

- g. such other matters as are necessary to regulate the granting of citizenship.

CHAPTER 2: BILL OF RIGHTS

6. Application

1. This Chapter binds the legislative, executive and judicial branches of government at all levels, and every person performing the functions of any public office.
2. The State and every person holding public office must respect, protect, promote and fulfil the rights and freedoms recognised in this Chapter.
3. A provision of this Chapter binds a natural or legal person, taking into account-
 - a. the nature of the right or freedom recognised in that provision; and
 - b. the nature of any restraint or duty imposed by that provision.
4. A legal person has the rights and freedoms recognised in this Chapter, to the extent required by the nature of the right or freedom, and the nature of the particular legal person.
5. The rights and freedoms set out in this Chapter apply according to their tenor and may be limited by-
 - a. limitations expressly prescribed, authorised or permitted (whether by or under a written law) in relation to a particular right or freedom in this Chapter;
 - b. limitations prescribed or set out in, or authorised or permitted by, other provisions of this Constitution; or
 - c. limitations which are not expressly set out or authorised (whether by or under a written law) in relation to a particular right or freedom in this Chapter, but which are necessary and are prescribed by a law or provided under a law or authorised or permitted by a law or by actions taken under the authority of a law.
6. Subject to the provisions of this Constitution, this Chapter applies to all laws in force at the commencement of this Constitution.
7. Subject to the provisions of this Constitution, laws made, and administrative and judicial actions taken, after the commencement of this Constitution, are subject to the provisions of this Chapter.
8. To the extent that it is capable of doing so, this Chapter extends to things done or actions taken outside Fiji.

7. Interpretation of this Chapter

1. In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority-
 - a. must promote the values that underlie a democratic society based on human dignity, equality and freedom; and

• Binding effect of const rights

• Human dignity

- h. for the purpose of the person's care or treatment or for the protection of the community if he or she is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant; or
 - i. for the purpose of preventing the unlawful entry of the person into Fiji or of effecting the expulsion, extradition or other lawful removal of the person from Fiji.
2. Subsection (1)(c) does not permit a court to make an order depriving a person of personal liberty on the ground of failure to pay maintenance or a debt, fine or tax, unless the court considers that the person has wilfully refused to pay despite having the means to do so.
 3. If a person is detained pursuant to a measure authorised under a state of emergency-
 - a. the person must, as soon as is reasonably practicable and in any event within 7 days after the start of the detention, be given a statement in writing, in a language that the person understands, specifying the grounds of the detention;
 - b. the person must be given the opportunity to communicate with, and to be visited by-
 - i. his or her spouse, partner or next-of-kin;
 - ii. a legal practitioner;
 - iii. a religious counsellor or a social worker; and
 - iv. a medical practitioner;
 - c. the person must be given reasonable facilities to consult with a legal practitioner of his or her choice;
 - d. the detention must, within one month and thereafter at intervals of not more than one month, be reviewed by a court; and
 - e. at any review by a court, the person may appear in person or be represented by a legal practitioner.
 4. At any review of the detention under subsection (3), the court may make such orders as to the continued detention of the person.

10. Freedom from slavery, servitude, forced labour and human trafficking

1. A person must not be held in slavery or servitude, or subjected to forced labour or human trafficking.
2. In this section, "forced labour" does not include-
 - a. labour required in consequence of a sentence or order of a court;

- b. labour reasonably required of a person serving a term of imprisonment, whether or not required for the hygiene or maintenance of the prison; or
- c. labour required of a member of a disciplined force as part of his or her duties.

11. Freedom from cruel and degrading treatment

1. Every person has the right to freedom from torture of any kind, whether physical, mental or emotional, and from cruel, inhumane, degrading or disproportionately severe treatment or punishment.
2. Every person has the right to security of the person, which includes the right to be free from any form of violence from any source, at home, school, work or in any other place.
3. Every person has the right to freedom from scientific or medical treatment or procedures without an order of the court or without his or her informed consent, or if he or she is incapable of giving informed consent, without the informed consent of a lawful guardian.

12. Freedom from unreasonable search and seizure

1. Every person has the right to be secure against unreasonable search of his or her person or property and against unreasonable seizure of his or her property.
2. Search or seizure is not permissible otherwise than under the authority of the law.

13. Rights of arrested and detained persons

1. Every person who is arrested or detained has the right-
 - a. to be informed promptly, in a language that he or she understands, of-
 - i. the reason for the arrest or detention and the nature of any charge that may be brought against that person;
 - ii. the right to remain silent; and
 - iii. the consequences of not remaining silent;
 - b. to remain silent;
 - c. to communicate with a legal practitioner of his or her choice in private in the place where he or she is detained, to be informed of that right promptly and, if he or she does not have sufficient means to engage a legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission;
 - d. not to be compelled to make any confession or admission that could be used in evidence against that person;

- Privileges for juveniles in criminal process
 - e. to be held separately from persons who are serving a sentence, and in the case of a child, to be kept separate from adults unless that is not in the best interests of the child;
 - f. to be brought before a court as soon as reasonably possible, but in any case not later than 48 hours after the time of arrest, or if that is not reasonably possible, as soon as possible thereafter;
- Protection from unjustified restraint
 - g. at the first court appearance, to be charged or informed of the reasons for the detention to continue, or to be released;
- Right to pre-trial release
 - h. to be released on reasonable terms and conditions, pending a charge or trial, unless the interests of justice otherwise require;
 - i. to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
- Human dignity
 - j. to conditions of detention that are consistent with human dignity, including at least the opportunity to exercise regularly and the provision, at State expense, of adequate accommodation, nutrition, and medical treatment; and
 - k. to communicate with, and be visited by,-
 - i. his or her spouse, partner or next-of-kin; and
 - ii. a religious counsellor or a social worker.
- Trial in native language of accused
 - 2. Whenever this section requires information to be given to a person, that information must be given simply and clearly in a language that the person understands.
 - 3. A person who is deprived of liberty by being detained, held in custody or imprisoned under any law retains all the rights and freedoms set out in this Chapter, except to the extent that any particular right or freedom is incompatible with the fact of being so deprived of liberty.

14. Rights of accused persons

- 1. A person shall not be tried for-
 - a. any act or omission that was not an offence under either domestic or international law at the time it was committed or omitted; or
 - b. an offence in respect of an act or omission for which that person has previously been either acquitted or convicted.
- 2. Every person charged with an offence has the right-
 - a. to be presumed innocent until proven guilty according to law;
 - b. to be informed in legible writing, in a language that he or she understands, of the nature of and reasons for the charge;

- Protection from ex post facto laws
- International law
- Principle of no punishment without law

- Prohibition of double jeopardy

- Presumption of innocence in trials

- Trial in native language of accused

- Right to examine evidence/ witnesses
 - c. to be given adequate time and facilities to prepare a defence, including if he or she so requests, a right of access to witness statements;
- Right to counsel
 - d. to defend himself or herself in person or to be represented at his or her own expense by a legal practitioner of his or her own choice, and to be informed promptly of this right or, if he or she does not have sufficient means to engage a legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission, and to be informed promptly of this right;
- Right to examine evidence/ witnesses
 - e. to be informed in advance of the evidence on which the prosecution intends to rely, and to have reasonable access to that evidence;
- Right to public trial
 - f. to a public trial before a court of law, unless the interests of justice otherwise require;
- Right to speedy trial
 - g. to have the trial begin and conclude without unreasonable delay;
 - h. to be present when being tried, unless-
 - i. the court is satisfied that the person has been served with a summons or similar process requiring his or her attendance at the trial, and has chosen not to attend; or
 - ii. the conduct of the person is such that the continuation of the proceedings in his or her presence is impracticable and the court has ordered him or her to be removed and the trial to proceed in his or her absence;
- Trial in native language of accused
 - i. to be tried in a language that the person understands or, if that is not practicable, to have the proceedings interpreted in such a language at State expense;
- Protection from self-incrimination
 - j. to remain silent, not to testify during the proceedings, and not to be compelled to give self-incriminating evidence, and not to have adverse inference drawn from the exercise of any of these rights;
- Regulation of evidence collection
 - k. not to have unlawfully obtained evidence adduced against him or her unless the interests of justice require it to be admitted;
- Right to examine evidence/ witnesses
 - l. to call witnesses and present evidence, and to challenge evidence presented against him or her;
 - m. to a copy of the record of proceedings within a reasonable period of time and on payment of a reasonably prescribed fee;
 - n. to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and the time of sentencing; and

- Right to appeal judicial decisions
- Trial in native language of accused

- o. of appeal to, or review by, a higher court.
3. Whenever this section requires information to be given to a person, that information must be given as simply and clearly as practicable, in a language that the person understands.
4. A law is not inconsistent with subsection (1)(b) to the extent that it-
 - a. authorises a court to try a member of a disciplined force for a criminal offence despite his or her trial and conviction or acquittal under a disciplinary law; and
 - b. requires the court, in passing sentence, to take into account any punishment awarded against the member under the disciplinary law.

15. Access to courts or tribunals

- Right to fair trial
- Establishment of military courts
- Privileges for juveniles in criminal process

1. Every person charged with an offence has the right to a fair trial before a court of law.
2. Every party to a civil dispute has the right to have the matter determined by a court of law or if appropriate, by an independent and impartial tribunal.
3. Every person charged with an offence and every party to a civil dispute has the right to have the case determined within a reasonable time.
4. The hearings of courts (other than military courts) and tribunals established by law must be open to the public unless the interests of justice require otherwise.
5. Subsection (4) does not prevent-
 - a. the making of laws relating to the trials of children, or to the determination of family or domestic disputes, in a closed court; or
 - b. the exclusion by a court or tribunal from particular proceedings (except the announcement of the decision of the court or tribunal) of a person other than parties and their legal representatives if a law empowers it to do so in the interests of justice, public morality, the welfare of children, personal privacy, national security, public safety or public order.
6. Every person charged with an offence, every party to civil proceedings, and every witness in criminal or civil proceedings has the right to give evidence and to be questioned in a language that he or she understands.
7. Every person charged with an offence and every party to civil proceedings has the right to follow the proceedings in a language that he or she understands.
8. To give effect to the rights referred to in subsections (6) and (7), the court or tribunal concerned must, when the interests of justice so require, provide, without cost to the person concerned, the services of an interpreter or of a person competent sign language.
9. If a child is called as a witness in criminal proceedings, arrangements for the taking of the child's evidence must have due regard to the child's age.
10. The State, through law and other measures, must provide legal aid through the Legal Aid Commission to those who cannot afford to pursue justice on the strength of their own resources, if injustice would otherwise result.
11. If any fee is required to access a court or tribunal, it must be reasonable and must not impede access to justice.

- Trial in native language of accused
- Trial in native language of accused
- Trial in native language of accused

- Regulation of evidence collection

12. In any proceedings, evidence obtained in a manner that infringes any right in this Chapter, or any other law, must be excluded unless the interests of justice require it to be admitted.

16. Executive and administrative justice

- Ultra-vires administrative actions

1. Subject to the provisions of this Constitution and such other limitations as may be prescribed by law-
 - a. every person has the right to executive or administrative action that is lawful, rational, proportionate, procedurally fair, and reasonably prompt;
 - b. every person who has been adversely affected by any executive or administrative action has the right to be given written reasons for the action; and
 - c. any executive or administrative action may be reviewed by a court, or if appropriate, another independent and impartial tribunal, in accordance with law.
2. The rights mentioned in subsection (1) shall not be exercised against any company registered under a law governing companies.
3. This section shall not have retrospective effect, and shall only apply to executive and administrative actions taken after the first sitting of the first Parliament elected under this Constitution.

17. Freedom of speech, expression and publication

- Freedom of expression
- Freedom of opinion/thought/conscience
- Freedom of press

1. Every person has the right to freedom of speech, expression, thought, opinion and publication, which includes-
 - a. freedom to seek, receive and impart information, knowledge and ideas;
 - b. freedom of the press, including print, electronic and other media;
 - c. freedom of imagination and creativity; and
 - d. academic freedom and freedom of scientific research.
2. Freedom of speech, expression, thought, opinion and publication does not protect-
 - a. propaganda for war;
 - b. incitement to violence or insurrection against this Constitution; or
 - c. advocacy of hatred that-
 - i. is based on any prohibited ground of discrimination listed or prescribed under section 26; and
 - ii. constitutes incitement to cause harm.

- Right to academic freedom
- Reference to science

3. To the extent that it is necessary, a law may limit, or may authorise the limitation of, the rights and freedoms mentioned in subsection (1) in the interests of-
- a. national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - b. the protection or maintenance of the reputation, privacy, dignity, rights or freedoms of other persons, including-
 - i. the right to be free from hate speech, whether directed against individuals or groups; and
 - ii. the rights of persons injured by inaccurate or offensive media reports to have a correction published on reasonable conditions established by law;
 - c. preventing the disclosure, as appropriate, of information received in confidence;
 - d. preventing attacks on the dignity of individuals, groups of individuals or respected offices or institutions in a manner likely to promote ill will between ethnic or religious groups or the oppression of, or discrimination against, any person or group of persons;
 - e. maintaining the authority and independence of the courts;
 - f. imposing restrictions on the holders of public offices;
 - g. regulating the technical administration of telecommunications; or
 - h. making provisions for the enforcement of media standards and providing for the regulation, registration and conduct of media organisations.
4. In this section, "hate speech" means an expression in whatever form that encourages, or has the effect of encouraging discrimination on a ground listed or prescribed under section 26.

18. Freedom of assembly

- 1. Every person has the right, peaceably and unarmed, to assemble, demonstrate, picket and to present petitions.
- 2. To the extent that it is necessary, a law may limit, or may authorise the limitation of, the right mentioned in subsection (1)-
 - a. in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - b. for the purpose of protecting the rights and freedoms of others; or
 - c. for the purpose of imposing restrictions on the holders of public offices.

19. Freedom of association

1. Every person has the right to freedom of association.
2. A law may limit, or may authorise the limitation of, the right mentioned in subsection (1)-
 - a. in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - b. for the purpose of protecting the rights and freedoms of others;
 - c. for the purpose of imposing restrictions on the holders of public offices;
 - d. for the purpose of regulating trade unions, or any federation, congress, council or affiliation of trade unions, or any federation, congress, council or affiliation of employers;
 - e. for the purposes of regulating collective bargaining processes, providing mechanisms for the resolution of employment disputes and grievances, and regulating strikes and lockouts; or
 - f. for the purpose of regulating essential services and industries, in the overall interests of the Fijian economy and the citizens of Fiji.

20. Employment relations

1. Every person has the right to fair employment practices, including humane treatment and proper working conditions.
2. Every worker has the right to form or join a trade union, and participate in its activities and programmes.
3. Every employer has the right to form or join an employer's' organisation, and to participate in its activities and programmes.
4. Trade unions and employers have the right to bargain collectively.
5. A law may limit, or may authorise the limitation of, the rights mentioned in this section-
 - a. in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - b. for the purposes of protecting the rights and freedoms of others;
 - c. for the purposes of imposing restrictions on the holders of public offices;
 - d. for the purposes of regulating trade unions, or any federation, congress, council or affiliation of trade unions, or any federation, congress, council or affiliation of employers;
 - e. for the purposes of regulating collective bargaining processes, providing mechanisms for the resolution of employment disputes and grievances, and regulating strikes and lockouts; or

- f. for the purposes of regulating essential services and industries, in the overall interests of the Fijian economy and the citizens of Fiji.

21. Freedom of movement and residence

1. Every person has the right to freedom of movement.
2. Every citizen has the right to apply for and be issued a passport or similar travel document, in accordance with any condition prescribed by written law.
3. Every citizen, and every other person lawfully in Fiji, has the right to move freely throughout Fiji and the right to leave Fiji.
4. Every citizen, and every other person who has a right to reside in Fiji, has the right to reside in any part of Fiji.
5. Every person who is not a citizen but is lawfully in Fiji has the right not to be expelled from Fiji except pursuant to an order of a court or a decision of the Minister responsible for immigration on a ground prescribed by law.
6. A law, or anything done under the authority of a law, is not inconsistent with the rights granted by this section to the extent that the law-

- a. provides for the detention of the person or enables a restraint to be placed on the person's movements, whether-

- i. for the purpose of ensuring his or her appearance before a court for trial or other proceedings;

- ii. in consequence of his or her conviction for an offence; or

- iii. for the purpose of protecting another person from apprehended violence;

- b. provides for a person who is a non-citizen to be detained or restrained as a consequence of his or her arrival in Fiji without the prescribed entry documentation;

- c. provides for the extradition, on the order of the High Court, of a person from Fiji;

- d. provides for the removal from Fiji, on the order of the High Court, of any child who had previously been unlawfully removed from another country, for the purpose of restoring the child to the lawful custody of his or her parent or lawful guardian;

- e. provides for the removal from Fiji of a person who is not a citizen for the purpose of enabling the person to serve a sentence of imprisonment in the country of the person's citizenship in relation to a criminal offence of which he or she has been convicted in Fiji; or

- f. regulates, controls or prohibits the entry of persons on to land or property owned or occupied by others.

• Freedom of movement

• Power to deport citizens

• Restrictions on entry or exit

• Extradition procedure

7. To the extent that it is necessary, a law may limit, or may authorise the limitation of, the rights mentioned in this section-
 - a. in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - b. for the purpose of protecting the rights and freedoms of others;
 - c. for the purpose of protecting the ecology of any area;
 - d. for the purpose of imposing a restriction on the person that is reasonably required to secure the fulfilment of an obligation imposed on the person by law; or
 - e. for the purpose of imposing reasonable restrictions on the holders of public offices as part of the terms and conditions of their employment.
8. Section 9(3) and (4) apply to a person whose right to freedom of movement is restricted pursuant to a measure authorised under a state of emergency in the same way as they apply to a person detained pursuant to such a measure.

22. Freedom of religion, conscience and belief

1. Every person has the right to freedom of religion, conscience and belief.
2. Every person has the right, either individually or in community with others, in private or in public, to manifest and practise their religion or belief in worship, observance, practice or teaching.
3. Every person has the right not to be compelled to-
 - a. act in any manner that is contrary to the person's religion or belief; or
 - b. take an oath, or take an oath in a manner, that-
 - i. is contrary to the person's religion or belief; or
 - ii. requires the person to express a belief that the person does not hold.
4. Every religious community or denomination, and every cultural or social community, has the right to establish, maintain and manage places of education whether or not it receives financial assistance from the State, provided that the educational institution maintains any standard prescribed by law.
5. In exercising its rights under subsection (4), a religious community or denomination has the right to provide religious instruction as part of any education that it provides, whether or not it receives financial assistance from the State for the provision of that education.
6. Except with his or her consent or, in the case of a child, the consent of a parent or lawful guardian, a person attending a place of education is not required to receive religious instruction or to take part in or attend a religious ceremony or observance if the instruction, ceremony or observance relates to a religion that is not his or her own or if he or she does not hold any religious belief.

• Freedom of opinion/thought/conscience

7. To the extent that it is necessary, the rights and freedoms set out in this section may be made subject to such limitations prescribed by law-
 - a. to protect-
 - i. the rights and freedoms of other persons; or
 - ii. public safety, public order, public morality or public health; or
 - b. to prevent public nuisance.

23. Political rights

• Right to form political parties

1. Every citizen has the freedom to make political choices, and the right to-
 - a. form or join a political party;
 - b. participate in the activities of, or recruit members for, a political party; and
 - c. campaign for a political party, candidate or cause.
2. Every citizen has the right to free, fair and regular elections for any elective institution or office established under this Constitution.
3. Every citizen who has reached the age of 18 years has the right-
 - a. to be registered as a voter;
 - b. to vote by secret ballot in any election or referendum under this Constitution;
 - c. to be a candidate for public office, or office within a political party of which the citizen is a member, subject to satisfying any qualifications for such an office; and
 - d. if elected, to hold office.
4. A law may limit, or may authorise the limitation of, the rights mentioned in this section-

• Secret ballot
• Referenda
• Restrictions on voting
• Claim of universal suffrage

• Restrictions on voting

- a. for the purpose of regulating the registration of voters, and prescribing persons who do not have or have ceased to have the right to be registered as a voter;

• Restrictions on political parties

- b. for the purpose of regulating the registration of political parties and prescribing persons who do not have the rights prescribed under subsection (1) and subsection (3)(c) and (d);
- c. for the purpose of regulating persons who are not eligible to contest for a place in Parliament or in a public office, or an office within a political party; or

- d. for the purpose of imposing restrictions on the holders of public offices (as defined in any such law) from the rights set out in this section.

24. Right to privacy

1. Every person has the right to personal privacy, which includes the right to-
 - a. confidentiality of their personal information;
 - b. confidentiality of their communications; and
 - c. respect for their private and family life.
2. To the extent that it is necessary, a law may limit, or may authorise the limitation of, the rights set out in subsection (1).

25. Access to information

1. Every person has the right of access to-
 - a. information held by any public office; and
 - b. information held by another person and required for the exercise or protection of any legal right.
2. Every person has the right to the correction or deletion of false or misleading information that affects that person.
3. To the extent that it is necessary, a law may limit, or may authorise the limitation of, the rights set out in subsection (1), and may regulate the procedure under which information held by a public office may be made available.

26. Right to equality and freedom from discrimination

1. Every person is equal before the law and has the right to equal protection, treatment and benefit of the law.
2. Equality includes the full and equal enjoyment of all rights and freedoms recognised in this Chapter or any other written law.
3. A person must not be unfairly discriminated against, directly or indirectly on the grounds of his or her-
 - a. actual or supposed personal characteristics or circumstances, including race, culture, ethnic or social origin, colour, place of origin, sex, gender, sexual orientation, gender identity and expression, birth, primary language, economic or social or health status, disability, age, religion, conscience, marital status or pregnancy; or
 - b. opinions or beliefs, except to the extent that those opinions or beliefs involve harm to others or the diminution of the rights or freedoms of others,
 or on any other ground prohibited by this Constitution.
4. A law or an administrative action taken under a law may not directly or indirectly impose a limitation or restriction on any person on a prohibited ground.

• Right to privacy

• Right to information

• Right to protect one's reputation

• General guarantee of equality

• Equality regardless of gender
 • Equality regardless of skin color
 • Equality regardless of creed or belief
 • Equality regardless of social status
 • Equality regardless of financial status
 • Equality regardless of parentage
 • Equality regardless of origin
 • Equality regardless of race
 • Equality regardless of language
 • Equality regardless of religion
 • Equality regardless of sexual orientation
 • Equality regardless of age
 • Equality for persons with disabilities

5. Every person has the right of access, membership or admission, without discrimination on a prohibited ground, to shops, hotels, lodging-houses, public restaurants, places of public entertainment, clubs, education institutions, public transportation services, taxis and public places.
6. The proprietor of a place or service referred to in subsection (5) must facilitate reasonable access for persons with disabilities to the extent prescribed by law.
7. Treating one person differently from another on any of the grounds prescribed under subsection (3) is discrimination, unless it can be established that the difference in treatment is not unfair in the circumstances.
8. A law, or an administrative action taken under a law, is not inconsistent with the rights mentioned in this section on the ground that it-
 - a. appropriates revenues or other moneys for particular purposes;
 - b. imposes a retirement age on a person;
 - c. imposes a restriction on persons employed or engaged in a State service, or confers on them a privilege or advantage not imposed or conferred on other persons;
 - d. imposes restrictions on persons who are not citizens, or confers on them a privilege or advantage, not imposed or conferred on citizens;
 - e. makes provision with respect to adoption, marriage, devolution of property on death, and pension;
 - f. excludes persons from holding certain public offices; or
 - g. to the extent necessary and without infringing the rights or freedoms set out in any other section of this Chapter, gives effect to the communal ownership of iTaukei, Rotuman and Banaban lands and access to marine resources, or the bestowing of iTaukei, Rotuman and Banaban chiefly title or rank.

• Right to culture

• Protection from expropriation

27. Freedom from compulsory or arbitrary acquisition of property

1. Every person has the right not to be deprived of property by the State other than in accordance with a written law referred to in subsection (2), and no law may permit arbitrary acquisition or expropriation of any interest in any property.
2. A written law may authorise compulsory acquisition of property-
 - a. when necessary for a public purpose; and
 - b. on the basis that the owner will be promptly paid the agreed compensation for the property, or failing agreement, just and equitable compensation as determined by a court or tribunal, after considering all relevant factors, including-
 - i. the public purpose for which the property is being acquired;

- ii. the history of its acquisition by the owner;
 - iii. the market value of the property;
 - iv. the interests of any person affected by the acquisition; and
 - v. any hardship to the owner.
3. Nothing contained in, or done under the authority of, a law is inconsistent with this section to the extent that the law makes provision for the acquisition of property by way of-
- a. taxation;
 - b. sequestration of bankrupt estates;
 - c. confiscation of the proceeds of crime;
 - d. penalty for breach of the law;
 - e. satisfaction of a mortgage, charge or lien; or
 - f. execution of a judgment of a court or tribunal.

28. Rights of ownership and protection of iTaukei, Rotuman and Banaban lands

1. The ownership of all iTaukei land shall remain with the customary owners of that land and iTaukei land shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 27.
2. Any iTaukei land acquired by the State for a public purpose after the commencement of this Constitution under section 27 or under any written law shall revert to the customary owners if the land is no longer required by the State.
3. The ownership of all Rotuman land shall remain with the customary owners of that land and Rotuman land shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 27.
4. Any Rotuman land acquired by the State for a public purpose after the commencement of this Constitution under section 27 or under any written law shall revert to the customary owners if the land is no longer required by the State.
5. The ownership of all Banaban land shall remain with the customary owners of that land and Banaban land shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 27.
6. Any Banaban land acquired by the State for a public purpose after the commencement of this Constitution under section 27 or under any written law shall revert to the customary owners if the land is no longer required by the State.

29. Protection of ownership and interests in land

1. All ownership of land, and all rights and interests in land leases and land tenancies that existed immediately before the commencement of this Constitution shall continue to exist under this Constitution.
2. No law shall be made to diminish or adversely affect the rights and interests in land leases and land tenancies, whether existing immediately before the commencement of this Constitution or made or issued after the commencement of this Constitution.
3. All land lessees and land tenants have the right not to have their land leases or land tenancies terminated other than in accordance with their land leases or land tenancies.
4. Parliament and Cabinet, through legislative and other measures, must ensure that all land leases and land tenancies provide a fair and equitable return to the landowners whilst protecting the rights of land lessees and land tenants, including security and protection of tenure of land leases and land tenancies and terms and conditions of land leases and land tenancies which must be just, fair and reasonable.
5. All land that existed as freehold land immediately before the commencement of this Constitution shall remain as freehold land even if it is sold or purchased, unless it is sold to the State or is acquired by the State for a public purpose under section 27.
6. For the purposes of this section-
 - "land leases" or "land tenancies" includes sub-leases, sub-tenancies and tenancies-at-will, but shall not include leases, agreements or tenancies for any building, structure or dwelling, whether used for residential, commercial, industrial or for tourism purposes, and shall not include any leases, agreements or tenancies for any fixture, equipment, plant or fittings on any land; and
 - "land lessees" or "land tenants" includes sub-lessees, sub-tenants or tenants- at-will of land leases or land tenancies.

30. Right of landowners to fair share of royalties for extraction of minerals

1. All minerals in or under any land or water, are owned by the State, provided however, that the owners of any particular land (whether customary or freehold), or of any particular registered customary fishing rights shall be entitled to receive a fair share of royalties or other money paid to the State in respect of the grant by the State of rights to extract minerals from that land or the seabed in the area of those fishing rights.
2. A written law may determine the framework for calculating fair shares under subsection (1), taking into account all relevant factors, including the following-
 - a. any benefit that the owners received or may receive as a result of mineral exploration or exploitation;
 - b. the risk of environmental damage;
 - c. any legal obligation of the State to contribute to a fund to meet the cost of preventing, repairing or compensating for any environmental damage;

• Ownership of natural resources

• Protection of environment

• Protection of environment

- d. the cost to the State of administering exploration or exploitation rights; and
- e. the appropriate contribution to the general revenue of the State to be made by any person granted exploration or exploitation rights.

31. Right to education

- 1. Every person has the right to-
 - a. early childhood education;
 - b. primary and secondary education; and
 - c. further education.
- 2. The State must take reasonable measures within its available resources to achieve the progressive realisation of the right-
 - a. to free early childhood, primary, secondary and further education; and
 - b. to education for persons who were unable to complete their primary and secondary education.
- 3. Conversational and contemporary iTaukei and Fiji Hindi languages shall be taught as compulsory subjects in all primary schools.
- 4. The State may direct any educational institution to teach subjects pertaining to health, civic education and issues of national interest, and any educational institution must comply with any such directions made by the State.
- 5. In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

32. Right to economic participation

- 1. Every person has the right to full and free participation in the economic life of the State, which includes the right to choose their own work, trade, occupation, profession or other means of livelihood.
- 2. The State must take reasonable measures within its available resources to achieve the progressive realisation of the rights recognised in subsection (1).
- 3. To the extent that it is necessary, a law may limit, or may authorise the limitation of, the rights set out in subsection (1).

33. Right to work and a just minimum wage

- 1. The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to work and to a just minimum wage.
- 2. In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

• Access to higher education

• Access to higher education

• Free education

• Protection of language use

• Right to choose occupation

• Right to work
 • Right to equal pay for work
 • Right to reasonable standard of living

34. Right to reasonable access to transportation

1. The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to have reasonable access to transportation.
2. In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

35. Right to housing and sanitation

1. The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to accessible and adequate housing and sanitation.
2. In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

36. Right to adequate food and water

1. The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to be free from hunger, to have adequate food of acceptable quality and to clean and safe water in adequate quantities.
2. In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

37. Right to social security schemes

1. The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to social security schemes, whether private or public, for their support in times of need, including the right to such support from public resources if they are unable to support themselves and their dependents.
2. In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

38. Right to health

1. The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to health, and to the conditions and facilities necessary to good health, and to health care services, including reproductive health care.
2. A person must not be denied emergency medical treatment.
3. In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

39. Freedom from arbitrary evictions

1. Every person has the right to freedom from arbitrary evictions from his or her home or to have his or her home demolished, without an order of a court made after considering all the relevant circumstances.

• Right to shelter

• Right to health care

2. No law may permit arbitrary evictions.

40. Environmental rights

1. Every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.
2. To the extent that it is necessary, a law or an administrative action taken under a law may limit, or may authorise the limitation of, the rights set out in this section.

41. Rights of children

1. Every child has the right-
 - a. to be registered at or soon after birth, and to have a name and nationality;
 - b. to basic nutrition, clothing, shelter, sanitation and health care;
 - c. to family care, protection and guidance, which includes the equal responsibility of the child's parents to provide for the child-
 - i. whether or not the parents are, or have ever been, married to each other; and
 - ii. whether or not the parents are living together, have lived together, or are separated;
 - d. to be protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment and punishment, and hazardous or exploitative labour; and
 - e. not to be detained, except as a measure of last resort, and when detained, to be held-
 - i. only for such period of time as is necessary; and
 - ii. separate from adults, and in conditions that take account of the child's sex and age.
2. The best interests of a child are the primary consideration in every matter concerning the child.

42. Rights of persons with disabilities

1. A person with any disability has the right-
 - a. to reasonable access to all places, public transport and information;
 - b. to use sign language, Braille or other appropriate means of communication; and

- c. to reasonable access to necessary materials, substances and devices relating to the person's disability.
- 2. A person with any disability has the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realisation of their rights.
- 3. To the extent that it is necessary, a law or an administrative action taken under a law may limit, or may authorise the limitation of, the rights set out in this section.

43. Limitation of rights under states of emergency

- 1. Any law enacted or promulgated in consequence of a declaration of a state of emergency under this Constitution-
 - a. may limit a right or freedom set out in this Chapter (with the exception of the rights and freedoms set out in sections 8, 10, 11, 13, 14, 15, 16, 22 and 26) only to the extent that-
 - i. the limitation is strictly necessary and required by the emergency; and
 - ii. the law is consistent with Fiji's obligations under international law applicable to a state of emergency; and
 - b. takes effect only when it has been published in the Gazette.
- 2. A person detained under a law contemplated in subsection (1) retains all the rights recognised in this Chapter, subject only to the limitations referred to in subsection (1).

44. Enforcement

- 1. If a person considers that any of the provisions of this Chapter has been or is likely to be contravened in relation to him or her (or, in the case of a person who is detained, if another person considers that there has been, or is likely to be, a contravention in relation to the detained person), then that person (or the other person) may apply to the High Court for redress.
- 2. The right to make application to the High Court under subsection (1) is without prejudice to any other action with respect to the matter that the person concerned may have.
- 3. The High Court has original jurisdiction-
 - a. to hear and determine applications under subsection (1); and
 - b. to determine questions that are referred to it under subsection (5), and may make such orders and give such directions as it considers appropriate.
- 4. The High Court may exercise its discretion not to grant relief in relation to an application or referral made under this section if it considers that an adequate alternative remedy is available to the person concerned.

5. If in any proceedings in a subordinate court any question arises as to the contravention of any of the provisions of this Chapter, the member presiding in the proceedings may, and must if a party to the proceedings so requests, refer the question to the High Court unless, in the member's opinion (which is final and not subject to appeal), the raising of the question is frivolous or vexatious.
6. When the High Court gives its decision on a question referred to it under this section, the court in which the question arose must dispose of the case in accordance with-
 - a. the decision; or
 - b. if the decision is the subject of appeal to the Court of Appeal or to the Supreme Court - the decision of the Court of Appeal or the Supreme Court, as the case may be.
7. The Attorney-General may, on behalf of the State, intervene in proceedings before the High Court that relate to a matter concerning a provision in this Chapter.
8. If the proceedings before the High Court relate to a matter concerning a provision of this Chapter, the High Court must not proceed to hear and determine the matter until it is satisfied that notice of the matter has been given to the Attorney-General and a reasonable time has elapsed since the giving of the notice for consideration by the Attorney-General of the question of intervention in the proceedings.
9. A notice under subsection (8) is not required to be given to the Attorney-General if the Attorney-General or the State is a party to the proceedings.
10. The Chief Justice may make rules for the purposes of this section with respect to the practice and procedure of the High Court (including rules with respect to the time within which applications are to be made to the High Court).

45. Human Rights and Anti-Discrimination Commission

1. The Human Rights Commission established under the Human Rights Commission Decree 2009 continues in existence as the Human Rights and Anti-Discrimination Commission.
2. The Commission consists of-
 - a. a chairperson, who must be a person who is or is qualified to be appointed as a judge; and
 - b. 4 other members,
appointed by the President on the advice of the Constitutional Offices Commission.
3. In advising the President as to the person to be appointed as chairperson or other members of the Commission, the Constitutional Offices Commission must have regard not only to their personal attributes but also to their knowledge or experience of the various aspects of matters likely to come before the Commission.
4. Subject to this Constitution, the Commission is responsible for-
 - a. promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a culture of human rights in Fiji;

• Civil service recruitment

- b. the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
- c. the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
- d. the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

• Head of government powers

128. Appointment of ambassadors

• International organizations

1. The Prime Minister may, on the advice of the Minister responsible for foreign affairs, make appointments to offices of ambassador, or of other principal representative, of the State to another country or an international organisation.
2. The Prime Minister may, on the advice of the Minister responsible for foreign affairs, remove a person from an office referred to in subsection (1).

Part B: DISCIPLINED FORCE

129. Fiji Police Force

1. The Fiji Police Force established under a written law continues in existence.
2. The office of the Commissioner of Police established under the State Services Decree 2009 continues in existence.
3. The Fiji Police Force is under the command of the Commissioner of Police.
4. The Commissioner of Police is appointed by the President, on the advice of the Constitutional Offices Commission following consultation with the Minister responsible for the Fiji Police Force.
5. The Commissioner of Police is responsible for-
 - a. the organisation and administration of the Fiji Police Force; and
 - b. the deployment and control of its operations, and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.
6. The Minister responsible for the Fiji Police Force may from time to time issue general policy directions to the Commissioner of Police and, if such a direction has been issued, the Commissioner of Police must act in accordance with it.
7. The Commissioner of Police has the following powers in relation to the Fiji Police Force for all ranks, members and other employees, of the Fiji Police Force-
 - a. to appoint persons to the Fiji Police Force;
 - b. to remove persons from the Fiji Police Force; and
 - c. to take disciplinary action against persons in the Fiji Police Force, and all written laws governing the Fiji Police Force shall be construed accordingly.

8. The Commissioner of Police, with the agreement of the Minister responsible for the Fiji Police Force, has the authority to determine all matters pertaining to the employment of all staff in the Fiji Police Force, including-
 - a. the terms and conditions of employment;
 - b. the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - c. the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - d. the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.
9. A written law may prescribe provisions relating to the Fiji Police Force.

130. Fiji Corrections Service

1. The Fiji Corrections Service established under a written law continues in existence.
2. The office of the Commissioner of the Fiji Corrections Service established under the State Services Decree 2009 continues in existence.
3. The Fiji Corrections Service is under the command of the Commissioner of the Fiji Corrections Service.
4. The Commissioner of the Fiji Corrections Service is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Fiji Corrections Service.
5. The Commissioner of the Fiji Corrections Service is responsible for-
 - a. the organisation and administration of the Fiji Corrections Service; and
 - b. the deployment and control of its operations, and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.
6. The Minister responsible for the Fiji Corrections Service may from time to time issue general policy directions with respect to the Fiji Corrections Service and, if such a direction has been issued, the Commissioner of the Fiji Corrections Service must act in accordance with it.
7. The Commissioner of the Fiji Corrections Service has the following powers in relation to the Fiji Corrections Service for all ranks, members and other employees of the Fiji Corrections Service-
 - a. to appoint persons to the Fiji Corrections Service;
 - b. to remove persons from the Fiji Corrections Service; and
 - c. to take disciplinary action against persons in the Fiji Corrections Service, and all written laws governing the Fiji Corrections Service shall be construed accordingly.

8. The Commissioner of the Fiji Corrections Service, with the agreement of the Minister responsible for the Fiji Corrections Service, has the authority to determine all matters pertaining to the employment of all staff in the Fiji Corrections Service, including-
 - a. the terms and conditions of employment;
 - b. the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - c. the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - d. the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.
9. A written law may prescribe provisions relating to the Fiji Corrections Service.

131. Republic of Fiji Military Forces

1. The Republic of Fiji Military Forces established under the State Services Decree 2009 continues in existence.
2. It shall be the overall responsibility of the Republic of Fiji Military Forces to ensure at all times the security, defence and well-being of Fiji and all Fijians.
3. The Commander of the Republic of Fiji Military Forces shall be responsible for exercising military executive command of the Republic of Fiji Military Forces.
4. The Commander of the Republic of Fiji Military Forces is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Republic of Fiji Military Forces.
5. The Commander of the Republic of Fiji Military Forces has the following powers in relation to the Republic of Fiji Military Forces for all ranks, members and other employees of the Republic of Fiji Military Forces-
 - a. to appoint persons to the Republic of Fiji Military Forces;
 - b. to remove persons from the Republic of Fiji Military Forces; and
 - c. to take disciplinary action against persons in the Republic of Fiji Military Forces,
 and all written laws governing the Republic of Fiji Military Forces shall be construed accordingly.
6. The Commander of the Republic of Fiji Military Forces, with the agreement of the Minister responsible for the Republic of Fiji Military Forces, has the authority to determine all matters pertaining to the employment of all staff in the Republic of Fiji Military Forces, including-
 - a. the terms and conditions of employment;
 - b. the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

4. The Governor of the Reserve Bank of Fiji shall be appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance.
5. A written law must provide for the composition, powers, functions and operations of the Reserve Bank of Fiji.
6. The Reserve Bank of Fiji must deliver quarterly and annual reports to Parliament, and any other reports when required by law, or requested by resolution.

CHAPTER 9: EMERGENCY POWERS

154. State of emergency

1. The Prime Minister may, on the recommendation of the Commissioner of Police and the Commander of the Republic of Fiji Military Forces, declare a state of emergency in Fiji, or in a part of Fiji, and may make regulations relating to a state of emergency, if there are reasonable grounds to believe that-
 - a. the security and safety of all or part of Fiji is threatened; and
 - b. it is necessary to declare a state of emergency to deal effectively with the threatening circumstances.
2. If the declaration of a state of emergency is made when Parliament is sitting, the Prime Minister must, within 24 hours upon making the declaration, refer the declaration to Parliament for confirmation of the declaration.
3. If the declaration of a state of emergency is made when Parliament is not sitting, the Speaker must, within 48 hours upon the making of the declaration, seek confirmation of the declaration from the members of Parliament through such measures of communication as necessary.
4. If a majority of the members of Parliament confirm the declaration made by the Prime Minister, then the declaration shall continue for a period of one month from the date of confirmation, and may be renewed by a further vote in Parliament.
5. If a majority of the members of Parliament do not confirm the declaration made by the Prime Minister, then the declaration and any actions taken under the declaration shall be deemed to be of no effect.

CHAPTER 10

155. Immunity granted under the Constitution of 1990 continues

Notwithstanding the abrogation of the Constitution Amendment Act 1997 and despite the repeal of the Constitution of 1990, Chapter XIV of the Constitution of 1990 continues in force in accordance with its tenor, and the immunity granted in Chapter XIV of the Constitution of 1990 shall continue.

• Emergency provisions

• Crimes of the previous regime
• Unamendable provisions