



JOINT CIVIL SOCIETY STATEMENT

Electoral Commission Must Not Unlawfully Suspend General Election Campaigning

We, the undersigned civil society organisations, are deeply concerned by the Prime Minister's request that the Electoral Commission suspend campaigning for Fiji's forthcoming general election.

The Electoral Commission cannot lawfully suspend general election campaigning at this stage.

Section 15(2) of the National Referendum Act gives the Commission a power to suspend campaigning only where **"the day fixed for voting at a referendum"** is different from the day fixed for polling at an election.

No referendum polling day has yet been lawfully fixed. Under the Act, the referendum polling day is fixed by the President through the referendum writ. That writ can only be issued after the Speaker has notified the President that the Constitution Amendment Bill has passed Parliament in accordance with section 160 of the Constitution. The writ then appoints the referendum polling day.

The Constitution Amendment Bill has not yet completed its third reading. The constitutional and statutory conditions necessary to trigger the referendum have therefore not been satisfied, no referendum writ could yet have been lawfully issued through that process, and the legal condition required for the Commission to exercise the section 15(2) power has not arisen.

Any suspension of general election campaigning at this stage would therefore be unlawful.

We are also deeply troubled by what the continuing uncertainty surrounding the general election is doing to Fiji's democracy. For some time now, political parties, candidates and voters have been forced to operate in an environment of uncertainty about when the election will be held, what constitutional framework may apply, and how the electoral process will unfold. This is no way to conduct a national election.

The cumulative effect is to make a mockery of the predictability and stability that should characterise a free and fair electoral process. This uncertainty does not affect all contestants equally. The uncertainty created by the Government's handling of the electoral timetable is unfairly disadvantaging challenger parties. Political rivals are being forced to prepare and campaign in circumstances where key elements of the electoral process remain uncertain, while the incumbent Government is itself driving many of the decisions creating that uncertainty. This risks distorting the conditions of political competition and undermining the level playing field that is fundamental to a free and fair election. Changing the conditions of the contest after campaigning has already begun

would therefore risk distorting the playing field in favour of those already holding political and institutional advantages. Democratic legitimacy requires that all participants operate under fair, transparent and predictable rules.

The Electoral Commission is not an arm of Government. It is the independent body responsible for administering the election fairly, impartially and transparently. The Prime Minister and his party are themselves contestants in that election. It would therefore be truly scandalous if the Commission were to act on an unlawful request from one of the principal contestants and suspend general election campaigning when the legal preconditions for doing so have not even arisen.

Such a decision would cause serious damage to public confidence in the Electoral Commission and would cast a shadow over whether the forthcoming election could genuinely be regarded as free, fair and credible.

We call on the Electoral Commission to reject any attempt to unlawfully suspend general election campaigning and to protect the integrity, fairness and independence of Fiji's electoral process.

Signed:

Centre for Democracy & Dialogue
Fiji Women's Rights Movement
Fiji Council of Social Services
Social Empowerment and Education Programme
femLINK Pacific
Transparency Fiji