

26 September 2026

**Hon. Justice Usaia Ratuveli**

Chairperson  
Electoral Commission  
Suva

**Dear Justice Ratuveli,**

**Re: Proposed timetable for Fiji's constitutional referendum**

The Centre for Democracy & Dialogue (CDD) writes regarding the Government's proposed timetable for a constitutional referendum between November and mid-December 2026, with a new Constitution potentially coming into force by 24 December 2026.

We are particularly concerned about the position this timetable places the Electoral Commission and the Fijian Elections Office in.

You noted publicly in July that the Commission was still waiting for the Referendum Act because it would establish the processes for conducting a referendum, and that Fiji has never previously held one. You also explained that the Commission and FEO were continuing preparations for the General Election under the electoral laws currently in force.

Those comments now assume considerable importance.

The National Referendum Bill 2025 has still not been enacted. Parliament's records continue to show it as a pending Bill referred to the Standing Committee on Justice, Law and Human Rights, whose webpage does not presently list a completed report on it.

If the referendum legislation is enacted during the parliamentary sitting beginning 28 September and a referendum is then held in November or early December, the Electoral Commission could be expected to conduct Fiji's first national referendum perhaps only one to one and a half months after the law governing that referendum comes into force. Even a mid-December referendum would leave only a short period in which to convert a completely new statutory framework into a functioning national process.

CDD considers that timetable operationally very difficult to justify.

**The law cannot simply be passed and immediately used**

The Venice Commission's **Revised Code of Good Practice on Referendums** specifically cautions against this type of situation.

Guideline II.3(a) states that referendum rules should not be adopted ad hoc for a specific referendum. Guideline II.3(b) provides that fundamental aspects of referendum law should not be open to changes that are to be applied during the year following their enactment, and should be written in the constitution or at a level superior to ordinary law. Guideline II.3(c) calls for referendum legislation to be adopted by broad consensus following extensive public consultation.

The purpose of the one-year stability principle is important. Electoral authorities, campaign participants and voters should know the rules well before they are required to operate under

them. Even the Venice Commission's explanatory guidance recommends a substantial interval before new technical rules are applied.

Fiji would be starting from an unusually difficult position. We would not merely be amending an established referendum law. We would be creating Fiji's referendum system and almost immediately using it for the first time to decide whether to adopt what is, in substance, a substantially new Constitution.

### **A referendum involves considerably more than printing a different ballot paper**

CDD appreciates that FEO already possesses considerable election-management experience and much of the physical infrastructure required for nationwide voting.

However, a constitutional referendum is not simply a matter of designing and printing a new ballot paper and issuing it to people already on the National Register of Voters.

Once the legislation is enacted, the Commission and FEO would have to interpret and operationalise it. That means determining how its provisions interact with existing electoral legislation, developing regulations and detailed procedures where necessary, preparing operational manuals, identifying ambiguities, establishing compliance arrangements, training officials and ensuring that the same rules are understood consistently across the country.

The referendum question itself will require careful independent scrutiny. The Venice Commission's Code provides that the central electoral commission or another impartial authority should check the validity of any proposed referendum question and approve its final wording. It should also be able to correct wording that is obscure, misleading or suggestive.

In Fiji's case, this means that the Electoral Commission would need sufficient time to test the neutrality, clarity and intelligibility of the proposed referendum question, rather than simply receiving a question shortly before polling and placing it on the ballot. For a referendum dealing with a substantially new Constitution, the wording of the question must allow voters to understand precisely what legal choice they are making.

There is then the much wider administrative and democratic work required for the referendum itself. Among other things, the Commission and FEO would need to:

- interpret and operationalise the new Referendum Act and any regulations made under it;
- develop referendum-specific operational procedures and manuals;
- test the neutrality, clarity and intelligibility of the referendum question;
- establish how the legal text to be voted upon will be communicated to voters;
- prepare balanced and accessible voter-information materials;
- explain clearly what a "Yes" vote and a "No" vote would legally mean;
- establish campaign rules for supporters and opponents of the proposal;
- determine campaign-finance, disclosure and compliance arrangements;
- provide guidance to political parties, civil society organisations, campaign groups and the media;
- establish media access and information arrangements;
- prepare materials in appropriate languages and accessible formats;
- design, test, proof and print referendum ballot papers;
- establish voting, counting, reconciliation and results procedures specifically for a referendum;

- train election officials in those new procedures;
- prepare observer and accreditation arrangements;
- establish complaints and dispute-resolution procedures;
- prepare for possible requests for recounts or legal challenges;
- develop public communication systems capable of responding rapidly to misinformation about the Constitution or referendum process;
- undertake nationwide voter education; and
- test the systems through which referendum results will be transmitted, verified, declared and published.

All of this would be undertaken in Fiji for the first time.

The Commission would not be activating an established referendum framework that has already been interpreted and tested through previous national votes. It would be learning and implementing a new law while simultaneously educating the electorate about a form of national voting that Fiji has never previously conducted.

### **Overseas voting creates a further practical and constitutional difficulty**

CDD also asks the Commission to consider urgently whether the proposed timetable provides sufficient time to facilitate voting by registered Fijians who are overseas. This is important both practically and constitutionally.

Section 23(3) of the Constitution provides that every citizen who has reached the age of 18 has the right to be registered as a voter and "to vote by secret ballot in any election or referendum under this Constitution."

The National Referendum Bill reinforces this. Clause 6 provides that any person whose name appears on the National Register of Voters is entitled to vote at a referendum, while clause 9 requires the Supervisor to adopt existing Electoral Act procedures and applies the Electoral Act *mutatis mutandis* to the referendum.

On the present wording of the Bill, this appears to bring the existing postal-voting system into the referendum process. That system itself requires time.

Under the Electoral Act, a registered voter living outside Fiji may apply for postal voting. Applications can only begin once the polling date has been announced and must close 21 days before polling day. Postal ballot packages must then be dispatched to voters, completed overseas and returned to FEO by 6.00 pm on polling day.

The process is physical. The Supervisor must dispatch a ballot paper, voting instructions, declaration form and secret envelope. The voter then returns the completed material by registered post, courier or delivery so that it reaches FEO before the statutory deadline.

This raises a very practical question. If the Referendum Act is enacted in October and the referendum is held only four to eight weeks later, when will overseas voters be told that postal voting is available? When will applications open? When will the referendum question be finalised so that ballot papers can be printed? How quickly can thousands of ballot packages be prepared and dispatched internationally? Will voters in Australia, New Zealand, the Pacific, Asia, North America, Europe and elsewhere have enough time to receive their ballot, consider the

constitutional proposal, complete the required documents and return the ballot to Fiji before polling closes?

The existing electoral timetable illustrates the difficulty. Postal-vote applications close three weeks before polling. If a referendum is announced only five or six weeks beforehand, the application period itself could be extremely short. After that, FEO still has to approve applications, print and dispatch ballot materials internationally and allow enough time for them to travel in both directions.

.A process that gives registered overseas voters no realistic means of exercising that right would raise a serious constitutional question. If the timetable made it practically impossible for a substantial category of registered voters to participate, the referendum could become vulnerable to legal challenge on the basis that the constitutional franchise had not been effectively provided.

### **The Commission and FEO already have a major national election to prepare for**

The timing creates another practical difficulty. The Commission and FEO are already preparing for the General Election. That work includes voter registration, PDW recruitment, training, logistics, voter awareness and the numerous operational processes required to maintain election readiness. Justice Ratuvi has previously confirmed that the General Election remains the principal process for which the elections management body is preparing.

A November or December referendum would therefore require the Commission and FEO simultaneously to prepare for a national election while establishing and administering an entirely new form of national vote under legislation enacted only weeks earlier.

CDD has considerable sympathy for the position this creates for the Commission and FEO. The proposed deadline has not been set by the elections management body, but much of the responsibility for making that deadline work would fall upon it.

### **An independent feasibility assessment is needed before a date is fixed**

We therefore respectfully ask the Electoral Commission to provide Government, Parliament and the public with its professional assessment of what is actually required to conduct Fiji's first referendum properly.

In particular, it would be useful for the Commission to clarify:

- how much lead time it requires after enactment of the Referendum Act;
- what regulations, procedures and operational systems must be completed first;
- how long staff preparation and training would require;
- how the neutrality, clarity and intelligibility of the referendum question would be tested;
- how much time is required for meaningful voter education;
- what campaign, compliance and dispute-resolution arrangements must be established; and
- whether undertaking all of this in November or December would affect General Election preparedness.

CDD believes this technical assessment should occur **before a referendum date is settled**, rather than the Commission subsequently being required to fit the necessary work into a political timetable already announced.

Government's stated December timetable should not create an expectation that the Electoral Commission can responsibly deliver Fiji's first national referendum within weeks of receiving the legislation that tells it how that referendum must be run.

The Commission is best placed to explain what credible referendum administration actually requires. We hope it will do so clearly, including where the time available is insufficient for the standards the Commission itself would expect to meet.

Our concern is also for the Commission and FEO. These institutions should not later carry responsibility for weaknesses in a referendum process that arose because they were given an unrealistic implementation period.

A constitutional referendum of this significance should proceed when the legal framework is settled, the Commission is operationally ready, the question has been properly tested, voters have been adequately informed and the elections management body is satisfied that it can administer the process credibly.

We would welcome the opportunity to discuss these concerns with the Commission.

Yours Sincerely,



**Nilesh Lal (Mr.)**

Chief Executive Officer  
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Suva, Fiji.