While the Fiji Constitution Review Commission (henceforth the CRC) has made many excellent recommendations, its proposals for a new electoral system are controversial. If I stress the negative aspects of the CRC’s proposals, it is because they tend to vitiate many of the good points made. This chapter will consider in particular

• the problem in principle with the CRC’s position
• the need for a transparently fair electoral system
• difficulties with the latter part of Chapter 9 of the CRC’s Report, which deals with Parliament
• difficulties with the early part of Chapter 10 of the CRC’s Report, which deals with elections
• counterproposals, in particular, the use of the Single Transferable Vote system (henceforth STV) of proportional representation (henceforth PR) for both Houses of Parliament.

A flawed foundation

The CRC recommends ‘that the revised arrangements should be designed in such a way as to meet the following objectives

• they should encourage the emergence of multi-ethnic governments
they should comply with the international standards by applying the principle of equal suffrage
they should be based on a more open system of representation
they should provide a gradual but decisive means of moving away from the present constitutional arrangements (Fiji CRC 1996:290).

The CRC also states that 'the main thrust of this report is to encourage the emergence of multi-ethnic parties or coalitions' (Fiji CRC 1996:79). We also find the following set of criteria
- encouragement of multi-ethnic government
- recognition of the role of political parties
- incentives for moderation and cooperation across ethnic lines
- effective representation of constituents
- effective voter participation
- effective representation of minority and special interest groups
- fairness between political parties
- effective government
- effective opposition
- proven workability
- legitimacy (Fiji CRC 1996:310).

These objectives and criteria are commendable, but if they are ranked and given precedence over other values, injustices and inconsistencies could flow from them.

In particular, putting 'encouragement of multi-ethnic government' as top priority in choosing an electoral system is against the international standards the CRC says it wishes to uphold. The Universal Declaration of Human Rights provides

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures (Article 21.3).

However, it cannot be assumed that the will of the people and the CRC's feelings about multi-ethnic government are one and the same. The internal logic of Article 21.3 is that universal suffrage should
Electoral systems in divided societies: the Fiji Constitution Review

determine the will of the people as accurately and fairly as possible. It implies that one should choose a system where every vote has the same effect. However, for the CRC

The concept of 'equal suffrage' means that, within reasonable limits, every vote is to be given the same weight. It does not imply that every vote must have the same effect in electing members of Parliament. Therefore it does not mandate a particular system for translating votes into seats (Fiji CRC 1996:47).

Thus, the CRC has not put the people first. It has put the encouragement of multi-ethnic government first, the role of political parties second, and incentives for multi-ethnic moderation and cooperation third. The people speak through their votes. No one has the right to try and twist the content of those votes towards a particular objective, no matter how noble that objective may be. If the people opt for mono-ethnic parties rather than multi-ethnic ones, that is their right. The CRC, however, wants to advantage multi-ethnic parties and penalise those which are not. It explicitly opposes PR systems because they are fair to both. It clearly believes the system it advocates will not provide ethnic parties with the representation their support would warrant.

While I would prefer that Fiji's political parties were more multi-ethnic in composition, there can be no justification for trying to weight the electoral system to achieve this. Ethnically based parties have a right to exist. To advocate a system that will force them into a coalition that will mute their effect, or that will deprive them of their due representation, is a dangerous choice. It tends to force such groups to seek redress outside the democratic system.

If the objective is to penalise ethnically based parties as being 'extremist', other 'extreme' positions too will be forced into coalitions. Not all 'extremists' are bad. Some extreme views fall by the wayside, others end up becoming mainstream positions. For instance, environmentalists and feminists were once regarded as extreme, and possibly still are in Fiji. In many places however, their influence, originally small, has pervaded the political scene. The electoral system is not capable of differentiating between one sort of 'extreme' position and another.

In addition, it may also be unnecessary. It is feasible for a number of mono-ethnic parties to work in a cross-ethnic coalition, and to

Fiji's proposed new voting system: a critique with counter-proposals
provide the Opposition with a real say in things. The current ‘winner-takes-all’ is not the only workable model.

The CRC’s position regarding ethnically based parties is also inconsistent. The CRC itself recommends ethnically-defined reserved seats in the Lower House, and presumes that some of the presidential appointees in the Upper House will also be selected on an ethnic basis (Fiji CRC 1996:300). In addition, it supports affirmative action on ethnic grounds, for example in Sections 8.68 (Fiji CRC 1996:240) and 8.79 (Fiji CRC 1996:243) and the notion of protected ethnic rights (Fiji CRC 1996:chap 17). In other words, the CRC concedes there are legitimate political interests that may pertain to a particular ethnic group as such.

By its willingness to sacrifice fairness, the CRC may anger those most likely to lose out by the system. And by advocating such a system, the CRC does nothing to allay the fears of many people, especially Fijians. It has allowed a political objective to take precedence over a moral one. How can it then appeal to politicians to take into account the opinion of all groups when considering the Report? Most serious of all, the CRC has unwittingly given a justification for staying with the electoral status quo. If it is alright to be unfair and go against the international instruments for one good purpose (multi-ethnic government), why is it not alright to be unfair and go against the international instruments for another (the progress of the indigenous people)?

Voting systems

There is more than one ‘good’ electoral system to choose from, although it is not an unlimited field. We can more easily evaluate the workings of the Alternative Vote system that the CRC recommends if we consider it in relation to other possible voting systems.

First-Past-the-Post

The system most familiar to Fiji is the First-Past-the-Post (FPP) system. In this system, the candidate who gains the relative majority of votes as between all contenders is declared the winner. In a situation where A gets 40 votes, B gets 35, C gets 15 and D gets 10, candidate A will be declared the winner. In ethnic terms if B, C, and D are Fijian parties and A an Indo-Fijian party, B, C, and D may prefer that one of themselves be elected, rather than A. However,
because their supporters have divided their votes among the three parties, and are not reconsulted as to their second choice, none of the three Fijian parties gets their candidate elected. The undivided minority Indo-Fijian party (40 per cent) wins the seat.

When electing a number of people to a body simultaneously, it is better to elect them in groups rather than singly. In multimember constituencies, parties are likely to run a much larger variety of candidates, including women, younger people, and members of ethnic minorities. Wishing to pick up the votes of a wide cross-section of the electorate, they will appeal to many different groups. In single-member constituencies on the other hand, parties tend to run the safest candidates who will appeal only to the largest group, or widest-held viewpoint. Multimember constituencies in a place like Fiji have the other obvious advantage that parties can clearly express, through the range of candidates they run in each constituency, whether they are ethnically based or multi-ethnic.

Multiple Vote

One system using multimember constituencies is the Multiple Vote (MV), also known as the Block Vote (BV). The rules for such an election are the same as for FPP except that each voter votes for as many candidates as there are places to be filled. It was used in Fiji's national elections under the 1990 Constitution for most Fijian seats.\footnote{Fiji's proposed new voting system: a critique with counter-proposals} It is also used for municipal elections. However, the Multiple Vote system is even worse than FPP in the unfair results it usually produces.

Voters nearly always vote for their party candidates as a block. Thus in a three-member constituency, supporters of party A will tick the three candidates of party A, supporters of party B will tick the three candidates of party B, and so on. Taking the example above again, party A will win because each of its candidates gets about 40 votes. The other candidates get only about 35 votes (Party B), 15 votes (Party C) or 10 votes (Party D) respectively. The win for Party A, however, no longer consists of just one candidate, but three. With 40 per cent support, Party A takes all three seats and the 60 per cent are left without any representation at all. Even where the winning party has an absolute majority (more than 50 per cent), the system is still unfair, as the minority is without representation. We see this anomaly very clearly in the recent Western Division municipal
elections where the NFP won all the seats on a few councils. While the NFP may rightly have won a majority, surely residents of other political persuasions deserve to be represented.

So the two systems actually used in Fiji for single-member or multimember constituencies—the FPP and the MV systems respectively—are poor systems. Let us first try to improve on the system for single-member constituencies.

**Alternative Vote**

The Alternative Vote system (AV) builds on a notion mentioned above. In the example, supporters of parties B, C, and D—a majority of the voters—would probably have had something more to say if they had been reconsulted. In some countries, for instance in France, voters are literally reconsulted in that a second round of elections is held. This is a costly exercise. However, in the AV system voters can be reconsulted without their having to go a second time to the polls. They indicate their preferences amongst the various candidates by writing 1 beside their first choice, 2 beside their second choice, 3 beside their third choice, and so on.

In tallying the results, the first step is for all the first preferences to be counted. Let us say the results were as discussed above. The next step is to eliminate the candidate with fewest votes—candidate D. The scrutineers in eliminating D reconsult D's supporters, as if asking 'Your candidate doesn't really have much of a chance, so if he or she is out, whom would you like to vote for?' The answer is written as a second preference on those votes. The scrutineers transfer those votes to their second preferences. We will pretend that 5 of D's 10 votes went to B, 4 to C, and 1 to A. The result of the counting at this stage is: A 41, B 40, C 19. Now C, holding fewest votes, has to be eliminated. The scrutineers first look at the second preferences of the 15 votes C first received. If they show a preference for A or B, the scrutineers give them to those candidates. If they show a preference for D (who is already eliminated), they look further down the vote to the third preference and assign it accordingly. They also look at the third preferences of the 4 votes transferred to C in the last round. Let us say C's 19 votes divide up as 3 for A and 16 for B. The final results are thus: A 44, B 56. Since 51 is the minimum number of votes a candidate must get to be unbeatable, B is declared the winner.

*D.G. Arms*
The result of the above election is much fairer than the result under FPP. Candidate B enjoys more overall support than candidate A (who only has 44 per cent). True, candidate B was not the first choice of quite a few voters, but that is no reason for saying he or she is not the preferred candidate. If they had wanted A, those voters could easily have put A as their second preference. The Alternative Vote is as good a system as there is for electing a single candidate. 3

If the AV system is so good, need we look any further? The AV system is only good where there is justification for electing a single candidate, such as a committee chairman, a director, a mayor, a president. Where a number of representatives are being elected, the AV system suffers from very similar defects to FPP. All it does is guarantee that for each constituency, at least 50 per cent of the voters support the candidate. This may seem fair, but it is by no means impossible for one party to hold 51 per cent or more of the votes in every constituency. If it did so, this would mean that 49 per cent of the populace would get no representation at all.

Such extreme cases do occur in practice. For instance, in Alberta (Canada) in 1948, Social Credit took a clean sweep of seats with only 58 per cent of the vote. In Victoria (Australia) in 1967, the Liberals received fewer first preferences than Labor, but secured three times as many seats (Lakeman 1970:65). AV allows great imbalances of representation to occur once we move beyond the single vacancy situation. Furthermore, AV is even less fair to minority groups than FPP. Let us say there is an extreme party which can secure between 10 per cent to 20 per cent of the national vote but which is not popular enough to draw many second or third preferences. Some candidate of the party (the leader, say) may be able to muster 40 per cent in his or her constituency, but no more. If the remaining 60 per cent of the vote is divided, then this candidate is likely to get elected under FPP, thus providing this minority party with some representation. Under AV however, this will not happen, as no candidate of the party will be able to draw enough preferences to reach the required 50 per cent. When talking of electing a number of representatives, we have to start thinking in terms of multimember constituencies.

**Single Transferable Vote**

Extending the virtues of AV in single-member constituencies to multimember constituencies is done by the system known as the
Single Transferable Vote (STV). The principle behind the system is that, as for AV, the winners are the candidates who reach the minimum required to warrant a place. Where there is only one candidate to be elected, as for the AV system, that minimum is 51 per cent of the vote. Where there are two to be elected, the minimum for election is 34 per cent, because if two people get 34 per cent, no one else can beat them—the most such a challenger can get is 32 per cent. Where there are three to be elected, the minimum for election is 26 per cent, and so on.

The use of this minimum (or 'quota', as it is called) ensures that there will be fair representation of various groups. The voting paper is just like that for the AV system. Voters are asked to give their preferences by writing numbers beside their choices.

Let us look again at the example used earlier where the results of the first count were A 40, B 35, C 15, and D 10. Since there are three places to be filled, the quota is 26 votes. From the first count two candidates are elected immediately: A and B. However, they have more votes than they need. Rather than waste these votes, the system requires them to be transferred to further candidates. A’s surplus 14 votes are transferred first. Let us say there are 4 for C and 10 for D. The counting now stands at: A 26, B 35, C 19 and D 20. Now B’s surplus of 9 votes has to be transferred. Let us say there are 6 for C and 3 for D. The distribution of votes will now stand at: A 26, B 26, C 25, and D 23. Neither C or D has yet reached the quota of 26, so the lowest is eliminated. We end up then with A, B, and C being elected.

We have here a very fair result—much fairer than the Multiple Vote which gave all three seats to A. We indicated earlier how A is the minority party, holding only 40 per cent of the votes, and that B, C, and D are subdivisions of another viewpoint that holds 60 per cent of the vote. The STV system takes the voters’ preferences nicely into account and awards one seat to party A, the minority viewpoint, and one seat each to B and C, thus giving the majority viewpoint two seats to the minority’s one.

Multiple Alternative Vote

Instead of looking at the 51 per cent required by the AV system as being the minimum required to warrant a place, one can look at it as an absolute majority. One can then extend this concept to require that all candidates in a multimember constituency must get such an
absolute majority. This is the system the Commissioners have chosen. They call it the Alternative Vote system, but there are at least two ways in which the absolute majority-oriented AV system can been applied to such constituencies: the Multiple Alternative Vote (MAV) and the Repeated Alternative Vote (RAV). One has to conclude from their Recommendation 268a (Fiji CRC 1996: 329) that it is the MAV system that the CRC has in mind.

The CRC's use of the term 'Alternative Vote (AV)' to refer to both the single-member version of AV and the multimember version is confusing. The two systems are very different in their effect. Single-member AV (hereafter SAV) is a very reputable system, and in certain circumstances the best, whereas multimember AV (whether MAV or RAV) is a disreputable system.

Voters in the CRC's MAV system indicate their preferences as they would in SAV, or STV. It is in the counting that the difference lies. Since there are three candidates to be elected, the first three preferences on all votes are counted as effective votes 'the first, second and third preferences given to each candidate should be added together' (Fiji CRC 1996:329). If nobody reaches 51 per cent of the total votes cast, the lowest candidate is eliminated and the total of first three available preferences is again assessed. If somebody is elected, the lowest candidate is likewise eliminated, but all votes are reassessed only as to their first two available preferences—and so on until all three places have been filled.

What is particularly bad about this system is that 51 per cent of the electorate can get all three of their candidates elected, while 49 per cent get none. This is not just a possibility, it is a probability, if voters tend to vote for their party as a block. This feature is not merely understood by the CRC but actively encouraged, as it proposes (Fiji CRC 1996:329) to have an 'above-the-line' (or 'ticket') option on the ballot paper. Instead of writing out all the preferences number by number, voters may just tick the particular order of preferences their chosen party has suggested.

The MAV and MV systems differ from each other in the same way as the SAV and FPP systems. The MAV system (like SAV) requires an absolute majority whereas the MV system (like FPP) requires a relative majority in order to have candidates elected. It can nevertheless be unfair to as much as 49 per cent of the electorate. In our original example when the MV system was applied to it, gave a...
result where party A with 40 per cent of the votes won all three seats. In this MAV system, Party A will not win all three seats, but Party B (or possibly C or D or a combination of them) will. This is better in that at least the majority (60 per cent) get representation, but it is nevertheless not fair to the 40 per cent who do not get represented at all. The STV system, on the other hand, is fair to both groups.

The MAV system is much more ruthless on the minority than the SAV system (just as the MV system is, compared with the FPP system). MAV constituencies are three times the size of SAV ones. Three SAV constituencies could, for example, have the following divisions of voters: 1) A 60, B 40; 2) A 44, B 56; 3) A 70, B 30. In this case Party A would win 2 seats, Party B would win 1. But if these same three constituencies were combined into one MAV constituency, Party A would have 174 votes and Party B 126. Party A would more than likely take all three seats, leaving Party B without any representation.

Thus the two multimember systems MAV and MV are even worse in their effects than the SAV and FPP systems (respectively) when these latter are used for several constituencies. The CRC seems aware of such possible distortions. It reports how in Mauritius no Opposition candidates at all got elected in two national elections (Fiji CRC 1996:285). Mathur’s chapter shows how this happened under the Mauritian MV system. It is even more likely to happen under an MAV system, which is even harder on minorities. In spite of this alarming precedent, the CRC recommends MAV.

**Two houses and their seat distribution**

The CRC has also proposed the SAV system for use in the Lower House reserved seats, for the Rotuman seat of the Upper House, for the Presidential team, and for certain positions requiring only one person. As indicated earlier, it is as good a system as there is for filling just one position. It is suitable therefore for the latter tasks, but not for the election of members to the reserved seats of the Lower House. These seats should be filled using a system suitable for multimember constituencies. However, an exception can be made in both Upper and Lower Houses where it is felt that a particular constituency cannot reasonably be multimember. In that case, use of the SAV system is called for. For all multimember constituencies, the STV system is strongly recommended.
Upper House

The CRC has proposed that there be an Upper House consisting of 35 members: 28 members representing the 14 provinces (two each), one member representing Rotuma, and six members appointed by the President (Fiji CRC 1996:302). There is a gap, however, in the CRC’s explanation of the Upper House electoral system. Each of the 14 provinces is to elect two representatives. But are they to be elected singly, or are they to be elected together treating each province as a two-member constituency? This proposal could be realised by dividing each province into halves except that it is ruled out by paragraph 10.117 (Fiji CRC 1996:331), which says there is no need for boundaries to be set for the Upper House elections.

The CRC states that ‘the revised arrangements...should comply with the international standards by applying the principle of equal suffrage’ (Fiji CRC 1996:290). However, it justifies using the provinces as the basis for representation in the Upper House in this way

Where the Upper House is designed to allow the representation of particular territorial units of unequal geographical size and population, there is a recognised freedom to depart from the principle that every vote should be of equal value (Fiji CRC 1996:296).

However the provinces are of very different sizes so the representation will be far from equal, and the arrangement clearly favours Fijians. There is no need to represent the provinces in this unfair way. In a PR system the provinces could get much more meaningful as well as fair representation—a fact the CRC chooses to ignore. While the CRC supports provincial representation in the Upper House, it is prepared to question it in the Lower House

the use of the provinces as constituencies for the election of the Fijian members...had led to divided loyalties. It was not always clear whether members represented their parties or the Provincial Councils which had often been instrumental in their selection. In addition, the old inter-provincial rivalries had tended to come to the fore, to the detriment of a focus on national issues and interests. For these reasons, we consider that the provinces should no longer be the constituencies for the Fijian reserved seats [in the Lower House] (Fiji CRC 1996:296).
The CRC fails to point out that, even though more people than Fijians will be electing the Upper House candidates, the same 'divided loyalties' and 'inter-provincial rivalries' will exist and exert their influence.

The main reason for having presidential appointees is the unrepresentative electoral system which the CRC has advocated for both the Upper and Lower Houses. The CRC says 'there should be provision for the appointment to the Bose e Cake [Upper House] of a limited number of members to represent communities and groups that would otherwise be under-represented in Parliament' (Fiji CRC 1996:298). If a PR system were employed, under-representation of smaller groups would be minimal, and occasional. The presidential appointees exist specifically to make up for smaller groups' under-representation but cannot be expected to do so adequately or consistently. In addition, there is, obviously, the disadvantage that these representatives are the President's choice, not the choice of the minority groups themselves.

Lower House

The CRC has suggested that 45 of the total 70 seats of the Lower House be elected on a common roll. This is a major change both from the present and previous electoral systems in Fiji. It is an expression of the idea that all citizens are equal partners in electing the leadership of the country.

The CRC proposes dividing the country into 15 three-member constituencies (15 x 3 = 45 seats) with an approximately equal number of constituents in each. It is not possible, however, to do this and retain existing provincial designations as supplied in the Report (Fiji CRC 1996:334). For instance, Bua and Ra are barely half the size of either of the proposed Ba constituencies. Boundaries are going to have to become highly unnatural, not just to get the heterogeneity the Report desires, but to get constituencies of equal size. The Constituency Boundaries Commission (henceforth CBC) will have to carve off and reattach segments of provinces in ways that do not reflect people's traditional, social, or political connections.

By not presenting any figures, the CRC avoids confronting the ungainliness of the system it has proposed. For the reserved seats too, there is not enough specificity. The CRC does provide some good
principles that would help the CBC in drawing constituency boundaries (Fiji CRC 1996:330-31). However, before agreeing to such a system, politicians would need to have a much clearer idea of how the constituencies would look concretely.

Regrettably, in the case of the 25 reserved seats of the Lower House, the CRC has again built in unfairness. The breakdown of seats is given as: Fijians 12, Indo-Fijians 10, General Voters 2 and Rotumans 1. However, the ethnic breakdown of possible electors for 1999 (the date of the next regular election) shows percentages of 50.7 per cent, 44.4 per cent, 3.4 per cent, and 1.5 per cent respectively. To get the proper ratio for the 25 communal seats, all one has to do is divide these figures by 4. This gives 12.7, 11.1, 0.8 and 0.4. The seat ratio therefore should not be 12-10-2-1, but 12-11-1-1. The CRC says the following

We consider that the allocation should be based on population figures. Without creating imbalancing, it should also take account of historical and other factors that have affected the present and past allocations of communal seats (Fiji CRC 1996:294).

What the last sentence means in plain English is: 'We will maintain the traditional pro-General-Voter and anti-Indian bias'. Even though the population of Indo-Fijians is projected to drop in the future, that of General Voters are projected to drop even more. In any event, the reserved seats are supposed to be a temporary arrangement.

We must also consider the rationale for the 25 reserved seats that the CRC has proposed as a transitional measure. It is an understandable concession made to help the populace—especially Fijians perhaps—to accept the new arrangements more readily. The CRC is also right in claiming that any more reserved seats would tend to defeat the purpose of the open seats. It must be pointed out, however, that the need to retain any reserved seats at all in the Lower House is brought about by the electoral system the CRC has proposed. If the STV system were employed, such reserved seats would not be necessary. The desired transitional guarantee could be achieved in another and much more reassuring way.

The transitional guarantee I will suggest to go along with STV can be straightforwardly withdrawn when its usefulness has expired. Not so the reserved seats proposed by the CRC. There is the grave
danger that the transitional arrangements will remain permanent. This is Fiji’s experience, with the 1970 arrangements and the shelving of the Street Commission’s report. All the more so with the CRC’s electoral system, since it will soon be obvious that it does not guarantee fair ethnic representation. It will likely be insisted upon that the reserved seats remain in existence indefinitely so as to give at least some assurance in this regard.

The CRC’s electoral system arguments

Chapter 10 of the CRC’s report commences by considering the main kinds of voting system. Its criticism of FPP is accurate, and its claim that AV is a refinement of FPP is true. The CRC argues that ‘like PR systems, AV mitigates the winner-take-all aspects of FPP and generally achieves better proportionality of seats to votes than the FPP system’ (Fiji CRC 1996:306). However, as I have argued above, when used over a number of constituencies, neither is proportional in effect, nor can they realistically be compared with proportional systems.

The CRC here implicitly acknowledges that proportionality is a desirable object. It does so again when it professes to want a voting system which ‘is likely to bring about the representation of different ethnic communities and give them the opportunity to participate in government’ (Fiji CRC 1996:308). By its own admission (Fiji CRC 1996:322) PR systems are superior in this respect to the AV system it recommends. The CRC also points out that South Africa’s Constitution requires ‘that the electoral system must result, in general, in proportional representation’, though details are to be left to national legislation (Fiji CRC 1996:318). Under these circumstances, the CRC should have evaluated PR systems much more fully.

The CRC does not point out that List-system PR is used by many countries, several of which have an excellent history of democracy and some being multi-ethnically constituted. The CRC does admit that a List-system ‘gives better opportunities than most systems to include women and members of minority groups sufficiently high on the list to win a seat’ (Fiji CRC 1996:307), but it criticises it for giving too much power to the party and for using constituencies that are too large. These criticisms are true for some types of List-systems, but remedies exist. On this point the CRC says ‘Measures to reduce the
size of the constituency represented through the list, or to open the list to variation by individual voters deprive the system of the simplicity and proportionality it would otherwise have (Fiji CRC 1996:307). This criticism is not well-founded. Any loss of simplicity or proportionality in such systems is minimal. The only question is where to keep the proportionality more exact—at constituency or national level. From a voter’s as well as a scrutineer’s point of view, there is nothing in it more complicated than what the CRC itself suggests.

The CRC states that ‘under STV, the underlying principle is the distribution of fractions of a single vote’ (Fiji CRC 1996:307). This is untrue. The vast majority of votes are not fractionalised at all, but remain with their first preference at full value, or are transferred at full value. The distribution of fractions is in no way ‘the underlying principle’, and only occurs for some votes. Indeed some versions of the rules do not employ fractions but deal only with whole votes. The underlying principle of the STV system is to make each vote as effective as possible for the highest choice possible as registered on that vote.

The CRC’s criteria

The CRC next goes on to consider the criteria for choosing a voting system in ethnically divided societies. Here I group them together for discussion.

Encouragement of multi-ethnic government; recognition of the role of political parties; incentives for moderation and cooperation across ethnic lines. Being a majority system, MAV, in the CRC’s view, will provide an incentive for parties to come together. If they do so, they will be part of the government. If they do not, they will not. But what the CRC does not go on to say is that failure of a party to be part of the government is likely to lead to its being grossly under-represented in the Lower House, or not represented at all. This is certainly a strong incentive to be in the winning team, but will it not drive some politicians to desperate ends? As one renowned electoral expert says

The second ballot and alternative vote are clearly often responsible for unhappy effects on the relations between the parties...[and] may involve party combinations that are quite incongruous and dictated by nothing more than political opportunism (Lakeman 1970:68).
Fiji has already had experience of incongruous combinations and their effects, such as the Labour Party's support for Major-General Rabuka's prime-ministership in 1992. While this could take place under any electoral system, Fiji's experience should make it wary of adopting a political model which actively encourages deals of this kind. Desperate deals are too easily reneged upon, with consequent accusations of misinterpretation or betrayal, which in turn may even embitter inter-ethnic relations.

The CRC's assumption is that in order to get a majority, parties will run a wider range of candidates, formally unite, enter into coalition, or agree to trade preferences (or even not contest seats), on multi-ethnic grounds. However, it is important to consider alternative scenarios.

Over the past 30 years, parties could have joined together on multi-ethnic grounds. There was nothing stopping them. Surely we must learn from that experience. The vast majority of people are likely to vote on ethnic grounds. The Fijians do not need the Indo-Fijians in order to form a government. They form almost 50 per cent of the electorate on their own (Fiji CRC 1996:791). The Rotumans alone would bring the total above 50 per cent—not to mention citizens of Pacific island origin and General Voters, the vast majority of whom have supported Fijians politically over the years.

The MAV system, instead of shutting out some of the more extreme groups in favour of multi-ethnic combinations, may well have the opposite effect of driving the various parties of one ethnicity together (as in 1977 and post-coup 1987). And of course a new voting system is going to make all groups feel threatened until they see how it works. The CRC is aware that an ethnically based party could win the election outright, but points out that Fiji's ethnic groups have factionalised in the past and can be expected to do so again in the future (Fiji CRC 1996:316). But what happens in the meantime? The AV electoral system, which is supposed to promote multi-ethnic government could provide instead a mono-ethnic government and, because of the lopsided nature of the system, could well leave the other major community grossly under-represented. How can this be preferable to PR where, at the very least, ethnic balance will be maintained?

A not unlikely MAV scenario is the re-emergence of an Alliance type mega-party, basically Fijian in composition but with a sprinkling
of other support, including the odd Indo-Fijian. It would not really be multi-ethnic government any more than was the Alliance party’s period of rule from 1970 to 1987. Other parties, mainly Indo-Fijian, would languish in opposition, but because of the extreme unproportionality of the MAV system, their numbers could be very small. The system is likely to maintain the one party in government for a long period—like the Alliance of yore, and like the situation in Malaysia where, as the CRC notes, ‘the ruling National Front, formerly known as the Alliance, has been in power since before independence’ (Fiji CRC 1996:285). But Fijians should not get too overjoyed at this. Just as the Alliance did eventually lose in Fiji, so any new coalition could ultimately lose. Such loss is likely to be far worse than 1977 or 1987, because at least then, the number of Fijians in the Lower House remained constant. With the MAV system their numbers could drop severely.

It may be felt that I am being unduly pessimistic, but such alternatives must be considered. A new spirit of multi-ethnic cooperation could take hold, and a sincere undertaking to follow the spirit of the Compact could push some major parties in the direction of true multi-ethnic government. But if so, there is no need for the MAV system. If the right spirit is there, a PR system, with all the various groups (including multi-ethnic parties) fairly represented, will produce a government of those parties who are genuinely prepared to work together for this end. PR will produce what might be called a ‘love-marriage’ of parties freely committing themselves to working together. MAV will produce a ‘shotgun-marriage’ of parties forced by the system to enter liaisons they are not serious about.

The CRC’s explanation of its so-called incentives, though at first sight lengthy (Fiji CRC 1996:315–17), is meagre. The main point from a voter’s perspective is that the CRC expects parties to get voters to trade preferences—that is, to give high preferences to this or that party with similar policies. It says ‘only moderate parties with conciliatory policies will agree to trade preferences and be able to persuade their supporters to honour the agreement’ (Fiji CRC 1996:316), and draws the conclusion that multi-ethnic parties will therefore triumph. But there is no evidence that only moderate parties will agree to trade preferences. Fiji’s experience has shown that even unlikely extremes are willing to enter into political deals in pursuit of advantage.¹⁴
The CRC declares

The overall effect of proportional systems, compared with AV or even FPP, is that, if people vote communally, ethnic parties can expect to succeed in getting a number of candidates elected in proportion to the number of their community members in the constituency, and therefore the country. This is irrespective of whether they are moderate and seek to reach accommodations with the ethnic parties of other communities (Fiji CRC 1996:317).

But surely that is only fair? What better recommendation for PR? The CRC, however, is fully prepared to deprive these parties and their supporters of due representation by using the AV system.

Some supporters of majoritarian systems (such as AV) maintain that what people want when they vote is influence, not representation. Nevertheless, many people vote knowing full well their vote will not elect anybody, and many parties (and candidates) run knowing they will gain no real power even if elected. What such people and parties want is to express their adherence to certain principles, and to be counted.

The electoral system cannot be expected to do everything. The first task is to choose an electoral system that will represent the people fairly according to their wishes—a PR system. The next task is to ensure that these representatives have sufficient by setting up suitable structures for governance. One could have, for example, a Government of National Unity, a formal power-sharing arrangement, a more informal arrangement on Swiss lines, or a Government–Opposition model where the Opposition has the means, as well as the clear right and obligation, to contribute constructively to the development of policy. The CRC has opted for the Government–Opposition model. While one could question whether this is really the best model for Fiji’s circumstances, the CRC has nevertheless made worthwhile suggestions for greater inter-ethnic cooperation. They are not part of the electoral system however, and hence beyond the scope of this chapter. The point to be made, though, is that solutions to the quest for multi-ethnic government can be found outside the electoral system. The electoral system chosen should (unlike the present one) be fully open to such developments. Forcing too many issues into the electoral system corrupts the system itself, and creates as many problems as it solves.
The CRC's conclusion that 'AV is greatly to be preferred to PR' (Fiji CRC 1996:317) is at variance with the facts. If the CRC's hopes are not realised the results could be disastrous. If the government turns out to be ethnically based and in addition the Lower House has lopsided representation, Fiji's political situation could become very bitter. With PR, however, an ethnically based government would at least be accompanied by fair representation, politically and ethnically. On the other hand, if things worked out for MAV and multi-ethnic government were achieved, the chances are great that they would have worked out just as well under PR. Consideration of Fiji's history is instructive. The Alliance and NFP parties did make some efforts towards multi-ethnicity, and the Bavada coalition government was a substantial further move towards multi-ethnic government. All Fiji needs is a voting system that, unlike MAV, the 1970 or the 1990 systems, is fair, non-threatening, and responsive to the people's wishes. It is then probable that multi-ethnic government would develop rapidly.

**Effective representation of constituents.** Although the CRC sets up 'fairness to political parties' as a separate criterion it does not mention 'fairness to voters'. Because the AV system elects people, it does not make them representatives. If 51 per cent of the people can elect all three 'representatives' of a constituency, who represents the other 49 per cent? Where is the 'effective representation'?

The objections made to the List-system by the CRC regarding constituencies (Fiji CRC 1996:318) do not stand up to examination. The objection made to the STV system is also unsound. While the CRC is critical of parliamentarians neglecting parliamentary duties for constituency work, it never takes up the wider question of the accountability of members of Parliament.

The CRC has repeated the stock objection to the STV system without looking at the weighty counter-arguments which have been made. It does not consider, for instance, how party candidates are selected by their parties. Are they selected democratically or not? Is it not often enough the case that an élite group decide on the party candidate, and the 'election' is in fact a matter of 'ratification' by the people of a choice already made? A system like STV re-inserts some democracy into this process of selection. Even where there is a good
process, it is the MP’s task to represent the voters, not just the party faithful, so it is fitting that the voters should have some choice in the matter of who is to be their candidate. What the CRC sees as a fault in STV is in fact a considerable virtue.

Nor does this competition work against a party’s interests. Party regulations can keep it within certain bounds. Backbenchers are likely to be all in favour of enabling talent and hard work to triumph over cronyism and elitism within the party. Party leaders see its advantage too as it serves to weed out slackness in the party. True, there may be very able potential MPs who may not be great on the hustings but would be valuable in Parliament. The party would not want to see them eliminated by more ‘popular’ candidates. Nevertheless, STV does provide some reasonably safe seats where the party can place such people and thus promote their chances of election to Parliament. If even this fails, then it has to be concluded that such talented candidates should be in the civil service, not in politics.

**Effective voter participation.** A most important consideration under this criterion is whether voters feel their vote will make a difference. The CRC points out that having voters list their preferences, as in AV, gives them a greater chance of affecting the outcome of the poll. It depends on the rules of counting whether one’s expressed preferences really have much impact. Whereas the rules of the STV system clearly go out of their way to make people’s votes have full and equal effect, the rules of the MAV system frustrate it.

As was shown in the example above, a majority in the electorate can take 60 per cent of the vote leaving the 40 per cent without any representation. In many constituencies it can be obvious which party is going to win by such rules. Many voters may therefore feel that voting is a waste of time, even if they do show up at the polls. This is true for the majority side as well as for the minority. For instance, as many votes are wasted when a candidate gets 75 per cent of the total poll (25 per cent more than necessary) as when he or she gets only 25 per cent. In either case the 25 per cent has been ineffective, that is, has not contributed to the election of anybody. The STV system, on the other hand, transfers votes as soon as it is clear that they are not necessary to elect a particular candidate, or that a particular candidate cannot win.

*D.G. Arms*
Allocating surplus votes under STV is indeed a complex procedure not carried out in MAV, but MAV has complexities of its own. Whereas in STV each count consists of transferring the ballot papers of just one candidate, in MAV each count requires the rechecking of all ballot papers (or an extremely complex sorting of them in the first instance).

Most of the discussion under voter participation is given to providing details as to how the voter fills out the ballot paper. A negative feature here is that the CRC provides an ‘above the line’ (or ‘ticket’) option. This should not be allowed in either the AV or STV systems. First, when one objective is to keep the ballot paper simple, the ‘ticket’ serves to needlessly complicate it. Second (and more seriously), it is a deliberate attempt to frustrate the very purpose for which the AV and STV system were devised: to encourage people to make responsible individual choices.

Effective representation of minority and special interest groups and fairness between political parties. The CRC candidly admits that ‘AV does not have the same capacity as proportional systems to secure the election of representatives of every group in the country which chooses to organise politically and can win a minimum share of the votes’, but goes on to argue that ‘the need for a candidate to achieve an absolute majority means that no candidate can afford to neglect any small pocket of voters. Just as AV encourages appeals across ethnic lines, so also it encourages appeals to women and to minorities with special interests’ (Fiji CRC 1996:322). These latter assertions are unsubstantiated. SAV has been used in Australia for some time but has shown no special merits that benefit ‘women or minorities with special interests’. Nor is it likely to even in theory, as it is by definition a majoritarian system. When a majority and minority viewpoint conflict, politicians will simply discard the minority one. If a particular minority group has backed the losing side, it can miss out on any representation. If it has backed the winning side, some accommodation to its interests may indeed be made—but no more than, and probably not as much as, could be achieved by a post-election coalition. This is true also for MAV. A minority person may indeed get elected within a party, but the overall benefits will be no more substantial than for SAV. In addition, the MAV system actually works against minority parties—to the extent that it is called ‘perverse’ by Newland (1982:31).
In order to work towards gaining a majority or at least to gain some representation, two minorities, A and B, may negotiate a compromise and enter some sort of coalition. The problem then is that neither of the two valid viewpoints may get representation, but only some sort of middle ground which the voters may not be very happy about, but which is the only viewpoint on offer. Because the agreements are made pre-election, no one really knows the breakdown of support for viewpoint A versus viewpoint B.

The problem for the CRC, however, is not just one of generating a multi-ethnic government. They strongly desire a version of the two-party system (Fiji CRC 1996:322). An alternative and much more democratic view is one that provides the people with the choice of whether or not they want a two-party style parliament.

A PR system handles both pre and post-election coalitions well. It puts in place representatives who have the people’s mandate to do what is necessary to govern for the good of the country. Both STV and List-system PR have provided majority governments frequently enough. What PR does not do is artificially create a majority government where there is not true majority support, which is what the AV system often does.

The CRC maintains that ‘it would be virtually impossible for a party to win an election without obtaining a majority of the overall votes’ (Fiji CRC 1996:323). However, in Australia in 1954, 1961 and 1969 (using SAV), the Liberals won the election though polling fewer votes than Labor.

A worrying factor is the role of the Constituency Boundaries Commission (CBC). What principles will be used? Will the CBC take its lead from the CRC and draw boundaries that will disadvantage ethnic parties? For instance, by splitting off parts of a province like Rewa, they could divide Nationalist support among a number of constituencies and thus bring about the defeat of the Nationalists at the polls. That would be unfair, but if unfairness is a ‘small price to pay’ (Fiji CRC 1996:324) for the CRC, why not for the CBC?

Fijians being the majority population, the CBC can be expected to try to design constituencies so that a majority of Fijians will win in the MAV seats. If we look at Table B of the Report (Fiji CRC 1996:791), the comparative percentages of electors can be summarised as follows: Fijians plus all others 55.6 per cent, Indo-Fijians 44.4 per cent. This means that Fijians plus all others should
Electoral systems in divided societies: the Fiji Constitution Review

get 25 of the 45 seats available, and Indo-Fijians 20, (if the voting remains ethnic, as it almost certainly will for some time).\textsuperscript{16}

This way of thinking is against the multi-ethnic concept the CRC is trying to develop. But you can be sure that the CRC has not neglected—nor will the CBC, the political parties, or the people neglect—to look at how the seats are likely to divide up ethnically. If then, 25–20 is a fair distribution of seats as between Fijians and Indo-Fijians, the total Lower House ethnic composition will likely be: Fijians 37, Indo-Fijians 30, General Voters 2 and Rotumans 1.\textsuperscript{17} This looks to be a tidy enough victory for the Fijian group. If the General Voters and Rotumans side with them as they have to date, the balance in the House would be 40–30. Indo-Fijians would hardly feel aggrieved as their representation would certainly be fairer than at any stage heretofore.

But consider if just one open constituency changes hands in an ethnically based election. The Lower House ratio then becomes 37–33 rather than 40–30 (for, because of the MAV system, the high probability is that all 3 seats will change hands, not just 1 or 2). If two constituencies change hands (as in 1987), the ratio becomes 34–36. How acceptable will this sort of scenario be to many Fijians, and indeed to the CBC? Could there not be an effort to further strengthen the Fijian position? But if this is done by designing another constituency in their favour, the Lower House ratio will likely become 43–27.

Let us say, however, that multi-ethnic parties are formed. What would the ethnic breakdown likely be then? Well first, if the populace rejects the multi-ethnic concept and split their votes to vote ethnically, the result will be the same as above. If on the other hand they accept it and vote according to the party slate, the situation will nevertheless be very similar. The constituencies being three-member ones, the constituency slates for such multi-ethnic parties will almost all be of the form: one Fijian, one Indo-Fijian, and one extra—the extra most likely being a Fijian or Indo-Fijian depending on which ethnic group is preponderant in the electorate.\textsuperscript{18} The CBC's balancing act will thus be quite similar to that described above. Instead of working in threes, however, it will need to compute the proper ratio for each ethnic group as derived from a mixture of ones and twos.

A particular difficulty will arise if the main electoral division is between a multi-ethnic party and an ethnically based party,
especially if it turns out that the multi-ethnic party is supported much more seriously by one ethnic group rather than the other. The result will be that the ‘more tolerant’ ethnic group will have considerably less representation than its numbers warrant. If the multi-ethnic party lost the election, this would be a death-knell for that party, and politics would revert to being ethnically based. If it won the election, the disproportions could nevertheless have a negative effect. The ‘more tolerant’ ethnic group could well have a majority in the governing multi-ethnic party, but a minority in the Lower House. Resentment could rise as this ethnic group is numerically dominated not just in the Lower House itself, but in Sector Standing Committees and so on. This problem could arise, of course, under any voting system, but its effects could be much more sharply felt under MAV, since, unlike a PR system, it can notably distort ethnic proportions.

No matter what the scenario, it seems the CBC is expected to gerrymander the constituencies to better facilitate a multi-ethnic result. The Commissioners themselves say

The design of constituencies deliberately to improve the chances of success of a particular party, or to exclude the effective representation of a particular community is widely condemned as ‘gerrymandering’. But it is wrong to suppose that constituency design cannot also be a legitimate element of a voting system specially in an ethnically diverse society. Everything depends on the purpose for which constituencies are designed in a particular way (Fiji CRC 1996:313).

The argument here seems designed to justify gerrymandering. But it is wrong to gerrymander and that is explicitly what the Commissioners have advocated by—to requote the above words—‘deliberately improving the chances of success’ of multi-ethnic parties (to the detriment of ethnic ones) and ‘excluding the effective representation of a particular community’ (indeed more than one) (See Fiji CRC 1996: 317, para 10.62), 322, paras 10.81 and 10.82, 323, para 10.86, and 324, para 10.88).

The whole question of heterogeneous constituencies is overplayed. The CRC is prepared to tolerate an ethnic imbalance of up to 90 per cent to 10 per cent (Fiji CRC 1996:315, para 10.51). How heterogeneous is that? Even constituencies with a ratio as low as 60 per cent to 40 per cent are hardly likely to generate, of themselves, much cross-ethnic appeal. On the other hand, constituencies that are

D.G. Arms
Electoral systems in divided societies: the Fiji Constitution Review

divided about 50 per cent to 50 per cent, while looking the fairest, can under the AV system be the most dangerous of all. If all constituencies were divided such that Fijians had the national average of about 52 per cent, if they could not only win the election, but take all 45 seats! If, however, due to inclement weather or acute political apathy a good number of Fijians failed to vote, they could likewise lose, not just a few seats, but all 45.

Of course, the constituencies will not be so evenly divided, but the fact is the division will depend on the CBC, and anywhere between the extremes is a possibility. Furthermore, with even just a few 50 per cent to 50 per cent constituencies in existence, the potential is there for a huge switching of power (ethnically and/or politically) on the basis of just a small swing of votes. If on the other hand the CBC designs most of the constituencies so as to be ethnically lopsided (say 60 per cent to 40 per cent or more), many voters are likely to lose interest in elections, in the valid belief that their vote is not going to matter much. There is the problem too of trying to design constituencies for multi-ethnic parties in such a way that if the parties go mono-ethnic instead, the national ethnic ratio will not be too distorted.

In effect the CBC is a team of three people which will decide the composition of the Government. In a PR system on the other hand, the degree of support for the various parties is tied strictly to what the voters have expressed. It does not depend on electoral boundaries. PR provides virtual certainty that in an election where ethnic considerations will be very high, the ethnic proportions in Parliament will be fair. If it were used for the suggested 45 seats with the parties ethnically based, one could confidently predict there would be a 25–20 divide (give or take one or two seats) between the two major communities regardless of their party affiliation. If the parties were multi-ethnically based, the divide might be a little less exact—perhaps out of balance by another seat or two, but nowhere near as unpredictable as with AV.

Even if the CBC gets the ethnic part right and provides an ethnically balanced parliament, the AV system can still give extraordinary political results. By gerrymandering constituencies, the CBC might be able to get the ethnic mix it wants, but it will not be able at the same time to guarantee a fair party mix. Even if the AV system yields a multi-ethnic government, Fiji could end up with a
politically lopsided Lower House. One multi-ethnic party could win all the seats, perhaps with a slim majority of the votes, while other parties could win none at all, even though holding 49 per cent of the vote! The range of percentages and the way they work—discussed above mainly for ethnicity—apply in the same way to parties representing other social or ideological interests.

**Effective government and effective opposition.** It is not necessary to have an official Opposition. Fiji could operate on a 'Government of National Unity', for example. The idea that government by a party holding a majority is more effective than one, say, formed by a post-election coalition is also unproven. Government and Opposition will be effective if the people elect good people to the posts, and provided the structures of government are well organised. The former, one must leave to the decision of the people. The latter is something for which the CRC can make, and has made, very useful suggestions, but it is outside the electoral system.

**Proven workability.** This criterion is interpreted very narrowly to mean that the system has in fact been used somewhere. The CRC mentions the use of 'multimember constituencies in Nauru' (Fiji CRC 1996:326) but does not follow it up. The CRC also mentions that MAV was used in the Australian Senate from 1919 to 1946. It was a dismal failure. It has not been used elsewhere for national elections and has no proven suitability for promoting multi-ethnic governments.

**Legitimacy.** This criterion serves as a good heading under which to summarise my very strong objections to the CRC's proposed system. It is not a legitimate system because

- its basis is objectively and ethically unsound. An electoral system is meant primarily to ascertain the will of the people, not produce willy-nilly a multi-ethnic government. To distort the people's will so as to achieve a particular end is unethical.

- the system itself is clearly unfair. Up to 49 per cent of the people may remain totally unrepresented. This unfairness also leads to instability, since just a small swing in votes can achieve a large transfer of power.

- the system is totally untested in multi-ethnic situations, has been used very little generally, and even then with poor results. It is quite inappropriate to propose a system of such dubious record for Fiji's problematic situation.
• the system has not been well argued. In discussing AV and other systems, the CRC has made errors of fact and judgement. An AV election could have a totally different outcome from what the CRC hopes for a multi-ethnic government. Even should those hopes be realised, the system could be disastrous in effect, leaving a large group grossly unrepresented.

Counterproposals—the STV system

In view of my very negative assessment of the CRC’s electoral proposals, it would be desirable for this chapter to make some positive suggestions. The CRC has said that its entire Report needs to be read as a whole if it is to be understood properly. This is because many of its parts are dependent on one another, and because what is said in one place helps to explain what is said in another. It does not mean, however, that the Report must be accepted as a whole.

Choosing a suitable voting system is a vital part of the whole Constitution Review. Nevertheless, replacing the CRC’s system, whether partially or totally, does not mean that its entire Report is put in doubt. On the contrary, so much of it is excellent. Furthermore, there is a lot of material in the Report which actually provides the basis for choosing a different electoral system from the one the CRC has proposed. Changing the CRC’s system can be seen as a modification or development of the Report, not so much a contradiction of it. I propose that a system of PR, and specifically the STV system, be used for government elections in Fiji. The main advantages of this system can be summarised under the following headings.

The will of the people and neutrality

The STV system is a neutral system that strives to reflect as impartially and as accurately as possible the will of the people. Being a preferential system, it allows people to express and nuance their will fully. It provides voters with a variety of options (including ethnic ones) while in no way pushing them one way or the other.

This last point has particular relevance for multi-ethnicity. AV allows one to express preferences in an identical way to STV, but since the quota for election is so high (51 per cent), a much greater percentage of voters are pushed away from their first, second or even third preferences before any candidate reaches the required total. By

---

Fiji’s proposed new voting system: a critique with counter-proposals
having a lower quota for election (26 per cent for a three-member constituency) the STV makes it easier for voters to get somebody they really want elected. This, of course, is of great benefit to minorities who can thus get separate representation if they so wish. Genuine majorities do not suffer, as two or three of their candidates may reach the 26 per cent quota and thus get elected. Where the party is multi-ethnic, the votes of some voters may well contribute to electing a candidate of different ethnicity from their own. Where the party is not multi-ethnic, the voter may nevertheless have been prepared to give some later preference to a candidate of different ethnicity. Having got a candidate elected of the voter's own ethnicity (or having had him or her eliminated if he or she could not make the 26 per cent), the voter may in fact help someone of a different ethnicity by this later preference.

Obviously, one wants to use the higher preferences of voters as much as possible, not the lower, if one is serious about seeking the will of the people. There is little point in having a great range of choice if in fact the voter's preferred choices are bypassed. This is what tends to happen in AV. Note, for instance, that in order to reasonably guarantee a clear election result, the CRC requires voters to fill in 75 per cent of the preferences on their AV ballot papers (Fiji CRC 1996:319). This is because the AV system brings it about that a substantial number of voters have their votes utilised for candidates who are very low preferences for them. The STV system, on the other hand, leaves people free to enter as many or as few preferences as they like, since in STV the lower preferences come into play only for a few ballot papers. Clearly, STV enables people's votes to be used more faithfully according to their wishes.

**Fairness and proportionality**

To truly respect all people equally, every body of opinion must be allowed to play its part. It follows that every body of opinion should be given due representation according to the number of people who support it—that is, there should be Proportional Representation (PR). This seems so obviously fair that some find it hard to understand how people can really be opposed to PR. The reason for their opposition usually lies in their own political agenda. They are not in accord, perhaps, with the presumed political consequences of a PR system. They concede it may be fair to have all viewpoints.
Electoral systems in divided societies: the Fiji Constitution Review

represented, but having all these differing viewpoints clamouring for a say, will, they reckon, lead to indecisive and unstable government. PR has, however, been around for a long time and in many countries. There is no general tendency in these countries towards stalemate or instability. Even if there were, such a negative feature would still need to be measured against the negative features of an unjust and unrepresentative system.

The problem lies not in the electoral system, but in the style of governance. A system of government that presumes on a majority taking all power and doing as it likes with it, will naturally be wary of a PR system. Basic fairness requires that even smaller parties be allotted their due proportion of seats. One sometimes hears people proclaiming the virtues of PR, but then trying to cut back on the proportional principle for smaller parties by setting a minimum threshold in order to exclude them. The argument is that smaller parties are bad for politics: the political system gets too fragmented leading to instability and ineffective government.

The case against small parties is grossly exaggerated. The classic example given is that of a hung government which can swing this way or that on the discretion of an Independent MP. This one parliamentarian is regarded as wielding too much power. But his or her vote has no more power than anyone else's. What has happened is that the other MPs have abdicated their duty of making a responsible choice and are simply towing a party or ideological line. Any one of them could have as much power as the Independent MP but they have abdicated their freedom to do so—quite often under party duress.

The inordinate fear of Independents and of smaller parties stems from subservience to majoritarianism. The target is seen to be a 51 per cent vote in Parliament. Independents and small parties are seen as making this target more difficult to achieve. But concern for the whole community would surely demand that a sincere effort be made to appeal to more than just 51 per cent.

Accountability and responsibility

If the will of the people is so important, there needs to be a means whereby the elected representatives can be held accountable to their electorates. The constituency is the place where this accountability resides. The CRC asserts the importance of the constituency, but is

Fiji's proposed new voting system: a critique with counter-proposals
critical of the fact that regional interests can interfere with national ones. Representatives, however, should have the freedom to represent local interests. Contrary to what the CRC implies in paragraph 9.170 (Fiji CRC 1996:296), it is not desirable to blur traditional boundaries to provide nondescript constituencies that have no natural cohesive principle. Feeling that a representative is one's own, and accountability to the electorate, are much more easily accomplished when the electoral constituencies stick to natural or traditional boundaries. This is what STV (as a PR system) does, and where it is so superior to a system like AV. Variations in constituency size are taken care of by having a different number of representatives elected according to the size of the constituency. Under PR this works out fairly. Under other systems it does not.

It may be felt that larger constituencies will make things too impersonal. It requires only straightforward decisions by the CBC to decide which geographical divisions need be constituted as three-member constituencies (because of their far-flung nature), and which should be seven-member (because of their high concentration of population). Modern transport should enable candidates to visit all parts of their constituencies as desired. Having more than one representative is a distinct advantage to electors as they can go to the one they feel will be most responsive to their needs, whether because of personal charisma or a party affiliation.

**Effective votes and effective choice**

A very important facet of a voting system is to ensure that people's votes do, as far as possible, contribute equally and meaningfully to the election. The STV system has very little vote wastage. What is more, all votes in the system have equal weight. It is the most effective system in terms of respecting the voters' expressed choices, and provides a wide range of choices in the first place. By having the vote transferable, voters can indicate their will in a very complete way. If a party is what is important to them, they can give all their top preferences to the members of that party. By putting them in order, they show which of them they prefer. If ethnic background is what is important, they can vote for people of one ethnic background. If religion, they can vote for co-religionists. If a particular issue (for example women's rights, a nuclear-free Pacific), they can vote for supporters of this position. When all these concerns

*D.G. Arms*
are mixed up together, STV is better than any other system in the cross-section of representation it provides.

Of course, voters vote for their choices in several electoral systems. Where the vote is non-transferable, if that person misses out, the vote is ‘wasted’. Even if it is transferable as in AV, the vote may well be wasted as the candidates are unnecessarily required to get 51 per cent instead of a lower figure, and thus many voters will have their votes end up electing nobody. Furthermore, even if a voter’s choice is elected, such a vote may be wasted as the candidate may have many more votes than really needed. The STV system gets over both these drawbacks by having the vote transferable and by having a low quota (not an absolute majority). If one’s first choice is out, the vote moves on to the next choice (as in AV). If one’s first choice is already elected and does not need the vote, the vote likewise moves on (which does not happen in AV) and is not ‘wasted’ on that candidate (which it is in AV). As a result, a very large percentage of the electorate has their votes contribute to the electing of someone they are happy about. For the majority party each vote is vital because it may lead to a clean sweep for the party. For the minority party it is no less vital, for, the system not being winner-takes-all, the minority party may get one of the seats if it has sufficient support.

Nevertheless, the STV system does not force the voter to vote in party terms. A person’s vote is not counted towards a party total as in List-systems of PR. For very many people party considerations are uppermost, but those with a different approach should be free to express it. The STV is undoubtedly superior in the freedom it gives in this respect. The voters have a single vote, but they can direct it to have maximum effect according to their will. Parties having nothing to lose from this. The fact that some voters are not committed to a particular party means that the party will lose those voters’ support even as early as the second preference, but the party will also pick up as much support in the same way.

Integration and consociation. A final important attribute of a good voting system, especially in a multi-ethnic country like Fiji, is that it generates consciousness among the people that they are voting together as citizens of one country. It should facilitate the various political, cultural, religious, and other groupings in their deciding together on national leadership. There are two approaches to this
problem: the integrative approach and the consociational approach (Sisk 1996:34-45). The integrative approach tends to bring groups together by blending them, by mixing individuals together from different groups, or by forming new joint groups. The consociational approach tends to retain the separate identity of groups, but encourages them to respect each other and to work together. Both of these approaches can be positive, but care must be taken also against their excesses. The bad side of integration can be a tendency towards uniformity, the smothering of valuable distinctions, and preoccupation with the whole. The bad side of consociation can be a tendency towards divisiveness, a failure to appreciate what is held in common, and preoccupation with the communal unit. The electoral system needs to be one that is fully open to the positive dimensions of both approaches. It must help generate unity in diversity, giving the people the facility to decide in what areas they will integrate, in what areas they will consociate, and to what degree.

Any system where the voters make only one entry is not likely to do this. It is all too easy for the voters to simply vote for the known—for their own group, or traditional candidate. A system, however, where the voters make a number of meaningful entries as in STV (though AV likewise does this), stimulates voters to think outside predetermined categories and to consider the merits of candidates that may be quite distantly removed from their spontaneous choice. This can only contribute to greater bonding and understanding between Fiji’s different groups as well as to more informed voting habits.

Basis for STV in the CRC’s report

There is material in the CRC’s Report which provides a good basis for choosing the STV system. In considering its objectives, the CRC pointed out that ‘there are two schools of thought about the best way of encouraging moderation and cooperation across ethnic lines’. It continued: ‘One view is that, in order to come together in stable multi-ethnic coalitions or perhaps a multi-ethnic party with broadly-based support, political parties must have strong electoral incentives to take real account of the interests of other communities’ (Fiji CRC 1996:311). This is one form of the integrative approach. But as I have shown at length, the particular way the CRC applies this approach is unsound.
The STV system is, I believe, an ideal voting system for Fiji as it incorporates both the integrative and consociational approaches, and will allow the future development of these approaches in the way and at the pace the people and their politicians want. Much of what the CRC says about making cross-ethnic appeals and trading preferences (Fiji CRC 1996:311) applies perfectly well to STV. At the same time, STV makes good and fair provision for those groups that want separate representation.

The CRC is also of the view that 'it is desirable to maintain a uniform electoral system for all government elections' (Fiji CRC 1996:633). If the STV system of PR is chosen for Fiji, this condition is still fulfilled. Firstly, STV and AV are both 'preferential' systems. Indeed, STV and MAV are both daughters of SAV. This can be put the other way round. STV and MAV are both typically thought of as systems for multimember constituencies. When their respective rules are applied in single-member constituencies, however, they have identical effect. In other words, the STV for a single-member constituency and the SAV system are one and the same. It would be thoroughly advantageous, then, for STV to be used for all government elections in Fiji. Whether one-member, two-member, three-member or multimember constituencies are involved, the ballot papers are the same, as are the rules for counting. Government elections in Fiji would thus be uniform.

There are other features of the CRC's proposals that STV promotes. For example, the CRC recommended multimember constituencies. Though I have shown that these work disastrously under MAV, they are a very positive dimension of STV.

**Drawbacks to STV**

Before concluding, it would be well to consider some of the possible drawbacks to STV, both real and imagined. It can occasionally happen under the STV system that a party or grouping (of any size) gets less than its due proportion. This is because there is a slight wastage of votes in each constituency. For instance, if there are five representatives being elected, five-sixths of the vote in that constituency will have elected them. The other sixth may be quite happy with those representatives. On the other hand, they may not. In any election of course, some voters will be disappointed. But if the people in each constituency who miss out on their choice (under a
sixth, on average) all belong to the same party or grouping, then some disproportion can creep into the representation.

The problem here is akin to the problem in FPP, SAV, or MAV constituencies. It was pointed out that in these systems up to 49 per cent of the electorate (more in the case of FPP) may have no representation at all due to the fact that the same party can be winning in all constituencies. That can happen too for STV, but in this case the maximum amount of distortion is only 16 per cent, not 49 per cent. It is also much rarer in STV that that maximum would be realised, because usually a good number of the ‘wasted’ votes—those not resting with an elected candidate—have been moved on from a higher preference candidate who has been elected. Such voters, then, will not be unrepresented.

It is a defect which occurs comparatively rarely. It occurs more frequently and in a much worse form in the AV (and FPP) systems. Some List-systems of PR overcome the problem altogether but unfortunately have defects of their own.

Other ‘defects’ of the STV system are hardly real defects at all. We have already discussed the matter of candidates of the same party competing with one another. We also briefly considered the complexity of counting. As the CRC said for the AV system: ‘Voters do not need to concern themselves with the mechanics of counting and distributing the preferences...We foresee no great difficulty in training the requisite number of electoral officers’ (Fiji CRC 1996:20–22). The principles of STV are clear and recommend themselves to the voter as being fair. This, plus an easy-to-fill-in ballot paper, are all that is required. There is the problem of non-transferable votes (votes that are in some way incomplete), but methods have been found to handle these fairly. The accusation that STV brings about too many coalition governments is also unfounded.

One alleged defect is that STV provides only a single vote. It does not allow voters to vote for more than one person at once, thereby restricting them to one choice out of many, and not allowing them to vote for two or more candidates whom they actually support. What is more, a system that allows a multiple vote will better allow people with multi-ethnic interests to show that on the ballot paper. However, by being preferential systems, both STV and AV do allow multi-ethnic interests to be indicated. The idea of voting is to have one’s will taken due note of. While MV and MAV give a voter more than
one vote, the end result of these extra votes is that some voters are notably over-represented and others notably under-represented. By restricting everybody to just one vote, but making it preferential, STV ensures that as many people as possible get represented and also that they get represented by the person they want. Some List-systems of PR that provide a multiple vote do not misrepresent the electorate like MV or MAV, but they fail in this latter point. Voters' ability to elect a particular candidate from the list, and to register their opinion about issues across party lines, is most uncertain.

One further genuine defect of STV, however, is the fact that at various stages of the election the lowest candidate is eliminated. This may seem fair enough, but it could happen, for instance, that a person who got practically nobody's first preferences was everybody's second preference, yet would be eliminated before this fact would emerge. In practice, however, this problem is of rare occurrence and is generally felt to be a very tolerable one. AV, obviously, has the same problem. While other systems do not, this is not to their advantage. The only reason they do not is that they do not go as far as the STV and AV systems in trying to find out the voter's will.

**Conclusion**

The electoral system recommended by the CRC is seriously defective. The STV system is demonstrably far superior to it. What defects the STV system has are very minor, especially when compared with the defects of the 1970, 1990, or the CRC's systems. STV builds on much of what the CRC itself has proposed. Furthermore, it was also advocated for open seats by the Street Commission, using excellent argumentation. STV is a transparently fair system which would operate very well in a multi-ethnic country like Fiji. It is a system that demonstrably seeks out and respects the people's will. Fiji's people deserve that much.

**Notes**

1. It is not done for the Indian or General Voter seats—a further unfair differentiation that has been little commented on.
2. Third preferences, because those 4 votes have already had both their first and second preferences considered but excluded.
3. A contender for serious consideration along with AV is the Condorcet system, (Newland 1982:15–8).

4. Strictly speaking, all that is required is more than 50 per cent, not 51 per cent. The figure 51 per cent (and other approximate percentages) will be used throughout the paper for ease of reference.

5. Fuller details of counting, including a sample count, can be found in Newland (1982:31). See also Ben Reilly’s chapter in this volume.

6. This is in fact admitted by the CRC in 9.180 (Fiji CRC 1996:299).

7. This figure is gained by summing the totals for Fijians and Other Pacific Islanders in Table B of the Report (Fiji CRC 1996:791). The CRC proposes that these groups be joined together for purposes of voting.

8. Strictly speaking, the Fijians are more entitled to an extra seat than the Rotumans are entitled to even one! It does seem fitting, though, that if there is insistence that the Rotumans be given a separate seat, the ‘cost’ would be borne mainly by the Fijians. Both are indigenous peoples and have tended to support each other strongly politically; furthermore the Fijians do not have sufficient numbers to warrant a thirteenth seat as of absolute right.

9. This may seem a harsh criticism for the misallotment of just one seat, but in politics—as the CRC well knows—every seat is important.

10. Note, however, that it is not a mere ‘opportunity’ that’s involved here, but a right: ‘Everyone has the right to take part in the government of his country, directly or through freely chosen representatives’ (Universal Declaration of Human Rights Act 21/1). Nor does AV promote ‘freely chosen representatives’ when it pressures voters to vote for some larger party that may (or may not) take care of their interests rather than enable them to elect the representatives they really want.

11. The following are just some of the countries that use List systems. Those in bold print are multi-ethnic—Argentina, Austria, Belgium, Brazil, Costa Rica, Denmark, Finland, Israel, Netherlands, Norway, Spain, Sweden, Switzerland, Turkey.

12. Such versions of STV are not as accurate as those employing fractions, but are still fairer than most other voting systems.
13. These 'incentives' are in fact but a linear progression of just one incentive: parties must strive to be in the majority group (ultimately the government) and voters likewise must vote for such conglomerates; otherwise parties and voters risk being grossly unrepresented!

14. Two examples are the agreement between Major-General Rabuka and the Labour Party already mentioned above, and the fact that Ratu Mosese Tuisawau and Sakeasi Butadroka ran on the same Rewa ticket in 1992.

15. The presentation is clear and user-friendly, but there is no comparable explanation of the AV system itself, especially the MAV version. Many readers of the Report will not fathom how the system works.

16. Traditionally, the 'all others' group has tended to side with the Fijians politically, but it would be unfair to claim that all have. It could be claimed that the fairest distribution would be: 24 for Fijians and others, 21 for Indo-Fijians and others. This would make it easier for the CBC to plan an electoral outcome where parties remained ethnically based, as the constituencies are three-member ones and it would be difficult to set up a 25-20 situation, such numbers not being divisible by three.

17. This total is gained by adding together the communal (SAV) and open (MAV) seats. There is always the possibility, of course, that a General Voter or Rotuman might win one of the open seats as well.

18. In one or even two constituencies, a General Voter or Rotuman might take the third spot.

19. The Pocket Oxford Dictionary defines 'gerrymander' as 'manipulate boundaries of (constituency etc.) so as to give undue influence to some party or class'.

20. This percentage would included Rotumans and Pacific islanders.

21. This will be a most daunting task, since the CBC will have to draw up the constituencies before party alignments and voting patterns develop.

22. Indeed the MAV system could result in no Opposition being elected, just as the MV system has done in Mauritius.

23. In an earlier version of this paper, I also proposed a List-system as a possible (though less preferred) alternative, providing much
detail as to how it could be fairly applied in Fiji even using small multimember constituencies (3 to 7 people). This material has been omitted from this version of the paper both for reasons of space and because a List-system is, at this juncture at least, much less likely to be seriously considered than STV.

24. Having said that, it must not be thought that PR invariably proliferates Independents and small parties. There are various kinds of PR. The STV system recommended here (and also some List systems) show no tendency to excess in this dimension. Indeed the STV system can be criticised as having quite a high threshold (see below).

25. In 10.24 (Fiji CRC 1996: 309) it goes further and claims that ‘the system has to be suitable for all these purposes’. This statement is wrong. There is absolutely no need for different government elections to be run according to one and the same system, although, other things being equal, a uniform system would obviously have some advantages.

26. That is, a sixth, if the average constituency has 5 members. The percentage will increase or decrease inversely to the increase or decrease of average constituency size. This is why larger-sized constituencies were recommended above.

References


