

STANDING COMMITTEE ON
JUSTICE, LAW AND HUMAN RIGHTS

[Verbatim Report of Meeting]

HELD AT THE

FIJI ELECTIONS OFFICE, TOORAK, SUVA

ON

THURSDAY, 28TH NOVEMBER, 2019

**VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON JUSTICE,
LAW AND HUMAN RIGHTS HELD AT THE FIJIAN ELECTIONS OFFICE, TOORAK,
SUVA ON THURSDAY, 28TH NOVEMBER, 2019 AT 9.30 A.M.**

Interviewee/Submittee: Fijian Elections Office (FEO)

In Attendance:

Mr. Mohammed Saneem - Supervisor of Elections

(Mr. Chairman welcomed Honourable Members, FEO staff and media personnel)

MR. CHAIRMAN.- Before we proceed, I would like to thank the Supervisor of Elections (SoE) for facilitating this meeting here, a place which is well-known come every four years when the General Election is held and I believe we are on the verge of starting our consultation on the Joint Report on the General Election 2018. We actually thought this would be an opportune time for the Committee to get to know what is happening, where it is happening and how it is happening.

Before we start, I request Honourable Rohit Sharma to lead us with a word of prayer and then we shall continue.

(Prayer by Honourable R. R. Sharma)

MR. CHAIRMAN.- I believe we have three Reports before us; two from the Fijian Electoral Commission (FEC) and a Joint Report. At this juncture, I would just like to give a workplan as to how and what we are thinking of doing with these two Reports. Basically the FEC Reports are Annual Reports for which we will not be calling any public consultation. We will be just hearing from the FEC itself and if the responses are sufficient enough for the Committee to compile a report, we shall do so and then we will report back to Parliament.

As far as the General Election 2018 Joint Report is concerned, the Committee is thinking of doing a Fiji-wide public consultation in which we will join hands with the FEO as well, whereby we will be requesting a member to actually accompany the Committee. Yes, one or two, a number which is appropriate to the FEC so that they can be our backbone once a question is asked by a member of the public. They will be there to actually answer on our behalf because they are the ones who are looking after the electoral system. So, that is the basic plan at this point in time.

Without further ado, we will actually go directly into the FEC Annual Reports that are before the Committee and you have the floor now, Supervisor of Elections, to lead us through the submission. And just before we go into that, there is another request from the Committee. If you have any presentation that actually gives or can enlighten the Committee as to how the election system works from A to Z, we are more than happy to see that this morning as well. Thank you.

MR. M. SANEEM.- Thank you, Mr. Chairman and Honourable Members of the Parliamentary Committee. A big welcome to you to the FEO. We are trying to sort out the minor sound glitch but it is, indeed, a pleasure to have the Committee in our Office.

We recognise the very important work that the Committee will undertake, henceforth, and we understand that there is a need to encroach Parliamentary practices right down to the grassroots level.

We appreciate that the Committee has taken its time out from its usual setting, more like outside the comfort zones into an office like ours. I genuinely believe that in order to enhance the appreciation of Parliamentary governance and the entrenchment of Members of Parliament into institutions such as this in terms of presence, is necessary.

Having said my two cents worth in terms of non-elections matters, may I now present to the Committee, on behalf of the Electoral Commission, the two Annual Reports for 2016 and 2017. There is a caveat to the presentation that in 2016, the Supervisor of Elections was not the secretary to the Electoral Commission and that Report was prepared by the Chen Bunn Young Commission. Then there was a new Commission appointed in 2017 which is the Suresh Chandra Commission, as I can say, through the name of the Chairman.

Honourable Members, with the 2017 amendment to the Electoral Act, the Supervisor of Elections became the Secretary to the Commission. So since 2017 onwards, I will be possibly able to answer all the questions that the Committee may have based on the Reports.

In 2016, I would refer the Committee to the report directly and if there are any questions as I have seen, we will try and refer from the records that we have at the Electoral Commission Office. I must say that there was some material in the 2016 Report that would have meant that the Supervisor has excluded from those meetings and for that, the Committee is advised to refer to the records, as we have already provided in terms of the answers.

If I may present the 2017 Report of the Electoral Commission to say that 2017 was a very instrumental year in terms of elections, preparations for the Electoral Commission. Firstly and foremost, the Electoral Commission had been appointed and since their appointment, the Electoral Commission had a couple of very important constitutional roles to play.

First and foremost is that the Commission was required to review the total number of seats in Parliament based on the total number of people in the country, as well as the voters and various others statistics.

The Electoral Commission also had to deal with a pressing matter which was the continuing Standing Committee on the Electoral Commission 2014 Reports, as well as the 2015 and 2016 Reports that had already been tabled.

The Electoral Commission also underwent an introduction programme on elections. This was run by an election expert, Mr. Larry McGray, operational aspects of elections, as well as the legal aspects and how general elections work.

Following that, the Commission had to then seat and deal with the number of seats in Parliament which was increased to 51 and thereafter, the Commission dealt with the 2014 MOG Report, as well as the 2014 Electoral Commission Report, all of which is present in the Report itself.

There was a pending Court of Appeal matter between the Supervisor of Elections and the Electoral Commission which was thereafter withdrawn because it was my appeal on a decision which I withdrew because the law was clarified, so there was no point in appealing it any further. So that is basically the key task of the Commission that year.

There were various correspondence, there were a lot of meetings with political parties, heads of political parties and all that is documented in the Commission's Report. You may ask questions based

on that, but I think the key aspect of this was the number of seats in Parliament which dealt with the General Election in 2018.

So ladies and gentlemen, if I may present the Commission's Report on behalf of the Chairperson and the members of the Electoral Commission to the Committee.

MR. CHAIRMAN.- Thank you, Supervisor of Elections, for enlightening the Committee with regards to the Electoral Commission Report and basically the roles of the Commission. You mentioned somewhere the total number of seats. Would you like to enlighten us on how do you actually decide if there is supposed to be an increase or decrease in the number of seats into Parliament?

MR. M. SANEEM.- Thank you, Mr. Chairman. The number of seats into Parliament is determined by the number of voters. So, the Electoral Commission has to assess the total number of people registered in the National Register of Voters, as well as the total number of people in the country and thereafter, the Electoral Commission has to see the ratio of the total number of seats, to the total number of people. That is under Section 54 of the Constitution.

This is rather unique to Fiji. We have always had a fixed number of seats in Parliament, historically speaking, but the Constitution now requires the Electoral Commission to ascertain in one year before the date of the General Election. So what we do is we play safe, we go for the first possible date on which the writ can be issued and we assess one year before that. Because we do not get 20,000 people registered in the last two months before the Election, based on that experience, the Electoral Commission makes an analysis so the information is retrieved from the Bureau of Statistics, as well as from the voters' data, and thereafter the Electoral Commission compares the ratio and once the ratio is compared, thereafter the Electoral Commission uses that ratio and the projections and decides on the total number of seats.

The next one will done in 2022, so the number of seats for the next General Election should be finalised in 2021.

HON. RATU S. MATANITOBUA.- Honourable Chairman, will we have the number of seats determined from the ratio?

MR. M. SANEEM.- Yes, the population projection. So the Bureau of Statistics does its own methodologies and does the population projection and the Fijian Election Office, using the voters' data, also does the projection. The voters' data is secondary information because we believe that the voters' data is more accurate in terms of the number of people who will be voting. So based on that, we make our own projection, and then the Commission will use our information is persuasive in nature, the Bureau of Statistics information is actually more persuasive because of the Constitution requiring the Commission to look at the census report. So, we provide the projections and we can give you some projections based on the voters' data, as we speak as well because it is quite easy.

MR. CHAIRMAN.- Thank you, Supervisor, for that explanation.

Further to that, I would like to inform you that we are actually dealing with two Commission Reports and the Elections, so questions will be coming back and forth and there will be lot of mixing around so please, bear with us.

The other thing I would like to actually seek your opinion on is with regards to pre-poll stations. What are the views of the Commission or the Office of the Supervisor of Elections, on having essential

services, people who are working in essential services, to be part of pre-poll rather than actually voting on the day of Election? I will give you an example as well.

For example, transportation needs go on, on the day of Election. So, what are the views of actually having drivers, nurses, doctors, police officers, military officers can be part of that as well, to have that incorporated in pre-poll rather than having them vote on the General Election day?

MR. M. SANEEM.- Sir, with due respect, having run two Elections in the country, my opinion is that, people such as, nurses, doctors, ambulance personnel, police, I would rather have them in their professions rather than lining up to vote at any time. And to that end, I heavily believe that it would be in the best interests to have them vote by postal. Postal is where they will receive their ballot papers, they can mark it at their convenience and they have to call the local postal delivery to collect it from them. It is paid for to be collected.

I would rather have my doctor deal with me as a patient rather than saying, "I will miss this line and I will not be able to vote again", or the nurses taking care of a sick person in the hospital to actually be in the hospital and be able to vote at their own leisure because postal votes are sent out, at least, two weeks before the deadline and people have, at least, two weeks to send it back on a very, very reliable pre-paid system. So there is no money involved in actually sending the postal vote back.

For the purposes of others like, drivers, et cetera, postal vote applications open on the date the election is announced and it closes 21 days after the writ is issued. So, people still have an opportunity for seven days after nominations closed, to actually apply for a postal vote.

In the last Election, there were 9,000 postal votes and out of the 9,000 postal votes about 7,000 postal votes were from - there were 11,294 applications, 11,257 were approved, 37 rejected packages that came back. So we sent out 11,257 packages, 10,320 packages came back, 48 of them were late so were not considered, we admitted 9,180 to the count. Out of that, roughly 1,000 was from overseas, and the rest were from Fiji.

In the next election, the Fijian Elections Office will be working with Human Resources Departments of any and every institution we can find. That is the main contact point for all personnel in any institution and we want to contact that point and take elections to people through that contact point. For instance, a large business organisation, a retail organisation, like a supermarket, those people are working because it is a Public Holiday, the supermarkets might say, "We will open from 11 o' clock." But someone who lives in Navua might actually say, "Alright, 11 o' clock, I will leave home at 10 o'clock." They will not go back to vote in Navua. So they can use the postal system, and the HR Department of the supermarket can actually push out the message.

In the last Election, we experimented making postal packages. So all the staff of CWM Hospital sent in their applications through the HR Team in a batch. We processed it, prepared the packages in a batch and sent it to the HR Team at CWM Hospital and said, "Please collect from this person", and they were collected. They do not have to send it back to that person, they can send it back directly to us.

The requirement should be that the Fijian Elections Office must dispatch the postal to the person and then the onus is on that person to send it back to us. So, we were using secondary contact points to be able to contact people better for these organisations.

We ran several awareness sessions in the last Election, hence you can see about 9,000 plus applications were directly from Fiji (locals). We hope to improve and we are trying to do a software which will manage the tracking and the application system.

We have recommended in the 2018 General Elections Report to consider removing the requirement for a declaration under the applications, so that it becomes easier for people to apply rather than having to look for someone who can take declarations because we have secondary data to verify if an application is correctly sent or not.

As you can see in the last Election, we had rejected 37 applications, so we have now developed the office to be able to sustain this level of accuracy in terms of information, and that is what we are proposing. So, we can hold pre-poll for stationery based officials, such as the Military or the Corrections Officers. We can hold pre-poll for those institutions because they do not release people out of their programmes. But for those who are mobile or those who are not easily released, such as nurses, doctors, I would say, even the National Fire Authority does not vote under pre-poll, they do postal votes. So, those are the examples on how we want to take this up.

In New Zealand in their last Election, I think 23 percent of the votes were postal. It is increasing in number because it is a voluntary system and you can apply if you are not able to vote at the place where you are voting, just apply for a postal voting. So that is the solution to the issue that you raised.

MR. CHAIRMAN.- And this application, is it done on paper or is it online?

MR. M. SANEEM.- So, because you have to declare before a Commissioner of Oath or a Justice of Peace, the applications are all paper-based, then scanned and uploaded to our website and we will deal with it from there. Should the law be amended as we have recommended, then the application will actually be available online and all you do is, you complete your details online and it will be automatically processed at the backend by our team and the software itself.

HON. A.A. MAHARAJ.- Putting that into context, let us say if Parliament decides tomorrow to amend and declaration is no longer important. When you people actually renew the registration, suppose I go to actually renew my registration for 2022, can there be some ways to indicate the Office that we would like to be part of postal ballot so that we can also get a number while doing the renewal of registration as to how many numbers of people you are expecting for the postal ballot?

If I go for my renewal, I will just indicate at that point in time that I would like to go for postal ballot and maybe in the previous term, you might actually collect that 100,000 people have actually shown expression of interest to do postal voting. However, when it comes to do that application when the time opens, there was only 20,000. So, will it give an indication to you that you can reach to that other 80,000. It is just a number, it can be any figure.

MR. M. SANEEM.- Sir, the application for postal is best dealt with on a case by case basis and the requirements in the law can only be satisfied when it is closer to election. So, the requirement is that, the person has to satisfy the Supervisor of Elections that they are not able to turn up to their polling place on the day of election.

My understanding is that, if you do not know the date of election yet, it will not be possible for you to satisfy that requirement in law. So, until the date is announced, whilst it maybe obviously clear that so and so person is admitted in the hospital for the next two months or so, they cannot go out for the

next two months. If the date of the election is not announced, that person still does not qualify. So technically speaking, the Fijian Elections Office is already prepared for x number of people.

We project ourselves, so every election we project the total number of voters that will vote by postal, we print that many ballot papers. In the last Election, we printed 20,000 postal ballot papers. At this juncture, I would like to introduce my Director Operations, Ms. Anaseini Senimoli. My sincere apology for that. The balance of the ballot papers that we not sent out are kept under police guard until the Election was completed, but that was 20,000 ballot papers.

Someone may actually derails their ballot paper and then asks us to send another one back to them, we have that option, only one, and we have to have postal because the law requires us to have a postal stamp at the back of the ballot paper that goes out for postal. So that is the plan, we project before the election, and then we print accordingly and if we get more numbers, then we can print more ballot papers. That is not an issue, we can print more ballot papers.

MR. CHAIRMAN.- (Inaudible) So what you are basically saying in terms of ... (Inaudible)... if I just want to do postal voting, is that allowed? For example, let us say for Honourable Ratu Suliano Matanibobua over here, he decides now that he does not want to stand in the line come 2022 and whether it be the case on whether he can go or cannot go, he wants to do postal voting, is that allowed?

MR. M. SANEEM.- Sir, Section 67 is in terms of applying for a postal vote. The requirement is that, an application for registration in the register of postal voters may only be made by one of the following grounds:

- (a) The applicant is living outside of Fiji and will be outside of Fiji on the following day;
- (b) Because of serious illness or infirmity the applicant is unable to travel from his or her place of living to his or her assigned polling station;
- (c) The applicant is under pre-trial detention or sentence of imprisonment;
- (d) Because of the applicant's religious belief or the membership of a religious order he or she is precluded from attending a polling station or for a greater part of the hours of the polling is precluded from attending a polling session; or
- (e) Because the applicant will be away from his or her usual place of residence and in a place not convenient to his or her assigned polling station due to work commitments on the polling day.

On a strict analysis of that sentence, I would assume that a leisure choice not to turn up to vote and go and vote via postal may not qualify, on strict terms.

MR. CHAIRMAN.- Can you enlighten us on the number of people who turned up for the voting in 2018 General Election, please?

MR. M. SANEEM.- So, in 2018 General Election in terms of turnout, we had 458,532 people voted. Thank you.

MR. CHAIRMAN.- Honourable Members, I shall now open the floor, if you want to actually get some clarification or ideas.

HON. DR S.R. GOVIND.- Honourable Chairman, through you, the Supervisor of Elections said that prior to 2017, the Electoral Commission had its old Secretariat, the Supervisor of Elections was not part of that. Since 2017, you are part of the Commission as secretariat.

I just wanted to know how the independence of that Commission is maintained. Are you as like, a single person Secretariat or the Election Office support staff for the Election as well? I am interested in knowing the independence of the Commission, or the Elections Office and the Commission is the same?

MR. M. SANEEM.- The Supervisor of Elections position is myself, under Section 76, but the work alone cannot be done by me, so I am allowed to delegate my responsibilities to staff in my office and based on that power, I delegate additional staff to the secretariat of the Electoral Commission.

As you will note from the Report, they are a member of three secretariat staff to the Electoral Commission and at election time, it increases to 10 or 12 because each commissioner then requires his/her own set of people because they have decided their own responsibilities. Someone will go to this place, someone will look after this so they get their own vehicles, own staff, own driver and they get whatever resources are necessary. Essentially, the title rests with the Supervisor of Elections and in meetings, the Supervisor of Elections sits in as secretary.

Now, in terms of the independence, the system that Fiji has is a dual system. There is an Electoral Commission and then there is the Office of the Supervisor of Elections. Historically, we have had that, and historically we have had a problem between both the Offices. If you look at the past election observer reports, the former Honourable Semesa Karavaki had an unfortunate notation in the reports of the European Union about the relationship between the Supervisor of Elections and the Electoral Commission.

In the last 2014 Chen Bunn Young Commission Report, you saw a whole barrage of information there, as well as a court case between the Supervisor of Elections and the Electoral Commission. The issues arose because of the word 'independence'.

The complexity of this is that, if the Electoral Commission is independent from the FEO, how will the Electoral Commission be overall responsible for the election because they are not running it? The Constitution says, the Supervisor of Elections will run the election. The Electoral Commission is responsible for the election. That is the separation.

So the fix to this problem is to make the situation like a company. You have a board of directors and you have a Chief Executive Officer (CEO). In some companies, the CEO sits as managing director, or in some companies, the CEO sits as director. In some companies, the CEO sits as the board secretary.

Now, that situation in Fiji is applicable because that is how businesses run so the fix that was made in the 2017 amendment to the law, was to make the Supervisor of Elections secretary to the Electoral Commission. It promotes the:

1. Supervisor of Elections to be able to be present hands-on to provide the Electoral Commission operational advice in terms of how the operations of things work; and
2. The Electoral Commission, in its deliberations, is able to convey to the Supervisor of Elections its intentions, as well as its expectations on the outcomes so that the Electoral

Commission can set the benchmark and the Supervisor of Elections is present during that discussion on what the expectations are, sort of the KPIs.

If there is a conflict, such as a review of the decision of the Supervisor of Elections, the Supervisor of Elections has to immediately vacate that meeting, and that has happened. That has happened in the meetings of the Electoral Commission. The Supervisor of Elections was absolutely absent from those meetings where the appeals against the nomination decisions were lodged with the Electoral Commission. Various other complaints in terms of party complaints were referred to the Electoral Commission and dealt with independently by the Electoral Commission.

So, the operational side of things has been much more easier with both, the Supervisor of Elections and the Electoral Commission working together. It played into the politicians hands when the word 'independence' came up and said, "No, the Electoral Commission has to be completely independent from the Supervisor of Elections because it is a good political toy." They are two institutions but it is not helping the election.

It is not helping the election. There has to be some way, because the Supervisor of Elections is required to be bound by all decisions of the Electoral Commission. Now, if the Electoral Commission does not have operational knowledge, the Electoral Commission will not be able to make a decision that may be practically possible. So, it is important that the Supervisor of Elections is there.

Previously, the Electoral Commission would have a meeting the whole day and the Supervisor of Elections would be called in for just one hour, to come and give an operational update. That is not sufficient.

Firstly, election operation deals with roughly \$30 million; operation of 20,000 or so staff over 50 days; you are looking at roughly 7 tonnes to 10 tonnes of paper being used; a media interview, or two a day for 50 days; and then operational requirements come up every single day; and there are 666 microprocessors that are conducted to run an election.

If you call the Supervisor of Elections for a one-hour briefing on, at least, the 50 processes of the day, you are missing out on a lot of operational information. So the 2017 amendments put the two in the same room and operationally, the 2018 General Election delivery was much easier because the policy body which is the Electoral Commission, was able to rely on the operational information provided by the operations body and then make decisions. The independence is not compromised.

HON. DR. S.R. GOVIND.- Is there a follow-up system for that?

MR. M. SANEEM.- Yes, Sir.

HON. DR. S.R. GOVIND.- So in my mind, rather than giving two agencies the responsibility to oversee the election, would it be better to have the Electoral Commission overall responsible as an independent agency to see the election, and the Office of the Supervisor of Elections to be the secretariat to implement the decisions?

The Commission makes all the policy things, the strategic directions and all, and the secretariat is the implementing agency, so the two agencies do not work at the same level of being responsible. And the reason I am giving you this is because I have worked for the United Nations system for a long time. And the United Nations system, like all agency like the World Health Organisation, the Ministries of Health of all countries are the general assembly and they are the policy making agency, whereas the staff

of the WHO are the secretariat. So the Ministers do not interfere into the implementation of operational issues, but they make their policy decisions and strategic direction.

I am just giving you an example because right now, reading through the Report, it looks like there is an overlap in responsibility and maybe that is the reason why in previous Electoral Commissions, there are some conflicts. So I am just thinking, why do we not make more clear decisions on that matter.

MR. M. SANEEM.- I agree with you, and that was what was done in 2017. The Electoral Commission is the policy body and you see the Supervisor of Elections is the secretariat.

Now, in terms of the strategies and the expectations, that is in the law. Unlike the example you gave, the distinction is that, the Electoral Commission does not make the law. The law is already made by Parliament.

The Electoral Commission and the Supervisor of Elections have to build processes to implement those provisions of the law as it is. So the directions do not usually change. The policy papers, you may not get as many because it is already documented in the law. With WHO, they can come up with a new policy and say, "XYZ will change to ABC" or "we will have now ABC and a D".

However, in our case, the Electoral Commission and the Supervisor of Elections are all looking to Parliament for that policy. For instance, and this is an example for members of the media particularly, if Parliament says, "We will no longer limit the number of voters at a polling station", then the operational implementation will be done accordingly, like it is not the Commission's decision.

The Commission's job is to be overall responsible, so in the event a party or a person writes to the Commission and says, "Dear Electoral Commission, I do not agree that the polling station should be set up at 59 High Street", the Commission receives that, it gets the response from the FEO to justify why it is there, and then the Commission can say, "We agree with the writer that this polling station must be closed down". So we close it down, so that is the operation. The policy direction here is very much already in the law on how we operate, so I agree with you but this is how the context is.

HON. DR. S.R. GOVIND.- Sorry, I keep pushing this one, just to make our task easy for the next election. The Secretariat has a very important role to play. From my understanding these five Commissioners maybe...

MR. M. SANEEM.- Seven.

HON. DR. S.R. GOVIND.- Yes, I do not want to use them, so what happens is, the Secretariat is the main body which will guide the Commissioners' work. So even Commissioners are responsible to make policy but you will be doing all the research, you will be framing the policy and bringing it to the Commissioners.

But in the minds of the people, it should be seen that the Commission is higher up, overall responsible, but then they cannot make policy of their own because you are the technical people with all the knowledge. You will be doing all the research and then taking them to the Commissioners and then they would be rubberstamping. And that is what is happening in all our agencies.

These Ministers for Health when they came together, they do not make decisions, they might give some ideas. The secretariat even drafts the recommendations and everything. So it will be seen like the

organisation which is higher up is the Commission and the secretariat is the secretariat. Right now, there seems to be an overlap of some functions. I am sorry, I just wanted to explain that to you. Thank you.

MR. CHAIRMAN.- Supervisor, I believe that was the main gist of it actually bringing that role back in 2017, that amendment, so that we can have that difference between what is the role of the Commission and what is the role of the Supervisor of Elections and how these two can actually correlate, especially in having the Supervisor of Elections sitting in as the secretary. Now, it is more so like that bridge has been created because we know that after the 2014 Election and especially after the court case, both were actually trying to do that because the Commission does not actually look after the operations. The operations is looked after by the Supervisor of Elections

The direction is given by Government....

MR. M. SANEEM.- The law, not the Government.

MR. CHAIRMAN.- Yes, the law comes from Parliament, guidelines and all those things come from the Commission and the Supervisor of Elections is responsible for implementation at the ground level.

MR. M. SANEEM.- Yes, that is correct. Just to assist the Honourable Member, we do have the same system. I would move away from the colloquial description but to say that the Supervisor of Elections does present business papers at Electoral Commission meetings and based on business papers, the Commission makes deliberations and the necessary consultancy that is required.

For instance in order to refer to Section 54 in terms of the amendment of the seats and the number of seats, the Electoral Commission receives the business paper from the Supervisor of Elections. Thereafter, it invited presentations from the Solicitor-General's Office in terms of a proper explanation of the law. Thereafter, it receives a paper on the projection, as well as the presentation from the Bureau of Statistics, another presentation from the co-ordinator of the Registrar of Voters from my office, and thereafter it sat down and deliberated, did its own calculations and came up with that. So, that is how it works. The Commission does its own investigations.

Another example is in terms of the number of pre-poll locations and polling stations. The Director Operations proposed a business paper to the Commission for approval, the Electoral Commission created a three-member Committee and the Committee Chairman was Mr. Simione Naiduki and then he verified all these polling places. Then he personally visited a few to make sure that it is as per the business paper. He did that for all the three Divisions.

Thereafter, the Electoral Commission met, Mr. Naiduki presented his paper to the Commission and the decision was made to approve the pre-poll places. So, that is how it is which is a little bit different as I said, because here the Commission does actually have to go out and do things before it can approve, instead of seeing it come from the secretariat and it is approved automatically. It is different today, they have to actually go out and do things and then they do it.

MR. CHAIRMAN.- Honourable Members, any other questions?

HON. M.D. BULITAVU.- Thank you, Mr. Chairman. If you look at the date, the difference between the other Parties, apart from FijiFirst which is 147,000 votes. But, three of those Parties below that threshold, probably a difference of 12,507, mean that they will not be counted at the final count to

get the decided percentage they receive. We had 687,527 registered voters and 178,995 registered voters who did not cast their votes.

My question is; has the Office done an evaluation in terms of trying to go back to those registers voters and try to identify what were the causes of them not coming to cast their votes, given that in all Polling Stations there will be a voter list and names can be identified on who did not come and what problems they faced, to help the Commission in their next election, to allow and enable them if they have difficulties to have them vote?

MR. M. SANEEM.- Thank you, Honourable Member. With all due respect, Mr. Chairman, may I take this opportunity to correct a few misconceptions as elaborated by the Honourable Member. This also gives me an opportunity to put away some misconceptions that had been raised in Parliament around the last Election.

First of all, in terms of the number of seats, there is a very clear majority in Parliament of up to three seats. That is a clear majority of 24 seats from the National Federation Party and clear majority of six seats from the Social Democratic Liberal Party. Technically speaking in electoral language, that is not a very close Election, so is the first misconception. The Election was a clear Election, it is not a hunk Parliament, it is not a one-seat majority and it is not that if the Honourable Speaker does not vote, the Government's budget will fail, and it is a very clear majority in Parliament.

The two Parties in Opposition are in significant number of seats short of running Government, based on the technical grounds. Technically speaking, it was not a two party Election, so the 137 votes do not count. The logic to draw up all the Oppositions together versus the Party in power, is ill conceived because you do not run as two Parties, you have run separate Parties. So, if you look at the differences between the next Party in power versus the current Party in power, there is a difference of up to, I think, 100,000 votes. Please, correct me if I am wrong, Director.

Yes, there is roughly 40,000 vote difference, my apologies. So, 227,000 for FijiFirst, 181,000 for SODELPA, so there is a 40,000 vote difference between FijiFirst and the closest party in Parliament.

There is a difference of roughly 190,000 votes between the FijiFirst Party and the National Federation Party. So, the ideology that 137 votes differentiates between Opposition and Government is also incorrect and misconceived.

The other part is, which brings me to the third point, Sir, that 12,000 votes were not counted is also incorrect. All the votes in the last Election were counted. The final results presented all the Parties that had received votes.

In terms of the allocation of seats, there is a threshold of 5 percent. Three Parties did not meet that threshold of 5 percent of the vote. Those were the Unity Fiji, Hope Party and Fiji Labour Party. They did not qualify for allocation of seats. Those votes mattered but it did not put anyone in power.

Consider this as against the first-past-the-post system where roughly 58 percent of the people did not vote for the Prime Minister in Samoa. Similarly, if you look at the number of votes in the final count, all votes were counted, so there is still.

With due respect, Mr. Chairman, the way this current electoral system is looked at is with the view or with the eyes of the 1990s electoral system, this is my conclusion after running two Elections, that the 1990s electoral system was the first-past-the-post followed by an amendment to a limited

preferential vote and the current electoral system which is the open list proportional is being built with that eye.

Firstly, we do not have constituencies and this is where a lot of complexities arise because the members who are contesting the Elections are not able to move away from boundary lines. So, if you look at the whole country, it is divided into constituencies and you can call that the whole country is a spectrum.

Constituencies are modules in the spectrum but now, the whole spectrum is still the same but there is no constituency. The new constituency is based on policy lines based on your provincial lines and, however, there is no boundary, you can vote for anyone from anywhere. So, having clarified those misconceptions in terms of voting, voting is now voluntary.

In terms of difficulties in coming to polling places, we added 50 plus polling stations since 2014. Now, 2014 has a turnout of 84 percent, roughly 500,000 people voted. In comparison to 2018 where we added more polling stations, meaning there was more accessibility, more places had polling stations than 2014. So, in terms of accessibility, we doubt that there is a reason for not attending.

Then there is a question of knowing about the Elections. I think we had the most celebrated Election in the Pacific because before the end of January, there were Parties in our country that had prospective candidates who had already started going out and campaigning. So, there was no difficulty that there is no Elections, everyone in the country knew that there was going to be an Election.

Then there was this issue about voter data. Did they update their details or not? So, in the 1990s, the Elections Office was responsible for doing house-to-house visits. Now, we do registration drive every year, so we do not have to do house-to-house visits. People can visit the nearest centre that is there at any time and they can update their details. The law requires people to update their details within three months of changing their address.

Now, we were out there basically from March right up to November for people to come and update their details throughout the country - 22 offices and towards Elections, roughly 47 offices around the country. I think that is more than any other Department in this country. So, those are the locations, those were the places that were out. And then we had TV advertisements, radio advertisements, newspaper advertisements, social media, we were out there.

I understand your point about going out and finding out why they did not vote, we will be doing that. But the new approach should be that everyone does that. We all should find out why people did not come out and vote. In fact, if I may refer to a discussion at our office by the former Member of Parliament, Ms. Tupou Draunidalo, and the leader of HOPE Party, she said that after the Election day, she met a few people she knew and she asked them, "Did you vote?" and they said, "Oh, no, we didn't." Then she asked them, "Why?", then they were like, "Oh, we didn't vote."

So, you can ask a few questions based on that, and this is where we hope some literature comes out – what was it that drove them away? Was it the campaign? Was it misinformation or was it the view that whoever wins is fine, or as they did in the US Election, they thought Hillary would win, so they thought someone will vote for her and she will win? So, those are a few things in the Election environment that we look at.

We are already starting a project where we are now analysing the voters' list to see the turnout in terms of their age category, gender, location, et cetera.

We did a map of the turnout data throughout the country, everywhere is in the 70s. Even those places in the pre-poll and in those places that were on polling day, the turnout is in the 70s in terms of percentile. So, we did not have any place that rocketed to 100 percent and then a place that rocketed to 60 percent. It is generally 70 percent turnout around the country.

MR. CHAIRMAN.- Thank you Supervisor of Elections. Any other question?

HON. M.D. BULITAVU.- Thank you, Mr. Chairman. Thank you so much for that answer and clarification.

My next question is on the 16 recommendations that had been justified in that Report. It detailed some of the shortcomings that were there and the recommendations on how to improve the electoral system in the next election and other amendments that the recommendations suggest to allow a

One of the things that you have already highlighted, even there were about 7,000 overseas registered voters and only about 1,000 past voters, you have said that the difficulties seems to have been there in the to try to sort that and make online voting.

My question is on the suggestion on having the voting venue on the registration card. I think that is a very good recommendation, given the time taken in any polling station for the officials to go through the voter list and some people too, I will give one example, because we both come from Labasa.

Korowiri Village in Labasa and there is also a Korowiri, Tovata. So, some of the people in Korowiri Village went to the polling station at Vunivivi Primary School and they were told there that they were supposed to vote at Korowiri so that is across the river. It gives them a prior indication of where they should present themselves, and I think that is a very good recommendation. I support that because it clarifies things and also prepares a voter in advance on where to go and not to be turned away from the first polling station where the main thing is not there. Then after that, he is just lazy to walk across the gate and go back to the village.

Those are some of the issues but again, my question to the Supervisor of Elections, some of the recommendations that are listed here were raised earlier by political Parties pre-2018 General Election or they were just observations from the post-2018 General Election?

MR. M. SANEEM.- The recommendations that are present here inculcate ongoing requests by Parties as well and incorporate observations and findings from the 2018 Election.

If I may, Mr. Chairman, the address, the polling station venue is already being printed on voter cards now and as the Committee would be aware, we have now decided to expire the green voter cards. The expiry of the green voter cards will mean, people will have to take up the new card and that will mean that automatically, their polling venue is printed on that card.

Yes, it removes this very particular misunderstanding. There are 11 places by the name of Wailevu in our country. I come from one of them. That is where the confusion happens because it shows Wailevu. So, this is one of the things. There is a call that we made to improve the addressing system in our country and I hope that it is taken up by the relevant Department.

HON. DR. S.R. GOVIND.- Honourable Chairman, just a follow-up question on Wailevu; Fiji is one country you mentioned. Why is it not possible to let people vote anywhere because of the computerised system of knowing everything? It is just like when you go to any bank, you get your

money. So why is it not possible, if people turn up at that polling station, look at that in the computer and let them vote? Why it is important for the voter to vote at his/her own polling station, is there any particular reason for that? I feel that we should be allowed to vote anywhere in Fiji.

MR. M. SANEEM.- Thank you, Sir. My question is, are the political Parties and politicians ready to accept that system? It sounds very sensible, very easy, but the flip side of that is, what are the operational behind that?

In 2006, the Fijian Elections Office or the Supervisor of Elections printed roughly 1.4 million ballot papers for 400,000 voters to accommodate this. We had the Election on a public holiday and that means that people from Suva may decide to all vote in Deuba because they want to go for a picnic, so the line will not be manageable.

We will have to see the hotspots, open very large polling places in those hotspots, go back to the queues of 2006 and 2004 because yes, your name can be found anywhere in this country, but you decided to go to a particular polling place that 2,000 other people also decided to come to, so you have to wait in the queue. Right now with the current system, we limit 500 per polling station. So there can be 2,000 people at a venue but your queue will only be as long as 500 people. Some people say, "We went at 11.00 a.m. and came out at 11.02 a.m. But then, there are people who went back in 2006 because they could not vote on the first day or the second day or the last day. So, it is easy to do it but operationally, it is very hard to manage that, but that is what we have to manage. You may have a very low turnout because people will just see the line and walk back home.

The other point is, we might have to print, again, 1.6 million ballot papers for 670,000 voters. I will give you an example, and this is the way it operation. In the last Election, we had 24/7 police guard. And then social media went viral when someone said, "Oh, the power went off at Star Printery, that is where they were printing ballot papers." And guess what? Ben Padarath and the team from the Fiji Labour Party were immediately rushing to the scene. SODELPA was already at the scene, Fiji First Party was already rushing to the scene. Why at this particular Printery? FEA then said that it was a blackout in the entire area.

Then the conspiracy theory kicked in. So the safety net of elections in this country is not in numbers, et cetera, it is in the conspiracy theorists, who come up with a better conspiracy about what happened. There is a *Facebook* account called the 'Fiji Gogo'. We understand it is run by a person who lives in Nadera, but it is a fake profile. For the past one month, that person has been consistently posting that Honourable Khaiyum walked in with 9,000 ballot papers in ballot boxes before the count started for postals.

Now, there were party agents, police, international observers, media and there was 24/7 livefeed of the count centre, of the results centre, and this person has been consistently bombarding *Facebook* and all the 'Buy and Sell' pages, not the expose forum or the regular place, but the 'Buy and Sell' pages, the community pages, like Labasa people on *Facebook*, Honourable Bulitavu, is on that one. So, what is the purpose? Imagine if we print 1.6 million ballot papers, this conspiracy theorist living somewhere in Nadera, will have a field day. I believe these are the reasons why people did not come and vote, because there were so many conspiracies.

So, Sir, the suggestion is very useful, but preparation time for that is necessary. That is the key thing. And with the conspiracies that are created and then thrown around and about, it becomes very, very difficult to run something operationally like that, very difficult. And this is where we are happy with printing 750,000 ballot papers for 670,000 voters because we can tell you, "I have just sent 10 ballot

books to this following place, 10 books leave my office, your agents count 10 books there,” everyone seats back and says, “Let us vote.”

Suddenly with that system, if a polling place, say near Damodar City, gets a bigger line, my Director will have to then divert the extra 10 books to that place. So then the Parties will say, “We want to follow your vehicle.” On Election Day, they would want to follow the vehicle because ballot books are going. Then the media will want to follow that vehicle because it will be sensational news to say extra 10 books are just being transferred to Damodar City polling station. Radio New Zealand will then come up with its own twist on it to say, “Poor preparation leads to 10 books being transferred to the Damodar City polling place.” And then the thing is, the transportation on Election Day, someone will still have to wait because the books are en route, so the complications are quite vast.

New Zealand allows polling at any location but what New Zealand does is, if you run short of a ballot paper, your last option is to actually write down what the ballot paper looks like on a paper and give it to the voter and the voter can vote on that ballot paper, drawn up on the spot by the presiding officer. That is in New Zealand.

MR. CHAIRMAN.- I just wonder if it happens in Fiji, how long . . .

MR. M. SANEEM.- There you go! So, that is one thing.

The second thing to consider is, whether it will actually be a convenience or not. If we had compulsory voting in this country, by the end of next month, I would have with me, at least, \$100,000 something, Honourable Bulitavu. People who would now be facing fines for not voting.

HON. M.D. BULITAVU.- \$178,000.

MR. M. SANEEM.- \$178,000 from Honourable Bulitavu ’s calculations. I would have that many people to be issued with fines, if it was a compulsory voting. Now, we have a fixed register, we have exact number of voters, we have your exact details and your locations, so I can deliver fines to anywhere in this country, but it is a voluntary system, so it will not happen.

MR. CHAIRMAN.- Thank you. Any other questions, Honourable Members?

HON. RATU S. MATANITOBUA.- On page 19, Mr. Chairman, through you, can the Supervisor of Elections enlighten the Committee on

MR. M. SANEEM.- Would you want No. 2 and No. 3?

HON. RATU S. MATANITOBUA.- No, only No. 3. (Inaudible)

MR. M. SANEEM.- All three were petitions against the results. No. 3 - 1422 was petition against FijiFirst Members of Parliament and the results. That is how the petitions are filed. You have to dispute the results of some contestants. So I assume that the contestant started with Honourable Salik Ram Govind and others. I think the whole FijiFirst were listed eventually in that petition. But the three petitions were subsequently withdrawn on 19th December, 2018. That is how petitions are filed.

MR. CHAIRMAN.- Yes, Honourable Bulitavu.

HON. M.D. BULITAVU.- Honourable Chairman, through you, Supervisor; one of the recommendations on page 27 - political party management and the declaration of finances, et cetera. There is a recommendation there that anything can still be submitted within one month of the General Election. What is the cause of this recommendation? Are there political parties that are spending or you are assessing them as spending more and not declaring the exact figures?

MR. M. SANEEM.- Sir, the reason for this recommendation is that the law requires candidates to the election to file their declarations one month before the election date, that is, seven days from the nomination. This is the contestants.

Following that, after the election, there is no requirement to file anything. Because we have to run free and fair elections, so we want to make sure that if x contestant filed a recommendation before the election to say, "I have \$100 in my bank account", because thereafter, the person will start fundraising and parties do not declare candidates who do fundraising on their own, parties only declare party funds.

It is imperative for a free and fair election that post-election, even those candidates successful or not successful, declare again to allow the FEO the opportunity to scrutinise the election spending and the election fundraising.

You might have heard the Solomon Islands Elections cost was \$5 million but about \$50 million was spent on the Election. In colloquial terms, 'black money' was spent. This is verifiable later.

In the Fijian election, currently the rules allow candidates to declare before the election but there is no rule for declaring after the election. So we cannot track how much money was fundraised by various candidates because I still get complaints from members of the public to say, "You know this person, I gave him \$5,000 for the campaign, he never even put up a single banner, I think he *dabao* all the money". So, donations to candidates are not yet declared post-election and this is where the rules need to be tightened, to make sure that there is a level playing field.

Some Parties do not even have a bank account till now. They were registered in 2016, 2015 and 2014 and they do not have a bank account until now, and they did not raise any money for the Party but they filled their candidates in the election. So how did the candidates contest the elections? They must have fundraised somehow, and this is not declared.

We are now asking for consideration from Parliament to bring in these changes to these laws so that we can track election spending, particularly by candidates. If a very rich candidate contests the election, we need to know how much was actually spent by the candidate on that election, because that is the advantage they have. We sincerely hope this recommendation is considered so that we are able to generate the true extent of spending on elections.

MR. CHAIRMAN.- Whether the Committee will show support or not, that will be decided at a later stage, but what I am trying to get clarification on, on this particular point is, are you actually asking for declaration on yearly basis, even after election or only once? I think Party officials declare every year, so what about the candidates who are either successful or unsuccessful?

MR. M. SANEEM.- For candidates of the election, only at election time.

There are people who go and do fundraising, even before election time. So, for that, we have asked the law to be revisited so that the campaign period is actually restricted campaign period. A lot of

countries have that, Australia, New Zealand, and it is actually a fine in New Zealand, if your campaign material is still hanging up after the election day. It is a hefty fine on the Party as well as on the candidate.

We have asked for the definition of campaign period to be included in the law so that the whole country knows that from that day onwards, campaign will start so we expect campaign messages, but not before that and not after that.

The economy of a country is also driven based on the campaign that is run. If there is a campaign period throughout the cycle, it can be very derogatory to the economy of the country, because there is consistent campaign messages and campaign messages are designed to be attractive, or to actually create disinterest.

What that would do is, it would venture into the economic spheres of the country, and that is where confidence would be affected by invested confiders in the market, so it would have a detrimental effect on the country. It is important to have the timeframe. Every other match in this world has got a time - boxing has a two-minute round, soccer has a 90-minute game, Sevens Rugby has seven or ten minutes, so in politics and political campaign which is also a game, should have a timeframe to start and finish and end.

HON. M.D. BULITAVU.- I think it is really important to announce the campaign that the campaign is now open. Even we are subject to different interpretations, saying it is after the writ and some say it is before the writ and there is a recommendation that it should be one month prior to the So people can know when to start the campaign and when to end the campaign before the blackout period. There is a big confusion all around.

MR. M. SANEEM.- Indeed. It is necessary to bring about certainty in the timeframes and this is one of those areas that Parliament could consider. As it is, you would understand we referred a couple of matters to court for prosecution on this very particular issue - campaigning or not campaigning. And in both the matters, the court said that there is no election date announced as yet and as such, it is not qualified as an offence. So, based on that, the requirements in the law needs to be twigged, so that the whole country knows and prepares for this.

It also helps political parties in planning for the election so that you can book your radio advertisements, et cetera, because some advertisements come in very early, and some advertisements come very late. In the last Election, we had a situation where prospective candidates were announced as early as September and they were campaigning, but there was no law governing that campaign. So, the prospective candidates had a cut blunt approach - they could attack, they could do whatever they wish because it came unguided, but it was campaign.

If you look at the scales, the disadvantage for those who were already in Parliament because they were bound by Parliamentary rules, so they could have campaigned as openly as those candidates who were not in Parliament. And then the results and analysis will show a huge disapproval rating for Members of Parliament, versus those candidates who were not in Parliament, having higher numbers in both. So, this plays into a lot of secondary possibility. So, that is the recommendation.

MR. CHAIRMAN.- Are there any laws in place for candidates who are actually providing false information during their campaign? And if there is any proof that they are actually providing false information, can they be taken into task under the electoral system?

MR. M. SANEEM.- At the moment we do not have a law like that. There is one case on point but that is to do with the voters register, and that is currently in court, where a member of one of the Parties put up an edited versions of the register online and said that these are all incorrect locations and incorrect people listed in various places, but that is still in court.

Aside from that, there is very little law to control misinformation. I think this is where Parliament has to make a decision, because some of the misinformation is from Members of Parliament. Some of them are not here yet, but the Honourable Niko Nawaikula posted on his *Facebook* page during Elections that a certain village had 28 people who could not vote. I saw it and I asked him on *Facebook* and I said, "Please, give me the name of that village", but he never responded. So, I verified with the Director and the village had a high turnout. So, it is a decision of Parliament on what they wish to do with misinformation and how it should be dealt with. There is a lot of misinformation that is pushed out, academia also gets involved in this area by coming up with analysis that is based on incorrect numbers, and then there is very little control on what that can be done.

The other way to look at this is to ensure that responsibility is shown. For example, there is no curtailment of the freedom of expression but if a post comes up to say that there will be 100 ballot papers at this polling station (the Fijian Elections Office cannot be policing the whole *Facebook* or any other social media page or tool) and if it is brought to our attention and we say, "Sorry, you are incorrect, only 500 is going", the person should then show responsibility to remove their post and not to come back and say, "*katia*, they are caught, they are replying to me." They are riding on complete misinformation to become famous.

We had a situation where the Fijian Elections Office made its own boundaries to ensure even distribution of workload to staff. So, the Eastern Division that we had was larger. It started from Rakiraki right down to Nausori. So, our Eastern Division had roughly the same number of polling stations as the Western Division and Northern Division.

We had told Parties this already. In all our briefings, we did presentations to the parties, we actually gave them all these lists, all these locations, we distributed this, published this in the newspapers and everything. Once the Election results were announced, then there were questions raise, "Oh! Eastern Division in the Census has 37,000 people but the Fijian Elections Office has 147,000 voters in that area. Something is cooking." So, we clarified to say, "Look, we gave this information out nine months ago that this is the boundary lines we are following."

Then the petitions were in court. We did not change anything because we could not, petitions were in court. If we change that at that time, it would have created a lot more problems than the solutions. But certain people really benefitted from this because left, right and centre, they were just going up. Something is wrong with the results. Bigger Eastern Division that we imagine. So, this is in the hands of Parliament where the law is made in terms of responsibility so that, yes, there is freedom of expression but once you are told that these are the facts of this matter, either you edit, you pull it down or you put the facts of the matter, together with your post.

So, it is becoming obvious that, yes, this person has made a post on this nature or made a comment of this nature. We invited the Leader of Unity Fiji. He had written an article in the newspaper of some 18 points or 23 points on how the Election will be rigged. So, we invited the Leader of that Party to come to the office and we took him through each of his points and we clarified how he was incorrect. At the end, we had convinced him of 18 out of the 24 and he said, "I still will not accept it." The he went out.

Again, in the following week's paper, again, it had the same statement. The Leader of SODELPA also made statements about how the Election was going to be rigged. And even though the Fijian Elections Office came out with clarifications, it was never accepted to say, "Alright, that is possible." So, is their intention to promote a free and fair election through correct information, or is there no intention to have responsibility of the information you push out, whatever I push out is the highway?

So, it is important that Parliament plays a very vital role in this area to either promote correct information being published or promote responsibilities to be taken in areas where misinformation needs promoted, and that is the responsibility of Parliament. We have recommended some changes there, but I think the decision is with Parliament to decide whether they want to promote responsibility of information, or actually promote offences to be determined from information that is out there.

I would suggest to promote responsibility so that the freedom of expression is retained and promoted, while at the same time responsibility would mean that the maker of the statement ensures that a similar correction is issued without delay. So, that is my suggestion to the Committee.

HON. MEMBER.- *Vinaka.*

MR. CHAIRMAN.- Thank you, Supervisor of Elections. Honourable Members, any other questions?

If none, I would like to take this time and opportunity to thank the Supervisor of Elections for his time in presenting his Report here. One announcement that I would like to actually convey, on behalf of the Committee is that, now that we are actually dealing with the 2018 General Election Joint Report and now that we are actually promoting the Electoral Commission represented by the Supervisor of Elections and he is actually giving his views on the Electoral Commission Annual Report, we will be actually writing to all political parties for them to come and do their submission. We have been told previously that they did not get ample time so what we will do now is, we will be writing a letter to them, inviting them in early next year or first quarter of next year, so that they can do a thorough research with regards to this Joint Report and come and present before the Committee.

Yes, there are some recommendations by the Elections Office and we will actually consider them as well in due time. Another thing we are actually proposing to do with this Report for the 2018 General Election is, we will be actually conducting public submission throughout Fiji. So, that will also convince sometimes early next year which will most probably go for six months, so that we can prepare a comprehensive report and report back to Parliament, what the Committee sees fit to actually recommend to Parliament for the changes to be made or we will just go with the recommendation.

That is basically it for now and once again, thank you very much Supervisor of Elections for accommodating us this morning. *Vinaka.*

The Committee adjourned at a.m. 11.22 a.m.