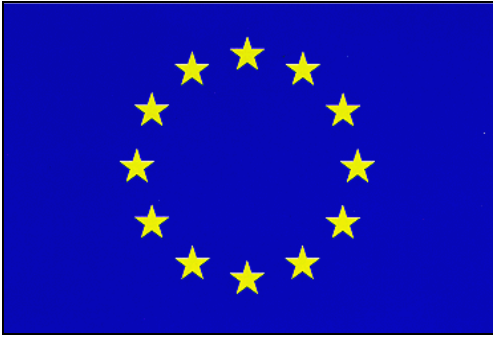


**European Union
Election Observation Mission
Fiji 2006**

Final Report

Suva, September 2006



FIJI

LEGISLATIVE ELECTIONS

6 – 13 May 2006

EUROPEAN UNION

ELECTION OBSERVATION MISSION

FINAL REPORT

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1 EXECUTIVE SUMMARY

- The 2006 legislative elections were reasonably well conducted. Candidates were free to campaign and present their platforms to voters through public gatherings and media events. Voting and counting were generally conducted in a satisfactory and transparent manner and the secrecy of the vote was assured. Voter turn out, at 88 %, was considerably higher than in the 2001 election, when it was 78 %.
- The legislative framework provided a sound base for the electoral process and the conduct of the polls. The presence of ethnically determined “communal” constituencies continues to categorise voters on the basis of their ethnic status rather than their citizenship.
- The development of a new Register of Voters in late 2005 allowed a larger number of citizens to participate in these elections than in the 2001 polls. However, the new register suffered from several shortcomings, including the misspelling of names and the incorrect allocation of constituencies. These flaws, as well as the failure to register all eligible voters, meant that a number of voters were disenfranchised in a fifth of polling stations observed.
- The ethnic diversity of Fijian society was not reflected in the staff composition of the OSE, whose enumerators as well as voting and counting personnel were predominantly indigenous Fijians. The lack of an ethnically representative workforce damaged the confidence of some sectors of society in the electoral administration body.
- The Office of the Supervisor of Elections (OSE) made efforts at improved transparency by opening a media centre which provided daily briefings to candidates and voters.
- The broadcast and print media worked in an open environment characterised by a healthy regard for freedom of expression. Comprehensive coverage of the electoral process by television, radio and newspapers meant the public was kept well informed of political options and issues. The state-run radio company, Fiji Broadcasting Corporation, provided balanced coverage of the activities of the various parties and candidates.
- During the election campaign, candidates freely conducted their political activities and voters were able to receive sufficient information through public rallies, private meetings and the media. The campaign focus of the two main parties on the politically divisive issue of ethnicity did not encourage voters to vote outside their respective ethnic communities.
- The Chief Commander of the Republic of Fiji Military Forces became inappropriately involved in the political campaign through a series of public statements before and during the elections.

- The principle of equal suffrage, which dictates that no vote should carry proportionally more weight than another, was compromised due to the uneven numerical distribution of voters in the 71 single-member constituencies.
- Voting procedures were generally relatively well understood and implemented by polling officers. Counting was undertaken in a professional manner, with only minor deficiencies and disparities in both voting and counting. Party agents were largely able to adequately observe the voting and counting processes. However, some procedural deficiencies observed during the reconciliation of ballot boxes at constituency level led to a lack of clarity in the process.
- Despite the fact that the Alternative Vote system was in use for the third consecutive time in these elections, the proportion of invalid votes remained high, at 9 %. This indicates that many voters remain uncomfortable with the system and that voter education was not sufficiently effective. The high percentage of invalid votes was also in part due to a narrow interpretation of the provisions of the Electoral Act 1998 governing voters' intentions.
- Postal voting was hampered by the complexity of procedures in place and considerable inconsistency in the implementation of the rules in the four electoral divisions. These included failures to reconcile some postal ballots and the acceptance of some ballots after the official deadline for the closure of the polls.
- The absence of clear procedures within the Electoral Commission and the OSE for handling complaints resulted in a lack of accountability. Regrettably, decisions made by both bodies on complaints received were not published, a factor which added to the overall lack of transparency in the complaints handling process.
- The number of women parliamentarians doubled following the election, to eight. Nonetheless, their presence in the political electoral life is still marginal despite an international commitment undertaken by the Fiji government. In fact the number of women candidates decreased in the 2006 elections. In the OSE, very few women held positions of responsibility or were selected as presiding officers.
- Despite early concerns of unrest, the post-election period was peaceful. The new government was duly formed and included cabinet members from the second largest party in accordance with the provisions of the Constitution.
- This report proposes a number of recommendations to contribute to the improvement of the electoral framework and process. They include increasing the number of open constituencies while decreasing communal constituencies, reviewing constituency boundaries to create a more even numerical distribution of voters, strengthening the institutional foundations of the Electoral Commission and OSE, improving the accuracy of the Register of Voters and adopting clear procedures for complaints handling. The European Union

Election Observation Mission also suggests the opening of informal round table sessions with political parties and civil society groups to discuss the efficacy of the Alternative Vote system and to review the continued use of communal constituency seats.

2 INTRODUCTION AND ACKNOWLEDGEMENTS

The European Union Election Observation Mission (EU EOM) to Fiji was established on 10 April 2006 upon the invitation of the Government of the Republic of the Fiji Islands and remained in the country until 10 June 2006. The mission was led by a Chief Observer, Mr István Szent-Iványi, a Member of the European Parliament. In total, the EU EOM deployed 40 observers around the archipelago. During the seven voting days, 391 out of the 1,159 polling stations were observed in all of the 15 provinces.

The mandate of the EU EOM was to conduct a comprehensive assessment of the electoral process in accordance with international principles for genuine democratic elections. The purpose of the EU EOM was to provide support for the development of the country's democratic institutions and procedures, and to assist in the objective to hold elections of a high standard.

The EU EOM would like to express its appreciation to the electoral staff for their hard work and commitment and to the voters for their high participation in the elections. It also thanks the Fijian authorities for co-operating with its work.

The EU EOM wishes to express its appreciation for the cooperation, coordination and assistance it received during the course of its work from the following: The Electoral Commission; Office of Election Supervisor, authorities of the government of Fiji especially the Ministry of Foreign Affairs and Internal Affairs; the EU delegation and the local representatives of the EU member states; the civil society organizations; the International Organization for Migration (IOM); and other international and domestic observer colleagues. The mission is especially grateful to the people of Fiji for the hospitality and warmth offered to all observers.

3 BACKGROUND

The Fijian electoral framework is based on a bicameral parliament system consisting of a 71-seat House of Representatives and a 32-seat Senate. In 1997, the Alternative Vote System was adopted to replace the Plurality Voting System, also known as First Past the Post. Two military coups in 1987 destabilised democratic rule in the country, while a third civilian-led coup in 2000 ushered in a period of political uncertainty.

The two military coups came amid concerns by indigenous-Fijians about a government perceived as dominated by the country's Indian community, descendents of contract labourers brought to the island by British colonialists in the 19th century.

The Register of Voters for the 2006 elections comprised 53.4% indigenous-Fijians and 42.6% Indo-Fijians, with the remaining population composed by different ethnic groups. Fiji's two largest ethnic communities have never fully integrated, but maintain a largely peaceful coexistence.

Elections in 1999 led to the creation of an inter-party government for the first time led by an Indo-Fijian, Prime Minister Mahendra Chaudhry from the Fiji Labour Party (FLP). This rule of this government was terminated by a coup in 2000 when many parliamentarians were held hostage for 56 days. A State of Emergency was subsequently declared and a caretaker government led by Mr Laisenia Qarase paved the way for elections in 2001, which saw Mr Qarase become Prime Minister.

In early 2006, Prime Minister Qarase called for early elections to be conducted from 6-13 May 2006. These elections were observed by the EU EOM as well as other international observation groups; the Commonwealth, the University of the South Pacific and the Pacific Islands Forum Secretariat.

4 LEGAL FRAMEWORK

The legal framework for the 2006 elections to the House of Representatives comprises the following laws:

- Constitution of the Republic of the Fiji Islands, Amendment Act 1997
- Electoral Act, 1998 (Electoral Amendment Act Nr. 51, 1998; Electoral Amendment Act Nr.12, 1999)
- Constituency Boundaries Order, 1998
- Electoral (Counting Procedures) Regulations 1999, Act Nr.18, 1998
- Electoral Decree on Registration of Political Parties, 1991

The 1997 Constitution of the Republic of Fiji Islands identifies Fiji as a multi-cultural society composed of different ethnic groups: indigenous-Fijians, Rotumans, Europeans, Indo-Fijians and Chinese. As citizens, members of all communities enjoy equal rights (section 6/e). Political rights such as the right to form and join political parties, to take part in political campaigns, to vote and be a candidate, amongst others, are granted. This equality is further guaranteed in section 6/h, whereby in the formation of the government and its conduct of the affairs of the nation, full account is to be taken of the interests of all communities.

As a contribution to the enhancement of a multi-cultural society, the Constitution declares that in establishing the cabinet, the Prime Minister must invite all parties that received at least 10 % of the total membership of the House of Representatives to join it (section 99).

Although the Constitution offers equal rights to all Fijians, it introduces an inequity by recognising the "paramountcy" of indigenous-Fijian interests as a "protective principle".

In effect, this principle applies to assure that the interests of Fijian communities are not subordinated to the interests of other communities (section 6/j). This protective principle is considered a founding stone of the Constitution, upon which interpretations of other constitutional provisions and laws are based.

The Constitution also lays out the institutional framework of the electoral administration by defining the appointment procedures, role and responsibilities of the Election Commission and the Office of the Supervisor of Elections (OSE). The five-member Election Commission, appointed by the President on the advice of the Prime Minister and after consultation with the Leader of Opposition, is the policy issuing body and has general responsibility for the conduct of the elections. The OSE, appointed by the Constitutional Offices Commission, is under the direction of the Election Commission and has to follow its directives. Its major responsibilities lie in the administration and conduct of elections.

Despite the constitutional provisions, this institutional set up does not always contribute to efficient and smooth co-operation between the two election bodies as, in practice, the hierarchy and lines of accountability between them are not straightforward.

The constitution divides the country into 71 electoral constituencies, 45 of which are “communal constituencies” whose boundaries are defined based on the ethnicity of residents. The remainder are “open constituencies” which are based solely on geographical rather than ethnic considerations. Each voter receives two ballot papers, casting one vote for his/her communal constituency and one vote for his/her open constituency.

Since 1998, Fiji has used the Alternative Vote system for the election of members to the House of Representatives, as recommended by the Constitutional Review Commission (Reeves’s Report) in 1996. Ballot papers are divided horizontally into two sections. Voters can mark the ballots “above the line,” by placing a tick beside the party symbol of his or her choice. Their voting preferences will then be allocated in the manner their chosen party/candidate has registered with with the OSE. Alternatively, the voter can vote “below the line” on the ballot paper and rank all the listed candidates in order of preference with sequential numbers until all the boxes are numbered.

The candidate who obtains more than 50% (50%+1 vote) of the valid first preferences is declared elected. If no candidate secures an absolute majority, the candidate who received the fewest first preference votes is excluded and his or her preferences are passed to the next candidate. This process is repeated until one candidate obtains more than 50% of the votes. In the past three elections when the Alternative Vote system has been in use, including 2006, the vast majority of voters (more than 90%) chose to vote “above the line” and therefore have the preferences decided for them by their selected parties/candidates.

5 ELECTION ADMINISTRATION

5.1 Electoral Commission

The current five-member Electoral Commission was appointed by the President in January 2005. Although it has the power to issue regulations, the commission lacked the funding and staff as well, as the initiative, to become more involved in the 2006 elections. Crucial regulations on the duration of the campaign period, campaign finance, women’s representation and a code of conduct for political parties were not introduced by it. During the election period the Electoral Commission met regularly, with the OSE acting as its secretariat. The decisions and minutes of the Commission’s meetings were not published or communicated to the public.

In some cases, Commission decisions were not implemented by the OSE, but the Commission failed to follow up on such operational failures. For example, at one Commission meeting, a decision was taken to approve a request by Reverend Akuila Yabaki from the Citizen Constitutional Forum to collect all names of persons who wanted to vote but were not on the Register of Voters. This decision was not communicated to Reverend Yabaki's group, nor was it implemented. Upon a request by the EU EOM to observe the Electoral Commission meetings, the mission was invited on only one occasion, on 27 April 2006.

Office of the Supervisor of Elections (OSE)

Elections in Fiji are conducted by the OSE and the Supervisor is appointed by three members of the Constitutional Offices Commission. The Commission in 2005 allowed the Supervisor to take study leave abroad, as a consequence of which he resumed electoral duties only at the end of that year. The absence of the Supervisor at the start of the electoral process, particularly during the organisation of the registration of voters and the recruitment of enumerators, was a shortcoming which weakened the entire election endeavour. The OSE received assistance from international technical experts, financed by Australia and New Zealand.

The Supervisor appointed the four Divisional Commissioners (Eastern, Western, Northern and Central) as Returning Officers (ROs) who oversaw all electoral management duties in the divisions. The Supervisor, who has *de jure* the right to appoint the ROs, *de facto* always relies on the powerful Division Commissioners to fill these posts. The automatic appointment of the four Division Commissioners as ROs leaves major organisational and decision-making responsibilities in the hands of the civil service. The lack of institutional knowledge due to the down-sizing of the OSE during the inter-elections period as well as the overly autonomous position of the four ROs led to a partly incoherent and slow implementation of procedures.

No guidelines were provided by the OSE on the recruitment criteria for polling staff. The composition of the OSE showed that a large majority (around 80 %) of the staff was indigenous-Fijian. As a consequence, political parties raised concerns that the OSE did not reflect Fiji's ethnic communities, citing in particular the fact that most election enumerators were indigenous-Fijians. Furthermore, the FLP and other political parties expressed some mistrust of electoral officials recruited from the public service, claiming they were biased in favour of the SDL.

The number of women recruited as Assistant Returning Officers (AROs) and Presiding Officers (POs) was very limited and reflected the lack of policy guidelines concerning gender mainstreaming within the OSE. Only 12 % of polling stations observed were headed by a female PO and in only 20 % of the observed counting rooms was the counting team leader a woman.

The training of polling and counting staff was generally well organised. Most polling staff had experience of the previous elections. However, due to a misunderstanding of the counting procedures within the training unit, the training had to be partially repeated. Also the incoherent understanding and implementation of procedures suggests that more training in the over-procedural and lengthy polling and counting exercise would have been advisable.

A very positive development was the creation of a media centre during polling and counting days where the OSE offered daily press conferences providing updated information and contributing to the transparency of the process.

5.2 Delimitation of Constituencies

The Fiji Constitution requires the Constituency Boundaries Commission to delineate the 71 constituencies for the election. However, the last census was undertaken in 1996 and this forms the basis for the election constituencies drawn up in 1999. Due to the fact that the next census was postponed, probably until 2007, the OSE decided to use the 1999 constituency boundaries for the 2006 elections. Because of the significant emigration of Fijians of Indian descent over the last years, as well as a migration within Fiji to the coastal towns, the equal suffrage requested in the electoral law was negatively affected.

5.3 Register of Voters

In breach of the 1998 Electoral Act, the Register of Voters was not updated annually for the past five years. Instead a new Register of Voters was compiled in late 2005.

Between September and the end of December 2005 this new registration exercise was undertaken by 4,000 mainly indigenous-Fijian enumerators who went from door to door to register every citizen of Fiji. As a result 466,000 voters were registered, with an additional 13,000 on the Supplementary Voter's rolls since 1 January 2006. The total of 479,674 registered voters represent about 92% of the estimated target of 517,000 eligible voters. The registration included each voter's name, sex, occupation, address, date of birth, profession and ethnic community (Fijian, Indian, Rotuman, General). It also included the voter's open constituency number, but no picture or fingerprints were included.

Registered voters from 1999 to 2006

Communal Register	Indig. Fijian	Indo-Fijian	General	Rotuman	Total
Registered 1999	220,264	197,621	14,029	5,232	437,146
Registered 2001	239,145	209,106	14,950	5,571	468,772
Registered 2006	256,014	204,470	13,817	5,373	479,674

Compared with 2001, 35,000 more registered indigenous-Fijians and 15,000 more registered Indo-Fijians went to the polls. The number of registered voters increased for the indigenous-Fijian roll by 17,000 but declined for the Indo-Fijian roll by 5,000. The new registration figures for indigenous-Fijian and Indo-Fijian voters still corresponded with the constitutional distribution of seats – 23 for indigenous-Fijians and 19 for Indo-Fijians – whereas the General Communal and Rotuman Communal population were still overrepresented.

The new Register of Voters suffered from several shortcomings. These included the misspelling of voter's names, wrong constituency allocations and the failure to register a greater number of voters. For example in Labasa district, approximately 700 voters were incorrectly registered in wrong constituencies and in Nadi/Lautoka/Ba Constituencies approximately 1,900 voters were incorrectly registered. As a result of such errors, a relevant number of voters were deprived of their right to vote in a fifth of polling stations observed. Furthermore, the deadlines for the publication of the official Register of Voters were not respected.

The complete final Register of Voters for all constituencies was finalised on Wednesday 3rd May 2006, well after the scheduled date of 4th April for the closure of electoral rolls. The reasons for not meeting the deadline to supply the Register of Voters in time for polling included the following:

1. The OSE was not been able to meet the legal required time schedule to display the main voter's roll in time for public scrutiny
2. Political parties discovered serious deficiencies on the roll and complained to the OSE and EC
3. The OSE had to undertake 15,000 to 20,000 corrections -amongst them 3,000 raised by political parties- which delayed the finalisation of the roll and the start of printing.
4. The OSE decided late in the process to use a Master Roll as the single register during polling days. Since this Master Roll included all supplementary rolls, the OSE was only able to print the final register once all the necessary corrections were undertaken.

Further efforts could be made to establish or clarify within the Electoral Act, clear timeframes for particular procedures. For example, the period of public scrutiny of the Register of Voters was abridged, thereby curtailing this legal right. This issue was the subject of a legal action brought by the FLP prior to the elections on the grounds that insufficient time was granted to allow for effective scrutiny of the Register of Voters. The case was rejected by the court, which stated that satisfactory time was allowed for voters to scrutinise the rolls.

5.4 Nomination of Candidates

A total of 338 candidates (351 in 2001) including 68 independent candidates (20 in 2001) were nominated by the OSE for the 2006 elections. Of the 13 political parties who nominated candidates for the elections only three (SDL, FLP, UPP) succeeded in obtaining seats.

Total number of candidates contesting 2006 election

Moreover, political parties were left with only one day to enter their Petition of Demonstrative Support (section 51 EA). Two political parties complained to the OSE that it was practically impossible to collect 250 signatures in one day.

Political Party	Abbreviation	Communal Constituencies	Open Constituencies	Number candidates
Soqosoqo Duavata ni Lewenivanua Party	SDL	48	31	79
Fiji Labour Party	FLP	35	24	59
National Alliance Party of Fiji	NAPF	28	22	50
National Federation Party	NFP	27	18	45
Nationalist Vanua Tako Lavo Party	NVTLP	7	4	11
United People's Party	UPP	5	5	10
Party of National Unity	PANU	3	6	9
Justice and Freedom Party	JFP	1	-	1
Party of the Truth	POTT	1	1	2
Coalition of Independent Nationals Party	COIN	1	-	1
National Democratic Party	NDP	-	1	1
Social Liberty	SLM	-	1	1
Soqosoqo ni Vakavulewa ni Taukei	SVT	-	1	1
Independent		37	31	68
TOTAL NUMBER OF CANDIDATES				338

5.5 Ballot Papers

According to the OSE, the total number of ballot papers printed and numbered was 1,778,900. This total included 120,000 ballot papers printed for postal voters. For each constituency, an extra contingency of 2,000 ballot papers without serial numbers were printed and kept at the Government Printers. Each voter received two ballot papers – one for their communal constituency and one for their open constituency. The total number of ballot papers of 1,900,000 divided by two resulted in 950,000 ballots for communal and 950,000 for open constituency elections and exceeded the number of 479,000 registered voters by 471,000 or almost 100 %. The number of printed ballot papers was high partly because voters were entitled to vote in any polling station in their communal constituency. However, despite the large number of extra ballot papers, some polling stations experienced shortages. The high number of papers in circulation also increased the difficulties in accounting for all of the unused ballot papers. However, there were no indications of any abuse or manipulation in connection with the high number of printed ballot papers.

The ballot papers printed had several deficiencies. Firstly, the OSE, contrary to the constitutional requirement (Art.4), provided only ballot papers in English to the voters, thereby placing at a disadvantage voters who were only literate in Fijian or Hindustani. Secondly the quality of the paper used was so poor that the official stamp on the back of the

papers was visible on the front side, thereby obscuring some party symbols. Third, the placing of party symbols below the line next to the box for ticking the candidate was confusing as political parties had told voters to tick next to their party symbols. Finally, the above the line and below the line sections of the ballot papers were not well enough separated and indicated.

The late and repeated discovery of mistakes on the postal ballot papers obliged the OSE to reprint a substantial amount, which led to the late delivery of papers to some postal polling stations. Despite all the corrections, the name of Mr Mick Beddoes, the leader of UPP, remained misspelled on the final ballot paper.

5.6 Ballot Boxes

The OSE used old traditional wooden ballot boxes in three different sizes. Although white plastic numbered tags were used to seal the lids, political parties complained that most ballot boxes had still sufficient gaps beneath the lids to allow a ballot paper to be inserted.

5.7 List of Preferences

The list of preferences is one particularity of the Alternative Vote system. For the above the line section of the ballot paper, political parties were supposed to deliver their preference list for each constituency by 4 p.m. on 18 April 2006. Due to the intervention of some major parties, among them the ruling SDL and the Alliance Party, the deadline was postponed to midnight on the same day.

The list of preferences, which had by law to be displayed one hour before postal voting started, was only circulated and published on Saturday 29 April 2006 in the Fiji Daily Post newspaper (with the lowest circulation of 4,000 copies), one day after the start of postal voting. This delay was partly caused by some political parties and independent candidates who understood that if they had nominated two candidates in one constituency they were only supposed to hand in one list of preference per constituency instead of one for each candidature. In addition, in some polling stations the list of preferences were not displayed at all, despite legal requirements.

6 ELECTION CAMPAIGN

The electoral campaign was organised mostly through door-to-door activities, small gatherings and political rallies with generally less than 150 participants. The media provided extensive coverage of the campaign, including news reports, political debates and interviews with candidates. The debates between party representatives offered voters ample opportunity to become acquainted with their different political platforms. The campaign took place in an environment of respect for freedoms of expression, assembly, association and movement.

The two main parties, the SDL and the FLP, have distinctive and strong ethnic support bases, respectively among the indigenous-Fijian and Indo-Fijian population. Each party set out to maximise their votes among their ethnic communities. In communal constituencies, a common message they presented was their capacity to defend their own ethnic group's interests.

The National Federation Party was mostly Indo-Fijian based, but tried to present a more inter-ethnic political platform. The party's decision to split its second last preference between the two main parties could have led to a decline in support.

The National Alliance Party of Fiji focused specifically on inter-ethnic and gender issues, while the United People's Party, which managed an electoral campaign based on common national political themes, achieved two seats.

The ethnicity-dominated campaign was aggravated by the presence of 46 communal constituencies out of 71 where voters must vote on the base of their ethnic origin. These ethnically-determined constituencies encouraged candidates to introduce an ethnic dimension into their campaigning. Inter-ethnic issues such as poverty, education, economic growth, potable water, roads, unemployment and electricity were rarely addressed as common issues.

The process of the allocation of preferences by political parties did not produce a cohesive political coalition or inter-ethnic programmes, as was anticipated when the Alternative Vote system was introduced. In fact, the NFP's decision to split its last preferences between the two main parties was the only effective public discussion on the parties' preference choice. The publication of the preferences generated a discussion more on tactical alliances than the expected outcome of inter-ethnic agreements or coalitions.

During the campaign one issue which emerged in relation to a possible FLP victory was whether the country would respect the rule of law, or if the election of another Indo-Fijian Prime Minister would again precipitate a coup.

In the final days of the campaign, the indigenous-Fijian SDL leader, Mr Qarase, publicly raised concerns that the election of an Indo-Fijian Prime Minister could lead to further civil unrest. The issue of ethnicity remains very sensitive given Fiji's recent coups and the misuse of the issue for short term political gain could widen the already significant divisions between the two main ethnic groups.

During the campaign period, the Chief Commander of the Republic of Fiji Military Forces entered into the political domain, an area where the military has no role. In a series of public statements before and during the election, he criticised the government and some of its policies and also encouraged his soldiers not to vote for the SDL. In so doing, he clearly exceeded his constitutional role. Nevertheless, he also clearly expressed the force's determination to uphold the constitution and respect the outcome of the election.

7 MEDIA

7.1 Background to the Media in Fiji

Radio stations, newspapers and TV are present in Fiji, with the radio being the main source of information in the country. The Fijian media operates in an environment of freedom of expression with no censorship or limitations to the freedom of the press provided by Section 30 of the Constitution. Nevertheless, the Broadcasting Commission Act 1953 provides the Minister of Information the power to prohibit the broadcasting of "any matter or matter of any class or character" specified by notice to the Broadcasting Commission.

Both print and electronic media carried extensive coverage of the electoral process under a legal framework that contained very few provisions on the performance of the press during an electoral campaign period. Sections 133 and 134 of the Electoral Act are the only regulations on electoral coverage, and they refer to publication in the newspapers of political parties' advertisements and the dissemination of defamatory information about candidates.

To compensate for this lack of regulation, the OSE issued on 21 April 2006 "Guidelines for the Media," a document intended to compliment the Media Council General Media Code of Ethics and Practice in establishing a basis for the professional and accurate coverage by the media of the electoral process. In addition, several media outlets (FBCL, Fiji TV and The Fiji Times) introduced their own guidelines for electoral coverage.

In a similarly welcome development aimed at encouraging accurate reporting, the University of the South Pacific and the OSE carried out training sessions for local journalists on different aspects of the electoral process. Some national media also organised internal staff training. Nevertheless, some inaccuracies still appeared and there was a general lack of analysis in the electoral coverage.

7.2 Electoral Coverage

As an improvement from previous elections, local radio stations and the national television broadcast a large number of talk shows, political party forums and in-studio interviews, providing listeners the opportunity to question candidates on air. The leaders of the SDL and FLP took part for the first time in a face-to-face radio debate (2 May 2006, Viti FM and Sargam Radio). The national newspapers published special election editions and allocated space to interviews with candidates.

Lists of parties' preferences and dates and times of polling were provided by the OSE for publication in the national newspapers. Nevertheless, complaints about some polling stations not being included or advertisements containing incorrect information were raised by voters and parties through the media.

The Fiji Times, Fiji Sun and Fiji Daily Post newspapers failed on several occasions to abide by provisions established in sections 133 and 134 of the Electoral Act, by publishing electoral advertisements without the headline "advertisement" and, in some cases, omitting the name of the person who authorised the advertisement.

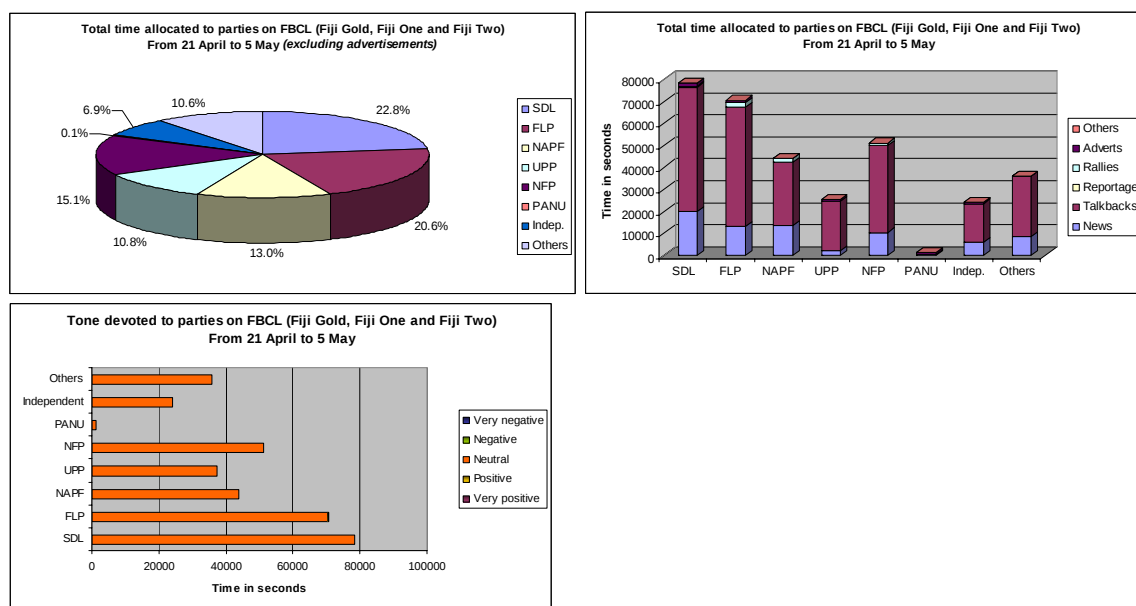
Moreover, the campaign silence period was violated by the publication of paid advertisements by the FLP, the Coalition of Independent Nationals (COIN) and the Assembly of Christian Churches in Fiji (ACCF) in the three national daily newspapers. The day after the violation, only the Fiji Daily Post published a clarification apologising for the "oversight and non-intentional" publication of adverts by the COIN and the FLP.

7.3 Media Monitoring

From 21 April to 1 June the EU EOM monitored news and political coverage of the electoral process¹ in order to assess whether parties and candidates gained fair access to the media and whether the national media abided by the rules and regulations covering their conduct during the campaign.

The findings of the EU EOM media monitoring showed that during the campaign period (from 21 April to 5 May) most of the Fijian media allocated time and space to the majority of the parties contesting the elections, although with more attention given to the two main parties, the SDL and the FLP. The tone of the reports was mostly neutral.

The public service broadcasts (Fiji Gold, Fiji One and Fiji Two) of the governmental radio company Fiji Broadcasting Corporation Limited (FBCL) showed balance in the amount of time allocated to political parties and independent candidates, most of the time in neutral tone. The SDL got the highest amount of airtime (22.8%) on all three radio stations followed by the FLP (20.6%). The Party of National Unity (PANU) was never mentioned on Fiji Two radio during the analysed period².



In the private broadcast media, the time allocated to parties in Legend FM, Viti FM and Radio Natvarang varied, with a reasonable balance in the final figures, proportional to the importance of the parties (see Annex 2). During the analysed period, the three radio stations gave access to all political parties, with Legend FM and Radio Natvarang showing higher differences in the amount of airtime received by the SDL (35.4 and 42.7%, respectively) and the FLP (33.2 and 36.8%, respectively) in relation to other parties. The tone of the coverage was always neutral.

¹ The EU EOM media monitoring unit, comprised by five media monitors monitored a total of 10 media outlets: six radio stations (Fiji Gold, Fiji One, Fiji Two, Legend FM, Viti FM and Radio Natvarang), the national television Fiji One TV and three daily newspapers (The Fiji Times, Fiji Sun and The Fiji Daily Post).

² Monitoring of Radio Fiji Two started on 26 April. Broadcasts by Fiji Gold on 27 April, from 7:00 to 14:00 hours missed due to technical problems.

The national television, Fiji One TV, allocated also a balanced amount of time to the different political contestants and consistently reported in a neutral tone (see Annex 3). All the parties gained airtime in the national television during the period analysed, with the FLP (24.3%), the SDL (23.5%) and the NFP (20%) getting the highest amount of airtime. In spite of this balanced coverage during the campaign period, on 7 May (after polling started) Fiji One TV broadcast its programme “Dateline”, produced by the Ministry of Information, which included long reports on Mr Qarase carrying out institutional activities as Prime Minister. This airtime constituted favourable coverage to him as an SDL candidate.

The FLP gained the highest amount of square centimetres in the three daily newspapers (see Annex 5). During the analysed period, The Fiji Times, Fiji Sun and Fiji Daily Post gave access to all political contestants, showing balance in the amount of space allocated to them. The tone of this coverage was generally neutral, with only few reports or opinion articles showing positive or negative tones. In this regard, although the Fiji Daily Post showed a general tendency to report in a neutral tone, the paper allocated the highest amount of reports and opinion articles in a negative tone to FLP, while the SDL was the only party which attracted reports and opinion pieces in a positive tone.

8 COMPLAINTS AND APPEALS

The Electoral Act allows for political party agents, candidates and voters to present election related protests and complaints. These protests have to be formally addressed to the election administration (Election Commission, OSE, Returning and Presiding Officers). A decision by the OSE has to be taken in 3 or 5 days, depending on whether the complaint refers to a breach of the Act or not³. OSE decisions are final (exceptions are made in the case of registration and nomination decisions) and can only be subject to a review after the announcement of the poll results through an election petition to the Court of Disputed Returns.

The deadline to file an election petition ends 6 weeks after the declaration of the poll results (as no declaration of the polls has to date been made by the election administration, the end of the deadline is unclear. The EU EOM estimates that the deadline ends around 6 July 2006). At the time of writing this report, no election petition was lodged.

This very general framework for complaints was further developed by the OSE when it produced guidelines on how to settle election complaints, issued complaints forms and a created a central complaints register at the OSE.

The introduction by the OSE, on election day four, of these guidelines and complaint forms (070 and 071) was a belatedly positive step towards the recognition of the need to improve standards in this area. Nevertheless, the effect of these reforms was limited due to their late introduction.

The OSE received in total 74 complaints since the start of the year. Regrettably, only a few received an official answer or were settled. None was settled according to the set timeframe. The majority of them have not been addressed and were still being considered when the EU EOM finished its observation. Most of the complaints related to deficiencies in registration

³ For objections concerning registration and nomination another timeline applies (section 22 and 54 EA). These objections must be settled in 14 days. A review on the decision must be dealt with in 14 days.

and to voters not being allowed to vote on election days because their names were not found on the Register of Voters. Complaints received by the OSE reported minor and not widespread irregularities in polling procedures. In one instance, the UPP complained that 28 voters from Navua constituency filled out new applications in order to correct their registration. This correction was not reflected in the final Register of Voters.

A copy of all complaints and decisions has not been made available by the OSE. Despite the fact that there is no legal requirement for decisions regarding complaints to be made public by the Electoral Commission or OSE, their publication would have contributed to the transparency of the process and allowed for an assessment of their legality.

On the subject of registration, the FLP presented a court case claiming that not enough time was awarded for voter verification due to the late publication of the Register of Voters. The court ruled against the FLP⁴.

In fact, if the Register of Voters had been published in sufficient time ahead of the elections, the period for objections could have been completed before the start of polling. The setting of a clear time frame for objections and the consequent closing of the Register of Voters prior to the opening of the polls is advisable, and would avoid the handling of protested registrations over the election period.

A total of 13 of the 74 complaints received by the OSE related to objections to the nomination of candidates. The OSE informed the EU EOM that all were ruled on by the Elections Commission and were subsequently dismissed. Despite the EU EOM's request to the Electoral Commission and the OSE for copies of these objections and their decisions, they were never delivered and their legal grounds cannot therefore be assessed.

Complaints or requests for clarification were presented by the FLP, NAPF, UPP and some independent candidates. The FLP followed the election process closely and presented the majority of complaints. In fact, the FLP applied determined pressure on the election authorities during polling days to provide answers to problems and clarifications to the process.

The most significant complaints presented concerned the late distribution of the Register of Voters, the tardy publication of the list of preferences, the lack of information in order to conduct voter reconciliation, voters placed in wrong constituencies and the under representation of Indo-Fijians as polling officials. The total number of ballot papers printed and used was also a matter of concern. The FLP's request for the Electoral Commission to postpone elections until these all issues had been resolved was turned down.

The Electoral Commission responded in writing to some complaints justifying the delays and the lack of information mainly due to last minute changes in the Register of Voters, mistakes in the preference lists and the complexity of the ballot.

⁴ Mahendra Chaudhry and the FLP filed a Civil Action with the High Court on March 21 against the Supervisor of Elections, the Electoral Commission and the Attorney General. One of the main arguments being that several legal provisions (sect.22 to 24, Electoral Act - EA) allowing for a period of objections regarding registration were not respected by the Supervisors office thus leading to the possible disenfranchisement of thousands of voters that claimed were omitted, incorrectly registered and/or allocated to wrong constituencies. The High Court ruling dismissed all actions sought by the plaintiffs on the grounds that a change in the already set election date could only be achieved through a coercive injunction against the state and this can not be granted as these are confined to Judicial Review proceedings. Furthermore, sections 22 to 24 of the EA are applicable at any time and do not, as a timetable, have to be completed before the date of poll as they can be brought as an election petition at a later stage.

In the post-election period a complaint to the Electoral Commission was presented by the FLP's indigenous-Fijian candidates. The most relevant issue concerned the lack of security of ballot boxes as required by the Electoral Act, as many wooden boxes were not entirely safe. The lack of disclosure of information by the OSE on the reconciliation of the numbers of ballot papers used and unused and the hiring of several private firms, with close connections to SDL, for the purpose of helping in the transport of ballot boxes were also matters of concern. The FLP requested to have an inquiry commission look into all the presented irregularities.

Furthermore the FLP alleged that counting in two constituencies (constituencies 49 and 52) was conducted in a faulty manner. In one case, the FLP candidate officially complained that 15 extra ballot boxes were added to the count. EU observers followed this issue closely and could not find evidence of any electoral transgression.

Also, the police received seven complaints about election related offences. The most relevant complaints were presented by FLP and the Citizen Constitutional Forum (CCF). The FLP complained about Mr Qarase's statement at a rally in Nausori on April 27 2006 when the SDL candidate warned of a new coup should an Indo-Fijian politician win the election. The FLP claimed that Mr Qarase resorted to "tactics of fear and voter intimidation and attempted to incite racial hatred⁵." (2) At the moment of writing this report, all police complaints were still under investigation.

9 PARTICIPATION OF WOMEN

Women are still marginalised in Fijian politics. Although Fiji has ratified CEDAW and committed itself to promote gender equality and to empower women in the United Nations Convention,⁶ the dissolved 71-member House of Representatives included only 4 women. The drop in the number of women candidates from 31 in 2001 to 27 in 2006 is another indicator that no policies were in place to encourage women to enter politics. Furthermore, the Electoral Commission and OSE did not issue any regulations or guidelines for political parties to nominate or encourage women candidates.

Women members of parliament from 1994 to 2006

Election of 71 MPs	Number of Women MPs	Percentage of Women MPs
1994	3	4,3%
1999	8	11,3%
2001	4	5,7%
2006	8	11,3%

⁵ Statements inciting racial dislike or hatred of any race or community are an offense under the Public Order Act (POA) and can be liable on conviction to imprisonment and a fine of \$500. Prosecution can only be instituted with the consent of the Director of Public Prosecutions (sect.17, POA).

⁶ CEDAW: United Nations Convention on the Elimination of All Forms of Discrimination Against Women and United Nations Millennium Development Goals Framework

Women candidates in the Fiji legislative election 2006

Political Party	Number of candidates	Number of woman candidates	Percentage of women
SDL	79	5	6,3%
FLP	59	7	11,9%
NAPF	50	7	14,0%
NFP	45	3	6,7%
UPP	10	2	20,0%
NVTLP	11	1	9,1%
Independent	68	2	2,9%
Total	338	27	8,0%

In a welcome development, the 2006 election resulted in 8 women MPs being returned to parliament; five from the SDL, two FLP and one UPP. This is the double the amount of women in the previous parliament. The inter-party government of SDL and FLP has since appointed three women Cabinet Ministers and two State Ministers out of a total of 35 Ministers (23 Cabinet Ministers and 12 Ministers of State). Both the Prime Minister who appoints nine Senators and the Leader of the Opposition, who appoints eight, have appointed two women Senators each. (see Annex)

10 CIVIL SOCIETY

The range of national non-governmental organisations (NGOs) active in Fiji is relatively limited and no domestic observers were engaged in observing the polls.

The best known and most politically engaged NGO is the Citizen Constitutional Council led by Rev Akuila Yabaki. This group followed the election process closely and questioned the election administration on several relevant issues.

11 OBSERVATION OF VOTING, COUNTING AND TALLYING

The polling and counting period lasted in total 13 days from 6 May till 18 May 2006. If the postal voting in person, which started on 28 April, is counted as part of the polling period, this amounts to a total 21 day polling and counting period. By any standards this lengthy procedural conduct of elections for 479,674 registered voters needs revision, as already indicated by the Supervisor of Elections. Furthermore, the law sets out a much too tight timetable for the conduct elections within 44 days after the writ of elections had been issued. In particular, the short period between the deadline for political parties and candidates to hand in their list of preferences on 18 April, and the first day of postal voting on 28 April, led to an unnecessary time constraint in preparing, proof reading and printing the ballot papers.

During the polling and counting period the Supervisor of Elections delegated all tasks related to the polling and counting to the four ROs. The communication flows both ways were notably constrained.

The use of 71 different forms for the conduct of the polls was inefficient, with this abnormally high amount of forms leading to unnecessary delays complications and inaccuracies. The

most important figures for the reconciliation of ballot papers and ballot boxes were not publicly available and the reconciliation of the numbers of ballot boxes and ballot papers was insufficient.

11.1 Polling

In general, voting procedures were well understood and implemented by polling station staff. The secrecy of the vote was assured and party agents were able to adequately observe the process, which was free from intimidation.

Voting on the first day was delayed by up to four hours in half of the polling stations observed due to the late arrival of ballot papers. Voters in these stations queued for hours, often without any information on the cause of the delays. However the vast majority of polling stations opened on time in the following days.

Voters who discovered that they were not listed in the Register of Voters at polling stations were not always treated according to the procedures.

Furthermore, the polling stations' inquiry desks did not have copies of the main Register of Voters, which contained information on all constituencies, but only voters' registers for the constituencies for which the polling station issued ballot papers. Uniform procedures were not followed for issuing "attempt to vote" forms for voters who were not listed in the Register of Voters, or for allowing authorised media to access polling stations. Only few of the turned away persons were issued with the telephone number of the OSE's toll-free helpline which was set up to provide information on the Register of Voters.

Voters whose names were listed in the Register of Voters for communal constituencies but not for open constituencies should legally have been allowed to vote for both constituencies. However, the implementation of this provision varied from polling station to polling station and resulted in some voters being wrongly turned away. In rare cases, voters not listed for either open or communal constituencies were still allowed to vote.

Mobile polling teams were created to facilitate voters with physical disabilities. The efficacy of this praiseworthy initiative was limited by the fact that the secrecy of the ballot was mostly not guaranteed because voters were often not afforded any privacy when marking their ballot papers.

In the Western and Northern and electoral division, party agents were denied the right to follow ballot boxes during transportation and storage, a development which diminished the transparency of the electoral.

11.2 Counting

Vote counting was a generally professional undertaking, with minor deficiencies and procedural confusion. However, the reconciliation of the number of ballot boxes per constituency before the count was sometimes conducted incoherently, or not carried out at all.

During the count, the lack of procedures or guidelines for particular situations resulted in AROs and ROs deciding at local level on sensitive matters. In cases where there were too

many or too few ballot papers in ballot boxes, officials decided in all observed cases to accept the differences, even when there were as many as 100 ballot papers unaccounted for. This was a departure from the procedures laid out in the Ordinary Ballot Paper Account Forms (Form 017) attached to each ballot box.

Furthermore, in the case of one automatic recount in Laucala open constituency where the final difference was only 11 votes, the invalid ballot papers were not re-verified since the ARO considered this step of the counting manual as not to being part of the automatic recount. Although the law does not specify this issue, the OSE's counting manual states that the sorting and check for validity of ballot papers is Stage V of the count.

The Supervisor issued a last minute guideline to ROs one day before counting to validate ballot papers which had either an official stamp or an initial on the back, as outlined in the electoral law, but contrary to the guidelines in the official counting manual. The guideline did not reach all counting team leaders in time.

Unfortunately the OSE only realised at the eleventh hour that its original planned practice, as detailed in the counting manual, was in breach of the law. Since most polling stations pre-stamped all the received ballot papers but initialled them only once issued to voters, the procedural reversal resulted in a high number of stamped unused ballot papers being placed in circulation. The security measure to only initial the ballot papers prior to them being issued was consequently rendered worthless.

In the case of the Rotuma communal constituency, the ARO did not follow correctly the rule of redistributing preferences of parties which had no candidate in that constituency. Fortunately, this did not have any impact on the final result.

The assessment of the correct redistribution of preferences was only partly possible since the OSE did not release the crucial Master Tally Summary Forms (Forms 039) which would have provided a complete picture of the correctness of the count.

The OSE did not provide an official explanation for a voter turnout of 101 % in Cakaudrove East constituency. The official register of voters of the OSE stated 7,639 registered voters in the constituency. However the RO of the Northern Division said the total number of registered voters was 9,012.

All the used ballot papers and the corresponding paper work as well as the unused ballot papers were properly and securely packed but only sealed with the usual wax seal which did not provide sufficient protection. Numbered plastic seals went missing during this process. The sensitive material was stored in locked safe rooms at police offices.

11.3 Postal voting

Due to the late arrival of ballot papers and registers, voting in person started one day late, on Saturday 29 April, with some constituencies' register of voters and ballot papers still missing. Voters for those constituencies with missing registers of voters or ballot papers were asked to return the following week. Furthermore the list of preferences was only made available on Saturday 29 April, one day later than legally required.

The four electoral divisions applied inconsistent rules for handling postal ballots. Despite regulations allowing postal voters to cast their ballots in person in the four divisional postal voting centres, voters in the Eastern Division were not allowed to do so for a period of two days.

The lenient acceptance of postal ballot applications without a valid explanation of why the voter could not attend at the polling station resulted in an astonishingly high number of approximately 15,000 to 20,000 postal ballot papers, in comparison with the 2001 elections. Voters were only allowed by law to apply for postal ballots if they lived more than 20 kilometres from the nearest polling station or in cases of illness, infirmity, imprisonment (up to 12 months) or certain religious beliefs which prevented them voting on a certain day.

The inconsistencies in postal polling practices in the four divisions led to the inclusion of late postal ballot papers into the count past the legal deadline, up until the afternoon of Monday 15 May 2006. This unacceptable practice has already been criticised in the previous election and the Supervisor stated on two occasions that in the 2006 elections no postal ballots would be accepted late into the count.

The vulnerability of the postal voting exercise to errors or fraud (impersonation) was increased with the provision to allow postal voting in person to continue during the official ordinary polling days and the fact that postal ballot boxes were not sealed overnight, although they were overseen by two police agents. Party agents were not present throughout the postal polling process and in any case would not have been allowed to stay at the premises overnight.

The high number of postal ballots received led to logistical difficulties since the ballot papers had to reach their constituency count centre before the start of the verification of postal ballots on Sunday 14 May 2006. The lengthy verification exercise on Sunday 14 May led to a slight delay in the counting exercise on Monday morning in the Western Division. The process of including postal ballots into the count was not very transparent since no reconciliation of postal ballot papers was done before and/or after the postal ballot paper verification exercise. Numbers of postal ballot papers were available for Eastern and Central Divisions and the Northern Divisions but Western never reconciled or communicated their figures. At the time of writing this report, the OSE had not been able to provide the information about the total number of postal ballot papers included into the overall count.

12 ELECTION RESULTS

The election results shows that the two main parties, the SDL and the FLP, obtained all the communal seats of their respective communities. The results reflect a political campaign where the two parties tried to attract all the votes of their respective ethnic communities.

The elections resulted in an absolute majority victory of the governing SDL party of Prime Minister Qarase, which won 36 of the total of 71 seats in the House of Representatives. The major opposition party, the FLP of former Prime Minister Chaudhry won 31 seats. Two parliamentarians were returned from Mick Beddoe's United People's Party, in addition to two independent candidates. A total of 31 MPs were newly elected, while 40 were able to retain their seats.

Total of 71 seats	SDL	FLP	UPP	Other Parties	Independent Candidates
2006	36 seats	31 seats	2 seats	0	2 seats
2001	31 seats	27 seats	0	10 seats	1 seats

The 2006 elections showed a clear trend towards increased support for the two major political parties, thereby reducing the number of political parties represented in parliament from six to three. Neither the old former ruling parties NFP and SVT nor the new inter-ethnic party NAPF won any seats. In 60 constituencies the elections resulted in an absolute majority winner after the distribution of first preferences. Only in 11 constituencies was a further distribution of preferences necessary, a sharp decline on the 28 constituencies of 2001.

The SDL won all 23 indigenous-Fijian communal seats with an outright majority of between 56 % and 93 %. The FLP prevailed in all 19 Indo-Fijian communal constituencies, with an absolute majority of between 71 % and 90 %, whereas the UPP obtained 2 out of 3 “General” communal seats. All the communal seats won by political parties were the result of absolute majority victories without any distribution of preferences under the Alternative Vote system.

The 25 open constituencies showed a completely different picture, with a higher level of competition and a cross-ethnic distribution of preferences among political parties. The SDL won 13 and the FLP 12 of the 25 open constituency seats. Nine seats where no candidate had an absolute majority after the first distribution of votes were decided after the subsequent elimination of candidates and the distribution of voter’s and parties’ preferences according to the Alternative Vote system.

The 2006 elections showed clearly that the Alternative Vote system in combination with 46 communal constituencies did not result in moderation and co-operation across ethnic lines as outlined in the CRC (Reeves Report). The system appeared to enhance the polarisation of voters, with the two major political parties representing distinct ethnic communities. The CRC Report outlined that two pre-conditions must be met for moderation and co-operation across ethnic lines; firstly, a multiplicity of parties based on Fiji’s various communities and secondly heterogeneous constituencies.

The electoral campaign of the two major parties, the SDL and the FLP, indicated that both parties were mainly campaigning within the ethnic communities which they represent. Therefore, the SDL was perceived as the party of the indigenous Fijian ethnic community and the FLP as the party of the Indo-Fijian ethnic community. However the 2006 results also showed that three indigenous-Fijians were elected on an FLP ticket and two Indo-Fijians were elected on an SDL ticket. This positive reversal from the 2001 results, where only one indigenous-Fijian was elected for the FLP, indicates that the two main political parties increasingly field candidates of the “other” ethnicity in constituencies where they had good chances of getting elected. All the seven newly elected MPs who were perceived as belonging to another ethnicity than to the ethnic inclination of their party won in one of the 25 open constituencies.

This fact might suggest that the underlying idea of the Alternative Vote system -- that political parties in ethnically divided societies reach out to the other ethnicity by fielding candidates of the “other” ethnicity - could have resulted in this small positive signal. Although the candidates elected in the communal seats were all drawn from the ethnic

communities of their parties' ethnic inclination, the open seats were more competitive and therefore the incentives to reach out to the other ethnic community by fielding one of their ethnic representatives higher.

Voter Turn-out

In the 2006 general elections 421,468 voters went to the polls, almost 60,000 more than in 2001 (364,875 voters) and 27,000 more than in 1999. The increase in voter turn out from 78 % in 2001 (90% in 1999) to 88% in 2006 was a positive indication of Fiji citizens faith in the electoral process. Although each voter was entitled to vote for both a communal and an open constituency, 346 more voters voted for the communal constituencies. This fact partly reflects the problems encountered during polling days with the register of voters/Voters Register. At the time of writing this report, the OSE still did not have the overall figures of attempt to vote forms filed or a compiled list of eligible voters whose name was not on the register, as agreed by the Electoral Commission.

Voter turn out and invalid votes according to communal registers

Communal Register	Indig. Fijian	Indo-Fijian	General	Rotuman	Total
Registered 1999	220,264	197,621	14,029	5,232	437,146
Actual Voters 1999					394,700
Turn out in %					90,29%
Invalid ballots in %					8,69%
Registered 2001	239,145	209,106	14,950	5,571	468,772
Actual voters 2001	187,110	167,525	10,978	4,255	369,868
Turn out in %	78,24%	80,11%	73,43%	76,38%	78,90%
Invalid in %	10,56%	13,19%	8,50%	11,59%	11,87%
Registered 2006	256,014	204,470	13,817	5,373	479,674
Actual voters	222,660	182,476	11,595	4,737	421,468
Invalid ballots	19,447	17,078	786	302	37,613
Turn out in %	86,97%	89,24%	83,92%	88,16%	87,87%
Invalid ballots in %	8,73%	9,36%	6,78%	6,38%	8,92%

12.1

Invalid votes

The alarmingly high number of 74,855 invalid ballot papers or 9% of the total vote was mainly due to the strict Fijian electoral law which does not take the voter's intention into consideration. Furthermore, voters were still not sufficiently educated to either tick above the line or number below the line as required on the two sections of the ballot papers. About 80% of invalid ballot papers were ticked below the line, while most of the rest were blank. In rural areas, the proportion of invalid votes was as high as 14%. In urban areas, voters seemed to

understand the system better, although in no constituency did the invalid ballot rate drop below 5%.

An analysis of voter behaviour according to communal constituency registration shows no significant variation between indigenous-Fijian and Indo-Fijian voters. Indo-Fijians had a slightly (2%) higher voter turn out and a minimally higher (0.6%) number of invalid votes. Voters listed on the General Communal Roll had a lower voter turn out and, along with Rotuman voters, a lower number of invalid votes.

In comparison with the 2001 elections especially, the high number of invalid votes of voters on the Indian communal roll fell by 4% from 13.2% to 9.4%. The proportion of invalid votes also fell for the Fijian communal roll voters, by 2% from 10.6% to 8.7%.

A 2001 ruling of the Court of Disputed Returns concerning the interpretation of Electoral Act section 116/3 that lead to the validation of invalid ballots that were ticked below the line was considered by the reviewing court an error of interpretation of the Electoral Act. However, the recurrent high number of invalid votes in the 2006 elections caused by voters incorrectly ticking the ballot papers below the line instead of numbering them leaves room for improvement, with the aim of the enfranchisement of more voters. An amendment to the Electoral Act could take the clear intention of the voter into consideration for future elections.

12.2 Voter Education

Although voter education was carried out throughout the country, it was not been effective in sufficiently reducing the number of invalid votes. The use of three national languages in the voter education campaign was a positive aspect.

Voter education paid advertisements by the OSE on how to mark the ballot papers were sent to the electronic media for broadcasting, but only three days before polling (they were broadcast for 11 days). Unfortunately, the Hindustani version of the advertisement broadcast on national TV contained wrong information advising voters to tick either above or below the line. The advertisement, aired a total of eight times from 3 to 5 May by Fiji One TV, was withdrawn on 6 May upon the request of the OSE itself. Furthermore, the wrong Hindustani specimen ballot papers were used throughout the training and voter education exercise.

12.3 Above and Below the Line voting

Based upon data from the 24 (32%) available Master Tally forms collected by EU observers, the great majority of voters (95%) used the above the line part of the ballot papers to tick for their choice of political party; thereby endorsing the parties' preference lists. Only about 4.5% of voters numbered the individual candidates in the below the line section of the ballot papers. This generally low figure is a sign that voters are not confident enough to make their own choices in ranking the different candidates. It is also an indication that political parties are getting stronger, since they succeeded in convincing more voters to tick only above the line in 2006 than in 2001.

Urban and General Communal voters (Europeans, Chinese and other groups) were more inclined to make their own preferences below the line, with an approximate average of 15%. This is an indication that they have a better understanding of the Alternative Vote system

since they are also the groups with the least number of invalid votes. However, in Indian communal seats, fewer than 2% of voters chose to opt for the below the line part of the ballot paper, even lower than the average of 4% of the Fijian Communal Constituencies.

12.4 Equal Suffrage

The constituency with the least number of voters in the 2006 elections was the Fijian Communal seat of Namosi, with 3,340 registered voters. The seat with the most voters required was Cunningham open constituency, with 24,087 registered voters. This unequal distribution of voters between communal and open constituencies is also present within communal and open constituencies. For the Fijian Communal seat of Nadroga/ Navosa, 19,044 voters were registered – five times more than in the Namosi constituency. Elections conducted on the basis of equal suffrage require the equality of voting power. In principle, no vote should carry proportionally more weight than another. However, these figures show that this principle is being breached due to the major constituency deviations present in Fiji.

13 RECOMMENDATIONS

The following recommendations to improve the electoral process and related areas are offered for consideration and action by the Fijian authorities and the international community:

Electoral system

- **Reforms of Electoral System:** The combination of 46 communal constituencies and the ongoing use of the Alternative Vote system have not had the desired effect of diminishing the stratification of Fiji's electorate and political parties, which reflect divisions between the country's two main ethnic groups, indigenous-Fijians and Indo-Fijians. Informal round table sessions involving all political parties, independent candidates and civil society groups could provide an opportunity to examine the shortcomings of the current electoral system and explore other systems which might facilitate more cross-ethnic political representation.
- **Increase Open Constituencies:** A gradual increase in the number of open constituencies and a corresponding reduction in the number of communal constituencies, as originally proposed by the 1996 Constitutional Review Commission could promote more intensive inter-ethnic cooperation by political parties.
- **Review Constituency Boundaries:** An immediate review of constituency boundaries is recommended after the planned new census is completed. This should aim to redraw constituency boundaries to ensure a more equitable numerical balance of voters per constituency. The guiding principle of this exercise should be to guarantee adherence to the principle of equal suffrage, which prescribes that no vote should carry proportionally more weight than another.

Electoral Administration

- **Strengthen Electoral Management Bodies:** The Electoral Commission and the OSE could enhance their effectiveness and independence by acquiring adequate staff and sufficient budgets. The establishment of an electoral management body on a permanent basis would help develop institutional knowledge and improve its planning, training and preparation capacity. Under the current system, the Supervisor of Elections is frequently not in a position to establish his authority over the four divisional Returning Officers due to their normal institutional status as Division Commissioners. At the very least, the appropriateness of Division Commissioners being automatically appointed as Returning Officers during election periods should be reviewed. An explicitly established chain of responsibility and the introduction of clear procedures governing the grounds for the removal from office of the Supervisor of Elections would help clarify working relationships within the electoral management bodies.
- **Enhanced Societal Representation:** The electoral administration management and executive bodies should introduce equality measures in their recruitment procedures to ensure a better representation of women and ethnic groups at all administrative levels. At a political level, steps such as quotas or temporary affirmative action could be taken to enhance the participation of women in municipal bodies and the national parliament.
- **Regular Meetings with Political Parties:** The Electoral Commission and OSE should establish a permanent timetable of regular meetings with political parties to provide timely information on election-related issues. The frequency of meetings could be increased in election years.
- **Finance Regulation:** The Electoral Commission should propose that parliament considers a regulation on political party finances. Such a regulation would provide accountability to voters on how parties and candidates acquire the financial means to run campaigns.
- **Political Parties' Code of Conduct:** The Electoral Commission should put forward a code of conduct for political parties to strengthen respect for common rules and standards during the electoral campaign.
- **Development of Voter Education:** Effective voter education programmes should be developed and implemented well ahead of elections to increase the level of understanding of the electoral process, thereby reducing the number of invalid votes. The involvement of non-governmental organisations would contribute to the effectiveness of such campaigns.
- **Annual Updates of Register of Voters:** Implementation of the annual update of Register of Voters in accordance with the Electoral Act requirement, and the institution of a permanent and public voters' database would improve the quality of the electoral roll. Political parties should be given the opportunity to observe all stages of the updating of the register.

- **Procedural Improvements:** The numbers of forms used by election officials during voting and counting should be reduced and procedures simplified in order to develop a more straightforward and accountable system.
- **Voter Intention:** The Electoral Act should be amended to strengthen the provision on voter intention by accepting a tick below the line as a valid selection. This would also help reduce the number of invalid votes.
- **Ballot Paper Design:** Ballot papers should be redesigned with a simplified layout to reduce voters' mistakes. One approach might be to abolish the system of above and below the line marking. Instead, voters could either mark a single box for a party or indicate their order of preference for candidates by ranking their selection with numbers. The use of the three main languages on the ballot papers, instead of just one, would also facilitate better voter understanding.
- **Postal Voting Reforms:** The application for postal ballots and the postal voting in person should end before the first day of normal polling. The postal voting procedures should be improved, particularly in relation to reconciliation and security, to achieve a more transparent and accountable system.
- **Reduction in Polling Days:** The number of polling days should be gradually and substantially reduced to eventually allow voting to be concluded in just one day. This should mean improved efficiency and accountability. By diminishing the number of transport days and the need for overnight storage of materials, security would also be improved.
- **Polling Station Reforms:** Voters should be able to vote only in an allocated polling station which should be located only in public buildings. This would reduce the number of ballot papers needed, reduce the number of ballot boxes and increase the accountability of the process. The OSE could display all relevant data in each polling station at the end of each polling day. This form could also be distributed to party agents and observers.
- **Training of Electoral Staff:** The introduction of more effective training for polling and counting staff would lead to a more uniform implementation of procedures. The adoption of accurate and user-friendly training manuals would allow staff to develop an improved understanding of procedures.

Transparency

- **Handling of Election Complaints:** A clear procedural set up for the handling of complaints is essential to establish accountability of the Electoral Commission and the OSE and could be implemented at all levels of the election administration. A register of complaints in concert with a timely settlement of formal protests from the level of polling station up to the Electoral Commission is crucial to promote transparency of the process.
- **Public Information Policy:** Decisions and minutes of the Electoral Commission and OSE meetings should be published and made easily accessible and available on an

official website. Election results should also be published on the web page as soon as they have been announced. In addition, the transparency of the counting process would benefit by the distribution to voters, political parties and observers of a list of the ballot box numbers, along their seal numbers, before the formal start of counting.

- **Electoral Campaign Period:** The introduction of a specific day and hour for the start and end of the electoral campaign would allow political parties, candidates and media to know when campaign rules take effect.
- **Training of Party Agents:** More effective training for party agents on voting and counting procedures would increase their efficacy. Non-governmental organisations and the OSE should be more involved in providing electoral training to political parties.
- **Domestic Observers:** The involvement of national observers from non-governmental organisations would enhance voters' confidence in the process.

Security

- **Ballot Boxes:** To increase security, the old wooden ballot boxes need to be replaced with translucent environmentally friendly plastic ballot boxes sealed exclusively with numbered plastic seals.
- **Storage Facilities:** Polling and counting agents should be able to observe at any given time the transfer of ballot boxes and the storage facilities.

Media

- **Media Guidelines:** The OSE's guidelines for media coverage of electoral campaigns should be issued well ahead of the start of the campaigns.
- **Media Training:** More effective training for journalists is advisable to improve the quality and accuracy of reporting and develop more analytical coverage of the electoral process.
- **Media Legal Framework:** A revision of the Broadcasting Commission Act 1953 is required, as well as the introduction of an information law to regulate more extensively the electronic media.