

A Technical Assessment of the Fiji Electoral Law Reform Commission's Proposed Electoral System

Mathematical, representational and institutional deficiencies in the proposed Proportional Open List Constituency System

"In its published form, the proposal is not a workable proportional electoral system. It is a predominantly first-past-the-post system with an insufficient and mathematically fragile correction mechanism attached to it."

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Introduction

Fiji Electoral Law Reform Commission has been brutal in its criticism of Fiji's current OLPR electoral system, ruthlessly attacking virtually every trade-off and perceived shortcoming, despite the fact that no electoral system in the world is perfect. Having applied such an exacting standard to the existing system, the reasonable expectation was that the Commission would propose a vastly superior alternative capable of withstanding the same level of critical scrutiny.

Instead, the proposed Proportional Open List Constituency System falls far short of that standard. It is vastly inferior to the current OLPR system, mathematically incomplete, internally contradictory and incapable of reliably delivering its central promise of national proportionality.

THE PROPOSED ARCHITECTURE

- 25 winner-take-all open constituency seats;
- 25 winner-take-all women's constituency seats;
- only 21 compensatory seats;
- an inadequately specified method for calculating the national party vote;
- an unusual "best losers" list;
- local-seat exemptions from the national threshold; and
- a fixed 71-member Parliament.

These elements do not fit together coherently.

1. The fatal mathematical defect

The proposal says each qualifying party would receive a total number of MPs, T , proportionate to its national party vote. It then says:

$$\text{List seats} = \text{total entitlement} - \text{constituency seats} \quad L = T - C$$

That equation does not guarantee proportionality. It only works where:

$$C \leq T$$

But the system provides no mechanism ensuring that condition.

Fifty of the 71 MPs, or 70.4 per cent of Parliament, would already have been elected through separate first-past-the-post contests before the 21 list seats were distributed. A party can easily win more constituency seats than its national vote justifies.

The minimum national vote share a party would require to justify different numbers of constituency seats is:

Table 1. Minimum national vote share required to justify constituency seats

Constituency seats already won	Minimum national vote share needed
20	28.2%

25	35.2%
30	42.3%
35	49.3%
40	56.3%
45	63.4%
50	70.4%

Suppose Party A receives 51 per cent nationally, distributed relatively evenly throughout Fiji. It could win both FPTP contests in every constituency and therefore take all 50 constituency seats.

Under proportionality, 51 per cent of 71 seats would entitle it to approximately 36 seats.

The formula would produce:

$$L = 36 - 50 = -14$$

A political party cannot be allocated negative MPs.

There are only three possible responses, none identified in the article:

1. Remove 14 constituency winners, overturning election results.
2. Allow Party A to retain 50 seats, abandoning proportionality.
3. Expand Parliament substantially through overhang and levelling seats.

To preserve approximately 51:49 proportionality while Party A retained 50 seats, Parliament would need roughly 98 seats, around 27 more than the proposed 71.

This is not an obscure theoretical problem. It is the central technical problem of mixed-member proportional systems. New Zealand allows parties to retain electorate seats exceeding their party-vote entitlement, producing “overhang” seats and an enlarged Parliament. Its Electoral Commission has repeatedly warned that too many electorate seats and too few list seats threaten proportionality. New Zealand has considered a 60:40 electorate-to-list ratio appropriate for protecting proportionality. This Fiji proposal has a much more dangerous 70:30 ratio.

The assertion that proportionality is “ensured” is therefore false unless the unpublished report contains a comprehensive overhang and levelling mechanism omitted from Commission member Professor Wadan Narsey’s published articles on the topic.

2. The national party vote is inadequately specified

A genuine compensatory system must identify the vote that determines each party’s national entitlement.

Under New Zealand MMP, for example, voters receive:

- an electorate vote for their local MP; and
- a party vote determining the overall party composition of Parliament.

The FELRC proposal gives voters:

- one candidate vote for the open constituency; and
- one candidate vote for the reserved women's constituency.

Each voter would effectively cast two party-linked votes. A voter could support Party A's open candidate and Party B's woman candidate, thereby contributing to the national totals of both parties. Consider a voter who supports:

- Party A's open candidate; and
- Party B's woman candidate.

Has that voter cast one party vote for each party? Are both votes added together? Does only the open ballot count towards national proportionality? Does the women's ballot count? Are voters effectively given two party votes?

The most obvious approach would be to add together all votes received by a party's candidates in the open and women's constituency contests. That is certainly possible. But once that approach is adopted, further design questions arise. It would mean that national proportionality would be calculated from two candidate ballots rather than a distinct party vote.

The system would therefore need to state clearly that both ballots carry equal weight in determining party entitlement. It would also need rules for parties that do not contest every seat, parties that contest only one category in a constituency, independent candidates, uncontested contests and votes cast for candidates whose parties do not cross the national threshold.

These issues are not impossible to resolve. But they must be resolved explicitly. A compensatory electoral system cannot leave the basis of national party entitlement to implication.

More importantly, even a perfectly defined combined party vote would not cure the fatal overhang problem. The national vote could be calculated with complete accuracy and a party could still win more constituency seats than its proportional entitlement. The arithmetic would still fail.

3. It is not really an open-list proportional system

Despite its title, this is primarily a mixed-member system dominated by first-past-the-post elections. It would also be incompatible with the current constitutional requirement for proportional representation in a single national constituency and could not be introduced without constitutional amendment.

Fifty MPs would be elected by plurality. Only 21 would be compensatory MPs, and even those would not come from a conventional national open list. They would be losing constituency candidates ranked after the election.

Calling it an "open-list" system disguises the fact that more than two-thirds of Parliament would be elected through winner-take-all contests.

By contrast, under Fiji's existing system:

- votes for all candidates belonging to a party are aggregated;
- seats are allocated proportionately among qualifying parties using D'Hondt; and

- each party's seats are awarded to its highest-polling candidates.

4. Twenty-one list seats are nowhere near enough

The article treats 21 list seats as though they could repair any distortion produced by 50 FPTP contests. They cannot. Compensatory seats can correct **underrepresentation**. They cannot ordinarily correct **overrepresentation** unless:

- the Parliament expands;
- constituency winners are removed;
- or other parties receive additional levelling seats.

The proposal offers none of these solutions.

Indeed, the larger the constituency component, the greater the likelihood that a party will obtain more direct seats than its proportional entitlement. This is especially dangerous in Fiji because voting support can be geographically concentrated or unevenly distributed.

A party could win dozens of seats narrowly while another party accumulates enormous majorities in fewer constituencies. The first party could then govern despite receiving fewer national votes.

That is precisely the disproportionality the current national OLPR system prevents.

5. The “best losers” mechanism is fundamentally unsound

The FELRC proposal originally suggested ranking losing candidates through standardised percentages. Prof. Narsey now proposes ranking them according to their raw number of votes, because standardisation may be difficult for the public to understand.

That change sacrifices fairness for superficial simplicity.

Raw candidate totals are not comparable where constituencies differ in:

- number of registered voters;
- turnout;
- population;
- candidate numbers;
- urbanisation;
- access to polling;
- levels of competition; and
- geographic size.

A candidate receiving 7,000 votes and 30 per cent in a large constituency could outrank a candidate receiving 5,000 votes and 49 per cent in a smaller constituency.

The second candidate came much closer to being the constituency's choice, yet the first would receive the list seat.

The maritime constituencies make this especially problematic. If they contain substantially fewer voters than large Viti Levu constituencies, their losing candidates would be systematically disadvantaged in the list ranking. But if every maritime constituency receives the same two MPs as a much larger urban constituency, vote equality is compromised.

The proposal cannot simultaneously guarantee separate maritime representation, equal

constituency populations and fair raw-vote comparisons without much more sophisticated, and necessarily more complex, rules.

6. The proposal misunderstands candidate votes under OLPR

One complaint is that candidates with relatively small personal totals can become MPs while candidates from other parties with thousands of votes remain outside Parliament.

That is not necessarily unfair. It is how party-list proportional representation works.

Voters are choosing both:

- a political party; and
- a preferred candidate within that party.

Seats are first allocated according to the collective support obtained by each party. Candidates then compete with their own party colleagues for those seats.

A candidate with 7,000 votes in a party receiving only 3 per cent nationally cannot simply displace a candidate with 1,000 votes from a party entitled to 20 seats. Doing so would transfer a parliamentary seat from one party's voters to another party, contradicting the national electorate's party preferences.

Comparing personal totals across different parties is therefore a category error. The relevant comparisons are:

- party against party for the allocation of seats; and
- candidate against candidate within the same party for occupancy of those seats.

The "rockstar or coattail effect" cannot be remedied by replacing proportional representation with 50 first-past-the-post contests.

7. FPTP wastes far more votes than the national threshold

The article describes votes for parties below the 5 per cent threshold as being thrown into a "dustbin".

The criticism of the 5 per cent threshold is legitimate. According to the Electoral Commission of Fiji, the threshold was 23,696 votes in 2022.

But first-past-the-post also makes votes ineffective, on a far larger scale.

- In every FPTP contest:
- every vote for a losing candidate has no effect on the identity of the MP;
- votes received by the winner beyond what was necessary to win do not affect representation; and
- a candidate can win despite most voters voting against them.

With 10 or 15 candidates, someone could become the constituency MP with 25 or 30 per cent of the vote.

The proposal therefore condemns the existing system for excluding votes below a threshold while introducing *50 elections in which all losing votes fail to elect anyone!*

A lower threshold, perhaps 2, 3 or 4 per cent, can be debated independently. It does not

require abandoning OLPR.

8. The claim that gerrymandering becomes irrelevant is wrong

The article argues that changing boundaries would provide no advantage because every additional constituency seat would simply reduce the party's list entitlement by one.

Again, that assumes **C never exceeds T**.

Once a party obtains more constituency seats than its national entitlement, boundaries directly affect:

- the size of the overhang;
- the national composition of Parliament;
- whether proportionality survives;
- which individuals become MPs;
- whether small parties obtain constituency exemptions;
- independent representation;
- local access to state resources; and
- which party develops entrenched local strongholds.

Even in a perfectly compensatory system, boundaries still determine who the local MPs are. They influence candidate careers, campaign expenditure, patronage, party organisation and the political importance of particular communities.

Under this poorly compensated 70:30 arrangement, boundaries could determine the national government.

The argument against gerrymandering only works under an idealised scenario in which every party's constituency seats remain below its entitlement. That is the very condition the proposal cannot guarantee.

9. The two local MPs may both represent the same party

The system promises every community two local MPs, one open and one woman.

But both contests use FPTP. The same party could win both seats with pluralities.

A constituency could therefore have:

- two MPs from the same party;
- no representative from the party supported by 40 or 45 per cent of voters; and
- no local ideological or political diversity.

A multi-member proportional constituency would be much more likely to give communities genuinely plural representation.

The proposal does not create two representative voices. It may simply create two winner-take-all offices.

10. Local MPs do not automatically produce accountability

The assumption that geographic MPs are inherently more accountable is overly simplistic.

FPTP constituencies often create:

- safe seats;
- entrenched incumbents;
- dependence on party nomination;
- local patronage networks;
- constituency pork-barrelling;
- neglect of national policy;
- excessive focus on personal favours; and
- MPs claiming credit for public services that citizens are already entitled to receive.

In a safe constituency, the decisive contest may be the internal party-selection process, not the general election.

Fiji's national OLPR system has the opposite problem. It creates weak geographic accountability and strong party-leader dependence. But that can be addressed through local government elections, constituency-service regions, decentralised parliamentary offices, formal MP assignments and regionalised proportional representation.

It is not necessary to replace one accountability problem with another.

11. The women's representation objective is valid, but the design remains uneven

Guaranteeing at least 25 women in a 71-member Parliament would be a major improvement in descriptive representation.

Temporary special measures for women are legally and democratically defensible. CEDAW permits such measures to accelerate substantive equality.

Women would remain free to contest the 25 open constituency seats. The concern is therefore not that women are confined to reserved seats.

The concern is that the proposal creates three different routes into Parliament: 25 seats reserved for women, 25 open seats available to both women and men, and 21 compensatory seats drawn only from unsuccessful candidates in the open contests. If, as the proposal itself appears to assume, the open contests are likely to contain more male candidates, the compensatory tier may disproportionately benefit men.

Women could win open seats, but unsuccessful women contesting the reserved seats would apparently have no access to the compensatory list. A man losing an open contest could still enter Parliament through the list, while a woman narrowly losing a reserved-seat contest could not. The objective of increasing women's representation is valid. The architecture chosen to achieve it, however, requires much more careful justification.

The claim that Fiji would thereby satisfy a "CEDAW target" of 30 per cent is also imprecise. CEDAW requires equality and permits temporary special measures. The frequently cited 30 to 35 per cent figure is a "critical mass" concept, not a fixed legal ceiling or universal CEDAW quota.

If Fiji is redesigning its system for the future, the objective should be movement towards parity, not treating 30 per cent as the end point.

12. Its ethnic reasoning is deeply troubling

The most alarming part of the proposal is the suggestion that the electoral system should guarantee that demographic ethnic majorities effectively control corresponding proportions

of Parliament in order to avoid coups.

There are several problems.

First, no democratic electoral system should be designed around accommodating the possibility that an ethnic group or military institution might overthrow a government when it dislikes an election result.

That rewards the coup threat and converts unconstitutional coercion into a design principle.

Secondly, constituency FPTP can intensify ethnic politics. Parties would have incentives to:

- identify ethnically homogeneous constituencies;
- nominate candidates according to local ethnic arithmetic;
- concentrate divisive appeals in marginal seats;
- build ethnic safe seats; and
- treat communities as permanent partisan territories.

The current single national constituency gives parties a strong incentive to seek votes throughout Fiji and encourages a shift from ethnic-based politics towards ideology-based politics. A dispersed minority's vote is worth exactly as much as a vote concentrated in a particular province or town.

The proposal claims to protect national proportionality against ethnic exclusion, but its FPTP component is precisely what could reintroduce local ethnic majoritarianism.

13. It does not uniquely provide transparent counting

The article suggests that local counting would be a special advantage of the new system.

But Fiji already counts ballot papers at polling stations. The existing processes include polling-station counting followed by national aggregation and the D'Hondt seat calculation. In established international electoral practice, the integrity of the count is protected through accredited party polling agents, independent domestic and international observers, media scrutiny, documented procedures, reconciliation of ballot papers, and clear chains of custody. There is no democratic necessity to allow large numbers of voters to remain inside polling stations during counting. Doing so would create serious and entirely avoidable security risks.

In Fiji, a school is typically used as a polling venue, with different classrooms serving as separate polling stations. Each classroom is a small and controlled space where voting and counting must be carried out safely and without interference.

Permitting crowds to gather inside these confined spaces would obstruct electoral officials, compromise the secrecy and security of ballots, increase the risk of intimidation and disorder, and make effective crowd control extremely difficult. A single agitated individual could disrupt the count, interfere with officials, seize or destroy ballot papers, or trigger wider unrest. Such an incident could invalidate the result at that polling station and undermine confidence in the entire election. Transparency does not require uncontrolled public access to the counting room. It requires properly accredited scrutiny, secure procedures, verifiable records, and results that can be independently checked.

14. Independents and small parties create further distortions

Allowing a local winner to bypass the national threshold sounds inclusive, but it creates unequal routes into Parliament.

A party with:

- 4.9 per cent nationally but no local plurality could receive no MPs;
- 1 per cent nationally but one geographically concentrated plurality could receive an MP.

That means voters in one strategically concentrated constituency acquire greater representational influence than a larger number of voters dispersed nationwide.

It also creates another unresolved problem for proportionality. If independents occupy some of the 71 seats:

- are party entitlements calculated from 71 seats or the remaining seats?
- are independent votes excluded?
- do constituency seats won by parties below the threshold count as overhangs?
- are compensatory seats added?
- does Parliament expand?

These questions cannot be answered by the formula $L = T - C$.

15. The current OLPR system's actual performance

Fiji's current system is not theoretically proportional only. It produced an extremely proportional result among qualifying parties in 2022.

Using the election results:

Table 2. Party vote and seat shares among qualifying parties in the 2022 General Election

Party	Share of qualifying-party votes	Share of seats
FijiFirst	46.05%	47.27%
People's Alliance	38.77%	38.18%
NFP	9.62%	9.09%
SODELPA	5.56%	5.45%

The largest difference between vote share and seat share was approximately 1.22 percentage points. No party won a majority, and four parties entered Parliament. That is an exceptionally accurate translation of qualifying votes into seats.

The proposed system could not promise anything remotely comparable because 70 per cent of its seats would be allocated before national proportionality was considered.

Direct comparison

Table 3. Direct comparison of the current national OLPR system and the proposed POLCS

Criterion	Current national OLPR	Proposed POLCS
National proportionality	Extremely high	Cannot be guaranteed
Equality of votes	Votes have the same national value	Depends heavily on constituency and concentration
Boundary manipulation	No parliamentary boundaries	Boundaries become politically consequential
Wasted votes	Mainly votes below threshold	Losing votes in 50 FPTP contests plus threshold effects
Local representation	Weak	Stronger geographically
Local political diversity	National rather than territorial	One party may win both local seats
Candidate choice	Open-list preference within party	Local candidate choice plus retrospective loser ranking
Party vote	Clear through candidate-party aggregation	Requires a clear rule for aggregating two candidate ballots
Women's representation	No guaranteed outcome	At least 25 women, but compensatory access is uneven
Minority protection	Dispersed votes count nationally	Geographic minorities may be permanently defeated locally
Small parties	Disadvantaged by 5% threshold	Locally concentrated parties favoured over dispersed parties
Independents	Effectively face national threshold	Can win locally, but create compensatory complications
Counting	One mark, polling-station count, national formula	Two ballots, local counts, complicated national correction
Overhang problem	None	Potentially enormous
Size of Parliament	Known and fixed under current election	Could require unpredictable expansion to remain proportional

Conclusion

The proposal is a collection of attractive political promises rather than a coherent electoral formula.

It promises:

- local MPs;
- guaranteed women;
- national proportionality;
- simple voting;
- small-party representation;
- independents;
- no gerrymandering;
- ethnic security;
- fixed parliamentary size.

But several of those promises are mutually incompatible.

The current OLPR system has one foundational strength of enormous importance: a vote cast anywhere in Fiji carries the same value in determining the national composition of Parliament, and parties receive representation broadly in proportion to the support they collectively earn. In a country with a long history of race-based politics, this creates a powerful incentive to move beyond narrow, ethnically concentrated constituencies. It encourages political parties and candidates to seek support across communities, regions and ethnic groups, and rewards those capable of building broad national appeal. That is precisely what an electoral system in a divided society should aspire to do.

The proposed POLCS would sacrifice that achievement for a complicated mixture of FPTP, reserved constituencies and inadequately compensatory list seats. Its supposedly guaranteed proportionality disappears the moment a party wins more local seats than its national entitlement.

In its published form, it is not a workable proportional electoral system. It is a predominantly first-past-the-post system with an insufficient and mathematically fragile correction mechanism attached to it.