

S/C ON JUSTICE, LAW & H/RIGHTS

[Verbatim Report of Meeting]

HELD IN THE

COMMITTEE ROOM (EAST WING)

ON

TUESDAY, 5TH OCTOBER, 2017

VERBATIM NOTES OF MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS, HELD IN THE COMMITTEE ROOM (WEST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON TUESDAY, 5TH OCTOBER, 2017 AT 1.10 P.M.

Submittee: Fijian Elections Office

In Attendance

- | | | | |
|----|---------------------|---|------------------------|
| 1. | Mr. Mohammed Saneem | - | Supervisor of Election |
| 2. | Mr. Mesake Dawai | - | Legal Officer |
| 3. | Mr. Edwin Nand | - | Media Officer |
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MR. CHAIRMAN.- Thank you, Honourable Members, members of the secretariat and staff. A special welcome to the team from the Fiji Elections Office headed by the Supervisor of Elections and his team comprising of right wing and a left wing this time.

As I had noted earlier Supervisor, this is going to be a very informal session but we have a lot of queries and questions pending, we will be grateful if you can clarify these issues for the Committee because we are in the final stages of writing the report and the remaining questions that have emerged from the meeting that we had with the five political parties, there is supposed to be six but five turned up, PDP did not turn up and later sent their apologies. We have a new political party, Unity. They did not make a presentation *per se* but they supported the presentation of the other five political parties.

So, as you have noticed from the questions that were given to the Electoral Commission, there is about 121 recommendations they have made. There are some legislative changes that they are requesting for and some practical issues. We would be grateful if you can, from your experience over those past three years, you can tell us which legislation is working fine, which ones have you amended so far and the practicalities of it.

The whole afternoon is dedicated to you, as long as you want to go, we need to finish this segment to basically and to also let you go free because I understand that just over a year or a year left for Elections you might be very busy with the registration process.

So, before you go to the questions and answers; would you have any introductory remarks?

MR. M. SANEEM.- Thank you, Mr. Chair. I just wanted to quickly introduce my team. We have our PR Coordinator, Mr. Edwin Nand and Mr. Mesake Dawai, who is our compliance person at the office.

Thank you for this opportunity. We understand that the Committee is looking at the various reports and a very late submission also to the Commission as well as to the Committee has come from five political parties.

We did not have the full opportunity to observe the statements made by the parties to the Committee and as such we would appreciate your Committee's indulgence in furnishing us with questions that allows us to ascertain what submissions were.

Prior to coming here, I informed the Chairperson of the Electoral Commission of this invitation and the Chairperson of the Electoral Commission has already made his submission to the Committee. I was present in that presentation.

The way to interpret that the Electoral Commission's approach to the reports as well as this submission and everything is that the Commission noted the report by Multinational Observer Group (MOG) and previous Commission was and they made their own position; they decided what they wanted to do about it.

They approached the Committee to inform the Committee that this is what the Commission believes should be made out, based on that recommendation, against what the Commission thinks.

The Chairman also clarifies to me that and I can convey to the Committee that because we are the Electoral Commission, the Electoral Commission does not want to get engaged into a political exercise of rebutting and then commenting on political parties' statements as this submission, as well as further statements, have been used by political parties in campaigns, et cetera, et cetera. So, the fact of the matter is in Fiji, the political system is now using the electoral system as a campaign tool.

MR. CHAIRMAN.- Exactly.

MR. M. SANEEM.- This is what is risky for organisations like the Fijian Election's Office, the Electoral Commission in commenting on it and hence our approach to comment to a Parliamentary Committee, so that the Parliamentary Committee under its observations under its exercise of its own duties, is able to make recommendations or make some use of the positions of the electoral authorities.

Usually the Electoral authorities are not politicised indirectly, however the case in Fiji the moment is different and we acknowledge that, and we are working within our legal framework to ensure that we do not cross any boundaries.

MR. CHAIRMAN.- Right.

MR. M. SANEEM.- There are three things that the Chairperson as well as myself we discussed:

- i) Parliament is supreme;
- ii) Parliament makes the law; and
- iii) if there is lobby for a reform on a law, it should be to Parliament.

The Chairperson has clarified that the Electoral Commission, which covers the Fijian Elections Office, the Electoral Commission and the Fijian Elections Office will be allowed to make independent representations on proposals for Law Reform and the Electoral Commission and the Fijian Elections Office will not be pressured, intimidated, or threatened into agreeing to any proposal for law reform if they do not agree to it, and he has made this clear to the political parties in meetings to the media and everyone.

Secondly, he highlighted is that there is a recommendation in the Reeves submissions that an independent group is formed that will look into the Electoral Laws and tweak it or whatever they want to do with it to formulate it for the purpose of free and fair Elections.

The Commission's view is that there should not be a duplication of the function of this Committee.

MR. CHAIRMAN.- Exactly.

MR. M. SANEEM.- This Committee has been charged by Parliament Supreme Authority to now look into the recommendations and evaluate for the necessary amendments that need to be made and to that end any other committee *ad hoc* that has to be established by the Commission:

- i) Will not have the effect of the law;
- ii) It will then override the supremacy of Parliament; and
- iii) even if such a report is compiled at the end of the day, the Electoral Commission does not make law. There is a process, that is the Parliamentary process and that the Commission does not wish to interfere in any Parliamentary proceedings.

So, the third thing that the Commission Chairperson and I discussed which are also is from existing Electoral Commission decisions is that if any aggrieved person feels that the laws in the country:

- i) Breach the Constitutional provisions or any international law must firstly be challenged in the Court of Law in Fiji on that basis. The challenge of certain provisions of the law against free and fair Elections provision of the Electoral of the Constitutions should be mounted in a Court of Law. There has been ample time and there is no time barred to that in fact; and
- ii) if there is an international convention that is not acceded to by Fiji yet but there are various provisions of the law that impinge on it, the first thing should be to highlight which provisions and how much, and whether it really applies to Fiji or not. So, in the absence of that, it is inaccurate to directly label the entire framework as in breach of international regulations or frameworks.

So, when I nearly concluded the discussion with the Chairperson the agreement was the Electoral Commission and the Fijian Elections Office will deal with specifics and we will be able to answer to specifics and not generalisations.

So, that is the brief submission from the panel today and we are happy to now take questions.

MR. CHAIRMAN.- Thank you very much Supervisor of Elections and your sentiments are well noted. The purpose of this meeting is really to have you as an expert to advise the Committee. The recording of this session will not be made public it is just for our information purpose. Why we are doing this session is that we have heard a lot views from different political parties, members of the public, et cetera. We have also read some comments from the media as well. Why we needed you here today was to not necessarily to defend your position or to make political statements because the work that you do and what the Electoral Commission does inadvertently becomes political because of the nature of the work itself in controlling political parties; suspension of political parties and inadvertently the Commission's name and the Officer's name is dragged in the media all the time.

What the Committee wants is that, because the Parliament has empowered us to look at these reports, look at the recommendations, call for submissions and reach a conclusion in all areas and aspects. For that, the best possible people who could have advised us is your team because you are the ones on the ground all the time. So for that purpose we will be asking you questions, it will be

like a brainstorming session, whichever ones that you are able to answer, even the legislative ones because I understand that the Electoral Commission made its points clear that it follows the law, it does not make the law.

But if there are any impediments of the law which you can tell us, then of course it will be confidential for our purposes. For any discussion here is basically for the Committee to seek your expert advice. It is like a lawyer-client or doctor-patient relationship.

MR. M. SANEEM. – Noted, Sir.

MR. CHAIRMAN. – And as the questions arise, Members I encourage you to, this is the final session we having with the Elections Office, they are very busy. We need to suss out all our issues today and get to report writing very soon.

The first issue, Supervisor, if you have the copy of the, I am going to the latest submission that we have received, that is the Joined Political Parties - five political parties, the rest will ask our own questions.

The first one was regarding the Budget of 2017-2018, but before I forget, yesterday during the afternoon we had one issue on discussion that we had and probably you can answer that for us.

The Committee understands that at Elections counting, the actual vote counting happens at the centre; at the station; separate stations are recorded and then the results are phoned in. That is the provisional results. How do those results become final, is it counted again at the main centre, Central Station?

MR. M. SANEEM. - Sir, postal ballots and pre-poll ballots are all counted at a counting centre. In 2014, the counting centre was at the Vodafone Arena for postal ballots and pre-poll ballots.

MR. CHAIRMAN. - Only postal and pre-poll ballots?

MR. M. SANEEM. - Yes. All polling day ballots, 17th September, 2014 ballot papers were counted at the polling stations after 6 p.m. until finished. At the polling station after it was all counted, the results were written in a Protocol of Results Book. The Protocol of Results Book has seven pages; same page in seven copies actually.

The Presiding Officer writes down the results on the protocol of results; white page is placed inside the ballot box; the pink page is pasted outside for members of the public and political parties to see. The protocol of results rest of the pages are folded nicely, the book is folded nicely; placed in a tamper evident envelope and sent together with the ballot box to the area office; then to the divisional office and then to the result centre.

MR. CHAIRMAN. - Result Centre, the main Vodafone Arena?

MR. M. SANEEM.- In National Gym, the FMF Gym I think that is what it is called. At the Gym is where the results are entered into the Result Management System.

What is provisional result? Provisional result is the result that the Presiding Officer phones in to a call centre on the night of Elections, on the night of 17th September, it is phoned in to my staff here who record to say “Right, in my polling station I counted; x has 100 votes; y has 200 votes and z has 10 votes.”

MR. CHAIRMAN. - At the Vodafone Arena or Gymnasium?

MR. M. SANEEM. - The Call in centre was at the Vodafone Arena in 2014. It is called in; a team here records it. One person on full time hears the call and another person writes it down; fills out a small form; that form is sent to the result centre and the result centre then records that on the provisional results system.

The provisional result system records all these phone-in results until seven o' clock in the morning when we have most of the results in. Then we stop provisional results and say "this is it." Final result data entry starts after that.

How do we get final results? Final results is because by that time the protocol of results with the ballot boxes are all brought to the Vodafone Arena from all over the country. The Labasa one comes in 2 days late. It comes in and then we take out the protocol of results physically from the tamper evident envelope and we give it to the data entry team to enter into the system. That is the final results.

So provisional results is the one called in from the polling station, the same protocol of result from the polling stations is then brought physically to the result data entry centre for it to be entered into the Result Management System. There is no second count.

MR. CHAIRMAN. - That paper that the presiding officer put in that ballot box at the centre is taken out and matched?

MR. M. SANEEM.- So, a ballot box once sealed at the polling station by the presiding officer can only be opened by order of court if there is a dispute. That is why the pink slip is pasted and the original is put inside the ballot box and the protocol, four pages left of the protocol of results are transmitted in a tamper evident envelope outside the ballot box.

MR. CHAIRMAN. - For instance, say for example, Ba, a particular school, the school will be the poll centre and then there will be stations there, five or six. Those five or six centres will have individual counts and individual results will be posted?

MR. M. SANEEM. - Yes, individual results posted and individual results recorded in the Result Management System.

MR. CHAIRMAN. - When there is phoned in, that is the provisional result that is posted, when does it become final, when people count other postal or pre-polling?

MR. M. SANEEM. - No. Sir, for each polling place, the result of the count is listed as provisional because it is received by phone; when it is physically received and verified, then it is listed as final.

MR. CHAIRMAN. - What do you mean "physically verified"?

MR. M. SANEEM. - The ballot box comes and together with it the tamper evident envelope comes.

MR. CHAIRMAN. - What is in the envelope?

MR. M. SANEEM. - The protocol of results, the signed results.

MR. CHAIRMAN. - That was signed at the centre?

MR. M. SANEEM. - Signed at the polling station. When it comes, we open it, match it with the ballot box and enter it in the system. That is the final result. Final result is the one that is directly entered from the protocol of results at the Result Management Centre.

MR. CHAIRMAN. - So that is the question that was floating around yesterday that when does it become final. There is no second count, that should be noted. It is only matched with whatever is phoned in that is almost as good as final, only until it is verified.

MR. M. SANEEM. - Yes. Now if I go into more technical.

The final result data entry is done by two people through a Double Blind Data Entry System. So, for example, Mesake would get the protocol results and he will enter the results on a system. Then Mesake will place it in a collection tray; it gets mixed and then I might get to enter it or Edwin might get to enter it. We will enter it and the system will make sure that the polling station results that Mesake has entered and Edwin enters is the same. If it is not the same then the system will raise an alarm for the protocol results to be given to the supervisor at the result centre.

Then the supervisor checks whether Mesake made a mistake or Mr. Edwin made a mistake. The supervisor then gives it again into the raw, maybe next time Mesake will not get it, I will get it. So I enter it, then again someone else enters it, until it matches the results will not be accepted by the system.

The last time, this was one of the reasons why the results came out three days late, we had to make sure it matches.

MR. CHAIRMAN. - Any questions in that area, Honourable Members?

Just on the similar point, Supervisor, for instance, my voting station was Veisaru in Ba, people who voted for me there, their results would be entered against my number, and if people also voted for me from overseas or from outer islands or from remote centres, how will that be tallied against what was entered against in other places of the country?

MR. M. SANEEM.- Sir, each polling place is given a distinct number.

MR. CHAIRMAN.- All right. Distinct number to the polling station.

MR. M. SANEEM.- Station. Each polling station has a distinct number and the results for each polling station is recorded in that polling station name and number. So Polling Station number 270801, 2708 is the venue, 01 is the station.

So, he will enter the details of 270801, and he will do the same and if your number is say for example is 100 and you get 10 votes there, we will enter the number 100 and 10. So for your results from that station, that is your ten votes, and then 27802 you get another 10 votes, we will again enter 27802 10 and then say postal is 202801 you get 100 there, we write down 100. So the excel sheet is 2028 columns against 282 rows. That is how big the result sheet is for the whole country.

MR. CHAIRMAN.- The 200 is the number of candidates?

MR. M. SANEEM.- 282 candidates and 2028 polling stations.

MR. CHAIRMAN.- All right. See that members, that is how it is done. So one candidate in the column, say number 100, could get various votes along those 2000 stations. They will all be tallied?

MR. M. SANEEM.- Yes. In 2018, you will be able to see it on the palm of your hands through the app, and it will take you right down to your polling station. In fact at the end of the exercise, I will do a demonstration of the app to all of you.

You can go to each polling station where you got votes, and what we have done to help the person, we have listed it “Highest” to “Lowest”. So which polling station in which division has the highest votes for you against the lowest?

MR. CHAIRMAN.- Is that clear members? There is no second counts as we were discussing. We thought there were second counts, so there is no second counts.

MR. M. SANEEM.- Sir, in 28th February, 2017 the law was amended to allow the Supervisor of Elections to conduct a recount on the event that the numbers do not match.

MR. CHAIRMAN.- Sorry, which numbers?

MR. M. SANEEM. – Section 86 has been amended to allow the Supervisor of Elections to conduct a recount. This provision allows me in the event the protocol of result comes and we tally it, because we are using 10,000 civilians to run the Elections and it is no better than 10,000 anyone, because on Elections Day even a person with PhD in Maths might fail because of the pressure.

And so we are using 10,000 people, we anticipate that they might make mistakes. Previously under Section 7 of the Act, I was able to rectify errors of my staff, but now Section 86 gives me specific provision powers to allow me to recount. So in the event there is a plus one, minus one in the counting, we do not go and try to rectify that error, we just recount.

There is 60 counting teams sitting and waiting to count, so I will just bring it in, “All right, recount” – recount.

MR. CHAIRMAN.- So a practical example, if the call in results say number 100 has got 200 votes and when it is verified from the envelope, it is 201. So that is a case of recount.

MR. M. SANEEM.- Yes, trigger.

MR. CHAIRMAN.- And in what circumstances could that error happened because that same officer must have filled the same paper?

MR. M. SANEEM.- So either the provisional result phoning in officer made a mistake. What I am more interested in is sometimes it does not add, the tally does not add, like the total number of people who came to vote was 200 but you look at the number of votes received, it says 201.

MR. CHAIRMAN.- There was a case like that remember, somebody got 4000 in a station with 400 people.

MR. M. SANEEM.- Yes a candidate got 5000 instead of 50.

MR. CHAIRMAN.- There are two extra zeroes.

MR. M. SANEEM.-Sorry? First typo entry, data entry, it was provisional results but no one looks at it from this point Sir, that the final result data entry was so proper that it managed to catch it. If the final result data entry was not that accurate, she would have received the 5000 votes. That is the point of having double blind data entry. One person writes it, the second person again writes it, and the system checks, whether they were both correct or not, not a manual person sitting and checking.

But we have now modified the result management system, Sir, where the results for provisional results, if the number exceeds 500 it will trigger an alarm to say recheck, and only the Supervisor can authorise the number to be entered above 500.

MR. CHAIRMAN.- So the provisional results is checked against (1) the envelope and (2) the total tally, before it becomes final.

MR. M. SANEEM.- Sir, what we did is to prevent having to check it, we do the data entry again, altogether, fresh.

MR. CHAIRMAN.- Data entry that is?

MR. M. SANEEM.- So if a result.

MR. CHAIRMAN.- Call in result?

MR. M. SANEEM.- Is being entered in provisional, when we go to final we will enter the same places result fresh again, we do not bring it out again. Provisional result is one half of the result management system, and the final result is the second half.

So what we do to ensure that we do not make a mistake of not entering the result of some place, we stop the provisional result system and we start fresh with the final result. So, when the person is entering final result he does not get to see what the provisional results of that place were, only the system at the back end matches that.

MR. CHAIRMAN.- The person entering the final results, what does he check?

MR. M. SANEEM.- Protocol of results. Their job is only to write down the details from the protocol of results. It is a fresh data entry Sir, I do not want my people to start looking it up because then 90 percent of them might not type it again, they will say "Oh it is there, there, there, there" even if it is a mistake, it is fine. And we do not want that because it has to be accurate.

MR. CHAIRMAN.- So the phone in results are the medium or the margin of error there could be somebody heard it wrongly so they noted it say 208 when it was 2018 probably, and when the protocol of results is set, you verify that against that, there is no other errors, even the tally matches, then it becomes final.

MR. M. SANEEM.- No.

MR. CHAIRMAN.- Sorry Oh alright, there is something else?

MR. M. SANEEM.- Sir, we do not touch provisional results when we are entering final results.

MR. CHAIRMAN.- Alright, so you do not touch that at all.

MR. M. SANEEM.- We do not touch it. Final results are entered from scratch again. So as I said, Polling station 270801 provisional results were entered, 7am in the morning once the real protocol of results are brought in, he will type 270801 fresh again, blank sheet.

MR. CHAIRMAN.- What about the provisional allowance?

MR. M. SANEEM.- He will not even get to see it, the system will block it. He only sees the data entry provision for the final results and then the second screen is with him.

MR. CHARIMAN.- So what is the purpose of the provisional results?

MR. M. SANEEM.- Sir, it is to tell the trend on election night, to prevent scepticism from coming up to say stuff like, Sir, the New Zealand Elections happened two weeks ago, they did the provisional count that night, it was all over the news stopped at midnight, but Sir, they are still counting, until today they are still counting, until the 12th of October they are still counting, that is when they will release the final results.

MR. CHAIRMAN.- So for instance, if Honourable Nawaikula in his area got 208 votes, and it is posted on the provisional, this would show the trend that the final should not be too way off that mark.

MR. M. SANEEM.- Exactly Sir.

MR. CHAIRMAN.- Is that the purpose?

MR. M. SANEEM.- It allows in most elections, the provisional results tell you who is going to form Government or whether there will be a Government possible through a single election or there has to be a coalition. In New Zealand, they started phoning each other at midnight. So the purpose is to create certainty and give you an indication as who is going to lead.

And in Fiji by 7 a.m., I think FijiFirst was well ahead and beyond any other political party. So it gave that sense of certainty as to alright "This is the result".

MR. CHAIRMAN.- The people cannot say that in a particular area that a particular political party had zero and certainly it went to 10,000 because the jump cannot be that much from the provisional.

MR. M. SANEEM.- Ideally, Sir - yes.

MR. CHAIRMAN.- Yes. And what was the greatest margin of error apart from the one case?

MR. SANEEM.- That was the greatest margin of era, we did not come across any other in that regard. I think there was a concerned citizen for credible Elections and illegal Domestic Observer Mission and they also did a tally of the comparison between provisional and final as well as the ones from protocols of result, they did not find the errors. MOG also did a sample and it was the same. So, for the next Elections because it will be on the palm of your hand it will be much easier to do it.

MR. CHAIRMAN.- Honourable Members, you may ask questions as we go along in case if there is any clarification. I think that it is clarified by Supervisor of Election clearly the provisional results, the final results there is no recounting unless there is a mismatch, apart from that, the phone-in results are not seen by the person entering the final results, he will check the protocol of results and put on the table first.

MR. M. SANEEM.- Direct.

MR. CHAIRMAN.- Going back to the questions that the political parties gave. The first one that the EC be granted its own separate budget in 2017-2018, sufficient to employ its own skilled staff needed to work hard on an urgent programme and all other cost of running office, as well as to engage pending legal advice as needed. This is to be allocated from the balance of Foreign Aid Funds leftover from 2014 Elections. Are there any comments on that?

MR. M. SANEEM.- Sir, how do they know there is balance of Foreign Aid Funds at the FEO's coffers?

MR. CHAIRMAN.- Unfortunately, that is something that was told to us but ...

MR. M. SANEEM.- The assumption is there we cannot cure but Sir, may I explain how the organisation structure works.

The Supervisor of Elections is in fulltime employment with the President as a statutory position. The Supervisor of Elections under the Electoral Act is the Chief Accounting Officer.

MR. CHAIRMAN.- The Supervisor of Elections is the Chief Accounting Officer?

MR. M. SANEEM.- Yes. The Supervisor of Elections is accountable for the funds that the Fijian Elections Office receive and has to carry out all the necessary accounting work. The Electoral Commission is an *ad hoc* body, it is not a fulltime body. If you look at the current composition of the Electoral Commission all of them are in busy daily professions.

The Electoral Commission, as far as my memory goes and my research never had an owned budget. In Honourable Karavaki's time, the budget for the Fijian Elections Office was maintained by the Office of the Prime Minister. The cheques were issued from the Office of the Prime Minister until the Elections happened I think when they transferred the full set of Accounting staff to the Office of the Supervisor of Elections and I think Honourable Karavaki can clarify that.

MR. CHAIRMAN.- There never used to be a separate budget for the Commission and the Supervisor of Elections.

MR. M. SANEEM.- As far as my research goes, Sir, I did not find any. The activities of the Commission were funded from the Election's budget.

MR. CHAIRMAN.- So their travelling allowance ,et cetera when they stay in Suva for meetings, it is paid from there?

MR. M. SANEEM.- It is all paid, Sir. What we did post-2014 is, for better accounting, we created different course centres. There is an Electoral Commission course centre which currently has a budget of over \$0.5 million.

MR. CHAIRMAN.- Sir, what is that called? Course centre?

MR. M. SANEEM.- Couse centre.

MR. CHAIRMAN.- It is just within your office?

MR. M. SANEEM.- It is in my office and it covers for sitting allowance of the Commission even if the Commission sits for a whole year, there is enough sitting allowance there for seven Commissioners. Commissioners, from 2014 until now, receive \$500 a day sitting allowance plus \$50 a day meal allowance. They also get transportation from the FEO vehicle, et cetera, et cetera as well as accommodation same rank as the Minister and it is paid from the FEO budget.

The reason why I keep saying FEO Budget is because under the Government system, the Supervisor of Elections Office is FEO and I am the Chief Accounting Officer.

All payments for the Electoral Commission are approved by the Chairperson and paid for by the FEO. The standard laws in terms of procurement that the FEO and the Electoral Commission use as standards for own compliance which we follow. So, if tomorrow the Chairperson of the Electoral Commission says "the Electoral Commission has to go to Cambodia for a workshop." The job of my Accountant is to just pay the money because it is the Commission's spending. To hire independent legal officer, the previous Electoral Commission in its case verses the Supervisor of Elections had its own independent legal counsel, Mr. B.C Patel. Mr. B.C. Patel's bill was agreed to between Chen Young and himself, and it was just paid by the FEO which was paid from the same vote.

MR. CHAIRMAN.- Honourable Karavaki during your time what was the system? The budget came to the Electoral Commission separate or went to the FEO, then FEO disbursed that to the Commission? How was it at that time?

HON. S.D. KARAVAKI.- Thank you Mr. Chair. As far as I can remember, I think what SOE is saying is correct.

The time that I was there, the Office of the Prime Minister's Account Section was the one that was disbursing the funds, responsible for that until when the full operation of the Elections had commenced, then the whole account system was set up in the Elections Office when all the funds for Elections was brought over. Before that, it was with the Office of the Prime Minister because there was no proper Accounting Section over there in the Elections Office, only when the pressure is really on, when the Elections preparation was really on then it will be cumbersome again if you have to keep on coming to the Office of the Prime Minister because they have their own responsibilities over there. The reason why that was brought over and set up the Accounting Section in the Election's Office.

I think the same thing that the SOE is talking about is that the Electoral Commission's expenses are paid by the funds in the Elections Office, which is controlled by the Supervisor of Elections and I think just one of instances that I had gone through was that when the legal expenses has to be paid for the Electoral Commission's charge, then we have to go through the approval system of the Government, which goes to Ministry of Finance according to the Finance Regulation, that is where probably the Commission is looking at which causing a lot of delay and they have no decision as far as that is concerned. I think it just because of that the Supervisor of Elections is the Chief Accounting Officer as far as all the funds are being disbursed. Well, at that time, it refers to the Supervisor of Elections Office. Now we are talking about the Fijian Elections Office (FEO) that time it just referred to the Supervisor of Elections Office or the Office of the Supervisor of Elections.

MR. CHAIRMAN.- In those days if there was a legal challenge where the Electoral Commission had to be represented in court in terms of a challenge by a candidate and who would engage the counsel, is it the Electoral Commission or Supervisor of Elections?

HON. S.D. KARAVAKI.- I really did not go through any of that at the time but I think there is one case that they briefed Munro Leys, I really cannot properly that particular case. It was Munro Leys to represent them that is the one I am talking about that it caused a little bit of delay for Munro Leys to be paid. It is just because of the Financial Regulation that has to be followed. I think that is the one that they are talking about probably when they do not have the direct decision to that and to fund, and therefore, all those that they hired to carry out their work are being left in suspense before their fees are not being paid for some time.

MR. CHAIRMAN.- So Supervisor, currently if there is a legal challenge by a candidate in terms of his disqualification, et cetera and a counsel has to be hired, then the Electoral Commission will hire that counsel or is it the Supervisor of Elections as the FEO?

MR. M. SANEEM.- Sir, I think Honourable Karavaki has touched slightly on this as well. There are accounting procedures that needs to be complied with because it is public funds and then, if it is not then, we will come back in front of you in your different hat as PAC for this and that is an issue as to what the governance rules of the Commission are. The previous Commission had also faced similar problems because none of the Commissioners were full time employment in Government so they were not accounting officers of Government and they were less familiar with the rules of procurement.

So, if it is transferred to the Commission or if it is not transferred to the Commission, as long as the Commission is able to obtain the services that it needs from any person. That is the real priority and as Honourable Karavaki has highlighted, our office is responsible for making a payment as soon as we are directed, and that is what we would like to do.

I think to answer your answer, the Electoral Commission is now planning to have a panel of lawyers for itself or us as well because in the event there is a conflict of interest with the Solicitor-General, then who represents us? So, that is where the panel of lawyers, based on proper accounting principles can be useful.

MR. CHAIRMAN.- So, that actually brings us to the second question that the political parties raised that the Electoral Commission (EC) engage an independent legal adviser not the Solicitor-General appointed by the Commission in 2017-2018. So, is that the answer that we will now have a panel of lawyers in case there is a case of conflict?

MR. M. SANEEM.- Sir, as a constitutional officer, I would like to state that it is inappropriate to allude another constitutional officer of bias without any evidence, actual or appearance of that. The efforts to compromise the Office of the Solicitor-General's integrity is appalling. Just for the mere sake that the Office of the Solicitor-General is the Permanent Secretary to the Attorney-General it is being alleged that he is a biased.

MR. CHAIRMAN.- (Inaudible)

MR. M. SANEEM.- What I would like to allude the Committee to look into is that the Constitution says the Office of the Solicitor-General is also independent in terms of its legal advice to the Government or any other institution of the Government and for the record I believe that it is

highly inappropriate for political parties who in turn may be aiming to form Government to come in and criticise or allege bias on constitutional office holders just for the sake of political gain.

However, Sir, the Office of the Solicitor-General provides advice based on the laws of the country and if the Electoral Commission, like the previous Electoral Commission did, do not agree with the advice, then you can go and get the advice that you want from a counsel who you prefer. For this Commission, they have agreed to a panel and whatever the Commission decides.

MR. CHAIRMAN.- So, coming back to the question itself, there will be now a panel you are saying for the EC to pick from.

MR. M. SANEEM.- Yes Sir, may I just suggest Sir that the Commission has agreed that the first port of call is the Office of the Solicitor-General.

MR. CHAIRMAN.- Before going to the next question, there was another question that was raised by the political parties in terms of storage of ballot boxes. So, what was stated by one of the five political parties and also discussed by this Committee is that when the boxes came from various centres around the country, it was kept at Williams & Goslings storage somewhere at the wharf?

MR. M. SANEEM.- Wailekutu.

MR. CHAIRMAN.- Wailekutu and they are saying that it was not visible to the people. You can only see one side of it and not the other three sides, so there was probably an indication of tampering with it. So, is the storage of ballot boxes a concern and how would it have affected the results in the case there was tampering?

MR. M. SANEEM.- Sir, the Fijian Elections Office sensitive materials, storage and transmission processors are covered by the Quintee Report from the Western Australia Report on the 2013 General Elections, in which there was a complete by-election for all the Western Australia territories because the Western Australia's office of the Australian Electoral Commission lost 1,000 ballot papers and that led to a High Court Order for a recount. The Electoral Commissioner and the State Manager were both fired and then there was a Quintee's Commission that went around and conducted a review of all the sensitive material, transmission and storage procedures of the AEC. The Fijian Elections office procedures are now duplicate of the procedures that the AEC users based on the Quintee's Report.

Now, Sir, why could they not see the three sides? Because our warehouses have walls in it.

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- So, we cannot make holes in the walls for them to see and the only way you can see is through the big roller shutter door into the shelves that were placed there by Williams & Goslings. There were over 200 police officers guarding that place.

MR. CHAIRMAN.- All right, this was guarded.

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- There are roads around it, you can drive around it?

MR. M. SANEEM.- Sir, Wailekutu Williams & Goslings on the right when you are heading off to the West, the big William & Goslings facilities, just opposite CJ Patel.

MR. CHAIRMAN.- On the right hand side just after the Carpenters drive way.

MR. M. SANEEM.- Yes Sir, that Wailekutu warehouse facility has one of the best standards in terms of warehousing in Fiji because Williams & Goslings they are the specialist cargo company, so their warehouse conforms to international cargo handling procedures.

MR. CHAIRMAN.- Are cameras in there?

MR. M. SANEEM.- We had cameras, we had police officers on guard and we had FEO officials on guard. So, in 2014 that was the procedure. In 2018, Sir, we are going to put live feed from the place where they put ballot boxes and open on internet for anyone to observe.

MR. CHAIRMAN.- Why can those boxes not brought straight from there to the Vodafone Arena, or to the National Gymnasium?

MR. M. SANEEM.- Sir, for pre-poll, ballot boxes start coming in 13 days before Election day. So, the ballot boxes are kept at a location, we cannot hire Vodafone Arena for 13 days, it is an overly expensive exercise. So, we keep it at a secure location, which is Wailekutu, heavily guarded by Police as well as in secure walls. So, that is what we thought is the most appropriate way to keep it, it satisfies the requirement of the Quintee's Report.

MR. CHAIRMAN.- The counting of those postal ballots or pre-polling is done there?

MR. M. SANEEM.- No Sir. Once the Vodafone Arena is engaged which it was on 15th September last year, Police did a full thorough sweep of the place, then they opened the place for us to bring in all the sensitive materials. Sensitive materials were from the Wailekutu warehouse, then they were loaded into big 20 footer containers, sealed and locked and under Police escort at midnight brought to the centre.

MR. CHAIRMAN.- Party agents were allowed to follow...

MR. M. SANEEM.- Yes Sir. There was a person called Benjamin Padarath, he was one of the most alerted and vigilant party agents that was with everything all the time and they escorted the materials, transported under Police escort from Wailekutu to the counting centre and that was how it was kept and there were observers who followed the vehicle as well.

MR. CHAIRMAN.- So, that warehouse there, that was the single warehouse where everything from all over the country came in terms of postal ballot.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- Any questions in that regard Honourable Members? I think that was something that was raised by one of the political parties and the suspicion was created to the Committee that probably was tampered with or someone opened one of the other three sides of the warehouse.

HON. M.R. LEAWERE.- Mr. Chairman, just a clarification from the Supervisor of Election in terms of those polling. Why can the votes not be counted in those polling areas instead of bringing them over? This is the question I want to ask. Thank you.

MR. M. SANEEM.- So, when it comes to pre-poll, those Elections happened 14 days before the Election day and in pre-poll areas, we have tried to keep the voter levels below 100. So, if you go to a setting like, it usually happens in remote islands and if we count, then people will already know how then people will already know how many votes were from this island, from this village, for this candidate so we try and prevent that because conflicts can arise. A village might not be happy with the way the other village voted so we want to prevent that and that is why the counting takes place at the count centre.

The second reason is, we do not want to pre-empt the result because the trend in Fiji is that many people might just vote because they think, “oh I will vote for Mesake because Mesake is going to win anyway.”

MR. CHAIRMAN.- Because he was leading, then people will say “vote for him or a few would say “because he is leading let us vote for some other guy because he also needs votes.”

MR. M. SANEEM.- And then campaign strategies would also change. So we do not want to do it, we want to make sure the environment is fair on every voter and that is how it works. There is someone who said Sir, “but with pre-poll, people are still exposed to campaign and it is unfair against those who are voting on Election Day.”

Now, Sir, why would you not want it to be like that? As a candidate in the Elections would you not want someone going in to have the benefit of having heard your campaign just before they went in?

Now that is one, that is irrelevant to us but the second thing is, there is a 300-meter boundary, so you cannot campaign inside the 300 meter boundary. Two days break before campaigning on main Election day is because the areas where we are conducting Elections on main election day, they have access to media mostly full time, but where there is pre-poll there is no mobile phones, there is limited travel access and they only get A.M. radios so those are areas that are not directly affected by in session campaign on the media and that is why there is a media blackout.

MR. CHAIRMAN.- Also just touching on that point, are you be able to tell us what percentage of the total vote cast in 2014 Elections were from pre-polling?

MR. M. SANEEM.- Sir, I will give you exact numbers and that is from the app.

MR. CHAIRMAN.- Oh there is an app there. What was the total votes cast?

MR. M. SANEEM.- 5000,078 .

MR. CHAIRMAN.- Total votes cast. Of that what percentage was pre-polling?

MR. M. SANEEM.- Pre-polling estimate was 65,000 votes. The exact numbers for pre-polling was 59,000 results were recounted.

MR. CHAIRMAN.- An estimate would be all right. This is just to give us an indication of what sort of numbers we are looking at in terms of pre-polling and the main Election day.

MR. M. SANEEM.- Pre-polling was about 65,000 voters, 59,000 results were recounted.

MR. CHAIRMAN.- All right. So about 13 percent?

MR. M. SANEEM.- Yes Sir.

MR. CHAIRMAN.- Honourable Brij Lal told us the other day that Bua Sanatan Primary School was a pre-polling, venue but it is not too far away from Nabouwalu.

MR. M. SANEEM.- Yes Sir. In 2014, that had happened; Tavua Levu High School was under pre-poll, which is right in Tavua Town.

MR. CHAIRMAN.- Why would that be?

MR. M. SANEEM.- Because there were less than 100 voters.

MR. CHAIRMAN.- So, if the numbers are small, then it becomes a pre-polling station?

MR. M. SANEEM.- Yes Sir.

MR. CHAIRMAN.- That answers one of the questions that one of the political parties raised, why have pre-poll stations easily accessible areas (we will not name the political party) but that is the answer to that. If it is below 100, then that centre will be a pre-polling station?

MR. M. SANEEM.- Yes, Sir. We have changed that in 2014 from 2018. The policies have been amended so that if it is less than a 100 but still in accessible areas, it will be under polling day.

MR. CHAIRMAN.- Question 3- that if the 2014 Elections, aid fund have been exhausted then the Australian and New Zealand Governments and the European Union be requested to fund the Electoral Commission Budget including the legal experts who are to work with the Electoral Commission and the Committee of registered political parties, representatives proposed above on the review of and changes to the Electoral and related laws.

MR. M. SANEEM.- Sir, the Electoral Commission does not agree to the formation of that committee in the first place.

Our view is that that committee duplicates the work of this committee and this committee has been duly elected into Parliament with the peoples mandate to carry out the task that the Committee has been assigned to, and based on the principles of democracy, unless this Committee recommends to Parliament for such a Committee to be established, the Electoral Commission is not prepared to conduct any further reviews with any other mechanisms.

MR. CHAIRMAN.- Otherwise, there will be too many committees and commissions. Probably more commissions than voters actually.

MR. M. SANEEM.- Sir, it is important to ensure that there is certainty around electoral rules and as Mr. Karavaki will confirm, it is one of the basic tenets of an electoral democracy, that there is certainty around electoral rules, whether you agree with the rules or not is a different thing but the rules need to be clearly stated, what are the rules?

MR. CHAIRMAN.- And the rules should not be changed every game so that people get more confused?

MR. M. SANEEM.- The Chairman asked me in a joke today, he said how many months left before the first day we can have an Election and I said “six”.

MR. CHAIRMAN.- Six. Why is that so?

MR. M. SANEEM.- Because April, the writ can be issued next year, four and November, December, six months.

MR. CHAIRMAN.- Supervisor, what percentage of the total vote casts were invalid?

MR. M. SANEEM.- 0.75 percent, Sir.

MR. CHAIRMAN.- Less than 1 percent and what was the voter turnout of the total votes?

MR. M. SANEEM.- 84.6 percent.

MR. CHAIRMAN.- I understand invalid is on the lower side and the turnout on the higher side?

MR. M. SANEEM.- Yes Sir. It is a highly remarkable figure in both ends. It is a good turn up and it is a very very low invalid votes.

MR. CHAIRMAN.- There was a question that was posed to this Committee, the idea was proposed that a lot of voters were confused and they did not know what they were doing and they ask for this system to be simplified. When we pointed out that the invalid votes were less than 1 percent, so the answer was it was just a piece of paper, and if we have to draw a circle so that anywhere you draw a circle, it will become a valid vote. It might not show your intention but it shows your vote is valid. Any comments on that?

MR. M. SANEEM.- Sir, what else can we do? The idea is to make sure that the electoral process is as simple as possible so that the ordinary voter is able to cast his or her vote. When someone goes to vote, Sir, even a person with a PhD can come out and say I made a mistake.

MR. CHAIRMAN.- I almost made a mistake on my paper as well.

MR. M. SANEEM.- The idea is, Sir, from the electoral prospective, a voter should be given the opportunity to register, should be given the opportunity to be reconciled against the wrong, given a ballot paper as of right, allow to mark the ballot paper in secrecy and ensure that mechanisms are in place that the ballot paper is accounted for and the result is transmitted to an accumulated final tally, based on which seats are allocated. Those are the basic tenets of an electoral system.

Now, there is always extended rules for all these things. The thing is, Sir, even if we said to the voters come and write down the number of the candidate you want to vote for. It would still be that someone can come in and write down 455 and say I was voting for him but I wrote 455 which means the votes goes to him.

MR. CHAIRMAN.- Yes.

MR. M. SANEEM.- I think with more Elections

MR. CHAIRMAN.- People will be more familiar.

MR. M. SANEEM.- People will be able to be more familiar. That is one of the other things although I do not like using it all the time, Sir, but it was just a first one. It is just the first Election so anticipate more and more people will become more and more familiar with the system, only if the system is allowed to continue.

MR. CHAIRMAN.- Emerging from that after the amendments previously no one or no party agent or no one was allowed to take any paper inside the polling station, but after the amendment I understand that the polling agents can take a small paper to note the results?

MR. M. SANEEM.- Yes, Sir. The Supervisor of Elections is required to authorise candidates' agents to carry materials inside. What we did is, because we did not want to leave it to the last minute, we have already issued the authorisation. It is in the candidate's agent's handbook.

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- So, they can take pen and paper inside to record their proceedings.

MR. CHAIRMAN.- Pens only paper only not books.

MR. M. SANEEM.- For books I think we have made provision to allow for books.

MR. CHAIRMAN.- Notebooks?

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- The voters cannot take any paper inside the polling station.

MR. M. SANEEM.- The thing is we have to assist the voter, we are giving every new voter a voter instruction booklet.

MR. CHAIRMAN.- Yes, that one has got the

MR. M. SANEEM.- Names and numbers of all the candidates.

MR. CHAIRMAN.- Right, you can take that one inside.

MR. M. SANEEM.- That is given to you inside, Sir.

MR. CHAIRMAN.- All of us forgot actually about that .We were trying to remember whether we are allowed to take a book inside or not. So, you can have your similar book at home to study...

MR. M. SANEEM.- Yes, the same book. We are only printing one book - the voter instruction booklet that will be distributed by Edwin's team all over the country and we are printing half a million, plus 700,000 of those books, that will be given to each polling place and every voter gets a new copy.

MR. CHAIRMAN.- How many days before the Elections will they be getting that?

MR. M. SANEEM.- 23 days.

MR. CHAIRMAN.- Because we will come to that question, calculation of time and a while we were discussing that at length yesterday.

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- We will come to that in a while. So what is the total number of registered voters now?

MR. M. SANEEM.- 616,590, actually we will be announcing that. We have so far 620, but we are at the verification stage right now, but 616,590 is the official figure as at 28th July.

MR. CHAIRMAN.- And what was the previous number?

MR. M. SANEEM.- 591,105.

MR. CHAIRMAN.- So, numbers are increasing?

MR. M. SANEEM.- Yes, Sir, it is a healthy increase.

MR. CHAIRMAN.- Yes.

MR. M. SANEEM.- Sir, can I just add a point?

MR. CHAIRMAN.- Yes.

MR. M. SANEEM.- This is not to derogate any person or any previous entity.

MR. CHAIRMAN. It is not only clarifying but we need to have as much information as possible.

MR. M. SANEEM.- Sir, in 2009, 2001 and 2006, we had a similar electoral system, which was above the line and below the line.

MR. CHAIRMAN.- 2006 and 2001.

MR. M. SANEEM.- 1999, 2001 and 2006.

MR. CHAIRMAN.- Preferential system.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- This one has to be noted down -, it is important for us.

MR. M. SANEEM.- I am just trying to download that Sir. I can email the link to you.

MR. CHAIRMAN.- Yes, we love to have that.

MR. M. SANEEM.- I think the invalid votes was 13 percent, 9 percent and 6.9 percent.

MR. CHAIRMAN.- In that old system.

MR. M. SANEEM.- Yes, Sir, 13, 9 and 6. So, it shows

MR. CHAIRMAN.- People were learning the system.

MR. M. SANEEM.- Yes, Sir. That is what we are saying, with the current system it is a very low bar to start with anyway.

MR. CHAIRMAN.- Oh! Yes.

MR. M. SANEEM.- Which is 0.75 percent.

MR. CHAIRMAN.- So, if it increases, then probably you can address this problem.

MR. M. SANEEM.- Then there is a need for concern, but if it is still below three percent, it is not a bad figure.

MR. CHAIRMAN.- Is that an international standard?

MR. M. SANEEM.- We were targeting four percent in the last Elections, it was 13,964 but we were pleasantly surprised with 0.75.

MR. CHAIRMAN.- Question No. 4, that the new amendment to the Electoral Decree passed in Parliament in February 2017 be amended so that the Commission appoints its own secretary and that it allows the SOEs to attend some Election Commission meetings when appropriate by invitation.

I understand the amendment has made you the Secretary of the Electoral Commission now but the suggestion is to have a separate secretary. Any comments on that?

MR. M. SANEEM.- We have just come out from Electoral Commission having a separate secretary into one where the SOE is the secretary and the problems that created is evident in which there was so much miscommunication between the previous Commission and my office, leading to court cases et cetera and the attempt with this revision is to bring into place for what was the previous system when Mr. Karavaki was Secretary to the Commission and that worked very well in the last 2006 Elections. So, that system....

MR. CHAIRMAN.- Can you please explain that Honourable Karavaki. It is for noting.

HON. S.D. KARAVAKI.- Been on that SOE. What we were doing was, we were enforcing that there were two independent Electoral Constitutional officers:

- i) Electoral Commission; and
- ii) The Supervisor of Elections.

The Constitution says that the Supervisor of Elections can attend the meetings of the Electoral Commission. We have at that time staff from the Electoral Office who were working as Secretary to the Electoral Commission, providing taking all the minutes.

MR. CHAIRMAN.- So, one of the staff from the Supervisor of Election not the

HON. S.D. Karavaki.- Probably Office of the Supervisor of Election.

MR. CHAIRMAN.- All right.

HON. S.D. KARAVAKI.- I attended as my right under the Constitution as SOEs to attend the Electoral Commissions committee meetings, but the SOE at that time was not the Secretary to the Electoral Commission.

MR. CHAIRMAN.- So, there was a suggestion or there was a submission earlier by the political parties that the laws be amended to demarcate the duties of the two offices. That amendment has been made and now the Supervisor becomes Secretary to the Commission.

HON. S.D. KARAVAKI.- But there were staff from the SOE, I think some observers thought that the SOE was the Secretary because basically the SOEs attends the meetings.

MR. CHAIRMAN.- And take down minutes.

HON. S.D. KARAVAKI.- But there were staff from the Office of the Supervisor of Elections who were there all the time to take the minutes of the Electoral Commission meetings.

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- We had a similar set up in 2014. Exactly the same.

MR. CHAIRMAN.- Where your staffs were appointed.

MR. M. SANEEM.- My staff were appointed to be Electoral Commission secretariat.

MR. CHAIRMAN.- But now you are the secretary?

MR. M. SANEEM.- Now I am appointed Secretary with the Commission, I still have three staffs who are secretariat to the Commission because there is a lot of logistic groundwork that needs to be always done, Commission meeting papers have to be prepared, logistics has to be sorted in terms of attendance of meetings, allowances have to be paid and then catering has to be organised for meetings et cetera, et cetera. So, that is still being done by our office. Minutes are being recorded and transcribed because I can delegate the secretariat still to transcribe the minutes and we are giving substantial remuneration benefits to those staffs to ensure that we get the highest quality people.

MR. CHAIRMAN.- So, the Multinational Observer Group observation that the law should be amended to demarcate or to clearly outline the respective responsibility of the two officers. In your opinion has the law cured that now - the amendment?

MR. M. SANEEM.- Mr. Chair, confusion occurred in 2014, when there were various legal provisions that may not have been that clear.

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- And that was when there were some conflicting issues but now with the changes in the framework, it is like a Board and CEO relationship now.

MR. CHAIRMAN. - So the actual wordings of that recommendation was “that division and responsibilities which is in the Electoral Commission and Fijian Elections Office should be clarified.”

MR. M. SANEEM. - Yes.

MR. CHAIRMAN. – In your opinion the Board and CEO positions now clarifies that?

MR. M. SANEEM. - Yes, Sir. It now very clearly explains that the Commission and with me being present in the Commission meetings, I am able to provide the actual operational activities to the Commission and then they make the policy decisions on that. So far, in my view, we have seen a very good collaboration between both these entities and there is no impact on independence of any institution. For the first time the Electoral Commission now, since February actually operates with proper Board papers and it has proper minutes taken for each meetings; the law requires the decisions to be published which are being done consistently and this allows for proper functioning.

Unfortunately, when we took over as Secretariat there were no Board papers of the previous Commission et cetera to carry on from. We had to draw up all these policies ourselves and then once the Commission approved them then we are now following that as the guideline for our own activities. I would say that Mesake and Edwin are both victims of this but Commission meeting papers are actually now due two weeks before the Commission meeting. And the Commission has a set calendar of operation; the Commission is always programed to sit in the third week of every month and the Chairman has a meeting with the Supervisor of Elections in the second week of every month so that he can approve all the agenda and Commission papers to allow the Commissioners ample opportunity to read up and come to Commission meetings.

MR. CHAIRMAN. - Which laws should we look at when we are trying to see the responsibilities of the Electoral Commission and Supervisor of Elections? The Constitution and the Electoral Act and?

MR. M. SANEEM. - Constitution and the Electoral Act.

MR. CHAIRMAN. - Just two?

MR. M. SANEEM. - Just two, yes.

MR. CHAIRMAN.- Question No. 5: The Opposition Parties consider it necessary for free and fair elections that the Government sees changing electoral rules, regulations and laws once the writ of elections are issued. This ensures certainty in the electoral process and removes the possibility of nasty surprises for participating parties in the voting public. Where that comes from is that the political parties are of the view that after the writ was filed, some provisions of the Electoral Act was, at that time it was Electoral Decree, was altered which got them by surprise.

MR. M. SANEEM. -Yes, Sir, agreed. I think it just stems from a misunderstanding of how Parliamentary systems work. In Fiji, once the writ is issued, it is 100 percent that Parliament has been dissolved. So there cannot be any more laws made; it can never be done in 2018.

MR. CHAIRMAN. - It cannot be done, full stop. There is no other law-making power.

MR. M. SANEEM. - It cannot be done and there is no law making power. In 2014, this is where the fact comes out, that the law was amended to benefit clarity. The definition of “ordinarily resident” was defined. And if the law had not defined ordinarily resident, the Supervisor of Elections

would have defined ordinarily resident as 24 months being present in Fiji, continuous. Because it is an ordinarily resident for two years, maxims of interpretation require an interpreting authority to deal with it on the face of it first. Can it be identified clearly? Yes. 24 months is 24 months, not 23 months.

That is what I would have used but the law was changed and the law said “aggregate of 18 months out of 24.” So it was changed for the benefit of candidates.

MR. CHAIRMAN. – Initially, it was 24 months. The law was changed to say “18 out of 24.” It made easier for some candidates?

MR. M. SANEEM. - Yes. That is what we have been telling Multi National Observer Group (MOG) and everyone and I think MOG understood it because that is why they have not placed it in here as their recommendation. But the rules that were changed were not to deprive anyone of candidature, but actually to allow more opportunity for those who qualified. Otherwise anyone who is complaining “that I was not allowed because of the 18 months”, the news for them is that they would still have not been allowed because the Supervisor of Elections would have interpreted it for 24 months.

MR. CHAIRMAN.- It became easy in the chance that if someone stayed in Fiji for a year, went out for six months, came back and stayed another six months, that would have given them the 18 months.

MR. M. SANEEM. Yes, the law reduced the requirements. So that is the change of the law. I do not know why people are complaining about it.

MR. CHAIRMAN.- That was the only change?

MR. M. SANEEM. - That was the only change. I think that was the last change that was done because we requested for clarification on that bit; whether it is 24 or 18. We actually said 24 or what is the definition?

MR. CHAIRMAN. - Before going to Question No. 6, we had a lengthy discussion yesterday in terms of this, the writ of election. Our understanding so far is and tell us if we are incorrect, after the Parliament is dissolved, a week after that, the writ of elections should be filed. 14 days after that is the closure of nominations, all people should be nominated 14 days after that; then there is one day for objections; three days for appeal, and from the close of the list, there are only seven days before the numbers should be drawn. So that leaves you with three days to draw the numbers after the objections have been heard.

MR. M. SANEEM. - After the appeals, we will do it the next day.

MR. CHAIRMAN. - That means the candidate has from the closure of the list to the polling just 30 days, so a candidate technically has about 21 plus a few days to campaign with the numbers.

MR. M. SANEEM. - 23 days.

MR. CHAIRMAN. - Now there are some suggestions to increase those time lines. In fact there was a wrong suggestion. The suggestion was that from the filing of the writ of elections to the polling should be increased from 30 to 40 days, but it is already 44 days. That submission would be

wrong but I think the intention was from the closure of the list to the polling should be increased from 30 to 40 days. Any suggestions on that?

MR. M. SANEEM. - If the time is increased, we will have a very long electoral period of no governance.

MR. CHAIRMAN. - 10 days is a long time?

MR. M. SANEEM. - It is not 10 days, it is 55 days without Government. If you add the seven on top of that it is 62 days that is two months without Government. Now that is for Parliament to consider but the only thing that would have to be considered is the Constitution will need to be amended, because the Constitution specifically says no later than 44 days.

MR. CHAIRMAN. - Generally, the law part I know it is not within your powers to suggest law changes but we are trying to see the practical part of it. So far, I mean the only complaint that candidates seem to have, they have no problems with the seven days after the Parliament dissolves seven days after writ is filed; 14 days for closure of nominations, the problem was that the one day for objection. They were saying there is not enough time for us to come up with the evidence or the grounds for objections. It is only about few hours. It is not a full 24 hour, it closes at 4 p.m. and by the next day it should be filed with the evidence. And three days thereafter, is for the appeal period, where the candidate brings his papers to say why he should not be disqualified and the person brings in the papers to say why he should not be disqualified.

MR. M. SANEEM. - It is three days for the Commission to make a decision. Appeals and objections finish at 4 p.m. the next day, and withdrawals is at 12 midday the next day.

MR. CHAIRMAN. - So that is 4 p.m. on the first day, everything should be in.

MR. M. SANEEM. - Yes.

MR. CHAIRMAN. - There is some suggestion that there is not sufficient time to find out stuff. In Honourable Lal's case he resigned way before the Elections, but there were some suggestions, even there were allegations against him as well that he did not resign within time. How practical is it to place all the papers, evidence before the Commission in those 12 hours?

MR. M. SANEEM. - I think it is all about preparation. In the 2014 Election FijiFirst was the only party that filed its nominations on the first week. All the other parties, there was People's Democratic Party (PDP) walked in because this was a closed session I can say it, PDP walked in at two minutes to twelve on the last day.

MR. CHAIRMAN. - And the closure was at 12.

MR. M. SANEEM. - The closure was at 12. Two minutes to twelve they walked in and 11 o'clock was when three parties came in, SODELPA, Fiji Labour Party and Fiji United Freedom Party.

MR. CHAIRMAN. - With all the list?

MR. M. SANEEM. - With their full list. So I think you will need two months to have a nomination and an objection period. If you look at the level of preparedness. The idea is to have a process where it can be quickly dealt with to allow for candidate campaigns to begin.

MR. CHAIRMAN.- All right. The numbers are drawn on the very next day, after the appeal or determination period is over. That gives the teams about 23 days. In your opinion, are these 23 days sufficient for, considering a single constituency, some people have to move to the North et cetera, islands with the numbers?

MR. M. SANEEM.- Sir, in terms of candidates' campaigns, the more time the merrier.

MR. CHAIRMAN.- Yes you are right. Ideally, the candidates would like to campaign the whole four years.

MR. M. SANEEM.- Yes Sir. In terms of electoral preparation, if the time is extended, we will get more time for postal ballots to come back to us, which is a good thing.

Pre-poll can start late, it does not have to start that early and for the benefit of this committee, the next election pre-poll period will only be seven days, not 14 days.

MR. CHAIRMAN.- All right. Shorter period.

MR. M. SANEEM.- We will run pre-poll in a shorter period, so, if in the event, yesterday was elections, last week Monday was when pre-poll started and last week Friday pre-poll finishes.

MR. CHAIRMAN.- Any questions in that regard Members, in terms of timing, filing of writ, drawing of balls? No?

MR. M. SANEEM.- Sir, I have just emailed Ira as well as copied everybody in, I have just emailed you a link showing a table of voter turnout data for Fiji, in which the percentage of invalid votes for 1999 was nine percent; 2001 was 11 percent; 2006 was 6.4 percent. It is a very comprehensive table, it will be very helpful in the Committee to ascertain statistical history of Elections.

MR. CHAIRMAN.- All right, we will have a look at that. There was another issue that was raised by one of the political parties, of some of them that 90,000 people were not able to vote in 2014 because of one reason or the other, some saying that they did not allow transport to be used, party transport or party sheds, some saying they did not know about where to vote or what to do. So is the number 90,000 correct?

MR. M. SANEEM.- Yes Sir, we had 591,105 registered voters, 500,078 people voted, that figure is for a voluntary election, 84 percent. 2006 Elections, total people who voted was 307,000 out of 479,674 registered voters.

In 2001, 81 percent turnout, 379,954 people voted out of 468,772 registered voters. 1999 elections, which has the highest recorded historical turnout, 89 percent of the voters voted but the number is this – 390,877 over 437,000 registered voters. 1994 74 percent turnout, 227,000 voted out of 303,000. 1992, 78 percent voted, 238,000 out of 303,000.

So, I would also like - it is in the table, Sir, - but if you look at the registration rate, the poorest registration rate is approximately sitting around 1999. Yes, Sir.

MR. CHAIRMAN.- What is the FEO doing in terms of ensuring that these 90,000 people who missed out, do not miss out in the 2018 Elections, what sort of exercises are being undertaking?

MR. M. SANEEM.- Sir, I do not want to worry the Committee, but I want to forewarn the committee to be prepared for lesser turnout in the next Elections.

MR. CHAIRMAN.- A lesser turnout.

MR. M. SANEEM.- Yes Sir.

MR. CHAIRMAN.- Why would that be?

MR. M. SANEEM.- Global trends have been that the turnout is reducing.

MR. CHAIRMAN.- All right. Because people are not interested or people are too comfortable?

MR. M. SANEEM.- Yes Sir. There is a higher turnout when the Elections happens after a particular event, and then, the turnout drops after that event.

MR. CHAIRMAN.- As things normalise, then it drops. That was why in 1999 had that large turnout and 2014 had a large turnout. Probably people do not want to change.

MR. M. SANEEM.- We are targeting 75 percent because it is a voluntary system now, so the average turnout in Indian happens to be 45 to 65 percent.

MR. CHAIRMAN.- 45 percent?

MR. M. SANEEM.- 45 to 65 percent, Sir.

MR. M. SANEEM.- In a democracy with 1.3 billion people?

MR. M. SANEEM.- Yes Sir. The trends are not very high around the world and the link that I have given you, you can have a look at the turnout around the world. We are currently sitting at the top range after Australia in the whole of the Pacific Region, because Australia has compulsory voting.

MR. CHAIRMAN.- So in the event that after 2018, we have the same Committee questioning you on the result of the 2018 Elections.

MR. M. SANEEM.- I will tell you I told you so.

MR. CHAIRMAN.- Yes. Alright. Question No. 6;

”A second requirement is that the cabinet resigns their position once their writ is issued and the Government is run by the Permanent Secretaries and Heads of Department for the duration of the Election Process.”

I know it might not be your arena to answer that question but what is the trend worldwide?

MR. M. SANEEM.- Sir, I do not think that Australia or New Zealand they do the same.

MR. CHAIRMAN.- What do they do there ?

MR. M SANEEM.- They will still be Prime Minister but they do not make any executive decisions after.

MR. CHAIRMAN.- They have the caretaker role.

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- Australia and New Zealand?

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- So power is not shifted to the Permanent Secretaries during the duration.

MR. M. SANEEM.- No, Sir, the Permanent Secretaries remain Permanent Secretaries. It is just that no executive decisions are made unless there is an unforeseen event.

MR. CHAIRMAN.- It is just the procedural decisions are made, salaries are paid, drains are cleaned, et cetera.

MR. M. SANEEM.- If you look at it Sir, Barrack Obama remained in the White House for his full term and the President-Elect Donald Trump, came in December.

MR. CHAIRMAN.- In December, two months later. Any questions on that Members, this was an area that was touched a few times by the political parties that power should be shifted. In 2001, I think Supervisor, the Interim-Government did not resign but it assumed the role of Caretaker Government and had the same portfolios as those Minister and continued and there was a lot of backlash by political parties too that “Why is a party that has been given an interim position now is in caretaker role?”

MR. M. SANEEM.- It is the risk with and incumbents, Sir, all over the world, whatever activities happen three months before the Elections is taken as Election Nearing Using Official Portfolio.

MR. CHAIRMAN.- All right, so that could be charged for that in the current Government.

MR. M. SANEEM.- It is an allegation that will always come up.

MR. CHAIRMAN.- All right, what is it called, sorry?

MR. M. SANEEM.- Election Nearing Using Official Portfolios.

MR. CHAIRMAN.- All right. So the next one;

“Once the writ is issued, all commitments timelines must be announced to the nation so we are all aware.”

I think what they are saying is that once the writ is filed, all these things we are discussing about your appeal period, the...objection period, your filing of nominations should be announced to the nation.

MR. M. SANEEM.- Sir, it was announced to the nation, we ran 44 press conferences in three months. One of the things here, Sir, is that there is a complete separation of the responsibility on the person itself.

MR. CHAIRMAN.- The person? The voter?

MR. M. SANEEM.- The voter, the party or whoever. If I am a political party, I need to have a section in my party who is responsible for this - Election Plan, so that we know what the dates are, never mind the Electoral Commission never announces it, we should know what the dates are.

MR. CHAIRMAN.- The political parties should be aware.

MR. M. SANEEM.- It is your responsibility, that is why you are in the game. There is no difference if we announce it or we do not announce it.

MR. CHAIRMAN.- Yes. There are legal advisers, the general secretary should let you know about it.

MR. M. SANEEM.- If the arguments are to such an extent that are being presented in the document, political parties must aspire to first uphold those same standards in their own activities so the Electoral Laws clearly outlines all the milestones within the Calendar very specifically.

Political parties, candidates, professors, lecturers, party agents, observers must identify these dates for themselves as well. It is not only for us to do Election planning, like I said to surprise a few, that today we are six months away from Elections, the first date can happen.

Now those are some of the indicators that should already be running around in political parties, that is very important, Sir.

I give you one current example, Sir, around this time last year we announced that voter registration overseas will start this time this year and we said that these are the addresses, contact us, so we know who you are and where you are.

When the teams are now heading off in the plane we are getting requests and complaints from political parties, voters and everyone “oh, what about us”?

MR. CHAIRMAN.- They should have informed you earlier that this is ...

MR. M. SANEEM.- Yes, Sir, even last week would have been fine for us. We would have been able to say “right we will extend the ticket and things” but you see, Sir, the level of preparedness needs to increase.

MR. CHAIRMAN.- If you are registering people in Sydney can people from Melbourne or Brisbane come and register in Sydney?

MR.M. SANEEM.- Anyone can come and register from anywhere in the world, Sir, at any booth. But the point is only people who came back to us, we are going to those places. Imagine that certainly there will be a place in New Britain for us to go and register someone in Papua New Guinea unless they tell us.

MR. CHAIRMAN.- People do not have an option of registering online?

MR. M. SANEEM.- No, Sir. We need registration to be in person because we have to physically verify every registered voter.

MR. CHAIRMAN.- This is understood. I do not know what this means but perhaps you might be able to make something out of it.

“The underlying philosophy has to be that the Electoral Commission and the Supervisor of Elections primary mandate is to facilitate free and fair elections rather than to default to a restrictive and forbidding environment and rules.”

MR. M. SANEEM.- Sir, we are creatures of statute or the Constitution. According to the Constitution, the Commission’s function is to conduct free and fair elections according to the legal framework. The normal quotation usually stops at free and fair elections. They do not go to the rest of the sentence in the Constitution.

“According to the existing legal framework” that is what the Constitution’s says. So we cannot falter from that, Sir. If the law says to me to ban everyone from bringing paper and pen into a polling station, all my policies and procedures will be designed to make sure that ban is effective.

MR. CHAIRMAN.- If the law says that you do something in 30 days you have to do it, you have no choice.

MR. M. SANEEM.- Yes, Sir. We have a precedent in Fiji or what is the definition of a day.

MR. CHAIRMAN.- So still be disputed.

MR. M. SANEEM.- Yes, Sir and that is the level of which we have to operate. If it says that the pen has to be blue pen, it has to be blue pen. We cannot breach the law selectively and this is where the Commission’s famous word is “we will apply the law as it is and not as it should be or could be.”

MR. CHAIRMAN.- I am just ask that the court has already made that ruling, right?

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- The law has to follow to the letter.

Number 9 I think you have partially answered that but the time period between the issuance of writ and polling day be increased to 40 days from the current 30 days as recommended by the Electoral Commission in the 2014 Report. I think that has been dealt with, right?

MR. M. SANEEM.- It is a Constitutional matter, Sir.

MR. CHAIRMAN.- It is 44 days not 30 days?

MR. M. SANEEM.- 44 days. Sir, actually I think it is from the close of nominations, it is 30 days.

MR. CHAIRMAN.- Yes, I think that is what they should have ...

MR. M. SANEEM.- They want it from clause of nominations to 44 days which currently 30 days they want to increase it to 40 days. So the Elections period will be 54 days, they are not 44 days.

MR. CHAIRMAN.-54 plus 7...

MR. M. SANEEM.- Plus 7 this way and 3 that way.

MR. CHAIRMAN.- 54 days.

Number 10 this is an interesting one but you are free to answer this one but it was presented to us I am reading it to you.

“The Supervisor of Elections Mohammed Saneem should resign because of the court of appeal November 11, 2016 Ruling against him for disobeying the directive of the Electoral Commission. This flagrant insubordination by the Supervisor of Elections is now being borne by the tax payers in the latest court action in the Supreme Court.”

MR. M. SANEEM.- So, they do not like my appeal. Someone has the right to appeal was someone does not have the right to appeal. I think it is quite appalling for such a recommendation to come based on those grounds, but Sir, I will still pursue my appeal even if I have to attend court myself.

MR. CHAIRMAN.- Your appointment is by the Constitutional Office Commission, right?

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- Has been on this anyway? The Parliament does not appoint you?

MR. M. SANEEM.- No, Sir. It is by the Constitutional Office Commission and appointed by His Excellency the President.

MR. CHAIRMAN.- No worries. It was put to me so I am putting it to you, not a legal counsel but as a discussion purpose.

Number 11: “The Supervisor of Elections position is to be advertised urgently and vetted by the Electoral Commission before his or her appointment by the Constitutional Office Commission.”

MR. M. SANEEM.- My term finishes in 2019 until then, in the absence of any other cause for determination of the agreement, I would like to continue my term and see the next Elections through.

MR. CHAIRMAN.- Thank you and good luck for that.

Number 12: “The Attorney-General should not be Minister responsible for the elections the Minister responsible for the election should be Prime Minister in accordance with the past legal precedents.”

I will not ask you to make a decision of that what was the past practice and what is the practice now?

MR. M. SANEEM.- In the past the Prime Minister was in fact the Minister responsible for elections and the degree of involvement of the Office of the Prime Minister was to the extent that all the monies and accounts were kept with the Office of the Prime Minister for the Elections Office. The monies were all released to the Office of the Supervisor at least once the writ was near to be issued and that is how some people closer to Government would know that election is near because the monies are now transferred.

MR. CHAIRMAN.- What was the rationale behind moving that office from the PM to the AG's Office?

MR. M. SANEEM.- Sir, it is a Cabinet appointment. The Prime Minister can control Cabinet and he may have decided that this Cabinet responsibilities with the Attorney-General.

MR. CHAIRMAN.- For the purpose of the Prime Minister would have given to the Minister of Agriculture too?

MR. M. SANEEM.- Anyone he could have appointed a special Minister for State responsible for Elections. Sir, I think the underlining principle there is that there are certain functions of the Electoral Act that are handled by the Minister responsible for elections, independent of the Electoral Commission and the Supervisor of Elections. For instance appointment of observers that is handled by the Minister responsible for elections.

MR. CHAIRMAN.- Appointment of international and local?

MR. M. SANEEM.- Yes, both, Sir. Then there is a provision where in the event an international has to work in the Fijian Elections Office approval must be from the Attorney-General as Minister responsible for Elections. Now we assume that provision is there to ensure that the level of internationals working in the Election is subject to Government policy.

MR. CHAIRMAN.- In terms of financing and all?

MR. M. SANEEM.- Yes, I would assume you do not want to have the Supervisor, Deputy Supervisor, Director Operation, Director Corporate all from overseas and no capacity building of Fijians. I would assume that, Sir. The other one in terms of Electoral Petitions; those rules are still the same from the previous law, Sir. The Attorney-General can move a petition in court to challenge an election.

MR. CHAIRMAN.- The appointment of international observers that was raised earlier too that local NGOs were not allowed to observe elections as well. Those applications are to be made to your office, the Electoral Commission, or to the Minister?

MR. M. SANEEM.- Sir, those requests are to be made under Section 119 to the Minister responsible for Elections. Early on in the process we had made that very clear to everyone that we cannot approve or recommend for observers and people are to comply with the law; and if they did it is between them and the Minister's Office.

MR. CHAIRMAN.- The issue that they raised was that they never had any response to their applications but that will be between the Minister and them?

MR. M. SANEEM.- Exactly, Sir.

MR. CHAIRMAN.- Has that had been a position always for observers to apply to the Minister or has it been ever a time where those applications made to the Electoral Commission?

MR. M. SANEEM.- Sir, subject to clarification for Honourable Karavaki I think invitation for observations were always issued by the Government.

MR. CHAIRMAN.- It is the Government invitation, yes.

MR. M. SANEEM.- It is the Government, Sir. I will take you into the principles behind international observation. It is an invitation by a country to its international friends to come in and observe the principles of appointing of Government in that country and it also issued to some donors because donors have this specific requirements of certain requirements within the electoral process to be satisfied before the donors' action grants. So that is the principle key behind electoral observations. So the Electoral Commission is subordinate to the Cabinet and the Electoral Commission does not have knowledge of who is a friend, who is not. For example, would be that a country's electoral commission cannot and should not or invite its country's declared as enemy of that territory to come in and observe because obviously it will be a tarnished observation attempt. So, those are some of the principles.

MR. CHAIRMAN.- Even for the local observers, NGOs, they will have to...

MR. M. SANEEM.- Sir, I do not know how local observation took place in 2006, I do not think there was one.

HON. MEMBER.- (Inaudible)

MR. M. SANEEM.- They were all right

MR. CHAIRMAN.- And they applied to the Minister at that time, all right so the process is the same...

MR. M. SANEEM.- The law has not changed in that regard from that what I gather now.

MR. CHAIRMAN.- No. 13 is probably a statement but it states that "the political parties will write to the Prime Minister and the Attorney-General, copied to the new Electoral Commission Chairman and the Supervisor of Election and seek an appointment with them. The main purpose for the appointment is to make the case that the reappointment of the Supervisor of Elections is unjustifiable in view of the non-renewal of the 2014 Electoral Commission member stamps who have performed their legal duties which integrity and professionalism and to ask for the resignation of Mr. Mohammed Saneem the Supervisor of Elections. The Opposition Parties hope to agree with the Prime Minister and the Attorney-General on a new Supervisor of Elections to be advertised and appointed urgently. It is not a question, it is a statement.

MR. M. SANEEM.- Sir, they did raise this at the meeting and the chairperson told them that he does not wish for the current Supervisor of Elections to resign.

MR. CHAIRMAN.- The meeting has taken place?

MR. M. SANEEM.- There was a meeting, yes Sir.

MR. CHAIRMAN.- All right

MR. M. SANEEM.- I have also mentioned to them that my term has not yet finished and I have not been reappointed.

MR. CHAIRMAN.- And you do not have any intention of resigning.

MR. M. SANEEM.- I have no intention of resigning.

MR. CHAIRMAN.- No. 14 “that the Elections Office recruit civil servants to man the polling stations on voting day rather than hiring temporary workers or volunteers to ensure they have the expertise and experience with responsibility. Before I call on you to answer that one, we had discussed this with Honourable Brij Lal who was a former Permanent Secretary and during discussion we found out that previously the registration, the polling agents, the presiding officer all were civil servants, school teachers, et cetera so, the rationale behind changing that system from civil servants to volunteers?

MR. M. SANEEM.- Sir, conducting Elections in different part of the world is done differently. In India, the civil servants all become automatically staff of the Electoral Commission, but in other western democracies, it is voluntarily, and whoever volunteers. In the US, people volunteer, no one gets paid, they volunteer to come and do the task but in the US, the Electoral Commission is not independent, it is the State Registrar. So, it is like the City CEO, that is the person who conducts those Elections. It is not an independent body but in Australia and New Zealand, its independent electoral offices, and both of them use independent staff, they hire people.

Two things, Sir. Firstly, civil servants are highly specialised in their own careers, in their own areas. They are hired for the purpose that they are hired for by Government. Elections can be conducted by civil servants, we have no doubt in their abilities, it has previously been done by them but what it left with was a general public that was disengaged.

MR. CHAIRMAN.- Meaning?

MR. M. SANEEM.- Sir, do you remember how the 2001 Elections took place? How much of it do you know? You went and voted.

MR. CHAIRMAN.- Yes and registration were also done and a lot of people complained that we were not registered, we went there and our names were not in the roll. I was one of them where the roll was placed somewhere else but I was very interested so I went and voted.

MR. M. SANEEM.- truly Sir. This is the thing, Elections should not be seen as a government exercise. When civil servants are involved, it is a government exercise, all right so they all came unpacked, conducted this packed and left.

MR. CHAIRMAN.- And they were employed and paid by the Government.

MR. M. SANEEM.- Yes. Elections should be seen and taken ownership of, Sir. So, an ordinary person who gets to work in a polling station is able to tell people, ‘oh, you know I was part of the last Elections and I did this. I was a ballot box guard. I go on the streets anywhere in the country and people come and say, You know, I was the ballot box guard, I was this’.

MR. CHAIRMAN.- These are volunteers.

MR. M. SANEEM.- No Sir, we pay everyone and it is 17,000 people that come in and work in the Election and they are essential to building democracy and preserving democracy. The allegations of rigging, staffing happens when you already know who these people are aligned to.

MR. CHAIRMAN.- Right

MR. M. SANEEM.- And what are the chances of someone saying that if Mesake is a civil servant and I am his Minister, and just before the Elections he was photographed handing me a paper for me to sign and I looked at him, I smiled and said “thank you” and you are a voter and you remember him at the polling station and what do you know? I come out winning in his polling station, you will at the same time say, ‘*areh hum to dekha raha u photo utarat raha*’. It is like the court and the court clerk and the judge situation.

MR. CHAIRMAN.- This is the perception of public that we are worried about.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- It is an apparent perceived by, it may not be apparent but perceived by us.

MR. M. SANEEM.- The other thing is Sir, these 17,000 people are now essential to proving or re-strengthening people’s belief in the democratic process. They were there, they counted, they accounted for it, they sent it and then they verified it. So, it is more of a civilian run operation - that is why there are so few police officers around our processes you will note.

MR. CHAIRMAN.- Yes.

MR. M. SANEEM.- It is civilian run because it is the people choosing their own government.

MR. CHAIRMAN.- In fact there is two formal argument, some parties are saying that there is not enough police presence and some are saying that there are too many police presence, people are intimidated that police officers are sending people away, so there is a bipolar submission on that.

MR. M. SANEEM.- With the police officers Sir. Police officers are trained in the art of law enforcement not accounting for Elections. So, we cannot run an Elections in which police officers are standing guard, monitoring the process, they are not observers. They are supposed to keep security, safety of voters.

MR. CHAIRMAN.- Safety of ballot boxes, guarding, et cetera.

MR. M. SANEEM.- Yes that is what they do and they are fantastic at that. They were praised by MOG.

MR. CHAIRMAN.- Then next one is “that the Elections Office consult with registered political parties and formulate a calendar and programme for electoral reform and marking the requisite processes that will take place in the lead up to Elections and after the writ is issued to the National Voting Day and the count as well as the announcement of final result tally. So, they are asking for the Elections Office with all the registered political parties formulate a calendar and programme.

MR. M. SANEEM.- Sir, they should do it themselves. The law is very clear. All the dates are properly identified, they design their campaign, they are the ones who are best suited to know when we want to do what. The calendar in terms of the electoral processes has never been published by the electoral officers. The 2006 Elections - same story; 2014 - same story, in 2016, I think the EU Report highlights various processes were carried out because it has been delayed and the Electoral Office carried it out.

Now, no one complained that we did not have the calendar of events. The important part here is that, if they are running in this process, they must identify the critical timeframes within for themselves. The nominations coming in the last minute on the last day itself shows the level of attention that has been paid to critical timeframes.

MR. CHAIRMAN.- So, is this self-governing requirement?

MR. M. SANEEM.- Indeed, Sir.

MR. CHAIRMAN.- All right and No. 16 before we take the break, “that Fiji ratify and accede to ICCPR (International Covenant on Civil and Political Rights). Fiji is not a party to ICCPR. What are some of the areas that are (they have not told us which particular clauses or sections or covenants) but our laws, how are they totally different from ICCPR?

MR. M. SANEEM.- Sir, I would suggest for a thorough examination to be conducted on the law versus the ICCPR but in my own research I have not found any contraventions. I went deeply into this report to try and find if they had highlighted any particular provisions that contravened the ICCPR and I have not found it.

MR. CHAIRMAN.- All right

MR. M. SANEEM.- There are allegations that the MIDA Act breaches ICCPR but Sir, which provisions? And how much and why has there been no challenge mounted in the Fiji High Court to challenge that for non-compliance?

MR. CHAIRMAN.- So, when we come back from the break, there is another thing that was brought up, the Electoral Commission had said that the political parties made a lot of allegations, fraud et cetera but upon various reminders, they fail to provide evidence. The political parties are saying that ‘we did provide evidence but no actions were taken’, so we can discuss that after we come back from the break.

MR. M. SANEEM.- Certainly Sir.

MR. CHAIRMAN.- Can we have 10 minutes break Honourable Members to give the Supervisor of Elections some rest and then we restart in 10 minutes, please join us for tea.

The Committee adjourned at 3.00 p.m.

The Committee resumed at 3.23 p.m.

MR. CHAIRMAN.- Members, let us start the proceedings, we just had a demonstration from the Supervisor on the Act. That Act Supervisor, when can people access it?

MR. M. SANEEM.- End of January.

MR. CHAIRMAN.- End of January, can all gauge our support.

Coming back to Question number 17, we will try to go as quickly as possible as much information as we can take out.

Supervisor, they said in 17, “the parties proposed that the Commonwealth Secretariat be invited to stand to Fiji and expect by July 2017 to review the Electoral Laws so that they are consistent with the UDHR and ICCPR with a view or to delivering free and fair elections to the people of Fiji in 2018. Is that your responsibility or that is it the Government’s responsibility?

MR. M. SANEEM.- Sir the Electoral Commission, in stating that it is not interested in forming a committee to review the law, I think it indirectly has answered this one as well and it does not have the authority to invite Commonwealth to send anyone. The powers rest with the Government. I do not think Commonwealth directly deals with the institutions within. I am a Board Member of the Commonwealth electoral network and as far as I understand, we cannot send experts to any electoral authorities, request has to come through Government.

MR. CHAIRMAN.- Number 18; “the legal framework for elections in Fiji be reformed under the guidelines of the Universal Declaration of Human Rights (UDHR) and United Nations International Covenant on Civil and Political Rights (ICCPR) so that Fiji will be in a position to ratify the ICCPR as soon as possible. We are willing to assist Government with electoral reforms and to recommend independent legal and electoral experts to assist review the process.

So they are saying that the laws has to be aligned with ICCPR and they have already heard from you that it is not too different or too far away from ICCPR. What is your view on that, is it necessary?

MR. M. SANEEM.- Sir, I think this is the Standing Committee’s role to determine whether it wants to undertake this exercise or not because as far as we are concerned, this is where we cannot make any statements on this aspect of the recommendations.

MR. CHAIRMAN.- Why we ask you is that you are the expert in that area so if you find any process that is not working fine for you, then you can let us know so we could then consider.

MR. M. SANEEM.- The MOG had already stated that the legal framework was sufficient for conducting of Elections. As I said, Sir, there is no specific provision identified that breaches or does not conform to the standards as stipulated in the UDHR or ICCPR. So myself I am not able to give you any concrete response in terms of how the application of that provision works.

MR. CHAIRMAN.- Number 19; “that the EC should review and finalise all existing electoral laws and finalise in advance on the next Election”. I think that has already been answered in terms of law reform.

Number 20; “that all Ministerial and Cabinet positions are resigned” - that has already been answered.

Number 21; “that once the Writ of Elections is issued, all concomitant deadlines” – already answered.

Number 22; “that a special electoral reform committee be formed to work closely with the Electoral Commission and legal experts to speed up the above changes into laws. Representatives of political parties are registered under the Registration of Political Parties Decree but are not represented in Parliament and will be participating in the 2018 Elections should also be included.” The answer of that is already there, that there is no need for another Committee.

Number 23; “the minimum threshold requirement for section 53 (3) the Constitution be reduced from 5 percent to 2 percent. We understand that this is something to do with Constitution or change where you are not empowered to make the change but what are your views on this? What an advantage or disadvantage of reducing the threshold?

MR. M. SANEEM.- The threshold is placed in a proportional representation system to create certain stability in Parliament and with the number of votes reduced from 5 percent to 2 percent, if 2014 Election results are considered we would have had five parties in Parliament in the 2014 system and the seats would have been dispersed, 2014 would have still allowed for a majority for FijiFirst in terms of I think 26 seats but it would have been a weak majority.

MR. CHAIRMAN.- So, we would have a problem like Papua New Guinea?

MR. M. SANEEM.- Papua New Guinea, Vanuatu, Solomon Islands, Australia, New Zealand next year, Brisbane, all these places are facing the problem of weak coalitions. In fact, in New Zealand right now they are not even able to sort out how the coalition will work.

MR. CHAIRMAN.- Yes, we heard about that.

Any comments on that Members?

If the threshold had been reduced to 2 percent there would be five political parties in Parliament. FijiFirst majority would have been reduced to 26 still in power but it would be very weak, a very thin thread.

HON. M.A. NIUMATAIWALU.- I think previously in one of those political party submissions, it was from 5 to 3 percent.

MR. CHAIRMAN.- That was from the MOG report they wanted to go to 3 percent but probably one of the parties who made the suggestion would have missed out on 3 percent so they went on 2 percent. All right, we will note that.

“Section 61 of the 2013 Constitution of the Republic of Fiji be amended so that period between the issuance of writ to polling be increased”, I think that has been answered. The question itself is wrong. It is not 30 days from the writ to the elections, it should be close of nominations.

MR. M. SANEEM.- Yes, Sir, from close of nominations.

MR. CHAIRMAN.- Question 25; “the Constitution be amended in Section 64 (1 and 2) by deletion of reference to a by-election and instead the vacant seat is awarded to the party or the independent candidate who would have been entitled to a seat in the original allocation. Alternatively the seat remained vacant and a by-election be held only if three seats are similarly vacant.”

What I understand from that is, currently if there is a by-election required if a party has exhausted all his reserves and the by-election required, whole country will go for that one seat, that is what we heard from you earlier. What they are suggesting is that the seat be given to the next entitled candidate albeit from a different party. What are your views on that?

MR. M. SANEEM.- Sir, the problem is, Fiji is an extreme case scenario where under an modified openly system has come up with a landslide seats in Parliament. Historically under this system, it has always been coalition Government. If such a provision comes in might have a Government falling.

MR. CHAIRMAN.- It is a very close majority like if I have participated there with the 26 majority, one person resigns here or dies and there is no replacement you could have a different Prime Minister the next morning.

MR. M. SANEEM.- Yes, hence the by-election provision allows for the country to choose whether they want to keep that status quo. One of the things is that we should not only look at this from the point of view as what is technically right but we should look at its applicability as well. What is the effect on the immediate next and the further effects of the changes that are being proposed?

MR. CHAIRMAN.- In a very extreme case, it would have even give rise to crime is it not? Like probably set of siting MPs from a political party be murdered to create this vacuum because the seats go to the other side and the balance of power turns.

MR. M. SANEEM.- Yes Sir, extreme case scenarios.

MR. CHAIRMAN.- So that is probably another question that is tied up to the issue of stability - why the threshold was kept at 5 percent. Honourable Members if you have any questions along the way please ask because we need to finalise things and we need to move quickly as possible.

“Section 23 (4) (g) of the Electoral Decree be amended to read `provided that the actual penalty imposed was imprisonment for six months or more.”

This is where, for example, some political parties state that if they have been leaders or their members charged for an offence, the current position is if the offence merits a sentence of 12 months or more, it is immaterial whether the person has gone to prison or not, but he is not eligible to stand for Elections not only for this one but for the next eight years. They are saying that it has to be that actual penalty imposed be six months. The law is there but what are the practical aspects of that?

MR. M. SANEEM.- Sir, if it is changed, we can still implement it but I think the Constitution will need to be

MR. CHAIRMAN.- If the law is changed then, whatever the law is, you have to implement anyway.

MR. M. SANEEM.- The thing is, I would not know the reason for these clauses to be present and I know Mr. Chaudhry applied for candidacy in the last Elections and it was rejected.

MR. CHAIRMAN.- Even challenged that thing in court.

MR. M. SANEEM.- Yes it was rejected. He has recently challenged it and he has withdrawn but I think this would be best answered by the Solicitor-General's Office.

MR. CHAIRMAN.- Number 2;7 “that Section 52 (2) of the Electoral Decree to be amended “...to enable voters to take in a small card or piece of paper on which the number of a candidate or more are written...” So this is something that even the amendment has not allowed it, they want voters to be able to take in a piece of paper, with not only the candidate number and name written, but some more things will also be written. What are some of the difficulties with that? Why did you not allow that?

MR. M. SANEEM.- Sir, I think because the Fijian Elections Office already provides the voter instruction booklet which allows you to hold a booklet that has got all the candidates. It prevents the influencing of votes inside a polling place.

MR. CHAIRMAN.- So, a particular political party could distribute them a list to take in and find their own candidates on that chart.

MR. M. SANEEM.- Mr. Chair, the thing is, what we are more concerned about is the right for a person to choose a candidate that they wish to vote for and this can be done if the person has this right of choice through a selection from a range.

MR. CHAIRMAN.- Regardless of political party.

MR. M. SANEEM.- ... affiliation.

So, why I am saying that Sir, we live in a society that has some very dominant figures in our cultural way of life and this dominant figures would influence the voting and in the even it cannot be an influence can even intimidate for a vote to be done in a particular manner by being influential and inside a polling place we want to assure every voter that atmosphere of security that you can secretly choose who you have to vote for and not to be targeted for not doing so. You cannot be identified as the person who decided not to follow the directive.

That is why if Mesake and I, if I am the father, he is my son and he is 18 and he wants me to pay for his university next year I can tell him “make sure you vote for this candidate who is my friend if you want me to pay for his university” and I give him this card and Mesake as soon he gets to the voting screen, Mesake looks at the card and remembers what my father told me and he is not allowed then the opportunity for a fair choice.

So, the ambit of free and fair election is not only the outside, the most important is the inside where the direct approach to the voter is concerned. What is the opportunity of the voter to exercise his or her freewill? What is the opportunity? There are many times when polls are defeated; whatever is the poll, they come out and suddenly it is a very different result.

MR. CHAIRMAN.- Yes.

MR. M. SANEEM.- Dictators have been removed and things happened. Sri Lanka is a classic example where the poll said that the Rajapaksa was going to win and everything was sure, he had already planned his own victory celebration and everything and Sirisena won.

MR. CHAIRMAN.- Yes, because what happened inside was the main.....

MR. M. SANEEM.- Voters had a freedom of choice. So, we as the agency that gives that opportunity whilst it maybe critically looked upon as not allowing person the freedom of knowledge of knowing whom to vote for, we are giving them the freedom of opportunity to choose from the old list.

MR. CHAIRMAN.- I think why that position was brought out supervisor was that, in Fiji people are not very good with numbers I have been told.

MR. M. SANEEM.- Right.

MR. CHAIRMAN.- The issue was the case of 279

MR. M. SANEEM.- 279 and 297, yes.

MR. CHAIRMAN.- They said they try to remember three figure number and it will be more difficult now because the number will reach in to fours, I think.

MR. M. SANEEM.- No, Sir, it just three.

MR. CHAIRMAN.- No, 530.

MR. M. SANEEM.- No. 508.

MR. CHAIRMAN.- Just eight political parties registered. They will fill 50 each.

MR. M. SANEEM.- It will be 908.

MR. CHAIRMAN.- But still.

MR. M. SANEEM.- We do not think that all seven political parties will fill 51 candidates.

MR. CHAIRMAN.- That issue that Fiji is not very good with numbers.

MR. M. SANEEM.- I think, Sir, three numbers with the book in their hands and the ability to cross match.

MR. CHAIRMAN.- And the picture will be there, right.

MR. M. SANEEM.- The picture and the name will be there. The thing is that as I said earlier on, a person who holds the PhD in Mathematics can also do the same thing. One of the things that Jenny Seeto said to me that for me person who is the merging partner of the largest accounting firm in the country, even when I went to vote I had to look at the book three times.

MR. CHAIRMAN.- Yes, to make sure.

MR. M. SANEEM.- So, it is about choice and the mistakes are there. It is only about telling people your number properly.

MR. CHAIRMAN.- All right, No. 28; That the Electoral Decree Section 53 1(a)(b) amended to read 'that a voter if given access to a list with alphabetical listing of candidates that includes the full party name icon and photos of candidates'.

So, firstly what was the system last time? It was alphabetical or it was by number?

MR. M. SANEEM.- By number, Sir.

MR. CHAIRMAN.- It was by number.

MR. M. SANEEM.- Sir, if we take your point earlier that you said people have a problem with numbers, it will be a bigger problem if I give them a book that is 40 pages thick to try and find a number and name of a person rather than the book that we give currently which is 20 pages in thickness.

MR. CHAIRMAN.- So, currently it is the photograph, number and the name.

MR. M. SANEEM.- So, number is the first, followed by the name then last is the photograph and that is what the law currently February amendment now requires those to specifically have those three items only.

MR. CHAIRMAN.- Right.

MR. M. SANEEM.- Sir, if we give an alphabetic book and a numeric book it is alright to probably everyone in this room, but in a situation where someone who has not attended school that much like my mother it would be quite difficult for her to identify the name, photo and number because it appears twice in the book.

MR. CHAIRMAN.- Yes.

MR. M. SANEEM.- First it appears in number and then in the alphabetical list and then she will say "it was different number, one here was 147 and the other one was 146."

MR. CHAIRMAN.- In different page too, it will be different pages.

MR. M. SANEEM. –And then what will happen, Sir, is that they will then stand there for three minutes and wait for my staff to come and confirm that both the numbers are the same. So, the less options with the best explanation are the better ones in a situation where you want to execute this process in two and a half minutes for the next voter to come in.

MR. CHAIRMAN.- No. 29; we disagree with the recommendation for residency for those citizens with multiple citizenships. So, I think what they are saying is that people who have dual citizenships should be allowed to contest Elections, regardless of the 18 months adequate requirement.

MR. M. SANEEM. – Sir if you have dual citizenship, you have to resign your earlier other citizens to be a Member of Parliament.

MR. CHAIRMAN.- Right.

MR. M. SANEEM.- I think this is pre-sovereignty principle. You cannot have loyalty to two countries once you are a Prime Minister of one.

MR. CHAIRMAN.- Right.

MR. M. SANEEM.- I think in Australia, the Deputy Prime Minister has resigned for that reason.

MR. CHAIRMAN.- All right. So, to be a candidate you have to resign from your previous...

MR. M. SANEEM.- From your any other citizenships.

MR. CHAIRMAN.- I think there are some sense in that, you can have dual citizenship in many countries and then you will not be loyal or you might not be loyal to a country, any problem you might just fly out in the next flight.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- "Section 79(4) of the Electoral Decree amended to require that box be displayed to prove it was empty at the start of the verification process. I do not know what they are trying to say on that.

MR. M. SANEEM.- We are already doing that, Sir. Our procedures are such that an empty ballot box is showed to everyone before it is closed again for the voting.

MR. CHAIRMAN.- At the station.

MR. M. SANEEM.- It is already being done.

MR. CHAIRMAN.- So, after all the ballots have been cast, the Presiding Officer after 6.00 p.m. will open that box dump everything out on the desk.....

MR. M. SANEEM.- And show the empty box again.

MR. CHAIRMAN.- And then those ballots will go back after counting in the same box.

MR. M. SANEEM.- Yes, it is unnecessary to write that in the law.

MR. CHAIRMAN.- Right.

MR. M. SANEEM.- It is a matter of procedure.

MR. CHAIRMAN.- It goes without saying.

"Section 81 and 88 of the Electoral Decree be amended or removed the requirement for a special protocol of results."

MR. M. SANEEM.- It has been removed. Now it is all the same, all protocols. I think does it say pre-poll on it? No.

MR. CHAIRMAN.- So, what was this special protocol of results?

MR. M. SANEEM.- It say the law requires to have different types of protocols of result for pre-poll and polling day.

MR. CHAIRMAN.- What results law requires you to do?

MR. M. SANEEM.- The law requires us to have a protocol of result that look different from pre-poll voting and polling day voting.

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- But it has been removed. I think it is the same protocol result because the numbering counting system is the same.

MR. CHAIRMAN.- No one will know which votes are from pre-poll and which votes.....

MR. M. SANEEM.- You can know Sir, by looking at the polling stations.

MR. CHAIRMAN.- Polling stations, but not physically.

MR. M. SANEEM.- No.

MR. CHAIRMAN.- Because protocol is now same.

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- All right. Question No. 32: Sections 83 and 86 of the Electoral Decree be amended to remove the requirement for a special envelope for postal votes. What I was suggesting about the postal votes are coming in envelopes which should come in the ballot box.

MR. M. SANEEM.- With respect, I think certain statements has also been made by a Member of your Committee which is incorrect, especially in this area. The postal ballots are sent out, once you receive your postal ballot, in that ballot would be secret envelope; transmission envelope; prepaid return envelope; ballot paper; voter instruction guide and how to vote material. To send your ballot back you mark your ballot paper, fold it, put it inside the secret envelope, seal the secret envelope, put the secret envelope inside the Fijian Elections Office transmission envelope. At the back of the transmission envelope you have to fill in your details, your name; your voter number; your address; your signature.

Your transmission envelope is packed inside the prepaid return envelope and you post it to us; Secret, Transmission and prepaid, you post it to us, if we receive it on time, we open the prepaid envelope, take out the transmission envelope, put it in the pile of all the other votes that have come in. Then we invite the political parties to come in for verification. We bring the transmission envelope, we look at your name and details and check whether you were an applicant or not.

We verify that, we cross your name on the roll. Then we open the transmission envelope, take out the secret envelope and drop it in the ballot box and that ballot box is sealed. Each 500 postal ballots will have a polling station one. One polling station and then the next 500 is polling station is two, next 500 is polling station three. Secret envelope goes inside the ballot box. Ballot box as soon it reaches 500 it is sealed and brought to the counting centre. If it is sealed before the Elections date it is stored as postal at the warehouse.

Then on counting time it is brought in, seals are broken, opened, everything is dumped on the table, still all the ballots are inside the secret envelopes. Reconciliation is already done because we have crossed off those. If by chance Mesake gets two postal ballots and he says I am going to send both. For him to know, we will only count one because his second envelope as soon as we see that it is already crossed off, is discarded.

MR. CHAIRMAN. - What if there are two Mesakes?

MR. M. SANEEM. - No. No. Then we will still be able to find it through the details. Your voter number will be different.

MR. CHAIRMAN. - On the postal itself, Elections are almost, the maximum is about one year away but you are starting your overseas registration now. What if there is movement of population between that time? People move to overseas country from here or some people come and stay here. What happens to those people?

MR. M. SANEEM.- The requirement for postal is that you have to prove to the Electoral Commission that you will not be able to go to your polling station on the day of election. As long as you can do that, in the postal vote application form, there is a provision which says, where would you like us to deliver your ballot paper? And the second side of that is, where do you currently reside? So, once we know where you want us to bring it to you, we just send it to you at that address.

MR. CHAIRMAN. - When does the postal ballot close for 2018?

MR. M. SANEEM. - Applications close 23 days after writ day.

MR. CHAIRMAN. - So people can apply for postal ballot until?

MR. M. SANEEM. - From the date election is announced till the 23rd day after the writ is issued.

MR. CHAIRMAN. - So people will have sufficient time.

MR. M. SANEEM. - More than sufficient time. We have improved the postal application system so that all the staff of Parliament can fill out their forms and send it to us as one batch. After approval, we will pack all your ballot papers in different envelopes but send it to Parliament in a batch. So you just go to your HR person and you pick it up.

MR. CHAIRMAN. - This also applies to people who will be moving out?

MR. M. SANEEM. - You can move out of Fiji or you cannot go to your polling place like nurses, doctors, hotel workers, bus drivers, taxi drivers, and all these people.

MR. CHAIRMAN. - People who are already in overseas, they have to register?

MR. M. SANEEM. - They have to register first but if you are overseas you cannot vote at any polling station in Fiji. You have to apply for a postal vote. So if someone tells you that I flew back to Fiji from Korea and voted at my polling place, and I was registered in Korea, that person is not telling the truth. You cannot do that.

MR. CHAIRMAN. - Do not trust the Koreans.

MR. M. SANEEM. - If they do come back to Fiji, they can change their address in the Electronic Voter Registration (EVR) System and they will be allocated to a polling station nearest to where they live.

MR. CHAIRMAN. - Provided they are registered beforehand?

MR. M. SANEEM. - Yes. They do it beforehand.

MR. CHAIRMAN. - When does the registration phase close?

MR. M. SANEEM. - On the issue of writ. When the writ is issued at 6 o' clock at that day it will close. The writ has those things written on it.

MR. CHAIRMAN. - So the people still have opportunity to register?

MR. M. SANEEM. - Yes, they do.

MR. CHAIRMAN. - Postal vote, that was the question postal vote.

Question No. 33 "that the Electoral Commission recommendation for mixing of ballot papers with another ballot box, if they are less than 50 votes is supported and should be implemented. What is that, if there is less than 50 ballots at a particular station, then they get mixed with another ballot box at that particular centre?

MR. M. SANEEM.- It emanates from an international principle that states that where there are votes in fewer numbers, it should be counted together with votes from other places so that it is not ascertained as to who cast their votes and how. It is an international principle. It is mostly a principle that observers are very adamant on in countries that have civil wars and tribal wars and ethnicity issues. Although it does not have relevance in that area in Fiji, it still has some relevance in terms of animosity amongst the communal setting and things like that.

So, I think that is why the Commission proposed to have it if it is below 50 to be mixed. But the problem it creates for us as electoral officials is then, if I mix polling station number 2708 and 2709, tomorrow parties will be standing at my doorstep and saying where is the result for 2708? And how come 2709 has got 50 more voters?

It is little bit of cultural understanding there as well that the current system the level of scepticism is high, so anything that does with mixing of votes or combining of polling places will have an outcry. Right now we have an outcry if we do not combine. If we combine then there will be an even bigger outcry.

MR. CHAIRMAN. - What is the current practice, even if a particular station has got less than 20 votes, will still report it separately?

MR. M. SANEEM. - Yes, Mr. Chairman. We adopted that principle that we were not going to mix it, we were going to count and report each station individually just to preserve the integrity of the results.

MR. CHAIRMAN. - I think that was a clear system because previously, a particular political party came and said that mixing was being done and we are against it. We want to have separate stations reported separately. And that time we were under the assumption that it was mixed but now you have explained clearly that even if a particular station has got just 10 voters per station, total centre has got 30, will still report it - 10, 10, 10.

MR. M. SANEEM. - Yes. Subject to clarification from Honourable Semesa Karavaki, Sir, I believe in 2006 and 2001 and 1999 and onwards, the earlier practice was that you count the whole constituency together. So if this ballot box is for constituency number six, this is counted then six,

the next ballot box is opened and then the next one is opened until all is counted and then, so you cannot say that St. Augustine School result is so and so. It is always Northern Open constituency result is so and so.

MR. CHAIRMAN. - That was the practice that time, whole constituency was counted together, or he was the counting officer, yes. We have expressed the world - we have media, we have supervisor, and we have got counting specialists.

MR. M. SANEEM. - I am looking forward to this report.

MR. CHAIRMAN. – Now, as the Supervisor mentioned, previously the counting would not be per school or per centre, it will all be say Ba East or Bua Open, all will be counted together.

MR. CHAIRMAN.- Alright. So the system remains the same but on a larger scale, here you have to verify “How many people registered?” “How many votes were cast?” minus the invalid, that is the number of votes that should be counted. All the total results should add up to that. All right.

Question No 34; “that Sections 102 and 103 of the Electoral Decree be amended to remove reference to provisional results and only final results tally be compiled.”

So I think we have discussed that at length, why there is a reason for provisional results is because some trends have to be maintained so that there is not too much of discrepancies when the final results are announced.

MR. M. SANEEM.- Sir, final results also take about two to three days and imagine if we do not give you any results for two to three days, the amount of suspicion that will raise, and that is critical to be maintained.

MR. CHAIRMAN.- Because there was something that was brought out about, you know our discussion as well about political parties, they said at every centre (I do not know how true that is)– but at every centre, the party agents and the Police Officers were all asked to move out of the room before the ballot box was opened.

MR. M. SANEEM.- Sir, is happened in some places. My recollection is four places, and in one place my presiding officer refused to allow candidates agents in because it is the fault of the candidates agents too because they were not there at 6pm. So the rule is; you have to be inside the polling place at 6’o’clock. So they were not there, and FijiFirst and SODELPA were complaining that they are not letting them in.

So I called my area officer and I said “I want you to go to Savusavu Secondary, and I want you to put that presiding officer on the phone, I want to talk to that person, because Honourable Lorna Eden, and Honourable AG, Anasa Vocea and Pio Tabaiwalu were all just calling me left right and centre saying “My people are not being allowed in, what is happening?”

So I asked my area officer to go to Savusavu Secondary, and they put the person on the phone, and she said, “Sir, the book says they have to be inside by 6pm, they were not here Sir, I cannot let them in.”

So I said to her, “All right, let them in, I am allowing you to let them in.” And she said “No, Sir, you cannot allow me to let them in because the book says they cannot come in.”

HON. A. SUDHAKAR.- What is the rationale for not allowing people after 6pm? Because they will keep coming in and out.

MR. M. SANEEM.- Sir, what we were following is that, if you were in the room at 6'o'clock when we were doing the main thing which is opening the box, then you are a useful person, but if you come at 8'o'clock and want to come to inside to see what is going on, then you will start the question from zero. "When did you open the box?" "What was the seal numbers?" And so, it is 10,000 people working at the same time, we cannot control the attitude of everyone. And eventually I had to overpower the lady and say look as Supervisor of Elections I am giving you an instruction, your book says you have to follow my instructions, if you want I will text it to you immediately, I want you to comply, then only she lets the agents in.

Not only there, it happened in a few other places too. So we are now trying to rectify that in our training, the Polling Agents Handbook will be a good guide, the agents can show the book and say "The book says I can come in." But the book says that if you are already in by 6pm then you can be let in afterwards.

MR. CHAIRMAN.- There is one issue of letting in, the other issue was people who were already in were asked to go out.

MR. M. SANEEM.- Yes, that also happened here at Mahatma Gandhi Memorial School (MGM) because they finished, 100 percent turnout was at around 1pm, so what they did they put the ballot box in the middle of the classroom, everyone came out, they locked the door, they went had lunch, sitting under the tree and everything. I went there and all my staff sitting outside, so I said "What is happening?" "Oh we are just waiting" "What for?" "Oh finished 100 percent", so I said "Who is inside?" "No we locked the classroom". I looked there, candidates' agents sitting this side, Police officers sitting outside, so I went talked to the Police officers and came back.

In the afternoon then I got a complaint "Oh we were all chased out outside." So it happened.

MR. CHAIRMAN.- So that was just one centre?

MR. M. SANEEM.- It happened in a few other places Sir.

MR. CHAIRMAN.- The practice is that people have to remain in that room.

MR. M. SANEEM.- They should allow them to remain in the room. We have now put it in the training. There is a special provision that says;

"Do not chase people out of the polling stations unless they breach the rules."

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- Sir, every election the Electoral Commissions will find new lessons to learn and improve the system, and that is how it will work.

MR. CHAIRMAN.- That was something that was very vehemently argued here, I thought that ...

MR. M. SANEEM.- But Sir, even if they were chased out, the reconciliation part at counting was still fully accounted for, 150 turned up to vote, 150 ballot papers.

MR. CHAIRMAN.- They thought that some papers were pulled out from the box and some other papers were shoved in.

MR. M. SANEEM.- Yes. But Sir, still the reconciliation worked, one. Two, the ballot box seals are reconciled in the counting so the seals placed in the morning are recorded and the same seals are broken in the afternoon. So if they were chased out, it is even more reason for them to see what is happening inside. So the seals would not have to be changed because there is only seal with that number. So, there is a whole host of ways to ensure this stuff does not happen, rigging does not happen, and more so malpractice does not happen.

MR. CHAIRMAN.- If votes do not come out, more votes cannot go in because otherwise it will exceed the number of votes cast.

MR. M. SANEEM.- Reconciliation will not add up and as Honourable Brij Lal has said, they see whether it is 200 equals to 200, here you see 200 same afternoon.

MR. CHAIRMAN.- All right.

MR. M SANEEM.- And the voter list has got columns at the bottom where you have to write how many.

MR. CHAIRMAN.- Once the seal is broken, it cannot be reused?

MR. M. SANEEM.- No, Sir, it is made in such a way that even if the seal breaks on transit, you cannot glue it back it together, it will be clearly evident.

MR. CHAIRMAN.- All right. Now 35 is an important one probably for knowledge of the Committee as well, they are saying that the Sainte Lague rule is fairer than the d'Hondt, and agree with amendment of 104 a far better decree. So can you explain the difference between the two systems and why they are asking for Saint Lague to be used as a fairer system?

MR. M. SANEEM.- Sir, the d'hondt formula, the main cracks of the d'hondt formula is the calculation. The d'hondt formula, you take the total number of votes that the party has received, not candidates, and you divide it by one, two, three, four, five, up to the number of candidates the party has filled. And you place it all, one party beside each other.

Then you highlight the answers that you have got, you highlight the top 51 for the next elections or top 50 for the 2014.

MR. CHAIRMAN.- Top 50 from all parties?

MR. M. SANEEM.- From all parties. Top 50 quotients not candidate votes. So then you count how many has been highlighted under FijiFirst, that is the number of seats that went to FijiFirst, and then you go into the list of votes per candidates in FijiFirst and see who is in the top ranking in that number, so top 33 they go into Parliament.

MR. CHAIRMAN.- So you said, divide by two, the total number of votes cast.

MR. M. SANEEM.- Total number of votes the party receives, so FijiFirst receives 293,000 votes, so 293,000 divide by one, divide by two, divide three, up to 50, then NFP divide one, two, three up to 50, SODELPA, divide by 49 because they only field 49 candidates, there is only three

because the other did not meet the threshold. Then you count, you highlight the top quotients of the answers that you get, the top 50 of the quotients and then you count individually under which party how many highlighted ones you have.

Is that laptop connected to the power point?

MR. CHAIRMAN.- Yes.

MR. M. SANEEM.- Let me do a demonstration.

(Demonstration of the formula by Mr. M. Saneem)

MR. M. SANEEM.- Now I use the same principle, New Zealand uses Sainte Lague's rules for your information, they are still calculating though after their last Elections.

Their seat distribution has now changed, even though party A with d'hondt formula received seven seats, now party A receives four seats, but party B and party C with a huge differences in the number of votes they have got, they get equal number of seats. So in Fiji's system, NFP would have got two more seats at the expense of one seat from FijiFirst and one seat from SODELPA.

(Inaudible)

MR. M. SANEEM.- Yes, that is the application 13579.

(Inaudible)

MR. CHAIRMAN.- Are there any comments on that Honourable Members? It is fairer to party with low votes.

MR. M. SANEEM.- It sort of rationalises the composition of the Parliament.

MR. CHAIRMAN.- Which one?

MR. M. SANEEM.- The Sainte Lague, no one has absolute majority. It sort of takes it down because the devices are bigger. So very quickly a large number becomes small.

MR. CHAIRMAN.- And the intention of the voter is not truly well reflected in Sainte Lague but what is happening, as you said, a party with different 100,000 votes, 50 and 50, there are equal number of seats.

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- The intention of the voter is not met.

MR. M. SANEEM.- Yes, as I said, it rationalises, like they used to have scaling of marks. It scales..

MR. CHAIRMAN.- The poorer students come up and get scholarships, just like smaller parties may get more.

MR. M. SANEEM.- The idea was to get 70 between 70 and 78 and it will automatically give you 92, but if you get 92, 81, 75, 93, you are going to come down to 78 and 79 mark. That happened to us in high school, my friend who was always in the 70s was the dux because he got 89, 90, 89, 90.

MR. CHAIRMAN.- He came down?

MR. M. SANEEM.- He came up and we who used to get 89, 90, we all came to 1 which was 81.

MR. CHAIRMAN.- It happened to me too.

MR. M. SANEEM.- I had four 81s and I was not like baffled, like how can I get four 81s.

MR. CHAIRMAN.- So the whole system, if I say the total number of votes received by a party over the total number of votes cast, the percentage that comes to, I think for FijiFirst will get 59 in both method in the actual division and the d'Hondt system. The total number of votes cast, the total number of votes received by the party, divide by the total number of votes cast ...

MR. M. SANEEM.- Percentage-wise.

MR. CHAIRMAN.- It is closer to the d'Hondt system?

MR. M. SANEEM.- Yes, there are other ways to calculate this, if an independent is going to win a seat because they have crossed a threshold, then what you can do is, total votes minus the independents vote and minus all the other parties, that did not win, the threshold and you look at the percentage of the votes left and that is the way seats will be allocated to parties.

MR. CHAIRMAN.- It is closer to the d'Hondt system?

MR. M. SANEEM.- It is closer to the d'Hondt system.

MR. CHAIRMAN.- I think I have got the point now. Sainte-Lugae system is probably fairer to smaller parties who just barely met the threshold but for the intention of the voters, the d'Hondt system seems to be the better one.

MR. M. SANEEM.- Also, you can look it in terms of realisation of the value of one vote. If you look at the Sainte-Lugae system, the value of a vote in Party C is far greater than the value of a vote in Party A, or actually Party B even bigger comparison because of 100,000 votes difference but you still get in.

MR. CHAIRMAN.- Question No 36 – “Section 104 (6) the Electoral Decree be amended to specify that point 5 be rounded up to avoid disagreement during the count.”

MR. M. SANEEM.- It is a fair suggestion, Sir.

MR. CHAIRMAN.- What does it mean?

MR. M. SANEEM.- Say, for example, we have one seat to allocate and the last number which is the highest number is an example in d'Hondt, the last number say 50,000.3 for Party A and 50,000.2 in Party D, and that is the last one. Now, should we round it upwards or should we round it downwards?

MR. CHAIRMAN.- .2 and the other one is .3, the general rules seems to be the .3 is rounded up?

MR. M. SANEEM.- But our law currently says it should be first rounded off. So they will have to do a draw from the hat, whether it is one seat for his party, or one seat for my party.

MR. CHAIRMAN.- Rounded off to zero?

MR. M. SANEEM.- Rounded off will not really solve the problem. We should actually say to the first decimal point, so it is easy .3 is bigger than .2, so .3 gets it.

MR. CHAIRMAN.- That is the current practice?

MR. M. SANEEM.- No, the current practice is to round off, but we did not have any situation like that in the last Elections because it was clear cut.

MR. CHAIRMAN.- In there, the idea would to be amend that Section.

MR. M. SANEEM.- Possibly if it is not amended it can still work out but ...

MR. CHAIRMAN.- Was this amendment considered when the last amended was done in 2017?

MR. M. SANEEM.- Not sure, Sir, was that amended?

(Inaudible)

MR. M. SANEEM.- Not amended, Sir.

MR. CHAIRMAN.- Was not considered.

MR. M. SANEEM.- Its caution shall be rounded off to the nearest whole number and if it is a draw then it is pick from a hat. Sir, I think that was the solution to get around it.

MR. CHAIRMAN.- That did not happen?

MR. M. SANEEM.- No, Sir.

MR. CHAIRMAN.- Question No 37 “in the interest of fairness, Section 104 (8) of the Electoral Decree amended breaking a tie between two or more quotients.” Is that the same?

MR. M. SANEEM.- Yes, Sir. The pick from the hat they want to remove it.

MR. CHAIRMAN.- What would happen then if it is not picked from the hat?

MR. M. SANEEM.- We will put Party A and Party B’s name in the hat and get the third person to come and pick it, blindfolded, and whichever won that is the seat for them for the whole term.

MR. CHAIRMAN.- In case of a draw.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- Questions 36 and 37 related I think?

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- Question 38 “That Section 119 of the Electoral Decree be amended in order for the EC to approve observers and not the Minister for Elections.” I think there is a policy.

MR. M. SANEEM.- We have discussed it, Sir.

MR. CHAIRMAN.- Section 63 (1) of the Political Parties Decree be amended to remove the requirement for a maximum of 7,500 names only for a political party to apply to register.” I think the minimum numbers is 5,001 and the maximum is 7,500.

MR. M. SANEEM.- There is no maximum, Sir. When FijiFirst placed this nomination application for registration, it gave us 44,000 members.

MR. CHAIRMAN.- 44,000 and to print that you...

MR. M. SANEEM.- We printed Fiji’s largest newspaper, 282 pages and the closest they have managed to get there is 260 pages so far. But the expense was about FJ\$280,000 to print that paper.

MR. CHAIRMAN.- Very expensive. Now, you put a maximum of 7,500?

MR. M. SANEEM.- That was the proposal is, we do not have any maximum yet, Sir.

MR. CHAIRMAN.- That thing remove the requirement of maximum and there is no such requirement.

MR. M. SANEEM.- There is no requirement, Sir.

MR. CHAIRMAN.- So, there should not be a discretion to say that “alright party has submitted 44,000 names but it comes to 5,000, there is no power in your office to say we will just print 5,000 in one?”

MR. M. SANEEM.- No, Sir. The applications are printed as received in the papers to facilitate for objections.

MR. CHAIRMAN.- All right, so that is something we can consider it is a lot of money \$280,000.

Number 40 the Public Order (Amendment) Decrees 2012 and 2014 be wholly repealed. I do not see any issue.

MR. M. SANEEM.- Sir, the Polling Order Act (Amendment) have been passed through this Committee’s work. This Committee dealt with it earlier on.

MR. CHAIRMAN.- Yes, we have amended part of it but I did not know what are they asking for.

MR. M. SANEEM.- Sir, we always have had Public Order Act. Previously, the Public Order Act prohibited *iTaukei* citizens from coming to Domain area.

MR. CHAIRMAN.- Yes, the older one, the Public Ordinance one.

MR. M. SANEEM.- Yes and then it was amended, amended and amended and I think the latest one is now.

MR. CHAIRMAN.- So *iTaukei* could not even come to Domain for strolling even.

MR. M. SANEEM.- No, Sir between the hours of 4 p.m., until 6 o'clock in the morning they are prohibited from coming in that area in the old Act.

MR. CHAIRMAN.- The apartheid-type of Act.

Question No. 41 – “The Fiji Police Force be instructed to refrain from intimidating the public and especially host of venues when political parties are gearing up for 2018 Elections. That is probably a campaign and that is probably an allegation also in there - intimidating the public.

Question Number 42 - ”The MOG recommendations on MIA as outlined below should be implemented without delay. The media aggregation process should be simplified and all media outlets including international media should have sufficient advance notice of deadlines and timelines.”

MR. M. SANEEM.- This is being done Sir, we are doing a Media Handbook, together with MIDA.

MR. CHAIRMAN.- All right media handbook. The media industry development authority should issue clear timely and practical reporting guidance.

MR. M. SANEEM.- I think we will need that this time six months in advance at least.

MR. CHAIRMAN.- “Penalties for breaches of elections related reporting rules should be reviewed.”

MR. M. SANEEM.- Sir, I think it is critical that it is understood that just because the penalty for manslaughter is life sentences, the judge always evaluated the case based on evidence, aggravating factors, mitigating factors and issues a penalty appropriate to the case.

In the case of Elections that is a similar approach that the Judicial Department will take considering all our histories as legal practitioners or in the bench. So, it is improper to just say ‘do not put life sentence a penalty for murder because people will be afraid of doing murder, the court applies it as a deterrent’, that is the whole reason why there is a harsh penalty. The application of the penalty is based on judicial principles which are very well recognised by our independent judiciary.

So, I think that any such fear that media feels based on the penalties that are there is just as a deterrent in the first place and if they are feeling that, it is a good deterrent in the first place.

MR. CHAIRMAN.- The issue was, why give the court that discretion even, if it is lowered to 2 years even the court cannot go beyond that.

MR. M. SANEEM.- Yes Sir, what about organised crime?

MR. CHAIRMAN.- Yes, I mean that is another way of looking at it

MR. M. SANEEM.- Yes, Sir, in elections, there are various types of activities that can go, cannot be forgiven literally, one of them is an organised crime where people organise to stop the ballot or organised to block off a polling station and in that case, severe penalties must be issued so that it is not repeated and there is adequate penalty for the action that has been taken.

MR. CHAIRMAN.- There is some sense in that argument because if you limit the court's hands to say 3, 4, and 5 years an organised, the person who has done it on one occasion and a group...

MR. M. SANEEM.- It is like, Sir, putting \$50 in the wallet and breaking the speed limit in all the cameras.

MR. CHAIRMAN.- Yes, "should Media Development Authority continue its role in future elections? There is a need for an independent institution, adjudicate complaints about its actions consistently with Fiji's legal and constitution framework."

MR. M. SANEEM.- The High Court Sir, we already have it.

MR. CHAIRMAN.- We already have it. Anything that goes from the Media Authority goes to the High Court?

MR. M. SANEEM.- Yes Sir.

MR. CHAIRMAN.- There is a need for regulation as well as an independent institution to prevent and adjudicate media biases thus ensuring a level playing field among elections participants.

MR. M. SANEEM.- That is MIDA Sir.

MR. CHAIRMAN.- That is MIDA.

MR. M. SANEEM.- Yes. Sir, this is the problem with the MOG report. On the one hand they say MIDA was not good but then they went around and recommended for something like MIDA to be established.

MR. CHAIRMAN.- So it is just....

MR. M. SANEEM.- Sting in the tail.

MR. CHAIRMAN.- Bringing back something after revoking it.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- Question Number 43; "that Media Industry Development Decree should be amended or require that the Media Industry Development Authority (MIDA) must include members of the media and it will issue clear, timely and practical reporting guidance to the Elections process. I think you are already doing that.

MR. M. SANEEM.- We are doing our Handbook right now Sir.

MR. CHAIRMAN.- “That each free-to-air and all print media be required to provide space and time of similar prominence to all political parties every day between issuance of writ and end of Elections.”

MR. M. SANEEM.- These are legislative enforcement that will be required, Sir, because all agencies in Fiji, except Sky is free to air.

MR. CHAIRMAN.- Yes and that really depends on the media organisation too whom they want to print because if someone does not pay the charge, and in the legislation that you give them prominence, then it would not make commercial sense.

MR. M. SANEEM.- So, there are some laws in countries that states that a media must allocate 2 hours of programming between an election period for political parties and then within that 2 hours, it must split that time equally among each parties.

MR. CHAIRMAN.- All right that is the thing they are asking. Media secretary.

HON. M.A. NIUMATAIWALU.- Yes, Mr. Chairman that used to be done before. In previous Elections, we used to allocate time slot for various parties and the media went out to look for sponsors for those programmes as well. This is not new, it really depends on the media, likewise for the parties how they want to handle, promoting their stuff to the media.

MR. CHAIRMAN.- All right. So there are some laws in some countries that allow even if there is a 2 hour slot, it could be equally divided in all political parties.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- Question Number 46; “that media organisation as per their social responsibility grant and number of free adverts to each registered political party.”

MR. M. SANEEM.- That is the one I was saying Sir.

MR. CHAIRMAN.- Is that a power?

MR. M. SANEEM.- It has to be then there are some heavy regulations around it Sir. I cannot recall, I think only in some of the Caribbean countries, they have this very specific requirement, but Sir, one of the other thing here is that the coverage, the reach of the media in Fiji, that also has to be considered. There will be a lot of discrepancies if the media cannot reach outer islands and other places, and some political parties resorted to making DVDs and distributing DVDs so that they had the reach.

MR. CHAIRMAN.- But does MIDA have that power to tell respective media agencies to give advertisement times?

MR. M. SANEEM.- No, Sir.

MR. CHAIRMAN.- I do not think so. Number 47; “that all political parties to have the same amount of coverage of free-to-air television or radio coverage as a community service after the issuance of writ. That is what I think is the same...”

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- It is not within MIDA's power, it is not Elections Office powers...

MR. M. SANEEM.- Sir, the other thing would be that the Electoral Act prohibits sponsoring of political parties by companies and corporates. So, as Honourable Mataiasi Akoula has said, if the 2 hour of political parties' time is sponsored by a particular company, they may fall foul of the law.

MR. CHAIRMAN. - And then probably cross the \$10,000 paid as party donation.

HON. M.A. NIUMATAIWALU.- Mr. Chairman, I think Edwin will attest to this that every time the media will try and balance, they will try and give everyone a fair go and we have seen it from the 2014 Elections, where Edwin will bring on board various political parties he has been trying to get all the political leaders together. There is a lot of behind the scenes work that the media does trying to bring a balance in the type of reports and programmes that they promote building up to the Elections for it to be a fair elections for the whole community.

MR. E. NAND.- (Inaudible)

MR. M. SANEEM.- With your indulgence Mr. Chairman and Deputy Chairman, we both have just discussed and highlighted to you a very important point that he is no longer employed at FBC and he should refrain from telling things that he did or learned at FBC in a Committee environment and he would be in trouble legally if he did it as well as in terms of his appointment in my office for having, it is just a little bit of employment issue, in terms of confidentiality, if you do not mind.

MR. CHAIRMAN.- No worries, this is already a closed session. It is just for information purpose but anyway we would not force you to.

MR. M. SANEEM.- Apologies Mr. Chairman.

MR. CHAIRMAN.- Do you want to or? All right.

"The media accreditation should be processed and approved by the EC and not the MIDA". So, media accreditation, who currently processes it?

MR. M. SANEEM.- Sir, there are two stages to a media operating in Elections. We require the media to comply with the laws of the country, which means there must be a dully registered media agency with MIDA, that is step one then once they have a media registration they can fill out our form which requires them to write down their media registration number and provide a certificate. So, it is just basically requires everyone to comply with the law.

This issue came out because *Al Jazeera* flew into the country and started reporting and they were not a registered agency with MIDA. So, when we got their application we said "no, MIDA first" So *Al Jazeera* went and had some of the observers and highlighted this as an issue.

MR. CHAIRMAN.- So *Al Jazeera* has to come to MIDA first, have a registration and then come to you for accreditation?

MR. M. SANEEM.- Yes Sir. That is what is done in New Zealand as well.

MR. CHAIRMAN.- Question No. 49; “the media blackout section 118 - 48 hours there should be no coverage of all candidates, including Ministers, apply blackout equally. Is this a current practise?

MR. M. SANEEM.- We agree Sir. The only thing is if the Minister issues a note on a Ministerial duty, then they should adequately be covered.

MR. CHAIRMAN.- So in the 48 hour timeframe, ministerial duties still apply?

MR. M. SANEEM.- Now Sir, under the current law, they will not be doing any executive function but I think the issue came about when the bus companies agreed to transport people for free on Election day. Also there was this issue of all the shops opening on election day and the Minister stepped in and said that “you must allow your workers time to vote before you open the shops”. And there was a big hoo-ha as to why there was coverage given to that.

MR. CHAIRMAN.- So if there is a water cut in those 48 hours, someone has to take responsibility,; is it not?

MR. M. SANEEM.- Ordinarily the person who announces should announce that. So for example, Minister for Works who does not normally announce water cuts should not step up on TV and announce water cuts.

In Australia, Sir, during the period before Elections, you will normally see Ministers announcing everything say the nominations are going to start next week, from last month you will see the Minister making every announcement, coming on TV and then they continue that right up to Election Day because they have been doing it.

MR. CHAIRMAN.- Do they have blackout period in Australia?

MR. M. SANEEM.- Yes, Sir, they have.

MR. CHAIRMAN.- But because they start their process earlier...

MR. M. SANEEM.- They are doing ministerial duties. So announcing water cut is the Minister’s announcement.

MR. CHAIRMAN.- Why I asked this question, for example if the Minister responsible is not allowed to make any comments within 48 hours and maybe there is a bridge that collapsed, someone has to come and calm the public and tell them they will be fixing it. So should that go to PS or Director Level or should it come to the Minister?

MR. M. SANEEM.- It depends on the communication strategy but that is what they do in Australia.

MR. CHAIRMAN.- They start it early so that if something happens...

MR. M. SANEEM.- ‘Oh I am just doing what I usually do’

MR. CHAIRMAN.- That is something smart. “That local and foreign NGOs are allowed to carry out their educational and observer activities in the lead-up to and during the Elections process from the issuance of the writ to the announcement of the final result tally. What is the practice now?

MR. M. SANEEM.- With due respect, again I would like to state that a Member of your Committee has also incorrectly made some statements on this issue as well. I just wanted to clarify.

MR. CHAIRMAN.- What had actually happened?

MR. M. SANEEM.- NGOs are allowed to do voter education until the announcement of Elections is done and after that, they have to request for permission.

MR. CHAIRMAN.- All right, if permission is granted they can still do it?

MR. M. SANEEM.- Yes and that is that. So CCF has been going around all over the world and saying we cannot do voter education and they met me three weeks ago and I asked the CEO of CCF why he made that statement in Brussels and he said because the law says so. So I read the law to him and I told him it says “from the date an election is announced.” No election has been announced in Fiji yet. They are free to do whatever NGOs do, there is no restriction.

MR. CHAIRMAN.- And as soon as the date is announced even then there is no restriction apart from the registration that is required.

MR. M. SANEEM.- They have to request for permission and what do we do when they request for permission Sir, we check their materials so that they do not go around saying “you can vote twice or you can vote for 50 people.” That is all we do. We do not care whether they say vote for a men, women or dog.

MR. CHAIRMAN.- I mean you have to check their materials so that their reference papers or sample materials does not carry an extra carry dates, photo and name and then they actually start using that as lesson.

MR. M. SANEEM.- That is a campaign. Like this Pacific Dialogue is an NGO, goes around holding itself out as an NGO but every time appears in my office as a political party representative.

MR. CHAIRMAN.- That is the same thing happened to the Committee too. Jone appeared here as a rep of a political party.

MR. M. SANEEM.- That is an NGO that is no longer apolitical and if they conduct an awareness exercise we will have to treat it with caution and it maybe eventually an exercise in campaign. In 2014, his NGO got approval from the Electoral Commission to conduct awareness and Jone Dakuvula then stood in Elections, he got 138 votes for PDP. His Vice President also took part in Elections, got 120 votes, a female, and they were all sitting as an NGO representatives and I said this is a PDP coming here for a meeting and they said no we have resigned from PDP.

MR. CHAIRMAN.- So it is fair on all parties that you actually see their materials and then to see if they are actually an NGO or a political party?

MR. M. SANEEM.- Yes, the risk here is, there is a ban on overseas funding of political parties but there is no ban on overseas funding on NGOs in this country, so it is unfair environment if a person who is an NGO goes around, does all the NGO work and then say, I am campaigning now and then takes over in Elections.

In one particular independent candidate's case, she was asked to resign from a particular NGO she was affiliated with, but in Jone Dakuvula's case which is public knowledge now, he carried out work as an NGO and then he took part in the Elections, got 138 votes for PDP.

MR. CHAIRMAN.- Which means the campaign material was not really harmful? The independent candidate actually got back in the same NGO after the Elections?

MR. M. SANEEM.- And is back in the same NGO but keeps on becoming an NGO person and then a political party rep. He is representing a different party now, Fiji Labour Party.

MR. CHAIRMAN.- It is a dual personality syndrome, I think.

MR. M. SANEEM.- Such is the risk and Section 115 assists us. In earlier elections as well the problem was that NGOs would then campaign to vote for a lady and there is only one lady in that constituency. So in terms of fairness, it affects the fairness of the Elections. The point is, NGOs are fully permitted to conduct voter education exercise until the announcement of Election is made.

MR. CHAIRMAN.- Noted. "The Media Decree 2010 must be repealed as an essential condition for the holding of a genuinely free and fair election. So, again there is a question of repeal of an Act without even specifying the sections, so I think we will treat it as we treated the Public Order.

Question 52; "MIDA should be abolished as strongly recommended by seven UN Human Rights Council Members, an appropriate accountable media regulatory body to be formed after public consultation building on the former Fiji Media Council that existed before." What is the story there? Should MIDA be removed in and the Fiji Media Council were brought in?

MR. M. SANEEM.- And remove MIDA and then make another new MIDA.

MR. CHAIRMAN.- What was Media Council doing before?

MR. M. SANEEM.- Same thing with lesser powers.

MR. CHAIRMAN.- What was MIDA's view?

HON. M.A. NIUMATAIWALU.- The Media Council was made up of media organisations. They had representatives from all the media organisations but MIDA is appointment of Government. The major focus there is on development and a lot of times people just harp on the fines and the penalties but everything that was in the Fiji Media Council, the Media Code of Ethics was incorporated into MIDA. It is a self-regulatory work for media. They have got their code of ethics there, so once they work with their code of ethics they should not face any problems.

MR. CHAIRMAN.- Section 115 of the Electoral Decree, we entirely repealed, what does Section 115 say?

MR. M. SANEEM.- Sir, it is the one on the NGOs.

MR. CHAIRMAN.- "That the power of Registrar of Political Parties and Political Parties Registration Decree should be entirely reviewed to be in line with good practice in similar institutions in reputable democratic countries. The Registrar of political parties is who?

MR. M. SANEEM.- Sir, I would like to quote a colleague of mine who reacted to me from the recent UN Workshop on Political Parties Framework in the Pacific.

MR. CHAIRMAN.- Right.

MR. M. SANEEM.- He told me that UN expert who had come to facilitate that Election said the “Fiji’s political parties laws is a dream come true for political scientists”.

MR. CHAIRMAN.- All right. So, it is a good law in other words.

MR. M. SANEEM.- In fact, a lot of countries are now trying to adapt the provisions for their own jurisdictions.

MR. CHAIRMAN.- Modelled on Fiji law.

MR. M. SANEEM.- Yes, Sir, Caribbean as well as some Pacific island countries are trying to do this.

MR. CHAIRMAN.- So, even in other countries, the Registrar of Political Parties is also the Supervisor of Elections?

MR. M. SANEEM.- In some countries, but in some countries it is two different offices.

MR. CHAIRMAN.- All right, otherwise you will need three offices; the Electoral Commission, Supervisor of Elections and the Registrar.

MR. M. SANEEM.- It created a lot of problems for Solomon Island as well as for Papua New Guinea to have separate offices.

MR. CHAIRMAN.- All right, what sort of problems?

MR. M. SANEEM.- Multiple directions, different directives given by different, accountability issues, lack of updating of details by one results in the other not being able to complete a task.

MR. CHAIRMAN.- Could be more on court cases in that anyway.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- “The registration requirement under the Registration Decree should be considerably cut down before the 2018 Elections including a review of the Registrar’s powers.”

MR. M. SANEEM.- Sir, we have managed to register eight political parties on the existing framework so far and there is one who keeps giving us notice that they are coming next week but for what I have heard from the reps of that party, they already have the full 5,000 members that they need. So, that will make it nine, and if there is one other party that was told to us by proposed Hope that comes in, that is 10.

MR. CHAIRMAN.- 10 by 50 mean 500 expected candidates.

MR. M. SANEEM.- Yes ,Sir but we deregistered one but what this proves, Sir, is that the registration process is not as difficult as one would allude to it.

MR .CHAIRMAN.- All right.

MR. M. SANEEM.- People and parties are still registering 10 parties with, if the requirements were so stringent and 10 parties registered, we would be wondering how, because I think in 2006 there were only 17 registered parties.

MR. CHAIRMAN.- It would be more of an apparent problem, if there is only one political party.

MR. M. SANEEM.- And no one else could register.

MR. CHAIRMAN.- Question No. 56, under the Decree public office holders are prevented from being members of political parties this is unjustifiable and infringement of the political rights and freedom of people and conflicts with ICCPR. This should be removed unless in case of trade union lapse. Is that law uniform in other countries? Public office holders.

MR. M. SANEEM.- Sir, in Fiji, public office holders includes trade unionists.

MR. CHAIRMAN.- Other country, it does not.

MR. M. SANEEM.- I have not seen any other country that does so, I think Singapore does that, I am not sure.

MR. CHAIRMAN.- But otherwise, public office holders like civil servants have to resign all over the world.

MR. M. SANEEM.- Civil Servants, Judges, Constitution Office Holders. Ideally, they should resign and even if they used a photocopier to print their campaign materials, it is unethical use of public office.

MR. CHAIRMAN.- In Fiji, I think any member of the Electoral Commission or Supervisor of the Election Office cannot contest.

MR. M. SANEEM.- Yes, Sir, four years and eight years in my case.

MR. CHAIRMAN.- So, you cannot be a candidate in the next eight years.

MR. M. SANEEM.- No, Sir.

MR. CHAIRMAN.- Question No. 57; “Public Officers definition includes Office of Trade Union that is to prevent trade union officers from standing in elections. It is politically a prejudiced provision. It should be deleted from the Constitution so it is in the Constitution.

MR. M. SANEEM.- Excuse me, Chair. This may not be what I should be saying but I just wanted to ask you if you could look at the results of the last Elections and some known trade unionist as to how many votes they actually got before considering whether this provision has of any effect or not.

MR. CHAIRMAN.- Because some of the trade union officers had to actually resign.

MR. M. SANEEM.- But they still contested but I think the results should speak for itself in terms of whether they have popularity was affected or not.

MR. CHAIRMAN.- I think of the trade unionist Honourable Leawere is one who is in politics, PDP and Labour who had a lot failing and did not make it. FijiFirst any trade unionist there? Honourable Balmindar Singh? No. He was in a bank association or something.

MR. M. SANEEM.-That is for you to consider.

MR. CHAIRMAN.- All right, we will look into that.

“Restriction on donations to political parties under Decree should also be reviewed because government incumbency gives it advantage in an election. Donation of political parties is the same for everyone, either you are Government or Opposition.”

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- They are saying that this should be reviewed because Government seems to have an advantage.

MR. M. SANEEM.- It depends who gets more money in and why? I do not know how to regulate it accept we could have a look at ceiling.

MR. CHAIRMAN.- That a political party can get only "x" amount of dollars.

MR. M. SANEEM.- That a political party can only spend "x" amount of dollars in an Elections. They can get everything.

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- The last UK election cost \$158 million pound.

MR. CHAIRMAN.- Total.

MR. M. SANEEM.- Yes, that is about \$.5 billion. The US Elections they still counting the cost but it is over \$3 billion.

MR. CHAIRMAN.- Yes, US elections are very expensive to run.

MR. M. SANEEM.- So the cost of election is increasing all over the world. The attempt in Australia, every candidate who gets more than some percentage of votes is entitled to \$2.62 per vote.

MR. CHAIRMAN.- \$2.62 per vote.

MR. M. SANEEM.- Yes, from the Government for funding. In Papua New Guinea, they get similar funding.

MR. CHAIRMAN.- So, just calculating on the number of votes the candidate received.

MR. M. SANEEM.- Yes.

MR. CHAIRMAN.- Multiply that by 262, that is your...

MR. M. SANEEM.- Yes, even if you are not in Parliament if you reach x percentage of the votes you are entitled to refund your campaign money.

MR. CHAIRMAN.- All right.

MR. M. SANEEM.- So, there is a lot of campaign candidates in Australia who borrow money from banks to campaign because they know they will be able to refund if they win. If I am standing for particular party that has been winning seats in that area from the beginning of time then bank is more likely to give you more loan to run the seat. So, for example the Labour Party in Australia, the Liberal Party in Tony Abbott's time, they received 60 percent of the votes. So they went home with over \$14 million to \$15 million.

MR. CHAIRMAN.- And that is calculated how?

MR. M. SANEEM.- \$2.62 per vote.

MR. CHAIRMAN.- So, the total number of votes the Labour Party gets and multiply that by \$2.62, that is refunded to the Labour Party. Who does that? Money comes from the Government.

MR. M. SANEEM.- Electoral Commission, yes.

MR. CHAIRMAN.- They will be rich.

MR. M. SANEEM.- They have massive limitations on campaign funding on how much you can donate.

MR. CHAIRMAN.- All right, is that something like Fiji \$10,000 per person for a party.

MR. M. SANEEM.- In Australia, it is real time declaration. So, as soon as Party A gets \$500 it has to upload it to the system within the next x number of hours.

MR. CHAIRMAN.- With the name of the person who donated it?

MR. M. SANEEM.- Yes, because they take claim tax for political party donations.

MR. CHAIRMAN.- But then people will know that who is supporting which political parties.

MR. M. SANEEM.- Yes, it is public knowledge and it is on the website.

MR. CHAIRMAN.- It is very risky, I mean people will be. Can people donate?

MR. M. SANEEM.- It is a very big country Sir, so it is very hard to go and find Mesake Dawai in Sydney, but in Fiji everyone will know Mesake Dawai works for FEO.

MR. CHAIRMAN.- So, one person can donate to different political party as well in Fiji elsewhere?

MR. M. SANEEM.- If you are in Fiji you can donate to a political party if you are a Fiji citizen or were a Fiji citizen.

MR. CHAIRMAN.- Right.

MR. M. SANEEM.- In Australia, you can donate to a political party, people make a will and after I die, my estate is going to give the political party \$5,000 every year.

MR. CHAIRMAN.- Alright, that is a real loyalty for party.

MR. M. SANEEM.- Yes, that is how it does. Then there are millionaires who donate to political parties through staff.

MR CHAIRMAN.- Question No. 59; “the Registrar of political parties should be an office that is independent”. I think that is already answered.

MR. M. SANEEM.- Yes

MR .CHAIRMAN.- “That the power of the Registrar of Political Party’s SOE to suspend political parties be reviewed and this provision require the Registrar to seek a court order for such suspensions.” I think you in your time have suspended one political party.

MR. M. SANEEM.- Yes, Sir.

MR. CHAIRMAN.- And that was following the Electoral Act.

MR. M. SANEEM.- All right, Mesake just correct me I suspended three.

MR. CHAIRMAN.- Three.

MR. M. DAWAI.- We deregistered one.

MR. M. SANEEM.- Deregistered one but the suspension processes is very clearly stipulated in the law and we have to tick the boxes before we can suspend.

MR. CHAIRMAN.- The party suspended can always come back?

MR. M. SANEEM. -Yes, Sir, they get 60 days to rectify the breach.

MR. CHAIRMAN.- if they are deregistered then, they have to reapply for

MR. M. SANEEM.- If they deregistered they follow the process to come back on board within seven days, I think. The one provision that we would propose is amended in the Political Parties Act is that appeals of the decisions of the Supervisor of Elections go to the Electoral Commission first. And before, it did not go to the High Court but right now it says Supervisor of Election’s decision is reviewed by the High Court. That process sometimes take months because in the High Court, formal proceedings have to be filed.

But with the Electoral Commission Section 9 of the Electoral Act says that political party may in writing request the Electoral Commission to review the decision of the Supervisor of Elections provided that this review request is made within two days of the decision. And the Electoral

Commission is required to make its decision public within five days, so we anticipate that seven days is the maximum time a political party complaint can be reviewed by the Electoral Commission rather than long process of civil dispute in the High Court.

So we would say that this would be a very healthy amendment to ensure that the process functions much quicker and quicker turn around. For example, if the Supervisor of Elections suspends a party two days before nominations and then the party cannot come back, that is it. Even if the High Court says the suspension was unlawful, finished.

MR. CHAIRMAN. - That has already happened.

MR. M. SANEEM. - Yes.

MR. CHAIRMAN.- So you are saying that the amendment should allow the Electoral Commission to review.

MR. M. SANEEM. - To review. And we would further say if the Electoral Commission says the Supervisor is wrong, Supervisor cannot challenge it in the High Court.

MR. CHAIRMAN. - That provision is there?

MR. M. SANEEM.- It is not there. The Committee can recommend this. So, Electoral Commission review Supervisor's decision; Electoral Commission's decision is final; no challenge after that. That brings complete certainty to the proceedings, decisions may be made within 14 days and everyone knows what the decision is.

MR. CHAIRMAN. - So your power to suspend and deregister a political party comes under the Political Party's Registration Act?

MR. M. SANEEM. – Yes, Mr. Chairman, that is where we are suggesting that the Section 30 is amended so that any person aggrieved with the decision of the Registrar may appeal it to the Electoral Commission.

MR. CHAIRMAN. - And whose decision will be final?

MR. M. SANEEM. - And Electoral Commission decision should have no further appeal.

MR. CHAIRMAN. – Question No. 61, that the limitation of political parties' rights be revoked because they did not exist in earlier Constitutions and are contrary to ACPPR. Limitations of political rights, I do not what that is about?

MR. M. SANEEM. - I think political rights under the Constitution. Under the Bill of Rights.

MR. CHAIRMAN. - Under the Bill of Rights, 'that the Government consider and annual grant to all registered political parties to facilitate their party office be established and operate through the year to serve their party members.'

Under Question No. 62, the Committee had discussed that one. It is a peculiar suggestion because people might just come and register high political parties in hope of getting grants.

MR. M. SANEEM. - Mr. Chairman, with grants, there are various grant funding schemes for political parties all over the world. There are various models and in countries like Australia, they consider grants to parties that receive at least two percent of the total votes.

MR. CHAIRMAN. - Even if they are not in Parliament?

MR. M. SANEEM. - Even they are not in Parliament and that is when you get your \$2.62 per vote. So there are some models. If the Committee is interested in such a model, it would be wise to study the various models. There is a book from international idea it is available online, on funding arrangement for political parties. It is a short reading about 1,000 pages which will give you some indication.

MR. CHAIRMAN. - Honourable Nawaikula will read that and tell us.

(Laughter).

MR. CHAIRMAN. - The summarised version. Supervisor how you have placed on coming Tuesday? Are you available coming Tuesday?

MR. M. SANEEM. - Mr. Chairman, on Fiji Day celebrations I have planned to go for Fiji Day.

MR. CHAIRMAN. - Sorry we starting on Wednesday. Are you around on Wednesday?

MR. M. SANEEM. - Mr. Chairman, with due respect next week Wednesday, Thursday and Friday the office is having a massive workshop on planning the 50 days from the date the writ is to be issued until the conclusion of the whole shebang so, may I ask to be excused on those three days. I need to really focus, after week, I can.

MR. CHAIRMAN. - So what I will do there are number of issues and I do not want to rush it because it is very informative for all of us and this is actually writing our report for us. So I mean the information that we are getting because of the time constraints we have today and I am thinking of adjourning the meeting and then the secretary will liaise with you of suitable date. I will be out of the country for the next seven to eight days and I will be returning on 16th. So can we have a date, following week, we will try to organise the meeting with you on that day.

MR. M. SANEEM. - Mr. Chairman, agreed. From the 18th of this month I am running the workshop for political parties. The whole party, 20 per party. I am running workshops on end to end process beginning till the end of elections for each political party. We can agree on a schedule if the Secretariat can send me some dates and I can revert with some availability.

MR. CHAIRMAN. - Is 16th possible or you need to prepare for the workshops too?

MR. M. SANEEM. On the 16th, I am attending the Fijians Holdings Board elections.

MR. CHAIRMAN.- So what I will do, I will have a secretariat liaise with you for a possible time and we all group together and then finish this thing and that will be the end of it. In the meantime should we have any fresh questions, we will e-mail to you.

MR. M. SANEEM. - Very well, Mr. Chairman. I know understand that you are going recommendation by recommendation and we have already prepared for the recommendation by recommendation and we will be able to respond to your questions.

MR. CHAIRMAN. - That will be great too because we will be also looking at some of those things that we missed from the previous recommendations so that nothing is left out in our report.

MR. M. SANEEM. - We have a few recommendations of our own, especially under the framework for voter registration and the framework for political parties, which we have to run through the Electoral Commission which we may be able to provide to you, which you may include in your report for recommendations.

MR. CHAIRMAN. - There are procedural changes that will benefit all of us, we can include it in the report and will discuss it and make appropriate amendment recommendations as required.

Members, so that has been informative. I thank the Supervisor of Elections and the team for attending today. Members we are adjourned until Wednesday. I will not be around, Deputy Chairperson will preside.

So with that, on behalf of the Committee, thank you very much Supervisor, and you are excused, take a bit of rest and prepare for the remaining questions.

The Committee Interview adjourned at 5.03 p.m.