

THE ELECTORAL COMMISSION

REPUBLIC OF FIJI

59 - 63 High Street, Toorak, Suva. P. O. Box 2528, Government Buildings, Suva.
Phone: +679 331 0255 Fax: +679 331 9513 Website: www.feo.org.fj

Statement by the Chairperson of the Electoral Commission

Mr Suresh Chandra

to the Parliamentary Standing Committee on Justice, Law and Human Rights

2:00pm, 26 June, 2017

Parliament Complex, Suva

Bula Vinaka Chairman and Members of this august Committee.

I am Suresh Chandra, Chairperson of the Electoral Commission and I would like to introduce my Commission:

1. Mr. Grahame Southwick
2. Ms. Kavita Raniga
3. Ratu Paula Halaiwalu
4. Mr. Simione Naiduki
5. Ms. Margot Jenkins
6. Mr. Jay Lal

On behalf of the Electoral Commission, I would like to express sincere gratitude to the Committee for allowing us this opportunity to present the Commission's views on the 2014 Annual Report by the previous Electoral Commission as well as the report of the Multi-National Observer Group[MOG].

The Commission would like to add that it received a joint submission from National Federation Party, Social Democratic Liberal Party, Fiji United Freedom Party, Fiji Labour Party and Peoples Democratic Party in which these parties attempted to make further

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submissions on the Report. We studied that submission and further invited the 5 Political Parties to make oral submissions to the whole Commission on 16 June, 2017.

We will address 3 main issues in our submission to the Committee:

1. Allegations of Irregularities in the 2014 General Election

Following our appointment, we were approached by the 5 Political Parties through correspondence with allegations of irregularities in the 2014 General Election. The Electoral Commission invited the Parties to submit evidence to this Commission without delay to allow us to ascertain the accuracy of those allegations.

The Commission also extended a final opportunity to all the above 5 Parties to submit the purported evidence of irregularities in the 2014 General Election, which we believed that they had had more than adequate time to compile.

The Commission found that these parties have failed to cite any evidence of the purported irregularities. They failed to furnish any evidence to the previous Electoral Commission and similarly, failed to furnish any material of substance for us to consider as well. We cannot drag this any further.

In light of this, we firmly believe that these claims and stories about irregularities during the 2014 General Election are without merit or substance. The Commission members are firm in the view that both this Commission and the previous Commission have spent considerable time and energy in this futile exercise.

We have also concluded that since these Parties have failed to provide any evidence, all their allegations from 2014 lack merits and are falsely designed only serve to undermine the public's faith in the electoral process, which we are committed to strengthen and uphold.

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2. Recommendations by the Multi-National Observer Group on the 2014 General Election.

My Commission recognizes that we are an independent institution and, therefore, we have chosen to take our own views on various recommendations by the Multinational Observer Group Report on the 2014 General Election.

Firstly, I would like to thank the MOG for its report as a baseline for our work towards the 2018 General Election. I would like to state that MOG had ensured that it was present at core aspects of the electoral process and that it carried out the observation process with critical precision. This is clearly reflected in its report.

The findings of MOG are as they are. They have made assessments that they believed were necessary, and we, the Commission who will handle the next General Election have evaluated these assessments comprehensively. In summary, there are 38 recommendations of the MOG. The Electoral Commission and the Fijian Elections Office have accepted the following recommendations some of which were actioned by Parliament already:

1. The Amendment to the Electoral Act in February 2017 has clarified the role of the SoE and the Commission. It has established that both organizations have to work together to deliver the election. The SoE is bound by all decisions of the Electoral Commission. –MOG Recommendation number 7.
2. The Electoral Commission will publish a calendar of events and key dates for the next General Election. –MOG Recommendation Number 10.
3. The Public Order Act 2012 has been amended by Parliament to allow Political Parties to conduct meetings without the need for permits. –MOG Recommendation number 11.

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4. The Amendment to the Electoral Act in February 2017 has clarified that Political Party Agents and Observers can take materials approved by the SoE inside the Polling station. –MOG Recommendations numbered 13 and 32.
5. The Electoral Commission will publish a Handbook for Polling Agents and the Media. The handbook will explain the roles, responsibilities and restrictions for Polling agents and observers. It also gives guidance to Agents and Observers on how to deal with particular issues in the Polling Place. It is anticipated that the Political Parties can use this handbook to develop their Polling Agent operations procedures. –MOG Recommendations Numbered 14, 15 and 16.
6. The Parliament has amended the Electoral Act in February this year to allow the SoE to distribute postal ballots by the best practical means. This should allow voters in rural areas to receive the ballots well in time. The MOG recommendation number 21 is therefore accepted, but we have developed an alternative solution.
7. The printing and display of the National Register of Voters is now an annual exercise, and to enhance the sense of citizen ownership of the Register, the Electoral Commission has approved rules that will allow a voter to object to the registration of another voter. We believe that this will promote greater involvement of Fijians in the electoral process. Each registered political party was given a copy of the Register free of charge. –MOG Recommendation Number 22.
8. The awareness and outreach programs from the FEO will intensify as we approach the 2018 General Election. The FEO already has an awareness session built into the registration drive, but a more formal and direct face-face awareness program will be undertaken from 15 January to 15 April 2018. A Publications Guideline has been established to ensure that all voters have access to necessary basic

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information about the election and the process of voting. –MOG Recommendation 23.

9. The FEO has advertised globally and secured the services of Ms. Yvonne Gouldie, an electoral expert, to develop the Secondary School Electoral Awareness Curriculum. It is anticipated that the Curriculum will be ready for implementation in schools by next year at the latest. –MOG Recommendation 24.
10. In March 2018, a call centre will be established to assist voters with election queries. This call centre will action queries on the ‘check your polling venue sms and online platform.’ –MOG Recommendation 25.
11. The FEO launched its first edition of the Fiji National Polling Venues Directories in March 2017. The purpose of the directories is to allow Fijians to locate and learn details about individual polling venues. This directory was developed after thorough consultation with various agencies. An online version of this directory is also available. MOG Recommendation 30.
12. Having established those areas where pre-polling will take place, it will now be much easier for the FEO to inform voters in these areas about the exact timing for pre-poll in the polling places. –MOG Recommendation 31.
13. An important part of the Polling Agents handbook is a detailed explanation of the process for voting, counting and results transmission. A diagram is also included that explains the process on polling day. –MOG Recommendation 34.
14. The training of election officials will be conducted in phases for 2018. There will be a refresher programme organized following the announcement of election dates. With elections more than a year away, the FEO can ensure that recruitment is done early to allow for sufficient time to train the officials. A new administrative

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layer has been introduced in the FEO Organization Structure so that there is a more efficient communications channel. –MOG Recommendation 35.

15. The counting process has been adjusted to allow staff greater convenience in undertaking this important role. The Commission has once again limited the total number of voters to 500, which will mean that those staff who are doing counting will not be overburdened. The Reconciliation Book and the Protocol of Results books have been modified to allow ease of use. –MOG Recommendation Number 36.

16. The training manuals have been prepared keeping in mind that observers and agents must be allowed to remain inside the polling station throughout the whole process. Special emphasis has been placed on ensuring that this is conveyed to election officials during training. The Polling Agents Handbook by the FEO also makes specific reference to this. –MOG Recommendation number 37.

The Electoral Commission invites the Committee to note that 19 of the 38 recommendations have been accepted and acted upon in some progressive manner so far. The Electoral Commission also has decided that it will reject the following recommendations:

1. Recommendation 33: The Polling process in Fiji is one of the simplest in the world and it will not be changed for the next General Election.
2. Recommendation 28: We have noted from file records that all reasons for rejection of applications under s115 were properly given, and therefore MOG has made an inaccurate observation in this recommendation.

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3. Recommendation 4: To maintain consistency and to maintain simplicity, the recommendation to have more than 1 form of the National Candidates List is rejected.
4. Recommendation 5 & 18: The Electoral Commission notes that the Courts will apply penalties proportionately based on the aggravating factors as well as mitigating factors. The Electoral Commission has noted that in the case of *State v Matairavula*, the High Court has upheld a term of 2-year imprisonment for a charge of impersonating an election official. The Electoral Act prescribed that the maximum penalty for this offence was 10 years or \$50,000 or both. Therefore, the Commission maintains that the Judiciary will exercise the powers of sentencing based on judicial principles, so this recommendation is rejected.
5. Recommendation 8: The Electoral Commission notes that despite Fiji being a single constituency, it is necessary that Political Parties have national reach and approach in terms of their formation and policy. This will ensure that there is a balanced policy-making approach. There are already 7 Parties that have registered successfully, and 1 application is currently being processed. Therefore, this recommendation is rejected.
6. Recommendation 12: The Electoral Commission believes that this time around parties will be more prepared to campaign with their numbers. It is unreasonable to have a very lengthy *post writ* period. Therefore, this recommendation is rejected.
7. Recommendation 19 and 20: MIDA is a statutory body, and the High Court has oversight of the activities of MIDA. Therefore, no further changes are required in this framework.

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8. Recommendation 29: The Electoral Commission believes that it is unnecessary to make semantic changes to the electoral system from one election to the next. We prefer to maintain consistency in the electoral process so that voters can become more confident about the system.

The Electoral Commission does not have jurisdiction in dealing with the following recommendations as it requires the Parliament to consider and decide upon, and prefers that the Parliament deal with them at its discretion:

Recommendations 1, 2, 3, 6, 9, 17, 26, 27, 38.

In summary, the Commission has accepted and actioned 19 of the 38 MOG recommendations. It does not have any jurisdiction in 9 recommendations and has decided to reject 10 recommendations.

3. 2014 Annual Report of the Previous Electoral Commission

I will now turn to the 2014 Annual Report by the previous Electoral Commission. I would like to begin by acknowledging the challenging task undertaken by my predecessor and his team. We noted how it was recorded that there were difficulties faced by the previous commission in terms of legal expertise, technical expertise and general staffing.

My Commission would like to put on record that following the clarification of the law in February, the entire Fijian Elections Office is reporting to the Electoral Commission through the Supervisor of Elections. We have adopted a businesslike approach to the day-to-day running of the Electoral Commission. Our meetings have proper minutes recorded by the secretariat, and our decisions are published as per our guidelines to the secretariat. The SoE has boosted the secretariat support to the EC with skilled and qualified staff recruited based on an open merit process. We have found that the FEO ensures that all our meeting necessities and other expenses are managed according to our directives.

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We would also like to state our view that the Supervisor of Elections, Mr. Saneem, has proven that despite the short timeframe in 2014, under his leadership and with the hard work of his team, it is possible to conduct a one-day election for the first time based on a completely new system and completely new set of staff, and achieve success and international acclaim in the process. Mr. Saneem very ably handled all aspects of the election relatively well and quickly became an electoral expert, if I may say so, for FIJI.

Post 2014, Mr. Saneem has led the FEO to become a regional leader in terms of developing election best practices as well as a resource person for regional and international election forums. In a short time, the FEO has achieved some major advancements, all directed at improving the delivery of elections, enhancing general voter comfort and strengthening the credibility of electoral processes.

Our Commission endorses the work by Mr. Saneem and his hardworking team at the FEO and assure this committee that we will provide the necessary support as well as oversight as progress is made towards the next general election. The latest of the achievements is the inclusion of a case-study on the Biometric Voter Registration system in Fiji in a publication by International IDEA.

We have considered the 2014 General Election Reports extensively and we have noted that most of it is now up to Parliament to determine what course of action it wishes to take. The Electoral Commission is not appointed to make any laws, nor are we authorized to amend or disregard any law. We can make rules of procedure that are consistent with existing laws.

We have been informed that this Committee has already heard the views of our predecessors and also those of various stakeholders regarding the 2014 Annual Report. With all due respect, we would like to state the position of this Commission as follows:

1. The Electoral Commission and the SOE will apply the laws as it is. We acknowledge that there are requests for amendments and changes, but we assure this

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committee that until the amendments are approved by Parliament, we will comply with the laws to the letter and expect the same from all election stakeholders.

2. This Commission does not propose or support any changes to the Constitution.
3. The Commission believes that the current rules relating to candidate eligibility are sufficient and that no further changes should be made.
4. Following the amendments in February, the Commission now approves the first number in the ballot paper. The Commission approved that this process is to be done transparently by a ball draw. The first number in the ballot paper for the next General Election is 508.
5. The Commission believes that the Voter Instruction Guide that is given to all voters when they enter the Polling Station provides sufficient minimum information for voters to select the candidate of their choice. The Voter Instruction Guide offers the name, photo and number of each candidate. The success of this system is illustrated by 99.24% valid votes from the last election – a historic record for Fiji. In the next election voters will be more comfortable with this process.
6. The Electoral Commission notes that changes to the law are the responsibility of Parliament. Under the current system, processes prescribed in the Act are already designed to provide the most necessary and appropriate assistance to a voter when he or she goes to the voting screen to vote.
7. The February 2017 amendments by Parliament to allow Observers and Agents to carry prescribed materials into polling stations and this is welcomed by the Commission. The SOE has published the notice in the daily newspaper on 20 June 2017 outlining the prescribed materials.
8. The Commission agrees that too many of the formats of the National Candidates List will make it difficult for voters with low literacy. It is our view that the list in

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numerical order is what voters will look for when they come to vote and this will ensure consistency.

9. We note that the current criteria for postal votes ensure there is accountability in the postal vote system. They also ensure that the public holiday given by government for voting is utilized for that purpose. We wish to highlight that the February amendments to the Electoral Act have now allowed the SOE to deliver postal ballots through the best means practicable. We all know that our remote areas do not have postal service, and thus the SOE can now explore options to make the ballot available to approved applicants in these areas.
10. The Electoral Commission has noted that the FEO procedures already required the Presiding Officer to show the empty ballot box before the verification process begins.
11. The FEO has advised the Commission that it will develop special protocols of result for the different types of voting to allow for easy identification during the logistics drive as well as at the result centre.
12. We have carefully considered the idea of having secret envelopes, and we are of the view that in 2014, the secret envelopes themselves were not an issue; rather, the glue used to seal the envelopes was inferior, and voters had difficulty sealing their envelopes. We have decided to keep the secret envelopes in the next election, but we have directed the FEO to investigate better mechanisms for sealing them. We might be able to include another step—for example, having the election official put cello tape on the envelope to seal it.
13. We are of the view that to ensure complete transparency, counting of ballots should continue to be done according to the polling station. It would be problematic to merge and mix votes from stations with low turnout because that would make reconciliation difficult.

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14. We are firmly of the view that Fiji should maintain provisional results. We cannot reinforce how important this is to adding to the credibility and the certainty of the election process.

15. Considering that the D'Hondt system was only used in 2014 and there were no legal challenges about any aspect of interpretation of the seat-allocation system, the Commission believes the current rules on seat allocation are sufficient and should be retained to maintain consistency in the electoral process.

16. We understand that the invitation to observe elections is a sovereign decision by a state to its friends and development partners. This has always in the past been a decision of government, and we do not believe it should change.

We would like to thank the Committee for allocating time to the Commission to present its position, and we would like to assure the Committee that the Commission and the FEO will continue its preparation works for the next General Election. We hope our views will assist the committee in making its own assessments to Parliament.

The Commission has decided that it was in the best interest of all stakeholders that we clearly state our position to allow for consistency and certainty in the electoral process.

Vinaka vakalevu.

---- ENDS ----