

SOCIAL DEMOCRATIC LIBERAL PARTY

SUBMISSION TO THE PARLIAMENTARY STANDING COMMITTEE ON LAW JUSTICE AND HUMAN RIGHTS ON MOG AND ELECTORAL COMMISSION REPORTS ON GENERAL ELECTIONS 2014

Presented By:

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PARTY LEADER

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INTRODUCTION

1. Fiji has had eleven General Elections in the 46 years since Independence in 1970. Out of those eleven General Elections, only five of the governments elected have had full Parliamentary Terms of five years. Those eleven elections were held under four totally different Constitutions.
2. The four different constitutions all had their fair shares of champions and critics, but each of them brought the majority of Fiji's citizens eligible to vote to vote for their choice of persons or political parties they believed could lead them towards a better future.
3. The 2014 General Elections were the first one held in Fiji under scrutiny by a Multinational Observer Group (MOG). How much of the machinery of the elections and its pre-polling and post-polling administration were scrutinized cannot be ascertained, however, the recommendations by the MOG should be objectively considered and not taken only as allegations.
4. Because the international community, in the interest of transparent accountability, has increasingly demanded and expected nations to adhere to universal high values and standards, it is important that Fiji takes seriously the findings and recommendations of MOG.
5. As Fiji moves forward, it is the prayer of the Fiji Social Democratic Liberal Party that the country and its citizens will find a workable electoral process that will ensure that the genuine will of the people will give them a group of citizens to rule the affairs of their nation with sincerity, honesty and compassion.

MOG FINDINGS AND SODELPA COMMENTS

6. SODELPA, while agreeing that the outcome of the 2014 broadly represents the will of the people, it has reservations that the will was freely expressed without fear and possibly for favor. The high profile presence of military and police presence in the Polling Stations and its vicinity brought fear to the minds of some voters whose memory of security forces personnel

brutality against some members of the public, some resulting in death, were still vivid. In Fiji where locality news in national news which impacts most because of the close knit and strong communal ties we have, the fears felt by a locality community is felt by all members of that community nationwide. The fear is not confined to the fear of physical harm; it also embraces the fear for the loss of freedom – arrest, imprisonment, employment, capital etc. It will take some time for the nation to return to normality, before it can truly claim to be having free and fair elections as the pillar of its democracy.

7. While MOG considered that the number of candidates demonstrated a ***'strong interest in contesting the elections'*** it also showed a poor understanding of the elections provisions in particular and politics in general. For as many as seven political parties to form, register and campaign – six virtually against the party of the incumbent government, it can be attributed to limited time to objectively consider the options available to those who opposed the governing group – for whatever reasons, because of the limited media freedom and the extended period of 'perceived' instability necessitating the ever extending of the State of Emergency restrictions on public meetings, and the use of the media, particularly the harsh control measures on those media and persons speaking out against government leaders and establishments. While the MOG found that ***'in general the political parties were able to mobilize and candidates were free to campaign.....(and) the campaign period was peaceful.'***, SODELPA workers and candidates found the atmosphere repressive and foreboding.
8. MOG found that ***'Civil society participation in the electoral process was unduly restricted.....because of Section 115 of the Electoral Decree 2014'***. SODELPA agrees that this was a case of selective favor applied on a usually people-friendly group of organizations that governments give credit to when it suits them. In times of national disasters and post-disaster mitigations, these same Civil societies selflessly assist governments get to the people with remedies for their needs. In the case of the 2014 General Elections, and in the restrictions placed on participants preventing them from being able to project a proper image of their abilities to be an alternative to the incumbent group that had enjoyed high media profile and a financially well supported party machinery, the civil society would have been a perfect solution to the proper dissemination of public information to the many voters who have restricted access to such information. The same freedom given to Universities under Section 115 (4) would be a good guide for the future participation of Civil Societies in future elections.
9. While the Observers of MOG found the media co-operating to inform the public about this very important event, they 'qualified' their findings with the observation that the 'fourth estate' (the media) operated under very restrictive framework, ***'including very harsh maximum penalties'*** which limited the media's ability to critically examine concerns expressed by candidates and political parties. At best, in Accounting terms, this finding forms a very damning 'qualification to the General Elections by an independent auditor.'

10. The limiting effect of Section 115 (1) of the Electoral Decree 2014, and in the case of voter education and awareness highlighted in paragraph 8, particularly of this subsection had grave adverse effects on the parties contesting against the Fiji First Party. The Civil Societies could have been allowed the same liberty given to universities in Section 115 (4) with the same conditions, and would have afforded more of the voters a better understanding of the system and their rights and also the restrictions on certain conducts and activities.
11. All parties must have welcomed the presence of Policemen/women, but most also did not see a need as no one anticipated any criminal interference in the elections process.
12. The Observers found that in spite of the work done by the Fiji Elections Office and the Electoral Commission, many in the rural areas still did not get enough essential voter information.
13. They also found that the counting process, while quite onerous, *appeared* well organized and thorough. What was not observed was the transportation and transfer of numbers and information by telephonic and electronic means and mode.
14. The MOG finding on voter registration, pre-polling and postal voting problems were also obvious and visible to many party workers and observers. The changes made on pre-announced dates for which many had made allowances to accommodate such events as the Methodist Church Conference necessitating travels from islands and rural areas to Suva, caused irreparable damages as some could not cast their votes, having missed their pre-polling dates and venues and not being able to cast their votes where they had travelled to.
15. The Observers noted that the election '*was conducted in an atmosphere of calm, with an absence of electoral misconduct or evident intimidation.*' They did not say that there was no intimidation.
16. There might have been a feeling of *fait accompli* prevailing upon the voters of Fiji, and none expected anything to change when the incumbent party's General Secretary was also the Minister for Elections and the principal legal officer in the country, thus the absence of any legal challenges to the Court of Disputed Returns.

CONCLUSION

17. While SODELPA accepts that General Elections 2014 were not perfect and could have been regulated and run much better than it was, it had the same settings as the ones run in 1972, 1992 and now 2014 – twenty and twenty two years apart respectively – on new constitutions, new electoral provisions and new political landscapes, but they all allowed the voters of Fiji to elect their representatives into Parliament, where they were and are expected to make things

better by enacting laws that would make elections better and life better for the people of Fiji of the future.

Major-General (Retd) Sitiveni Ligamamada Rabuka, OBE, MSD, OStJ

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GENERAL ELECTION 2014

Observations and Recommendations

1.0 Introduction

1.1 This supplementary Report supports the Social Democratic Liberal Party Submission made by the Party Leader, Major General Sitiveni Ligamamada Rabuka, to the Standing Committee on Law, Justice and Human Rights on the 2014 General Election Reports namely:

1. 2014 Fijian Elections Final Report of the Multinational Observer Group, hereinafter Report 1,
2. 2014 General Election – Joint Report by the Electoral Commission & the Supervisor of Elections to His Excellency Ratu Epeli Nailatikau the President of the Republic of Fiji & the Parliament of the Republic of Fiji, hereinafter Report 2,
3. The Fijian Electoral Commission Annual Report 2014, hereinafter Report 3.

1.2 The purpose of the Report is to highlight two critical processes that were adopted for the 2014 General Elections and which were commented on in the Reports highlighted above. We also make recommendations on how the identified shortcomings can be addressed to ensure that future General Elections are conducted in a fair and equitable manner and in the interest of good governance, transparency and accountability to bring about results that assures the integrity of a fair and transparent election process for the sake of the people of our beloved Fiji.

2.0 The Undertaking for a Single Day Polling

2.1 The Government's press release (Minister for Elections and Attorney General) for a single day poll on January 23, 2014¹ for Fiji's 2014 General Elections received mixed reactions from the wider public. It promised a lot of things in terms transparency in the process, it promised to encourage voter turnout and keep Elections' cost to a minimum.²

¹ Government Press Release...Single Day Poll from AG & Min. for Elections, January 23, 2014

² Ibid

3.0 SODELPA's view on the path to the September 17 General Elections

3.1 We briefly raise the findings of the Party during the preparations stage to the Elections and Counting to enlighten the Committee.

3.2 Pre-poll

3.2.1 Although it is within the powers of the Electoral Commission to give notice of the pre polling date after the closure of nominations⁶, we submit that our voters in the selected pre-polling stations were ill-informed of the change from the Single Day Polling on 17th September to their new day of polling that was published in print media. These placed the voters in villagers and settlements in a most disadvantage position.

3.2.2 The identified venues for pre polling that were incorporated in the Decree and gazetted on 25 August, 2014 were areas with a low number of voters or in remote areas. Provincial Administrators, Roko Tui conducted these awareness programs.

3.2.3 Mr. Chairperson, most of our members in the maritime areas had by then left their villages for the mainland to attend the Annual Methodist Church Conference, some voters left the islands to be with their children for the Annual Primary School Milo Kaji Tournament and the Annual Scout Jamboree. Even some villagers in mainland Vitilevu had left their families and villages to harvest canes and had made their own arrangements to return to their villages on 17th September, 2014, the original date for the Single Poll Day. Our voters in mainland Vitilevu were also affected.

3.2.4 To have a two-week window to conduct the awareness on Pre Polling and at a time when major events were taking place was totally unjust and irresponsible. To make matters worse, even as registered voters, they were entitled to vote only at the polling station to which they were assigned to.⁷ Additional confusion and frustration were faced by those whose names were not located in the Voter Registration and instead advised that they to travel some long distance and vote at the Polling Station where their registration were located.

3.2.5 Mr. Chairperson and Honourable members, the two weeks of Awareness for Pre Polling had caused undue pressure to the voters.

⁶ Electoral Decree 2014. (No.11 of 2014) Section 82 (3) pp. 256

⁷ Section 50.-(1)

2. To carry out awareness on pre-polling Stations to all people affected and this is of utmost importance;
3. To develop a timely training timelines for Polling Day staff;
4. Have separate logistics support and overheads for the Maritime, Highlands and the isolated coastal villages and closer islands
5. There should be some consideration for the Events that are usually staged during the selected pre polling period to enable the organisers of the events as well as the voters who will vote under the Pre Polling arrangements to plan their events and movements well in advance.

3.2.10 Mr. Chairperson and Honourable Members please allow us to enlighten yourselves on the Polling day [17th September] and how we the SODELPA party progressed and monitored the processes from Polling up to Counting.

3.3 Polling Day – 17 September, 2014

3.3.1 Like any other Party, SODELPA had also mobilised and prepared its volunteers, party members and youth groups to be party agents to the respective areas they resided. This exercise was left in the capable hands of campaign managers, party members in the locality of every Polling Station and candidates themselves.

3.3.2 SODELPA also had a volunteer youth group that was trained to co-ordinate with the Party agents in all polling stations around the country. Their task was to upload all the Protocol of Results relayed from the party agents after all their vote count.

3.3.3 The understanding was that all announcements will be made at the Polling venues and stations as earlier alluded to by the Minister of Elections, Aiyaz Sayed Khaiyum and it was a matter of cross checking on our actual votes.⁹

3.4 Counting Proper

3.4.1 All our party agents adhered to all the rules however it became an issue of concern when all party agents in some of the Polling Stations were told to vacate the voting area at the closure of voting at 6pm. Counting took a break for an hour before they were called back in.

⁹ Government Press Release January 23, 2014

stations from RMiS in their family TVs, and we at SODELPA just could not track where all these 'counts' came from. Only RMiS knew where it came from.

3.4.9 Mr. Chairperson, the process of counting as we have outlined today was not fully provided to the Political Parties.

3.4.10 SODELPA Candidate Vane Seruvakula (277) was the victim of RMiS. She had amassed 5669 votes behind Bainimarama in the top five candidates before everyone received bulk counted results. Vane Seruvakula later totaled 1701 in final results presented in the Supervisor of Elections Report¹³.

Recommendations:

1. That the whole process of counting of votes, movement of counting results, the transport of ballot papers and the provision of security over these vehicles need to be thoroughly reviewed and changes put in to address the situation that we have highlighted today;

2. That it is of utmost importance that an independent Audit comprising of experts nominated from every political party are to carry out the RMiS application that was used by the Fijian Elections Office:

i) to capture the data contained in the Protocol of Results, and

ii) consolidated these results into the National Results Tally for progressive display of results;

iii) the RMiS also provided the consolidated results to the Supervisor of Elections and the Electoral Commission to prepare the Final National Results Tally.

3. That a well-defined process be put into place to ensure the integrity of the software, the counting equipment including any equipment associated with the counting of Voting Results, before such Software is utilized in any Election, whether it be Municipality or the National Elections in Fiji.

¹² Pacific Scoop – Fiji's Back to Democracy General Election

¹³ Final report by the Supervisor of Elections

FLOW CHART OF BALLOT PAPER TRAIL

