

**REPORT OF THE  
INDEPENDENT ASSESSMENT OF THE ELECTORAL PROCESS  
IN FIJI,**

**14-25 MAY 2007**

**EXECUTIVE SUMMARY**

- Before Fiji's next parliamentary elections, there should be a redistribution of constituency boundaries following the 2007 census, an update of the registers of voters, and voter education and information programmes.
- From a technical point of view, a parliamentary election in Fiji could be held in the first quarter of 2009. However, if the Bureau of Statistics has additional resources to allow it to bring forward the release of provisional and final population figures from the census, the election could be held in November 2008.
- There should be minimal changes to current electoral provisions and procedures before the next election. Changes to election provisions should be confined to the reinstatement of the voter's clear intention as the overriding consideration in determining the validity of a vote, to prohibit the use of State resources for election campaign activities, and to provide for offences concerning disclosure of donations.
- The Electoral Commission should issue a regulation establishing an interim system of disclosure of significant donations made to registered parties and to election candidates.
- Remaining appointments to the Constituency Boundaries Commission, the Electoral Commission and the Supervisor of Elections should be made without delay.
- It is vital that there is continuity in the staffing of the Elections Office, for which the Interim Government of Fiji should make continuing budgetary provision without delay.
- International technical assistance should be provided for the boundary redistribution, voter registration update, voter education and information programmes, and to the Electoral Commission and the Election Office.

**INTRODUCTION**

1. On 5 April 2007, the Pacific Islands Forum-Fiji Joint Working Group on the Situation in Fiji agreed that –

an independent assessment should be undertaken of the minimum reasonable time required to prepare for and conduct the next parliamentary elections in Fiji, under conditions that would ensure such elections were free, fair and credible. Such a study should also consider the resources required for the process and the external assistance that might be necessary to ensure the timetable can be met.

The Working Group's decision followed the earlier recommendation of the Eminent Persons Group that a general election should be held within two years. The Interim Government of Fiji had proposed that elections could be held in 36 months, but said that it was willing to consider an earlier timeframe under certain conditions.

2. The Forum appointed the assessment team in May 2007. The members of the team were Dr Paul Harris (New Zealand, co-leader), Barrie Sweetman (Fiji, co-leader), Dr Kesaia Seniloli (Fiji), and Bruce Hatch (Canada). The terms of reference for the assessment are in Appendix 1 (p. 15).
3. The assessment team assembled in Suva on 14 May and consulted a wide range of individuals and organisations over a two week period, some on several occasions. Meetings took place at the Pacific Forum Secretariat, or in the offices of the individuals or organisations we met. Separate teleconference calls were held with the technical advisers to the Elections Office for the 2006 elections. A list of those we consulted is in Appendix 2 (p. 17).
4. We stress that we were asked to provide a *technical* assessment of the tasks that must be undertaken for Fiji to hold free and fair parliamentary elections, and the minimum practicable timeframe within which this could be achieved. We were not re-evaluating the 2006 elections, except insofar as the findings of the observer missions and the views on the elections of those we consulted were relevant to our task. We also decided that we would not consider any matters that could only be implemented by changing the current Constitution of Fiji. While we are aware that many people have advocated changes to the alternative vote system, or to the system of communal and open seats, we considered such matters to be beyond the scope of a technical assessment and as best reserved for consideration by the people of Fiji after the next election.
5. We note that the Interim Government has now appointed the Chair of the Electoral Commission, and three of the four members of that Commission. It is important that the Supervisor of Elections and the Chair and members of the Constituency Boundaries Commission (CBC) are also appointed without delay. Because the people appointed to these positions are crucial to the electoral process, we urge that travel bans are applied flexibly to the appointees, on a case-by-case basis.
6. In developing the timeframes outlined in this report, we have been very conscious of the need to develop a timetable for a parliamentary election in the minimum practicable time, but without increasing the risks to the process itself that could arise through imposing unrealistically tight timeframes at the various stages. We have only proposed changes to election provisions that we think are essential to improving the process at the next election. We believe the timeframes we propose are realistic and achievable, under the conditions we outline below. We have also identified the areas where we believe that further international technical assistance will be necessary.
7. In Section One of this report, we outline the timetable for a census, boundary redistribution, voter registration update, and for the holding of an election following the issue of the writs. Section Two covers preparations for an election, focusing on the Elections Office, election reforms and processes, voter education and information, changes to election provisions, and funding and disclosure. Section Three contains our conclusions.

## SECTION ONE: THE TIMETABLE FOR AN ELECTION

### 1. Constituency boundaries and national census

8. We are in no doubt that a redistribution of constituency boundaries will be needed before the next parliamentary elections. The current boundaries were determined in 1998, following the last official census held in 1996. The lack of accurate population data meant that boundaries were not changed before the 2006 elections.
9. Voter registrations from the 2006 elections clearly show that there are now likely to be significant imbalances in the eligible voter populations of constituencies of each type. For example, the number of voters registered in the North West Fijian Urban Communal constituency was 18.4% higher than the average for that category of constituency, whereas the number in the Suva City Fijian Urban Communal constituency was 20.2% lower than the average for that category. The number of registered voters in the Suva City General Voter Communal constituency was 23.5% lower than the average for General constituencies, and number in the Western/Central General Voter Communal was 21.5% higher than that average. Registrations in the Laucala Indian Communal constituency were 72.9% higher than the Indian Communal average, and registrations in the Vitilevu East/Maritime Indian Communal were 32.6% lower than average. Registrations in the Cunningham Open constituency were 25.5% higher than the average for Open constituencies, whereas registered voters in the Suva City Open constituency were 20.8% lower than average.
10. Such wide variations suggest that the requirement in section 52 of the Constitution that the population of voters in the various categories of constituency should be equal, 'as far as reasonably practicable', is not currently met. Section 53(1) of the Constitution provides that 'The Constituency Boundaries Commission must, in the year following each official census, and may, at other times, review the boundaries of constituencies and determine whether or not the boundaries should, be changed....' A population census will be held on 16 September 2007, and this will provide the population data about eligible voters that the CBC needs to revise constituency boundaries. The Bureau of Statistics told us that it will be able to provide the CBC with the preliminary count of eligible voters by the end of October 2007, with the final figures by the end of March 2008.
11. The boundaries of 11 of the 17 Fijian provincial communal constituencies must coincide with the provincial boundaries, and will not need to be revised. We expect that the boundaries of most other constituencies will need to be changed. In some cases, the changes will be significant. The Department of Lands and Mineral Resources has GIS mapping software and associated databases and equipment, which will considerably simplify the CBC's task. Some preliminary work will be necessary to ensure that the Lands Department's database has up-to-date information from the Bureau of Statistics on the enumeration areas that are the building blocks of both the census and the constituency boundaries.
12. The following table shows the milestones we propose for the census and redistricting processes:

Step	Task	Start by	Complete by	Duration (weeks)
1	establish CBC		31-Aug-07	
2	appoint CBC staff; establish office; prepare for boundary process; liaise with Statistics, Lands		30-Sep-07	4
3	census night	16-Sep-07		
4	Statistics provides CBC with provisional populations of eligible voters by enumeration area	16-Sep-07	28-Oct-07	6
5	CBC prepares public information for submission period	29-Oct-07	12-Nov-07	2
6	Statutory submission period (Electoral Act, s.6(2))	13-Nov-07	12-Jan-08	9
7	Statistics provides CBC with final populations of eligible voters by enumeration area	16-Sep-07	31-Mar-08	28
8	CBC prepares and releases provisional boundaries based on final population figures		30-Apr-08	
9	Statutory objection period (Electoral Act, s.7(1)(b))	1-May-08	31-May-08	4
10	objections available for public inspection		15-Jun-08	
11	Statutory counter objection period (Electoral Act, s.7(2)(b))	16-Jun-08	7-Jul-08	3
12	CBC issues final boundaries		15-Aug-08	5

13. The imbalances in registered voters between constituencies mentioned above suggest that the CBC will need to adjust the boundaries of many Communal and Open constituencies. In the absence of population data, the extent and complexity of these changes cannot be ascertained. Nor can we judge the volume of submissions, objections and counter-objections the CBC will receive (and the periods we have allowed for steps 6 and 11 are the minimum times required by the Electoral Act). But we are confident that the use of GIS technology will allow significant time savings compared to the manual redistribution conducted in 1998. However to achieve this timeframe requires the CBC to be appointed and the office established without delay, and there needs to be early liaison between the Bureau of Statistics and the Department of Lands to ensure that the CBC is ready to begin examining changes to boundaries once the provisional population data is received. The Bureau of Statistics advised us that there are unlikely to be major changes between the provisional population figures and the final figures, so that the work the CBC is able to do based on the provisional figures will help reduce the work it has to do after it receives the final figures.
14. The Bureau of Statistics advised us that the periods we have allowed for the release of provisional populations (step 4) and final populations (step 7) could possibly be shortened by 2 weeks and 4 weeks respectively if additional resources were available. That would allow the CBC to issue final boundaries by 15 July 2008. We estimate the resources needed to achieve this result as about F\$200,000 which would allow the Bureau to employ an additional 40 clerical staff for the hand count of provisional populations and for the data entry and verification operations needed

to prepare the final populations, and to purchase the necessary computers and furniture.

15. The CBC will need a budget to carry out its functions, to cover members' salaries, a small support staff (an Executive Officer, a secretary, and an IT person), an office separate from the Electoral Office, and operating expenses. We understand the budget for the last CBC in 2005/06 was about F\$200,000 and it is likely that a similar provision will need to be made.
16. The Department of Lands uses MapInfo GIS software, which we were told was acquired with assistance from Terralink and NZAID. While we do not question the competence of the Lands staff in using this software, this will be the first time they have used it to assist the CBC with a redistribution. To reduce the risks to the timetable we have identified, we think it would be prudent if Lands staff had ongoing international technical support during this process, from those with recent experience in using MapInfo to conduct a redistribution of constituency boundaries. This could take the form of an initial assessment or scoping study to identify the work needed to ensure the mapping database is complete and able to receive the census data, followed by work in-country during critical stages of the process and on-going availability to provide guidance and respond to questions at other times. Although it is difficult for us to quantify the amount of time and budget required for this assistance, the initial assessment could require a week in-country, followed by one or two week visits at the critical stages, particularly in the earlier stages of the process. If this technical assistance is to be provided, we think the initial assessment should be carried out without delay.

## **2. Voter registration update**

17. Although a high proportion of the estimated eligible population were registered as voters for the 2006 elections, the quality of the election rolls was a major issue in observers' and consultants' reports on the elections. Public and political confidence on the quality and integrity of the register of voters is essential to a free and fair election. We have concluded that the register of voters will need to be updated before the next election to add newly qualified voters, remove deceased voters, change voters' records where they have changed addresses, and to correct errors in the current register. A major effort will need to be put into voter education and information, both in general and aimed at specific groups and areas that are under-registered. In order to reduce the risk of confusion among the public, we think the voter registration update should take place after the CBC has released the final boundaries for the new constituencies.
18. It is important that there is a major effort to clean up the registers prior to the voter registration update, including a careful examination of the existing registers to correct errors and to ensure that voters are correctly assigned to enumeration areas and to communal and open constituencies. It will be essential to the smooth reassignment of voters to the new constituencies determined by the CBC that enumeration areas codes on the voter register database are accurate and consistent with the codes used by the Bureau of Statistics and the Department of Lands.
19. The Fiji Government Information Technology Centre (ITC) maintains the register of voters database for the Electoral Office. We were told that the ITC has not

always been able to meet the needs of the Elections Office in a timely and effective manner. This has led to proposals that the Elections Office should have its own server on which to maintain the register of voters. While we understand the reasons for this proposal, we think the time it would take to implement and the risks associated with it mean it should not be attempted before the next parliamentary elections. However the ITC clearly needs to be committed to meeting the needs of the Elections Office, and we urge the time before the next election be taken to develop protocols to ensure that it does so.

20. The following table shows the timeline we have developed for the voter registration update:

<b>Step</b>	<b>Task</b>	<b>Start by</b>	<b>End by</b>	<b>duration (days)</b>
1	Quality assurance on existing voter registers		31-May-08	
2	Education materials and registration forms reviewed, prepared and printed	1-Jun-08	31-Jul-08	60
3	Training materials on registration reviewed, prepared and printed	1-Jun-08	31-Jul-08	60
4	Select NGOs for registration education campaigns	1-Jun-08	30-Jun-08	30
5	Recruit and train registration officials	1-Jul-08	31-Jul-08	30
6	Conduct public education campaigns on voter registration (including face-to-face)	23-Jul-08	21-Sep-08	60
7	Recruit and train clerks to check registration forms	15-Aug-08	31-Aug-08	16
8	Reassign registered voters to new constituencies following determination of new boundaries	16-Aug-08	31-Aug-08	15
9	Registration period	1-Sep-08	21-Sep-08	20
10	Return completed registration forms	2-Sep-08	30-Sep-08	28
11	Batching, coding and checking of registration forms	2-Sep-08	30-Sep-08	28
12	Recruit and train data inputting	15-Aug-08	31-Aug-08	16
13	Data input processing and verification	2-Sep-08	23-Sep-08	21
14	Compile and print rolls and distribute for display	24-Sep-08	31-Oct-08	37
15	Rolls displayed for public viewing	31-Oct-08	until close of roll (7 days after writ day)	
16	Receive and process objections to registration, additions and corrections	31-Oct-08		
17	Continuing education campaigns (including face-to-face), on voter registration and voting	31-Oct-08	until election completed	
18	Compile and print voter registers	after close of roll		

21. If the voter registration update period is in September 2008 (step 9), we estimate that there could be up to 80-100,000 transactions to be processed, comprising new registrations and changes to registered voters' details. We think there is little scope for reducing the processing time for that number of additions and corrections.
22. We heard many comments about the low quality of some of the voter registration enumerators in 2005, leading to errors and public perceptions that voter registration had not been conducted to appropriate standards. Improvements in the appointment and training of registration enumerators will be essential.
23. International technical support could assist the voter registration update in ensuring the voter registration database is ready, and in designing and implementing training and voter education programmes.

### 3. The election and tallying of results

24. In the current circumstances, the timetable for holding a parliamentary election would be initiated by the issue of the writs for the election. The following table shows the election timetable if the writs were issued on the day after the new electoral rolls are placed on public display, based on the maximum times set down in the Constitution and the Electoral Act.

Step	Event	No. days	Running total (days)	Indicative date
	New electoral rolls on public display			31-Oct-08
1	Issue of Writs (Constitution, s.60)	1	1	1-Nov-08
2	Petitions of Demonstrated Support (Electoral Act, s.51(3))	6	7	7-Nov-08
3	Close of Electoral Roll (Electoral Act, s.28)	1	8	8-Nov-08
4	Nomination Day (Constitution, s.61)	7	15	15-Nov-08
5	Objection Day (Electoral Act, s.54(3))	1	16	16-Nov-08
6	List of Preferences (Electoral Act, s.61(2))	7	23	23-Nov-08
7	Polling period starts (Constitution, s.62)	18	45	15-Dec-08
8	Polling period ends	7	52	22-Dec-08
9	Count starts (Electoral Act, s.110)	2	54	24-Dec-08
10	Results declared (estimated)	3	57	27-Dec-08

### 4. Conclusions

25. Appendix 3 (p. 18) shows the draft integrated timeline we have developed for the redistribution, the voter registration update, and holding the election according to the timetable in the previous table. Appendix 4 (p. 19) shows the consolidated month-by-month timeline for the three stages.
26. The timetable we have proposed shows that an election could be held in the second half of December 2008. It is obvious, however, that Fiji's climate and the imminent

holiday period mean that it is not practicable for the polling period for a general election to fall in the second half of December. Two alternative scenarios are as follows:

- a) the writs could be issued later so that the polling period is in late February or early March 2009; or
  - b) the election could be completed by the end of November 2008 if additional resources were provided to the Bureau of Statistics (see paragraph 14 above) to allow the CBC to issue final constituency boundaries one month earlier, which would in turn mean the new electoral rolls would go on public display before the end of September 2008.
27. We are also aware that elections in Fiji are normally held during school holidays so that schools can be used as polling places and counting centres and teachers can be employed as polling and counting officials. This seems to have worked well, and should be continued if possible. Although we believe that the redistribution and voter registration timetables we have outlined above are achievable, we note that planning for an election in February or March 2009 would provide some further flexibility to those timetables to allow for unexpected events.
28. The timetable we have outlined above is considerably shorter than the 36-month timetable proposed by the Interim Government of Fiji, which would schedule an election for June 2010. The difference seems to arise from the fact that our timetable shows that the census population figures can be available earlier than the Interim Government believed, and that we have proposed a number of simultaneous activities that the Interim Government's timetable assumed would be sequential.

## **SECTION TWO: PREPARATIONS FOR AN ELECTION**

### **1. Elections Office**

29. The Elections Office is currently the weakest link in the election chain. We were concerned at the low morale of the remaining staff and to be told that funding for the Office will end in July 2007, which would mean the loss of experienced and committed personnel and would be a major blow to the electoral process in Fiji. We understand the Interim Government of Fiji has advertised the position of Supervisor of Elections, and we urge the Interim Government to act without delay to ensure the continuing funding of the Office.
30. We were told that the previous government had approved a restructuring plan for the Elections Office, involving the establishment of permanent divisional offices to remove the need for the Office to rely on District Commissioners during the voter registration and election periods. We understand the reasons for the proposal, but we think it should not be implemented until after next election.
31. We think there will be a continuing need for international technical assistance to the Elections Office and the Electoral Commission, similar to that provided by Phil Whelan and Judy Birkenhead before the last elections. At the time of writing, the only surviving member of the Electoral Commission at the 2006 elections will become the chairman of the Commission, and three new members have been

appointed (one appointment has yet to be made). The Interim Government has advertised the post of Supervisor of Elections. It is crucial that the next elections show that the Commission and the Supervisor have dealt effectively with the issues that arose during the 2006 elections, and work to achieve these improvements needs to start without delay. We think international technical assistance to provide expertise, support and mentoring will be important, particularly in the light of the timeframe for the elections that we have proposed.

## **2. Election reforms and processes**

32. We were told that a number of electoral reforms were being considered by the Interim Government but we were unable to determine exactly what or in what specific areas. As stated above, however, it is our conclusion that only minimal change should be considered prior to the next election in order to avoid further confusion within both election administration and the voting public. As such, we comment on areas that we consider could be addressed with the least possible impact.

### *Electronic voting systems*

33. Reference has been made in various meetings with stakeholders regarding the introduction to Fiji of electronic voting systems. There has been little detail or elaboration on the type of system that is being proposed, however, the implication simply being that electronic systems are somehow desirable in themselves. One of the members of the assessment team has had direct experience with electronic systems for both voter registration and voting. In both cases, this involved specially designed registration forms and ballot papers and application of Optical Mark Read (OMR) technology. In these instances, forms were precisely printed, bar-coded and electronically read by high speed custom built readers (scanners), capable of processing thousands of records per hour.
34. Automatic data capture through OMR technology can help streamline operations, particularly in areas of voter registration where database structure and rolls do not already exist, and the input of registration data is expected to be extensive. This is not the case in Fiji, however, where a completely new roll was compiled before the 2006 elections, and now just needs to be updated. The task of updating those rolls manually is relatively small, particularly if the annual update and display required by section 25(2) of the Electoral Act is actually undertaken. Although improvements are needed, the process of enumerators manually completing registration forms, and the subsequent checking and transfer for centralized data entry is proven, simple, and cost effective. As such, we see little merit in considering changing any element of the voter registration process to an electronic form.
35. OMR technology can also be used for fast and secure counting of specially produced ballot papers and is applicable to multiple, simultaneous elections and some proportional election systems. It is most useful in cases of large voting populations, however, which is not the case in Fiji. Additionally, sophisticated printing processes, programming, and on-site specialist support is required for results compilation. This could add needless complication and public suspicion

regarding the integrity of results, particularly if there are difficult periods in which many results are contested.

36. We have been told that the Interim Government is exploring the possible use in future elections of Electronic Voting Machines (EVM) designed and used in India. Although the EVMs were generally successfully deployed in India's last general election, it should be noted that they were used in a simple majority, first-past-the-post, voting system. There has been no indication so far that the Voting Machines could be adapted to the more complex Fijian system of preferential alternative voting, where the voter is entitled to rank selected candidates in a sequential order of preferences.
37. Regardless of its eventual merit, we feel strongly that the use of any form of electronic voting would be better explored and tested over a longer period than is available prior to the next general election. Additionally, the voting public remains somewhat confused about the current voting system, including ballot paper design. We propose below that a comprehensive integrated voter information and education campaign should be developed and conducted earlier rather than later, which the introduction of EVMs could well preclude.

#### *Voting period*

38. We had many discussions regarding the length of the voting period and were told that the Elections Office would have proposed a three-day voting period for the 2006 elections had there been sufficient time to work out the logistics and conduct an effective public information campaign. We feel that reducing the voting period to three days is a realistic consideration which could sharpen public focus on voting, relieve staffing pressures, and reduce logistical and security challenges associated with frequently moving ballot papers and boxes. If need be, an advance poll could be organized to deal with more remote and difficult areas.

#### *Printing of ballot papers and voter registers*

39. There was considerable pressure applied to the Government Printer during the 2006 election to print both the voter registers and ballot papers within a very short timeframe which resulted in difficulties with communication, security, tracking, and timely distribution. We suggest that the tasks of printing the registers and ballot papers be split and that the printing of the voter registers be awarded to a capable commercial printer following a public tender process.

#### *Ballot paper design*

40. We encountered frequent reference to ballot paper design and the instruction to vote 'above the line or below the line'. The percentages of invalid ballots in 2006 suggest that the marking of the ballot either above the line with a single tick, or below the line by ranking preferences, was poorly understood by voters. It is our view that additional voter education regarding the voting options would do much to eliminate this confusion and that the basic ballot design should not be changed at this time. As proposed below, making a voter's clear intention the overriding consideration could do much to reduce the numbers of invalid ballots.

### *Ballot boxes*

41. Election Office staff and observers' reports have raised the issue of ballot boxes and box storage. The current boxes are old, have no secure sealing mechanism, and cannot be stacked efficiently for storage. We feel that new commonly used translucent plastic ballot boxes and uniquely numbered security seals should be introduced and suggest that the Interim Government seek a donation of boxes from the International Community. The proposed boxes are available from a number of suppliers, are relatively inexpensive, light, reusable, and stackable for easy storage. We have arranged for some sample boxes to be sent to the Forum Secretariat for forwarding to the Election Office.

### **3. Voter education and information**

42. The Election Office undertook voter education and information campaigns during the voter registration and election periods in 2005/06. In designing and implementing the campaign prior to the election, the Office engaged Tebbutt Research to survey the public's pre-election understanding of the voting process. The Office used media advertising as well as local campaigns run by NGOs contracted for the purpose.
43. In the absence of further research after the election, it is difficult to gauge the effectiveness of the various campaigns run by the Office and by NGOs. However, it is clear to us that similar campaigns will need to be undertaken for the next voter registration period and for the election. In addition to the general campaigns in the media, the comparison of census data with voter registration figures will allow targeted campaigns in areas of low registrations, probably involving face-to-face education teams. The high levels of invalid votes in 2006 in most constituencies suggest that much more needs to be done to improve voters' understanding of the electoral system and how to complete the ballot paper correctly.
44. In addition, a number of interlocutors told us there was a need for longer-term citizenship education. Some advocated that this should be part of the school curriculum, and we see considerable value in developing and implementing appropriate programmes at different levels. But we also think it is necessary for adults too, particularly (but not only) young adults who have left the school system before they turn 21 and qualify to vote.
45. A number of programmes of these types are likely to be operating in Fiji already, but we did not have the time to obtain information on them. In any case, there are many successful programmes in other countries that could be adapted to the Fijian context. We also see programmes of citizenship education and voter education and information as appropriate areas for international assistance in providing expertise and models of successful activities in other countries that can be useful models for Fiji.

### **4. Changes to election provisions**

46. Given the current situation in Fiji, we decided we would propose only those changes to electoral provisions that we consider are essential to the proper conduct of the next election. We were informed, however, that the Electoral Commission

proposed to the Government that law changes should be made before the 2006 election, but that the early election meant there was insufficient time to do so. We were not able to discover what those changes were, and there may be some overlap with the changes we propose. In any case, the Commission should re-examine the earlier proposals to see whether any would be essential to the next election. Similarly, the Commission should examine the recommendations in the reports of international observers on the 2006 elections to see whether any recommendations for changes to electoral provisions should be implemented for the next election.

47. We propose the following changes be made to electoral provisions before the next election:
  - a) The voter's clear intention must be reinstated as the overriding test of whether a vote is valid or invalid, whether or not it is marked strictly in accordance with the legal requirements. We understand that this was included in the previous election law, but for reasons that are unclear, the provision was omitted when the current law was passed. We were told that part of the reason for the very high percentage of invalid votes was that in some circumstances a vote had to be ruled invalid even if the voter's intention was clear.
  - b) It should be an offence for a party or candidate to use State resources (including, but not limited to, funds, equipment, time, transport) for campaign activities, unless authorised by law.
  - c) It should be an offence to provide a false return of disclosable donations (see below).

## **5. Funding and disclosure**

48. It is important in a democracy that political parties and election candidates are primarily responsive and accountable to the people they represent, and not to other individuals and organisations who can provide the financial and other resources parties and candidates need for election campaigns and to carry out their work between elections. In order to provide the public with information about the significant funders of parties and candidates and to promote public confidence in the political process, most modern democracies therefore require transparency in political finance, and some also limit the amounts that individuals and organisations may donate to parties and candidates. As a way of reducing the need for parties and candidates to raise funds, some countries also limit their election campaign spending. A number of countries provide State funding to parties (and sometimes candidates), in various forms. Almost all prohibit the unauthorised use of State resources for campaigning activities.
49. In general, experience in many countries shows that it is difficult to design and implement effective laws and regulations to provide adequate transparency of political finance. The problems are of two main types. First, laws requiring disclosure of donations and gifts tend to become more complex as parties and their funders identify and exploit gaps and loopholes. Second, the laws can create significant compliance costs for election administrators, parties, candidates and others, particularly as they become more complex.
50. We were told that there is a lot of suspicion in Fiji that political donations have been used in the past to influence government decisions, especially in relation to development projects and awarding of government contracts. We were also told,

however, that to date no firm evidence is available that such influence has occurred. Nevertheless, we are conscious of the benefits of transparency in party and candidate funding for public confidence in the integrity of Fiji's political process. However we also recognise that this must not impose significant burdens on parties and candidates that will prevent them from complying. Hence we propose a two stage process, as outlined below.

51. First, before the end of 2007, and after obtaining information about practice elsewhere and any advice it considers necessary, the Electoral Commission should use its power under section 164(2)(a) of the Electoral Act to issue regulations appropriate to Fiji concerning disclosure of donations to registered parties and to election candidates, and to make any necessary consequential amendments to the Electoral (Registration of Political Parties) Regulations, 1991. In outline, these regulations for disclosure of donations should cover the following matters:
  - a) the definition of 'donation', which should be wide so as to include, for example, cash, goods and services provided at less than commercial rates, and loans that are written off or provided at less than commercial rates;
  - b) the persons and bodies who are permitted to make political donations (e.g. a person who is qualified to register as a voter in Fiji, a company with a registered office in Fiji, and a society incorporated under Fiji law, provided that a company or incorporated society do not have making political donations as a sole or main purpose or activity);
  - c) the amount of a donation (e.g. any donations exceeding F\$50 or F\$100) for which a party is required to record the true name of the donor and the donor's actual place of residence if an individual, or actual street address if a company or incorporated society;
  - d) the amount of a 'disclosable donation' to a party, for example any donation or series of donations amounting to more than F\$1,000;
  - e) when the party secretary must provide the Electoral Commission with a return of disclosable donations and the periods covered by those returns, e.g. an annual return by a specified date covering the previous calendar year, a return within 5 days after the writs have been issued for a general election covering the period since the beginning of the calendar year, and a return during the election period covering the period since the beginning of the calendar year;
  - f) what information must be included in a return of disclosable donations, e.g. the true name and address of each donor and the total amount of the donation;
  - g) the sanction if a party secretary fails to provide a return of donations by the due date, e.g. the Electoral Commission could issue a notice of deregistration of the party (this would require the Commission to amend regulation 15 of the Electoral (Registration of Political Parties) Regulations, 1991);
  - h) the requirement for election candidates to disclose significant donations, e.g. on nomination as a candidate and during the election period if the disclosure threshold is reached;
  - i) the time within which the Commission must make all returns of donations available for public inspection, and the locations where the returns must be available.
  
52. We propose that the requirements outlined in the previous paragraph should be regarded as an interim solution that can be put in place before the next election is held according the timetable we have proposed. The Electoral Commission will need to issue the regulation, establish the procedures and forms needed to operate

it, and educate political parties about their obligations. The second stage should take place after that election. The Electoral Commission should then, in consultation with parties and other stakeholders, review the operation of the disclosure regulation and amend it as necessary. The Commission should also consider whether any further regulation is needed covering election spending by parties and candidates.

### **SECTION THREE: CONCLUSIONS**

53. We believe that an election in February or March 2009 is certainly achievable from a technical point of view, although it is also possible that an election could be completed by the end of November 2008 if additional resources were made available to the Bureau of Statistics. In either case, the period from now until then provides an opportunity to correct the current mal-distribution of constituencies following the census, to deal with the issues of the voter register that emerged in 2005/06 and update the register, to design and implement voter education and information programs, and to ensure that the Elections Office has systems in place that avoid the issues that occurred in 2006. Irrespective of the final timetable that is adopted, international technical assistance to Fiji's electoral process must continue.

### **ACKNOWLEDGEMENTS**

54. We are grateful to all those who provided us with information and opinions relating to our assessment. We also thank the Secretary-General and staff of the Pacific Islands Forum Secretariat for facilitating our work, particularly Angela Thomas and Valda Hoerder for their efficient management of our programme.
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## Appendix 1

### **PACIFIC ISLANDS FORUM - FIJI JOINT WORKING GROUP ON THE SITUATION IN FIJI**

#### **TERMS OF REFERENCE INDEPENDENT TECHNICAL ASSESSMENT OF ELECTION TIMETABLE FOR FIJI**

At their meeting in Port Vila on 16 March 2007, Forum Foreign Affairs Ministers discussed the appropriate timing for a return to parliamentary government in Fiji. Fiji's interim government outlined a 36-month time frame to a national election, but indicated its willingness to give consideration to a new timeline as long as it was pragmatic and allowed solid foundations to be laid for sustainable democracy. Forum Foreign Affairs Ministers noted Fiji's position with regard to the necessity for a census and redistribution of boundaries prior to a new election, while endorsing the recommendation of the Forum Eminent Person's Group that the election should be held within two years, if not sooner.

2. At its first meeting on 5 April 2007, the Forum Joint Working Group on Fiji agreed that in order to move forward on the issue of finding a time frame acceptable to the Forum including Fiji, an independent assessment should be undertaken of the minimum reasonable time required to prepare for and conduct the next parliamentary elections in Fiji, under conditions that would ensure such elections were free, fair and credible. Such a study should also consider the resources required for the process and the external assistance that might be necessary to ensure the timetable can be met.

3. The Terms of Reference for the Study are as follows:

- (a) Assess whether an election can be held based on the current boundaries and register, or whether some or all of the steps of a census, redistribution and new register need to be taken;
- (b) Bearing in mind the views expressed by Ministers, assess the timeframe in which Fiji could conduct:
  - a national census;
  - a revision of the electoral boundaries drawing on new population information drawn from the census;
  - preparations for a national election including the finalisation of a credible register of voters, and appropriate information / education activities; and
  - the election and tallying of results;
- (c) Assess the need for the introduction of new electoral provisions and processes, including in relation to funding and disclosure, to ensure a fair election process;
- (d) Consider the resources available at present in Fiji to undertake these tasks and assess the additional resourcing that would be needed to complete them in the minimum practicable time;
- (e) Prepare a report of findings on the above issues. The report should include an Executive Summary setting out in brief the independent assessment of the election timetable and the associated resource needs;

- (f) Attend the meeting of the Working Group immediately following completion of the report, to present the findings and discuss them with members.
4. In conducting the Study, the independent expert/s shall:
- Examine Fiji's constitution and relevant laws to assess the legal requirements for conducting a census, boundary review, voter registration process and election in Fiji;
  - Examine other relevant documents including the Forum Eminent Persons' Group report of February 2007, the 16 March submission from Fiji to Forum Foreign Affairs Ministers, the reports of international observer groups on the conduct of the 2006 Fiji elections, and any other relevant materials available;
  - Consult relevant parties including representatives of Fiji's interim government, census, boundaries and electoral authorities, academics and any others who may be in a position to offer relevant expert advice on census and election timing for Fiji;
  - Consider and draw as appropriate on comparable regional and international experiences in relation to post-crisis election preparations.
5. The Working Group further agreed on the following:
- The Forum Secretariat will arrange the study, seek funding and provide the necessary administrative support for it;
  - The study will be undertaken by one or more international independent experts in census and electoral matters, to be selected by the Working Group from a short-list provided by the Secretariat;
  - The Study will commence by the beginning of May 2007 and will present its findings to the Working Group no later than mid-June 2007.

Forum Secretariat, Suva  
13 April 2007

## **Appendix 2: List of persons consulted**

### *Meetings in Suva:*

HE Peter Eafeare, PNG High Commissioner to Fiji and Chair of the Forum-Fiji Joint Working Group on the Situation in Fiji, with Greg Urwin, Forum Secretary-General and Secretariat staff

Semesa Karavaki, Supervisor of Elections, 2006 parliamentary elections

Parmesh Chand, Secretary to the Interim Prime Minister

Subra Mani, Deputy Government Statistician and Census Staff

Aiyaz Sayed Khaiyum, Interim Minister of Justice and Attorney-General

Graham Leung, former Chairman of the Electoral Commission

Members of the Forum-Fiji Joint Working Group on the Situation in Fiji

Kemueli Masikerei, Acting Permanent Secretary, Ministry of Lands and Mineral Resources

M. K. Sahu Khan, Electoral Commissioner  
Acting Assistant Manager, ITC and staff

Jon Apted, former Supervisor of Elections

Vilikesa Nareki, Government Printer

Fatiaki Misau, former Electoral Commissioner

Jone Vakamocea, Minister for Local Government, Urban Development & Public Utilities and Acting Minister of Finance, together with Peceli Vocea, Permanent Secretary, Ministry of Finance

Chair and Board members, Transparency International

Staff of the Elections Office

Roberto Ridolfi, Head of EU Delegation together with HE Jean-François Bouffandeau (Ambassador of France), HE Roger Sykes (British High Commissioner) and EU Delegation staff

Emelita Wilson, former Electoral Commissioner

HE James Batley, High Commissioner of Australia and staff, together with HE Michael Green, High Commissioner of New Zealand and staff

Professor Vijay Naidu, former member of the Constituency Boundaries Commission

Inoke Devo, Commissioner, Central Division

Walter Rigamoto, former Supervisor of Elections

Brian Siler, First Secretary, US Embassy

### *By teleconference:*

Judy Birkenhead (Australian Electoral Commission)

Phil Whelan (Election Management Consultant)

The Technical Assessment Team also received a written submission from the Citizens Constitutional Forum.

### Appendix 3: Fiji Elections Draft Integrated Timeline

No.	Period	Activity/Event	Comment
1	July - Aug 07	Establish CBC	8 weeks
2	Sept 1 - 30	Appoint staff, establish office, prepare process; liaise with Stats & Lands	4 weeks
3	<b>Sept 16</b>	<b>Census Night</b>	
4	Sept 16 - Oct 28	Bureau of Statistics provides CBC with provisional eligible voter populations by enumeration area	6 weeks
5	Oct 29 – Nov 12	CBC prepares public information for submission period	2 weeks
6	Nov 13 – Jan 12 08	Submission Period (Sec 6 (2) Electoral Act)	60 days
7	Mar 31	Bureau of Statistics provides CBC with final eligible populations by enumeration area	28 weeks
8	Nov 1 - Apr 30	CBC prepares and releases provisional boundaries	26 weeks
9	May 1 - 31	Objection Period	4 weeks
10	Jun 1 - Jun 15	Analysis and publication of objections	2 weeks
11	Jun 16 - Jul 7	Counter objections (Sec 7(2)(b) Electoral Act)	3 weeks
12	Jul 8 - Aug 15	CBC issues final boundaries	5 weeks

#### 2. Voter Registration

No.	Period	Activity/Event	Comment
1	To May 31 08	Quality assurance & verification of existing voter list	
2	Jun - July	Review, preparation and printing of Registration Forms and Voter Education materials	8 weeks
3	Jun - July	Review, preparation and printing of Training Materials	8 weeks
4	Jun	Select NGOs for registration education campaigns	4 weeks
5	July	Selection and training of Registration Officials, Enumerators, Supervisors, RO's & Assn't RO's	4 weeks
6	Jul 23 - Sep 21	Public Education on Voter registration	9 weeks
7	Aug 15 - 31	Recruitment and training of staff to verify returned registration forms	2 weeks
8	Aug 16 - 31	Reassign voters to new constituencies following new boundary determination	2 weeks
9	<b>Sept 1 - 21</b>	<b>Voter Registration Period</b>	3 weeks
10	Sept 2 - 30	Return of Completed Registration Forms	4 weeks
11	Sept 2 - 30	Batching, Coding & Checking of Registration Forms	4 weeks
12	Aug 15-31	Recruitment and training of staff for registration data entry	2 weeks
13	Sept 2 - 23	Registration Data Verification & Input Processing (capacity 6,000 records/day)	3 weeks
14	Sept 24 - Oct 31	Compile & print Electoral Roll and distribute for public display	5 weeks
15	start Oct 31	Public Display of Electoral Roll	Open
16	<b>Nov 1, 08</b>	<b>First Possible 'Writ Day'</b>	
17	start Oct 31	Objections & corrections of roll: decisions on objections within 14 days	Until close of roll (7 days after Writ Day)
18	open	Continuing voter education on registration and voting	Until the election
19	open	Compilation and printing of voter registers	After close of roll

#### 3. Election

No.	Period	Activity/Event	Comment
1	Day 1	Issue of Writs for Election	s. 60 Constitution
2	Day 4	Petitions of Demonstrated Support (ten days prior to Nomination Day)	s.51(3) Electoral Act
3	Day 8	Close of Electoral Roll (7 days following Writ Day)	s.28 Electoral Act
4	Day 15	Nomination Day (14 days following Writ Day)	s.61 Constitution
5	Day 16	Objection Day (1 day following Nomination Day)	s.54(3) Electoral Act
6	Day 23	List of Preferences (7 days following close of Nominations)	s.61(2) Electoral Act
7	Day 45	Start of Polling (not later than 30 days following close of nominations )	s.62 Constitution
8	Day 52	End of Polling (7 day period)	period not defined
9	Day 54	Start of Count (Section 110 & 114 Electoral Act)	period not defined
10	Day 57	End of Count (approx. 3 days)	period not defined

Note: 1. The election period is a maximum of 57 days with the Polling and Counting periods being variable.  
2. Earliest Writ Day is 1 November, 2008.

#### Appendix 4: Election timeline by month

(tasks are to be completed by the end of the month, unless another date is shown)

	2007						2008												
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
<b>Revise constituency boundaries</b>																			
establish CBC	•	•																	
appoint CBC staff; establish office; prepare for boundary process; liaise with Statistics, Lands			•																
census night			16																
Statistics provides CBC with provisional populations of eligible voters by enumeration area				28															
CBC prepares public information for submission period					12														
Statutory submission period (Electoral Act, s.6(2))					13	•	12												
Statistics provides CBC with final populations of eligible voters by enumeration area									•										
CBC prepares and releases provisional boundaries based on final population figures										•									
Statutory objection period (Electoral Act, s.7(1)(b))												•							
objections available for public inspection													15						
Statutory counter objection period (Electoral Act, s.7(2)(b))													7						
CBC issues final boundaries														15					
<b>Voter registration update</b>																			
Quality assurance on existing voter registers	•	•	•	•	•	•	•	•	•	•	•								
Education materials and registration forms reviewed, prepared and printed													•	•					
Training materials on registration reviewed, prepared and printed													•	•					
Select NGOs for registration education campaigns													•						
Recruit and train registration officials													•						
Public education on voter registration													23	•	21				
Recruit and train clerks to check registration forms														•					
Reassign registered voters to new constituencies following determination of new boundaries														•					
Registration period (3 weeks)															21				
Return completed registration forms															•				

	2007						2008											
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Batching, coding and checking of registration forms															•			
Recruit and train data inputting														•				
Data input processing and verification															23			
Compile and print rolls and distribute for display																•		
Earliest possible Writ Day																	1	
Rolls displayed for public viewing (until close of roll)																	8	
Receive and process objections to registration, additions and corrections until close of roll																	8	
Continuing educational campaign (including face-to-face) on registration and voting until the election																	•	•
Compile and print voter registers after close of roll																	•	
<b>Election timetable</b>																		
Issue of Writs																	1	
Petitions of Demonstrated Support																	7	
Close of Electoral Roll																	8	
Nomination Day																	15	
Objection Day																	16	
List of Preferences																	23	
Polling period starts																		15
Polling period ends																		22
Count starts																		24
Results declared (estimated)																		27