Cabinet being the source of advice where a law is silent.

2.101 Clause 101 establishes the office of the Vice-President as the deputy head of State.

2.102 Clause 102 sets out the qualifications for appointment as President or Vice-President, including a distinguished career, citizenship, not being a member of a political party, and no disqualifying criminal sentence.

2.103 Clause 103 provides that the President and Vice-President are appointed by the BLV after consultation with the Prime Minister.

2.104 Clause 104 provides that the President and Vice-President hold office for 4 years and may be reappointed once, with prior service counted.

2.105 Clause 105 requires the President and Vice-President to take the oath or affirmation of office before the Chief Justice in a public ceremony.

2.106 Clause 106 provides for the resignation of the President to the BLV and of the Vice-President to the President or, where necessary, the BLV.

2.107 Clause 107 provides that the President or Vice-President may be removed from office only for incapacity or misconduct, and only by the BLV.

2.108 Clause 108 provides that the Vice-President performs the functions of the President when the President is absent or the office is vacant and, if the Vice-President is unable to do so, the Speaker.

2.109 Clause 109 provides that the Government must have the confidence of Parliament.

2.110 Clause 110 provides that Cabinet consists of the Prime Minister and such number of Ministers as the Prime Minister determines, that Cabinet is accountable individually and collectively to Parliament, and that Cabinet may seek an opinion of the Supreme Court on the Constitution.

2.111 Clause 111 provides that the Prime Minister is the head of the Government, must keep the President informed, appoints and dismisses Ministers and assigns their responsibilities, and must appoint an acting Prime Minister when absent.

2.112 Clause 112 requires the Prime Minister to be a member of the House of Representatives. A party that wins more than 50% of the seats names the Prime Minister; otherwise the House elects the Prime Minister through up to 3 votes, after which Parliament is dissolved. A person who has held office on 2 previous occasions cannot be named.

2.113 Clause 113 provides that the Prime Minister may be dismissed only by a motion of no confidence that names an alternative Prime Minister, which must be voted on within 24 hours and passed by a majority of the House. A further motion may not be moved for 6 months after a motion fails.

2.114 Clause 114 provides that Ministers must be members of the House of Representatives, subject to the provisions on the Attorney-General, and sets out their oath, tenure and acting arrangements.

2.115 Clause 115 provides for a caretaker Government from the issue of the writ for a general election until the new Parliament first sits, during which the Government must follow caretaker conventions and avoid major decisions that bind an incoming Government.

2.116 Clause 116 provides that the Attorney-General may be a member of either House, is the chief legal adviser to the Government, and must have at least 15 years' practice and no professional misconduct sanction in the preceding 8 years. A person who is not a member of Parliament may be appointed and may sit in the House of Representatives without a vote, and the Attorney-General may not engage in private practice.

Chapter 6—Judiciary

2.117 Clause 117 vests judicial power in the Supreme Court, the Court of Appeal, the High Court, the Military Court, the Magistrates Court and other courts or tribunals created by written law.

2.118 Clause 118 provides for the independence of the courts and judicial officers, prohibits interference with the courts, protects judicial remuneration, and gives the judiciary adequate funding, control of its own budget and authority over its staff.

2.119 Clause 119 confirms that the superior courts have inherent jurisdiction in addition to the jurisdiction conferred by the Constitution or written law, addressing the Commission's recommendation to clarify the inherent jurisdiction of the courts.

2.120 Clause 120 provides for the composition and jurisdiction of the Supreme Court as the final appellate court, including appeals from the Court of Appeal with leave, constitutional questions and advisory opinions.

2.121 Clause 121 provides for the composition and jurisdiction of the Court of Appeal, including appeals from the High Court and the Military Court, and appeals as of right on constitutional matters.

2.122 Clause 122 provides for the composition and jurisdiction of the High Court, including its unlimited original jurisdiction, its constitutional, appellate and supervisory jurisdiction, and references from subordinate courts.

2.123 Clause 123 establishes the Military Court, consisting of a Military Judge who is a Judge of the High Court, with jurisdiction over criminal proceedings under military law.

2.124 Clause 124 provides for the Magistrates Court, consisting of the Chief Magistrate and Magistrates appointed by the Judicial Services Commission.

2.125 Clause 125 allows other courts, tribunals and commissions to be established by written law.

2.126 Clause 126 empowers the heads of the respective courts to make rules of court and practice directions.

2.127 Clause 127 establishes the Judicial Services Commission, chaired by the Chief Justice or nominee, and including the President of the Court of Appeal or nominee, the Permanent Secretary responsible for justice, the chairperson of the Public Service Commission, a nominee of the Fiji Law Society and a non-lawyer nominated by the Constitutional Offices Commission. It sets out the Commission's functions, including appointments that reflect the diversity of Fiji and the oversight of judicial conduct.

2.128 Clause 128 sets out the qualifications for appointment as a Judge (a high judicial office or 15 years' practice) and as a Magistrate (a judicial office or 10 years' practice), with no professional misconduct sanction in the preceding 10 years.

2.129 Clause 129 provides that the Chief Justice and the President of the Court of Appeal are appointed on the advice of the Prime Minister, and that other Judges are appointed on the advice of the Judicial Services Commission.

2.130 Clause 130 empowers the Judicial Services Commission to appoint Magistrates, Masters, the Chief Registrar and other judicial officers, and members of specified tribunals.

2.131 Clause 131 requires judicial officers to take the oath of office before the President.

2.132 Clause 132 provides that Judges retire at 75, may be reappointed after that age if the Judicial Services Commission is satisfied of their capacity, and that non-citizen Judges serve terms of up to 3 years.

2.133 Clause 133 provides for the removal of Chief Justice or President of Court of Appeal.

2.134 Clause 134 provides that a Judge may be removed only for incapacity or misconduct, by the President, on the advice of a tribunal or medical board, and allows suspension pending the inquiry.

2.135 Clause 135 establishes the Independent Legal Services Commission, consisting of a Commissioner qualified to be a Judge and appointed on the advice of the Judicial Services Commission, with functions prescribed by written law.

2.136 Clause 136 establishes the office of the Solicitor-General as responsible for independent legal advice to the Government, legislative drafting, a public register of laws and civil litigation for the State. The Solicitor-General is appointed on the advice of the Judicial Services Commission and has the same tenure as a Judge of the High Court.

2.137 Clause 137 establishes the office of the Director of Public Prosecutions, appointed on the recommendation of the Judicial Services Commission for a renewable term of 7 years, and sets out the Director's prosecutorial powers, including the appointment of a Director of Military Prosecutions after consultation with the Commander of the Republic of Fiji Military Forces.

2.138 Clause 138 establishes the Legal Aid Commission, sets out its membership and provides for a director, with the main function of providing free legal aid service to persons who cannot afford a lawyer.

2.139 Clause 139 establishes the Fiji Law Reform Commission, with its membership and functions to be prescribed by written law.

2.140 Clause 140 establishes the Commission on the Prerogative of Mercy, chaired by the Attorney-General, to recommend pardons, postponements or remissions of punishment, and sets out the matters it must consider, including the views of victims.

2.141 Clause 141 provides for the Public Service Displinary Tribunal as the Tribunal for the public service.

2.142 Clause 142 provides that persons holding offices under Chapter 6 immediately before commencement continue in office.

Chapter 7—State Services

2.143 Clause 143 sets out the values and principles of the public service, including professionalism, integrity, freedom from corruption, accountability, transparency and merit-based recruitment that reflects the diversity of Fiji, and requires Parliament to enact a law to give full effect to them.

2.144 Clause 144 provides that a non-citizen may not be appointed to a public office (other than a judicial office) without the approval of the Prime Minister.

2.145 Clause 145 establishes an independent Public Service Commission of a chairperson and 3 to 5 members appointed on the advice of the Constitutional Offices Commission.

2.146 Clause 146 sets out the functions of the Public Service Commission, including the appointment, removal and discipline of permanent secretaries in consultation with the responsible Minister.

2.147 Clause 147 establishes the office of a permanent secretary in each ministry, responsible to the Minister for the management of the ministry and for its staff.

2.148 Clause 148 provides for the appointment and removal of ambassadors and other principal representatives by the President on the advice of the Prime Minister.

2.149 Clause 149 establishes the Fiji Police Force under the command of the Commissioner of Police, who is appointed on the advice of the Constitutional Offices Commission after consultation with the Minister, has operational independence, and must follow the Minister's general policy directions.

2.150 Clause 150 establishes the Fiji Corrections Service under the command of the Commissioner of the Fiji Corrections Service, on the same basis as the Commissioner of Police.

2.151 Clause 151 establishes the Republic of Fiji Military Forces, responsible for defence against external threats, and provides that the military may support civilian authorities only as prescribed by written law or, in a natural disaster or state of emergency, when authorised by Cabinet and at the request of the civilian authority. The Commander is appointed on the advice of the Constitutional Offices Commission and is subject to the direction of Cabinet through the responsible Minister.

Chapter 8—Bose Levu Vakaturaga

2.152 Clause 152 provides for the continued existence of the BLV established under the iTaukei Affairs Act 1944, with the functions conferred by the Constitution and written law. Parliament must provide for its membership by written law and may provide for its funding and operations, and the State must, on request, provide or facilitate adequate funding for the BLV to perform its constitutional functions.

2.153 Clause 153 entrenches Chapter 8 and specified provisions relating to the BLV by requiring the prior approval of at least 9 of the 14 Senators appointed by the BLV for any amendment.

Chapter 9—Rotuma

2.154 Clause 154 recognises Rotuma as a sovereign indigenous entity within the Republic of Fiji and the Rotuman people as an indigenous people of Fiji with a unique language, culture, traditions and land tenure.

2.155 Clause 155 vests the RIC with powers of internal government, including law-making on prescribed subjects, and requires the free, prior and informed consent of the Rotuman people, as determined by the RIC, for Government decisions

applying to Rotuma. The State must adequately fund the RIC.

2.156 Clause 156 allows the RIC, by unanimous resolution, to initiate consultation with the Government on the possibility of Rotuma becoming independent, which may occur only with Government agreement, a referendum of the Rotuman people, a two-thirds vote of the RIC and an amendment to the Constitution.

2.157 Clause 157 entrenches Chapter 9 and the provisions relating to Rotuma, including the Rotuma constituency, the appointment of a Senator by the RIC and the provisions of Chapter 3 relating to Rotuma, by requiring the prior approval of two-thirds of the members of the RIC for any amendment.

Chapter 10—Revenue and Expenditure and Accountability

2.158 Clause 158 sets out the principles of public finance, including transparency, fair sharing of the tax burden, intergenerational equity and prudent use of public money.

2.159 Clause 159 requires revenue to be raised, and taxes and fees to be imposed or waived, only under written law, requires waivers to be recorded and reported to the Auditor-General, and prohibits tax exemptions for public officers because of their office.

2.160 Clause 160 requires all public revenue to be paid into a single Consolidated Fund, except as provided by written law.

2.161 Clause 161 provides that money may be withdrawn from the Consolidated Fund only under an appropriation made by law.

2.162 Clause 162 allows limited expenditure, not exceeding one-third of the previous year's appropriations, where the annual Appropriation Act has not come into operation.

2.163 Clause 163 requires Cabinet consent, signified by the Minister responsible for finance, for laws that appropriate money, impose taxation or reduce debts owed to the State.

2.164 Clause 164 requires the Minister responsible for finance to lay an annual budget before the House of Representatives.

2.165 Clause 165 requires Government guarantees to be authorised by Parliament and allows the House of Representatives to require information on any loan or guarantee.

2.166 Clause 166 requires all public money to be accounted for in accordance with law and generally accepted public sector accounting principles.

2.167 Clause 167 requires Parliament to enact laws on expenditure control, internal audit and procurement, and requires public procurement to be fair, transparent,

competitive and cost effective.

2.168 Clause 168 provides a standing appropriation from the Consolidated Fund for the salaries and allowances of the listed offices, protecting their independence.

2.169 Clause 169 provides a standing appropriation for debt charges and pension benefits.

2.170 Clause 170 establishes the office of the Auditor-General, appointed on the advice of the Constitutional Offices Commission after consultation with the Minister responsible for finance. Clauses 170 to 172 retain the provisions of the 2013 Constitution on the Auditor-General and the Reserve Bank, as recommended by the Commission.

2.171 Clause 171 requires the Auditor-General to audit and report at least annually to Parliament on the public accounts and the use of public money and property, and requires the report to be laid before Parliament within 30 days.

2.172 Clause 172 provides for the Reserve Bank of Fiji as the independent central bank, sets out its objects, provides for the appointment of the Governor, and requires quarterly and annual reports to Parliament.

2.173 Clause 173 establishes the Salaries and Benefits Commission as an Independent Commission, consisting of the chairperson of the Public Service Commission, 2 persons with expertise in accounting, finance or public administration, and one woman and one man representing the public, to review every 4 years the framework and upper limits of the remuneration of officers of the State, other than members of Parliament, the Speaker, the President and the Vice-President.

Chapter 11—Code of Conduct for Officers of the State and Removal from Office

2.174 Clause 174 sets out the standards of conduct required of officers of the State, including the avoidance of conflicts of interest and of the use of office for private gain, and requires Parliament to legislate for their monitoring and enforcement.

2.175 Clause 175 provides a single procedure for the removal of officers of the State (other than the President, Judges and members of Parliament) for incapacity or misconduct, by the appointing authority on the advice of a tribunal chaired by a person who holds or has held high judicial office.

Chapter 12—Independent Institutions and Governance

2.176 Clause 176 sets out the guiding principles of Chapter 12, namely the primacy of the rule of law, transparency and accountability.

2.177 Clause 177 sets out the principles of democratic leadership for public office holders and requires every constitutional appointee to be a person of integrity and good character.

2.178 Clause 178 lists the Independent Commissions and Independent Offices.

2.179 Clause 179 establishes the Constitutional Offices Commission, consisting of the Prime Minister, the Leader of the Opposition, the Attorney-General and 2 persons appointed on the advice of the Prime Minister and 1 person appointed on the advice of the Leader of the Opposition, and sets out the qualifications and term of its appointed members.

2.180 Clause 180 sets out the common qualifications for members of Independent Commissions and holders of Independent Offices, including a distinguished career, citizenship, political neutrality and no disqualifying conviction.

2.181 Clause 181 sets out the terms of office of members of Independent Commissions and holders of Independent Offices.

2.182 Clause 182 provides that Independent Commissions and holders of Independent Offices are not subject to the direction or control of any person or authority.

2.183 Clause 183 provides for the remuneration of a member of an Independent Commission and office holders of Independent Offices to be determined by the Salaries and Benefits Commission and protects it from reduction.

2.184 Clause 184 requires the State to provide adequate funding and resources to Independent Commissions and Offices.

2.185 Clause 185 gives Independent Commissions and Offices control of their own budgets, as approved by Parliament.

2.186 Clause 186 gives Independent Commissions and Offices authority over the appointment, discipline and terms of employment of their staff.

2.187 Clause 187 provides that decisions of an Independent Commission require a majority of its members.

2.188 Clause 188 preserves the validity of the business of an Independent Commission despite the participation of an unentitled person.

2.189 Clause 189 allows Independent Commissions and Offices to regulate their own procedures.

2.190 Clause 190 allows a written law to make further provision for Independent Commissions and Offices.

2.191 Clause 191 requires each Independent Commission and Office to report annually to Parliament on its functions and finances.

2.192 Clause 192 provides for the removal from office for cause of a person appointed under section 179(6) and further provides for the Commission the powers to appoint a tribunal and a medical board to deal with the alleged misbehaviour or incapacity.

2.193 Clause 193 requires officers of the State to avoid conflicts of interest and conduct that demeans their office, and allows Parliament to enact codes of conduct for particular offices.

2.194 Clause 194 provides for the process to access information under section 28.

2.195 Clause 195 provides for the protection of whistle blowers.

2.196 Clause 196 provides for the establishment of the office of the Ombudsman.

2.197 Clause 197 applies Part D to the Supervisor of Elections, the Commissioner of Police, the Commissioner of the Fiji Corrections Service, the Commander of the Republic of Fiji Military Forces and the Governor of the Reserve Bank of Fiji.

2.198 Clause 198 provides for the terms and conditions of office holders provided under Part D.

2.199 Clause 199 provides for the renumeration and allowances of office holders determined by the Salaries and Benefits Commission.

Chapter 13—Emergency Powers

2.200 Clause 200 allows Cabinet, on the recommendation of the National Security Council, to declare a state of emergency where security is threatened. The declaration must be confirmed by a majority of the House of Representatives, lasts for one month unless renewed.

2.201 Clause 201 provides for the recall of a dissolved House of Representatives during a state of emergency, and allows the term of the House to be extended during an emergency for no more than 12 months in total.

2.202 Clause 202 limits the restriction of rights during a state of emergency to what is strictly required and justifiable, consistent with international law, and protects specified rights from limitation.

2.203 Clause 203 establishes the National Security Council, with its composition and functions to be prescribed by written law.

Chapter 14—Immunity

2.204 Clause 204 continues the immunities granted under Chapter XIV of the 1990 Constitution.

2.205 Clause 205 continues the immunities granted under the Limitation of Liability for Prescribed Political Events Act 2010.

2.206 Clause 206 continues the immunity from criminal and civil liability for persons who held the listed offices between 5 December 2006 and 6 October 2014, except for the specified offences.

2.207 Clause 207 provides for entrenchment of immunity granted under Chapter 14.

Chapter 15—Amendment of Constitution

2.208 Clause 208 provides that the Constitution may be amended only in accordance with Chapter 15.

2.209 Clause 209 sets out the procedure for amending the Constitution, requiring a Bill to be read 3 times in each House with an interval of at least 30 days between the second and third readings, and to be supported by at least two-thirds of the members of each House or, for entrenched provisions, three-quarters.

2.210 Clause 210 provides for the veto powers of BLV Senators in relation to iTaukeinivanua o Viti and Rotuman people.

Chapter 16—Commencement, Interpretation, Repeals and Transitional Provisions

2.211 Clause 211 provides for the short title and commencement of the Constitution.

2.212 Clause 212 defines terms used in the Constitution and sets out general rules of interpretation, including the calculation of time and the effect of the Schedule.

2.213 Clause 213 provides for the commencement of the Constitution Amendment Act 2026.

2.214 Clause 214 provides for the Government's implementation responsibility of the Constitution.

2.215 Clause 215 provides for the House of Representatives to establish an implementation oversight committee of the Constitution.

2.216 Clause 216 provides for staggered terms for the members of the Electoral Commission to ensure continuity.

2.217 Clause 217 ends the terms of the current members of the Mercy Commission and provides for staggered terms for new members.

2.218 Clause 218 provides for the continuity of the register of voters for the next general election.

2.219 Clause 219 provides for the continuity of Parliament until its dissolution in accordance with the 2013 Constitution.

2.220 Clause 220 provides for the transitional and saving provision for the Office of the President.

2.221 Clause 221 provides for the transitional and saving provision for the Office of the Prime Minister and Ministers.

2.222 Clause 222 provides for the continuation of public officers.

2.223 Clause 223 provides for the continuity of public funds, accounts and appropriations.

2.224 Clause 224 provides for the continuity of offices and institutions existing under the 2013 Constitution.

2.225 Clause 225 provides for the preservation of rights and obligations of the State.

2.226 Clause 226 provides for the preservation of existing laws.

2.227 Clause 227 preserves pending appointments, nominations, elections or selections of persons into a public office.

2.228 Clause 228 provides for the continuity of pending proceedings and investigations.

2.229 Clause 229 provides for the repeal of the 2013 Constitution and Fiji Independent Commission Against Corruption Act 2007.

2.225 The Schedule sets out the oaths and affirmations of allegiance and office for the President, the Vice-President, Ministers, judicial officers, members of Parliament, and the Speaker and Deputy Speaker.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Bill comes under the responsibility of the Prime Minister.

S. D. TURAGA
Acting Attorney-General

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