

# OUR VOICE OUR FUTURE OUR CONSTITUTION



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Citizens' Constitutional Forum Limited  
23 Denison Road, Suva  
G.P.O.Box 12584, Suva, Fiji Islands  
Tel: (679) 330 8379 Fax: (679) 330 8380  
Email: [ccf@kidanet.net.fj](mailto:ccf@kidanet.net.fj)  
Website: [www.ccf.org.fj](http://www.ccf.org.fj)

# About **CITIZENS' CONSTITUTIONAL FORUM (CCF)**

The CCF is a non-government organisation that advocates for and educates on constitutional democracy, human rights and multiculturalism in Fiji. We believe the people of Fiji need to see themselves as citizens of a nation, ahead of their ethnic interests and categories, and we strive to help them to do so.

The CCF also believes that organisations such as our own can help mobilise civil society and ensure a socially just, accountable and participatory democracy. An active civil society will promote a better understanding of the diversity of Fiji's people. It will foster multiculturalism and strengthen Fiji as a nation.

Based on the CCF's 20 year experience in providing civic education on constitutional matters, we are continuing this role and conducting parallel and separate programs from that which the State will be conducting. By way of continuance of the CCF's existing aims and activities, the CCF are extending its community education program to include and focus on matters relating to the new constitution.

The CCF is not-for-profit, and our funding is largely provided by international donors such as the European Union, Conciliation Resources, EED (Evangelische Entwicklungsdienst e.V.), MISEREOR and the Australian Agency for International Development (AusAID). We also receive funding and other support from local organisations and individuals.

The CCF represents no particular ethnic group, nor are we guided by any political or religious persuasion.

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Written by	The staff of CCF
Drawings/Colouring	Tui Ledua, Isoa Vuki
Layout & Design	Isoa Vuki

The booklet drew its inspiration from a CCF-sponsored public lecture at USP by Professor Cheryl Saunders in November 2011, followed by the book launch of the Interpeace publication, *Constitution-making and Reform, Options for the Process* co-authored by Michelle Brandt, Jill Cottrell, Yash Ghai, and Anthony Regan. This was held in Suva in January 2012 with special guest speaker Ratu Joni Madraiwiwi.

In both events particular emphasis was placed on public participation in constitution-making, hence the purpose of this booklet: *Our Voice, Our Future, Our Constitution*.

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## INTRODUCTION

It has been announced that Fiji will have a new constitution by March 2013, in readiness for elections to be held in 2014. The process that will lead to this is a basic and vital one where the participation of all citizens will help shape the future of our country. The process for the new constitution has now started.

This booklet aims to help you understand the constitution process and provides you with suggestions on how you should get involved.

## WHO SHOULD READ THIS BOOKLET?

### EVERYONE!

Everybody in society – no matter what age, gender, ethnicity, religion, sexual orientation, disability, occupation or anything else – has a right to be heard and to ensure that their needs and issues are given full voice in this process. As you will see, the key to this process is full and proper participation by all of society.

This booklet should be of interest to everyone as it affects everyone and calls on everyone to be involved.



## WHAT IS A CONSTITUTION?

A constitution is set of basic principles according to which a state is governed. It is a set of rules that defines a nation and its government, which gives power to the government and sets out how it will operate.

That's fine, but what does it actually mean? In this booklet, we will be using an example to help to explain what a constitution is, what it does and why it is so very important.

Imagine that you belong to a club – say a social club or rugby club. Let's say you've been a member since you were eighteen and have paid regular membership fees. You are proud to be part of this club and you actively take part in the activities of the club.

Like any organisation, this club is run in a particular way. There will be many aspects to this. For example:

- Rules on club **membership**;
- Rules on **how the club is run** and **how decisions will be made**;
- Rules on **who is to be the leader** of the club;
- Rules on **what good things members of the club will get** and also **what their responsibilities are**;
- Rules for **dealing with members of the club who break the club's rules**;
- Rules to **ensure** that the **club is being run properly and openly**;
- Rules relating to **membership fees**.

These rules and principles may be written or unwritten, but it is in line with these rules and principles that the club runs. This set of rules and principles is what we call the club's constitution. As a member of this club, you would want to ensure that these rules and principles were acceptable to you.

A constitution in the case of the government of Fiji is no different. Here, the '*club*' is the Republic of Fiji. Your '*membership*' is your status as a citizen of Fiji. Your '*participation in the activities of the club*' is your existence in Fijian society and your contribution to it.

Your government must also act according to an agreed set of rules and principles. The types of such rules are no different:

## CLUB RULES



## GOVERNMENT RULES



### Comparison of Club Constitution & National Constitution

- |   |   |
|---|---|
| • Rules on club membership  | » • Rules on who may be a citizen of Fiji   |
| • Rules on how the club is run and how decisions will be made           | » • The type of government that exists in Fiji and how that government operates and makes decisions                                   |
| • Rules on who is to be the leader of the club                          | » • The type of election process and power sharing that exists in Fiji  |
| • Rules on what good things members of the club will get                | » • What human rights you have as a citizen of Fiji   |
| • Rules for dealing with members of the club who break the club's rules | » • The makeup of the police and judiciary in Fiji and the rules that govern them   |
| • Rules to ensure that the club is being run properly and openly        | » • Rules on how the government must be run in a way so that citizens can see how and if the government is making the right decisions |
| • Rules relating to club membership fees                                | » • The basis of your obligation to pay taxes   |

All of these rules and principles are to be put together into one document – **the constitution**. Once passed, if the government does something that does not comply with these rules, it can be called 'unconstitutional'. You, as a citizen, can choose to challenge this at court and have the court rule that such an act is unlawful.

In the example given, you can choose whether or not to be a member of the club and it would only affect a small part of your life. However, the Constitution of Fiji gives the state significant power and affects every part of your life and also the lives of your family and friends, your businesses and your basic freedoms. It is for this reason that Fiji's constitution is of absolute importance and why it must be made with the participation and consent of the people of Fiji. In this way, it should be a document that provides for peace, harmony, stability and unity for all.



# The Constitution

On 9th March 2012, a timetable for how the constitution will come into being was announced by Government.

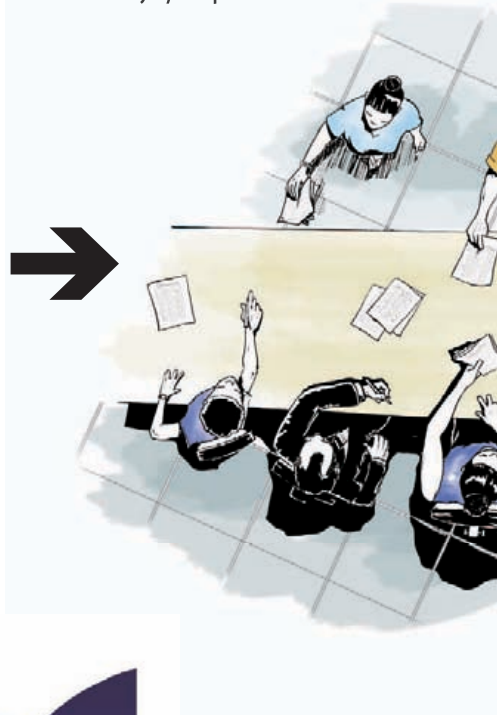
## CIVIC EDUCATION

May - June 2012



## CONSULTATION & SUBMISSION

July - September 2012



## CONSIDERATION & APPROVAL

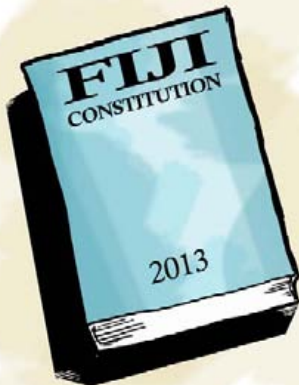
January - February 2013



**DRAFTING**  
October - December 2012



March  
2013



## CIVIC EDUCATION PHASE

As a citizen of Fiji, you have been asked to take part in this process of creating Fiji's constitution. This booklet will help you understand what it is you can do to get involved, but for now you need to get prepared.

Let's consider the club example again. One day, a meeting of the club members is called and the leader of that club says that they're going to change the constitution and asks the members to get involved and provide ideas on how the constitution should look.

Its members may have never thought about the constitution before: they may not know what it is, what is currently in it or what the options are for any changes.

For the leader of the club to ensure that the members can usefully participate, it is up to the leader to explain to its members the process and the options for the new constitution.



Just like the club, the State cannot expect the citizens of Fiji to usefully participate without educating them about the constitution. This process is called **Civic Education** and it is vital for the future of Fiji's constitution and to ensure that it is stuck to in the future. This is the first time in the history of Fijian constitution-making that there is to be full consultation with the public and involvement from the public about the contents of the constitution. It is a very exciting and important opportunity.

We are hopeful that, during this period, you will be made aware of programmes, information or events provided by the Government to you and your communities, which aim to provide Civic Education.

We strongly urge you to get involved, informed and participate.

The phrase '*knowledge is power*' could not be more true than in this case. The more you know and understand about the constitution, the better equipped you will be to get involved and have your say. You have already made a great start by reading this booklet!



## CONSULTATIONS AND SUBMISSIONS PHASE

Let's go back to the club example. Let's say the leader of the club tells the members that it will be doing away any constitution that may have existed before and that it will be making a new one, with new rules and new rights.

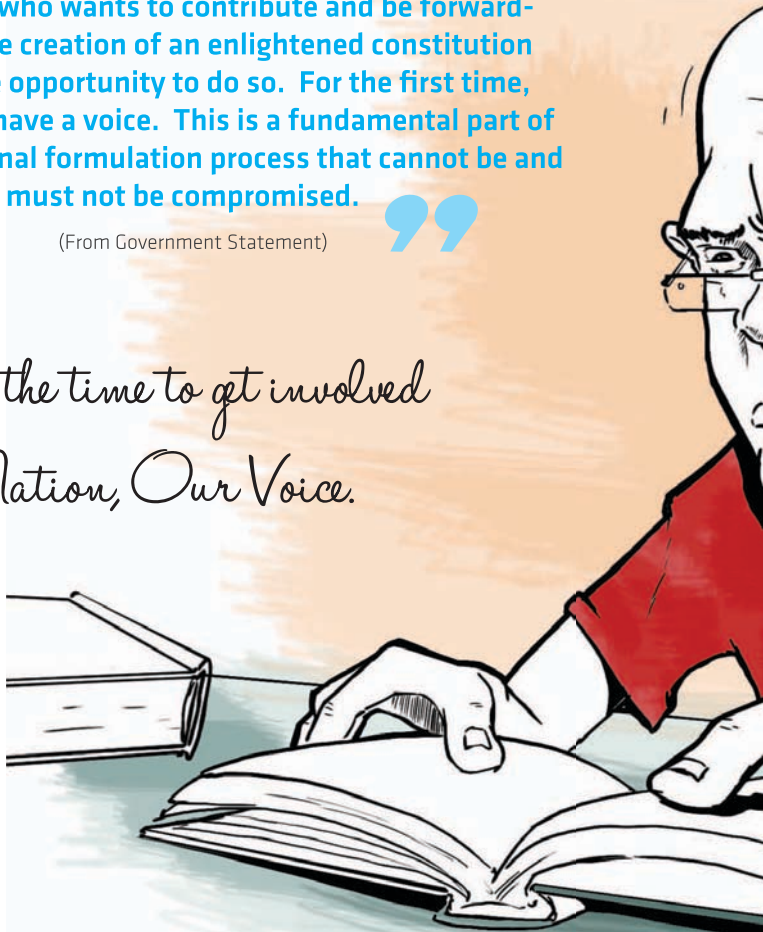
You know that, as a member of the club, these changes will greatly affect you. If that club leader then announced that he intended to do this on his own and without any input from the members (although they are the ones that are most affected), how would that make you feel? How would you make your voice heard?

Now you are being asked to be involved in developing Fiji's constitution. The Government has said that it wants to know what you think, what concerns you and what your priorities are.

**“ Every Fijian who wants to contribute and be forward-looking in the creation of an enlightened constitution will have the opportunity to do so. For the first time, everyone will have a voice. This is a fundamental part of the constitutional formulation process that cannot be and must not be compromised. ”**

(From Government Statement)

*Now is the time to get involved  
Our Nation, Our Voice.*





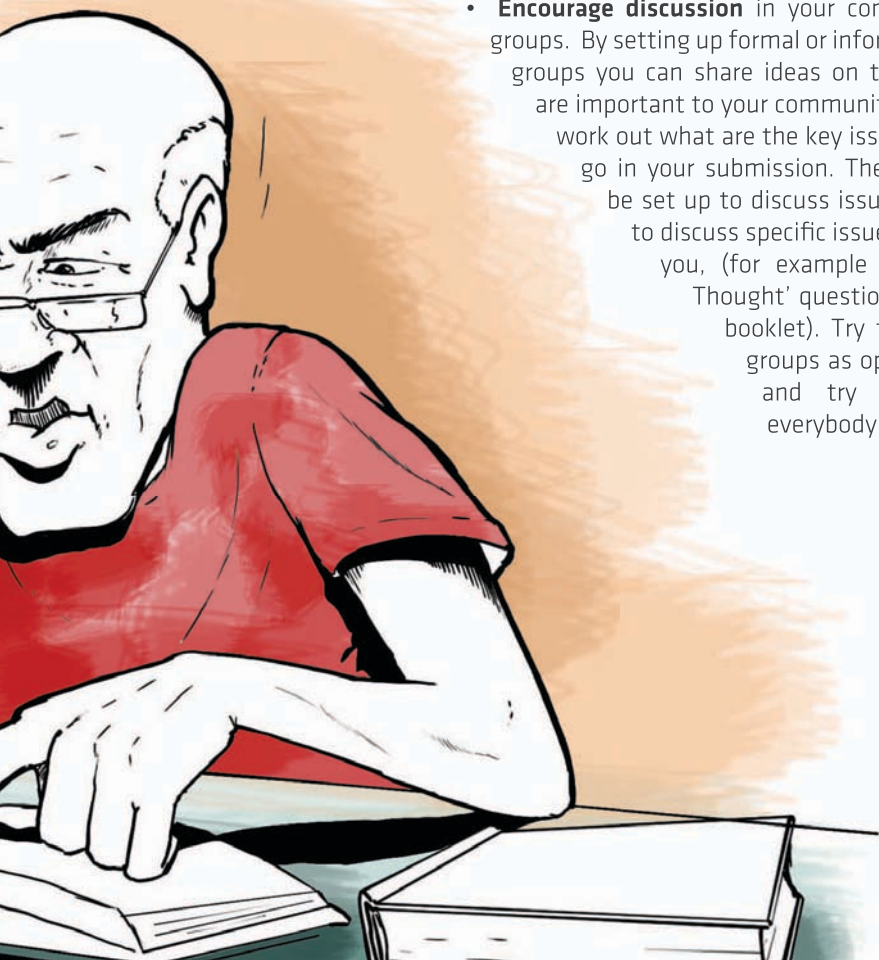
## SO HOW DO YOU GET INVOLVED?

The most important thing is to tell the constitution-makers what issues are important to you and your community. You can tell them this by either talking to them as they travel around Fiji to obtain the views of the public, or by writing to them, setting out what you want to see in the constitution. Either way, this will be called your **submission**. This can be a submission made by you personally or by a group.

It is important to realise there is no 'right' or 'wrong' about what should be included in your submission. The important thing is that you get yourself heard. There is also generally no 'right' or 'wrong' way of making your submission. It is possible that in time there may be announcements about some rules for making submissions. You should make sure you stay updated on this.

Here are some ideas of how to create your submission:

- **Encourage discussion** in your communities and groups. By setting up formal or informal discussion groups you can share ideas on the issues that are important to your community or group and work out what are the key issues that might go in your submission. These groups can be set up to discuss issues generally or to discuss specific issues that concern you, (for example the 'Food for Thought' questions later in this booklet). Try to make these groups as open as possible and try to encourage everybody to join in.



- Set up a **'Suggestion Box'** in your community so that people can provide their submissions privately (and without names if necessary). Make sure a particular (reliable!) person takes responsibility of sending these to the constitution-makers.



- Make a **Personal Submission**. If you have your own views or perhaps do not feel comfortable or able to give your views to your community or group, then why not write your own, private submission and send this to the constitution-makers directly.



- Arrange for your community group, youth group, religious group, trade union or any other group to discuss issues about the constitution and for a **Joint Submission** to be made to the constitution-makers which reflects the group's wishes.



- **'Civil Society Organisations'** exist to promote certain issues that may be important to you e.g. rights for people with disabilities, women's rights and many others.

Each Civil Society Organisation will have their own key issues and many will be making their own submissions to the constitution-makers. If you have a particular issue that you want raised with the constitution-makers then another option is to contact the Civil Society Organisation that deals with that issue.

Make sure that they know your thoughts and concerns so that they may be taken into account in their submission.

## THE CONTENT OF YOUR SUBMISSION

You should include in your submission any matter that is important to you. When thinking about the content of your submission, you should be aware that it has been announced that there are some matters that are being considered basic requirements and which the constitution-makers are likely to take a strong stance on. These are:

- A common and equal citizenry;
- A secular state;
- The removal of systemic corruption;
- An independent judiciary;
- Elimination of discrimination;
- Good and transparent governance;
- Social justice;
- One person, one vote, one value;
- The elimination of ethnic voting;
- Proportional representation; and
- A voting age of 18.



**These principles are universally recognised and aspired to. Therefore these principles and values are non-negotiable**



(From Government Statement)

There is further information on CCF's website, [www.ccf.org.fj](http://www.ccf.org.fj) under the section 'Constitution' about what some of these issues mean.

There is much for you to think about though and much that you can put in your submission. Over the page is a list of some sample questions. We cannot stress enough that these are *just examples* of some of the things that you may wish to think about when thinking about your submission.

Everybody has their own issues and priorities and you must make sure that your own concerns are addressed in your submission.



## SOME 'FOOD FOR THOUGHT' QUESTIONS

### Citizenship

What should be the requirements for status as a citizen of Fiji?

What should be the rights and responsibilities of being a citizen of Fiji?

### Human Rights

Do you believe that all forms of discrimination should be unlawful?

Do you think the following groups should have any special rights, and if so what rights?

- Women
- Children
- Disabled persons
- Ethnic minority groups (for example, certain Pacific Islanders living in Fiji)
- Elderly persons
- Gay/transgender persons
- Any other minority group?

What other rights do you think should be included in the Bill of Rights?

Social/Economic

Do you believe that indigenous Fijians should be given any special protections or recognition?

Do you believe that there should be equal access to education across all members of society?

What particular rights or concerns do you think should be taken into account for farmers or fishermen?

What rights do you think people should have to medical services?

### Governance

Do you think that all actions taken by the government should be open and accountable? Why?

How would you like your voice to be heard in government?

Do you believe that the make-up of members of the government should be based on their achievements or based on ensuring that there is fair representation of all groups, including minority groups?

Do you have any preference on the system of voting process that should be used in elections?

Do you think there should be a code of conduct for public office holders and members of political parties? If so, what do you think should be in it?

Would you agree that there should be equal access to all public positions, regardless of their ethnicity or gender?

### **State Institutions**

Do you have any views on how members of the judiciary (judges, magistrates etc) should be appointed and dismissed?

What should the role of the military be and what limitations should be put upon it?

Do you think we should have a president? How do you think the president should be appointed? What powers do you think a president should have?

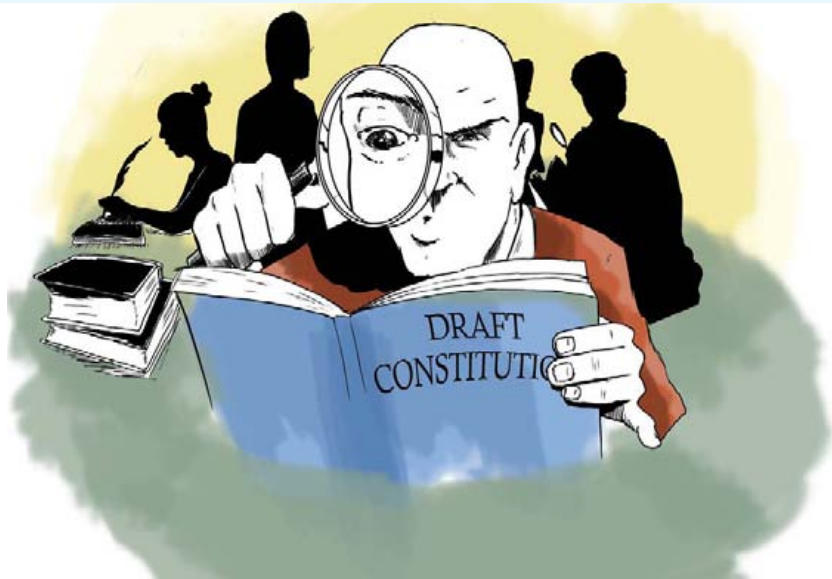
### **Changing the Constitution**

Do you think that there should be a mandatory review of this constitution in a given number of years?

What rules should be included for amending the constitution?

### **Previous Constitution**

In relation to Fiji's 1997 Constitution, what did you like or dislike about its contents?



# The Bill of Rights

In the club example, we considered the 'good things' that a member of the club can expect to enjoy. Without these things, you may not wish to be a member of this club, or you may wish to change them.

Again, this is exactly the same in society. As a citizen of Fiji, you will want to ensure that you have a certain set of rights and privileges.

These rights are absolutely essential for a fair society and they need to be given serious thought.

Our rights are protected under the United Nations Universal Declaration on Human Rights. These rights can be protected and written into Fiji's laws by including them in the constitution.

In the constitution, these rights will become a set of principles called a '**Bill of Rights**'. A Bill of Rights is not separate from the constitution but is an important part of it. Having a Bill of Rights in the constitution will mean that the government may not pass laws that violate these rights. You may want to include a section on a Bill of Rights in your submission.

When considering what the Bill of Rights in the constitution should contain, you might want some ideas for common rights topics for discussion. Over the page is a list of such human rights topics that you might want to consider in more detail for your submission. However, these are

just examples and you should make sure that the rights that you refer to in your submission are those that are important to you. You should explain exactly what you would want from these rights.

There is further information on CCF's website, [www.ccf.org.fj](http://www.ccf.org.fj) under the section 'Constitution' about what these rights might mean.



- The right to life
- The right to personal liberty
- The right to freedom from servitude and forced labour
- The right to freedom from cruel or degrading treatment
- The right to freedom from unreasonable searches and seizures
- Rights for arrested and detained persons
- The right to access to courts or tribunals
- The right to freedom of expression
- The right to freedom of assembly
- The right to freedom of association
- Rights relating to labour relations
- The right to the freedom of movement
- Rights relating to religion and belief
- The right to a secret ballot and the right to vote and stand for elections
- The right to privacy
- The right to equality (i.e. not being discriminated against because of gender, age, ethnicity, disability, sexual orientation or any other matter)
- The right to education
- The right to protection against compulsory acquisition of property
- The right to a healthy environment
- The right to adequate housing
- The right to health care, food, water and social security
- Rights of the child
- Rights protecting cultural and linguistic communities
- The right to information held by government
- The right to just administrative action
- The right to make political choices
- The right to own and acquire property
- Rights of older members of society

## DRAFTING: CONSTITUTION COMMISSION PHASE

In this booklet we have talked about the 'constitution-makers'. So who are they?

They are the **Constitution Commission**. The Constitution Commission is a body that has been set up for the purpose of collecting your submissions and making the constitution. It is independent of the Government. Fiji's Constitution Commission is made up of five members: two international experts and three Fijians, all bringing their own expertise to the constitution-making process.

All submissions will be sent to the Constitution Commission.

The job of the Constitution Commission is to consider and analyse the submissions that have been made by the public and to use these submissions to assist in their main role which is to draw up the constitution.





## CONSIDERATION AND APPROVAL: CONSTITUENT ASSEMBLY PHASE

So who will approve the constitution? The **Constituent Assembly** will.

The Constitution Commission will publish their draft constitution so that all Fijians can see its contents. They will then provide their draft constitution to the Constituent Assembly who will consider it, debate it, make amendments where necessary and hopefully approve the constitution.

The Constituent Assembly is an assembly of individuals who represent different groups in society. It will not be a 'parliament' for Fiji, but is set up only for the purpose of approving the constitution.

What we expect of the Constituent Assembly is:

- That it will be formed of members who represent all parts of society, including minority groups
- That the appointment of its members will be made in a fair and open way
- That it will operate agreed rules for voting and deciding on key issues so that agreement can be reached
- That it will be open so that the public can be advised on what is being discussed and agreed



During this process, you should ensure that your voice is heard.

You might do this by:

- Studying the draft constitution, once published, either on your own and/or in groups before it is considered by the Constituent Assembly so that you can make sure that your views on it will be properly discussed and debated by the Assembly
- Making sure that your community or faith-group is represented in the Constituent Assembly
- Making sure that the particular issues that concern you are being properly put forward by a Member of the Constituent Assembly
- If you are not receiving the information on the process that you would like, by requesting this from the Constituent Assembly.
- Getting involved in any further public consultation, request for feedback, polls or public votes that may be required by the Constituent Assembly

Once this process is completed, Fiji's Constitution will have been discussed, debated, agreed and approved.

The constitution will then be put to the President of Fiji to make it law. This is expected to take place by the end of March 2013.



## What Next?

Fiji's Constitution will be a very important step in making our country a fair and democratic place to live in.

The constitution must be shared with all citizens of Fiji so that we can understand and appreciate this important document.

Our constitution will pave the way for elections to restore Fiji to a state that is run by a government chosen by the people. It is planned that these elections will take place in September 2014. You will be called on again to get involved in this process and it is vital that you do.

These are the building blocks for a sustainable Constitutional Democracy for Fiji.

Remember: Our Nation, Our Voice.  
This is your chance to help shape the  
future of Fiji.







## Notes:

