

GOOD GOVERNANCE AND HUMAN RIGHTS:
Key Challenges for the
Fiji Human Rights Commission

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FIJI HUMAN RIGHTS COMMISSION

- Established 1999
- Constitutional mandate
- Commission guardian of the Bill of Rights provisions in the Constitution
- Broad mandate

Important constitutional provisions

- Redress
- Public International Law mandatory for courts to consider
- Interpretation Section of the Constitution (section 3)

Human Rights Commission Act 10/1999

- Extends constitutional provisions on discrimination (unfair)
- Procedures for complaints
- Remedies section

FHRC POSITION ON GOOD GOVERNANCE

Background Paper definition:

'good governance shall be defined as the process whereby public institutions conduct public affairs, manage public resources and guarantee the realization of human rights'

Definition of Good Governance in the literature and background paper seems to see human rights as one part of Good Governance

Is it then the responsibility of NIs to ensure that other elements of the definition (e.g. conduct of public officials and affairs etc) are also looked after?

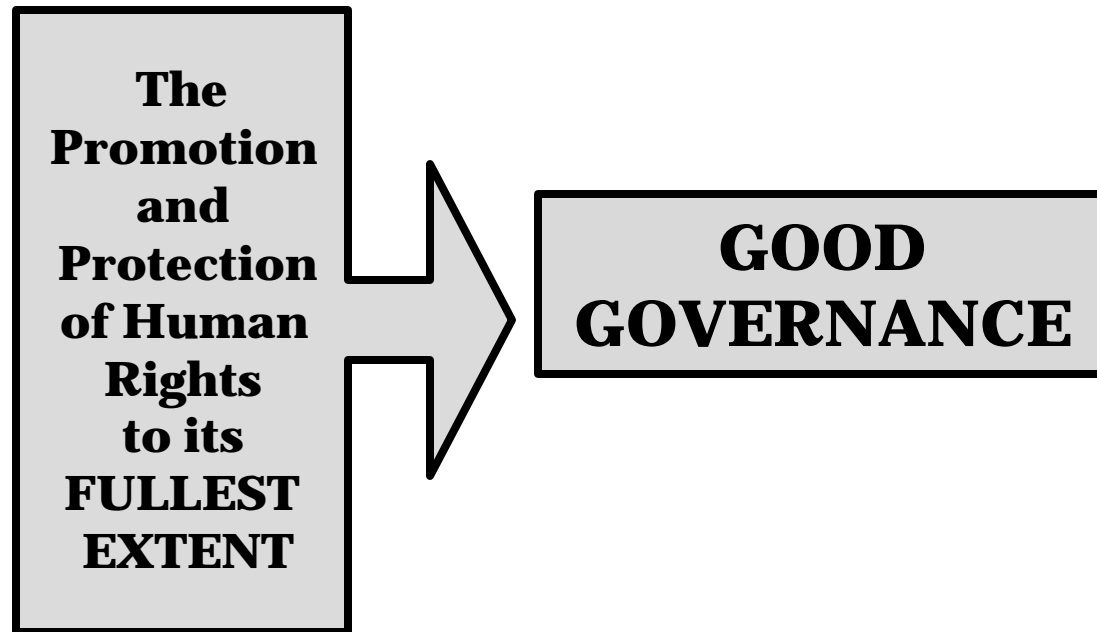
OR are the other elements of the definition the responsibility of other agents of the State (e.g. The Ombudsman's Office, Anti-Corruption Commissions etc.) rather than NIs?

Perhaps NIs should only concentrate on what they know best, that is, protection and promotion of human rights?

- The FHRC notes however that:
 - Resolution 2004/70 of the Commission on Human Rights and the series of resolutions adopted annually since 2000 state that:
 - » Good Governance is '**central to the enhancement of a universal culture of human rights**' (NI Team paper at page 4).
 - » This theme was advanced at the Seoul Seminar where it was discussed that examples of good governance issues such as:
 - ❖ the promotion of the rule of law
 - ❖ strengthening delivery of services for human rights,
 - ❖ strengthening democratic institutions and participation,
 - ❖ combating corruption in private and public sectors, and
 - ❖ international cooperation in support of national and governance practices.

Possible Approaches

- The FHRC believes that the **Methodology** of examining the relationship between good governance and human rights should be re-visited:



APPLYING THESE APPROACHES:

The Fiji Model

- The FHRC is aware of Fiji's unique and extensive Constitutional protection of human rights
- The FHRC's view has always been that good governance at the national level can only be practiced successfully in Fiji, or indeed elsewhere, if **all human rights are protected and promoted by law and policy.**
- The FHRC's firm position that if the State adhered strictly to the constitutional protection and promotion of the Bill of Rights and to the standards set out in the Human Rights Commission Act, the goal of Good Governance would be achieved

ESSENTIAL ELEMENTS OF 'GOOD GOVERNANCE':

- safeguarding the rule of law;
- verifying elections;
- public officials respect for the law;
- fostering investments;
- promoting accountable administration;
- economic and social development;
- transparent and accountable management of human, natural, economic and financial resources for the purpose of equitable and sustainable development;
- the right to development;
- equitable economic and social outcomes achieved for the people irrespective of their personal circumstances or characteristics;
- greater participation in government, public life and Decision-making;
- fairness in decision-making;
- representative and responsible governance structures; and
- independent judiciary.

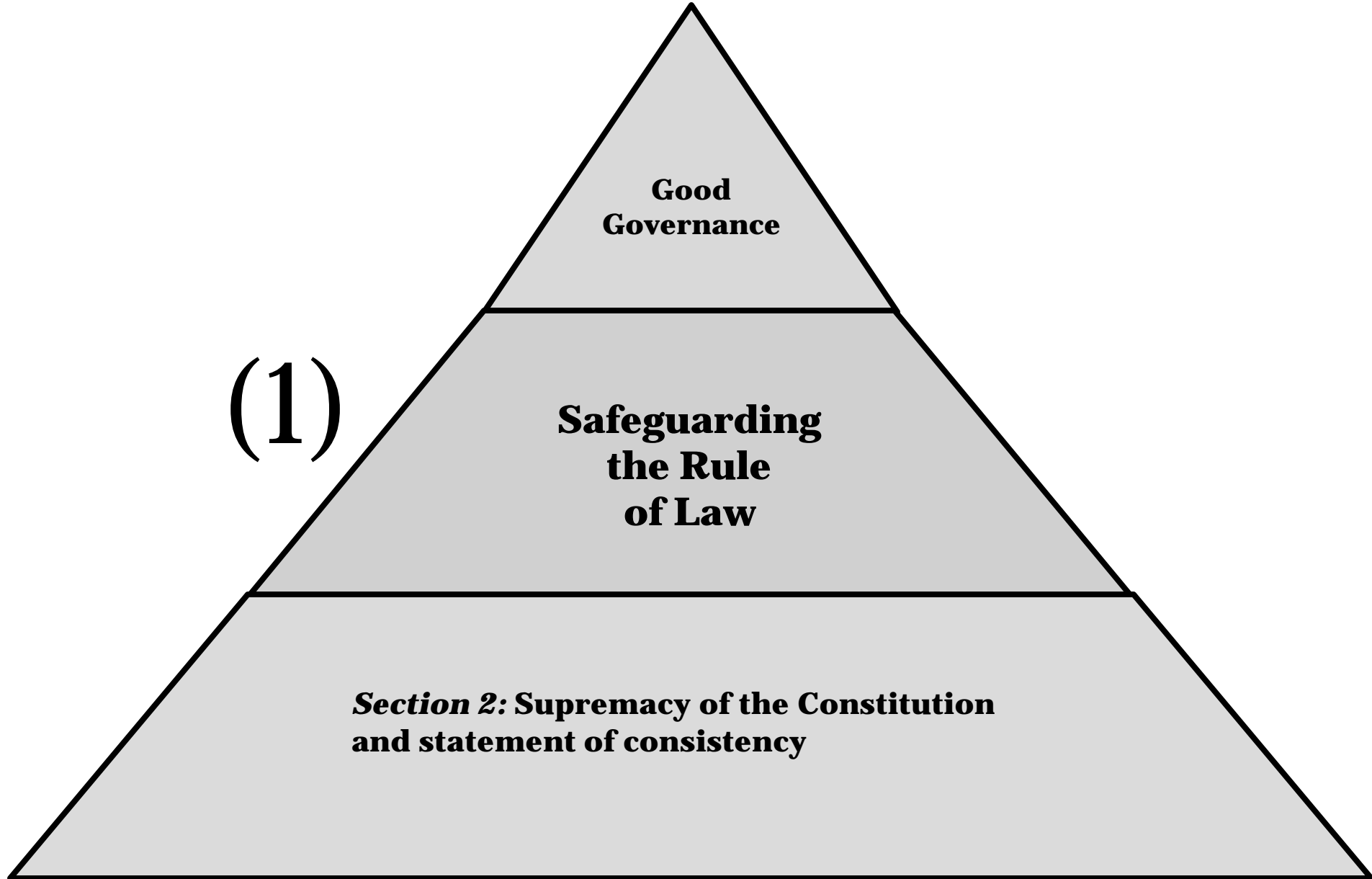
THE LINKAGES IN OUR FIJI MODEL

**Good
Governance**

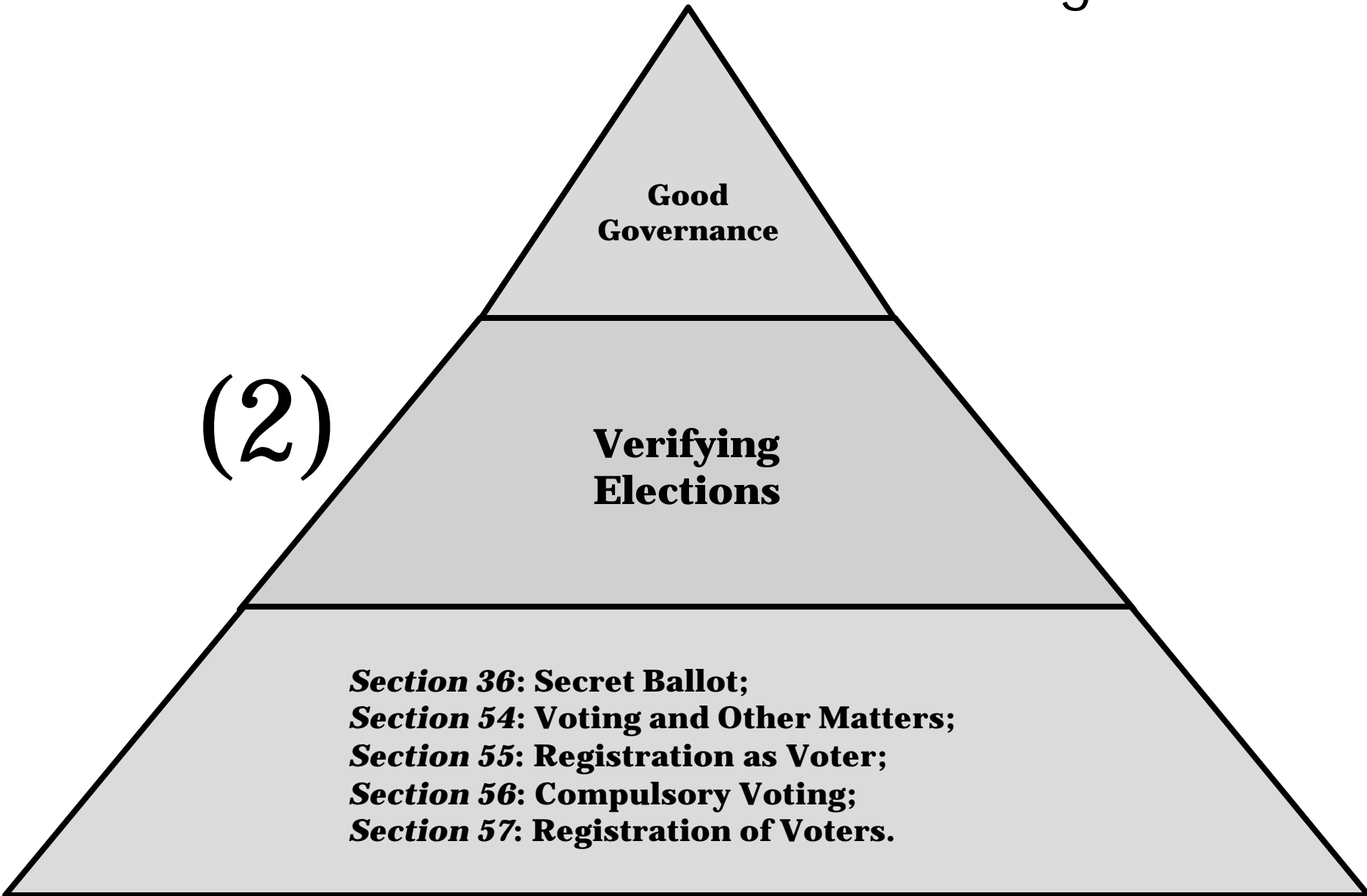
(1)

**Safeguarding
the Rule
of Law**

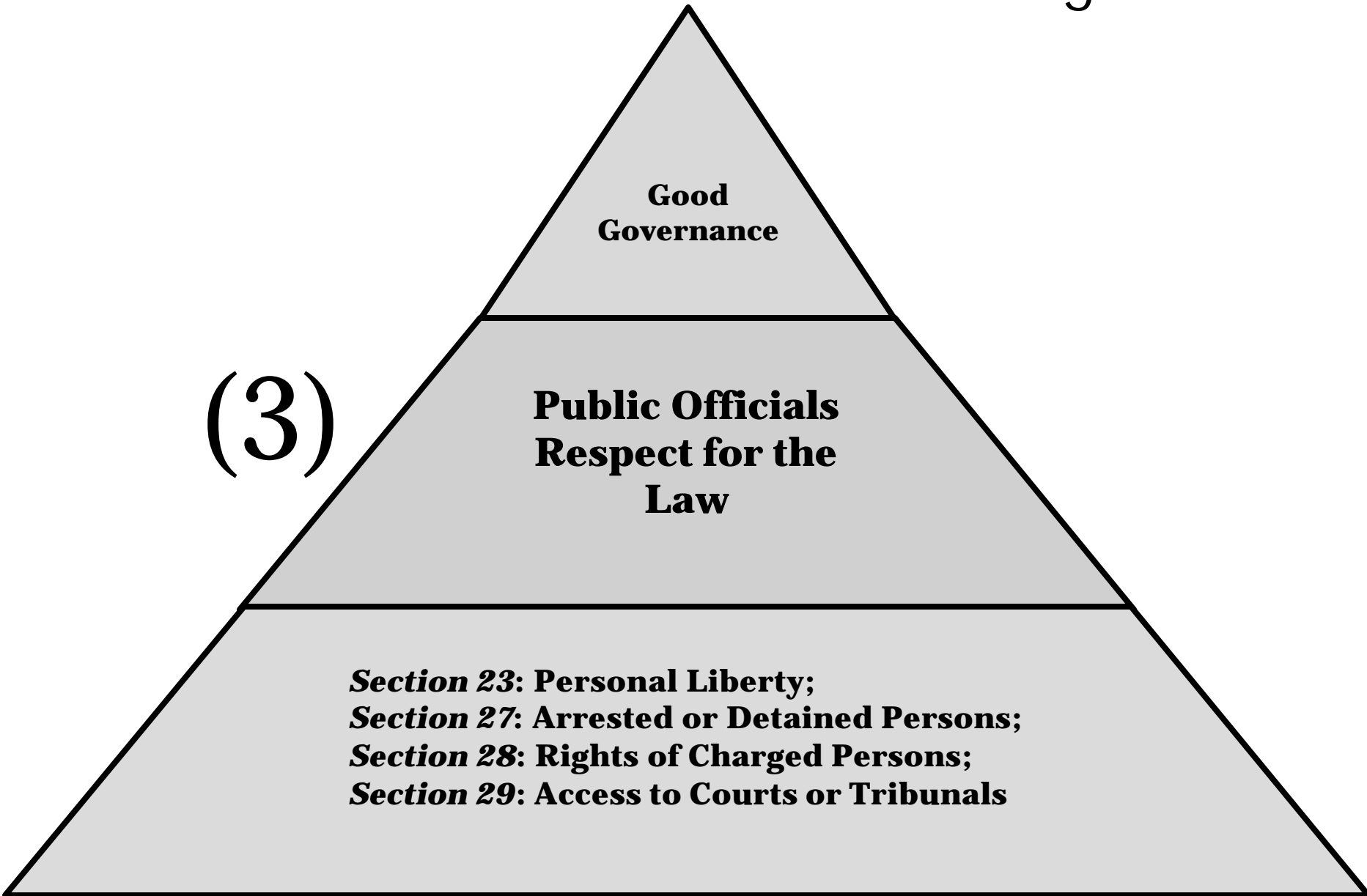
***Section 2: Supremacy of the Constitution
and statement of consistency***



The Linkages Cont'd



The Linkages Cont'd



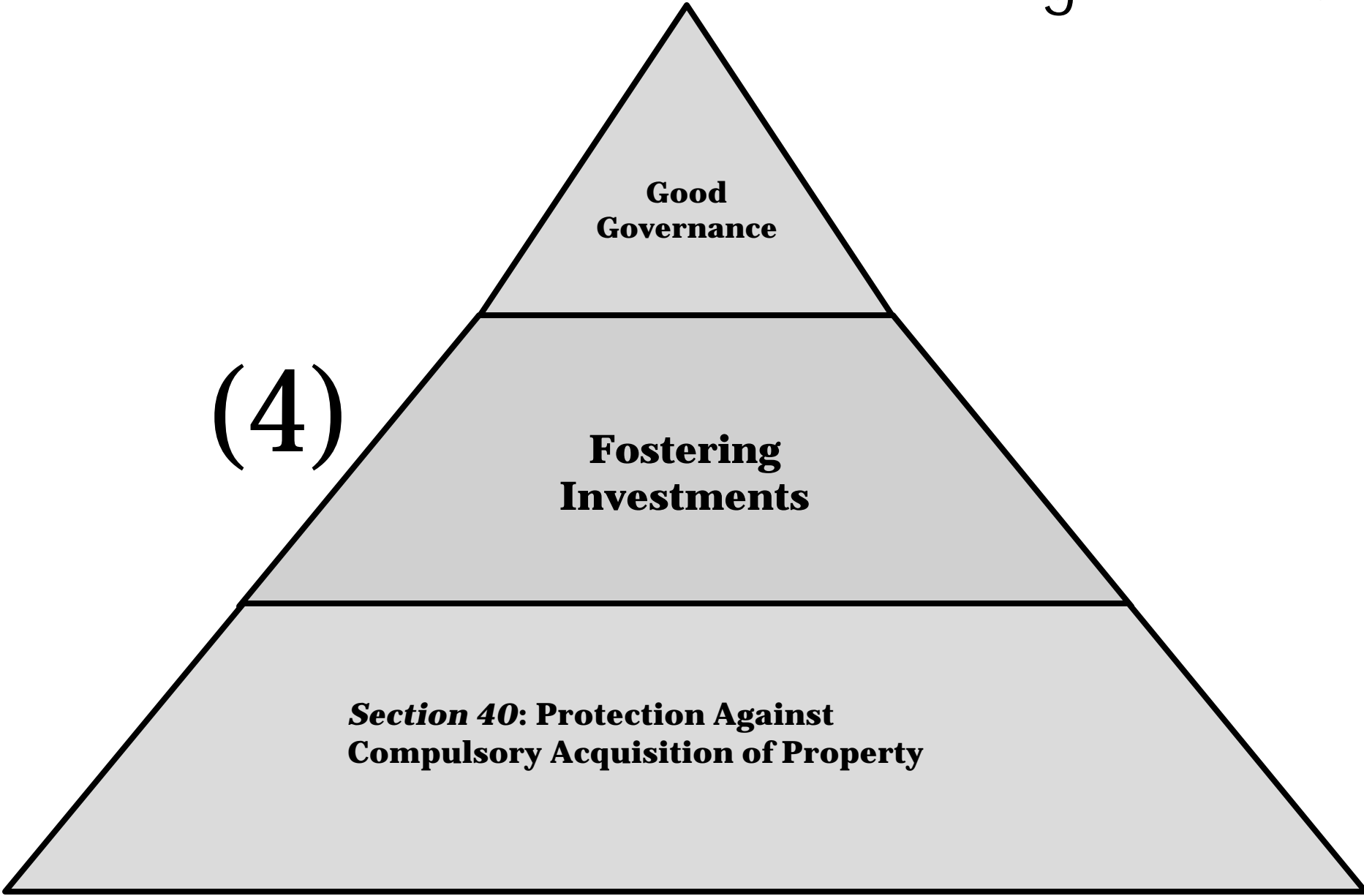
The Linkages Cont'd

(4)

**Good
Governance**

**Fostering
Investments**

***Section 40: Protection Against
Compulsory Acquisition of Property***



The Linkages Cont'd

(5)

**Good
Governance**

**Promoting
Accountable
Administration**

***Section 140: State Services Recruitment
and Promotion Policy;
Chapter 11: Accountability***

The Linkages Cont'd

(6)

**Good
Governance**

**Economic and
Social
Development**

Chapter 2: Compact;
***Chapter 5: Social Justice and Affirmative
Action;***
***Section 38: equality under the law and
prohibition from unfair discrimination
on the ground of economic status.***

The Linkages Cont'd

(7)

**Good
Governance**

**Transparent and
Accountable Management
of human, natural,
economic and financial
resources for the purpose of
equitable and sustainable
development**

***Chapter 13: Group Rights;
Chapter 11: Part 3: Auditor General***

The Linkages Cont'd

(8)

**Good
Governance**

**The Right to
Development**

***Chapter 2: Compact;
Chapter 5: Social Justice and Affirmative
Action***

The Linkages Cont'd

(9)

**Good
Governance**

**Equitable Economic and
Social Outcomes
Achieved for the People
Irrespective of their
Personal Circumstances
or Characteristics**

Section 38: Equality

The Linkages Cont'd

(10)

**Good
Governance**

**Greater
participation in
government, public
life and
decision-making**

***Section 56: Compulsory Voting;
Chapter 13: Group Rights;
Chapter 2: Compact***

The Linkages Cont'd

(11)

**Good
Governance**

**Fairness in
Decision-making**

***Chapter 11: Part 2, Ombudsman;
Chapter 11: Part 1, Code of Conduct;
Section 42: Human Rights Commission;
Chapter 4: Bill of Rights***

The Linkages Cont'd

(12)

**Good
Governance**

**Representative and
Responsible
Governance
Structures**

***Chapter 6: The Parliament;
Chapter 7: Executive Government;
Chapter 8: Bose Levu Vakaturaga (Great
Council of Chiefs);
Chapter 14: Group Rights***

The Linkages Cont'd

(13)

**Good
Governance**

**Independent
Judiciary**

***Chapter 9: Judiciary;
Section 118: Independence of the Judicial
Branch***

CONCLUSION

- Standards of Good Governance already set in our Constitution
- Therefore FHRC work is as much **promoting ‘Good Governance’** as it is protecting and promoting human rights.
- For Fiji, Good Governance is the result of successful promotion and protection of human rights principles
- It is not a piecemeal approach to good governance but a fundamental methodological approach through human rights protection and promotion.
- The FHRC uses this approach in its internal governance structures as well as in its advice to Government and members of the public.
- Our work is not always successful—however, our emphasis is not so much on attitudinal changes but on respect for human rights laws of the country.