Understanding Fiji's Proposed Constitution

Centre for Democracy & Dialogue



A plain-language illustrated comparison of the 2013 Constitution, the CRC Draft 2026, and the Government Draft Constitution 2026

www.cdd.org.fj

© Centre for Democracy & Dialogue, 2026

All rights reserved. No part of this publication may be reproduced, stored or transmitted without prior written permission from the Centre for Democracy & Dialogue, except for brief quotations or educational, non-commercial use with proper attribution.

This publication is intended for civic education purposes only. It does not constitute legal advice.

Published by Centre for Democracy & Dialogue
Suva, Fiji
www.cdd.org.fj

Brot für die Welt

With financial support from Brot für die Welt (Bread for the World), Germany. The views expressed in this publication are those of the authors and do not necessarily reflect the views of Brot für die Welt.

Contents

The Constitutional Propositions Before Fiji 1

Constitutional Themes

01 State, Identity & Founding Rules 2–3

02 Bill of Rights & Access to Justice 4–6

03 Land & Customary Rights 7–8

04 Elections & Political Parties 9–11

05 Parliament & the Senate 12–13

06 Executive Power 14–15

07 Courts & Judicial Independence 16–17

Constitutional Themes

08 Public Service, Police, Corrections & Military 18

09 Public Money, Integrity & Independent Institutions 19

10 Bose Levu Vakaturaga (BLV) 20

11 Rotuma & Local Government 21

12 Emergencies & Immunity 22–23

13 Amendment. Commencement & Transition 24–25

Also in this Guide

Cross-Cutting Patterns 26

25 Key Elements the GDC Removed or Weakened 27–29

Condusion 30

The Constitutional Propositions Before Fiji

2013 Constitution

Established equal citizenship, a common electoral roll, proportional representation and Fiji as a secular state. But it concentrates power in the executive: the Constitutional Offices Commission is government-dominated, judicial appointments carry scope for executive influence, and rights have broad limitation provisions. Its democratic achievements should not be discarded — its structural flaws should be corrected.

CRC Draft 2026

Significantly strengthens democratic accountability. Proposes a more independent Constitutional Offices Commission, reduces political influence over senior judicial appointments, limits Cabinet size and Prime Ministerial terms, constitutionalises caretaker conventions, broadens rights enforcement, strengthens local government and provides more detailed accountability mechanisms.

Government Draft 2026

Retains some CRC improvements but largely restores the 2013 executive architecture. Removes the Cabinet cap and PM limit, restores the political COC and direct PM influence over senior judicial appointments, removes elected-local-government and implementation safeguards, and retains and adds immunity. In several areas it also gives the Executive or governing majority additional powers or influence not found in 2013.

📌 How CDD Approaches This

CDD supports constitutional reform but does not treat any Constitution as automatically superior. Where the CRC Draft is stronger, this guide says so. Where the 2013 Constitution provides better democratic safeguards than either proposals, that is stated. Where either draft introduces a regressive provision, the concern is identified directly. No package is chosen wholesale — each provision is examined on its merits.

How to read this guide: Each section covers one of the 13 constitutional themes. The three-column cards show each document's approach. Comparison tables drill into key provisions. "What Matters Most" (brown boxes) give CDD's analysis of the most consequential differences. Caution boxes flag provisions CDD considers particularly regressive or problematic.

State, Identity & Founding Rules

The foundational values and character of the State — how it understands itself, who belongs, and how power is distributed at its most basic level.

2013 CONSTITUTION

Equal Citizenship & Secular State

Founded on equal citizenship, human rights, equality, dignity, accountable government and protecting nature. Government powers must be limited and divided. Expressly separates religion and the State — all religions treated equally, none favoured. Citizenship rules left largely to legislation.

CRC DRAFT 2026

Power Distributed, Inclusive Citizenship

Shares core values but expressly states (s 7) that sovereign authority is distributed among Parliament, Executive, courts, local government, independent institutions, public service and other bodies. Most inclusive citizenship-by-birth rule — children born in Fiji generally become citizens even if parents are not. Requires equal treatment of religions without expressing Christian preference.

GDC (GOVT DRAFT)

Christianity as Founding Value

Makes Christianity and family values founding values of the State, and says worship and reverence for God are a "source of good government and leadership" — while also saying religion and the State are separate. Requires citizen parent for citizenship by birth. Adds iTaukeinivanua o Viti as additional name for indigenous Fijians.

PROVISION	2013	CRC DRAFT	GDC
Religion & State	Expressly separate; equal treatment	Equal treatment; no express separation sentence, but prohibits religious preference	Says they are separate — but also makes Christianity a founding value and links worship to good governance.
Citizenship by birth	Left to legislation	Most inclusive — children born in Fiji generally citizens even if parents are not (except children of foreign diplomats)	Requires at least one citizen parent
Distribution of power	Powers distributed through separate chapters, no overall statement	Express statement (s 7) naming Parliament, Executive, courts, local government, independent institutions etc.	Powers distributed through chapters; no overall distributive statement
Language rights	iTaukei and Hindi translations available	Right to use English, iTaukei, Rotuman or Hindi when dealing with public offices	Braille transcription of Constitution required; indigenous languages protected
National name	All citizens are Fijians	Requires reconsideration through consultation; referendum if no agreement	All citizens are Fijians; indigenous Fijians may also be called iTaukeinivanua o Viti

WHAT MATTERS MOST

State Identity & Founding Rules – CDD Analysis

Religion and the Character of the State

The most significant difference is the GDC's decision to make Christianity and family values founding values of the State, and to say that worship and reverence for God are a source of good government and leadership. At the same time, it says religion and the State are separate and that all religions must be treated equally. This creates a tension that does not arise in the same way under the 2013 Constitution or the CRC Draft. For a diverse and multi-faith society such as Fiji, CDD considers a constitutionally neutral State preferable. A Constitution should strongly protect Christianity and every other religion, but the State itself should not constitutionally privilege one faith over others or over non-religious belief.

How Constitutional Power is Understood

The CRC Draft goes further than the other two texts by expressly stating that the sovereign authority of the people is distributed among Parliament, the Executive, courts, local government, independent institutions, the public service and other constitutional bodies. The 2013 Constitution and GDC distribute powers through separate chapters but do not contain an equivalent overall statement. This matters because a democratic constitution should begin from the principle that State power is divided, limited and exercised by different institutions, rather than concentrated in one part of government.

Citizenship and Inclusion

The CRC also adopts the most inclusive citizenship-by-birth rule, generally giving citizenship to children born in Fiji even where their parents are not citizens, while GDC requires at least one citizen parent and the 2013 Constitution leaves the detailed rules to legislation. CDD considers constitutional arrangements that reduce exclusion and the risk of statelessness preferable, particularly in a society with Fiji's history of migration and diverse communities.

CDD Assessment

On these founding questions, the CRC Draft provides the stronger liberal-democratic framework. It more clearly treats constitutional power as dispersed, adopts a more inclusive approach to citizenship and language, and avoids constitutionally elevating Christianity above other beliefs. The 2013 Constitution also strongly protects equal citizenship and State religious neutrality. The GDC retains many of those protections, but its explicit Christian framing introduces an unnecessary tension into a Constitution intended to govern a religiously and culturally diverse society.

⚠ CAUTION – CRC DRAFT

Reopening the Common Nationality Question Risks Renewed Division

The 2013 Constitution settled an important nation-building question by establishing "Fijian" as the common national identity for all citizens. The CRC Draft allows that question to be reopened through consultation and, if agreement cannot be reached, a referendum. A Constitution should strengthen the shared identity that binds citizens together, not create a new constitutional pathway for reopening a deeply contested question of a national identity. Constitutional reform should promote belonging, cohesion and equal citizenship rather than revive identity-based division.

Bill of Rights & Access to Justice

How rights are protected, how they can be limited, and whether ordinary citizens can realistically seek a remedy when they are violated.

2013 CONSTITUTION

Rights with Broad Limitation Powers

Extensive rights framework, but broad limitation clauses give government wide discretion to restrict rights. Enforcement focused on the affected person. No proportionality test — government does not need to justify that a less restrictive approach could achieve the same objective.

CRC DRAFT 2026

Strongest Rights Architecture

Introduces a proportionality test — any rights restriction must be reasonable and justified in a democratic society, and whoever defends the restriction must justify it. Broader enforcement: anyone with an interest can bring a case, courts can act on their own initiative, and costs protection is available for public interest litigation. Expressly recognises a right to truth, remedy, investigation, reparations and access to archives. Human Rights Commission gets direct Supreme Court access.

GDC (GOVT DRAFT)

Better Test but Narrower Enforcement

Adopts the stronger proportionality test, expressly protects the right to strike and removes the 2013 Constitution's special media-regulation limitation ground. But it returns to narrower rights enforcement, omits CRC's right to truth and remedy and removes direct Human Rights Commission access to the Supreme Court, and uniquely constitutionalises physical punishment of children.

Both CRC and GDC improve on 2013 in the most fundamental area: under both drafts, restricting a right requires a justifiable reason and the burden falls on whoever defends the restriction. This is a proportionality test, and a major democratic improvement. CDD proposed exactly this to the CRC.

Rights – Key Comparisons

PROVISION	2013	CRC DRAFT	GDC
Test for restricting rights	Broad limitation clauses; no proportionality requirement	Must be reasonable & justified in a democratic society; less restrictive alternatives must be considered; burden on the State	Same proportionality test as CRC — a major improvement
Who can enforce rights	Affected person only; someone else for detained persons	Anyone with an interest; court can act on its own initiative; costs protection for public interest cases	Affected person only; someone else for detained persons (retains 2013 model)
Right to truth & remedy	Not expressly included	Express right to investigation, disclosure, reparations, archive access for victims	Not included
Human Rights Commission	Can seek court orders; transitional restrictions apply	Can seek court orders; can also access Supreme Court directly for constitutional questions	Can seek court orders; no direct Supreme Court access
Children's rights	Protected from violence and inhumane punishment; no exception for physical punishment	Protected from violence and inhumane punishment; no exception for physical punishment	Section 40(1)(e) expressly permits "lawful and moderate chastisement for the purposes of correction"
International human rights law	Courts may consider it (optional)	Courts must consider relevant international law	Courts must consider relevant international law
Workers & media	No express right to strike; specific constitutional ground permits media regulation	Express right to strike; media-specific limitation ground removed	Same major improvements as CRC

🚨 **SERIOUS CONCERN — GDC S 40(1)(E)**

Constitutional Permission to Physically Punish Children

The GDC's section 40(1)(e) expressly permits **"lawful and moderate chastisement … for the purposes of correction"** — a constitutional permission for adults to inflict physical punishment on children. **Neither the 2013 Constitution nor the CRC Draft contains such an exception.** Both instead protect children against violence and inhumane punishment. CDD considers this **an abhorrent and disgraceful proposition for a modern Constitution.** A Bill of Rights should provide children with stronger protection against violence because they are among the people least able to protect themselves. It should not contain a constitutional permission for adults to hit them and then leave courts to determine what level of violence is sufficiently "moderate". The provision is especially difficult to reconcile with the GDC's own general protection against violence and its requirement that the child's best interests come first.

WHAT MATTERS MOST

Bill of Rights – CDD Analysis

A Much Stronger Rights Framework in Important Areas

Both CRC and GDC introduce a strict proportionality test for restrictions, with the burden on whoever defends the restriction. Both also expressly protect the right to strike and remove the 2013 Constitution's specific media-regulation limitation ground. These are significant democratic improvements. Rights should constrain government, and restrictions should have to be justified under ordinary constitutional standards.

The CRC Goes Much Further in Making Rights Enforceable

The strongest feature of the CRC Draft is that it creates additional ways for people to obtain justice when rights are violated. A person with an interest in enforcing a right may approach the High Court even if they are not personally the victim; the Court may begin proceedings on its own initiative; and it may protect an applicant from a costs order where proceedings are in the public interest. GDC largely returns to the narrower 2013 model. The CRC provisions make public-interest constitutional litigation considerably easier and reduce the risk that important rights violations go unchallenged simply because the victim lacks money, capacity or the ability to bring a case.

CRC Recognises That Justice Means More Than a Court Order

CRC creates an express right to a remedy and to the truth following human-rights violations, including investigation, disclosure of what happened, preservation of evidence, access to relevant archives, reparations and recognition of the interests of victims' families. Neither the 2013 Constitution nor GDC contains an equivalent right. From CDD's perspective, a modern Bill of Rights should not only tell the State what it must not do; it should give ordinary people realistic mechanisms to expose wrongdoing, establish the truth and obtain an effective remedy.

GDC's Constitutional Permission for Violence Against Children is an Extraordinary Regression

The most disturbing provision in this chapter is GDC s 40(1)(e), which expressly permits "lawful and moderate chastisement … for the purposes of correction". Neither the 2013 Constitution nor the CRC Draft contains such an exception. Both instead protect children against violence and inhumane punishment and require their best interests to be the primary consideration. A Bill of Rights should provide children with stronger protection against violence. It should not contain a constitutional permission for adults to inflict physical punishment on them and then leave courts to determine what level of violence is sufficiently "moderate".

CDD Assessment

Both the CRC and GDC substantially improve on the 2013 Constitution in the most fundamental area of rights protection: they make it harder for government to justify restricting rights. That is a major and welcome reform. But the CRC Draft is significantly stronger overall because it couples that improved limitation test with a much broader architecture for enforcing rights, public-interest litigation, access to justice, truth, remedies and constitutional accountability. GDC keeps the improved limitation test but removes several of the CRC's most progressive enforcement mechanisms, bringing the practical enforcement of rights much closer to the 2013 model. Its decision to constitutionally authorise physical punishment of children is a particularly serious regression and is fundamentally inconsistent with the rights-protecting purpose that a modern democratic Constitution should serve.

Land, Environment & Community Rights

Land is central to iTaukei identity, the national economy and the community. How the Constitution protects customary land, regulates major projects, and manages the environment shapes the lives of all communities.

2013 CONSTITUTION

Ownership Protected, No Consent Requirement

Protects customary land — iTaukei, Rotuman and Banaban land cannot be permanently sold or transferred except to the State for a public purpose. Protects mineral royalties for landowners. But no requirement to consult affected communities or obtain their consent for major projects on their land.

CRC DRAFT 2026

Free, Prior & Informed Consent

Requires free, prior and informed consent for large-scale projects affecting land-related rights. Continuing consultation required while projects are active. Foreshore declared public land. Creates a constitutionally mandated National Consultative Land Forum with equal state/owner/tenant representation. Protects customary ownership including foreshore, seabed, reefs and riverbeds.

GDC (GOVT DRAFT)

Consent Required, Forum Not Mandated

Also requires free, prior and informed consent for large-scale projects — leaves definition of "large projects" to legislation. Broader express protection of customary use and access over foreshore, seabed, reefs and riverbeds. No constitutionally mandated land forum. Natural resources defined broadly including marine and genetic resources.

PROVISION	2013	CRC DRAFT	GDC
Consent for major projects	No requirement	Free, prior & informed consent required; continuing consultation	Free, prior & informed consent required; details left to legislation
National land forum	Not required	Parliament must establish — equal state/owner/tenant representation	Not constitutionally required
Foreshore	Not specially addressed	Declared public land; customary foreshore rights separately protected	Broader express protection of customary use and access rights over foreshore
Customary ownership	Cannot be sold; returns to owners when State no longer needs it (post-commencement)	Protected including foreshore, seabed, reefs, riverbeds; land acquired post-commencement must return	Protected; customary use and access rights survive transfer; return rule applies to land acquired under the relevant section
Community rights & languages	General equality, cultural and customary-land protections	English, iTaukei, Rotuman and Hindi have equal constitutional status; cultural heritage and customary law recognised	Community and customary-law protections strengthened, but four languages do not receive equal constitutional status
Protection for land Acts	Constitutional amendment procedure applies	Listed land Acts require two-thirds vote in each House to change	Listed land Acts require support from specified BLV-advised senators; Agricultural landlord Act requires two-thirds of each House

WHAT MATTERS MOST

Land, Environment & Community Rights – CDD Analysis

Both CRC and GDC Strengthen Community Rights Over Land

Both the CRC Draft and GDC require free, prior and informed consent from affected communities for large-scale projects. The 2013 Constitution protects ownership and royalties but gives communities no constitutional lever to stop or shape large projects on or near their land. Both proposed texts change that fundamentally. This is an important democratic advance for communities that find themselves unable to influence decisions that affect their land, livelihoods and environments.

The CRC's National Consultative Land Forum Matters

The CRC Draft constitutionally mandates a National Consultative Land Forum with equal representation from the State, landowners and tenants. The GDC does not include this. A forum with constitutional status is harder for any future government to abolish or marginalise than one created by ordinary legislation. For communities who have historically had limited voice in national land policy decisions, a permanent constitutional forum with equal representation is a meaningful structural protection.

GDC Leaves Key Definitions to Legislation

The GDC's consent requirement is significant, but it leaves the definition of "large-scale projects" for which consent is required to ordinary legislation. This means Parliament could, in principle, define the category narrowly, reducing the scope of the consent requirement. The CRC's provisions are more immediately protective because the consent obligation applies directly to projects likely to harm land-related rights or interests without requiring Parliament to first specify the category.

CDD Assessment

Both CRC and GDC significantly change land rights. The CRC's approach, including a constitutional land forum and continuing consultation, provides stronger and more durable protections for affected communities. However, broad consent and consultation requirements may also delay investment, infrastructure and development if not carefully defined. The challenge is to protect landowners and communities while ensuring that legitimate development can proceed under clear, predictable and proportionate rules.

Consent vs Consultation: Consent means agreement; consultation means seeking and considering views. Both drafts strengthen community participation. But protections should prevent dispossession and exploitation without creating unnecessarily broad vetoes over lawful development. Strong indigenous and minority rights should coexist with equal citizenship and legitimate development in the wider public interest.

Elections & Political Parties

How citizens choose their representatives, who controls the electoral system, and whether electoral institutions are genuinely independent of political influence.

2013 CONSTITUTION

Open-List Proportional Representation

A single national constituency gives every vote equal value, requires parties to seek support nationally and makes constituency gerrymandering impossible. It uses open-list proportional representation on a common roll with a 5% threshold. Electoral Commission and Supervisor appointments, however, involve executive influence through the Constitutional Offices Commission.

CRC DRAFT 2026

Mixed Member Proportional System

Replaces national OLPR with a mixed constituency/list proportional system while retaining a common voter register. Electoral Commission appointments made through a more independent Constitutional Offices Commission. Strengthens caretaker conventions. Provides clearer rules on political party conduct. Stronger framework for electoral integrity.

GDC (GOVT DRAFT)

Mixed Member Proportional System

Retains common roll and proposes a MMP system. But retains politically constituted Constitutional Offices Commission for appointments (see Executive section). Election management body (EMB) appointments therefore remain vulnerable to political influence through the appointments body.

PROVISION	2013	CRC DRAFT	GDC
Electoral system	Open-list proportional representation, common roll	Mixed constituency/list proportional system: 26 constituency seats + 15 party-list seats	Mixed constituency/list proportional system: 33 constituency seats + 22 party-list seats
Electoral Commission independence	Appointments via Constitutional Offices Commission (executive-dominated)	More independent appointments process	Returns to politically constituted Constitutional Offices Commission
Caretaker conventions	Not expressly constitutionalised	Constitutionally embedded caretaker rules	Constitutionally embedded caretaker rules
Political parties and Political Finance	Governed by ordinary legislaton	Clearer integrity requirements for parties	Same as 2013
Ethnic/communal seats	Abolished	No communal seats in main Parliament	No communal seats in main Parliament (though Senate appointments partly BLV-advised)

WHAT MATTERS MOST

Elections – CDD Analysis

Electoral Commission Independence is Critical

Who appoints the Electoral Commission matters as much as what powers it has. An Electoral Commission whose members are appointed through a politically dominated body is structurally vulnerable to political pressure. The CRC Draft's more independent Constitutional Offices Commission was therefore a meaningful electoral safeguard — not just a technical administrative improvement. The GDC's return to a politically constituted commission restores precisely this vulnerability.

Both proposed MMP systems have a serious unresolved design problem

CRC provides 26 constituency seats and only 15 compensatory list seats, while GDC provides 33 constituency seats and 22 list seats. Neither text clearly explains what happens when a party wins more constituency seats than its proportional entitlement. Until an overhang mechanism is specified, both systems are incomplete and could fail to function properly. The risk is real because constituency seats outnumber compensatory seats in both models.

CDD Assessment

The 2013 national constituency has major democratic advantages for Fiji: it encourages national rather than geographic or communal politics, guarantees equal vote value and eliminates gerrymandering. Both CRC and GDC replace it with constituency/list systems. CRC provides stronger electoral safeguards; GDC adds significant risks through its boundary-setting structure and greater political control over electoral architecture.

🚨 SERIOUS CONCERN — GERRYMANDERING RISK

The GDC creates a serious risk of actual or perceived political manipulation of constituency boundaries. Its six voting members are a chair appointed on Prime Ministerial advice, one member appointed on Opposition Leader advice, and four senior State officials. This leaves the Commission structurally weighted towards the incumbent executive in an area where independence is essential. Gerrymandering can occur when boundaries are drawn to concentrate or divide voters in ways that alter electoral outcomes.

What all three share: The 2013 Constitution's historic achievement of equal citizenship, a common non-communal electoral roll and non racial seats is preserved in all three texts. None proposes a return to communal rolls or ethnically reserved seats. However, the constituencies proposed will distort equality of votes, will re-introduce scope for gerrymandering, and provide scope for manipulating these which will directly impinge on fairness of elections, and increase impact of incumbency advantage.

ELECTORAL DESIGN

Fair Competition & Safeguards

The National Constituency Has Important Democratic Advantages

The 2013 system treats Fiji as a single national constituency. Parties and candidates must seek support across the country rather than build politics around geographic or ethnic strongholds. It also gives every vote equal value and makes constituency gerrymandering impossible. CRC and GDC both replace this with geographical constituencies.

Who Can Change the Electoral System?

Under 2013, Parliament's size is adjusted through an objective population formula administered by the Electoral Commission. GDC begins with 33 constituency and 22 party-list seats, but allows Parliament by ordinary law to prescribe different numbers. A governing majority could therefore alter the electoral architecture under which it will itself seek re-election.

CRC Adds Fair-Competition Safeguards

CRC constitutionalises stronger safeguards on women's representation, political-party standards, donations, financial reporting, campaigning and media access. GDC leaves much more of this to ordinary legislation, which a parliamentary majority can amend more easily.

🚨 SERIOUS CONCERN — ELECTION PETITION RULES CONFLICT

Both CRC and GDC contain conflicting rules for challenging election results. One provision refers to a 21-day filing period; another refers to six weeks. The provisions also differ on who may bring a petition. These are not minor drafting errors. Election disputes determine who lawfully holds political power, so the Constitution must clearly state who can challenge a result and when.

Longer election period: Under both 2013 and CRC, polling must begin within 30 days after nominations close. GDC allows up to 70 days. Because caretaker government begins when the election writ is issued, this could also produce a substantially longer caretaker period and restrict ordinary government decision-making for longer.

Parliament & Making Laws

Whether Parliament is fully elected, how laws are made, and whether the process allows adequate scrutiny and public deliberation.

2013 CONSTITUTION

Unicameral – Fully Elected

Single elected chamber, initially 50 members, with later size adjusted under a constitutional population formula. Laws can be expedited with insufficient safeguards for deliberation.

CRC DRAFT 2026

Bicameral – Elected Lower House + Appointed Senate

Introduces an appointed Senate. The Senate's composition and role affect the nature of democratic accountability. Lower House remains fully elected. Better rules on legislative deliberation and public scrutiny of proposed laws.

GDC (GOVT DRAFT)

Bicameral – Elected House + BLV-Majority Appointed Senate

Establishes an appointed Senate in which a majority of members are appointed on the advice of the Bose Levu Vakaturaga. Gives specified senators (BLV-advised) the power to block changes to specified land Acts and specified iTaukei laws. Creates a significant role for unelected institutions in national lawmaking.

Parliament – Key Comparisons

PROVISION	2013	CRC DRAFT	GDC
Parliament structure	Unicameral — one elected chamber; initially 50 members	Bicameral — elected lower house + Senate	Bicameral — elected Parliament + appointed Senate
Senate composition	N/A	Appointed Senate (CDD has concerns)	Majority of senators appointed on advice of Bose Levu Vakaturaga
Senate's power over land laws	N/A	Senate can delay; two-thirds majority required in each house for listed land Acts	BLV-advised senators can block changes to listed land Acts and iTaukei laws
Legislative scrutiny	Bills can be expedited; limited deliberation safeguards	Stronger requirements for public scrutiny, limits on number of expedited bills	PM certifies urgency in writing; Senate gets seven-sitting-day review. Better than 2013, but stronger safeguards remain desirable.
Leaders of constitutional offices	Appointed via executive-dominated Commission	Appointed via more independent Commission	Returns to politically constituted Commission

WHAT MATTERS MOST

Parliament – CDD Analysis

Both CRC and GDC introduce unelected lawmakers

The 2013 Constitution has a single, fully elected legislative chamber. CRC and GDC both create appointed Senates with real law-making powers which can be considered a democratic regression. Legislative power should principally rest with representatives chosen by voters.

GDC gives the BLV disproportionate influence over national law-making

Under CRC, the BLV appoints 8 of 19 Senators; the main appointment groups must reflect Fiji's diversity, and Rabi has a dedicated senator. GDC gives 14 of 23 seats to BLV-advised senators, an outright majority, removes the CRC diversity requirement from those nominees and provides no dedicated Rabi seat. This is difficult to reconcile with equal citizenship.

A five-year parliamentary term weakens electoral accountability

CRC retains the present four-year term, while GDC extends the House to five years. CDD considers this a significant regression. Elections are the principal mechanism through which citizens hold governments accountable, and extending the normal term means an ineffective or unpopular government can remain in office for an additional year before voters have the opportunity to remove it.

Rushed law-making needs stronger safeguards

Both CRC and GDC improve on 2013 by requiring written Prime Ministerial certification and allowing a seven-sitting-day Senate review. But CDD considers stronger safeguards necessary and proposes that expedited legislation should normally require a two-thirds parliamentary majority, with tightly defined emergency exceptions, written reasons, time limits and post-enactment review.

CDD Assessment

On parliamentary structure, the 2013 unicameral model is more democratically accountable than either proposed bicameral alternative. The GDC Senate is more problematic than the CRC Senate because of the degree of BLV-advised control and the veto powers it creates. Constitutional protection for land and indigenous rights should be secured through the constitutional amendment process and rights provisions — not through giving an unelected body the power to block ordinary legislation.

CDD's concern about an unelected Senate: Both CRC and GDC propose an appointed Senate. CDD has expressed reservations about reintroducing unelected institutions into the national legislative process. Democratic accountability requires that the people who make laws can be removed by the people who live under them. An appointed Senate, regardless of its composition, changes that relationship.

President, Prime Minister & Cabinet

Executive power is where concentrated authority most directly affects how Fiji is governed. Who holds it, how long they can hold it, and what limits constrain them.

2013 CONSTITUTION

Strong Executive, Few Limits

Prime Minister holds substantial executive power, including significant influence over appointments and the machinery of government. There is no constitutional limit on Cabinet size and no limit on the number of terms a person may serve as Prime Minister. The President plays a largely ceremonial role. Caretaker conventions are not embedded in the Constitution, leaving important transition practices outside the constitutional text.

CRC DRAFT 2026

Meaningful Executive Constraints

Introduces a constitutional cap on Cabinet size. Limits the number of occasions on which a person may serve as Prime Minister. Constitutionalises caretaker conventions. Reduces executive influence over CoC and senior judicial appointments. Provides clearer accountability for executive conduct. These reforms directly address the 2013 Constitution's structural weaknesses.

GDC (GOVT DRAFT)

Returns to Executive Concentration

Removes the CRC Cabinet-size cap. Removes the CRC Prime Ministerial term limit. Restores direct Prime Ministerial influence over senior judicial appointments. Returns to a politically constituted Constitutional Offices Commission. These reversals reproduce the core structural weakness of the 2013 Constitution — power concentrated in the political executive without adequate constraint.

Executive – Key Comparisons

PROVISION	2013	CRC DRAFT	GDC
Cabinet size limit	None	Constitutional cap- PM + 14 Ministers	None
PM term limits	None	Limit- Maximum of two appointments as PM	Limit removed — no term cap
PM influence on judicial appointments	Significant executive influence	Reduced — more independent process	Significant executive influence
Constitutional Offices Commission	Government-dominated	More independent composition	Politically constituted — returns to 2013 model
Caretaker conventions	Not constitutionalised	Embedded in Constitution	Embedded in Constitution
President / Vice-President	Parliament chooses President; no Vice-President	Seven-member Presidential Appointment Commission selects President; no permanent Vice-President	BLV appoints President and Vice-President after consulting PM; Vice-President acts when President cannot

WHAT MATTERS MOST

Executive Power – CDD Analysis

The CRC Corrects the 2013 Constitution's Core Flaw

The 2013 Constitution's most serious structural weakness is its concentration of power in the political executive. The Prime Minister controls the Constitutional Offices Commission that appoints the heads of independent institutions; senior judicial appointments involve significant executive influence; there is no limit on Cabinet size or Prime Ministerial tenure. The CRC Draft directly addresses all of these. Its Cabinet cap, term limits, more independent appointments commission and reduced executive influence over judicial appointments are precisely the structural corrections CDD argued were needed.

The GDC Reverses These Corrections

The GDC removes the Cabinet cap and PM limit, restores direct PM influence over senior judicial appointments and restores the political COC. It also gives the Prime Minister new roles in certifying urgent Bills, advising six Senate appointments and appointing or having influence over overwhlming majority of constituency boundaries commission. The result is not merely a return to 2013: in several areas executive or governing-majority power is increased.

Who Controls Independent Institutions Controls Accountability

A commission may be declared "independent", but that independence becomes questionable if the government effectively controls the body that appoints its members. When government influence extends through appointments to the Electoral Commission, senior judiciary, Public Service Commission and other oversight bodies, those bodies' independence is structurally compromised — regardless of how they are described in the Constitution.

CDD Assessment

The CRC Draft represents a genuine structural improvement over both the 2013 Constitution and the GDC in limiting executive power. The GDC's reversal of the Cabinet cap, PM term limit and independent appointments process is not a minor technical adjustment — it represents a fundamental choice to preserve rather than correct the concentration of constitutional power in the political executive. CDD considers these reversals among the most consequential problems with the GDC.

⚠ KEY CONCERN — GDC

GDC Removes Democratic Safeguards on Executive Power

The GDC removes the CRC's constitutional cap on Cabinet and its limit on repeated appointment as Prime Minister. It also restores direct PM influence over the two most senior judicial appointments and the 2013-style political COC. In several respects, however, it goes further than the 2013 Constitution by giving the Prime Minister additional influence over Senate appointments, constituency-boundary arrangements and urgent legislation. The result is not merely a preservation of the concentration of executive power under 2013, but in important areas an expansion of it.

Courts & Legal Institutions

Whether courts are truly independent of political influence — and whether ordinary citizens can realistically access justice.

2013 CONSTITUTION

Courts Established, Executive Influence Retained

Establishes Supreme Court, Court of Appeal, High Court and other courts. The Chief Justice and President of the Court of Appeal are appointed on Prime Ministerial advice. Other superior court judges are appointed on Judicial Services Commission advice. This gives the Executive direct influence over the judiciary's two most senior offices.

CRC DRAFT 2026

Stronger Judicial Independence

Reduces executive influence over senior judicial appointments. Moves appointment of the Chief Justice and President of the Court of Appeal from Prime Ministerial advice to Constitutional Offices Commission advice. Other superior court judges remain Judicial Services Commission appointments. Better security of tenure for judges.

GDC (GOVT DRAFT)

Executive Influence Retained

Retains direct Prime Ministerial influence over senior judicial appointments. The politically constituted Constitutional Offices Commission means the executive retains significant control over who becomes Chief Justice and the President of the Court of Appeal. This reproduces the 2013 structural weakness in judicial independence.

WHAT MATTERS MOST

Courts – CDD Analysis

Judicial Appointments Are the Key Structural Question

The most consequential difference in this chapter is about who appoints senior members of the judiciary and through what process. Under the CRC Draft, the more independent Constitutional Offices Commission reduces the executive's ability to shape the judiciary's senior leadership. Under the GDC, direct Prime Ministerial influence over judicial appointments is restored. A judiciary that depends on the executive for the appointment of its most senior members faces a structural difficulty in ruling against that executive when it matters most.

CDD Assessment

Judicial independence is not secured by declaring courts to be independent — it requires that the process of appointing, retaining and removing judges is insulated from direct political control. The CRC Draft achieves this more effectively than the GDC. The GDC's restoration of direct PM influence over judicial appointments is one of several provisions that return key institutional decisions to the political executive.

Courts – Other Safeguards

Beyond appointments, judicial pay, removal, constitutional access and anti-corruption architecture also matter.

GDC CONCERN

Judicial Pay & Removal

GDC gives the Prime Minister a role in establishing the committee recommending senior judicial remuneration. After an adverse removal inquiry, the President 'may', rather than must, remove a judge.

CRC SAFEGUARD

Constitutional Enforcement

CRC broadens public-interest standing, lets courts act on their own initiative, strengthens constitutional remedies and allows independent bodies to seek Supreme Court rulings.

INSTITUTIONAL CONCERN

FICAC & Military Court

GDC repeals FICAC's statutory foundation without establishing a permanent constitutional replacement. Both 2026 drafts constitutionalise a Military Court; its jurisdiction should remain tightly limited, with civilian judicial leadership and ordinary appellate supervision.

WHAT MATTERS MOST

Courts – CDD Analysis

Independence Is More Than Appointments

The CRC's stronger architecture extends beyond who appoints judges. It improves access to constitutional remedies and institutional accountability. GDC retains more executive influence over senior judicial conditions, weakens the certainty of removal outcomes and repeals FICAC's statutory foundation without creating an equivalent permanent constitutional anti-corruption body.

CDD Assessment

A genuinely independent justice system requires secure appointments, remuneration and tenure, effective constitutional remedies, an independent anti-corruption architecture and tightly confined military jurisdiction. These safeguards should work together rather than depend on political discretion.

Why these safeguards matter: Judicial independence depends not only on appointments but also on secure remuneration, clear removal rules and effective constitutional remedies. Anti-corruption and military justice must likewise be designed so they cannot become politically dependent or parallel systems outside ordinary constitutional accountability.

8. Public Service, Police, Corrections & Military

Whether the security services, military and public service are under civilian democratic control — or vulnerable to political direction.

2013 CONSTITUTION

Broad Military Mandate, Political Input in Appointments

Gives the RFMF responsibility for Fiji's 'security, defence and well-being'. Police and Corrections Commissioners are appointed through COC processes, while Permanent Secretaries require Prime Ministerial agreement. Personnel arrangements also retain ministerial roles

CRC DRAFT 2026

Stronger Civilian Accountability

Narrows the military role and expressly strengthens civilian authority. Removes Prime Ministerial agreement for Permanent Secretaries and ministerial agreement over Police and Corrections personnel matters. Police and Corrections heads remain COC appointments through CRC's more independent Commission

GDC (GOVT DRAFT)

Executive Retains Control of Appointments

Narrows the military role and strengthens civilian authority. But it retains the 2013-style political COC for Police and Corrections appointments, requires ministerial consultation for Permanent Secretaries, and retains ministerial agreement over Police and Corrections personnel arrangements

WHAT MATTERS MOST

Public Services – CDD Analysis

Appointments Are the Core Issue Again

As with courts and electoral institutions, the most consequential question in this chapter is who effectively controls appointments to the senior leadership of the police, corrections and public service. Declaring these institutions to be independent or merit-based while leaving their leadership appointments in the hands of a politically influenced commission undermines the substance of that declaration. CRC strengthens independence through two routes: a more independent COC for Police and Corrections leadership, and Public Service Commission appointment of Permanent Secretaries without Prime Ministerial agreement. GDC restores the political COC and retains more ministerial involvement

CDD Assessment

Both CRC and GDC make an important democratic improvement by narrowing the RFMF's role and strengthening civilian authority. CRC nevertheless provides the stronger public-service model: it removes more ministerial involvement in Permanent Secretary, Police and Corrections personnel arrangements and expressly protects public servants who report wrongdoing. GDC retains substantially more political influence over these institutions.

Public Money, Integrity & Independent Institutions

How public money is managed, scrutinised and accounted for — and whether independent watchdog institutions can do their jobs without political interference.

2013 CONSTITUTION

Auditor-General, FICAC Established

Establishes an Auditor-General to audit public accounts, and the Fiji Independent Commission Against Corruption (FICAC). But their independence depends on appointments made through the executive-dominated/influenced bodies. Parliament scrutinises the budget but the executive controls the process.

CRC DRAFT 2026

Stronger Accountability Architecture

More detailed integrity and accountability mechanisms. More independent appointments for Auditor-General, FICAC and other oversight bodies through the more independent Constitutional Offices Commission. Strengthened budget scrutiny requirements. Greater transparency obligations on the executive.

GDC (GOVT DRAFT)

Auditor-General Remains; FICAC Act Repealed

The Auditor-General and several oversight bodies remain. But GDC expressly repeals the FICAC Act and establishes no equivalent permanent constitutional anti-corruption commission. Other major appointments again operate through the 2013-style political COC. An oversight body whose head is appointed through a politically influenced process has a structural accountability problem.

WHAT MATTERS MOST

Finance & Integrity – CDD Analysis

Independent Accountability Requires More Than an Auditor-General

CRC combines a more independent COC with detailed constitutional rules on conflicts, gifts, corruption and disclosure. GDC restores the political COC and leaves much of the integrity system to ordinary law. Its Salaries and Benefits Commission also excludes MPs, the Speaker, President and Vice-President. CRC additionally required an Opposition-chaired PAC, National Planning Commission, Infrastructure Council and stronger Ombudsman powers.

CDD Assessment

Strong accountability depends on watchdog institutions being independent and able to properly scrutinise government. The CRC provides stronger safeguards through more independent appointments, stronger parliamentary financial scrutiny and additional constitutional institutions supporting long-term planning and oversight. The GDC keeps important institutions, but leaves more room for political influence over how some of them operate.

Bose Levu Vakaturaga (BLV)

The role of Fiji's Great Council of Chiefs — how it relates to national democratic institutions and whether its constitutional status gives it disproportionate national political power.

2013 CONSTITUTION

BLV Not Constitutionally Established

The 2013 Constitution does not provide for the BLV. It has been re-established by legislation but without constitutional status. This left decisions about its role and powers entirely within parliamentary control.

CRC DRAFT 2026

Cultural Role + National Appointment Powers

CRC constitutionally recognises the BLV's cultural, customary and community role, but also gives it national functions. It appoints 8 of 19 Senators and nominates 3 members of the Presidential Appointment Commission. It does not, however, control a Senate majority.

GDC (GOVT DRAFT)

BLV-Advised Senate Majority + Special Veto Powers

GDC gives the BLV major national powers: 14 of 23 Senators are appointed on its advice; it appoints the President and Vice-President after consulting the PM; it can decide removal in specified circumstances; and BLV-advised senators receive special constitutional vetoes. Yet the Constitution leaves BLV membership itself to ordinary legislation.

WHAT MATTERS MOST

BLV – CDD Analysis

The Difference Between Protection and Power

CDD recognises the important cultural role of the BLV. The key question is how that role is balanced with equal citizenship and democratic representation. The CRC gives the BLV meaningful national appointment functions, while the GDC gives it a stronger role through a Senate majority and special legislative powers. The challenge is to ensure that these arrangements strengthen inclusion and social cohesion without creating perceptions of unequal political influence.

CDD Assessment

The GDC gives the BLV a significantly stronger constitutional role, including important functions relating to the presidency, Senate and constitutional amendment. CDD recognises the importance of protecting iTaukei institutions, culture and customary interests. The key consideration is ensuring that these powers are designed in a way that also protects equal citizenship, broad democratic participation and confidence across all communities.

Rotuma, Local Government & Participation

Whether communities have genuine democratic control over their local affairs — and whether Rotuma's distinct status is protected.

2013 CONSTITUTION

Local Government by Legislation

Local government is provided for but its existence and form depend entirely on ordinary legislation. Parliament can change local government arrangements without constitutional constraint. No express guarantee that local governments will be elected. Rotuman identity and Rotuman land are constitutionally recognised and protected.

CRC DRAFT 2026

Elected Local Government Guaranteed

Constitutionally guarantees elected local government. Communities have a constitutional right to elect their own local representatives. Rotuma provisions strengthen its distinct status. Language rights allow use of local languages when dealing with public offices.

GDC (GOVT DRAFT)

Elected Local Government Guarantee Removed

The GDC removes the CRC's constitutional guarantee of elected local government. Local government reverts to being a matter for ordinary legislation, which any parliamentary majority can alter. This removes a significant layer of democratic protection for local communities. Rotuma provisions from CRC draft maintained.

WHAT MATTERS MOST

Local Government – CDD Analysis

Elected Local Government is Democratic Self-Governance

The CRC Draft's constitutional guarantee of elected local government was a significant democratic improvement. When local government exists only at the pleasure of ordinary legislation, a national government can abolish elected councils, appoint administrators, or restructure local representation without any constitutional constraint. The constitutional guarantee means that local communities' right to elect their own representatives cannot be removed by a parliamentary majority without changing the Constitution itself, which is a much higher bar.

The GDC Removes This Protection

The GDC removes the constitutional guarantee of elected local government. This is one of the CRC reforms that CDD considers most clearly democratic and most worth retaining. Its removal leaves local communities without a constitutional floor of democratic representation at the local level.

CDD Assessment

CRC is clearly stronger on local democracy because it guarantees regular elected councils, powers, resources and limits on central intervention; GDC abandons that reform. At the same time, both CRC and GDC significantly strengthen Rotuma's constitutional position through self-government, consent requirements and special protection for Rotuman land, culture and internal governance.

Emergencies & Immunity

Emergency powers and immunity provisions are where constitutions are most susceptible to abuse. What powers may be used in an emergency, and whether those who acted unconstitutionally are protected from accountability.

2013 CONSTITUTION

Emergency Powers + Historical Immunity

Continues earlier constitutional and statutory immunity regimes and grants further immunity connected with participation in Government from 5 December 2006 to the first sitting of the first Parliament elected under the 2013 Constitution.

CRC DRAFT 2026

Recommendation to Remove Immunity

The CRC Report recommended removing the 2013 immunity provisions. The CRC Draft's express right to truth and remedy (ss 11, 16) provides a framework for addressing past violations. Clearer limits on emergency powers. Stronger safeguards against emergency declarations being used to suspend rights without adequate justification.

GDC (GOVT DRAFT)

Retains + Potentially Extends Immunity

The GDC retains the 2013 historical immunity regime and adds a new immunity provision whose temporal scope may extend beyond the period already protected. The new endpoint is the first sitting of the first Parliament elected after the new Constitution commences. This potentially expands the protected period into the life of the new constitutional order.

🚨 SERIOUS CONCERN — GDC

New Immunity Provision Potentially Expands Protection Beyond 2013

The GDC not only retains the contested 2013 immunity regime — it adds a new immunity provision that may extend protection to events beyond those already covered. CDD has consistently argued that constitutional immunity for unconstitutional acts is incompatible with the rule of law and the principle that no person or government should be above the Constitution. **A Constitution that says it cannot be suspended — but then immunises those who suspended it — is internally contradictory.**

WHAT MATTERS MOST

Emergencies & Immunity – CDD Analysis

CRC Recommends Removing Coup Immunity

The CRC Report recommends repeal of the existing immunity framework, while the CRC Draft creates rights to truth and remedy for human-rights violations. GDC moves in the opposite direction by preserving the old 2013 immunity regime and creating a further immunity framework.

GDC Potentially Extends the Protected Period

GDC's new immunity runs until the first sitting of the first Parliament elected after the new Constitution commences. This resets the 2013 endpoint and potentially extends protection into the life of the new constitutional order, including governmental activity occurring after commencement.

Two Immunity Regimes May Coexist

The outer Bill preserves the old 2013 immunity chapter while the new Constitution creates another immunity framework. GDC also preserves restrictions preventing courts from hearing specified historical challenges. The issue is therefore broader than personal immunity: it affects judicial accountability for parts of Fiji's post-coup legal order.

CDD Assessment

CDD considers this one of the GDC's most serious regressions. Constitutional reform should close the chapter on coup immunity, not preserve the old regime while creating another. A democratic Constitution should strengthen the rule of law and make clear that unconstitutional seizure or exercise of power does not create permanent legal privilege.

Note on emergency powers: All constitutions need emergency provisions. The key questions are: How easily can an emergency be declared? Which rights can be suspended? Who oversees the declaration? When must it end? The CRC Draft contains some additional safeguards, including an express route to challenge whether an emergency remains justified, although the emergency frameworks of CRC and GDC are otherwise similar in several respects.

Amendment, Commencement & Transition

How difficult it is to change the Constitution — and whether citizens have a direct say through referendum.

2013 CONSTITUTION

High Threshold for Amendment

Permitted amendments require three readings, 75% of all MPs at the second and third readings (changed to ⅔ by Supreme Court), at least 30 days between them, committee scrutiny, and then referendum approval by 75% of all registered voters. (Change to 50% of those who vote). Some provisions cannot be amended.

CRC DRAFT 2026

Parliamentary Supermajority, No General Referendum

Ordinary amendments require three readings in each House and two-thirds support at the second and third readings, with at least 30 days between them and committee scrutiny. There is no general national referendum requirement.

GDC (GOVT DRAFT)

Two-Thirds Model + Special Vetoes

Ordinary amendments require two-thirds in each House. Three-quarters is specified for immunity provisions, and special BLV-senator and Rotuma approval applies to listed provisions. No general referendum is required. However, s 207 says the immunity chapter cannot be amended while s 209 provides a three-quarter route to amend it.

WHAT MATTERS MOST

Amendment – CDD Analysis

Constitutional Durability Requires Citizens' Ownership

A Constitution that can be changed easily by whichever party holds a parliamentary majority provides much weaker protection than one that requires broad public support. Referendum requirements for fundamental changes give citizens a direct stake in the Constitution's content and make it harder for any single political actor to redesign constitutional institutions to their advantage.

Commencement Can Create a Constitutional Crisis

GDC fixes 31 March 2028 but also appears to permit an earlier proclaimed commencement. If the new Constitution commenced before the current Parliament expired while MMP boundaries and constituency rolls were not ready, Parliament could expire while Cabinet continued and no immediate election could lawfully be held. This loophole must be closed.

CDD Assessment

Any final constitutional text must be internally consistent and clearly drafted. Ambiguity over amendment rules or transitional provisions is not a minor technical problem — it is a potential source of constitutional crisis. CDD urges that any adopted Constitution be carefully checked for internal consistency before coming into force.

Serious Concern – Commencement & Transition

Could the new Constitution commence before Fiji is ready to elect the next Parliament?

STEP 1

Parliament Could Expire

GDC continues the existing Parliament only for the balance of its current four-year term. If the new Constitution commenced early, Parliament could reach the end of its term before the new electoral system is ready.

STEP 2

Cabinet Continues

The transition provisions continue the existing Prime Minister and Ministers under the new Constitution. This becomes serious if Parliament has expired but no successor Parliament can yet be elected.

STEP 3

New Electoral System Not Ready

GDC introduces constituency-based MMP. Before an election can operate, constituency boundaries must be drawn, constituency voter rolls prepared and the new electoral machinery made operational. If this work is incomplete, there may be no immediate way to elect a new Parliament.

SERIOUS CONCERN

Commencement – CDD Analysis

Earlier Commencement Creates a Constitutional Risk

GDC fixes 31 March 2028 as commencement but also appears to allow the President to proclaim an earlier date. If exercised before the new electoral machinery is operational, Fiji could face a continuing Executive but no elected Parliament capable of making laws or holding government to account.

Who Supervises the Transition?

CRC requires an independent Constitution Implementation Commission and mandatory parliamentary oversight. GDC instead makes Government responsible for implementation for five years and only permits, rather than requires, a House oversight committee. The Executive would therefore principally supervise implementation of restraints imposed on itself.

CDD Assessment

This is among the most serious risks in the GDC. If the Constitution commenced early and the existing Parliament then reached the end of its term before the new electoral system was ready, Fiji could face a severe constitutional crisis: Cabinet could continue in office without an elected Parliament and without an immediately workable way to elect one. This risk should be removed by clarifying the commencement provisions and ensuring independent, mandatory oversight of the transition.

Cross-Cutting Patterns



Pattern 1: The Appointments Problem

The single most consequential difference between CRC and GDC runs through every independent institution. CRC's more independent appointments architecture changes pathways across the Electoral Commission, senior judiciary, Police and Corrections, Public Service Commission and major watchdog bodies. GDC's return to a politically constituted Commission retains greater government influence across many of these institutions simultaneously. One structural choice has cascading effects across the entire constitutional architecture.



Pattern 2: In Some Areas GDC Goes Beyond 2013

GDC not only restores parts of the 2013 executive architecture. It adds a five-year House term, PM-advised Senate appointments, executive influence over constituency boundaries, ordinary-law control over the constituency/list-seat balance, a personal PM urgency-certification role, an additional PM gate in presidential removal, possible executive influence over commencement, and potentially expanded immunity.



Pattern 3: Reform Is Not a Straight Line

The comparison does not point to one Constitution being better in every respect. The 2013 Constitution retains important democratic strengths, including a fully elected legislature, a single national constituency, equal citizenship and a secular State. The CRC Draft strengthens rights enforcement, institutional independence, local democracy and checks on executive power. GDC retains some of those improvements but reverses others. The strongest constitutional settlement would preserve the democratic gains of 2013 while incorporating the most important accountability and rights reforms proposed by the CRC.

25 Key Elements the GDC Removed or Weakened

CDD's preliminary comparative analysis identifies 25 significant provisions in the CRC Draft Constitution that the Government Draft Constitution has removed, weakened, or significantly altered — in ways that reduce democratic accountability, concentrate executive power, or weaken rights protections.

Executive Power & Accountability

Provisions constraining the Prime Minister and Cabinet that the GDC removed

1. **Cabinet size cap removed** — CRC limits Cabinet size constitutionally; GDC removes this limit
2. **PM term limit removed** — CRC limits number of times a person may serve as PM; GDC removes this restriction
3. **Constitutional Offices Commission restructured** — CRC creates a politically independent COC; GDC retains the 2013-style body with an effective 4–2 government-aligned majority.
4. **PM influence over judicial appointments restored** — CRC reduces executive influence; GDC returns direct PM role in senior judicial appointments
5. **Independent Constitution Implementation Commission removed**— CRC requires an independent implementation body and parliamentary oversight; GDC makes Government responsible for implementation and House oversight optional.

Rights & Access to Justice

Rights enforcement mechanisms that the GDC narrowed or removed

6. **Broader standing for rights enforcement removed** — CRC allows anyone with an interest; GDC returns to 2013 model (affected person only)
7. **Court's own-initiative powers removed** — CRC allows courts to begin rights proceedings on their own initiative; GDC does not
8. **Public-interest costs protection removed** — CRC allows the Court to protect qualifying public-interest applicants from adverse costs; GDC does not.
9. **Right to truth and remedy removed** — CRC's express right to investigation, disclosure, reparations and archive access not included in GDC
10. **Human Rights Commission's Supreme Court access removed** — CRC allows direct constitutional referral; GDC does not
11. **Children's protection weakened** — GDC uniquely introduces constitutional permission for physical punishment of children (s 40(1)(e))

25 Key Elements the GDC Removed or Weakened

Continued — elements 12 to 20

Democratic Institutions

Institutional design provisions that GDC altered to concentrate power

12 **Electoral Commission independence weakened** — Returns to appointments through politically constituted commission

13 **Senior judicial appointment independence weakened** — PM influence restored over CJ and President of Court of Appeal appointments

14 **FICAC's statutory foundation repealed** — GDC establishes no equivalent permanent constitutional anti-corruption commission.

15 **Auditor-General independence weakened** — Appointments vulnerability through politically constituted commission

16 **BLV-Senate blocking powers introduced —** GDC gives BLV-advised senators an outright Senate majority and special blocking powers over specified land and iTaukei legislation

Local Government & Community

Community rights provisions that the GDC removed or weakened

17 **Elected local government guarantee removed** — CRC constitutionally guarantees elected local government; GDC removes this, leaving it to legislation

18 **National Consultative Land Forum not required** — CRC mandates a constitutional forum with equal state/owner/tenant representation; GDC does not require one

19 **Language rights at public offices removed** — CRC gives a practical right to use iTaukei, Rotuman, Hindi or English when dealing with public offices; GDC does not include this right

20 **Continuing consultation weakened** — CRC requires consultation to continue while a project affects rights or interests; GDC leaves more of the consultation process and 'large project' category to legislation.

25 Key Elements the GDC Removed or Weakened

Continued — elements 21 to 25 (not exhaustive)

Immunity, Identity & State Character

Foundational provisions where GDC introduced new concerns

21 **Historical immunity retained and potentially extended** — GDC keeps 2013 immunity and adds new provision potentially covering events beyond 2013's scope

22 **Christianity elevated as founding value** — GDC makes Christianity and "worship of God" foundational to the State — creating tension with equal religious treatment in a multi-faith society

23 **Citizenship by birth narrowed** — GDC requires at least one citizen parent; CRC generally grants citizenship to children born in Fiji, subject to limited exceptions.

24 **Distributive power statement absent** — CRC expressly states that sovereignty is distributed across Parliament, Executive, courts, local government and independent institutions; GDC has no equivalent statement

25 **National Security Council safeguards reduced** — CRC constitutionally specifies Government, Opposition and parliamentary participation; GDC leaves membership and functions largely to legislation.

IMPORTANT — THE 25 ELEMENTS ARE NOT THE FULL PICTURE

The list above focuses mainly on safeguards in the CRC Draft that the GDC removes, weakens or changes. It does not capture every significant concern introduced by the GDC itself. These include the five-year parliamentary term, greater Prime Ministerial influence over Senate appointments and constituency boundaries, ordinary-law power to alter the balance between constituency and party-list seats, a longer election period, and uncertainty surrounding early commencement of the new Constitution. These changes should also form part of any assessment of the GDC's overall democratic impact.

Conclusion: The Standard for a Durable Constitution

OVERALL CDD ASSESSMENT

The Three Constitutional Frameworks Assessed

The 2013 Constitution: Important Foundations, Serious Structural Flaws

The 2013 Constitution established equal citizenship, abolished communal electoral rolls, created a common national identity and affirmed Fiji as a secular state — democratic achievements that should be preserved. But it concentrates substantial power in the political executive, leaves independent institutions structurally vulnerable to political influence, and contains broad limitation provisions that give government wide discretion to restrict rights. Constitutional reform should correct these structural weaknesses — not simply transfer power from one political group to another.

The CRC Draft: A Stronger Liberal-Democratic Framework

The CRC Draft represents genuine structural improvement across the full constitutional architecture. Its more independent Constitutional Offices Commission, Cabinet cap, PM term limit, stronger rights enforcement, broader standing for constitutional litigation, right to truth and remedy, guaranteed elected local government, constitutionalised caretaker conventions, and reduced executive influence over judicial appointments address the 2013 Constitution's core defects. CDD supports the direction of the CRC's reform agenda while noting concerns about some aspects of communal representation and the reintroduction of an unelected Senate.

The GDC: Predominantly the 2013 Executive Architecture in a New Package

Measured by where constitutional power actually sits, the GDC is much closer to 2013 than to the CRC Draft. It restores the political COC and direct PM influence over senior judicial appointments, removes the Cabinet and PM limits, and abandons several independent safeguards. In some areas it goes beyond 2013 through a five-year House term, PM-advised Senate appointments, constituency-boundary influence, greater political control over electoral architecture and potentially expanded immunity.

CDD's Position

CDD's central position is that constitutional reform must address the concentration of executive power, as it is the major structural issue with 2013 that requires reform. Fiji should preserve the modern democratic foundations of 2013 while creating genuinely independent institutions and stronger restraints on government. The CRC Draft moves substantially further in this direction; the GDC does not. Fiji's constitutional future should be determined through an inclusive, transparent and legitimate process in which the Constitution belongs to the people — not to whichever political actor controls the drafting process. Fiji needs a Constitution that can outlive the government that drafts it, the Parliament that adopts it and the controversies of the moment. It must protect those in government today when they become the Opposition tomorrow, those in Opposition today if they later exercise power, and citizens regardless of who governs.

A Clearer Understanding for a Stronger Fiji

Fiji is at a critical moment in its constitutional journey. This illustrated guide presents a plain-language comparison of the 2013 Constitution, the Constitution Review Commission (CRC) Draft 2026, and the Government Draft Constitution 2026.

It breaks down the key differences, highlights what each constitution proposes, and explains what these changes could mean for our rights, our institutions and our future.



For more information on Fiji's constitution review, please visit the

Fiji Constitution Hub

A comprehensive digital resource and civic education centre for Fiji.

SCAN TO VISIT

- Constitutional texts
- Comparative analysis
- Court decisions
- Timelines and explainers
- Educational resources and more

cdd.org.fj/constitution/

Centre for Democracy & Dialogue

www.cdd.org.fj