

# Political Finance Assessment of Fiji





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## Abbreviations

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AV	Alternative Vote
CAMV	Conservative Alliance-Matanitu Vanua
CSO	Civil society organization
EMB	Electoral management body
FICAC	Fiji Independent Commission Against Corruption
FJD	Fijian dollar
FLP	Fiji Labour Party
GSoD	Global State of Democracy
HOPE	Humanity Opportunity Prosperity Equality
NCBBF	National Council for Building a Better Fiji
NFP	National Federation Party
PPR 2013	Political Parties (Registration, Conduct, Funding and Disclosures) Act of 2013

PR	Proportional Representation
SDL	Soqosoqo Duavata ni Lewenivanua (United Fiji Party)
SODELPA	Social Democratic Liberal Party

# 1. Introduction

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## Box 1. Country profile: Republic of Fiji

**Capital:** Suva

**Population:** 889,327 (Fiji Bureau of Statistics 2019)

**Parliamentary system:** Westminster style, unicameral

**Electoral system:** Open List Proportional Representation (since 2013)

**Percentage of women in the Lower House:** 21.6 per cent (IPU 2021)

**No. of registered political parties:** Seven (7)

**Main institution(s) responsible for political finance oversight:** Registrar of Political Parties

**Political finance framework:** the 2013 Constitution, the Electoral Act of 2014 and the Political Parties (Registration, Conduct, Funding and Disclosures) Act of 2013

Money is a necessary component of any democracy: it enables political participation, campaigning and representation. However, if not well regulated, it can undermine the integrity of political processes and institutions and jeopardize the quality of democracy by undermining the level playing field and providing incentives to engage in corrupt practices.

Fiji, being a transitional democracy with fragile institutional and regulatory mechanisms, is susceptible to the negative effects of money in politics. Yet for a very long time, regulations related to the funding of political parties, candidates and election campaigns, commonly known as political finance, were largely absent in the South Pacific country. Biased political appointments, corruption in the awards of public procurement tenders, cronyism and capture by business elites are some of the challenges that Fiji is vulnerable to, which thrive in an

environment with insufficient institutional and legislative regulation of political finance.

The Political Parties (Registration, Conduct, Funding and Disclosures) Act of 2013 (PPR 2013), which repealed the previous Electoral (Registration of Political Parties) Regulations of 1991, is the first legislation in Fiji to address the issue of political finance in any way. It contains provisions on the disclosure of financial accounts and funding sources by political parties. In announcing the legislation, Fiji's Attorney General stated that undue influence over political parties by corporate entities was a matter of concern (Fijian Government 2013) and that it was critical to increase accountability and transparency in political finance (Kate 2013).

Fiji's recent experience has shown that enacting legislation, although a critical first step to increased political finance transparency, may not be sufficient to provide safeguards against the negative effects of money in politics. It is clear that the roles of an independent and competent oversight body, a free and vibrant press and an active and robust civil society are indispensable in the regulation of political finance, and in creating a fair electoral playing field. It is also important to review the effectiveness of the current regulatory framework and the extent of its implementation. As of today, however, there have been no studies undertaken of how the regulation of political finance could be improved in Fiji. The dearth of literature on political finance in the country has left policymakers and other electoral stakeholders with very little to refer to or rely on in evaluating the effectiveness of legislative controls or implementation approaches, or when proposing reforms to the regulatory regime.

This report, which is the first of its kind, has undertaken a systematic study of the political finance regulatory framework in Fiji using an internationally developed, and tried and tested, analytical framework. The analytical framework, developed by the International Institute for Democracy and Electoral Assistance (International IDEA), has been used internationally in other jurisdictions, most recently in Mongolia, to make similar assessments of regulatory frameworks. The study is part of a larger International IDEA initiative to review political finance systems in selected countries in order to advance an evidence-based global policy debate on money in politics.

The report uses a combination of primary and secondary research methodologies. A desk review was carried out to analyse political finance legislation and comparable data from other jurisdictions. In addition, key informant interviews were held with a range of election stakeholders, such as the Registrar of Political Parties, leaders of political parties, electoral experts, civil society actors, and media and legal experts.

Chapter 2 provides a brief introduction to Fiji's electoral framework and current political landscape. Chapter 3 analyses Fiji's political finance regulatory framework by reviewing the substantive legislative provisions, reporting and

disclosure requirements, oversight mechanisms and provisions on sanctions and appeals. An assessment of these issues also highlights the existing loopholes. Chapter 4 identifies areas for further political finance reform, such as the introduction of public funding and measures to promote women's political participation. Chapter 5 provides key conclusions and makes a set of recommendations on political finance in Fiji.

## 2. Political and electoral framework in Fiji

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In its relatively short post-independence history, Fiji has had four different constitutions—1970, 1990, 1997 and 2013. Under each of these constitutions, the island nation of just under one million people has had a different electoral system (for more details see Annex A). According to International IDEA’s Global State of Democracy (GSoD) Indices, Fiji has been a weak democracy since 2015 after having been an authoritarian regime between 2006 and 2014 (International IDEA 2021).

### 2.1. Current electoral framework: Open List Proportional Representation system

The current Constitution, which was promulgated in September 2013, adopted an Open List Proportional Representation electoral system, with one multi-member district which includes the whole country (single national constituency). Under the current system, each registered voter can vote for only one electoral candidate who is identified by name on an ‘open list’. Independent candidates and political parties secure seats by obtaining a minimum of 5 per cent of votes cast. Seats are then allocated to parties in proportion to the votes they receive using the D’Hondt system (modified). Two general elections, in 2014 and 2018, have been successfully held under this electoral system and subject to the provisions of the PPR 2013. Both elections were won by the incumbent party, FijiFirst.

### 2.2. Current political landscape

Fiji uses a Westminster model system of government with a unicameral legislature made up of 51 members (to be increased to 55 for next elections in 2022–2023).

In the most recent elections, which were held in 2018, there were 637,527 registered voters, 71.9 per cent of whom turned out to cast their votes.

Six political parties contested the 2018 general election, of the seven parties duly registered under PPR 2013 at that time. The six were: FijiFirst, the Social Democratic Liberal Party (SODELPA), the National Federation Party (NFP), Unity Fiji, the Fiji Labour Party (FLP) and Humanity Opportunity Prosperity Equality (HOPE). Freedom Alliance was the only registered political party that did not nominate candidates for the elections.

The 2018 election was narrowly won by FijiFirst, which received 50.02 per cent of the total votes. It was allocated 27 of the 51 seats (53 per cent) using the prescribed D'Hondt system and was able to form a government on its own. The second largest electoral share was achieved by SODELPA with 39.85 per cent of the votes. The NFP was the only other political party to cross the 5 per cent election threshold with an electoral share of 7.38 per cent. The current 51-member parliament therefore has 27 FijiFirst Members of Parliament (MPs), 21 SODELPA MPs and 3 NFP MPs.

## 3. Political finance regulatory framework in Fiji

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### 3.1. Political finance regulations

Elections in Fiji are primarily governed by three legal instruments: the 2013 Constitution, the Electoral Act of 2014 and the Political Parties (Registration, Conduct, Funding and Disclosures) Act of 2013, which was amended in 2021. The 2013 Constitution contains provisions on electoral management bodies (EMBs) and the electoral system. The Electoral Act regulates the administration of elections, their conduct and campaigning rules, and the administration of election disputes. PPR 2013 regulates the registration and conduct of political parties, and political finance. The legislation stipulates rules on funding sources, contribution limits, and reporting and disclosure requirements. It makes it an offence to violate political finance rules and gives the oversight body powers to impose penalties. The Registrar of Political Parties is the authority designated by the provisions in PPR 2013 to monitor political finance in Fiji.

### 3.2. Regulations on private donations

#### 3.2.1. Political parties and election campaigns are privately funded in Fiji and there is a large income disparity among the political parties

Political parties and election candidates in Fiji can only be funded by private sources. Funding for political parties can only be sourced from membership fees, voluntary contributions, donations, bequests and grants from lawful sources, and income derived from any building owned by a political party (Political Parties (Registration, Conduct, Funding and Disclosures) (Amendment) Act 2021,

section 21). For independent candidates, there is provision for all the above sources apart from membership fees. Political parties or independent candidates cannot receive funding from foreign governments, intergovernmental or non-governmental organizations. Corporate donations and anonymous donations of any amount are not allowed by law. Political party candidates in Fiji can only receive donations on behalf of their respective parties. They are required to issue an official party receipt and to channel the donation to party accounts. Table 1 shows the donations received by registered political parties in the 2018 election year. The table shows the vast difference in the level of donations received by the incumbent FijiFirst party (more than EUR 1 million), and other parties, clearly reflecting the large income disparity among political parties.

**Table 1. Donations received by political parties in 2018**

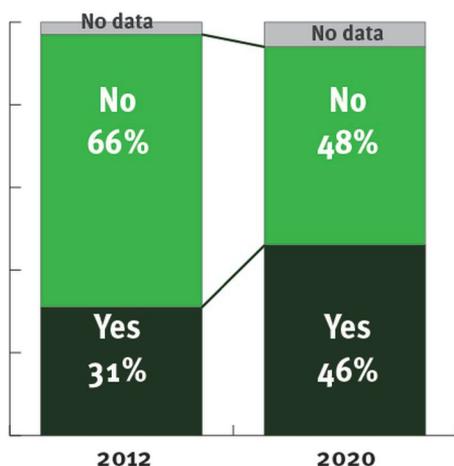
Election year donations to political parties	
FijiFirst	FJD 2,501,048 (c. EUR 1,025,429)
SODELPA	FJD 21,177*1 (c. EUR 8,682)
National Federation Party	FJD 476,230 (c. EUR 195,254)
Unity Fiji	FJD 16,228 (c. EUR 6,653)
Fiji Labour Party	FJD 14,230 (c. EUR 5,834)
HOPE	Not available
Freedom Alliance	FJD 675 (c. EUR 276)

*Source:* Office of the Registrar of Political Parties in communication with the author.

### 3.2.2. Donation limit thresholds might need to be reviewed

PPR 2013 imposes a contribution limit of FJD 10,000 (c. EUR 4,130) on individual political donations in any one year, including the year in which elections take place (PPR 2013, section 22). Globally, contribution limits are a common feature of political finance regulatory regimes and 46 per cent of countries impose such a limit. The proportion of countries with donation limits has increased by 15 percentage points since 2012 (see Figure 1). Such limits can provide legal safeguards against a small number of large donors gaining excessive influence over political parties or election candidates. They are also useful in helping to ‘democratize’ the system of contributions by ‘forcing candidates to rely on a larger number of smaller contributions’ (Eom and Gross 2007), thereby increasing the level of public participation in politics and elections.

Figure 1. Percentage of countries with donation limits (non-election specific), 2012–2020



Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021.

The FJD 10,000 contribution cap is a combined total to all parties and candidates by an individual donor in any one year. This figure is an absolute amount rather than a multiple of the minimum wage rate or proportion of average earnings, as is the case in some countries, which means that it will need to be revised on a regular basis in line with inflationary pressures and the costs of political activities and campaigning. In countries such as Chile and Uruguay, for example, the donation limit is specified in an indexed currency unit, which adjusts for inflation.

**Table 2. Examples of donation limits from individual donors to political parties in selected countries (not specifically for elections)**

Country	Not elections specific
Azerbaijan	EUR 5,000
Belgium	EUR 500 from an individual per year. A donor may contribute a maximum of EUR 2,000 per year.
Canada	EUR 1,100 (CAD 1,650)*
Estonia	EUR 1,200
France	EUR 7,500
Georgia	EUR 15,000 (GEL 60,000)
Ireland	EUR 2,500
Italy	EUR 100,000
Morocco	EUR 9,300 (MAD 100,000)
Taiwan	EUR 9,000 (TWD 300,000)

\*This limit applies for 2021. The limits increase by CAD 25 on January 1 in each year.

Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021.

During interviews with political parties, they generally found the contribution limit to be appropriate at the present time. Comparatively, the existing contribution limit is not particularly low for a country with a population of under one million people (see Table 2 for donation limits in selected countries). However, some political parties argued that the contribution limit for political donations should be increased, in an election year in particular, to make it easier for them to acquire sufficient financial resources from a small pool of donors to sustain electioneering activities. Conducting a thorough consultation with relevant stakeholders on the current contribution limit would be a useful exercise in the future.

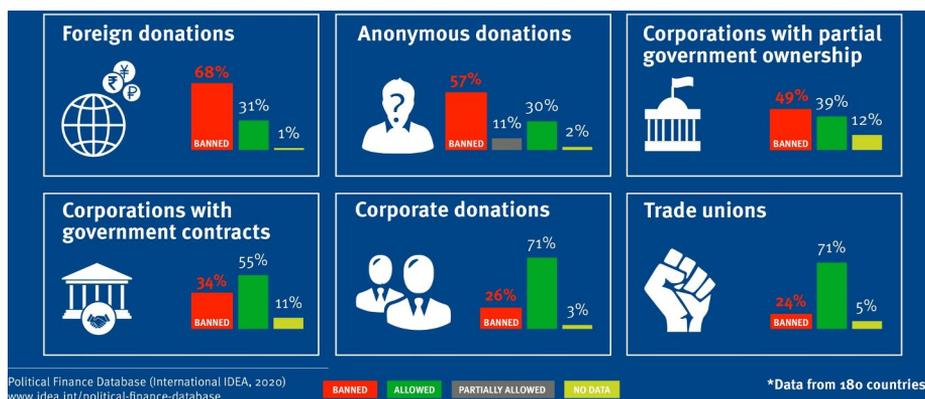
### 3.2.3. Corporate donations, although banned, often make their way into politics through unscrupulous means

The experience of regulating political donations in Fiji has exposed some loopholes that have been exploited by business interests and political parties. Banning corporate donations and imposing contribution limits is proving difficult to implement in practice and there have been allegations of corporations disguising their donations as contributions from individuals, or large donations

simply being broken up into smaller ones and made by several family members and employees (Fox 2020). The fact that legislative provisions have been so easily circumvented in this way has given rise to public concern about the undue influence of corporate interests on politicians, especially following disclosures of particularly large contributions by known figures in the business community to the governing party in the past two elections. These revelations, which were made in October 2020, were the subject of a complaint by the then Opposition Leader, Sitiveni Rabuka, to the Fiji Independent Commission Against Corruption (FICAC) in November 2020 (Narayan 2020). This experience makes a strong case that there could be value in allowing corporate donations, which would eliminate the practice of large donors resorting to other means such as splitting and channelling donations through multiple donors to circumvent the law, which are contrary to the spirit and intention of the political finance regulations.

Whether corporations should be allowed to make donations to political parties has been much debated in political finance discourse. While those in favour claim that it is a matter of freedom of political expression and free association, those against argue that banning corporate donations helps to restrict the undue influence of corporate interests in politics. As of 2020, 71 per cent of countries around the world (128 of the 180, see Figure 2) allow corporations to make donations to political parties and candidates (International IDEA n.d.). In Argentina, for instance, the Law on Political Finance was amended in 2019 to allow contributions to political parties' election campaigns from financial and commercial companies, associations, foundations and cooperatives, up to a prescribed limit. This amendment was made to encourage the declaration of private contributions that were common but hidden because they were not permitted by law.

Figure 2. Examples of permitted and banned sources of donations worldwide



Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021.

If corporate donations were to be allowed in Fiji, this would have to be strictly regulated to reduce the risk of *quid pro quo* donations and undue influence. Donations from corporations with government contracts would have to be regulated especially closely. Similarly, regulation should be put in place wherein companies that make donations to political parties or candidates are not permitted to enter public procurement processes. Globally, bans on donations from corporations with government contracts can be found in 34.4 per cent of countries. In Asia and the Pacific region, countries such as India, Japan, the Philippines and the Solomon Islands ban donations from corporations with government contracts.

In addition to contribution limits and bans on some or all corporate donations, some countries impose age limits on political donors (see Table 3). Such a limit might be useful in Fiji's context to curb the possible problem of corporate interests and business leaders breaking donations into smaller units and donating the maximum allowable amount through family members (Krishant and Danford 2021). In a majority of the countries that impose age limits for political donors, the law requires individuals to be registered on the electoral roll or to have reached voting age to be able to make a political donation or contribute to the campaigns and activities of political parties and election candidates. A similar legal requirement in Fiji could help to prevent minors from being used by other individuals to make political donations.

Table 3. Examples of age limits on political donations

Country	Age limit for political donors
Australia (state of NSW)	16 years
Azerbaijan	18 years
Belarus	18 years
Israel	18 years
Mongolia	18 years
Russian Federation	18 years
Singapore	21 years
Ukraine	18 years
United Kingdom	16 years
United States of America	17 years

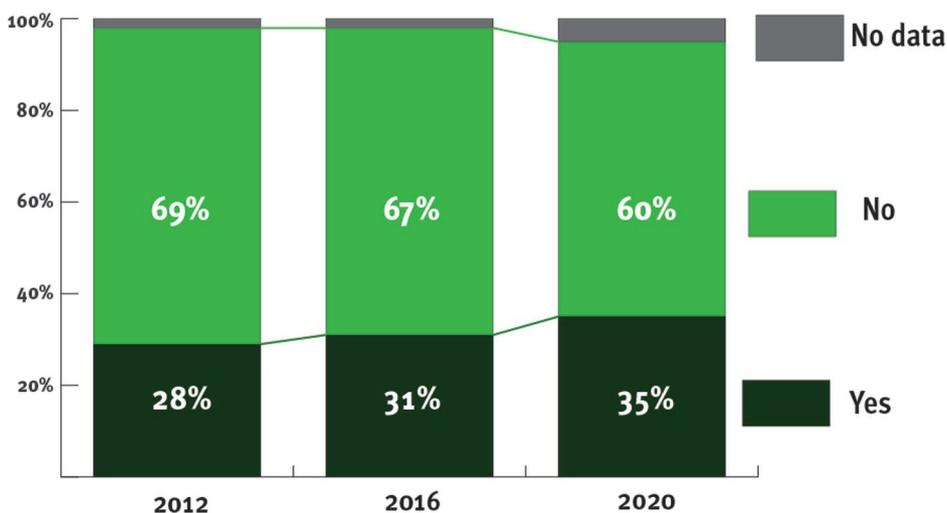
Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021.

### 3.3. Regulations on spending

#### 3.3.1. There is no spending limit in Fiji, but one might help promote a level playing field among political parties

PPR 2013 does not prescribe expenditure limits for political parties or election candidates. According to International IDEA (Ohman 2012: 36) both contribution and spending limits are useful for reducing the advantages of those with greater access to financial resources. Contribution limits are generally considered more effective but spending is easier to monitor. According to International IDEA's Political Finance Database, 35 per cent of countries impose limits on political party spending, either annually or per election campaign. The number of countries with spending limits has been steadily increasing since 2012 (Figure 3).

Figure 3. Percentage of countries with spending limits 2012–2020



Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 24 February 2021.

In Fiji's case, campaigning has become more expensive since the adoption of a nationwide multi-member single constituency. This has affected the smaller political parties disproportionately (RNZ 2017; Swami 2017; Cava 2018). The larger parties with more financial resources are able to spend considerably more on their election campaigns, especially on advertising, and this leads to an uneven electoral playing field (see Table 4). Given the relatively stringent restrictions on funding sources, and the lack of any direct or indirect public funding, new or

smaller parties find it extremely difficult to compete against larger parties that can spend on campaigns without any limit.

Table 4. Election year spending by political parties (FJD)

Political party	2018 expenditure (election year spending)	2017 expenditure (non-election year spending)
FijiFirst	6,311,598	511,629
SODELPA	1,015,871	448,718
National Federation Party	775,113	205,851
Unity Fiji	83,222	41,780
Fiji Labour Party	47,697	14,536
HOPE	Not available	Not available
Freedom Alliance	678	400

Source: Office of the Registrar of Political Parties in communication with the author.

### 3.3.2. Third-party spending and online campaign spending could be emerging risk areas

There are two emerging areas of risk in relation to political finance spending that are not currently regulated in Fiji. The first issue is the regulation of campaign-related spending by third parties, which are neither political parties nor candidates but typically take the form of supposedly independent foundations and interest groups. Many countries struggle to define and regulate third-party campaigning, and therefore to prevent the re-channelling of election spending through such non-party campaigns (OECD 2016). Countries such as the UK and Canada set specific campaign-related spending limits on third parties. Fiji could review the extent of third-party spending and consider the introduction of such spending limits.

Moreover, the increasing number of Internet and social media users worldwide means that political parties, candidates and third-party campaigners in many countries are spending significant amounts of money on online campaigning. Only 7 per cent of countries worldwide currently regulate how these actors can spend money online (International IDEA n.d.). Use of the Internet and social media has become an integral part of electoral campaigning and political party activity in Fiji. In the 2018 elections, all the political parties actively used social media platforms to reach out to voters and supporters (Tarai 2019). Despite the increased online political activity including election campaigning, there are no

specific legal provisions on online spending for political purposes, which creates a regulatory loophole. Although social media and other Internet platforms are used extensively in Fiji by political parties and election candidates, only the incumbent FijiFirst party has specifically disclosed its expenditure on social media in election year. The regulation of online campaign spending should be discussed with political parties, civil society organizations (CSOs), social media platforms and other stakeholders.

### 3.4. Reporting and disclosure

#### 3.4.1. Income sources and assets need to be reported in timely manner

PPR 2013 sets out reporting and disclosure requirements for political parties and candidates. Section 23 of the Act (as amended in 2021) requires political parties to report their expenditure and funding sources to the Registrar within 90 days of the end of their financial year.

In addition, the Act requires office holders and registered officers of political parties to declare their assets, income and liabilities, as well as those of their spouse and any children, to the Registrar within 30 days of the registration of the party or their appointment, and then annually before the end of each calendar year (PPR 2013, section 24). Every candidate nominated by a political party and any independent candidate for election to parliament must also make similar disclosures within seven days of their nomination (PPR 2013, section 24).

Amendments to the act made in 2021 now require all election candidates to make disclosures of their assets and incomes (including changes) from the day of their nomination to the 30th day after polling day. All election candidates are also required to disclose details and sources of any money received by them and their incomes and expenditures by the 30th day after polling day. This disclosure needs to be made by all election candidates by the 60th day after polling day. There is a further requirement for political parties to disclose their assets and liabilities at least 30 days before a general election (PPR 2013, section 25). The amended act also requires political parties to submit a written declaration of full details of their assets and liabilities as at the 30th day after polling day. This declaration needs to be submitted to the Registrar within 60 days after polling day. Non-compliance with disclosure requirements in relation to elections results in direct deregistration under subsection 2 (PPR 2013, section 25), which has been enforced on at least one occasion. The People's Democratic Party was deregistered by the Registrar of Political Parties on 31 October 2018, two weeks before the general election, for failing to declare its assets and liabilities pursuant to this section of the principal act.

#### 3.4.2. Disclosure threshold could be considered to deal with privacy concerns

In Fiji, the law is specific on the type of personal information that is subject to public disclosure but provides few safeguards against its misuse. The disclosure requirements appear to be premised on the view that when an individual decides to contest an election or becomes the registered officer or office holder of a political party, they agree to their (and their spouse's) personal financial information becoming public knowledge.

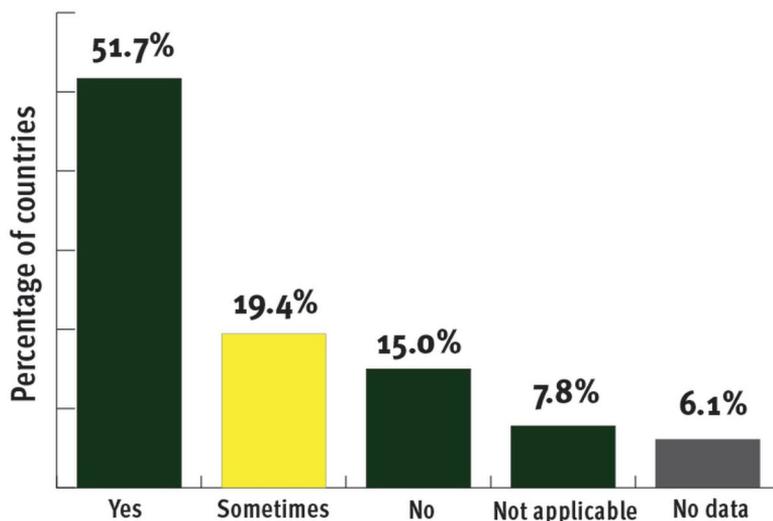
Johnson, Regan and Wayland (2011: 982) argue that making campaign finance data public, especially on the Internet 'does not simply mean making it available to citizens; it means making it available to those who manipulate it and repost it for a variety of purposes'. Under the Fijian system, even though PPR 2013 requires the disclosure of a donor's identity, there are no strong safeguards against the misuse of the information declared by any party. Other legislation, such as the Crimes Act of 2009, must be relied on to bring criminal charges against offenders, or civil claims would have to be instigated by aggrieved parties to obtain redress.

Individuals who make political donations can also become the targets of public attacks because of the disclosure requirements. In 2020, for instance, an anti-government blog began publishing names and attacking people who had donated to the incumbent party, and these individuals, their families and associates were subjected to hate and abuse online.

A level of disclosure is desirable from the standpoint of transparency and good governance, but it can also deter potential donors from getting involved because of the fear of a backlash and negative consequences when their donations are made public. Those wishing to donate to challenger parties may be deterred as they may fear victimization by the incumbent party.

Compulsory disclosure of information on all donors is a thorny issue even in the most advanced democracies and is not always feasible or desirable. In order to address the challenge, close to 19 per cent of countries around the world require political parties and candidates to disclose information on donors if donations are above a certain threshold prescribed by law (see Figure 4). Setting such a disclosure threshold could safeguard the privacy of small donors and relieve political parties and candidates of the administrative burden of reporting on every single donation.

Figure 4. Requirements for political parties/candidates to disclose donors' identities in financial reports



Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021.

In Finland, for instance, political parties and candidates are required to disclose a donor's information if the value of the contributions exceeds EUR 1,500 (or EUR 800 for municipal elections). For donations under these amounts, parties and candidates need consent for disclosure from the donor. Similar provisions exist in countries such as Australia, Chile, Iceland, India, Norway, Singapore and Sweden, although the threshold varies from country to country.

In Fiji's case, taking account of the incidence of personal attacks on donors and their families following public disclosure, it might be desirable to consider a disclosure threshold. Given the prevalence of the practice of dividing large donations into smaller ones to circumvent the contribution limit, however, it would be necessary to consider safeguards to prevent the exploitation of a disclosure threshold in a similar manner.

### 3.4.3. Development of an online reporting and disclosure platform would help to improve transparency in Fiji

According to PPR 2013, declarations of assets, liabilities and expenditure relating to elections, and which are made at least 30 days before elections, are required to be published by the Registrar of Political Parties in the Government Gazette and in the media. Furthermore, the audited accounts of political parties need to be published by the parties on the website of the Fijian Elections Office within three

months of the end of each financial year. For all other disclosures made pursuant to sections 23 and 24 of the Act, members of the public are able to access these records by making a request to the Office of the Registrar and paying the relevant fees. There is presently no online submission facility in Fiji that allows political parties to submit their financial reports. The amendment requiring political parties to submit their audited financial reports on the Internet is a welcome step. Making information readily available on the Internet significantly increases the degree of transparency and accessibility, as reports can now be easily accessed by voters and other stakeholders. However, full transparency can only be achieved by making the information available in a consolidated, searchable and user-friendly database, instead of only in PDF format. This will not only give voters a more informed picture of where parties and candidates get their money from and how they spend it, but it will also assist the work of CSOs and journalists to hold them accountable.

One such example of an effectively functioning system is Colombia's digital application *Cuentas Claras* (Clear Accounts). This online portal allows parties and candidates to report their income sources and expenses in a standardized digital format, which generates an online database with information for each party, candidate, donor, type of income source, type of expense, and so on, that citizens are able to consult. *Cuentas Claras* was developed by a CSO and later donated to Colombia's electoral authority. The platform is now used by almost all the political parties in Colombia (Jones 2017)

### 3.5. Oversight and monitoring

Effective implementation of political finance regulations requires an oversight body with a clear mandate and sufficient resources to carry out its political finance oversight duties. It is imperative that oversight authorities are both impartial and independent from political pressure. Essentially, oversight bodies should have:

- a clear and sufficient mandate that does not overlap with that of other institutions;
- an inclusive and transparent process for leadership appointments that ensures public confidence and independence from political pressure;
- security of tenure for the leadership and staff to protect against undue influence;
- sufficient funding and control over the budget of the institution; and

- an attitude in the institution that it will act impartially and transparently, and engage with the regulated community wherever possible in order to encourage compliance and prevent violations.

### 3.5.1. The Registrar plays a key role in political finance oversight in Fiji

In Fiji, PPR 2013 gives the Registrar of Political Parties powers to oversee compliance with political finance regulations and to impose sanctions on offending parties. The Registrar regulates a range of matters related to political parties, including their financial compliance and disclosures. Administration of the financial disclosures of registered political parties, ensuring their compliance with legislative requirements and applying relevant remedies, places high demands on the Registrar. These responsibilities increase during the electoral period, when the Registrar must also carry out other functions in the dual role as Supervisor of Elections. The assessment team concluded that the Office of the Registrar is adequately resourced, and dedicated teams are recruited during election year and other periods of intense activity, such as verification of registration of political parties.

### 3.5.2. Ensuring political independence and neutrality is key to increasing trust in the oversight body

Interviews conducted with political parties show a disconcertingly high level of mistrust in the oversight body. This stems partly from the fact that the appointment of the Registrar was done without achieving broad consensus with the opposition parties. Under section 76 of Fiji's 2013 Constitution, the Registrar is also the Supervisor of Elections. According to the Constitution, the Supervisor of Elections is appointed by the President of Fiji on the advice of the Constitutional Offices Commission following consultations between that commission and the Electoral Commission. The Constitutional Offices Commission is established by section 132 of the Constitution. It includes both government and opposition representatives, but the Constitution allows it to hold meetings and make appointments with only the chairperson (who is the prime minister) and any two members present. This has the effect of enabling the government to make unilateral appointments, thereby affecting confidence in the independence of state institutions.

### 3.5.3. Providing clear definitions of legal terms and detailed guidelines to political parties should be part of the work of the oversight body

In the interviews, political parties stated that PPR 2013 does not provide precise definitions of terms such as political party expenditure. According to Walecki (2007: 85) when important terms such as 'campaign expenditure', 'campaign period' and 'reporting' are ill-defined or undefined, this can lead to problems of

non-enforcement and affect the overall effectiveness of the regulatory regime. Opposition parties highlighted that the ambiguity of these terms made it challenging for them to identify which contributions and what expenditure to document and disclose, and left them vulnerable to prosecution for non-compliance or breaches of PPR 2013.

To ensure compliance and facilitate political finance oversight, it is crucial that political parties are provided with support to help them understand the details of regulations. The Fijian Elections Office has produced handbooks and guidelines, such as the 2018 Candidates' Handbook. The Registrar could develop a specific handbook or enhance its support for political parties by, for example, providing a regular space for dialogue on the current political finance regulations to identify where problems or difficulties lie, and how they could be better addressed. Some political finance oversight agencies have developed detailed guidance for political parties to help them comply with the requirements set by political finance regulations (see Box 2).

## **Box 2. Examples of political finance guidelines for political parties and candidates**

### **UK Electoral Commission**

The UK Electoral Commission has developed a number of user-friendly, step-by-step guidelines to help political parties and candidates comply with the regulations on various aspects of their operations and campaigning activities. The handbooks are available online and set out easy to understand instructions on issues such as accounting for donations to a party, spending rules, and reporting responsibilities and deadlines. One of the handbooks developed by the Commission is intended for a political party's treasurer and accounting units. It provides them with guidelines on submitting the party's statement of accounts. The handbook is divided into eight chapters, focused on specific aspects of a party treasurer's responsibilities, such as maintaining the party's details of donations and loans, annual accounting responsibilities and campaign spending responsibilities (Electoral Commission UK n.d.).

### **Elections Canada**

Elections Canada has developed a number of tools for political parties and candidates to help them navigate the legal and procedural requirements linked to campaigning and reporting. For example, it has produced a manual for candidates and their official agents to assist them with the administration of a candidate's campaign during the electoral campaign process. In addition to providing procedural details on campaign timelines and the appointment of an official agent and auditor, the manual provides practical information on eligible and ineligible sources of

contributions and limits, the rules governing the use of loans for the financing of elections, transfers, fundraising, the administration of electoral campaign expenditure and the procedures for financial reporting, among other things (Elections Canada 2021). A similar manual has also been developed for political parties and registered agents. The manuals were developed to provide a more nuanced understanding and interpretation of the Canada Elections Act.

### 3.5.4. Creating an enabling environment for media and CSOs could support the implementation of regulations in Fiji

The scrutiny of political finance by the media and civil society can be an important complement to state oversight. In Fiji, the decisions of the Registrar on issues of political finance are promptly announced in media statements and published on the website and social media pages of the Fijian Elections Office. These are then open to scrutiny by CSOs, the media and the general public. However, there is generally very little critical discourse in public spaces, including the mainstream media, mostly due to the prevailing media regulations on critical reporting. There is also a general lack of public discussion, debate and deliberation on political issues.

The publication of financial disclosures in the media allows public oversight of compliance with political finance regulations and provides opportunities for members of the public to report suspected cases of non-compliance, false disclosure and other violations to the Registrar. An independent and competent oversight body, a free and vibrant press, and an active and robust civil society are indispensable to the regulation of political finance and creating a fair electoral playing field.

CSOs in Fiji can also play an important role in the complementary oversight of political finance regulations. A case in point is the Center for Responsive Politics in the United States, which produces and disseminates data and analyses on money in politics to inform and engage US citizens, champion transparency and expose disproportionate or undue influence on public policy (see Box 3).

#### **Box 3. Examples of CSO initiatives on political finance monitoring**

##### **United States: Center for Responsive Politics**

The Center for Responsive Politics is a non-partisan, independent and non-profit research group based in Washington, DC, that tracks the flow of money in US politics and its effects on elections

### Box 3. Examples of CSO initiatives on political finance monitoring (cont.)

and public policy. It does this by collecting and analysing data on federal campaign contributions and lobbying through its award-winning website, OpenSecrets.org. The website shows campaign contributions by major industries, corporations, individual donors and advocacy organizations to every candidate in every federal election, and to every member of the US Congress. Other resources include the personal financial disclosures of all members of Congress, the president and senior members of the administration. Each year, the Center publishes tens of millions of records and develops reports and data visualizations that show who is funding which campaigns and who benefits from contributions. The data and reports are used by media and other organizations to track money in US politics (Center for Responsive Politics n.d.).

#### **Transparency International’s Integrity Watch in Europe: open data for political integrity**

Transparency International’s European Union online platform, Integrity Watch, is a central hub for online tools that allow citizens, journalists and civil society to monitor the integrity of decisions made by politicians in the EU. The platform is a joint initiative of eight national chapters of Transparency International (France, Greece, Italy, Latvia, Lithuania, the Netherlands, Slovenia and Spain) that scopes relevant data from official sources on the assets and incomes of politicians, conflicts of interest and lobbying. The website currently contains different datasets on the incomes and financial interests of Members of the European Parliament (MEPs), lists of meetings of the European Commission, lists of EU lobbyists, and lists of meetings of the European Parliament. Such data is usually scattered across hundreds of different pages or difficult to access. Integrity Watch collects and harmonizes it and makes it easily available on a single platform, allowing citizens to search, rank and filter the information in an intuitive way. The platform therefore helps to increase ‘transparency, integrity and equality of access to EU decision-making and [the ability] to monitor the EU institutions for potential conflicts of interest, undue influence or even corruption’ (Transparency International EU n.d.).

## 3.6. Sanctions

In ensuring compliance, the Registrar of Political Parties is mandated by PPR 2013 to undertake thorough verification of the financial reports submitted by political parties and candidates. It can also request supplementary information to confirm the veracity of reports. The Registrar has displayed a willingness to work with political parties to rectify issues with their reports before resorting to the imposition of sanctions.

### 3.6.1. Sanctions for political finance violations are considered disproportionate to the nature of the violation

PPR 2013 outlines a number of offences, such as incorrect or incomplete disclosure, breach of donation ceiling, receipt of financial contributions from ineligible sources and failure to keep full and proper records, and establishes sanctions for each violation (see Table 5).

Table 5. Political finance-related offences and sanctions under PPR 2013

Offence	Prescribed sanction
Failure to maintain financial records of political parties	Party office holders subject to a maximum fine of FJD 10,000, a maximum of 5 years imprisonment or both
Failure of political parties to furnish records to Registrar when required	Registered officer of the party subject to a maximum fine of FJD 10,000, a maximum of 5 years imprisonment or both
Failure of political parties to comply with financial disclosure provisions of PPR 2013	Suspension or deregistration by the Registrar
False declaration of sources of funds by a required declarant under PPR 2013	Offender subject to fine equal to the amount not disclosed, a maximum of 5 years imprisonment or both
Political party or candidate receives funds from ineligible sources	Party office holders or candidates subject to maximum fine of FJD 10,000, a maximum of 5 years imprisonment or both
An eligible donor makes political party donations exceeding FJD 10,000 in any one year	Offender subject to a maximum fine of FJD 10,000, a maximum of 5 years imprisonment or both
Any company, corporate body or similar entity makes a political donation	Offender subject to a maximum fine of FJD 10,000, a maximum of 5 years imprisonment or both
Failure by a political party to disclose sources of funds within 30 days of end of financial year	A political party that fails to comply is liable to a penalty of FJD 100 for each day the non-compliance continues, and if the political party is still non-compliant after 30 days, the Registrar must deregister the political party
Failure of independent candidate to disclose sources of funds within 30 days of return of writ of elections	Offender subject to a maximum fine of FJD 10,000, a maximum of 5 years imprisonment or both
Failure of applicant, political party office holder or independent election candidate to declare assets and liabilities or making a false declaration in respect of these	Offender subject to a maximum fine of FJD 50,000, a maximum of 10 years imprisonment or both
Failure of a political party to declare assets, liabilities and expenditure related to elections, or making a false declaration in respect of these	Deregistration by the Registrar

Table 5. Political finance-related offences and sanctions under PPR 2013 (cont.)

Offence	Prescribed sanction
Auditor provides falsely audited accounts for a political party	Offender subject to a maximum fine of FJD 50,000, a maximum of 10 years imprisonment or both
Failure of any person or organization that the Registrar believes has information or documents relevant to or required by the Registrar to perform his/her duties under PPR 2013	Offender subject to a maximum fine of FJD 50,000, a maximum of 5 years imprisonment or both

Source: Fiji, Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013, <<https://www.laws.gov.fj/Acts/DisplayAct/2495>>, accessed 3 September 2021.

The legislation is noted for the severe penalties it prescribes for violations such as prison sentences of up to 10 years or hefty fines, as determined by the courts. The provisions have been criticized by political parties and political finance experts for being excessive and can potentially undermine the effectiveness of regulating political finance in Fiji. While the applicable sanctions are clear and exhaustive, there is no proper record of their application, except media releases and reports. This highlights the need to keep an accurate record of sanctions applied to measure their application and impact.

Globally, while imprisonment for infractions of political finance regulations could be applied in more than 105 countries (58 per cent) (see Figure 5), the term of imprisonment varies between countries and very few impose sentences of more than 5 years in cases of criminal convictions. Deregistration of a political party exists as a sanction in only 23.3 per cent of countries.

Figure 5. Types of sanction for political finance infractions



Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021

The global experience with regulatory regimes has demonstrated that if ‘penalties for relatively minor transgressions are too severe: this may raise doubts about the fairness of the political finance system, with the result that non-enforcement or the “under-charging” of offences is tolerated’ (ACE Project 2012). Sanctions should always be enforceable, a deterrent and proportionate to the nature of the violation. Party bans or deregistration should be reserved for exceptionally serious violations or extreme cases. Proportionality and the impact on political pluralism and the democratic process should all be considered when imposing sanctions.

### 3.6.2. The authority of the Registrar and procedures for imposing sanctions may need to be reviewed

The legislation confers certain powers on the Registrar of Political Parties to impose sanctions on offending political parties for their transgressions. The decisions of the Registrar can be appealed to the Electoral Commission by the sanctioned party within 14 days (PPR 2013, section 30). The decision of the Electoral Commission, however, is final and there is no further recourse. The authority for hearing appeals was previously vested in the High Court; however, the amendments made in 2021 now transfer this power to the Electoral Commission.

Concerns were raised by some political parties regarding the power of the Registrar to impose severe sanctions such as deregistration. It is desirable that sanctions of this magnitude should be applied by a Commission rather than an individual. Furthermore, some opposition parties argued that sanctions—including administrative or criminal investigations—for alleged breaches of political finance regulations are not being applied in a timely manner in some cases. One example provided by a political party was that the Registrar began an investigation into disclosures the party made in 2016 after a lapse of four years. If breaches of political finance regulations are not exposed or remedied in a timely manner, this has no effect on voter choice on election day, which defeats one of the key rationales for financial disclosure.

Concerns over the current decision-making process on sanctions could highlight the need to pass these oversight functions to the Electoral Commission with appeals to be heard in High Court. Such an arrangement might improve the application of sanctions in Fiji and ensure that decisions are made in a consistent and timely manner.

## 4. Additional issues for consideration

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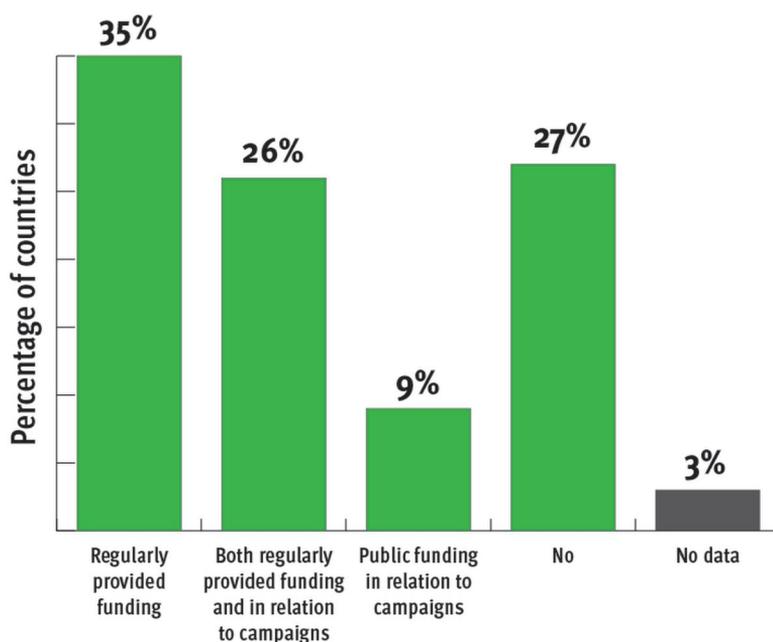
### 4.1. Public funding

Political parties in Fiji are fully funded by private sources. Private funding can serve as a channel for political participation, and in many countries is considered an indispensable aspect of freedom of expression. However, if not well regulated, it can be a means for undue influence and policy capture by powerful special interests. A complementary approach to regulating private donations is to give political parties access to some sort of public funds, either directly by providing money or indirectly through free or subsidized goods or services.

#### 4.1.1. Public funding could support a multi-party democracy in Fiji

Public funding can help to ensure that all relevant political entities have some level of resources to help them reach the electorate, which fosters greater political pluralism. Coupled with stringent regulations on private funding, public funding can significantly level the playing field for political competition by providing all parties with access to funds for campaigning. In addition, public funding can serve as a tool for negative reinforcement, putting pressure on political parties to abide by the rules. Such negative reinforcement would entail withholding public funds as a sanction in the event of non-compliance with political finance regulations, such as a failure to submit regular financial reports. Around the world, 70 per cent of countries provide some sort of direct public funding to political parties (see Figure 6).

Figure 6. Direct public funding options around the world



Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021.

Given Fiji's political history, creating the conditions for a multiparty system to survive is essential. Proportional Representation (PR) has, to some extent, increased the accommodation of smaller parties, but they need further support and protection. Public funding can provide an important boost to these new parties as they tend to have the least access to other sources of funds (Ikstens et al. 2002). Scarrow (2007: 204) argues that the introduction of public funding can potentially lead to 'at least a slight diversification of the party system, as a few new parties gain a toehold rather than quickly disappearing'. There is also a strong case to be made for the public funding of political parties in Fiji if incumbency advantage is to be mitigated, as demonstrated in the disclosures of party wealth since the inception of PPR 2013. The incumbent FijiFirst has consistently been able to raise much more funding than the next richest party.

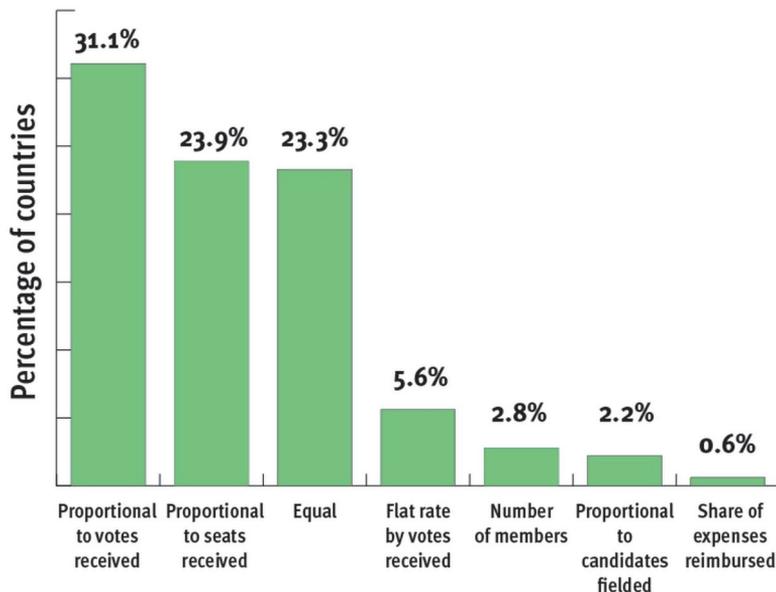
#### 4.1.2. Designing appropriate eligibility and allocation criteria for public funding is crucial

Given the limited nature of state resources, it is crucial that the state is able to systematically discern which parties are eligible for public funds. In some

countries, all registered parties can receive public funding, but this comes at the risk of people abusing the system, creating parties or running for office simply to gain state funding. For this reason, most countries with public funding systems have clear criteria on which parties should be given access to public funding (an eligibility threshold) and how the money should be distributed among those that have reached the threshold (allocation criteria). Annex B is a detailed table of considerations when developing eligibility and allocation criteria.

Fiji has relatively stringent requirements for the registration of political parties which effectively acts as a safeguard against the formation of frivolous political parties, or those formed solely to get access to public funding. Eligibility for the receipt of public funding (either direct or indirect) could therefore be as uncomplicated as being duly registered under the provisions of PPR 2013. Allocating funding based on the votes received by parties is the most popular method globally (see Figure 7). A single multi-member district under a PR system makes this a very fair method of allocation in Fiji. This would ensure that even those political parties unable to achieve the 5 per cent threshold for seat allocation in parliament can continue to gain access to public funding, and that a multiparty system can be supported in Fiji.

Figure 7. Allocation calculation for direct public funding



Note: Multiple answers allowed.

Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/political-finance-database>>, accessed 24 February 2021.

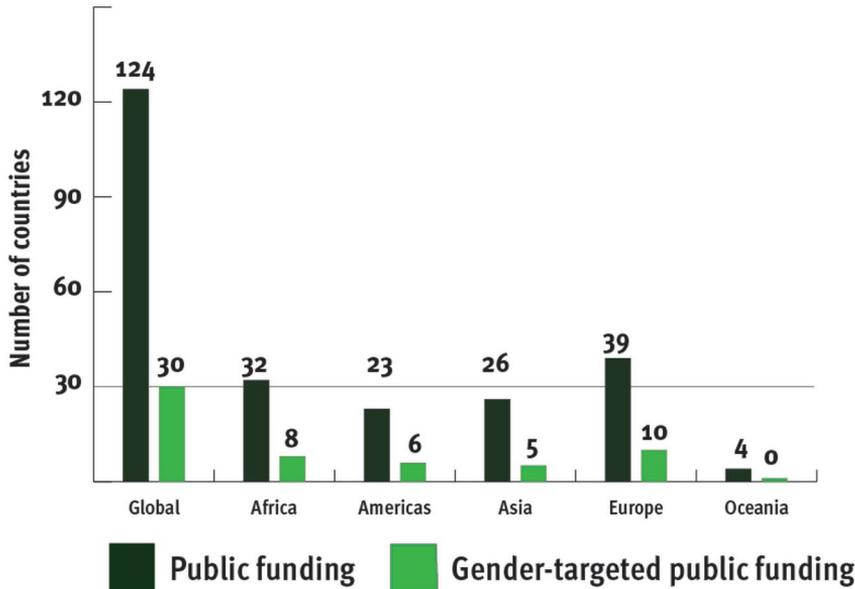
## 4.2. The gender dimension of political finance

Around 49.3 per cent of Fiji's population is female; however, only 21.6 per cent of the members of the current parliament are women. Although the proportion of women in the legislature has slowly increased, especially since the adoption of a PR system, it is still below the global average of 25.5 per cent (IPU 2021) and below the critical minority of 30 per cent. Fiji's history of excluding women from decision-making and policymaking spaces and traditional patriarchal society make facilitating the inclusion of women in the law-making institution a worthy pursuit. Women also find it harder to source funding to run for elections as a large proportion of women are poor. Rural women are not usually paid for their labour, and research indicates that women in paid employment generally receive lower wages than their male counterparts (Gounder 2016).

### 4.2.1. Gender-targeted public funding should be considered in Fiji

The Open List PR system in Fiji cannot be used to get women elected to parliament through party preferences. The only realistic solution, therefore, is to provide incentives for parties to nominate a greater number of women, which can lead to the election of more women. One way to achieve such an objective would be to provide gender-targeted public funding for campaign expenditure to all contesting parties. Gender-targeted public funding can mean that the eligibility of a political party to receive a certain amount (or all) of its public funding is connected to the level of gender equality among the candidates it puts up for election or gets elected. It can also mean that a certain proportion of the public funding a political party receives is formally tied to provisions related to gender, or earmarked for gender-related activities such as the training and development of women members, developing a gender action plan or gender-sensitization for its members (Ohman 2018). Such gender-targeted public funding exists in around 30 countries (see Figure 8). Initial observations and analyses suggest that gender-targeted public funding is one of the enablers of increasing the number of women in politics. For example, in almost all the countries that have introduced gender-targeted public funding, the number of women in parliament is higher today than it was when the provision was introduced, with the average increase being 11 per cent.

Figure 8. Provision of public funding and gender-targeted public funding around the world



Source: International IDEA, Political Finance Database, [n.d.], <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 10 March 2021.

#### Box 4. Examples of gender-targeted public funding

##### Honduras

In Honduras, which uses a PR system for its elections, political parties that do not nominate at least 50 per cent of their candidates from each gender forfeit 5 per cent of their election campaign public funding. Similarly, parties must draft and submit an anti-gender discrimination policy to the EMB before each election. If the party fails to produce such a policy, 5 per cent of the public funding provided to the political party is deducted. Parties must also earmark 10 per cent of the public funding they receive for the training and advancement of women.

### **Croatia**

Croatia is one of the countries that has been using gender-targeted public funding for the longest. It uses an open-list system of PR for most parliamentary seats. A 2001 change to the Political Parties Law introduced a gender-targeted aspect to the existing system of public funding for political parties. Parliamentary parties receive public funding in proportion to the number of seats the party wins. The amendment provides political parties with an additional 10 per cent of the envisaged public funding for each candidate elected of the underrepresented gender. There are no restrictions on how political parties use the public funding they receive.

If Fiji is to introduce public funding for political parties, it could possibly tie the amount of public funding received by political parties to the number of women on the candidate list or the inclusion of gender-related provisions. In addition, political parties could be required to earmark a certain proportion of their public funding to gender-related activities such as the training and development of women members. One of the key factors in the success of gender-targeted public funding in terms of having the desired impact on women's political participation is the financial dependency of political parties on public funding. The proportion of total party income derived from public sources must be high to increase the potential impact of linking public funding to gender equality. In the short run, state resources could also be provided to women's organizations and other entities that train and prepare women for political and leadership positions.

## 5. Conclusions and recommendations

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Since the promulgation of the Political Parties Act of 2013, the regulation of political finance in Fiji has been subject to a stringent but sound legislative framework. An assessment of the extent to which the regulatory framework has been successful in achieving its intended objectives and outcomes, and the challenges and issues faced in the practical implementation of the regulations, is a valuable exercise in identifying the inadequacies and making recommendations for redress. This assessment has identified some areas for reform based on experience and consideration of the Fijian context, its social and political dynamics, and the desired political and electoral objectives. The general conclusion is that, while the regulatory framework is strong and modern in many respects, legal loopholes have been exploited by political interests in a manner that is contrary to the intent and spirit of the law.

The structural issues that affect the perceived independence of the oversight body impede the creation of trust and confidence in the regulatory system and reduce acceptance of and support for political finance regulations among opposition parties, which are important electoral stakeholders. It is essential that trust in the oversight body is rebuilt in order to increase the effectiveness of the political finance regulations. In addition, there appears to be a lack of reliable data for monitoring and assessing the effectiveness of the existing political finance system. This is an aspect that will require efforts from all levels, from political parties to the Registrar, and from maintaining reports of itemized income and spending to keeping track of the application of sanctions for political finance infractions.

The following recommendations are designed to facilitate discussion of political finance reforms among key stakeholders, in particular the Registrar of Political Parties, the Parliament of Fiji, the Electoral Commission and political parties.

## 5.1. Regulations on private donations

While existing restrictions on funding sources have been partially successful in reducing the scope for undue influence, the evidence seems to suggest that they are constraining the ability of political parties and electoral candidates to amass sufficient financial resources to effectively participate in elections. This is evident from the fact that attempts are being made to circumvent these legal restrictions by disguising corporate contributions as individual donations, and hiding large political donations that exceed the contributions cap by breaking them down into smaller contributions from family members or employees.

1. Consider reviewing the contribution limit for political donations, especially in election year, to make it easier for political parties to acquire sufficient financial resources from a small pool of donors to sustain electioneering activities. This would also eliminate the need for large donors to resort to other means to circumvent the law and have the overall effect of providing a cleaner and more transparent system.
2. Consider allowing corporate donations up to an appropriate limit. The corporate funding that is currently being channelled into political parties can then be donated in a legal and transparent manner.
3. Corporations that receive public contracts, or intend to vie for public contracts in the future, should continue to be banned from making political donations.
4. Impose a legislative requirement that political donations can only be made by registered voters, to prevent minors from being used by other individuals to make donations to political parties and candidates.

## 5.2. Regulations on spending

There are currently no expenditure limits for political parties and candidates prescribed by PPR 2013. Such spending limits could reduce the advantages of political parties with large financial muscle while having a deterrent effect on the undue influence and corruption that can stem from large expenditures. Given the current political landscape in Fiji, where one party seems to receive most of the private sector donations, the introduction of a spending limit has the potential to promote a level financial playing field among political parties. In addition, given the increased spending on the use of social media by political parties and candidates, introducing a specific spending limit on online advertising is under discussion in many countries. Similarly, campaign spending by third-party actors

that are neither political parties nor candidates is increasingly being regulated around the world. Existing regulations, such as bans on corporate donations and donation limits, can easily be circumvented by using social media platforms for third-party campaigning. In line with global trends, Fiji could consider spending limits in relation to online advertisements and third-party campaigns.

1. Consider introducing spending caps on campaign expenditure in order to prevent unlimited spending by more affluent parties, which disadvantages smaller parties.
2. Conduct an assessment of the spending on online advertising by political parties and, depending on the results, consider the introduction of a spending limit specific to online campaign spending by political parties and candidates.
3. Conduct an assessment of the impact of third-party campaigning in Fiji and, depending on the results, consider the introduction of a spending limit on third-party campaigning.

### 5.3. Reporting and disclosure

PPR 2013 has several provisions on reporting and the disclosure of income and expenditure, as well as asset disclosure by political parties and candidates, but there is room for improvement. The most notable areas in need of improvement are: capacity building for political party treasurers; a standardized format for reporting the income and expenditure of political parties and candidates; and a system of online reporting and disclosure that could further improve transparency and accountability.

1. Require all political parties to publish all of their financial reports and disclosures on their websites and social media pages.
2. Further refine the existing disclosure forms to ensure that all disclosures are made in a standard style and format. It may be necessary to provide supplementary instructions detailing each type of disclosure required.
3. The Office of the Registrar should adopt an online system of political finance reporting and disclosure to ensure consistent and complete reporting by political parties and candidates and facilitate political finance information being made available in a consolidated, searchable and user-friendly database.

4. Provide training for political parties and candidates on financial disclosure requirements, as well as guidelines that clarify terms such as campaign period and political spending.
5. Raise awareness and provide training to political parties on the need for the regulation of political finance as it has been observed that political parties lack understanding of the rationale for regulation, and the prevalent norms and standards internationally. Such trainings may be best provided by independent actors such as CSOs with election expertise.

## 5.4. Oversight and monitoring

The widespread lack of confidence in most political parties in the independence and impartiality of the Registrar is a major concern. While there might be an element of political motivation in seeking to discredit the oversight body or the administration of elections more generally, some of the concerns raised by political parties about unequal treatment are legitimate.

Another major impact on effective oversight and monitoring of political finance is the restrictive politico-legal context. The restrictions and controls on the media contained in the provisions of the Media Industry Development Act of 2010 discourage critical reporting of and commentary on political finance. In addition, CSOs, which play key roles in political finance oversight and monitoring in many advanced democracies, suffer from a lack of opportunities for engagement or of technical capacity. Many are also deterred by the prevailing political environment from engaging with issues where they can easily be accused of having a political agenda.

1. In order to build trust and confidence in the oversight body, the Registrar should provide more guidance and support to political parties and candidates about various aspects of the political finance regulations. The Registrar could also develop and publish its policies and internal decision-making processes to ensure that the oversight is carried out in line with written procedures and in a consistent manner. Such reforms would reduce the scope for discretionary decision-making by the oversight body.
2. Increase the scope of and opportunities for formal engagement in electoral processes by CSOs and the media, especially with regard to oversight and monitoring roles.
3. Develop the technical capacities of CSOs to work on electoral issues, and use their potential as politically neutral actors to build trust and confidence in electoral institutions and processes.

4. The Registrar should hold regular open dialogue with the leadership of all political parties, aimed at building greater co-operation and conducive working relationships. This is of value as political parties are, arguably, the most important stakeholders for the office of the Registrar of Political Parties.

## 5.5. Sanctions

The sanctions imposed by PPR 2013 are generally perceived by political parties to be excessive. While the severity of sanctions might promote compliance by political parties and election candidates, a key factor determining their appropriateness should be whether the courts are willing to impose them. This is yet to be tested as, even though several individuals have been prosecuted for political finance violations, no one has yet been convicted. Nor is there any centrally available data in a consolidated format on the number of times sanctions have been applied since promulgation of PPR 2013, even though two elections have taken place since then.

PPR 2013 accords powers to the Registrar of Political Parties to impose sanctions such as suspension or even deregistration, and this is also seen as problematic by the political parties.

1. Reduce the penalties for relatively minor public finance violations, such as incomplete declarations, to ensure that the courts are more inclined to apply them.
2. Review the existing powers of the Registrar of Political Parties to impose severe sanctions such as deregistration on political parties. Consider developing clear guidelines on how and when the Registrar should apply various sanctions.
3. Introduce a requirement on the Registrar to maintain a database of sanctions applied for violations of political finance laws.

## 5.6. Public funding

Political parties find it challenging to acquire sufficient financial resources to operate and carry out their roles from private sector sources alone, let alone to contest general elections on an even footing. This threatens the continued existence of a vibrant multiparty system in Fiji, which is highly desirable given the country's history of ethnic-based politics.

1. Provide direct public funding to all registered political parties on an annual basis. Being duly registered under the provisions of PPR 2013 should provide sufficient eligibility for public funding.
2. Allocate public funding based on the proportion of votes received by a political party in a general election. For newly registered parties, allocate a sum that is equivalent to the smallest amount received by an existing political party.

## 5.7. Gender equality

Even though there has been consistent improvement since the adoption of PR, the political participation of women is still below desired levels. To achieve gender parity, action is necessary on several fronts and at different levels of society, but improving access to political finance would be a significant measure.

1. Provide gender-targeted public funding to political parties and impose a condition that a minimum number of women candidates must be nominated by a political party to gain access to this funding.
2. Provide state funding to women's organizations and other entities that can train and prepare women to contest elections.

## **Annex A. Constitutional and electoral framework in Fiji: A brief history**

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### **1970 Constitution: First Past the Post system**

The 1970 independence Constitution established an electoral framework based on a majoritarian system and first-past-the-post, under which national elections were held in 1972, 1977 (twice), 1982 and 1987. The outcome of the 1987 election proved fateful as a newly formed political party ended the long-term rule of the Alliance Party, which was led by a chief of high standing, Ratu Sir Kamisese Mara. Just one month into the Fiji Labour Party (FLP)/National Federation Party (NFP) coalition's term, a coup led by Lieutenant Colonel Sitiveni Rabuka removed the government. The new government had been widely perceived by the indigenous Fijian (iTaukei) community as being dominated by the immigrant Indo-Fijian community. The independence Constitution was subsequently abrogated.

### **1990 Constitution: Electoral system biased in favour of certain ethnic groups**

The 1990 Constitution established an electoral system that accorded disproportionate parliamentary representation to the iTaukei in a bid to ensure their political supremacy. National elections were held under the 1990 Constitution in 1992 and 1994, both of which returned the coup leader, Rabuka, as prime minister, albeit with the support of the Indo-Fijian parties. The Constitution, however, came under intense domestic and international criticism

for what were regarded as racist provisions, and Prime Minister Rabuka agreed to set up a review of the 1990 Constitution.

## 1997 Constitution: Alternative Vote system

Following widespread consultations, a Constitution Review Commission proposed a draft amendment to the 1990 Constitution that was generally welcomed by both major ethnic communities. This amendment, which came to be referred to simply as the 1997 Constitution, was passed by both houses of parliament, becoming Fiji's third constitution in only 27 years but the only one to be given parliamentary assent. The electoral arrangements under the 1997 Constitution were meticulously considered and widely debated. The key objectives of the Constitution's architects, including in their choice of electoral system, were to foster multi-ethnic cooperation and a multi-ethnic government (Lal 2012: 39). A majoritarian system was retained but the Alternative Vote (AV) system was introduced, which forced political parties to negotiate among themselves across ethnic divides in order to share preferences. A race-based voter roll and communal constituencies were also retained, which meant that Fijians still had to stand in separate lines according to their ethnicities to cast votes on election day.

The first elections under the AV system were held in 1999. They removed the incumbent Rabuka-led government and brought to power a coalition government led by Mahendra Pal Chaudhry, a politician of Indian descent. The term of Fiji's first Indo-Fijian prime minister, however, was cut short one year later when a group of gunmen led by a businessman, George Speight, took the cabinet hostage. The ensuing political crisis effectively ended the term of Prime Minister Chaudhry and led to the appointment of an interim government led by Laisenia Qarase, who had previously been a senator. The interim government was declared illegal by the courts in 2001, leading to new national elections. A new political party formed by Qarase, Soqosoqo Duavata ni Lewenivanua (SDL), narrowly won the elections in 2001 but refused to accommodate the FLP in a multiparty government as required by the 1997 Constitution. The Qarase-led SDL government subsequently completed a full term in office but lost the support of the military, especially its leader, Commodore Frank Bainimarama, who perceived the government's orientation to be overly ethnocentric. The third election held under the AV system in 2006 was also won by the SDL party. By 2006, however, there was effectively a two-party system in Fiji as only the two major parties, each of which had its electoral support based on ethnic lines, had a realistic chance of winning an election. The right-wing Conservative Alliance-Matanitu Vanua (CAMV) party, run by Speight's associates and supporters, merged into the SDL. At the same time, Indo-Fijian parties such as the NFP, which had challenged the main Indo-Fijian party, the FLP, were unable to win

any seats. The AV system also worked against smaller parties as they were unable to gain parliamentary representation despite having significant support.

In December 2006, the military usurped political control by removing the Qarase administration and installing an interim government of its own. The military commander, Frank Bainimarama, became interim prime minister in January 2007 and announced that his government would undertake major social and political reforms. A multi-stakeholder body known as the National Council for Building a Better Fiji (NCBBF), which consisted of ‘representatives and leaders of all major organizations (community, social, civic, religious, business, political) in the country’ (NCBBF 2008), was established to formulate a People’s Charter for Change, Peace and Progress. The NCBBF proposed that ‘some form of [a] Proportional Representation (PR) electoral system is desirable in Fiji’ (NCBBF 2008: xii) and criticized the AV system for having ‘strengthened extremist elements and weakened the forces of political moderation’ (NCBBF 2008: x).

In April 2009, following a court decision against the interim military government in a case brought by Qarase, the deposed prime minister, the 1997 Constitution was abrogated by the President of Fiji acting on the orders of the military council. Pressure continued to be applied to the interim government to hold elections, but the Bainimarama regime remained steadfast in its resolve to undertake political and social reforms first, which included engineering a new constitution and a new electoral system.

## Annex B. Considerations regarding direct public funding

Consideration	Main options	Comment
<b>Eligibility threshold</b> (who should get access to public funding?)	No threshold	Maximizes pluralism but risks political fragmentation and waste of public resources.
	By share of votes won	Ensures access is limited to parties with proven popular support.
	By parliamentary representation	Excludes irrelevant political parties but makes it more difficult for new political forces to come forward.
	By number of candidates nominated	Ensures that funding is limited to parties that actively participate in elections.
<b>Allocation criteria</b> (how should the money be distributed among those that have reached the threshold?)	All eligible parties get the same amount	Supports pluralism but could lead to party fragmentation; risks waste of public funds.
	By votes or seats won	Connects financial support to electoral popularity (but may lead to largest parties getting the bulk of the money).
	Related to the number of candidates fielded	More active parties get more funding, although fielding candidates may not be a good indicator of level of activity.
	Share of expenses reimbursed	Supports private fundraising activities but may reward parties with good business contacts.

Consideration	Main Options	Comment
<b>Timing of distribution</b> (should funding be given before or after elections, or on a regular basis?)	Regular distribution	Can support party activity between elections, although may not function where party tradition is weak.
	Distribution before an election	Political parties get funding in advance to use in election campaign (but eligibility/allocation criteria based on earlier election results that may not match current level of popularity).
	Distribution after an election	Funding can be based on current popularity but parties must first raise the money privately to be reimbursed later.
<b>Level of funding</b> (how much money should be paid out?)	What level suits the political democratic goals?	Too little money will have no impact on party/ electoral politics but too much money may disconnect parties from the public (and be very unpopular with the people).

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## About International IDEA

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The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with the mission to advance democracy worldwide, as a universal human aspiration and enabler of sustainable development. We do this by supporting the building, strengthening and safeguarding of democratic political institutions and processes at all levels. Our vision is a world in which democratic processes, actors and institutions are inclusive and accountable and deliver sustainable development to all.

### What do we do?

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Our headquarters is located in Stockholm, and we have regional and country offices in Africa, the Asia-Pacific, Europe, and Latin America and the Caribbean. International IDEA is a Permanent Observer to the United Nations and is accredited to European Union institutions.

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Fiji, being a transitional democracy with fragile institutional and regulatory mechanisms, is susceptible to the negative effects of money in politics. Yet for a very long time, regulations related to the funding of political parties, candidates and election campaigns, commonly known as political finance, were largely absent in the South Pacific country. Biased political appointments, corruption in the awards of public procurement tenders, cronyism and capture by business elites are some of the challenges that Fiji is vulnerable to, which thrive in an environment with insufficient institutional and legislative regulation of political finance.

This report, which is the first of its kind, has undertaken a systematic study of the political finance regulatory framework in Fiji using an internationally developed, and tried and tested, analytical framework. The study is part of a larger International IDEA initiative to review political finance systems in selected countries in order to advance an evidence-based global policy debate on money in politics.



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