

5 October 2026

Hon. Justice Usaia Ratuveli

Chairperson
Electoral Commission
Suva

Dear Justice Ratuveli,

RE: PROPOSED SUSPENSION OF GENERAL ELECTION CAMPAIGNING

The Centre for Democracy & Dialogue (CDD) writes to strongly urge the Electoral Commission not to suspend campaigning for Fiji's constitutionally mandated general election on the basis of the proposed constitutional referendum.

At present, the constitutional conditions necessary to trigger that referendum have not been satisfied. The Constitution Amendment Bill has not completed its third reading and has therefore not yet been passed in accordance with section 160 of the Constitution.

Section 160(3) is explicit:

"If a Bill for the amendment of this Constitution is passed by Parliament in accordance with subsection (2), then the Speaker shall notify the President accordingly, who shall then refer the Bill to the Electoral Commission, for the Electoral Commission to conduct a referendum for all registered voters in Fiji to vote on the Bill."

The constitutional sequence is therefore mandatory and clear. First, the Bill must be passed in accordance with section 160(2). Only then may the Speaker notify the President. Only after that notification does the President refer the Bill to the Electoral Commission for a referendum.

Importantly, the Supreme Court's opinion of 29 August 2025 did not disturb this sequence. While the Court read down the parliamentary voting threshold in section 160(2)(b) from three-quarters to two-thirds, and altered the referendum threshold in section 160(6), it expressly recognised sections 159 and 160 in all other respects.

The condition in section 160(3) has therefore not yet arisen.

This raises an obvious and important legal question: **how can 9 December be treated as the legally fixed referendum polling day when the Constitution Amendment Bill has not yet passed in accordance with section 160, no referendum writ could yet have been issued pursuant to that process, and the statutory mechanism for fixing the polling day has therefore not been completed?**

The same difficulty arises in relation to any proposed suspension of general election campaigning.

Section 15(2) of the National Referendum Act does not create a general power to suspend an election campaign whenever a referendum is contemplated. It applies where **"the day**

fixed for voting at a referendum is not the same as the day fixed for polling at an election”, and only in those circumstances may the Electoral Commission determine that campaigning relating to the later event be suspended.

Section 15(2) is therefore expressly conditional upon there being a “day fixed for voting at a referendum”. Under sections 10 and 11 of the National Referendum Act, that day is fixed by the President in the referendum writ. The President may issue that writ only after being notified by the Speaker that the Constitution Amendment Bill has passed Parliament in accordance with section 160 of the Constitution. The writ must then appoint the referendum polling day, which must be not less than 30 days and not more than 45 days after the writ is issued.

None of those legal steps has yet occurred. The Constitution Amendment Bill has not completed its third reading, the Speaker cannot yet have made the notification contemplated by section 160(3), the President cannot yet have issued the referendum writ pursuant to that process, and no referendum polling day has therefore been lawfully fixed under the Act.

Accordingly, in CDD's view, the statutory precondition for the Electoral Commission to exercise the power under section 15(2) has not arisen. Any purported suspension of general election campaigning under section 15(2) at this stage would therefore be unlawful and beyond the power presently conferred on the Commission by that provision.

CDD is also concerned by the Prime Minister's statement that he has written to the Electoral Commission requesting that general election campaigning be suspended. Section 15(2) places that discretion in the Electoral Commission, not in the Prime Minister. The legislation provides that the Commission “may determine” whether a suspension is imposed. It neither requires the Commission to impose one nor empowers the Prime Minister to direct it to do so.

The Commission must therefore exercise its own independent judgment. This is particularly important because the request comes from the Prime Minister, whose political party is itself a contestant in the election which the Commission is responsible for fairly and impartially administering. The Electoral Act also requires the Commission and each of its members to act in a professional, collegial and impartial manner.

If the Commission suspends general election campaigning, it will therefore be the Commission's legal decision, and the Commission will be accountable for the consequences of that decision for the legality, fairness, competitiveness and integrity of the election.

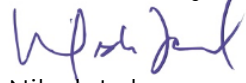
The general election is constitutionally required. The proposed referendum is presently contingent upon constitutional steps which have not yet occurred. A contingent process should not be permitted to interfere with or compress the conduct of a constitutionally mandated national election.

We are deeply concerned that suspending an ongoing election campaign at the request of one of the principal electoral contestants, and on the basis of a referendum which has not yet been constitutionally triggered, would seriously undermine public confidence in the integrity of the forthcoming election.

We are also very deeply concerned with how Fiji is making a mockery of its national elections. This latest move is another assault on the integrity of elections. Such an extraordinary disruption of an election so close to polling is difficult to reconcile with international electoral standards and norms concerning predictability, political competition, freedom of political expression and the independence of electoral management bodies.

CDD therefore respectfully urges the Electoral Commission not to allow an uncertain referendum process to disrupt Fiji's constitutionally mandated general election, and to permit election campaigning and preparations to continue without interruption.

Yours faithfully,



Nilesh Lal

Chief Executive Officer

Centre for Democracy & Dialogue

Cc: Supervisor of Elections, Fiji