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REPORT OF THE COMMONWEALTH SECRETARY-GENERAL'S AND THE PACIFIC ISLANDS FORUM SECRETARY-GENERAL'S REPRESENTATIVES TO THE VANUATU NATIONAL ASSEMBLY ELECTION

6 JULY 2004

Background

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This is Vanuatu's second National Assembly election in the last two years. The election was called two years early when the Speaker of Parliament dissolved Parliament on 10 May 2004. Article 28 (4) of the Vanuatu Constitution requires that General Elections be held not earlier than 30 days and not later than 60 days after any dissolution. The date of Tuesday 6 July 2004 was then chosen as election day and declared a public holiday to assist in the facilitation of the process. The Prime Minister of Vanuatu, Hon. Edward Natapei issued an invitation on 28 June 2004 to the Commonwealth and Pacific Forum Secretary-General's to send observers to be present for the elections. The Commonwealth Secretary-General and the Pacific Island Forum Secretary-General responded positively to this invitation. It was agreed that the team would be a joint mission between the Commonwealth Secretariat and the Pacific Islands Forum – the first time such a mission had taken place.

Composition of the Team

In line with the agreement between the Secretary-General's of the Commonwealth Secretariat and the Pacific Islands Forum, it was agreed that the team would comprise two senior officers representing each organisation as the Representatives of the respective Secretary-General's. The members were:

Mr Jeremy Clarke-Watson Chief Programme Officer Political Affairs Division Commonwealth Secretariat

Mr Albert Mariner Senior Programme Officer Political Affairs Division Commonwealth Secretariat Mr Walter Rigamoto Ombudsman Fiji Representing the Pacific Islands Forum

Mr Ulafala Aiavao Media Adviser Pacific Islands Forum Secretariat

Terms of Reference

The Terms of Reference as agreed with the Vanuatu Electoral Commission on 28 June 2004 were as follows:

To be present in Vanuatu before, during and after the National Assembly Elections in order to gain a broad overview of the environment in which the elections take place, the electoral process and the elections themselves and to report to the Secretary-General thereafter. This report will be made available to the Government of Vanuatu and the Chairman of the Electoral Commission of Vanuatu.

Methodology

The method of work for the team was a series of meetings and interviews with key stakeholders in the electoral process, a review of the key electoral documents of Vanuatu and observation of the polling/counting process itself. Whilst the team was principally based in Port Vila, on polling the team deployed and visited polling stations across Efate Island as well as covering all the Port Vila constituencies. The team also worked closely with the observer team from the University of the South Pacific and the local observer groups from the Office of the Ombudsman and Transparency International (Vanuatu). There was a further final debriefing of all the observer groups, organised by the Ombudsman's office on 7 July 2004.

The team was assisted in their work by the comprehensive report prepared on the previous National Elections in 2002 by the Vanuatu Electoral Commission and Transparency International and the Report of the Commonwealth Expert Team that visited Vanuatu to review the electoral process in July 2003. The team found that the majority of the conclusions and recommendations in these two reports remained valid and little progress has been made in rectifying the shortcomings identified.

The team was also greatly assisted in its work by the Principal Election Officer, Mr Martin Tete and members of his staff, along with the newly appointed members of the Vanuatu Election Commission. The Office of the Ombudsman provided valuable support to the mission.

Candidates

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The information provided by the Election Office for the 2004 National Assembly Elections indicated that there were 237 registered candidates standing in 52 seats. There were 17 political parties and 74 independent candidates. The independents made up approximately 32% of the candidates. There were 6 women standing for election, an increase from 2002. It was noted to the team that the high number of independent candidates and political parties does not lend itself to stability of the electoral process or any new government in Vanuatu.

The Electoral Timetable

As previously noted, from the date of dissolution of Parliament, the Principal Election Officer has between 30-60 days to conduct the election. For the 2004 National Assembly Election, the following timetable was observed:

13 May 2004 Starting day for lodging candidature

6 June 2004 at 1630 closing time for lodging of candidature

21 June 2004 Declaration/Publication/Announcement of Candidates

13 May - midnight 2 July 2004 Campaign Period

2 July 2004 at 1630 closing of Proxy Vote Applications

6 July 2004 Polling day and count

The Voting System

The electoral voting system employed in Vanuatu is the semi-proportional *Single Non-Transferable Vote (SNTV)*. There are several seats in each constituency, but each voter is only entitled to one vote. Candidates with the highest number of votes win the seats. This means that in practice members of the same party are competing against each other as well as the opposition to secure the necessary votes to win a seat. This has led to an increasing number of political parties emerging. To assist in enhancing long-term stability and governance in Vanuatu it is desirable that attention is paid to strengthen the political party system and the political parties themselves.

The Campaign

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During its time in Port Vila the team was able to witness a number of political rallies for both the larger parties and independent candidates. The atmosphere on these occasions was calm with little or no evidence of security personal being present. Candidates talked to matters of substance and spoke of the need to ensure that coalition partners were also well supported. We witnessed simultaneous rallies taking place on the waterfront in Port Vila on the final day of campaigning, with all be being conducted in a positive spirit. Campaigning was scheduled to end at midnight on Saturday 3 July, 72 hours before the commencement of polling, and we believe that this deadline was generally respected. We did hear of cases of ongoing campaigning but these appeared to be isolated and were investigated by the police. We were not made aware of any serious intimidation of candidates or supporters and all we spoke to felt that the campaign period had been conducted in a good spirit.

Throughout Port Vila campaign posters were evident for all candidates. It did not appear that any major defacement of rival candidates posters had taken place. Most of the posters set out the candidate's policies and views on the future governments programme. Most posters also appealed to voters' sense of 'Kastom' (custom) by calling for a return to traditional values and practices.

The Media

The print media in Vanuatu is based around the Daily Post (English/Bislama daily) and the Independent (English/French – weekly). We found that there was extensive and wide ranging coverage of the elections in the print media. This coverage appeared well balanced and covered interviews and comment by all sides of the political spectrum. There was focus on both the personalities involved, the proposed policies of the candidates and their coalition partners. We also saw comment on the state of democracy in Vanuatu and how things should be improved. There did not appear to be bias in favour of any one group or party. Independent candidates also received good coverage and were able to put across their polices. As television in Vanuatu is limited to foreign (mostly Australian) channels there was limited coverage of the election in this medium. Radio coverage is tri-lingual and we were informed that coverage of the election was focused on news items and some comment on the policies and personalities involved.

The Electoral Machinery

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As foreshadowed in previous reports, the Vanuatu electoral administration, comprising the Electoral Commission and the Principal Election Officer does not have sufficient capacity to carry out its statutory functions as required by the Constitution of Vanuatu and the Representation of the Peoples Act. There is a lack of independence, funding is inadequate, the facilities need upgrading and planning, processes and training needs to be urgently addressed. The Principal Election Officer has made every effort to deliver the requirements for the 2004 Election but has been hampered by a lack of commitment to adequately resource and equip the Elections Office and Commission. This under-resourcing has led to a number of problems in respect of election management in Vanuatu.

The team notes that it is a core requirement of a democratic government to provide adequate resources and independence to the Elections office to be able to fully manage the requirements of the election process. For this election, the Principal Election Officer did not have a provision in this year's budget to manage a national election. He therefore presented a supplementary budget of some \$45 million Vatu (£250,000). One day before the election approximately \$20 million Vatu was still to be provided. It should also be noted that registration fees from candidates represented some \$12.5 million Vatu or just over a quarter of the election budget. The largest item was the printing of the ballot papers, which will be commented on later in this report. In the 2002 elections, the donor community provided the majority of the required funding. For these current elections the donor community did not contribute to meeting the required expenditure.

A number of issues have become apparent during the course of the teams mission in Vanuatu regarding the need to strengthen the independence and integrity of the electoral machinery. There should be moves undertaken to enact the necessary legislation to create an independent Election Commission, complete with funding to conduct electoral operations.

It is apparent that there also needs to be a greater recognition that elections are expensive to the country in terms of time and money. They are not just one-off events that take place every few years. The Elections Office needs to be provided with adequate baseline funding each year to be able to conduct its necessary operations, which include Presidential Elections, Council of Chiefs and Provincial Elections. Registration of new voters and the maintenance of the voters register is an annual process. Voter education is another requirement to be undertaken by the Elections Office. We received comment that the current electoral system in Vanuatu with multi-member constituencies may not be the most appropriate system for the country. Some consideration could be given to a review of the electoral system in Vanuatu to determine whether the current system is the most appropriate.

The challenges of election management in Vanuatu are further compounded by the demographics of the country. These challenges to the electoral system, through multiple voting, fictitious enrolments and identity fraud were most prevalent in areas of greater urbanisation. On polling day there were reports of attempted multiple voting and identity fraud but it is the opinion of the team that these were small scale in nature and will not have any bearing on the electoral outcome. In the rural areas of Vanuatu, there are generally fewer problems because the chiefly system remains relatively strong and forms the basis of the community and is more self-governing. It is important that the electoral management in Vanuatu is able to manage these challenges of demographics.

Finally, the facilities of the Electoral Office are also inadequate, with no secure storage facilities for materials, voters' cards, registers and polling equipment. The computer facilities also need significant upgrading to allow for better management of the registration process.

The Registration Process and Voters Register

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The voter's register is a key element of any electoral system. It forms the backbone of the process and from it flows a number of implications for electionday management. A transparent and credible register also builds the confidence of the electorate while a register that contains duplicates, ineligible voters and other inaccuracies leads to mistrust and a diminished confidence in the electoral process.

In Vanuatu the voters register is widely recognised as having duplicates, omissions and fictitious names. There is a general uncertainty over the accurate number of voters in Vanuatu. The annual registration of voters is supposed to rectify this problem but is unable to do so because of the absence of a proper computerised registration system. We were however informed that the display of the register did take place as required by law. Much work is required to bring the register up to a credible standard, which will instil confidence in voters. A limited voters register should be made available by constituency or designated polling station, listing a voters name, address, and preferably voter registration number. A more complete master register including date of birth, parent's names and address would be held by the Elections Office. This limited register could provide the public and parties with more information regarding eligibility to vote and confirmation of inclusion on the register. This would also allow discrepancies to be addressed on a regular basis. For such a system to be effective, voters would each need to be assigned a voters number which would be his or her identity number in the register for as long as he or she remains an eligible voter. In this election. the team observed a number of cases where voters presented a valid voter ID card but were unable to cast their ballot because their names were not on the electoral register. This occurred throughout Vanuatu.

The secondary issue related to registration is administration of the voter identity card system. When a voter registers or renews their registration, they are presented with a voter's card. These cards form the basis of the electoral system and without one, a voter cannot vote. However the system is open to malpractice because the cards are not numbered and do not correspond to a particular number entry in the register. Also, if deceased persons on the register are deleted, the current page and line numbers appearing on the cards may not correspond with that on the register. We were told that a number of voters have more than one card under different names and the number of cards in circulation is not known. Voters who did not vote at the last election had their names removed from the register, which has meant that some voters did not realise they were not registered for the 2004 elections. It is advisable that a new system of voter identity cards be prepared to reduce the possible instances of fraud related to abuse of the registration system.

It is the view of the team that there needs to be a major review of the registration process to increase public confidence in the system. This review should include:

- Legislative support to better identify people registering as electors;
- Linkages to the other civil registers and government data-bases for cross referencing purposes;
- Efforts to remove duplicate or fictitious names; and
- The issue of a new, numbered voter identity card to replace the electoral cards currently used. This numbered card would correspond to the voters name and number in the register.

The issue of proxy voting is another area of concern for the team. This appears open to abuse, especially with a register that is accepted as being incorrect, lack of adequate controls over the voters identity cards and broad conditions which allow proxy voting. The team believes that this system should be reviewed with a view to the abolition of the proxy voting system. Alternative methods can be put in place to ensure that voters who are unable to vote on election day can cast their ballot in other more secure ways.

The inaccuracy of the voters register also leads to the problem of over-printing of ballot papers and materials. With a register that is inflated, there is a corresponding over-production of ballot papers which has a significant cost implication for the elections office. It also has a direct impact on percentage turnout. Improving the credibility and accuracy of the register would therefore have a number of positive effects upon the whole electoral process in Vanuatu.

The Ballot Papers

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The system used by Vanuatu for its ballot papers is a highly costly one, which cost approximately \$12 million Vatu for this election (one quarter of the election budget). Voters are given a book of papers for a constituency, with each

candidate being represented by a different coloured page with their photo and party symbol. Independent candidates are printed on white pages. A voter takes this book to the booth along with an envelope and tears out the page for the candidate of their choice, places the page in the envelope and places this in the ballot box. The rest of the ballot book is then thrown in a bin inside the booth. The ballot books have no security features and are not sequentially numbered. The system is costly, with the printing of different coloured pages and a waste of resources, especially when the number of unused ballot pages is considered. The team believes that urgent attention should be given to reviewing this procedure with a view to moving to a single ballot paper for each constituency which the voter would mark against the candidate of their choice. The ballots could still contain photos but to move to a single voting paper would be much more cost effective and efficient. It would also increase the security of the ballot paper through the introduction of numbering.

Voter Education

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Due to resource constraints, the Election Office was unable to undertake a sustained programme of voter education prior to this election. The majority of the education budget was utilised to announce the names of all the candidates in two 20-minute radio slots. This is an area where more attention must be paid in future, especially in regard to the registration process and voting. Much of the voter education in Vanuatu is run by local NGOs/civil society groups. This is to be encouraged and supported for future elections because the Elections Office will not have the resources to undertake this on its own.

Role of the Police

Polling day in Vanuatu was conducted in a calm and peaceful manner. The Vanuatu Police Force can take much credit for this. They played an important role in assisting with security at stations, maintaining order, preventing double voting and generally working to maintain a peaceful environment for the holding of the poll. They are to be commended for their efforts. We were told that there had been a vast improvement in security at stations compared to the last elections and that the targeted police operation was the reason for this.

The Vote

Polling stations across Port Vila and Efate generally opened on time at 0730 and in the three stations the team observed at opening there were already long orderly queues of voters waiting to cast their ballots. The stations we observed followed the correct procedures and we also observed presiding officers calling elderly people and pregnant women/mothers with babies to the front of the queue. The facilities were generally adequate although in some cases the lighting could have been improved and the layout was rather cramped. There were a large number of party agents present inside each station (in some cases over 20), which further added to the cramped feeling. Processing was quick although the flow could be better improved if voters had their thumbs inked and their voter cards returned to them before voting, rather than having to return to the poll clerks after casting their ballots to collect cards and be inked. This led to some congestion around the polling clerks tables and disrupted the flow of the voters. We were told that this process is followed to prevent the ballot paper being marked in any way as a mark on the ballot paper will invalidate it. However, the electoral provisions do not appear to support this particular concern.

The procedure for voting required voters to show their ID cards to the police or polling staff at the entrance to the station. They were then directed to a table where polling clerks would check the ID card against the register. If the details corresponded, the voter was presented with the ballot booklet (described previously) and the voting envelope and directed to a ballot booth.

The number of ballot booths set up was basically dependent on the number of registered voters at a station. The booths were made of wood and material. They had a flap, which screened the voter from public view while they removed the required voting page from the ballot book and placed it in the envelope. In this regard the secrecy of the ballot was assured. After placing their vote in the envelope the voter then proceeded to place the envelope in the ballot box and discarded the unused ballot papers in a bin located in the booth. They then returned to the polling clerks to have their right thumb inked and received their voting ID card back from the clerk. They were then directed to the exit.

The Count

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Stations observed by the team closed on time at 1630. At the larger stations the number of agents exceeded 40 people as each candidate was entitled to up to three agents to observe the process. This practice of allowing so many candidate agents (as opposed to party agents) in the room should be reviewed and the numbers limited in future.

The Presiding Officer first asked the polling clerks to tally the number of voters who have voted from the entries in the register (no separate tally sheets are kept). The ballot box was then opened and the voting envelopes were counted to determine whether they tallied with the numbers of voters, recorded as voting in the register.

The voting envelopes were then opened. The ballot paper inside was withdrawn and shown to the agents and the vote announced. The paper was then placed back in the envelope; the envelope was re-sealed and replaced in the empty ballot box. During this process the polling clerks kept a result tally sheet recording the votes given to each candidate. The voter envelopes are then placed inside larger envelopes and sealed, replaced in the ballot box which is then sealed and taken to the police station for storage before the count verification takes place. At the completion of the count a final unofficial count sheet is prepared for transmission to the electoral office. The final result is declared by the Elections Office after the official count verification has taken place. This official count is based on a check of the presiding officer's report to ensure that votes tally and there were no inconsistencies. If there are problems, the Election Commissioners may decide to undertake a recount of the affected stations votes.

Overall the process worked reasonably well, although it does involves double handling of the envelopes and papers and this could be reviewed in future to determine possible ways of streamlining and speeding-up the counting process.

Conclusions and Recommendations

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The team believes that the Vanuatu National Assembly Elections of 6 July 2004 were conducted in a calm and positive manner and we commend the government and people of Vanuatu for this. Despite a number of challenges and constraints, the Elections Office ran an election day that was credible. Voters were able to cast their ballot free from fear or intimidation. The people of Vanuatu are to be commended for their positive attitude and approach to the National Assembly Elections.

The team does however believe that there are areas where improvements can be made to strengthen the capacity of the elections office and the process of electoral management in Vanuatu. We would therefore recommend the following:

- A review of the electoral legislation to ensure that the legal framework is relevant and able to support possible reform of sections of the electoral system;
- Creation of an independent Elections Office and Electoral Commission, complete with full-time staff, appropriate funding and upgraded facilities, pursuant to the legal framework to be enacted.
- A firm commitment from the government of Vanuatu to adequately resource this electoral machinery.
- Consideration of a review of the current electoral system of multi-member constituencies to determine whether this current system is the most appropriate for Vanuatu's needs.
- The political party machinery and management in Vanuatu needs strengthening. This could include the provision of education and training for parties on their roles and responsibilities within the electoral system.
- A comprehensive review of the registration process be undertaken to produce a stronger legal and administrative basis for the registration of voters, including appropriate identity provisions, an updated numbered voters register that incorporates a complete re-registration of voters to ensure accuracy and a new numbered voters ID card.
- A new sustainable computerised electoral registration process be sought and installed as soon as possible.
- The proxy voting system has the potential to be misused. It should be urgently reviewed with a view to its abolishment and replacement with a system that allows greater integrity and safeguards to be put in place.

- Review whether the current system of printing books of ballot papers for each voter is the most cost-effective system for Vanuatu.
- Review of the ballot papers and enveloping system to consider adding security features such as numbering to assist in management of the ballot papers on election day.
- A programme of voter education, managed through the Elections Office should be put in place to assist with increasing voter education and public awareness in Vanuatu.

Port Vila Vanuatu

8 July 2004

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