

Multinational Observer Group

2022 Fiji Election

FINAL REPORT

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The opinions expressed in this report reflect the views of the Multinational Observer Group of the 2022 Fijian General Elections and not individual participants in the mission or their sending Governments or Organisations.

Table of Contents

I.	EXECUTIVE SUMMARY	5
II.	MULTINATIONAL OBSERVER GROUP'S MISSION.....	9
III.	ELECTORAL SYSTEM AND OPERATIONS	10
	Parties and candidates	14
	<i>Recommendation 1</i>	15
	National Voter Register.....	16
	<i>Recommendation 2</i>	17
	Voter Cards.....	18
	<i>Recommendation 3</i>	18
IV.	LEGAL FRAMEWORK	19
	Electoral Law	19
	<i>Recommendation 4 (Aspirational)</i>	20
	<i>Recommendation 5 (Aspirational)</i>	20
	Restrictions on opinion polling, research and surveys	21
	<i>Recommendation 6</i>	23
	<i>Recommendation 7 (Aspirational)</i>	23
V.	ELECTORAL AUTHORITIES.....	24
	Electoral Management Body Structure	24
	<i>Recommendation 8</i>	26
VI.	POLITICAL PARTIES.....	26
VII.	THE PRE-ELECTION ENVIRONMENT	28
	<i>Recommendation 9</i>	28
	Electoral Preparations	28
	Use of Government Resources during the Campaign.....	34
	<i>Recommendation 10 (Aspirational)</i>	35
	Campaign Funding and Spending	36
	<i>Recommendation 11 (Aspirational)</i>	37
	Introduction of costing requirements for campaign manifestos and policies.....	37
	<i>Recommendation 12 (Aspirational)</i>	38
VIII.	PUBLIC OUTREACH, INCLUSIVENESS AND PARTICIPATION IN THE ELECTORAL PROCESS	38
	Voter Information and Awareness Efforts.....	39

	<i>Recommendation 13</i>	41
	Domestic and International Observers.....	41
	<i>Recommendation 14</i>	41
	Women’s Participation.....	42
	<i>Recommendation 15</i>	42
	Participation by voters with a disability.....	43
	<i>Recommendation 16</i>	43
IX.	MEDIA COVERAGE OF THE ELECTORAL PROCESS	43
	<i>Recommendation 17 (Aspirational)</i>	46
	<i>Recommendation 18</i>	46
	<i>Recommendation 19</i>	46
X.	PRE-POLLING, POSTAL AND ELECTION DAY VOTING	46
	Pre-polling.....	47
	Election Day.....	50
	Postal Voting.....	52
XII.	COUNTING, TABULATION AND ANNOUNCEMENT OF RESULTS	53
	Tabulation and Announcement of Results	56
	<i>Recommendation 20</i>	58
XIII.	OBSERVER DATA	60
	Pre-Polling	60
	Election Day Polling Station Opening Observations	62
	Election Day Voting Observations	64
	Polling Station Closing Observations.....	65
XIV.	ANNEXES	68
	List of abbreviations.....	68
	Photo Gallery of MOG activities	69
	Annex A – Terms of Reference	72
	Annex B - Code of Conduct for the MOG for 2022 Fijian General Election	78
	Annex C – Pre-Election Day Statement	80
	Annex D – Interim Statement	82

I. Executive Summary

Ahead of Fiji's 2022 General Election process, culminating on Election Day on 14 December 2022, the Multinational Observer Group (MOG) deployed more than 90 observers across Fiji. Led by Australia, India and Indonesia, the MOG was comprised of participants from 16 countries and two regional organisations: the Pacific Islands Forum Secretariat, and the Melanesian Spearhead Group. The MOG observed all key activities relating to this electoral process, including: pre-poll, postal and Election Day voting across the entire country; the counting of votes at polling stations; and counting and tallying of votes in Suva.

The MOG has made the following key observations about the 2022 General Election and recommendations for potential areas of improvement for future elections.

Key Observations

- The MOG observed a well-run general election process, without significant irregularities or impediments during pre-polling, postal voting or Election Day voting. The MOG assessed that Fijian voters were able to exercise their right to vote freely and the outcome of the General Election broadly reflected their will. Voting took place in a calm, peaceful environment.
- Counting proceeded in a systematic, methodical and transparent manner, consistent with pre-published Fijian Elections Office (FEO) guidelines. A glitch was experienced on the evening of 14 December 2022 with the *FEO Results App* (a digital publication platform separate from the system used for official tallying of votes), resulting in erroneous provisional results data being displayed on the app. This was quickly rectified but created some negative perception issues. The incident did not impact in any way the accuracy of the final results.
- The FEO is a highly competent and independent institution which has continued to build on lessons learnt from delivering the 2014 and 2018 General Elections. This included a significant improvement in voter awareness and information to support Fijian voters in exercising their right to vote.
- The MOG observed the functions and operations of the FEO to be highly proficient. The MOG assessed that the FEO was prepared well and delivered a transparent and credible electoral process in a professional manner. The MOG observed that the FEO facilitated accessible voting, including for voters with disabilities.
- During the campaign period, Fijian media facilitated some robust debate, especially on television, radio and social media. Parties and candidates were generally able to convey their political messages to the electorate. However, a number of non-government stakeholders reported to the MOG concerns regarding increased restrictions on some previously available formats of election-related activities, such as public opinion polls and events, and the public discourse ahead of the General Election.

- The MOG also observed during its wide-ranging public consultations an existing perception of restrictions in the media environment, a general sense of apathy in the political process due to low confidence in its fairness, and some confusion around voter eligibility and voter identification requirements.
- While voter turnout as a percentage of registered voters was 68.3 percent (lower than the 71.9 percent in the 2018 General Election), the number of registered voters and total voters increased. The FEO’s professionalism contributed to this sound voter turnout.

Summary of Recommendations

The success of the 2022 General Election process presents an opportunity for Fiji to strengthen its electoral system, administration and institutions in ways that will sustain Fiji’s electoral democracy into the future. The MOG offers the following recommendations for Fiji’s consideration to continue improving the integrity and effectiveness of its electoral processes. The recommendations which might be perceived as going beyond the Terms of Reference of the MOG (see MOU establishing the MOG in attachment on page 72) but yet potentially useful to strengthening Fiji’s electoral system and democracy are labelled as “aspirational”.

Concerning the Electoral System and Operations

1. Review restrictions on election related activities for domestic and traditional Civil Society Organisations (CSOs), particularly in relation to candidate-development activities, which will result in wider participation in the electoral system by all sectors of society, including women (page 15).
2. Conduct an external audit of the National Voter Register to ensure accuracy and public confidence (page 17).
3. Clarify the validity of voter cards and other allowable documents early ahead of next election to maximise voter turn-out (page 18).

Concerning the Legal Framework

4. Consider the appropriateness of the severe criminal penalties in electoral legislation, including the *Electoral Act 2014*, and whether the desire to deter criminal conduct, ultimately diminishes public confidence in the EC and FEO (aspirational recommendation, page 20).
5. Consider whether the length and detail of the *Electoral Act 2014* affects the public’s readability and understanding of the legal framework regarding elections, to the detriment of public confidence. Consistent with recommendations in 2018, the MOG also recommends relevant Fijian institutions work towards consolidating and simplifying relevant electoral legislation, including the *Electoral Act 2014* (aspirational recommendation, page 20).

6. Review the appropriateness of the Supervisor of Election's (SoE) powers, particularly in subsections 6(1A) - (1C) of the *Electoral Act 2014* (page 23).
7. Ensure best efforts are undertaken to use full parliamentary consultation processes when amending electoral legislation, including providing advice to relevant decision-makers regarding the appropriateness of using Standing Order 51 when passing amendments to election-related legislation (aspirational recommendation, page 23).

Concerning the Electoral Authorities

8. Develop and better publicise procedures for the EC to ensure due process in considering complaints against the SoE, political parties and the FEO (page 26).

Concerning the Pre-election and Campaign Environment

9. Review the appropriateness of section 115 of the *Electoral Act 2014*, especially when its effect on free political debate is considered cumulatively with the newly inserted subsections 110A and 144A (aspirational recommendation, page 28).
10. Develop guidelines for the conduct of Ministers, Members of Parliament and the civil service when the government is in 'caretaker mode' to reinforce public confidence in a level political playing field (aspirational recommendation, page 35).
11. Require all political parties to report campaign expenditure and consider setting campaign expenditure limits (page 37).
12. Consider providing technical support and potentially public funding for the costing of parties' political manifestos to ensure voters have reliable policy information (aspirational recommendation, page 38).

Concerning Public Awareness and Civil Society Participation

13. The MOG recommends that the EC and FEO strengthen efforts to build productive partnerships with civil society organisations during both the pre-election phase and following the issuance of the Writ, and to actively work with CSOs in voter awareness, information, and education activities (page 41).
14. Consider how domestic observers and other international non-governmental observers can be incorporated into future electoral processes (page 41).

Concerning Women and Voters with Disabilities

15. All stakeholders continue their efforts to promote women's representation and safeguard gender diversity in the electoral system, including as candidates; and that gender safeguards be integrated into any electoral system reforms (page 42).
16. Continue the work of the Elections Disability Access Working Group (EDAWG) to develop better support services for voters with disabilities (page 43).

Concerning the Media and Elections

17. Review the Media Industry Development Authority of Fiji's (MIDA) mandate and operations and relevant procedures to create greater certainty and clarity for media organisations (aspirational recommendation, page 46).
18. Review the operation of media blackout requirement in the law and providing greater clarity through published guidelines (page 46).
19. Review the appropriateness of the EC guidelines on the conduct of opinion polls and their effective constraint on the media's ability to contribute to public discourse and political accountability (page 46).

Concerning FEO's Communications and Publication of Results

20. Review the policies and methods of communication of important election information, including provisional and final results, and consider a simple analogue back-up, such as a manual results tally board, to complement the digital *FEO Results App* with strengthened verification protocols (page 58).

II. Multinational Observer Group's Mission

The MOG for the 2022 Fijian General Election was constituted at the invitation of the Fijian Government. It was comprised of co-chairs from its three co-lead countries Australia, India and Indonesia, as well as observers from 16 countries, the Pacific Islands Forum Secretariat and the Melanesian Spearhead Group. The co-chairs were: The Hon Rebekha Sharkie MP and the Hon Josh Wilson MP representing Australia, Mr Dharmendra Sharma, representing India and HE Ambassador Muhsin Syihab, representing Indonesia.

Before the election, the Fijian Government and the Governments of Australia, India and Indonesia agreed to the Terms of Reference¹. These guaranteed the MOG freedom of movement and consultation, and mandated it to observe and evaluate a range of electoral processes and to assess whether or not arrangements for the election assisted Fijian voters to exercise their right to vote freely and whether or not the outcome of the election broadly represented the will of Fijian voters². The Terms of Reference also invited the MOG to offer recommendations for improving the integrity and effectiveness of future electoral and related processes.

On 31 October 2022, longer-term observers commenced operations in Fiji. By Election Day, the MOG had expanded to 97 accredited longer-term and short-term observers, from a number of professional backgrounds including parliamentarians, accredited diplomats, government officials and technical experts. Observers were from Australia, Canada, the Federated States of Micronesia, France, India, Indonesia, Japan, New Zealand, Papua New Guinea, the Republic of Korea, Samoa, Solomon Islands, Tonga, the United Kingdom, the United States and Vanuatu as well as representatives of the Pacific Islands Forum Secretariat and the Melanesian Spearhead Group.

The MOG established a Secretariat in Suva and an online presence through the MOG website, Facebook and Twitter accounts to facilitate public access and awareness of the MOG's activities. It also engaged frequently with local, regional and international media, across all media platforms, including television, radio, digital, print and social media, and in all major Fijian languages. The MOG also hosted press conferences and gave door-stop interviews at major milestones, for example, for the release of the Interim Statement on 16 December 2022. Members of the MOG Secretariat stayed in Fiji for one week following the Election Day. Other MOG observers have remained in Fiji at their respective diplomatic missions at the time of issuing this Report.

MOG observers took a comprehensive, objective, and independent approach to assessing the electoral environment in Fiji, taking into consideration Fiji's legal framework, including the Constitution and electoral laws, making technical observations about a wide range of electoral processes, and evaluating Fiji's electoral institutions and practice against good international practice.

¹ Signed on 18 October 2022. Available at: <https://www.feo.org.fj/storage/2022/10/TOR-Endorsed-18.10.22.pdf>.

² See Terms of Reference, paragraph 1 (h).

Observers consulted a wide range of stakeholders, including: the FEO and EC; Fiji's political parties; a number of institutions, including the High Court, Fiji Independent Commission Against Corruption, the Fiji Police Force and the Republic of Fiji Military Force; media professionals; civil society and community groups across the country; the Human Rights and Anti-Discrimination Commission; international, regional and multilateral organisations; paramount chiefs; religious leaders and organisations; academics and student groups; and local communities and members of the public.

In advance of the election, longer-term observers visited urban and rural communities across Fiji to consult communities and assess the FEO's preparations, including communities on 20 inhabited islands in the Lau group. During pre-poll voting (5 to 9 December 2022), MOG observers visited 115 polling stations in remote and maritime areas. MOG members were also present during the process of authentication of postal voting procedures.

During polling on Election Day on 14 December, observers visited some 450 polling stations across all four divisions out of 1437 polling stations. During its observations the MOG attended almost one in three (31 percent) of all polling stations.

III. Electoral System and Operations

Fiji gained independence from the United Kingdom in 1970 and held elections in 1972, 1977, 1982 and 1987 before successive military coups interrupted its democratic development. Following two coups in 1987, Fiji held elections in 1992, 1994, 1999; following a coup in 2000, Fiji returned to elections in 2001 and again in 2006. Following the coup of 2006, Fiji held elections in 2014 and 2018.

The 2014, 2018 and 2022 elections were based on the Constitution of the Republic of Fiji of 2013 (the Constitution) adopted by the then interim government. The 2013 Constitution established an electoral system with a single national constituency in place of the local and multiple ethnically based constituencies that had characterised Fiji's earlier electoral systems. The Constitution introduced a 'national' (as opposed to a 'communal') method for voting, with Fijians of all ethnic groups listed in a single voter register.

Fijian's brand of Open List Proportional Representation

Since before independence, Fiji have used different majoritarian systems, whether first past the post (FPTP) or alternative vote (AV). A major characteristic of both systems was the use of reserved seats for ethnic or communal groups within various constituencies, which sometimes had the effect of voters having more than one vote. The current system, an open list for proportional representation (OLPR), replaced the previous systems with communal constituencies and introduced the *one voter-one vote* principle.

The 2013 Constitution introduced a new electoral and parliamentary system: the new Parliament is unicameral, had 50 members in 2014, and 51 in 2018; for the 2022 general elections the number of MPs to be elected was increased to 55, reflecting the growth of the Fijian population.

Parliamentarians are elected for a four-year term through OLPR with the whole country as a single constituency. Political parties present lists of candidates, which cannot exceed the total number of MPs to be elected. Voters vote for candidates, and a vote for the candidate is also a vote for the party of that candidate. The open list system results in the popular vote determining the final order of the party list.

The system also establishes a 5 percent threshold for the party to contest the election, meaning that parties and independent candidates who do not receive at least 5 percent of the total number of votes cast will be set aside and their votes disregarded. Usually, thresholds under this system are estimated on the total number of valid votes; Fiji's basing the threshold on total votes cast, raises the barrier, and actually increases the threshold percentage.

The system uses the D'Hondt formula for the allocation of seats to candidate lists. As opposed to the 'largest remainders' group of formulas, the D'Hondt formula belongs to the 'highest average' group, where the formula minimises the number of votes that need to be left aside.

The Fijian modality of OLPR does not allow for special measures for the representation of women or any other population group.

Observations

The removal of ethnic voting blocs and the establishment of a new electoral system with a single voter roll, was positively received by the public, and in the MOG's view, continues to receive popular support.

Fiji's OLPR systems differs from other similar proportional representation (PR) systems internationally in that for contesting the elections, the prominent actors are candidates, not political parties. In fact, political party affiliation is not made explicit in the voting process. In the past, the electoral authorities were not allowed by law, to provide information that voters could use to identify the party affiliation of candidates. At the same time the law prevents voters carrying any information into the station containing identification of the affiliation of candidates, provided by political parties. In the lead to the 2022 electoral process the legal provisions were modified to allow the placement of the political party symbol next to each candidate on the candidates' national list (as was recommended by the MOG in 2018)³. This was presented in the Voter Instruction Booklet' produced by FEO and made available at each polling station to all voters before voting. The ballot paper itself only contains a number for each candidate (no name or party symbol).

Candidates are given a randomly drawn three-digit number, which is the only feature present on the ballot paper as prescribed by law. When choosing a candidate, the voter marks that candidate's assigned number. This approach is unusual for a proportional representation system

³ *Electoral Act 2014*, s 51(1A).

based on political parties' participation, and not exclusively on individual candidates, even in its open list version.

The OLPR has been criticised because it allows candidates to be elected with less votes than other candidates, yet the proportionality of the system refers to parties and not candidates; therefore, at the end of the day, it is the party vote that is decisive in the numbers of seats assigned in Parliament. Additionally, the system of allocating seats to party candidates is not based on the party's preferred list, but rather on the number of votes each candidate receives: voters choose their preferred candidates and parties receive seats based on the total number of votes received by all their candidates. Only after the vote, the number of seats for each party is determined and which of a party's candidates get elected. The system has been noted to slightly favour parties with strong known personalities and a more established base, which places some disadvantage to new and smaller parties, and independents.

Despite the lack of special measures, since the adoption of the new system, women's representation in Parliament has increased: from 4.3 percent in 1995 to 21.6 percent in 2018. Nevertheless, in 2022 only six women entered parliament, representing 10.9 percent of MPs in parliament.

Although no system can provide precise proportionality, different features of the system do affect proportionality, such as the magnitude of the constituency: the larger the number of seats, the greater the possibilities for better proportionality (55 in the case of Fiji, which is significant). Despite its wide use around the world, some stakeholders shared with the MOG their dissatisfaction with the D'Hondt formula being used in Fiji, as they felt it was not 'fair' enough, as it is thought to favour bigger parties and coalitions over scattered small parties.

The MOG notes that proportional systems around the world use different formulae, and that there is not one considered more 'fair' or 'democratic' than others. In Fiji's case, the threshold requirement, and the fact that independent candidates are allowed, make the system less proportional than it would be otherwise.

In general, proportional representation systems are supposed to promote inclusiveness, yet given the specific features of the Fijian version of PR, the opposite has happened, and political power has concentrated in a couple of parties, with little participation from newer, smaller parties. In 2014 and 2018 two parties received the major part of the seats: in 2014 FijiFirst had 32/50, SODELPA 15/50 and NFP 3/50; in 2018 FijiFirst had 27/51 and SODELPA 21/51 and only an additional party reached the 5 percent threshold (NFP, with 3/51).

In 2022, FijiFirst won 26/55 seats, PAP 21/55, NFP 5/55 and SODELPA 3/55. Despite the inclusion of a new political party in Parliament following the 2022 Election the MOG notes that the system has not widened representation with regards to previous majoritarian systems.

Independent candidates are allowed but are disadvantaged by the nature of the system chosen, including the 5 percent threshold. In fact, in 2014 there were only two independent candidates and none in 2018; there were two independent candidates in the 2022 elections. In any case,

independent candidates can only win one seat, regardless of the number of votes they get. There is no measure to allow 'independent (non-partisan) candidate lists' and in 2022, again, none were elected. The use of thresholds to qualify for seats is common around the world. There is no international principle determining what is an 'acceptable' threshold. Some interlocutors mentioned to the MOG, however, that they consider a five percent threshold in Fiji's context inappropriate; a lower threshold, they proposed, might be desirable (three percent was often mentioned). In fact, the previous EC recommended in its 2014 annual report that the threshold provision be removed or, at least, lowered to 3 percent. Following the announcement of final results, MOG notes that of the nine parties contesting the election in 2022, only 4 reached the 5 percent threshold and none of the six parties with the lowest number of votes reached 3 percent.

If a seat allocated to a political party becomes vacant during the parliamentary term, the seat is allocated to the next candidate on the party's list. The MOG notes that the open list, single constituency system of proportional representation requires a by-election if an independent, or party which has exhausted all candidates, vacates their seat – this would require a nation-wide election to fill one seat.

The fact that the whole nation constitutes a single, national constituency has also been criticised, arguing that such a large district magnitude discourages connections between voters and representatives. Defenders of the system argue that the nation was chosen as a single constituency in order, among other aspects, to resolve any contentious issues with the delimitation of constituencies and to encourage multi-ethnic voting.

Voting Modalities

Fiji uses three modalities for voting in its general elections: pre-polling, postal voting and Election Day polling. Voters for pre-poll and Election Day voting may cast their ballots only at the one polling station they were assigned to during the voter registration process.

Pre-polling

In the past, given the logistical challenges of its geography, Fijian elections were held over a number of days. In 2013, the new electoral system was designed to introduce a 'one-day' election. Nevertheless, authorities realised that it was necessary to service voters who reside in remote areas, in venues where the number of voters does not justify opening a polling station for a full day, and for residents of nursing homes, health facilities, prisons, as well as members of the disciplined forces. As a result of this operational necessity, 'pre-polling', an early, mobile modality of polling, was introduced. Voters registered at pre-poll venues must participate in pre-poll voting and are not allowed to vote on Election Day.

Postal Voting

Registered voters who live outside of Fiji or those who are unable to travel to a polling station may apply for postal voting. Postal voting is available only to voters who:

- are living outside of Fiji or who will be outside of Fiji on Election Day; or
- have a serious illness or other infirmity which means that they cannot travel from their home to their designated polling stations; or
- are in prison, including pre-trial detention; or
- cannot attend a polling station because of their religious beliefs or membership of a religious order; or
- would be away from where they usually live due to work commitments on Election Day and their workplace is not a place that is convenient for them to travel to their designated polling station.

Election Day

Most Fijian voters cast their ballots on Election Day. All those voters who were not registered for pre-polling and those who did not apply for postal voting, need to vote at their designated polling stations on Election Day. Election Day voting takes place in polling stations with stationary polling teams, which open the station at 07:30 and close them at 18:00, and then immediately commence counting the votes in each station.

Counting and tabulation of votes

Counting of Election Day votes is done at the polling station in the presence of observers and polling agents. Pre-poll and postal votes are counted in the National Count Center in Suva at the close of polls on Election Day. Aggregation and tabulation of results is done centrally at the National Results Tally Center in Suva.

Detailed observational data pertaining to Fiji's voting modalities can be found in section X. *Pre-polling, postal voting, and Election Day voting* and section XIII. *Observer Data*.

Parties and candidates

The total number of parties and candidates contesting the 2022 General Election was higher than in both 2014 and 2018. In 2018, there were 235 candidates from six parties and no independent candidates contesting 51 seats. Subsequently in the election cycle, one of the parties was deregistered. In 2022 there were nine parties, four of which were newly registered, and 343 candidates, including two independents, contesting 55 seats.

Of the 343 candidates contesting the 2022 General Election, 56 were women. This is the same number of women who contested the 2018 General Election. Due to the rise in candidate numbers, in 2022 women made up 16.3 percent of candidates, compared with 24 percent in 2018 and 17.7 percent in 2014.

Observations

The MOG notes with concern this proportional reduction in women's participation as candidates when compared to the 2014 and 2018 General Elections and the proportion of woman candidates who entered parliament following the 2022 General Election. The MOG recognises that a system of government that reflects the diversity of the community, including gender diversity, is a key pillar of democracy (see further, 'Women's Participation 'below).

The MOG observed that political parties and candidates were able to utilise designated public spaces to campaign and there were no observed barriers to access through existing permit systems.

Many non-government stakeholders reported their concerns regarding an increased restriction on some previously available formats of election-related activities and discourse, such as opinion polling and surveys, research workshops, candidate-development activities, and publishing of private opinion articles. Those stakeholders generally suspected that the incumbent government was behind these increased restrictions as it perceived many such activities as being within the purview of opposition parties.

Recommendation 1

The MOG recognises that there is no single solution that will quickly increase diversity in Parliament. We do however make the inference that increasing avenues for participation by non-government stakeholders in the electoral system is a part of the solution. The MOG recommends that reviewing restrictions on election related activities for civil society organisations (CSOs), particularly in relation to candidate-development activities, which will result in wider participation in the electoral system by all sectors of society, including women.

Voters and Voters Turnout

In total, there were 693,915 registered voters, including 606,092 voters were registered to vote on Election Day (87.3), 77,907 (11.2 percent) for pre-poll and 9,916 voters applied for Postal voting. (1.4 percent). This was the highest number of voters registered to vote in a general election in Fiji's history. This was an increase of 56,388 voters (8.8 percent increase) from the 2018, when 637,527 people were registered to vote.

The turnout for the 2022 General Election was 473,910 out of 693,915 registered voters making up 68.3 percent. Of those registered to vote on Election Day, 412,174 (67.9 percent) voted. 54,207 registered pre-poll (69.5 percent) turned out to vote. A total of 9,180 postal votes were admitted to the Count. The total number of invalid votes was 3326 out of the 473,910 (0.70 percent)

As for women's participation, in 2022, there were 345,567 (49.8 percent) women registered to vote, compared to 316,431 (49.63 percent) in 2018. At the time of the publishing of this report, gender-desegregated voter data has not been published by the FEO.

There were no significant weather events or other impediments to pre-poll voting reported during the 2022 General Election.

Observations

Fiji's voter turnout for the 2022 Election is comparable with other democracies in the Pacific⁴.

While pre-polling voter turnout in 2022 (69.5 percent) was up when compared to 2018 (64.78 percent), overall, voter turnout in 2022 (68.3 percent) was lower than the overall voter turnout in 2018 (71.9 percent).

While we do not yet have gender-desegregated voter turnout data, the 2022 General Election recorded the largest number of women voters registered in Fiji to date (49.8 percent).

National Voter Register

Complete, accurate and up-to-date voter registers are critical to ensure universal suffrage and allow orderly voting. As with the rest of the electoral operations, constitutional responsibility for voter registration and the establishment of a national voter register and polling station specific voter lists, falls within the EC's mandate⁵, but this responsibility belongs in practice to the FEO to implement.

Voter registration for the 2022 General Election closed on 31 October 2022 at 18:00, as specified in the Writ⁶. As previously noted, the 2022 General Election had the highest number of voters registered to vote in a general election in Fiji's history. The FEO has continued to maintain the voter register to a high standard. This includes a range of initiatives and awareness campaigns that support Fijians to update their personal information efficiently and effectively. To bolster the integrity of the voter register, during an election year the FEO cleanses the data against the birth, deaths and marriages register monthly to mitigate the chance of deceased voters being included. This is done biannually and outside of the election year.

The *2012 Electoral (Registration of Voters) Act* stipulates that all Fijian citizens 18 years or older, including those overseas, can register to vote, however neither registration nor voting are compulsory. Once registered, the voter receives a voter card that should be presented at the polling station (although other forms of photo ID are also valid for voting purposes and voting is even allowed without ID if the name of the voter is included in the polling station's voter list, see below).

⁴ Fiji's voter turnout ranks 9 out of 15 democracies in Oceania: <https://www.idea.int/data-tools/continent-view/Oceania/40>.

⁵ *Electoral Act*, s 3(1)(a).

⁶ *Electoral Act*, s 19; Writ for Election, published in Government of Fiji Gazette, Vol. 23, No 129 (31 October 2022).

Registration is not compulsory. The Act also called for a new electronic voter register, including biometric information (thumbprints and a facial photograph), which was introduced ahead of the 2014 election. That biometric register was used again in 2018 and once more in 2022. Registration of voters ends on the day an election writ is issued.

The FEO manages the register. The register is broken down into voter lists for each polling station, according to the voters' recorded residence information. Voting is only possible at assigned polling stations; this is common practice around the world, as having voters assigned to a particular polling station not only prevents multiple voting, but it is also an efficient planning tool to allow the electoral authorities to have an organised and cost-efficient process.

Ahead of the 2018 elections, continuous voter registration was introduced, and the practice was maintained in the lead-up to the 2022 general elections. Registration of Fijian voters overseas is organised by 'overseas' visits in a number of countries. Before registration stopped for the purposes of the 2022 General Election, any registered voter was able to make an objection against the registration of any other person in the National Register of Voters on the grounds set out in legislation.

Observations

The MOG assesses that the voter register continues to maintain a high standard of quality. The FEO has conducted continuous update activities and allowed Fijian voters to update their voter information details and has made various efforts to ensure the integrity of the register, including regular 'cleansing'. The MOG assesses the FEO methodology for updating the voter register to be robust and appreciates its efforts to have complete ownership of the biometric technology used for the register.

The MOG understands that the EC had published expressions of interest both locally and internationally, inviting tenders to audit the National Register of Voters in 2021 and August 2022. There were, however, no suitable service-providers found on both occasions. The MOG has been advised that the EC is still pursuing the audit of the National Register of Voters as a priority and is intending to publish an expression of interest for audit of the National Register of Voters following the 2022 General Election.

Recommendation 2

In order to maintain its accuracy and the public's confidence, the MOG recommends the EC to continue its efforts to conduct an external audit of the National Voter Register.

Voter Lists

An essential element in the voter registration process is the allocation of voters to their designated polling stations, which is done on the basis of the voters' residential address, as recorded in the

National Register of Voters. The voters list for each polling station contains the names of voters, their photos, their voter number and their assigned polling stations.

Voters are not allowed to vote if their name is not on the voter list of the assigned polling station. Provisional voter lists are made available for inspection by voters at Voter Information Centres across Fiji. For this electoral process, provisional voter lists were displayed from 5 November until 14 December 2022. Voters could also check their registration details on the FEO website, or via a free text message system.

Voter Cards

Voter registration for the 2022 general elections ended on 31 October 2022 (day of the writ issuance) at 18:00. The old voter card (coloured green) was 'expired' in benefit of an upgraded blue card, which has the voter's assigned polling venue. Although the old card could still be used to vote in 2022, the FEO actively encouraged voters to upgrade their voter cards and use the new blue ones.

Following a recommendation in the 2018 MOG report⁷, the EC recommended following the 2018 elections that the Voter Card be further enhanced to include the polling venue details of the voter. It was felt that the inclusion of this essential data onto the Voter Card would facilitate the search for the voter's polling venue. In that context, for the 2022 elections, the previous green voter card was upgraded to a blue voting card, which now includes each voter's polling venue details.

Observations

Some stakeholders noted to MOG that there was confusion as to the ID requirements to be able to vote. The MOG understands that over 90 percent of voters changed over to the new voter card. However, the card is not strictly required to vote; a point that was not well understood or communicated, particularly in the lead up to pre-polling. According to MOG observations at polling venues, voters with the old card were allowed to vote, and as per regulations, even voters without a card, but whose names and details (including photos) were on the voter list, and if appropriate identification was made by the Presiding Officer, were also allowed to vote.

Recommendation 3

The MOG recommends the FEO provide early clarification on the validity of older voter cards or other allowable identity documents ahead of the next General Election to avoid any registered voters from being discouraged from turning out to vote.

⁷ 2018 Fijian General Election, Final Report of the Multinational Observer Group, page 41.

Overseas Voters

Overseas voters make up 1 percent of the voter roll with 9,427 voters. Of these, 869 voters registered overseas applied for postal voting. The FEO set up a special polling station in Suva for voters who were registered overseas, and did not apply for a postal ballot, but who were in Suva on Election Day to cast their vote. In practical terms, this meant that there was a need to include 8,558 registered voters overseas, who did not apply for postal voting, to the voter register of the Central division. These voters were included in a 'super voter list' for the St. Stephen's polling station. On Election Day, 79 votes were cast at this station.

IV. Legal Framework

Constitutional Basis for Elections

The Constitution establishes the legal framework for the conduct of Fiji's elections, including regular elections based on universal adult (18 years) and non-discriminatory suffrage, and secret ballot.⁸ Members of Parliament are elected on a proportional basis in a single national constituency.⁹ In these respects, the Constitution provides a good basis for a general election that complies with fundamental international standards. The Constitution also establishes the EC¹⁰ and the SoE,¹¹ and sets out some of their tasks and responsibilities.

Chapter 2 of the Constitution, the 'Bill of Rights', provides Fijians with a series of civil, political, economic and social rights, which includes the right to vote by secret ballot,¹² the right to free, fair and regular elections,¹³ and the freedom of speech, including the freedom to seek, receive and impart information, knowledge and ideas, as well as the freedom of the press.¹⁴ A number of these rights are also set out in international human rights treaties to which Fiji is party, including the *International Covenant on Civil and Political Rights* (ICCPR), the *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW), and the *Convention on the Rights of Persons with Disabilities* (CRPD).

Electoral Law

Three key acts comprise Fiji's electoral framework: the *Electoral (Registration of Voters) Act 2012*, the *Electoral Act 2014* and the *Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013*. These acts provide for the registration of voters¹⁵, the powers and responsibilities of

⁸ Constitution, section 52.

⁹ Constitution, section 53(1).

¹⁰ Constitution, section 75; noting that the Electoral Commission was originally established under the State Services Decree 2009. In the Constitution, it continues in existence.

¹¹ Constitution, section 76.

¹² Constitution, section 23(3)(a).

¹³ Constitution, section 23(2).

¹⁴ Constitution, section 17.

¹⁵ *Electoral (Registration of Voters) Act 2012*, part 2.

the EC¹⁶ and the SoE¹⁷, rules for the registration of political parties¹⁸ and candidate nominations¹⁹, the conduct of elections²⁰, electoral offences²¹, and the framework for petitioning disputed seats²².

Observations

The MOG observes that Fiji's electoral laws are complex and highly prescriptive, including provisions that many other common law nations would often include in subsidiary legislation, such as regulations. The MOG also observes that the maximum penalties for electoral and media offences are very high, especially noting the non-violent nature of the crimes.

Recommendation 4 (Aspirational)

While the MOG understands the need to deter persons from engaging in electoral offences, the MOG suggests that the EC and FEO consider whether the desire to deter such conduct is having an overly punitive effect, such that the FEO and SOE are considered politically partisan, which ultimately diminishes public confidence in the EC and FEO.

Recommendation 5 (Aspirational)

Consistent with recommendations in 2018, the MOG also recommends relevant Fijian institutions work towards consolidating and simplifying electoral legislation, in order to improve the public's readability and understanding of the legal framework regarding elections. This may include amending the *Electoral Act 2014* to include the principles that underpin Fiji's electoral framework, and have subsidiary legislation that sets out more detailed matters that are currently included in the principal act.

Amendments to the electoral legislation

Since the 2018 General Election, there have been numerous amendments to legislation that governs the electoral framework. A number of these changes are positive: for example, section 57 seeks to support persons with a disability to vote²³. The MOG observed that such amendments have been implemented in practice and commends the FEO and polling station workers for supporting persons with disability, including older persons and those with mobility issues, to vote.

However, a number of legislative amendments were reported to the MOG as significant and as raising concern amongst the public, civil society, the media and non-incumbent political parties.

¹⁶ *Electoral Act 2014*, s 3.

¹⁷ *Electoral Act 2014*, s 6.

¹⁸ *Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013*, s 3.

¹⁹ *Electoral Act 2014*, ss 23-27.

²⁰ *Electoral Act 2014*, Part 3.

²¹ *Electoral Act 2014*, Part 6.

²² *Electoral Act 2014*, Part 5.

²³ In addition to being a positive policy outcome, this is in line with Fiji's obligations under the *Convention on the Rights of Persons with Disability*, art 12.

Name requirements

In September 2021, the *Electoral (Registration of Voters) Act 2012*, was amended to require persons registering to vote to use the name as specified in their birth certificate²⁴.

Observations

This amendment has created controversy,²⁵ and was raised as a concern to the MOG by various civil society sectors as well as general members of the general public. It was reported to the MOG that there was minimal consultation ahead of the introduction of this Bill, and that the Bill was passed under Standing Order 51, which enables the Fijian Parliament to consider a Bill without delay. This includes allowing bills to be moved without notice, and without referral to a Parliamentary Committee such that no public consultation is required.

The MOG is aware that this amendment is the subject of legal challenge at the time of writing, and therefore further comment on the legislative amendment would not be appropriate.

Restrictions on opinion polling, research and surveys

Section 110A of the *Electoral Act 2014*, introduced to Parliament in August 2022, requires persons that publish opinion polls, surveys or research on elections to comply with guidelines adopted by the EC that it deems fit for the orderly conduct of free and fair elections. Section 110A also requires the SoE to direct a person to remove information published under the section if the SoE has reason to believe there is any inconsistency between the adopted guidelines and publication of the opinion poll, survey or research. Failure to comply carries a maximum penalty of 5 years imprisonment, a fine of \$10,000, or both.

Section 144A of the *Electoral Act 2014* prohibits a person or a political party from publishing 'a false statement which is likely to influence the outcome of an election or diminish public confidence in the performance of any duty or function' of the SoE or EC. Although not apparent on the face of the legislation, by operation of s 144A(2) and (3), the issue of whether a statement is false is decided by the SoE; a decision which can only be reviewed by the EC. Contravention of s 144A carries a maximum penalty of 5 years imprisonment, a fine of \$50,000 or both.

Observations

The MOG observes that sections 110A and 144A of the *Electoral Act 2014* raised considerable concerns from a broad range of civil society actors. Non-government organisations, universities and media organisations, all reported that s 110A and the guidance adopted by the EC, was the reason for not publishing opinion polls, surveys and research in relation to elections. These

²⁴ This amendment reflected amendments made to the *Interpretation Act 2012* and the *Birth, Deaths, Marriages Act*.

²⁵ See press release in relation to the constitutional challenge here: <https://www.fwrn.org.fj/news/media-releases/67-all-category/news/press-releases/640-fwrn-fwcc-joint-press-release-women-challenge-gender-discriminatory-name-change-laws-30-12-2022>.

stakeholders reported that although the guidelines were publicly available on the EC's website²⁶, these were too onerous, and the penalties for failing to comply were significant.

Media organisations seemed to be main sectors affected by the s 144A amendment during the 2022 Election. The MOG observes with concern that the non-governmental organisations, universities and media organisations perceived the legislative amendments as seeking to restrain their participation in the electoral environment²⁷, rather than as an effort to improve the standards of opinion polling, research and surveys on election-related matters in Fiji, or to manage misinformation. In order to ensure public confidence in such an amendment, the MOG notes that the amendment may have been better received with greater consultation regarding the amendment, and efforts to strengthen capacity amongst the community to comply with standards adopted by the EC.

The MOG recognises that public opinion polling plays an important role in assisting the public understand election results. They can also be helpful to reducing any public information gaps that might arise between popular expectations and actual outcomes in elections, therefore strengthening the credibility of elections.

Changes to powers of the SoE

Since 2018, the SoE's powers have been expanded, particularly in subsections 6(1A)-(1C) of the *Electoral Act 2014*. These amendments enable the SoE to direct any person to furnish information that the SoE considers relevant for the performance of their functions, notwithstanding the provisions of any other 'written law' on confidentiality, privilege or secrecy. Failure to comply with this direction carries a maximum penalty of 5 years' imprisonment or a fine of \$50,000 for a natural person and \$500,000 for a company, non-government organisation, government department, or other entity.

Observations

Many civil society actors and members of the media told the MOG that the powers of the SoE are excessive and stifle political debate and reporting. The MOG understands that the subsection 6(1A) - (1C) amendment was passed under standing order 51 (see explanation above)²⁸.

²⁶ See <https://www.electoralcommission.org.fj/2022/08/31/the-electoral-commission-finds-that-the-fiji-sun-breaches-the-opinion-poll-guidelines/>.

²⁷ In this regard, the MOG notes the observations and recommendations of the 2018 MOG in relation to s 115 of the *Electoral Act 2014*.

²⁸ See Parliament of the Republic of Fiji, *Daily Hansard*, Monday 29 August 2022 p. 2066, available at: <https://www.parliament.gov.fj/wp-content/uploads/2022/09/Daily-Hansard-Monday-29th-August-2022.pdf>. This is contrast to the *Electoral Registration of Voters Amendment Bill*, the debate of which was subject to a one-hour time limit.

Recommendation 6

The MOG recommends reviewing the appropriateness of the SoE's powers, particularly in subsections 6(1A) - (1C) of the *Electoral Act 2014* to ensure they are not excessive and do not have a detrimental real or perceived impact on free political debate.

Observations

Civil society actors expressed concerns that *Electoral Act 2014* amendments passed under Standing Order 51 limited their ability to be involved in shaping the democratic process in Fiji. In their view, the amendments giving the SoE powers to require information to be furnished are too broad. The MOG understands that the purpose of the amendments was to enable the SoE to perform his functions under the *Electoral Act*. Greater consultation, including through parliamentary committee processes, would have given civil society the opportunity to raise their concerns, and give the Government the opportunity to explain the goals of the amendment, and together ensure the legislation is drafted in a manner that is well-tailored to the desired purpose.

Recommendation 7 (Aspirational)

The MOG recommends that all relevant Fijian institutions ensure best efforts are undertaken to use full parliamentary consultation processes when amending electoral legislation, including providing advice to relevant decision-makers regarding the appropriateness of using Standing Order 51 when passing amendments to electoral legislation. Noting recommendation 4 above, the MOG notes that Fiji's institutions should seek to ensure that amendments to the electoral framework that can have significant effects on voters should go through consultation processes, as appropriate.

Introduction of costings requirement

Section 116(4C) introduced a requirement for political parties to provide information on how financial commitments made as part of the campaign would be costed. Such information has to be provided in writing and must include information on how revenue is to be raised, as well as how expenditure is to be allocated to sectors or agencies. Failure to provide this information amounted to an offence under the *Electoral Act*, carrying a maximum penalty of 10 years' imprisonment or a fine of \$50,000.

The MOG understands that this new requirement was introduced to improve the integrity of political campaigning during general elections and give the Fijian people greater access to valuable information. However, political parties expressed concerns that non-incumbent parties did not have the capacity to comply with the costing requirements (see further, 'Political Parties' below). Some media stakeholders also raised concerns with their ability to report on the campaign promises of non-incumbent parties, where those promises had not complied with the costing requirement.

V. Electoral Authorities

The legal framework establishes an independent electoral management body headed by an oversight and policy-making body²⁹, the EC, and an executive and operational arm, the FEO, headed by the SoE³⁰.

Electoral Management Body Structure

The Fijian legal framework establishes an 'independent' electoral management body model (EMB) with an oversight body, the EC, and an executive body, the FEO. The EC is responsible for the registration of voters and the preparation and conduct of the elections, but it completely relies in the FEO to operationally implement its mandate. According to the legal provisions, the EC is to have six EC Members as well as a chairman; in 2022, the EC had only six Members in total, as a seat was empty due to the resignation of one of its members due to health reasons. The six EC Members had a broad geographical and professional representation, and four of the Members were women.

Additional to the EMB, the Fijian institutions that also deal with electoral matters include the Fiji Independent Commission Against Corruption (FICAC), which handles criminal offences of electoral nature. The Attorney General is also the Minister responsible for Elections, with a limited mandate, serving mostly as a conduit for electoral matters to Parliament, to invite domestic observers and to approve international observers, and to issue regulations under the *Electoral Act 2014* (which has not happened since the Act was enacted).

The Fijian Elections Office and the Supervisor of Elections

The Office of the Supervisor of Elections (SoE), most commonly referred to as the Fijian Elections Office (FEO), acts under the direction of the EC. As such, the FEO is the executive arm of the EC. The FEO is mandated to conduct, in the name of the EC, all the technical and operational preparations and tasks to ensure credible elections. In that capacity, the FEO performs the day-to-day tasks required to conduct national elections.

The FEO became a permanent body in 2014. It is headed by the SoE, who is also the secretary of the EC and the political parties' registrar. The SOE reports and is accountable to the EC. The FEO is an independent office, with its own organisational structure, key positions and authorities approved by the SoE.

The FEO is established as an independent office that must be 'properly staffed and equipped to perform its duties and functions' and has a separate budget under the *Electoral Act 2014*; the head of the FEO, the SoE, is not subject to the direction or control of any person, apart from the EC directions and the decisions of the Court.

²⁹ *Electoral Act 2014*, s 3.

³⁰ *Electoral Act 2014*, s 6.

The SoE has practical responsibility for the administration of elections, both across the electoral cycle and the electoral events. The SoE's powers and duties are enumerated in the *Electoral Act 2014*, and include administering political party, voter, and candidate registration; implementing voter education; conducting Parliamentary elections (including voting, counting and tabulation) and overseeing compliance with campaign rules.

The SoE, and all electoral officers employed by the FEO, are required to conduct their duties and functions, and exercise their powers, impartially; and are prohibited from undertaking any political or campaign activities during their tenure. The FEO is also required to conduct all activities in a transparent manner. The SoE and FEO officials are immune from civil or criminal liability in respect of acts or omissions done in the exercise of their powers or duties.

The FEO is based in Suva, with four divisional offices. Additionally, for the electoral period, the FEO established 23 'areas' and 101 'hubs' (each hub is responsible for the management of up to 40 polling stations). The SoE has sole authority to appoint and remove employees to the FEO. All FEO staff must either be Fijian citizens or have Ministerial approval for their employment. There are 46 'permanent' (or 'long-term') staff employed under five-year contracts; but over 800 employees are recruited on shorter three-year contracts prior to elections.

Observations

The EMB model adopted by Fiji aligns with international standards and is of common use in many parts of the world, particularly where an 'independent' electoral authority is established.

The MOG had unrestricted access to the FEO and its operations, including briefings on processes and procedures and weekly meetings with FEO staff and the SoE where MOG staff were free to ask questions. Observers were also present during all critical stages of the electoral process, commencing with the issuance of the Writ on 31 October 2022³¹. Electoral processes covered included candidate registration, nomination, and lodging of appeals, polling day worker trainings, printing, storage and distribution of sensitive materials, Pre-polling and Election Day activities across the four divisions. Also, close observation of the vote count at polling station level, tallying and tabulation of votes at the Counting and Tally Centres in Suva, was completed during the period of the mission. The MOG also received detailed briefing and demonstrations of the information technology (IT) solutions used to support the electoral process.

The MOG examined the FEO's processes and procedures put in place to support the running of the General Election in 2022. The MOG observed that they were robust and had adequate checks and balances to ensure that any irregularities would be detected and mitigated. The MOG also observed the FEO to be open and transparent in its engagements with the MOG which noted a depth of professionalism within the FEO structure, with an emphasis on the empowerment of election officers and staff, including women.

³¹ Writ for Election, published in Government of Fiji Gazette, Vol. 23, No.129 (31 October 2022).

In 2017, amendments to the *Electoral Act 2014*, which made the SoE Secretary to the EC³², were designed to create greater coordination between the two main entities of Fiji's electoral management body. This model aligns with international standards, and the coordination between the EC and FEO has been commended³³.

Fiji Independent Commission Against Corruption

In addition to the electoral management body, the FICAC plays a significant role in supporting the integrity of Fiji's electoral framework. Noting that the *Electoral Act 2014* creates several electoral offences, FICAC is set to investigate and prosecute 'any offence of corrupt or illegal conduct pertaining to any election'³⁴.

The MOG observed that during the 2022 campaign period, FICAC received 60 complaints, seven cases were taken to court and closed, and 46 cases are still under investigation³⁵. Overall, the MOG observed FICAC to be a professional institution that sought to conduct its functions in the public interest.

Recommendation 8

The MOG recommends the EC develop and publicise procedures to ensure due process in considering complaints against the SoE, political parties and the FEO in line with s 17 of the *Electoral Act 2014*. It should publish responses to all substantive issues that stakeholders raise with it.

VI. Political Parties

Fiji's Electoral Act grants the EC responsibility for formulating policy and overseeing the election in relation to the registration of political parties. The SoE has responsibility to administer party registration in accordance with the *Political Parties Act 2013*, under which the SoE is also the Registrar of Political Parties.

Fiji currently has nine registered political parties, all of which contested the 2022 General Election. They are: All Peoples Party; FijiFirst (FFP); Fiji Labour Party (FLP); FijiFirst Party (FFP); National Federation Party (NFP); New Generation Party; The People's Alliance (PAP); Social Democratic Liberal Party (SODELPA); Unity Fiji and the We Unite Fiji Party. Two independent candidates, Rajendra Sharma and Ravinesh Reddy, ran in the 2022 general election.

³² Electoral Act 2014 s 5(7).

³³ See 2018 Final Report of the Multinational Observer Group, p.14.

³⁴ Fiji Independent Commission Against Corruption Act 2007, s 2A(c).

³⁵ See for example: <https://www.fijitimes.com/2022-bgeneral-election-elections-office-refers-duo-to-ficac/>; <https://www.feo.org.fj/national-federation-party-referred-to-ficac/>; <https://www.fijitimes.com/flp-refer-fijifirst-toficac-for-breach-of-electoral-act/>; <https://www.fijitimes.com/2022-general-election-fijifirst-party-candidate-oconnorfronts-court>.

Candidate Nomination

The Electoral Act sets out procedures for the nomination of both independent and party candidates. In this election, the FEO initially received applications from 356 candidates representing nine registered political parties and two independent candidates. The FEO rejected 11 applications and two were withdrawn. 10 applicants appealed. The EC dismissed nine of these appeals and one was allowed.

The Parties submitted an additional three applicants, with the result that 343 candidates contested the election.

The Act also allows registered voters to object to any candidate on the grounds that the candidate is not qualified to be nominated or the nomination does not comply with the Constitution or Electoral Act. The EC received two such objections and upheld none.

Party Membership

The MOG recognises that the public service must be, and be seen to be, apolitical, and that public servants must undertake their duties in a way that serves the collective rather than a partisan interest. Legal provisions supporting this principle are common internationally. Thus, many countries disbar public or civil servants standing for election, while some disbar certain categories of senior public office holders joining political parties. The MOG further notes – and international practice generally recognises – qualitative differences between party membership, holding office in a party and standing as a candidate for election.

The MOG understands that in practice the focus of Fijian electoral authorities has been on ensuring public officers do not assume office-holding positions in political parties in ways that might present a conflict of interest. The MOG also notes that perceived political allegiance or alignment by some CSOs has limited the FEO's willingness to engage with some organisations during the election process.

Observations

The MOG commends the intention of the *Political Parties Act 2013* to implement strong governance standards for political parties and candidates. Fiji's requirements in this regard align with international good practice. The requirements for public disclosure of party and candidate assets and liabilities, as well as the ban on corporations and foreign entities funding parties and candidates, also support Fiji's obligations under the UN Convention Against Corruption. Similarly, Fiji's cap of \$FJ10,000 each year for donations by an individual to a political party – and the requirement for parties to make donors' names public – align with good international practice

VII. The Pre-Election Environment

The MOG observed that political parties and candidates were able to utilise designated physical public spaces to campaign. More broadly, however, a range of non-government stakeholders expressed concerns that the legal framework, including recent amendments, had contributed to a shrinking of ‘public space’, restricting free and open debate on political and election related matters³⁶.

The MOG notes that in addition to the introduction of ss 110A and 144A (see explanation above, under ‘*Legal Framework*’), s 115 was reported as a continued concern for civil society, including universities that would otherwise engage in voter information and awareness. Section 115 governs the role of civil society in elections, prohibiting once the election date has been announced, any foreign-funded CSO from engaging in any ‘campaign’ (as defined in s 115(1) to include organising debates, public forums, meetings, interviews, panel discussions or publishing material), and requiring the EC or SoE to approve any activity that is otherwise legally assigned to the EC or the SoE throughout the electoral cycle (including voter information and education).

The MOG notes that in 2018, a review of s 115 was recommended, including ‘whether or not this provision is the most appropriate mechanism to manage relations of civil society organisations within the electoral space’³⁷. In response, the EC reviewed the appropriateness of this section. The EC came to the view that this section needed to be maintained as it ensures compliance, accuracy and consistency of voter awareness and education programs organised or published by CSOs after the announcement of election date. CSO Guidelines and Forms for the 2022 General Election were approved by the EC on 25 April 2022.

Recommendation 9 (aspirational)

Given the concerns that have again been raised by CSO stakeholders, however noting the justifiable role of an election-management body in preventing undue foreign influence in a nation’s civic education, the MOG recommends that a review of subsections 115(2) and (3) in particular may be prudent, especially when its effect is considered cumulatively with the newly inserted ss 110A and 144A of the *Electoral Act 2014*.

Electoral Preparations

Immediately following the 2018 general elections, the FEO began preparing for the 2022 process. During those four years, besides undertaking a thorough process of capacity consolidation of the institution and its staff which started following the 2014 elections, the FEO introduced a robust planning strategy which ensured the efficiency and appropriateness of its preparations.

³⁶ In particular, *Electoral Act 2014*, s 115, which was in the Act in 2018 also, as well as ss 110A and 144A, which are recent amendments.

³⁷ Final Report of the Multinational Observer Group 2018, p. 28.

Operational planning was preceded by the development of a four-year strategic plan for 2020 to 2023, from which annual operational plans followed. Such strategic vision was correctly considered to be an effective way to equip the FEO to further plan and implement the necessary operations for the 2022 general elections.

Observations

This operational planning process allowed the FEO to better prepare its operational responsibilities in a timely manner and to advance electoral preparations starting in 2021 and intensifying from the beginning of 2022, even without a clear polling date.

Timing of the 2022 elections

The electoral system in Fiji does not provide for a fixed date for the conduct of the general elections. As is usual in Commonwealth countries, the dates for close of nominations and the polling day are set through electoral writs. Once the elections have been conducted, each writ is then returned to whoever issued it, with the name of the elected candidate(s) annotated thereon. The writ is a formal document from the sovereign, Governor-General, President or equivalent, commanding the returning officer(s) to conduct an election. In the case of Fiji, the electoral writ is issued by the President to the Chairman of the EC and, because general elections are conducted in a single constituency (the country), there is only one writ issued. For the 2022 General Election, the earlier possible date to issue the writ was 26 May and the latest one before the end of November. Generally, the writ is issued on a Monday and from then, the electoral authorities have 44 days to prepare the election.

Against expectations, the writ was only issued on 31 October, which set the polling date for 14 December (the end of the parliamentary term was 26 November, which signalled the last possible date for issuing the writ). As a result, the Parliament was dissolved on 31 October, at the issuing of the writ.

The electoral campaign was declared from 26 April, a month before the earliest date for issuing the writ. Commentators have argued that the polling date was set too close to Christmas, which created concerns that many voters would be travelling and would not be able to vote at their designated polling stations, as well as concerns about the cyclone season. The delays in issuing the writ created some level of uneasiness and uncertainty with some electoral stakeholders and generated speculations, among others, the idea that these are 'delaying tactics' from the government and that the polling date had become a 'political tool'.

Observations

The MOG's assessment is that, although this created some uncertainties in regards to the operational preparations, the late issuance of the writ did not affect excessively the implementation of the detailed FEO operational planning.

Operational Planning

As it has done in the past, and in order to organise preparations following the operational plan, the FEO established a number of flow-charts highlighting the various tasks required and their timeframe, which became the main tools in ensuring that all different tasks were completed in a timely manner. As part of the development of procedures, the FEO also focused on the design, procurement and packing of electoral materials, both sensitive and non-sensitive, including design and printing of ballot papers.

The MOG noted that the FEO advanced the packing of non-sensitive material and finalised it before the writ was issued. Additional FEO preparations for polling focused on reviewing operational procedures, recruiting temporary polling staff as well as preparing and implementing operational training programs. The FEO also liaised with the police and other pertinent agencies for the necessary security arrangements. It is worth noting that throughout its operational preparations, the FEO strengthened its internal 'quality assurance' team in order to monitor its different activities and to correct any errors that might be encountered.

The MOG notes that the FEO continued strengthening the 'electoral management system' (EMS) and further consolidated local ownership of the technology used for the electoral management operation. These tools included the biometric voter register and the mobile phone applications for presiding officers the *My Polling Assistant App*, as well as a mobile phone application for publishing provisional results, the *FEO Results App*. Also, the Results Management and Information System (RMiS) was streamlined to consolidate results at the National Results Tally Centre.

Observations

The FEO made significant efforts to enhance transparency of its operations, with a solid public outreach strategy, including almost daily press briefings and periodic briefings with political parties, as well as media events at the launching of all key electoral preparation activities. Complementing the FEO public outreach, voter information activities and awareness activities that started months before the issuance of the writ. The SoE acted almost exclusively as the FEO's management interface with the media, giving him an unusually high public profile compared to his counterparts in other countries.

Production, packing and transport of electoral materials

Following the development of operational procedures, the FEO launched the design and production of necessary electoral material, based on (and often improving on) the 2018 experience. Non-sensitive materials were pre-packed and sent to the area offices in June 2022. Once the writ was issued, the production and packing process of sensitive materials was launched.

The FEO decided to use once more, translucent plastic ballot boxes, which again served also as the main way of transporting and retrieving sensitive materials. FEO also chose to continue the

use of cardboard polling screens, which had functioned well before given their lightweight, practical nature and efficiency in giving voters enough privacy. The numbered tamper evident seals, which play a crucial role in securing the ballot boxes and ensuring the integrity of sensitive materials throughout the process, once again featured prominently in 2022.

Ballot papers, with a number of security features to prevent duplication, were printed in-country under heavy security. There was high quality control in both the printing and collation stages, with strict procedures for securely destroying ballot paper discards. The ballot-printing process was very transparent, open to polling (political party) agents and observers. The MOG had an opportunity to observe the process for the general printing of ballots for postal voting, pre-polling and Election Day. The FEO printed a total of 20,000 postal ballot papers, 106,300 ballot papers for pre-poll and 668,850 ballots for Election Day. Ballot papers were bundled into booklets of 50, with the booklets identified by serial numbers. The exception were the ballot papers destined for postal voting, which were not collated into booklets as they were sent separately, and pre-folded, with the postal electoral package. As a late development and partly in response to MOG's inquiry, the FEO decided to add a bar-code to ballot papers books, to enable better track of them and to circulate the information to all political parties of which ballot paper booklets went to each polling station.

The FEO introduced serial numbers in the ballot paper booklets and according to the law, had serial numbers in the ballots' counterfoils; however, following international good practice, no serial numbers were printed in the ballot papers themselves. In the lead up to the election, sensitive materials such as ballot papers and seals were stored in secure facilities and under police guard. In expectation of a much greater number of candidates than in the past (given the greater number of registered parties and the greater number of seats in Parliament), the FEO estimated that it would become an added hurdle to pack the ballot papers inside the ballot boxes with the other sensitive materials, as had been done in the past. Therefore, the FEO packed and delivered the ballot papers in separate cardboard boxes, named as the 'ballot paper transportation containers'. However, because the increase in the number of candidates did not materialise, the ballot paper was not as big as expected, and following due tests, the FEO decided that in fact the ballot papers would fit into the ballot boxes, so the 'transportation containers' were not used, greatly facilitating the logistics and allowing for better control of handling of the sensitive materials, including ballot papers.

Packing of non-sensitive materials in polling kits and sensitive materials inside the ballot boxes took place at the FEO central warehouses, both for pre-polling and polling. MOG also was present during the packing process (as were polling agents), including the dispatch of postal voting materials and the checking of materials for pre-polling by the presiding officers, both at the central warehouse and different area offices. MOG was able to verify that the processes were highly efficient and transparent, under adequate security measures.

Observations

During its observations, the MOG found the FEO competent and that it completed the vast majority of technical and operational preparations on time, despite the challenges of Fiji's

geography and weather, and the unpredictable number of potential candidates impacting on the size of the ballot.

Identification of polling venues and polling stations

The FEO has the power to requisition the use of any public building for the purpose of the conduct of polling and any other election-related activities. Identification of polling venues started with a first assessment in March 2021, followed by later assessments in October 2021, February and April 2022 and a continuous assessment during May 2022. The list of polling venues was finalised in consultation with the political parties and was published in November of 2022. Eleven polling venues were changed on the eve of the election, Tuesday 13 December 2022, on grounds of *force majeure*.

Observations

Polling venues were well selected and well published ahead of the election. While last minute changes to polling venues and stations are undesirable, the MOG observed that the FEO publicised these changes well through a number of avenues, including the media, establishing a hotline and through the text number.

Recruitment of temporary staff and operational training

In order to conduct the electoral operations (including training, logistics, and staff for pre-polling, and counting and tabulation at the National Count Center), the FEO appointed over 7,500 temporary workers throughout the country. For the National Count Center, 200 presiding officers (POs), 200 Assistant Presiding officers (APOs) and 400 Polling Day Workers (PDWs) were hired and trained; for the Results Center, 300 staff were hired and trained on the use of the RMiS, used to aggregate official results.

While temporary polling officials were selected from recruitment centres across the country, the SoE retained sole authority to appoint these staff members, and the FEO highlighted that this process was done in a transparent manner. The selection process was merit-based, following a number of tests (literacy and numeracy), where selection of staff focused on high performing, honest employees with high standards of integrity. Those who scored highest in this process were recruited into positions with greater responsibilities (POs, and APOs). Temporary polling staff were required to be non-partisan and also underwent police checks. Recruiting polling staff from members of the public rather than drawing on the civil service to be PDWs was a deliberate attempt by the FEO to broaden engagement in the electoral process.

The FEO conducted extensive operational training to ensure the temporary staff were up to the tasks. The operational training program was organised at different levels and started in 2020, with a number of refresher courses, in particular in the period leading to the elections. Major pre-writ training included EOs training in January 2022, POs training in April 2022, as well as area officers training, hub leaders 'workshops and trainings. The FEO also conducted training for police officers

on matters related to the electoral process. Post writ training included four sessions of training of trainers, as well as refresher trainings for POs and area officers.

The MOG along with FEO teams observed PO training across Fiji, as well as training of data entry clerks for the tabulation of results, and found these courses consistent, professionally delivered and effective. Training materials were well developed, comprehensive and very user-friendly, which greatly contributed to the success of the training. Trainers were found by MOG observers to be very competent overall, with very effective training techniques, which featured extensive role playing.

Security Environment

Under the Electoral Act, the Fiji Police Force (FPF) is obligated to provide ‘appropriate resources as required by the Supervisor to assist the FEO in the conduct of elections’³⁸. For its part, the FPF provided more than 2,000 officers to election operations for polling day (similar to 2018). The FEO also coordinated with the FPF to ensure the escort and safekeeping of sensitive materials.

The SoE made clear in public statements that the only security involved in the election would be the FPF and that there would be no private security firms involved. FEO coordinated with the FPF for security preparations for the election, including producing standard operating procedures for all stages of the electoral process. The FEO also facilitated training with the police.

The Republic of Fiji Military Force (RFMF) had no direct role in the election and interpreted their constitutional security mandate to mean that the RFMF could assist the FPF if required and/or requested – which was not necessary. The RFMF in the lead up to the election made a number of statements stating it would be apolitical throughout the election period and that its role was to support the legitimately elected government.

Fiji’s electoral legal framework does not provide a role for the RFMF, although the Constitution sets out that it has ‘overall responsibility’ to ensure ‘the security, defence and well-being of Fiji and all Fijians’³⁹.

Observations

The MOG discussed electoral preparations with the leadership of the FPF and found that it had a good understanding of its role. The MOG observed the provision of security by the FPF for voting at polling stations and also escorting and securing sensitive materials, including ballot boxes and non-sensitive materials. The MOG assessed that the FPF provided adequate resources to carry out their electoral tasks and that the police performed their role well, in an unobtrusive and respectful manner, helping to build confidence in the electoral process.

While the RFMF has no formal role in Fiji’s electoral processes, its public statement and posture are influential given the country’s recent history. Overall, the MOG observed that the RFMF did

³⁸ *Electoral Act 2014*, s 12(5).

³⁹ Constitution, section 131(2).

not interfere during the pre-election period or on Election Day. Prior to commencement of Pre-polling, the RFMF Commander Major General Jone Kalouniwai, stated that the RFMF would honour the democratic process by respecting the outcome of the votes.

On 22 December 2022, following the election and while the new Fijian government was being formed, the RFMF was mobilised at the request of the FPF to assist with law and order. Although the FPF had requested support from the RFMF to assist police in maintaining law and order, Fiji remained peaceful. Commander of the RFMF stated that the 'the police were still in control and the military would respect whatever the outcome is' ⁴⁰.

Use of Government Resources during the Campaign

A concern raised by a wide range of stakeholders from the 2018 General Election was a lack of laws, guidance or conventions regarding the conduct of Ministers, Members of Parliament and the civil service once Parliament is dissolved ahead of a general election. In 2022, many non-government stakeholders again raised this concern with the MOG as an ongoing key concern that directly impacts on public confidence in the electoral process. Many non-government stakeholders told the MOG that this gave any incumbent government an unfair political advantage in elections by allowing them to announce and implement government programs during the campaign period.

The 2018 MOG report recommended the Fijian Government introduce guidelines to foster a greater level of public confidence in the electoral process. In 2022, the MOG observed the modest amendments in 2021 to the *Electoral Act 2014* which prohibit the use of government vehicles to conduct campaign activities⁴¹.

Caretaker Arrangements

Caretaker arrangements⁴², be they laws, regulations or conventions, formalise the rights of the opposition as a potential future government, restrain the government from excessively exploiting the advantages of incumbency in an election and reinforce public confidence in a level electoral playing field. The MOG notes that the Electoral Act prohibits government officials and those entitled to government benefits from using government resources to their electoral advantage⁴³. We also note FICAC's advice that no breaches of these standards were reported in the 2022 General Election. The MOG notes that following recommendations contained in the 2018 MOG report and since, Fiji passed the *Code of Conduct Act*⁴⁴. While this Act does not specifically refer to caretaker arrangements, it sets out codes of conduct for public servants, politicians and judges

⁴⁰ <https://www.fbcnews.com.fj/news/fijian-elections/military-only-in-supporting-role-rfmf/>.

⁴¹ See *Electoral Act 2014* s 113(4A).

⁴² The terminology 'caretaker arrangements' is used here due to Fiji's historical connection with Westminster parliamentary systems.

⁴³ See *Electoral Act 2014*, s 113.

⁴⁴ <http://www.parliament.gov.fj/wp-content/uploads/2018/11/Bill-No-33-Code-of-Conduct.pdf>.

and establishes a commission which must refer complaints to FICAC and penalties for breaches of the Act⁴⁵.

Nevertheless, the 2018 Joint Report by the EC and the SoE notes the 2018 MOG recommendation regarding caretaker conventions but does not offer its own legislative or policy recommendations⁴⁶.

Observations

The MOG observed a lack of laws, regulations or conventions common to other democracies necessary to guide the Government, Members of Parliament and the civil service on appropriate conduct during the electoral process.

The MOG also noted that throughout the campaign period Government Ministers undertook a range of high-profile activities, dispensing government grants and other funds and appointing 13 Permanent Secretaries to Government Ministries and Commissions on 18 November 2022.

We note that administering projects, dispensing grants, opening buildings and appointing government officials are the business of the government. Should the government continue these sorts of activities during an election campaign, it can impart an 'incumbency advantage' which could influence voters. Furthermore, making major policy decisions, new appointments or entering into major contracts or undertakings during an election campaign can also bind a potential future government's right to govern as they see fit. These activities should therefore not take place in the caretaker period, after an election has been called.

The Government of Fiji adopted a recommendation from the 2018 MOG report to clarify the start and finish of the campaign period so that stakeholders understand their rights and obligations during this time. The FEO announced that the campaign period would begin on 26 April 2022 and end 48 hours before Election Day⁴⁷. This announcement provided clarity to political parties and candidates as to when campaign rules under the *Electoral Act 2014* would come into effect but, with no fixed election date, this further obfuscates when a caretaker period could come into effect.

Recommendation 10 (Aspirational)

The MOG recommends Fiji considers and develops appropriate 'caretaker' guidance for the conduct of Ministers, Members of Parliament and the civil service in the lead-up to future elections. These guidelines could also define whether there are any distinctions between the campaign period, as it pertains to the *Electoral Act 2014*, and the period since a writ is issued and elections held (generally referred to as 'a caretaker period').

⁴⁵ Anyone found guilty under the Code of Conduct Act is liable to a fine of up to \$FJ10,000 or up to five years in jail.

⁴⁶ Final Report of the Multinational Observer Group 2018, p. 22.

⁴⁷ <https://www.electoralcommission.org.fj/2022/04/26/announcement-on-the-official-campaign-period/>.

Campaign Funding and Spending

Fiji has strict rules in place to ensure parties and candidates disclose funding sources irrespective of monetary value⁴⁸. This robust reporting requirement however does not account for campaign expenditure.

Observations

The MOG observed a significant difference between the regulations regarding campaign financing and regulations regarding campaign expenditure.

During engagement with stakeholders, the MOG heard a range of views of how campaign funding and spending impacted on the perceived fairness of the campaign.

Some political parties expressed the view that the long official campaign period and the lack of a fixed election date resulted in challenges planning election campaign expenditure. For example, advertising space could not be efficiently booked by opposition parties following the allocation of candidate numbers.

The MOG heard views from some political parties that the robust campaign expenditure reporting requirements are a barrier for low-value 'roti-parcel' fundraising efforts but that the Act's requirements could be navigated. Other parties thought that the blanket requirement was fair due to the lack of exemptions.

The requirement to publish sources of funding and the reporting or limits to campaign expenditure are separate issues. When compared to international practice, Fiji's fundraising reporting requirements are robust and impart a high degree of transparency. These fundraising reporting requirements are significantly stronger when compared to Fiji's campaign expenditure reporting requirements and limits, which do not exist under the *Electoral Act*. Internationally, some democracies legislate to require reporting funding and sources throughout the electoral cycle and campaign period while others require reporting to take place following the conclusion of the election.

The MOG notes that many countries balance the need to respect the freedom of political expression with the need to reduce the inherent advantage of parties of candidates who possess greater resources (often the incumbent).

⁴⁸ Section 25 of the *Political Parties Act 2013* is entitled 'Declaration of Assets, Liabilities and Expenditure in relation to elections' requires reporting 30 days in advance of (but not following) an election. Its title notwithstanding, its content contains no reference or instruction in relation to election expenditure. Section 26 sets out requirements for the auditing of party accounts but makes no reference to election expenditure.

Recommendation 11 (Aspirational)

The MOG recommends considering requirements for all political parties to report campaign expenditure and consider setting campaign expenditure limits.

Introduction of costing requirements for campaign manifestos and policies

The 2018 MOG reported that some stakeholders had suggested parties should be required to submit their campaign manifestos to audit so that voters could better understand the costs of any campaign promises against their benefits⁴⁹. The 2018 report noted that it is practice in some countries for parties to voluntarily submit campaign platforms for audit, often by a reputable accounting firm or non-partisan fiscal institution or to government agencies, such as a Ministry, Treasury, or a Parliamentary Budget Office.

The 2018 MOG was agnostic as to the usefulness of these audits and did not provide a specific recommendation regarding auditing for campaign manifestos.

Since 2018, changes to s 116 of the *Electoral Act 2014* were made (see further, '*Legal Framework*' above) that have created a requirement for political parties to publish the sources of funding proposed for policies and initiatives as part of the 2022 Election Campaign. The SoE enforced this requirement at least once during the campaign⁵⁰, stating that the law required sources of funding to be done 'immediately' following the announcement of a policy or initiative.

Observations

The MOG heard differing views from political parties regarding the requirement to cost policies and manifestos. Some political parties felt they possessed the technical capabilities within their party to cost their campaign manifestos, however, it was expressed to us that this requirement was causing delays in manifestos being published. It was also reported to the MOG that this requirement limited the ability of parties to develop certain policy platforms, such as longer-term policies that are particularly hard to cost.

The MOG heard views from some political parties that, without financial or technical support to conduct these sorts of audits, an incumbent government or a well-resourced opposition party would hold an unfair advantage regarding the development and advertising of policy positions during a campaign.

The MOG recognises that if manifestos are submitted sufficiently early in the campaign, these can help to inform voters. At the same time, given that economists differ significantly in their assessments of taxation and government expenditure, this process may be less helpful than intended in predicting the impact of a policy on the wider economy.

⁴⁹ Final Report of the Multinational Observer Group 2018, page 22.

⁵⁰ <https://www.feo.org.fj/SoE-enforces-section-116-in-the-campaign-rules/>.

Recommendation 12 (Aspirational)

The MOG recommends consideration of providing technical and/or financial support for the costing of political manifestos and policies of political parties. This recognises the benefit of voters better understanding costs and benefits of proposed policies. It also recognises the need to balance the capacity of all political parties and candidates to fulfil the legislative requirement.

VIII. Public outreach, Inclusiveness and Participation in the Electoral Process

FEO Public Outreach and Training Efforts

FEO produced detailed manuals and conducted training for the permanent and non-permanent polling workers at all levels from polling staff to POs, hub coordinators and district supervisors. Training sessions were conducted across the regions from 10 December 2021 to 8 December 2022. The FEO also conducted training for political parties and the media.

Observations

MOG assessment is that these training efforts reflected in the overall performance and credibility of the electoral administration.

Besides training its own polling staff, the FEO also produced a handbook for party agents ('polling agents'), which not only featured the polling agent's Code of Conduct but also explained how to become a polling agent and the role of polling agents in the process. The handbook also gave an overview of all electoral operations, to polling, counting, tabulation and declaration of results, as well as explaining the allocation of seats and the process for electoral complaints. The FEO complemented the handbook with facilitation of 'polling agents' training sessions.

Furthermore, the FEO developed a 'media handbook' to guide media's coverage of the electoral process, as well as a 'candidates' handbook', aiming to provide potential candidates with general information on the elections.

Additionally, the Human Rights and anti-Discrimination Commission also conducted electoral awareness activities targeting the RFMF, concentrating on the link between elections and human rights.

Partnerships

The 2018 MOG report recommended the FEO focus on voter awareness and an expansion of partnerships, including with CSOs. The MOG welcomes the FEO's recent expansion of its partnerships, including with the United Nations Development Programme, to significantly increase voter awareness among younger voters in remote areas and women in general. During the

electoral cycle, the FEO also implemented programs with the Ministry of Education to include civic education for high school students.

The FEO also significantly increased its engagement with grass-roots organisations who have strong community links, having engaged over 180 organisations. This was a shift in approach from 2018 where the FEO engaged larger, established CSOs, including those that traditionally delivered civic education, and worked within communities, while also engaging in policy formulation and advocacy.

Observations

The MOG observes that this change in approach resulted in a level of wariness among several long-established civil society actors and the electoral administration authorities. The MOG notes that active participation of civil society in electoral-related activities, including using civil society as domestic observers, is a component of a healthy electoral democracy.

Voter Information and Awareness Efforts

A well-informed electorate is essential to any electoral process; informed voters enhance the quality of the election as well as the elected body. Participation of well-informed voters is an essential building-block in the foundation of a meaningful democracy.

Fiji faces many challenges when preparing and conducting electoral operations; all those challenges are echoed in voter information and awareness activities and materials that FEO produced for this purpose. Geography accounts for a fair share of the challenges in Fiji as its population is spread over in approximately 800 islands. With an important rural population, electoral information and awareness activities pose significant transportation difficulties and logistical hurdles. There are also social, cultural and economic issues: low literacy rates in rural areas, multiple languages and traditions, not enough infrastructure and communication, and limited access to media from a share of the population.

Observations

The FEO is solely responsible for ensuring timely and accurate voter information. However, the MOG assesses that longer-term, broad voter awareness programs should not be considered exclusively as an FEO activity, but rather could be designed, managed and implemented as a multi-member responsibility in a comprehensive partnership between electoral authorities, government agencies and civil society. These efforts should be led by the FEO with key messages to ensure accuracy and consistency throughout the materials and activities (printed, digital, face to face sessions) and FEO vetted messages. Broad awareness programs do not necessarily include the FEO's own voter information materials need to be developed distinctly but core messages of information products developed by FEO can serve as inputs to broaden voter awareness activities and, in turn, promote key information regarding electoral operations (in particular voter registration and polling).

Lessons learned and intensive research of good practices in the region, have proved that face-to-face, community level activities, especially in rural areas, are the most effective tool to increase voter awareness, particularly for women and low literacy level populations. In research conducted, consistently, these kinds of programs are the better recalled by voters and are mentioned as the preferred communications channel and most trusted source of information. Face-to-face sessions are particularly effective for the provision of messages in rural contexts because these can be tailored to reflect concrete situations and more importantly, can consider specific sensitivities of the different audiences.

Fiji, as other countries in the region, retains a strong oral tradition, and many people in the outlying islands struggle with full literacy. The option of face-to-face awareness building is costly given the substantial resources required and the high cost of transportation between islands; nevertheless, local culture and past experience amply justify this approach as a means to attain meaningful engagement with the varied communities that constitute the voters list.

While other varied communication channels (radio, TV, printed media and digital platforms) should continue to be used, MOG assesses that the approach used by the FEO in the lead-up to the 2022 elections, heavily relying on face-to-face meetings, should be maintained and reinforced as the most appropriate and effective methodology.

In any information and awareness program, media plays an important role. As part of its external relations policy, the FEO would benefit by having more systematic relations with the media. Consistent and clear information should be the basis for strong ties between the electoral authorities and the media to achieve an effective impact of voter awareness and the overall credibility of the administration. A productive and healthy FEO-media relationship is essential for longer-term, broad voter awareness programs even in non-electoral periods.

The MOG recognises the role of electoral officers in the field in providing information to voters in the course of their own other roles and duties, particularly during the verification process of the National Register of Voters. Given that field electoral staff were noted as a good source of election information following the 2018 general elections, the MOG's recommendation is to integrate face-to-face awareness responsibility into scope of work for FEO staff. Nevertheless, because of the short time that electoral officers are actually recruited in the field, they cannot become a priority channel for provision of pre-polling voter awareness for the purposes of the broad awareness program. Therefore, while recognising that electoral officers in the field are extremely helpful in the provision of voter information in the period immediately before an electoral event (registration or polling), it could be up to civil society organisations (including community, grass-roots groups) to become effective sources for face-to-face awareness activities in the in-between election periods.

The MOG found the FEO's voter awareness efforts to be effective, including through the cascading training of trainers. Key activities and the materials used in its face-to-face activities, in particular the briefing flip charts, were helpful and effective. Nevertheless, a continued partnership with grass-roots community groups could also enhance the effects of face-to-face activities, who are well served by the use of traditional forms of communication like music (song, dance), folk

theatre, and other forms of communication related to folk culture and scripts (such as puppet shows). These activities, based on island realities and conducted local in languages, should impact voter awareness activities as they are cultural in nature and bound with principles of people's political human rights. They require social organisation and interaction between citizens, hence the effectiveness and longer lasting impact from the roots and up.

Media representatives reported to the MOG that compared to previous elections, during the 2022 process the FEO did not fully harness the potential of the traditional media channels in support of voter information and awareness. They also highlighted that improving the 2022 experiences on voter information and awareness could help in the consolidation of existing partnerships, and in building new ones, allowing further diversification of communication channels and media to more specifically target communities outside the main cities.

The MOG notes the FEO's continued long-term work with educational authorities, including the inclusion of elections as part of the high school curricula, has had significant impact on voter education.

Recommendation 13

The MOG recommends that the EC and FEO strengthen efforts to build productive partnerships with civil society organisations during both the pre-election phase and following the issuance of the Writ I and to actively work with CSOs in voter awareness, information, and education activities.

Domestic and International Observers

The Minister for Elections has the power to invite domestic and international observers to take part in a general election⁵¹. The MOG noted that there were no domestic observers invited in 2022 or public notice that would both encourage and support applications from domestic observers.

Observations

Fijian civil society representatives expressed a strong interest to the MOG in observing future general elections. The MOG notes that inclusion of civil society within the electoral process is a net benefit for the strengthening of democratic traditions and inclusivity. Engaging with international civil society, potentially through observation activities, would also be of benefit to Fiji's democracy through sharing international experience and expertise.

Recommendation 14

The MOG recommends that consideration be given to how domestic observers and, if the Fijian governments sees value in it, non-governmental foreign observers, could be incorporated into future electoral processes, including general elections and during the electoral cycle.

⁵¹ See *Electoral Act 2014*, s 119.

Women's Participation

A key concern raised with the MOG was the September 2021 amendment to the Electoral (Registration of Voters) Act 2012 which required individuals to register to vote using their name as specified on their birth certificate. Non-government stakeholders, including some voters, criticised this amendment as adversely affecting women and iTaukei, who frequently use names that differ from that used on their birth certificate.

Without further disaggregated statistics on voter turnout and the voter register, the MOG cannot assess the impact of the amendment. However, stakeholders raised concerns that the amendment had not been subject to sufficient consultation contributing to confusion amongst some communities which may result in a lower voter turnout specially of women voters. The MOG is aware that this amendment is currently the subject of legal challenge.

Observations

In relation to women's representation in the electoral process, the MOG commends the high proportion of women in leadership roles within the FEO. Of the polling stations visited by observers, during Pre-Polling and Election Day, the MOG observed that 73.79 percent of Electoral Officers were women, and 67.54 percent of Presiding Officers were women.

With respect to female candidates, the MOG has noted with concern in that there has been a decline both in the proportion of woman candidates and parliamentarians in the 2022 Election, which may be in part to the lack of safeguards for gender diversity within the open-list proportional representation system. In previous elections, a female (and male) candidate have gained seats in parliament on the "coattails" a strong vote share by the party leader, despite low votes received. Despite the major party leaders again winning the share of votes in 2022, with a more fragmented election result and more parties winning seats in parliament, the opportunities for female candidates decreased.

Recommendation 15

The MOG recommends that all stakeholders, and particularly political parties, continue their efforts to promote women's representation and safeguard gender diversity in the electoral system, including as candidates; and that gender safeguards be integrated into any electoral system reforms. In line with recommendation 1, the MOG recommends that reviewing restrictions on election related activities for domestic and traditional CSOs, particularly in relation to candidate-development activities, which will result in wider participation in the electoral system by all sectors of society, including women. the FEO should consider broadening its voter outreach to include village women's committees and the EC should work with women's advocacy groups (and other CSOs) in voter awareness and information.

Participation by voters with a disability

The MOG appreciates that FEO have continued to make significant efforts to engage with organisations representing persons with disabilities to enable assisted voting. The MOG welcomes amendments to the Electoral Act in this regard⁵².

Observations

The MOG commends the intention of the Elections Disability Access Working Group (EDAWG) to continue to meet after the 2022 General Election, rather than disbanding and regrouping ahead of the next General Election, so that disability-related issues can be improved iteratively. The MOG observed that persons with disabilities were assisted to vote during pre-Polling and on Election Day, including voter materials being available in braille⁵³. However, noting the challenging locations in which many polling stations were located, of the polling stations visited, at the time of issuing this Interim Statement, MOG observer teams rated 66.28 percent of Pre-Polling and Election Day polling stations as having adequate infrastructure to support independent access for persons with disabilities. Where infrastructure was not adequate, the MOG welcomes that persons with disabilities were assisted to vote outside of the pre-polling and polling stations⁵⁴ and even in some cases, with Polling Agents present, materials were taken closer to their domicile to facilitate voting. MOG observer data indicated that only 58 percent of people with disabilities were assisted to vote.

Recommendation 16

The MOG commends the steps taken by the FEO and the EDAWG to increase participation by persons with disabilities in the Fijian electoral process. In order to enhance the mainstreaming of this work, we encourage the continuation of the work of the Elections Disability Access Working Group (EDAWG), including in non-election years, to develop better support services for voters with disabilities.

IX. Media Coverage of the Electoral Process

Fiji's media reported widely and relatively comprehensively on the electoral campaign, and hosted debates and interviews with a range of candidates from all political parties on radio, television, and social media. The FEO only allows accredited media to report on Fijian elections⁵⁵. In 2022, 13 local media organisations and 12 international media organisations were accredited to report on the election, with a total of 410 accredited media personnel. This is an increase from the 19 accredited media organisations for the 2018 election. As in 2018, no media organisations were denied accreditation in 2022.

⁵² See *Electoral Act 2014*, ss 53 and 57.

⁵³ See *Electoral Act 2014*, s 43(4), which requires that 'facilities provided at a polling station where practicable must be reasonably equipped and designed to enable persons with disabilities or other special needs to cast their vote'.

⁵⁴ In accordance with *Electoral Act 2014*, ss 53 and 57.

⁵⁵ See p 7, <https://www.feo.org.fj/mediahandbook/>.

Laws and guidelines impacting the media

The media's engagement in reporting during an election is regulated by the *Media Industry Development Act 2010 (MIDA Act)*, the *Electoral Act*, relevant codes of conduct and guidelines.

The *MIDA Act* establishes the Media Industry Development Authority (MIDA) to 'encourage, promote and facilitate the development of media organisations and media services in Fiji...[and] ensure that nothing is included in the content of any media service which is against public interest or order, or national interest, or which offends against good taste and decency and creates communal discord'⁵⁶.

The *MIDA Act* includes a Media Code of Ethics and Practice which sets out requirements for accuracy, balance and fairness in media reporting, and an obligation to provide a right of reply.⁵⁷ The Act establishes the Media Tribunal to, *inter alia*, hear and determine complaints referred by MIDA and to adjudicate breaches of media codes.⁵⁸ Where it finds non-compliance with the Act or codes, the Media Tribunal may impose financial penalties of up to \$FJ100,000 for media organisations and \$FJ25,000 for editors, and/or prison terms not exceeding 2 years.⁵⁹ An amendment in 2015 removed individual liability of journalists.

MIDA is also responsible for ensuring media organisations comply with restrictions during the 'blackout' period before the close of polls, as set out in s 118 of the *Electoral Act 2014*. Subsection 118(1) prohibits any media publishing, printing or broadcasting any 'campaign advertisement, debate, opinion or interview on any election issue or on any political party or candidate 'during the 48-hour period before polling day and on polling day before the close of polling; s 118(2) provides that any publication or broadcast during this time that relates to the election must be pre-approved by MIDA; and s 118(4) sets out penalties for non-compliance of up to 5 years ' imprisonment.

The conduct of opinion polls is regulated by the *Electoral Act 2014*, under s 110A, a newly introduced amendment to the Act, and by guidelines as prescribed by the EC from time to time⁶⁰. In July 2022 and September 2022⁶¹, the EC published guidelines which, *inter alia*, adopted the opinion polling guidelines of the European Society for Opinion and Marketing Research (ESOMAR) and World Association for Public Opinion Research (WAPOR)⁶².

⁵⁶ See *Media Industry Development Act 2010*, s 8.

⁵⁷ *Media Industry Development Act 2010*, Schedule 1.

⁵⁸ *Media Industry Development Act 2010*, s 50.

⁵⁹ *Media Industry Development Act 2010*, ss 65, 66.

⁶⁰ See *Bill No. 49 of 2022*.

⁶¹ <https://www.electoralcommission.org.fj/wp-content/uploads/2022/09/Decision-14.pdf>;

<https://www.electoralcommission.org.fj/wp-content/uploads/2022/07/Decision-13.pdf>

⁶² <https://www.electoralcommission.org.fj/wp-content/uploads/2022/07/ckquzqnez038tkjtrob30iitd-esomar-wapor-key-requirements-for-opinion-polls-and-published-surveys.pdf>.

Observations

The MOG observed that the media in Fiji generally enabled parties, candidates and others to present their messages to voters, and on balance, the media informed voters of their choices.

Despite a relatively robust industry, many media stakeholders expressed to the MOG that the environment in 2022 was more restrictive than in 2018. Stakeholders said that this had led to a culture of self-censorship amongst journalists due to the severe consequences of statutory default.⁶³ Stakeholders also noted the onerous requirements for publishing opinion polls, which resulted in no polls being published since legislation was introduced on the subject in August 2022⁶⁴.

The MOG observes that reports from stakeholders of a more restricted media environment are consistent with Fiji's recent decline in the Reporters Without Borders World Press Freedom Index. Fiji was ranked 57 out of 180 countries for press freedoms in 2018 but fell to 102 in 2022 - its lowest ranking since 2014 and making it the lowest ranked Pacific country.

Although legislatively remaining a body, the MOG observed that the status of MIDA had changed considerably since the 2018 election. The MOG was advised that MIDA no longer has any full-time staff, nor performs the functions prescribed to it under the *MIDA Act 2010* or the *Electoral Act 2014*. Consequently, the MOG was unable to meet with anyone from MIDA. The MOG also observed that the FEO had taken over some roles that it had previously shared with MIDA, such as media accreditations, and had taken on a monitoring role, such as requesting the media issue retractions or corrections using the newly created offence on 'publication of false statements'⁶⁵.

Media stakeholders advised the MOG that they considered they were still bound by the *MIDA Act*, including the requirement to seek MIDA's prior approval for reporting during the blackout period, despite the fact that MIDA is no longer performing its functions. At times during the 2022 election period, the MOG observed media being directed to submit questions, such as queries about journalistic compliance with the blackout period, to MIDA⁶⁶.

The MOG spoke to a range of media organisations that said they were committed to reporting the news as they saw it. However, they advised that there was a culture of self-censorship especially among younger journalists. Most media sources advised that the potential for - and severity of - penalties under the *MIDA Act* was a cause of significant concern. This was despite the fact that it was widely acknowledged that MIDA is effectively non-operational and some of its elections-related functions have been effectively taken over by the SoE. The MOG heard from a range of media organisations that uncertainty and confusion about the application of the legal framework impacted on their willingness to report on some issues.

⁶³ For example, under the *Electoral Act*, contravention of the media blackout laws (s 118) carries a maximum penalty of 5 years imprisonment, and commission of the offence 'publication of false statements' (s 144A) carries a maximum of \$50,000, 5 years imprisonment, or both.

⁶⁴ See *Bill No. 49 of 2022*.

⁶⁵ *Electoral Act 2014*, s 144A.

⁶⁶ Pursuant to *Electoral Act*, s 118(1).

Media organisations advised that regulatory changes⁶⁷, had effectively stifled the conduct of opinion polls. Some stakeholders expressed the view that opinion polling assists the electoral process by paving the way for acceptance of the results of the election. The MOG noted that no opinion polls had been undertaken since legislative changes on the issue were introduced in August 2022, and since the EC had made findings against a media organisation that it had failed to comply with the relevant opinion polling guidelines⁶⁸.

Recommendation 17 (Aspirational)

The MOG notes that the MIDA is widely understood by the media and other stakeholders to be no longer operational. Nevertheless, the *MIDA Act 2010* and the *Electoral Act 2014*, which remain in force, endow MIDA with roles and responsibilities some of which have the potential to impose significant penalties on media organisations and certain individuals. The MOG recommends reviewing the MIDA’s mandate and operations to create greater certainty and clarity for media organisations.

Recommendation 18

The MOG notes that Fiji’s requirement for media to obtain prior approval from MIDA for reporting during the blackout period appears an unnecessary constraint. The MOG recommends removing this requirement in the law or providing greater clarity through published guidelines.

Recommendation 19

Noting the real risk of “fake news” and deliberate information distortion during elections, the MOG nevertheless recommends reviewing the appropriateness of the EC’s guidelines on the conduct of opinion polls and considering whether they, taken together with the *MIDA Act 2010* and the *Electoral Act 2014*, contribute to an unreasonable constraint on the media’s ability to contribute to public discourse and political accountability.

X. Pre-polling, Postal and Election Day Voting

Elections are a public service and, as such, should be delivered in a professional, cost-effective and sustainable manner. While the independence, impartiality and transparency of the overall electoral management was already treated above (chapter V), it is important to assess the EMB’s capacity to prepare and deliver an efficient electoral service; this task fell almost entirely under the responsibility of the FEO.

The MOG was able to closely follow the last stages of the electoral preparations, following the issuance of the writ. The FEO was open and available to engage with the MOG and to answer

⁶⁷ <https://www.electoralcommission.org.fj/guidelines-on-opinion-polls-published-surveys/>;
<https://www.electoralcommission.org.fj/wp-content/uploads/2022/07/Decision-13.pdf>.

⁶⁸ <https://fijisun.com.fj/2022/08/31/the-electoral-commission-finds-that-the-fiji-sun-breaches-the-opinion-poll-guidelines/>.

any questions about any aspect of the operational preparations. It is the MOG's assessment that the FEO was able to complete all technical and operational preparations on time for pre-polling, postal voting and Election Day polling and counting, as well as the counting processes at the National Count Center and the aggregation of results at the National Results Tally Center, despite logistical challenges and difficult geographical and weather conditions.

Observations

The MOG's assessment is that the FEO technical and operational responsibilities were fulfilled successfully overall. The MOG witnessed the level of professionalism and efficiency of the FEO staff, both permanent and temporary. The operational training program was particularly impressive and was a major asset in ensuring overall consistency in the application of procedures.

While the FEO benefitted from international technical assistance, it was encouraging to see the high level of national ownership of the electoral management process, which bodes well for its sustainability. This is true also in regards to the IT component; despite having some links with the vendor in terms of the biometric technology for the voter register, the in-house know-how appears to ensure complete technological independence in maintaining and updating the technology involved in the voter register operations. This national technical know-how also supported in a satisfactory manner the results management at the National Count Center following the polling.

Voting during pre-polling and on Election Day took place in a calm and peaceful environment in which Fiji's police performed their duties diligently and voters demonstrated commitment, often queuing in heat, wind and rain. The MOG observed polling station staff to be competent, courteous, and well-prepared.

Pre-polling

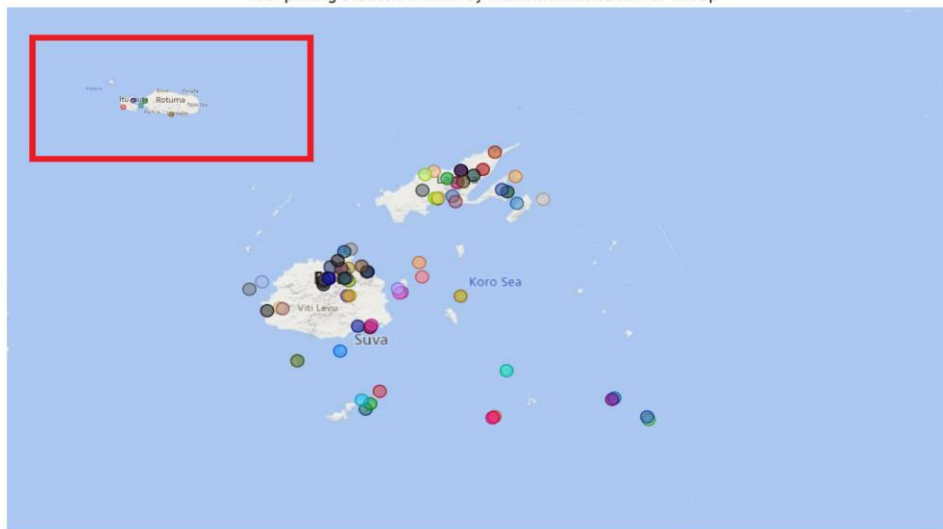
Pre-polling provided residents of nursing homes or health care facilities, members of the disciplined forces, those under pre-trial detention or serving a sentence of imprisonment, and those living in remote areas with the opportunity to vote.

From 5 to 9 December, the MOG observed pre-polling across Fiji's four divisions. The MOG visited 115 out of a total of 613 pre-polling venues (18.7 percent). The MOG visited polling stations unannounced and had unrestricted access to conduct their observations.



Multinational Observer Group Pre-Poll Summary

Pre-polling stations visited by Multinational Observer Group



Number of pre-poll Multinational Observer Group teams

17

Total number of pre-polling stations

613

Number of voters at pre-polling stations visited by Multinational Observer Group

10352

Total number of pre-polling voters

77907

Observations

The MOG observed the FEO to be well-prepared to deliver pre-polling services. The MOG acknowledges the geographical and environmental challenges associated with delivering pre-polling in Fiji, particularly in remote areas. The MOG commends the FEO on their efforts to support all members of the community in exercising their right to vote.

Nearly all pre-polling stations respected the published times for opening. The MOG welcomes the FEO's decision to extend the time to vote in certain areas to support students who were finishing exams or to compensate for late openings.

MOG observers noted the high proportion of women POs. Almost all POs and PDWs were diligent, courteous and serious in performing their roles.

The MOG also witnessed the packing of sensitive materials for pre-polling at the FEO Central Warehouse and the checking of materials by the corresponding POs on arrival at polling stations.

The MOG did not observe any campaign activities in the area surrounding the polling stations, although it was reported that in a few polling stations there were political parties' material within the 300 meters from the polling station.

MOG observers were treated with respect and courtesy by the FEO pre-polling teams and were not obstructed in their observation. Accredited party polling agents were also afforded the opportunity to observe voting, and agents were present (at least one) at almost 92 percent of polling stations visited by the MOG. Most polling agents followed the official procedures, although

there were reports of isolated cases of over-active and even aggressive behaviour from some of them.

The MOG noted the cordial interactions between voters, the FEO pre-polling teams, traditional leaders in remote communities and police officers providing security for pre-polling. The MOG did not observe any intimidating behaviour or disorder around any of the polling venues visited during pre-polling. The FEO's pre-poll teams followed the voting procedures, and voters were afforded a safe atmosphere to maintain the secrecy of the vote. Voters appeared keen to participate in the process and for the most part, were patient when queuing to vote. Voter queues dissipated quickly

MOG observer teams noted that 72.15 percent of people with disabilities and 55.7 percent of illiterate voters were assisted to vote during pre-polling. 94.2 percent of the time the POs disabled voters to vote.

The MOG noted some inconsistent application of processes related to voters not on the voter list; nevertheless, this was not systematic and did not have a significant impact on the overall integrity of the pre-poll voting process. During pre-polling, MOG observers recorded 39 instances of voters being turn away without voting. In most instances this was due to being registered elsewhere.

In one case in the Northern Division, there was confusion during pre-polling regarding what were called 'absentee ballots' (possibly 'tendered ballots'), for which the polling staff followed unclear procedures.

Despite some isolated cases regarding confusion and misinformation on the timing of the presence of the pre-poll teams (particularly in the Northern Division), most of previous issues in this regard were solved for the 2022 pre-polling process. The FEO finalised the tentative pre-poll schedule well in advance and published it earlier than anticipated. The pre-polling schedules with times and locations were widely published, as well as communicated directly to village heads; the FEO website displayed-polling deployment schedules in 3D interactive maps.

The electoral environment for polling was calm. In a few isolated cases, some voters were not allowed to vote because of confusion regarding the time of closing of the pre-polling station.

Pre-poll teams and Fiji Police secured ballot boxes and adhered to ballot box seal and transfer processes.

MOG observers indicated that the pre-polling process was generally well managed, with competent polling staff. Polling procedures were widely followed, with only minor incidents that had no bearing in the integrity of the process. The overall conduct of pre-polling was rated as 'very good '(78.48 percent) and 'good '(21.52 percent) by MOG observer teams.

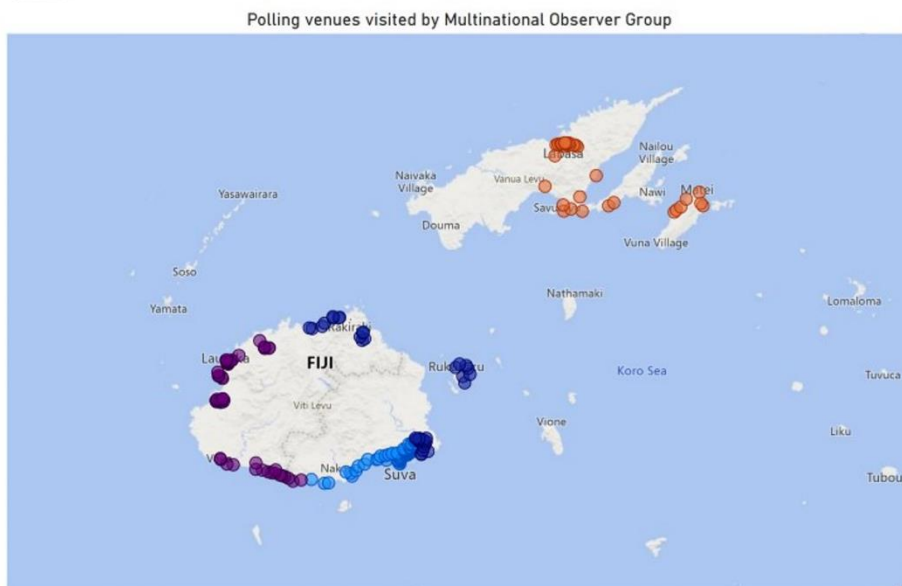
Detailed observation data can be found in *Chapter XIII: Observer Data - Pre-Polling Observations*.

Election Day

The MOG deployed 90 observers across Fiji's four divisions. The observers visited over 200 polling venues and 450 polling stations. As with pre-polling, the MOG visited polling stations unannounced and had unrestricted access to conduct their observations.



Multinational Observer Group Election Day observation summary



Number of Multinational Observer Group teams

34

Number of polling venues visited by Multinational Observer Group observers

208

Total number of polling venues

856

Number of voters at polling venues visited by Multinational Observer Group

215296

Total number of election day voters

606092

Observations

The MOG notes there were late changes to the location of some polling stations on Election Day due to *force majeure*. These changes were published widely, including on the FEO website, via local news and on social media which seemed to mitigate any potential impact on voters. The MOG is aware of criticism from some civil society members that these changes had not been communicated as effectively, especially outside urban centres. In most locations, by request via phone communication, the FEO provided free public transport to assist voters to reach polling stations in time.

Of the polling procedures observed, no significant irregularities or impediments were noted. The MOG also notes that staff were well-trained and resourced to undertake their duties. The MOG did not observe any campaigning at or around polling venues. Procedure was followed diligently throughout the process. Approximately 86 percent of the polling stations attended by the MOG opened on time, and only in isolated cases were there justified delays (weather conditions related, small accidents on the road) in the opening of the polling station. All ballot boxes arrived at polling stations sealed, and all voting materials (including ballots and secret envelopes) were available. POs followed opening procedures, with ballot boxes opened and resealed and polling stations set up appropriately. Voters' hands were checked for indelible ink before being sanitised (a COVID protection measure), voter IDs were checked and names crossed off the voter list, and voters

were then able to vote in secrecy. All voters had their fingers inked after voting, and their ballots (in secret envelopes) deposited in the ballot box.

The polling staff was assigned appropriately (almost all with five members), and the MOG observers noted the high proportion of women POs. Almost all POs and PDWs were diligent, courteous and serious in performing their roles.

The MOG observed that voting took place in a calm and peaceful environment in which Fiji's police performed their duties diligently and voters demonstrated commitment, often queuing in heat, wind, and rain. The MOG found that polling teams adhered to established voting procedure, thus protecting voter privacy and security of the vote and ballot box.

In most cases (with some rare exceptions), voters without an ID, but whose names were on the polling station voter list, were allowed to vote. In total the MOG observed 12 instances of voters being turned away without voting or being directed to correct polling station. In most instances, this was due to missing names.

Noting the difficult conditions in which many polling stations were located, the MOG observed that approximately half of polling stations attended were accessible to people with disabilities. The MOG team also noted that, in areas where FEO tents were used, the space allowed for the polling station was quite restricted (although this did not compromise voter secrecy). Given the special conditions of pre-polling stations, it was noted that it was difficult to actually delimit the 300 meters diameter, but it was also highlighted that the polling staff adopted an adequate 'practical' approach.

The MOG observed many instances of assisted voting in the polling station, including for the elderly and people with disability. Observers noted that 58.5 percent of people with disabilities were assisted to vote during Election Day voting. In almost all cases, this assistance was provided in accordance with procedure, and POs made appropriate judgements about when and where assistance was warranted (usually for elderly voters unable to see the ballot paper clearly or confused by the process). Almost all assistance was provided by the PO.

Security during voting and for the transfer of ballot boxes was diligent, with police officers present at all times. In some cases, police officers were asked for help by the polling staff at the request of POs, and while this goes against the letter of the FEO procedures, this was done in the name of collaboration and in no way signalled any attempts at interference in the process.

Procedures for transfer of ballot boxes from FEO HQ and Area Office teams to polling staff at the start of voting, and from polling teams back to FEO secure storage at the end of voting, were adhered to in all cases.

MOG observer teams rated the overall administration of polling stations on Election Day as very good (71.92 percent) and good (27.79 percent) and bad (0.29 percent).

Detailed observation data can be found under *Chapter XIII Observer Data - Election Day Polling Station Opening Observations*.

Postal Voting

Application for postal voting opened following the announcement of the election date, on 30 October 2022 and closed at 17:00 on 23 November 2022 (21 days prior to Election Day). The number of total postal applications stood at 9,916, of which 869 were overseas applications. Voters were able to access the postal voting application form from any FEO office or online. All applicants needed to be a registered Fijian voter. The voter was required to fill all the necessary details required in the form, provide updated and correct personal details in the form and ensure that they sign in the space provided. The filling of the application was required to be witnessed by any of the FEO authorised personnel. The completed application form was required to be submitted to the FEO, either in any of electoral offices or via the internet. A copy of the voter card needed to be included.

Registration for postal voting closed on 23 November 2022. Once an application was approved, the FEO sent a postal voting package to the voter. The FEO received 9,916 applications for postal voting. The completed package had to be received by the FEO by 18:00 on Election Day. Postal voters achieved a 75.9 percent turnout rate with 7,529 postal votes were received, including 32 invalid votes.

Once the application arrived, the form was verified to ensure all necessary information was included. If it wasn't, there were officials whose job was to call the voter to inform them that their information was incomplete. If the form had all the required information, then the details were entered into the database of the election management system (EMS), and there were two quality assurance checks, before the coordinator approved the form and the SoE formally accepted the application. If the application was rejected, the applicant needed to be informed immediately. Once the application was approved, the voter was not able to vote in person at either a pre-poll or Election Day polling station – their name in the voter lists will have a 'p' notation next to it.

Once the application was approved, the FEO sent a 'postal package' with ballot paper, voter instruction booklet, secret envelope, transmission envelope and a pre-paid return envelope.

Postal ballots were the first ones printed. Unlike the pre-poll and Election Day ballots, they were not bound in 'books' of 50, as they are to be sent individually to the voters and are pre-folded. They also are marked in the back: 'postal ballot'. Postal ballots were sent according to the timing it takes for the ballot to reach by post, starting with the furthest away places.

There were six categories of postal ballots: Australia and New Zealand, Fiji interior, Fiji outer islands, Overseas Pacific, Overseas rest of the world, and Special (including electoral officials, etc.)

Verification of postal votes started on 7 December (seven days before Election Day) and continued until 15 December. The process involved checking that the information entered in the transmission envelopes matched that of the voter's application. Those ballots in the accepted transmission envelopes were placed (in their secret envelopes) in the ballot boxes (650 in each ballot box, equivalent to a 'polling station') and transferred to the Central Processing Center for storage before being transferred on Election Day to the National Count Center. Counting of postal voting started at 18:00 on 14 December at the National Count Center.

Observations

MOG observers were able to witness the process of approval of applications for postal voting (until 23 November) and were allowed to observe the verification of the postal ballots (ending on 15 December).

The MOG notes the FEO supported voters to exercise their right to vote in the 2022 General Election via postal ballot. In particular, the MOG notes overseas registrations were facilitated by Fiji missions abroad who received training from the FEO in delivering voter services. Voter awareness efforts included an overseas registration drive which saw FEO representatives deliver a schedule of in-person awareness sessions to support overseas voters.

XII. Counting, tabulation and announcement of results

Counting began after close of polls at 18:00. Counting was done in the polling stations in the presence of accredited party agents and media representatives, as well as MOG observers. The same people allowed during voting were allowed during counting, except voters; polling agents, observers and media were asked to sit or stand in front of counting tables. No candidates were allowed to observe the counting.

Before starting, the PO informed party agents, observers and media of the counting process, which was continuous (nobody is allowed to enter or leave the PS once the process starts). Polling agents could object to a ballot paper; the PO was invited to consider the objection and decide on it. The counting process had two distinct phases: reconciliation and counting.

Reconciliation

Before opening the ballot box, the PO reconciled the ballot papers, through the records of ballots issued, ballots unused, spoiled/discarded ballots and the number of signatures on the voter list. If there were any discrepancies, the PO contacted the 'hub leader', and the ballot box should not be opened. If there were no discrepancies, PO the opened the ballot box after checking seal numbers, and the staff empties ballot box.

Counting of votes at Polling Station level

Once the ballot boxes were opened, ballots papers are unfolded and sorted by column range, including 'invalid' votes. Ballot papers were considered not valid if the voter's intention was not clear. A ballot paper deemed invalid was not counted if: a) it could identify the voter; b) it was not

marked, did not clearly indicate a candidate number, or indicated a vote for more than one candidate, or the intersection of the cross met on the line of any candidate box; c) a mark allowed identification of voter. The POs were responsible of checking the invalid votes pile and decide on invalidity.

PWDs then bundled ballots in each column range by 50. PWDs counted votes per candidate number, reading out loud the candidate number and number of votes. PO recorded results in the 'results protocol'. There were three copies of the results protocol: original (to go in a tamper evident envelope, TEE, to be transported to the National Results Tally Centre), a pink copy (to be displayed in a publicly accessible area outside the PS) and a green copy (to go inside the ballot box). Following completion of the protocol of results, it was then signed by the PO. This was also witnessed by any three election observers or polling agents.

Once the signing of the Protocol of Results was witnessed, the Presiding Officer called the FEO Call Centre to transmit the result and also sent the results via the *My Polling Assistant App*, for compilation for the publication of provisional results.

Observations

Counting on Election Day took place at polling stations, immediately after closing. The count was observed and signed off by polling agents, as required. Counting for both pre-polling and postal polling was done at the National Count Centre in Suva, following the close of polls at 18:00 on 14 December. Tabulation of results happened at the adjacent National Results Tally Centre, with delivery of both provisional and final results. The results were then communicated to the National Results Centre in Suva via phone and mobile application⁶⁹ to enable provisional results to be published.

Few changes were made to the counting procedures on Election Day for the 2022 general elections. In 2022, the counting process continued to be lengthy, yet the counting procedures supported the accuracy and transparency of the vote count. The process, as observed by MOG teams, built in appropriate checks and procedural redundancies. The basic principle is that counting of votes is a manual process, to ensure transparency and encourage confidence in the results.

Regarding the Official Count, hard copies of the protocol of results were placed into a tamper evident envelope at each polling station and then transported to the Central Processing Centre in Suva, from which they were dispatched to the National Results Centre for tallying, also in Suva. Pre-poll and postal votes were counted at the National Count Centre in Suva and then the overall tabulation of votes was conducted at the National Results Centre.

⁶⁹ Named the 'My Polling Assistant' app.

Processes related to rulings by POs on the validity or invalidity of ballots were highly transparent and well-communicated. The determination of valid votes aligns with international good practice, that is, all ballot papers that show the clear intention of the voter were considered valid.

Following the count, the SEO cross-checked a number of ballot boxes where the number of invalid votes seemed high. This cross-check led to some ballots that were originally found to be invalid ruled as valid and counted in the final results.

Overall, observers reported that presiding officers complied with the instruction to display the 'pink' copy of the protocol of results in a public accessible area at the polling stations. The display of a copy of 'the protocol of results' at a public place outside all polling stations immediately after the counting also aligns with good international good practice.

MOG observers were present for the counting of votes at 29 polling venues and 44 polling stations on Election Day, and during the counting of pre-poll and postal voting at the National Count Centre. The overall conduct of Election Day polling station closing and counting was very good (64.52 percent), good (32.6 percent) and bad (3.23 percent). Detailed observation data can be found under section *Polling Station Closing Observations*.

Counting at the National Counter Centre

Postal ballots and pre-poll ballots were counted at the National Count Centre in Suva. Counting started at 18:00 on Election Day. Additionally, any recounting of Election Day polling ordered by the SoE also took place at the National Count Centre. Recounts were ordered by the SoE in case of mathematical errors in the results protocols or high number of invalid votes, and 19 ballot boxes were recounted.

The MOG had a continued presence for the tabulation of results at the National Results Centre and the National Counting Centre, from 18:00 on Election Day and until Official Results were published.

There were 100 counting teams at the National Count Centre and the MOG observed their performance overall to be careful and methodical. The corresponding ballot boxes were transferred to the Count Centre on Election Day, and were ready to start the count at 18:00, when Election Day polling ended. Political parties and candidates' polling agents, as well as media representatives were allowed to witness the activities at the National Count Centre

Counting procedures for postal voting and pre-polling closely resembled those used during Election Day (including reconciliation of ballots), with the exception that when the ballot box was opened, counting officials have to remove the ballot papers from the 'secret envelopes' where the ballots have been placed. Once counting of a ballot box started, it could not stop until completion of the count.

The counting procedures at the Count Centre included the following steps:

- the ballot box was opened, the counting staff opened the secret envelopes and sorted out the ballot papers and sorted out into column number ranges;
- all the ballot papers in each column range were then counted, including the invalid ballot papers;
- each column total was added;
- ballot papers were then sorted by candidate number, proceeding column by column;
- the ballot papers for each candidate number were counted;
- the results are then entered in the 'protocols of results' worksheet;
- the results were uploaded in the results app and transmitted to the Results Centre for publication of provisional results; and
- all result protocols for pre-polling and postal results were displayed publicly at the Count Centre.

Observations

The MOG observed that the FEO's procedures were followed with no significant irregularities noted. Counting proceeded in a systematic, methodical and transparent manner. The MOG observed that the results tallying processes were designed appropriately and had sufficient safeguards to verify the protocol of results before figures were entered into the Results Management Information System (RMiS).

Election Day votes are tabulated and counted manually at polling stations and pre-poll, postal and recount votes were counted manually at the National Count Centre, as required. The MOG observed that the tabulation process is robust with appropriate quality assurance processes.

Tabulation and Announcement of Results

The tabulation of results plays a crucial role in ensuring that the electoral process reflects the will of the voters. International good practice requires the tabulation processes be fair, impartial, and transparent.

Tabulation of results for the Fiji 2022 election was conducted at the National Results Tally Centre in Suva. The FEO recruited and trained 300 data entry clerks to integrate these results into the FEO's RMiS working continuously in eight-hour shifts until the results were all entered.

The FEO organised tabulation of results in two distinct modes of operation for after the polls closed: 'provisional' and 'official'. The 'provisional' mode of tabulation, which was previously not spelled out in the *Electoral Act 2014*, was now included in the legal provisions. It is a system introduced by the electoral authorities to only provide to the public, speedy information about the trends of the election results, but those results have no legal standing, nor are they part of the official counting process.

For the provisional results, and following the end of counting, presiding officers relay results by telephone and the *My Polling Assistant App* to the Results Centre and provide the basis for the FEO's publication of these provisional results – which were made available in real time on the

FEO Results App. This process was finalised, as scheduled, by 07:00 the day following Election Day.

Once the Results Centre receives the originals of each polling station's protocol of results, it begins tabulating final or 'official' results. This is the tabulation process outlined in the Act which collates the results of all polling stations, including pre-poll and postal votes results.

The tabulation of 'official' results by the FEO employed a blind double entry methodology of the data of the original copy of the 'protocol of results'. The RMiS integrated a number of checks and balances throughout the process, including various 'triggers' that would result in an audit of the information entered in the database.

Observations

As standard practice, the FEO introduced a number of measures to enhance the accuracy and security of the process, including reducing the size of data-entering teams and doubling the number of supervisors, making technical choices to increase correctness and integrity of the information entered, as well as supplying clerks with a separate keyboard to minimise data entry errors.

During the tabulation process, the FEO provided political parties with paper copies of the original protocol of results as well as print-outs upon request of the information entered in the system per polling stations.

The FEO contracted an independent audit of the RMiS to ensure the security and integrity of the results system were guaranteed. Additionally, in order to increase transparency, the FEO developed a mobile phone application the *FEO Results App* to publish provisional results that were uploaded in real time, as a service to the public free of cost.

Once the tabulation of official results finalised, the 'Final National Results Tally' was produced, which becomes a legal binding document at that moment, and the SoE immediately presented it to the EC for the official declaration of results and allocation of seats. The EC then returned the writ to the President on December 19, formally ending the general elections process.

The MOG notes that the *FEO Results App*, used to publish provisional results, a process separate from the Official results processing, was taken offline on the evening of 14 December, due to an 'anomaly' in the data⁷⁰. The MOG was notified immediately, and MOG observers attended the National Results Centre and were briefed by the SoE and their IT staff. The error was resolved, and the *FEO Results App* was restored after approximately four hours with corrected data.

MOG also noted some speculation that the provisional trend created an opportunity for the FEO to 're-tabulate' official results. The MOG assesses this speculation unfounded since the pink slips

⁷⁰ The *FEO Results App* provides a means for provisional and final results to be published. The incident referred above occurred while provisional results were being published, as required under the *Electoral Act 2014*, s 102A.

containing the Protocol of Results – against which official results can be compared – were also publicly available from the conclusion of counting of each ballot box.

Following this event, several political parties and commentators online expressed concerns. The MOG notes that the *FEO Results App* was not used to count votes, but only to publish provisional results. Hence MOG notes that this anomaly had no effects or consequences over the processing of official results.

The MOG notes that the periodic publication of final results was initially slower than anticipated, based on the publication of results every six hours in 2014 and 2018. The MOG understands that the delay was due to additional quality control processes that were implemented after the ‘anomaly’ that occurred in relation to the *FEO Results App*.

The MOG found the data entry elements of the tabulation process generally well-organised and operational arrangements for the implementation of the RMIS to be efficient, with sufficient checks and quality control measures to ensure accuracy. The MOG was also confident that the FEO had taken the necessary measures to ensure RMIS security, ensuring the integrity of the system and the tabulation of results.

The total number of invalid votes cast in the 2022 General Election was 3,326, or 0.7 percent of ballots cast, compared to 0.92 percent recorded in 2018. On 17 November, the FEO cross-checked a number of ballot boxes where the rate of invalid votes seemed unduly high⁷¹. This cross-check led to some ballots that were originally found to be invalid ruled valid and counted in the final results.

Recommendation 20

Noting the high-tension atmosphere of elections and, at times, a combative relationship between the SoE and the media, the MOG recommends a review of policies and methods of communication of important election information, including provisional and final results. The FEO could also consider a simple analogue back-up, such as a manual results tally board, to complement the digital *FEO Results App* with strengthened verification protocols.

Final National Results Tally and Seat Allocation

In the early afternoon of 18 December 2022, the SoE signed the ‘Final National Results Tally’ and presented it to the EC, which in turn calculated and then announced the allocation of seats. The EC Chair returned the electoral Writ to the President on 19 December 2022, formally ending the 2022 General Election. Four parties reached the five percent threshold required by law to secure seats in Parliament.

The MOG notes some considerable differences between the number of votes that individual successful candidates received, with some receiving fewer than 600 votes. The MOG notes that

⁷¹ The relevant power to order a re-count is granted to the Supervisor under s92(8) of the *Electoral Act*.

while voters vote for candidates, the logic of a Proportional Representation system is that the number of seats a party receives is a product of the overall performance of a party and not of individual candidates.

No political party won a majority of seats in the 2022 election. The seats were assigned as per the below table:

Party	Number of seats
FijiFirst	26
People's Alliance (PA)	21
National Federation Party (NFP)	5
Social Democratic Liberal Party (SODELPA)	3

XIII. Observer Data

Pre-Polling



Multinational Observer Group Pre-Poll Summary

Pre-polling stations visited by Multinational Observer Group



Number of pre-poll Multinational Observer Group teams

17

Total number of pre-polling stations

613

Number of voters at pre-polling stations visited by Multinational Observer Group

10352

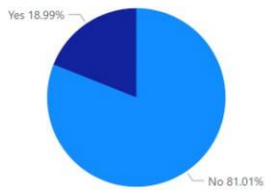
Total number of pre-polling voters

77907

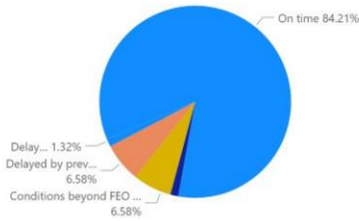


Transfer of ballot box and PS opening

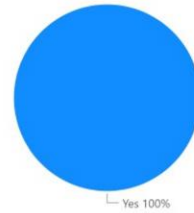
Did Multinational Observer Group observe ballot box transfer at the start of the day?



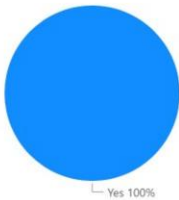
Did polling station open on time? If not, why not?



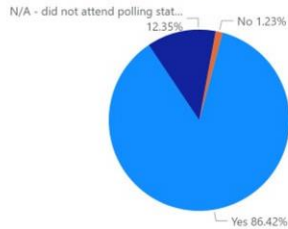
Were ballot boxes sealed?



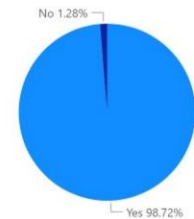
At polling station where Multinational Observer Group observed, did Fiji Elections Office team follow correct procedures?



Were all election materials present when the polling station opened?



Were polling station opening procedures followed?

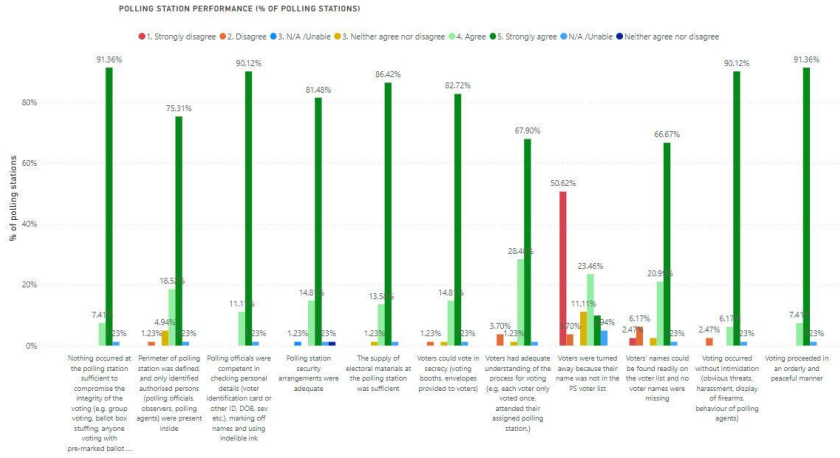




Conditions inside polling station

Polling station performance (% of polling stations)

1. Strongly disagree 2. Disagree 3. N/A /Unable 4. Agree 5. Strongly agree

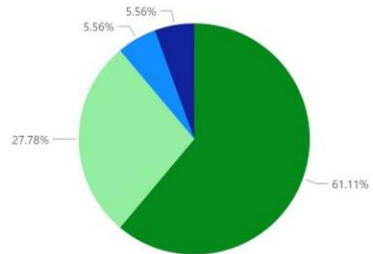


Number of voters observed being turned away without voting

39

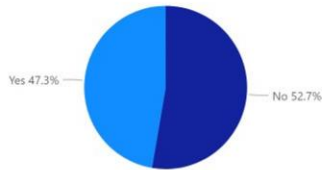
Reason voters turned away (if not allowed to vote)

Registered elsewhere Name missing No identification unknown

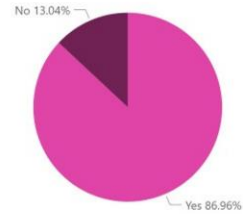


End of Voting and Transfer of Ballot Boxes

Did Multinational Observer Group observe ballot box transfer at the end of the day?



(At maritime polling stations) Did you inspect the boat's secure room?



Was there a police escort?



Were all the boxes sealed?



(At maritime polling stations) Was the boat's secure room locked and under police guard?

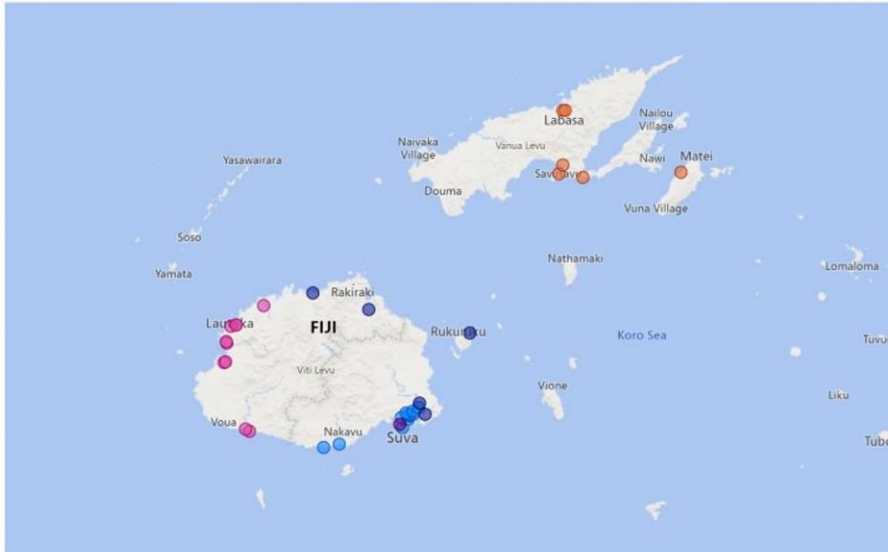


Election Day Polling Station Opening Observations



Multinational Observer Group Summary: Election Day Polling Station Opening

Polling venues at which Multinational Observer Group observed opening



Number of Multinational Observer Group teams

31

Number of polling venue openings observed by Multinational Observer Group

34

Total number of polling venues

855

Number of voters at polling stations where Multinational Observer Group observed opening

51684

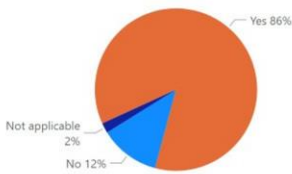
Total number of election day voters

606092

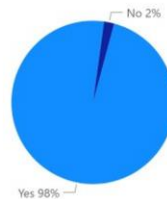


Opening procedures

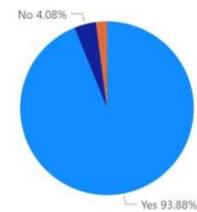
Did polling station open for voting at 7:30AM? If not, why not?



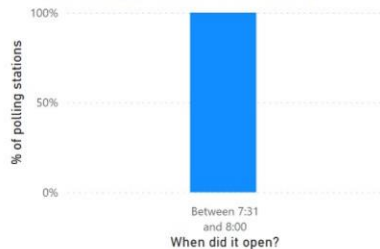
Were all election materials present when the polling station opened?



Were polling station opening procedures followed?



If it didn't open on time, when did it open?



If not all materials were present, what was missing?



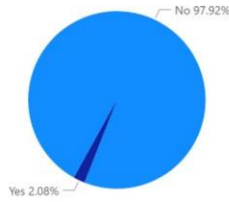
How and why were they not followed?

I don't think the presiding officer understood well the rundown a opening procedure. He missed showing the empty ballot box and the rest of procedures to the witness (polling agent and observer).
PO didn't show the ballot box empty before opening the station.

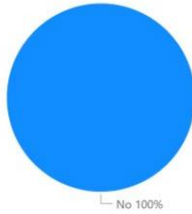


Officials and unauthorised people

Were any unauthorised people at the polling station?



Were they directing or interfering in polling station operations?



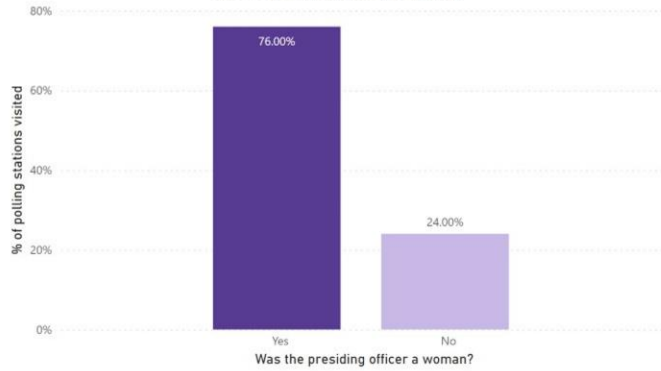
Average size of Fiji Elections Office team

5.20

Average number of women in team

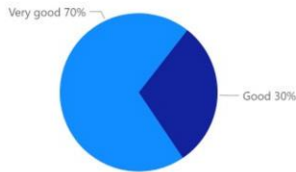
4.04

Was the presiding officer a woman?

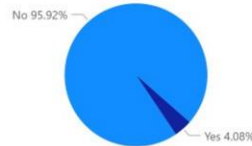


Overall conduct of polling station opening

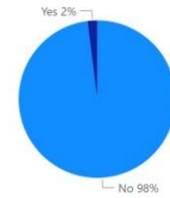
Overall conduct of polling station opening was:



Did anyone inform you of problems at this polling station?



Was your observation restricted in any way?



Significant issues identified by observers

FEO taking photos within polling Station after start of polling.

I don't think the presiding officer understood well the rundown a opening procedure. He missed showing the empty ballot box and the rest of procedures to the witness (polling agent and observer).

One of the voter as well as FEO VIP during the voting process was photographed by his assistant inside polling station in all desk stations. FEO VIP is the first voter in the polling station.

I was asked to wait outside while the election staff had a briefing and made their preparations and was only allowed in after the ballot box was sealed. There seemed to be a lack of understanding of the role of observers. Otherwise it seemed procedures were followed.

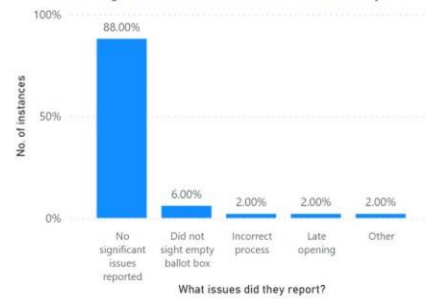
No envelopes for ballot papers

Observers not asked to sign in or out

PO didn't show the ballot box empty before opening the station.

The polling venue had 3 polling stations. The polling station I observed opened late because tables were needed. Tables arrived around 7:15. The other two stations opened on time.

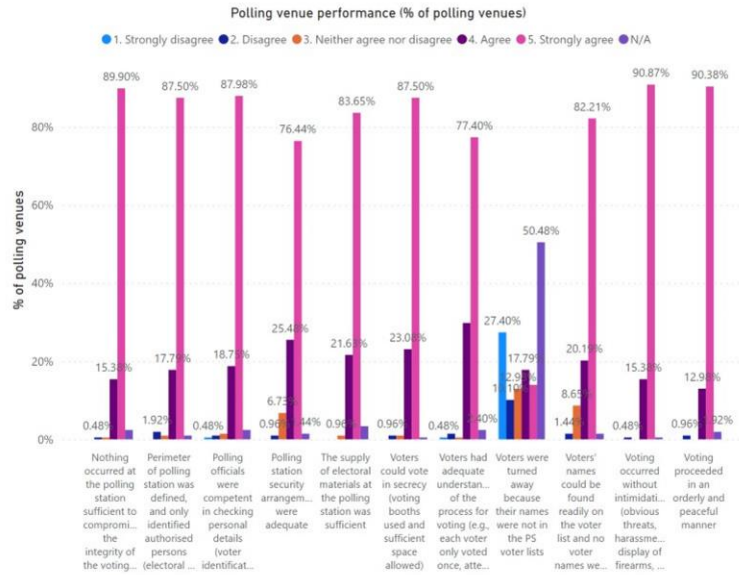
What significant issues did observers identify?



Election Day Voting Observations



Conditions inside polling venues



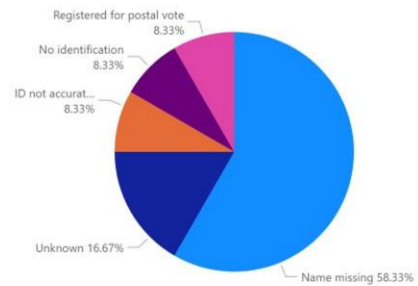
Number of polling venues visited by Multinational Observer Group observers

208

Number of voters observed being turned away without voting or being directed to correct polling station

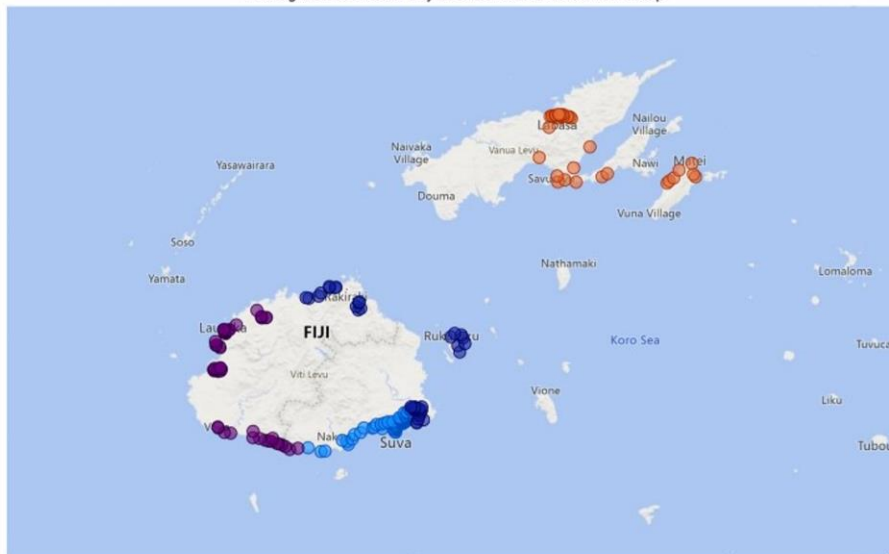
12

Reason voters turned away (if not allowed to vote)



Multinational Observer Group Election Day observation summary

Polling venues visited by Multinational Observer Group



Number of Multinational Observer Group teams

34

Number of polling venues visited by Multinational Observer Group observers

208

Total number of polling venues

856

Number of voters at polling venues visited by Multinational Observer Group

215296

Total number of election day voters

606092

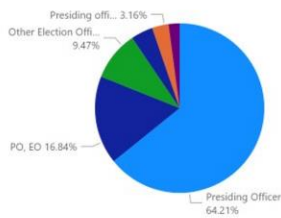


Inclusion

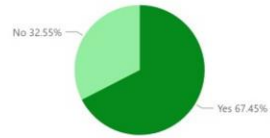
Were illiterate voters assisted to vote at this polling station?



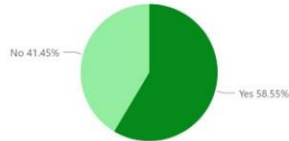
Who assisted illiterate voters to vote?



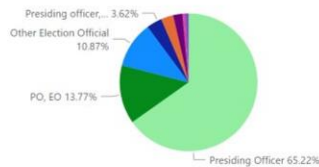
Polling station set up to accommodate needs of people with disabilities?



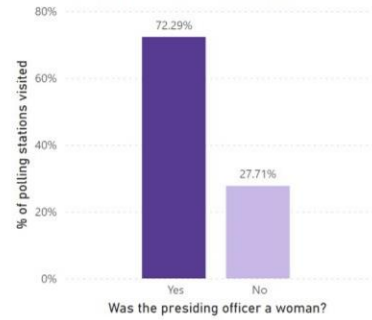
Were people with disabilities assisted to vote at this polling station?



Who assisted people with disabilities to vote?



Was the presiding officer a woman?



Average size of Fiji Elections Office polling station team

4.79

Average number of women in polling station team

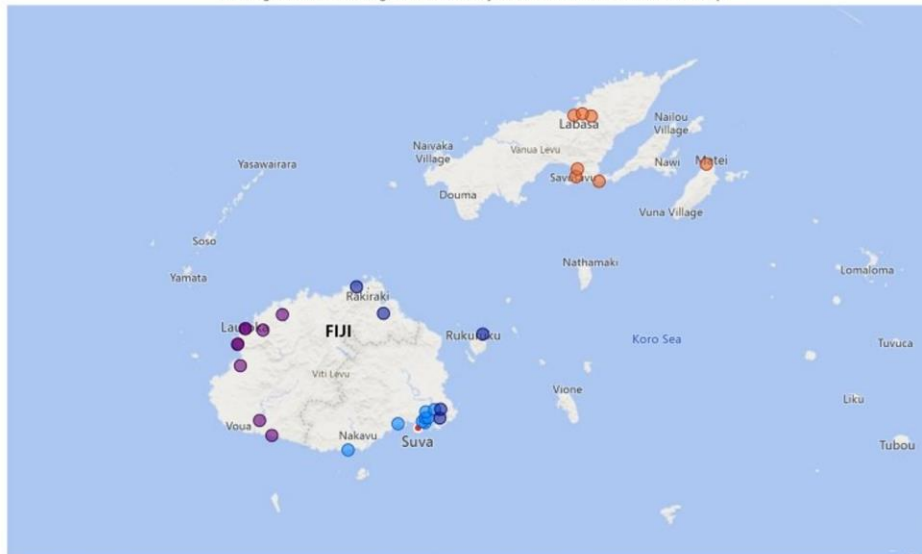
3.70

Polling Station Closing Observations



MOG Election Day Polling Station Closing

Polling station closings observed by Multinational Observer Group



Number of Multinational Observer Group teams observing polling station closing

28

Number of polling venue closures observed by Multinational Observer Group

29

Total number of election day polling venues

856

Number of voters at polling venues where Multinational Observer Group observed closing

16919

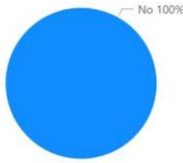
Number of election day voters

606092

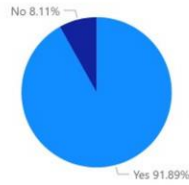


Conditions During Polling Station Closing

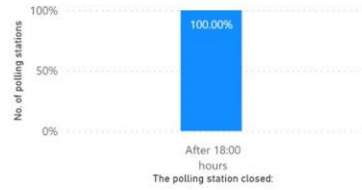
Were any unauthorised people at the polling station?



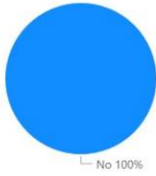
Did the polling station close at 18:00?



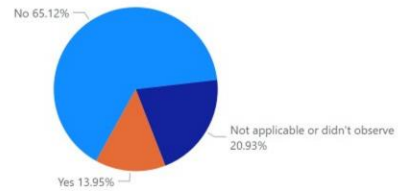
If the polling station did not close on time, did it close before or after 18:00?



Was there tension or unrest near the polling station?



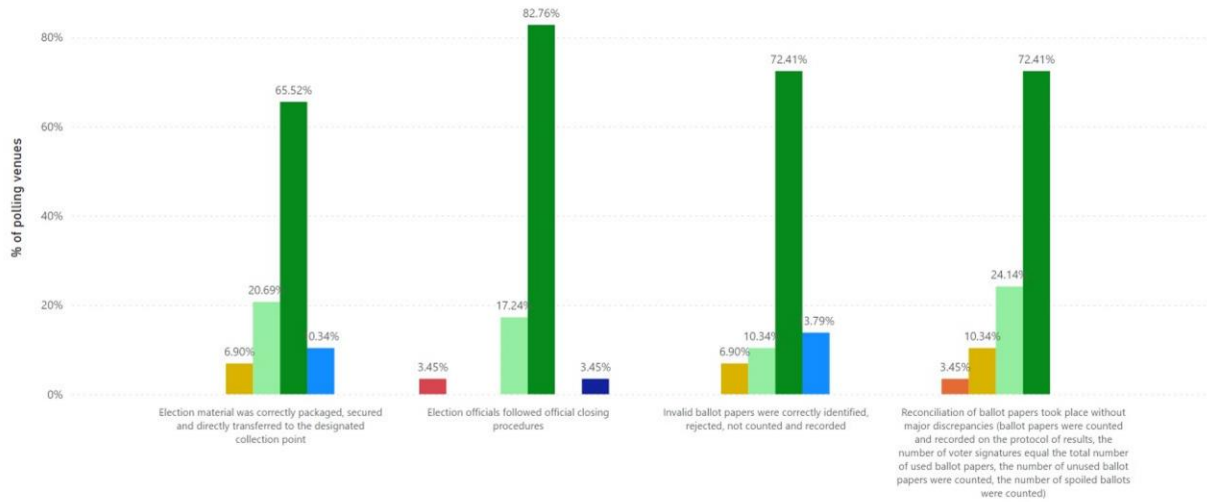
Were people waiting in the queue when the polling station closed allowed to vote?



Polling venue closing and counting procedures

Polling venue closing procedures (% of polling venues)

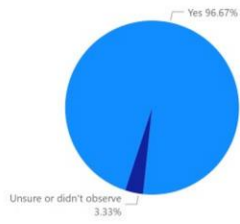
1. Strongly disagree 2. Disagree 3. Neither agree nor disagree 4. Agree 5. Strongly agree N/A Strongly agree



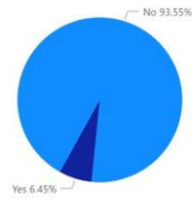


Observer access and overall assessment of polling station closing

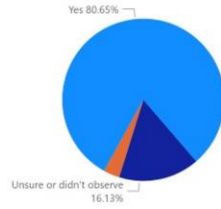
Did all observers have a clear view of counting?



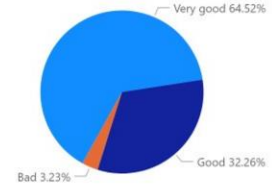
Did any polling agent request a recount of ballot papers or object to a ballot?



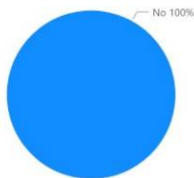
Were the final results displayed in a public place outside the polling station?



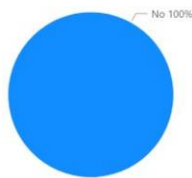
Overall conduct of closing and counting was:



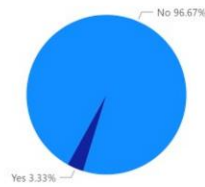
Was your observation of counting restricted in any way?



Was any official complaint filed at the polling station during your observation?



Did anyone inform you of any problems with closing and counting at this polling station?



Observations regarding closing and counting:

Counting finished at the station after 10 PM but the ballot box was not transported from the PS until 12:50 AM. This is due to vehicle issues - transport for transfer from PS was not immediately available. The same vehicle had to collect from another 7 PS before it came and collect at the PS we were observing.

Counting procedures did not appear efficient (eg ballot papers handled at least 9 times each). Procedures could perhaps be streamlined.

Police officers' presence in the counting location and outside the polling station appreciated. Police officer assisted the EO to post the pink results sheet outside the polling station.

Some minor procedural issues (e.g., total ballots cast not initially counted when box was opened post-polling) but overall no significant irregularities.

XIV. Annexes

List of abbreviations

APP - All Peoples Party
CEDAW - the Convention on the Elimination of all Forms of Discrimination Against Women
CRPD - Convention on the Rights of Persons with Disabilities
CSO - Civil Society Organisations
EMB - electoral management body
EC - Electoral Commission
FEO - Fijian Elections Office
FFP - FijiFirst Party
FICAC - Fiji Independent Commission Against Corruption
FLP - Labour Party
FPF- Fiji Police Force
ICCPR - International Covenant on Civil and Political Rights
MIDA - Media Industry Development Authority
MOG - Multinational Observer Group
NFP - National Federation Party
NGP - New Generation Party
PAP- The People's Alliance Party
PDW – Polling Day Worker
PO - Presiding Officer
PS - Polling Station
RFMF - Republic of Fiji Military Force
RMiS - Results Management Information System
SODELPA - Social Democratic Liberal Party
SoE - Supervisor of Elections
the Constitution - Constitution of the Republic of Fiji of 2013
ToR - Terms of Reference
UFP - Unity Fiji party
UFP - We Unite Fiji Party

Photo Gallery of MOG activities



The Co-Chairs of the Multinational Observer Group (MOG): the Hon. Rebekha Sharkie MP, Parliament of Australia, Mr Dharmendra Sharma, Senior Deputy Election Commissioner of India and HE Ambassador Muhsin Syihab, Ministry of Foreign Affairs of Indonesia.



Supervisor of Elections, Mohammed Saneem briefing the MOG Secretariat Observer Coordinator Paul Wojciechowski on security arrangements for the dispatch of sensitive materials to polling venues throughout Fiji.



MOG observers witness the transportation of ballot boxes following pre-polling on Malake Island.



MOG observes Fiji Police transporting sealed ballot boxes.



The MOG Secretariat reviewing amendments to Fiji's electoral legislation and seeking further understanding from Fijian legal experts.



A MOG observer from New Zealand visiting a pre-polling venue in Ogea village in the Lau group.



The Supervisor of Elections briefing MOG Observer Coordinator Paul Wojciechowski and Deputy Coordinator Andrew Edgar on election logistics.



MOG Secretariat member observing the delivery of printed ballots to the FEO's secure storage facility.



MOG observer outside of the central processing centre during the counting process.



MOG observers in the Lomaiviti group during pre-polling.



MOG observer inspects arrangements for sensitive material storage in Labasa.



MOG observers witness voting at a pre-polling venue in Ba Province.

Annex A – Terms of Reference

Multinational Observer Group For 2022 Fijian General Election

INTRODUCTION

This Terms of Reference sets out the framework and scope within which the Multinational Observer Group ('MOG'), on the invitation of the Fijian Government must work and conduct itself and which it must adhere to, as it observes the 2022 Fijian General Election.

Paragraph 1: Scope of Multinational Observation

The MOG will:

- a) Observe and evaluate the functions and operations of the Fijian Elections Office ('FEO') with respect to the 2022 Fijian General Election;
- b) Observe and evaluate the voter registration process and the establishment of the National Register of Voters and Polling Station Voter Lists;
- c) Observe and evaluate the voter awareness campaign including voter information provided or authorised by FEO;
- d) Observe and evaluate the nomination and registration of candidates and conduct of political parties as prescribed in the Fijian *Electoral Act 2014* ('Act');
- e) Observe and evaluate Pre-Poll, postal voting and election day operations and events that facilitate voting operations in compliance with the procedures established in the Act;
- f) Observe and evaluate the vote counting process, the determination of election results and the dissemination thereof;
- g) Observe and evaluate the resolution of disputes throughout the electoral cycle, including any mechanism established to hear and adjudicate election related disputes; and
- h) Assess whether the voter processes of the FEO facilitated and assisted Fijian voters to exercise their right to freely vote and whether the outcome of the 2022 Fijian General Election broadly represented the will of all Fijian voters.

Paragraph 2: Duration of Multinational Observation

- a) The MOG will be made up of both long term observers, who will arrive in Fiji prior to the election date, and short term observers, who will arrive prior to polling and stay until polling and counting have been finalised. The final number of observers and dates of arrival and departure will be mutually decided by the Fijian Government and relevant international partners.
- b) The MOG will commence its tasks once it has been given an induction of electoral laws by the FEO, and has received the accreditation documents from the FEO, and will conclude once the MOG has submitted its report in accordance to Paragraph 3.

Paragraph 3: Reporting

- a) Based on the scope of the MOG as outlined in Paragraph 1, the co-leads will:
- b) Issue an interim media statement at the conclusion of the election detailing the MOG's observations, which will reflect the views of all members of the delegation and will not be attributable to any individual country or organisation; and
- c) (ii) Issue to the Fijian Government, Electoral Commission ('EC') and the FEO an observation report as soon as practical after the conclusion of the election process, which will contain a determination on all the matters provided in the scope of the MOG under Paragraph 1, and where appropriate the observation report will also offer recommendations for improving the integrity and effectiveness of future electoral and related processes.
- d) Before issuing the media statement and the observation report under this Paragraph the MOG must comply with Paragraph 7(k), and seek a response from the EC and the FEO accordingly.

Paragraph 4: Composition of the Multinational Observer Group

- a) The MOG will include a team of observers to form a single coordinated group, from countries and organisations which are approved by the Fijian Government.

- b) The Fijian Government has invited Australia, India and Indonesia to co-chair and coordinate the MOG, and work with other accredited election observers to establish a single consolidated international observation mission. The co-chairs will be the primary contact point between the MOG and the Fijian Government.
- c) The co-chairs will manage and coordinate the MOG overall, including the allocation of specific delegation members to observe the various aspects of the process as set out above.
- d) The MOG will establish a Secretariat to coordinate logistical support and briefing to the delegation, for the duration of the observation mission.

Paragraph 5: Commitment to Co-operate

The Fijian Government:

- a) Will seek the approval of the FEO, to provide unimpeded access to the MOG to all stages of the election process and all election technologies and the certification processes for voting and other technologies, without requiring the MOG to enter into confidentiality agreements concerning technologies or election processes;
- b) Will facilitate unimpeded access to the MOG to all persons concerned with election processes, including:
 - (i) Electoral officials at all levels subject to the approval of the FEO; and
 - (ii) Members of the Fijian Government whose functions are relevant to organising genuine democratic elections;
- c) Will ensure freedom of movement around the country for all members of the MOG;
- d) Will ensure full, country-wide accreditation (that is, the issuing of any identification or document required to conduct election observation) for all observers who are part of the MOG as long as the MOG complies with the requirements for accreditation; and
- e) Will ensure that no Governmental authority will interfere in the activities of the MOG, or individuals or organisations that provide information to, or support for, the MOG, in accordance with the laws of the Republic of Fiji.

Paragraph 6: Accreditation and Identification of the Multinational Observer Group

- a) All countries/organisations who are part of the MOG must submit an application to the Fijian Government for approval which will specify:
- (i) The name of the country/organisation;
 - (ii) The photograph, name and nationality of each observer designated by the country/organisation;
 - (iii) The intended time of stay in Fiji; and
 - (iv) A statement, duly executed by each observer, that they will abide by the laws, regulations, guidelines, this Terms of Reference and the Code of Conduct for the MOG, which is annexed to this Terms of Reference.
- b) Upon receipt of the application for approval, along with its accompanying documentation, the Fijian Government will make a decision on the approval of each observer, and, if approved, will request the FEO to issue an official accreditation to the observer.
- c) The FEO may (following reasonable consultation with co-leads) revoke the accreditation of any accredited member of the MOG if the organisation or accredited member:
- d) Has failed to adhere to the laws of the Republic of Fiji;
 - e) Has failed to adhere to the lawful instruction, direction or order issued by the FEO;
 - f) Has shown a bias in the observation of the electoral process;
 - g) Has obstructed election officials in the conduct of their official duties; or
 - h) Has not adhered to this Terms of Reference or the Code of Conduct for the MOG.

Paragraph 7: Rights and Privileges of the Multinational Observer Group

All accredited observers who are part of the MOG will have the following rights and privileges:

- a) To receive a visa to enter Fiji if this is required;
- b) To enjoy freedom of movement throughout Fiji, without prior permission or notification;
- c) To communicate freely with the Government, political parties, coalitions of parties, independent candidates, non-government organisations, civil societies and other social and political organisations in Fiji;
- d) To seek clarifications from all the organisations involved in the electoral process on matters connected with the activity of the observation of the elections, and to obtain answers in a useful and timely manner;

- e) To observe voter registration activities, voter awareness activities, the vote, the count and the dissemination of election results;
- f) To have access to information transmitted by the EC and FEO and its officers in relation to any complaints regarding the electoral process that may have been registered;
- g) To open offices in Fiji, if so required, to ensure the successful accomplishment of this Terms of Reference;
- h) To observe the participation, as authorised by law, of the political parties or coalitions of parties connected with the electoral process;
- i) To have freedom of access to all polling stations and counting centres at all times, subject to the laws of the Republic of Fiji and any reasonable instruction or directions issued by the FEO;
- j) To have freedom to examine all electoral materials including ballot boxes, ballot papers and indelible ink, which are to be used; and
- k) To communicate according to the provisions of this Terms of Reference and based on the scope of MOG as outlined in Paragraph 1, the findings of the observation to the EC and the FEO and seek a response from the EC and the FEO before making these views public.

Paragraph 8: Commitments

Individual members of the MOG will make the following commitments:

- a) To respect the Constitution of the Republic of Fiji;
- b) To exercise their role with impartiality, independence and objectivity;
- c) To identify themselves immediately, whenever necessary, and at all times to wear or otherwise prominently display the prescribed identification cards issued by the Supervisor of Elections;
- d) To notify election officials of any action or conduct which they believe to be serious infringements of the electoral process;
- e) Not to interfere with, or impede, the normal course of the electoral process;
- f) Not to issue individual statements (including by or on behalf of any person or country) about the electoral process to the media; and

g) To abide by the annexed Code of Conduct for the MOG.

Paragraph 9: Status of Diplomats

Any Diplomat, who makes an application for approval and accreditation under Paragraph 6 shall perform the functions as set out in this Terms of Reference without prejudice to the provisions of the Vienna Convention on Diplomatic Relations of 1961.

Paragraph 10: Funding

All countries/organisations, duly approved and accredited under this Terms of Reference, will be wholly responsible for all costs in their observing duties. The Fijian Government, EC and the FEO will not be responsible for any such costs.

This Terms of Reference does not create any legally binding rights or obligations under international law.

Annex B - Code of Conduct for the Multinational Observer Group for 2022 Fijian General Election

ANNEXURE

CODE OF CONDUCT FOR THE MULTINATIONAL OBSERVER GROUP FOR 2022 FIJIAN GENERAL ELECTION

All observers in the Multinational Observer Group ('MOG') observing the 2022 Fijian General Election must be familiar with and abide by this Code of Conduct.

1. Respect for Sovereignty, Constitution and the Law

The observer must perform his or her functions with:

- (a) Respect for the sovereignty of the Republic of Fiji;
- (b) Respect for and compliance with the Constitution of the Republic of Fiji; and
- (c) Respect for and compliance with the laws of the Republic of Fiji, including the *Electoral Act 2014*, and any direction or instructions issued by the Electoral Commission and the Fijian Elections Office ('FEO').

2. Neutrality

The Observer must:

- (a) Act in a strictly neutral and unbiased manner in relation to national authorities, including the electoral officials, political parties, candidates, voters and the media;
- (b) Avoid any conflict of interest during observation and assessment, and must immediately report to the Fijian Government of any conflict of interest;
- (c) Refrain from accepting any gifts from individuals or organisations;
- (d) Refrain from any action likely to be interpreted as indicating partisan support for any candidate, political party or organisation;
- (e) Refrain from expressing partisan views;
- (f) Exercise the highest level of personal discretion, at all times; and

(g) Refrain from wearing or carrying party or independent candidate symbols.

3. Accuracy and Transparency

The Observer must:

- (a) Obtain a valid view of all aspects of the electoral process relevant to its legitimacy;
- (b) Obtain a valid view of the way the electoral process has progressed in all parts of the country;
- (c) Consult widely with relevant political organisations and members of the Fijian public;
- (d) Take all necessary steps to assure that all information gathered by them and conveyed to others as part of the observation process has a sound factual basis;
- (e) Ensure that all information is collected in a way that is systematic, clear and unambiguous; and
- (f) In respect of any allegations which reflect adversely on the FEO or on a participant in the electoral process, obtain the response of the concerned party before treating such an allegation as valid.

Annex C – Pre-Election Day Statement

Pre-Election Day Statement

FIJI GENERAL ELECTION 2022

Suva, 13 December 2022

Since the issuance of the Writ for the 2022 General Election on 31 October, the Multinational Observer Group (MOG) has observed all key electoral steps to date and evaluated the Fijian Elections Office (FEO) functions, operations and preparations ahead of Pre-Polling week and Election Day on 14 December.

In summary, the MOG has observed the FEO to be a professional organisation that is well-prepared to deliver a successful General Election in 2022. The MOG notes the Supervisor of Elections' advice that all Fijians who are registered to vote and arrive at their designated polling venue will be able to vote on election day, with or without their updated voter card.

The MOG was provided with full access to observe all steps in the electoral process, including the voter registration process, establishment of National Register of Voters, polling staff training, voter awareness and education, candidate nomination (including appeals and objections), candidate draw, printing and storage of ballots, and pre-poll voting.

The MOG also met with a vast array of stakeholders, such as political parties, civil society, religious groups and all relevant Fijian government institutions. This has included visits and meetings in remote areas of the country across all four divisions.

The MOG assesses that the FEO has continued to improve its processes since the 2018 general election, including having implemented a number of key recommendations from the 2018 MOG report. For example, significant efforts have been made to engage directly with communities regarding voting procedures and to increase the public presence of the FEO as a technically proficient organisation. The MOG welcomes the FEO's recent partnerships to increase voter awareness and information, including among younger voters in remote areas and women. The MOG notes the FEO has also made use of technological aids, such as barcode scanning, to ensure greater security and efficiency in the packing and storing of ballot papers, as well as the ability for voters to text a hotline to confirm their polling station.

The MOG has not observed any irregularities in the electoral steps observed to date or significant issues that would prevent registered voters from casting their ballot during pre polling through postal voting or on Election Day on 14 December. No significant irregularities were observed at the 115 pre-polling venues visited by MOG observers from 5 to 9 December.

But our work does not stop here. The MOG will deploy over 90 observers from 16 countries and two regional organisations (Pacific Islands Forum Secretariat and Melanesian Spearhead Group)

to observe election day polling. MOG observers will visit every one of the four of Fiji's electoral districts. The MOG will also observe the counting and tallying of the ballots.

Soon after election day, the MOG will release an interim statement outlining our initial observations. A final report will be completed as soon as practical after election day, which will include more detailed observations from stakeholders engaged, an assessment of the electoral processes observed and any recommendations as appropriate.

The MOG strongly encourages all registered Fijian voters to make their voice heard and come out and vote on 14 December.



INTERIM STATEMENT FIJI GENERAL ELECTION 2022

Suva, 16 December 2022

Ahead of Fiji's General Election on 14 December, the Multinational Observer Group (MOG) deployed 90 observers across Fiji. The MOG was comprised of participants from 16 countries and two regional organisations: the Pacific Islands Forum Secretariat and the Melanesian Spearhead Group. The MOG has had unrestricted access to observe all key stages of the electoral process to date. At the time of issuing this Interim Statement, MOG observers are attending the National Count Centre and National Results Centre. In the first quarter of 2023, the MOG will issue a final report, which will include a more detailed assessment of the MOG's observations and recommendations to further strengthen Fiji's election processes.

The Co-Chairs of the MOG are pleased to provide the following Interim Statement.

EXECUTIVE SUMMARY

- **The MOG did not observe any significant irregularities or issues during PrePolling, postal voting, or Election Day voting. The MOG assesses that Fijian voters were able to exercise their right to vote freely.**
- **The Fijian Elections Office (FEO) had built upon lessons learnt from delivering the 2014 and 2018 General Elections to improve its administration and operational effectiveness. This included significant efforts to expand voter awareness to support voters in exercising their right to vote.**
- **The MOG observed the functions and operations of the FEO to be technically proficient and assesses that it was well-prepared to deliver a transparent and credible electoral process in a professional manner.**
- **Many non-government stakeholders reported their concerns regarding increased restrictions on some previously available formats of election-related activities and discourse ahead of the election.**
- **Voting took place in a calm, peaceful environment.**
- **The MOG observed that persons with disabilities were actively assisted to vote during PrePolling and on Election Day.**
- **Counting proceeded in a systematic, methodical and transparent manner, consistent with the republished FEO guidelines.**
- **On the evening of 14 December, the FEO reported immediately to the MOG an 'anomaly' in its *FEO Results App* presenting provisional vote results, which was rectified.**
- **The publication of updates on final results has been slower than anticipated, due to additional quality control processes.**

About the MOG

The Multinational Observer Group (the MOG) was established at the invitation of the Fijian Government, comprising three co-chair countries, Australia, India and Indonesia. This is the third time the Fijian Government has invited the co-chair countries to establish a MOG to observe the General Election.

The three Co-Chairs were: Ms Rebekha Sharkie MP, representing Australia, Mr Dharmendra Sharma, representing India and HE Ambassador Muhsin Syihab, representing Indonesia. The MOG was comprised of participants from 16 countries and two regional organisations: the Pacific Islands Forum Secretariat and the Melanesian Spearhead Group.

Prior to the Writ for the General Election being issued, the Governments of Fiji, Australia, India and Indonesia agreed to a Terms of Reference (TORs),⁷² which enabled the MOG to have freedom of movement and consultation.⁷³ The TORs also instructed the MOG to observe and evaluate a range of electoral processes and to assess (i) whether the voter processes of the FEO facilitated and assisted Fijian voters to exercise their right to vote freely, and (ii) whether or not the outcome of the election broadly represented the will of all Fijian voters.⁷⁴

Electoral Context

The Constitution of the Republic of Fiji ('the 2013 Constitution') provides the foundation for its electoral system. Following elections in 2014 and 2018, in 2022, Fiji held its third General Election under that system.

Parties and Candidates

The total number of parties and candidates contesting the 2022 General Election was higher than in both 2014 and 2018.

In 2018, there were 235 candidates from six parties and no independent candidates contesting 51 seats. Subsequently in the election cycle, one of the parties was deregistered.

In 2022 there were nine parties, four of which were newly registered, and 342 candidates, including two independents, contesting 55 seats.

Of the 343 candidates contesting the 2022 General Election, 56 were women. This is the same number of women who contested the 2018 General Election. Due to the rise in candidate numbers in 2022, women made up 16.3 percent, when compared with 17.7 percent in 2014 and 24.0 percent in 2018. The MOG notes with concern this proportional reduction in women's participation as candidates when compared to the 2014 and 2018 General Elections. The MOG recognises that a system of government that reflects the diversity of the community, including gender diversity, is a key pillar of democracy (see further, 'Women's Participation' below).

⁷² Signed on 18 October 2022. Available at: <https://www.feo.org.fj/storage/2022/10/TOR-Endorsed-18.10.22.pdf>

⁷³ See Terms of Reference, paragraph 5.

⁷⁴ See Terms of Reference, paragraph 1(h).

The MOG observed that political parties and candidates were able to utilise designated public spaces to campaign. Many non-government stakeholders reported their concerns regarding an increased restriction⁷⁵ on some previously available formats of election-related activities and discourse, such as opinion polling and surveys, research workshops, candidate-development activities, and publishing of private opinion articles.

Voters

In 2022, there were 693,915 registered voters. This was an increase from 2018, when 637,527 people were registered to vote. In 2018, there was a voter turnout of 458,532 (71.92 percent). At the time of issuing this Interim Statement, the FEO had not published any statistics on voter turnout for the 2022 General Election. The Supervisor of Election (SOE) informed the MOG that figures on voter turnout will be published with the final results.

In relation to Pre-Polling, in 2022, there were 77,907 (11.2 percent) registered voters. Of those registered, 54,246 (69.63 percent) turned out to vote. This was slightly higher than in 2018 which saw a turnout of 45,510 (65.6 percent). There were no significant weather events or other impediments to pre-poll voting reported during the 2022 General Election.

As to women's participation, in 2022, there were 345,566 (49.8 percent) women registered to vote, compared to 316,431 (49.63 percent) in 2018. Accordingly, 2022 was the largest number of women voters registered to date.⁷⁶

Legal Framework

The 2013 Constitution establishes the legal framework for the conduct of Fiji's elections, including regular elections based on universal adult (18 years) and nondiscriminatory suffrage, and secret ballot. In these respects, the 2013 Constitution provides a good basis for a general election that complies with fundamental international standards.

Further to the foundation provided in the 2013 Constitution,⁷⁷ Fiji's electoral framework is expanded upon in legislation.⁷⁸ This legislation sets out the roles and responsibilities of the relevant electoral authorities, as well as other bodies in the electoral system such as political parties, candidates, voters and the media.

Fiji has also ratified several international treaties that contain obligations relevant to the electoral process, including the *International Covenant on Civil and Political Rights* (ICCPR), the *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW) and the *Convention on the Rights of Persons with Disabilities* (CRPD). These international commitments

⁷⁵ In particular, *Electoral Act 2014*, s 115, which was in the Act in 2018, as well as ss 110A and 144A, which are recent amendments.

⁷⁶ All statistics cited above, and throughout this Interim Statement, are subject to final verification at the end of the electoral process.

⁷⁷ See in particular, *Electoral Act 2014*, ss 17-19, 23, 52-59, 66, 75-76.

⁷⁸ Principally: *Electoral Act 2014*, *Electoral (Registration of Voters) Act 2012*, *Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013*, but other acts have been considered throughout the course of the observation process.

provide voters with rights and protections, many of which have been implemented in Fiji's domestic framework.

Since 2018, the *Electoral Act 2014* ('*Electoral Act*'), the *Electoral (Registration of Voters) Act 2014*, the *Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013*, and other related legislation⁷⁹ have been amended on the basis that it would improve the electoral process.

The MOG notes that many non-government stakeholders and members of the public raised concerns in relation to these amendments and their impact on the interaction between the public and electoral authorities.

Electoral Authorities

The legal framework establishes an independent electoral management body headed by an oversight and policy-making body⁸⁰ - the Electoral Commission (EC) - and an executive, operational arm, the Fijian Elections Office (FEO), headed by the SoE.⁸¹

Fijian Elections Office and the Electoral Commission

The MOG had unrestricted access to the FEO and its operations, including briefings on processes and procedures and weekly meetings with FEO staff and the SoE where MOG staff were free to ask questions. Observers were also present during all critical stages of the electoral process, commencing with the issuance of the Writ on 31 October.⁸² Electoral processes covered included candidate registration, nomination, and lodging of appeals, campaign rallies, polling day worker training, the printing, storage and distribution of sensitive materials, Pre-Polling and Election Day across the four divisions, the counting and tallying of votes, and aspects of the information technology (IT) used to support the electoral process.

The MOG examined the FEO's processes and procedures put in place to support the running of the General Election in 2022. The MOG observed that they were robust and had adequate checks and balances to ensure that any irregularities would be detected and mitigated. The MOG also observed the FEO to be open and transparent in its engagements with the MOG and noted a depth of professionalism within the FEO structure, with an emphasis on the empowerment of officers, including women.

In 2017, amendments to the *Electoral Act*, which made the SoE the Secretary to the EC,⁸³ were designed to create greater coordination between the two components of Fiji's electoral management body. Although this model aligns with international standards, and greater coordination between the EC and FEO had been commended,⁸⁴ in 2022, various stakeholders reported to the MOG that this change created the perception of a lack of separation of powers

⁷⁹ Such as the *Births, Deaths and Marriages Act 1975*, and the *Interpretation Act 1967*.

⁸⁰ *Electoral Act*, s 3.

⁸¹ *Electoral Act*, s 6.

⁸² Writ for Election, published in Government of Fiji Gazette, Vol. 23, No. 129 (31 October 2022).

⁸³ *Electoral Act*, s, 5(7).

⁸⁴ See 2018 Final Report of the Multinational Observer Group, p. 14.

between the EC and FEO. Furthermore, they reported that this perception had contributed to a disconnect between the public and electoral authorities. The MOG notes that the appeal procedure for the EC was utilised in 2022 in relation to candidate nominations: of the ten appeals lodged, one appeal was upheld.⁸⁵

Fiji Independent Commission Against Corruption

In addition to the electoral management body, the Fiji Independent Commission Against Corruption (FICAC) plays a significant role in supporting the integrity of Fiji's electoral framework. Noting the *Electoral Act* creates several electoral offences, FICAC is directed to investigate and prosecute 'any offence of corrupt or illegal conduct pertaining to any election'.⁸⁶ At the time of issuing this Interim Statement, the MOG noted that during the 2022 campaign period, FICAC received 60 complaints, seven cases were taken to court, seven cases were closed and 46 cases were under investigation.⁸⁷ Overall, the MOG observed FICAC to be a professional institution that sought to conduct its functions in the public interest.

Voter Register

The EC has responsibility for the registration of voters.⁸⁸ Voter registration for the 2022 General Election closed on 31 October at 6 pm, as specified in the Writ.⁸⁹ In total, there were 693,915 registered voters, including 77,907 Pre-Poll and 9,448 overseas voters. This was the highest number of voters registered to vote in a general election in Fiji's history.

The FEO has continued to maintain the voter register to a high standard. This includes a range of initiatives and awareness campaigns that support Fijians to update their personal information efficiently and effectively. To bolster the integrity of the voter register, during an election year the FEO cleanses the data against the birth, deaths and marriages register monthly to mitigate the chance of deceased voters being included. This is done biannually outside of the election year.

Voter Awareness and Information

Partnerships

The 2018 MOG report recommended the FEO focus on voter awareness and an expansion of partnerships, including with civil society organisations (CSOs). The MOG welcomes the FEO's recent expansion of its partnerships, including with the United Nations Development Programme, to increase voter awareness, including in remote areas, with young voters and women. This includes the rollout of the *Know Your Election* campaign across all four divisions. The FEO also

⁸⁵ *Electoral Act*, s 31.

⁸⁶ *Fiji Independent Commission Against Corruption Act 2007*, s 2A(c).

⁸⁷ See for example: <https://www.fijitimes.com/2022-bgeneral-election-elections-office-refers-duo-to-ficac/>; <https://www.feo.org.fj/national-federation-party-referred-to-ficac/>; <https://www.fijitimes.com/flp-refer-fijifirst-to-ficac-for-breach-of-electoral-act/>; <https://www.fijitimes.com/2022-general-election-fijifirst-party-candidate-oconnor-fronts-court/>.

⁸⁸ *Electoral Act*, s 3(1)(a).

⁸⁹ *Electoral Act*, s 19; Writ for Election, published in Government of Fiji Gazette, Vol. 23, No. 129 (31 October 2022).

published a 2022 election information booklet in six languages. During the electoral cycle, the FEO implemented programs with the Ministry of Education to include civic education for high school students.

The FEO significantly increased its engagement with grass-roots organisations who have strong community links, having engaged over 180 organisations. This was a shift in approach from 2018 where the FEO engaged larger CSOs, including those that deliver civic education to communities while also engaging in policy formulation and advocacy.

The MOG commends the FEO for its efforts to expand its engagement with voters at all levels of the community. However, CSOs reported their concerns having been excluded from the electoral process given their traditional role in civic education. The MOG notes that these CSOs traditionally deliver education and awareness initiatives that go beyond the voting process to include education on broader matters such as human rights, gender and strengthening democracy. The MOG notes that active participation of civil society in election-related activities, including using civil society as domestic observers and engaging with civil society as stakeholders, is a component of a healthy democracy (see further 'Inclusiveness and Participation in the Electoral Process' below).

Voter Cards

Prior to the 2022 election, the FEO introduced a new voter card which included the name of the polling venue where the voter must cast their vote. This was a direct response to an issue raised during the 2018 General Election when a cohort of voters were unable to vote because they attended the wrong polling station. In 2022, the MOG observed that there were a small number of voters that attended the incorrect polling station, but of the polling stations observed, this error in attendance was not systemic. The MOG also noted that in the majority of these instances, FEO officials were able to assist voters to find their correct polling station by texting the FEO hotline.

The MOG understands that 90 percent of voters changed over to the new card. The new card is not required to vote; a point that was not well-understood or communicated in the lead up to PrePolling. During Pre-Polling, the MOG observed that voters without identification were able to vote after identifying themselves to the Presiding Officer at their designated polling station. The MOG welcomes the FEO's subsequent efforts to clarify this fact closer to the election.

Use of Government Resources during the Campaign

A criticism from the 2018 General Election was a lack of laws, guidance or conventions regarding the conduct of Ministers, Members of Parliament and the bureaucracy once Parliament is dissolved ahead of a general election. In 2022, many non-government stakeholders again raised this criticism with the MOG as an ongoing key concern that directly impacts on public confidence in the electoral process. Many non-government stakeholders told the MOG that this gave any incumbent government an unfair political advantage in elections by allowing them to announce and implement government programs during the campaign period.

The 2018 MOG report recommended the Fijian Government introduce guidelines to foster a greater level of public confidence in the electoral process. The MOG observed the limited changes made to the *Electoral Act* in 2021 which prohibits the use of government vehicles to conduct campaign activities.⁹⁰

Inclusiveness and Participation in the Electoral Process

Domestic Observers

The Minister for Elections has the power to invite domestic observers to take part in a general election.⁹¹ The MOG noted that there were no domestic observers invited in 2022 or public notice that would both encourage and support applications from domestic observers. Fijian civil society representatives have expressed to the MOG a strong interest in observing this and future general elections.

Women's Participation

A key concern raised with the MOG was the September 2021 amendment to the *Electoral (Registration of Voters) Act 2012* which required individuals to register to vote using their name as specified on their birth certificate. Many non-governments stakeholders, including the public, criticised this amendment as adversely affecting women and iTaukei, who frequently use names that differ from that used on their birth certificate.

Without further disaggregated statistics on voter turnout and the voter register, the MOG cannot assess the impact of the amendment. However, stakeholders raised concerns that the amendment had not been subject to sufficient consultation contributing to declining trust and confusion amongst some communities. The MOG is aware that this amendment is currently the subject of constitutional challenge.

In relation to women's participation as officials in the electoral process, the MOG commends the high proportion of women in leadership roles within the FEO. Of the polling stations visited by observers, during Pre-Polling and Election Day, at the time of issuing this Interim Statement, the MOG observed that 73.79 percent of polling day workers were women, and 67.54 percent of Presiding Officers were women.

Participation by voters with a disability

The MOG appreciates that electoral authorities have continued to make significant efforts to engage with organisations representing persons with disabilities to enable assisted voting. The MOG welcomes amendments to the *Electoral Act* in this regard.⁹²

⁹⁰ See *Electoral Act*, s 113(4A).

⁹¹ See *Electoral Act*, s 119.

⁹² See *Electoral Act*, ss 53 and 57.

The MOG commends the intention of the Elections Disability Access Working Group (EDAWG) to continue to meet after the 2022 General Election, rather than disbanding and regrouping ahead of the next General Election, so that disability-related issues can be improved iteratively. The MOG observed that persons with disabilities were assisted to vote during PrePolling and on Election Day, including voter materials being available in braille.⁹³ However, noting the challenging locations in which many polling stations were located, of the polling station visited, at the time of issuing this Interim Statement, MOG observer teams rated 66.28 percent of Pre-Polling and Election Day polling stations as having adequate infrastructure to support independent access for persons with disabilities. Where infrastructure was not adequate, the MOG welcomes that persons with disabilities were assisted to vote outside of the pre-polling and polling stations.⁹⁴

Media Coverage of the Electoral Process

Fiji's media reported widely and relatively comprehensively on the electoral campaign, and hosted debates and interviews with a range of candidates from all political parties on radio, television, and social media. Despite a relatively robust industry, many media stakeholders told the MOG that the environment in 2022 was more restrictive than in 2018. Stakeholders said that this had led to a culture of self-censorship amongst journalists due to severe consequences of statutory default.⁹⁵ Stakeholders also noted the onerous requirements for publishing opinion polls, which resulted in no polls being published since these requirements were legislated in August 2022.⁹⁶

The *Media Industry Development Act 2010* establishes the Media Industry Development Authority (MIDA),⁹⁷ as well as the Media Tribunal to, *inter alia*, hear and determine complaints referred to by MIDA and to adjudicate breaches of media codes.⁹⁸ Although legislatively remaining a body, the MOG observed that the status of MIDA and the Media Tribunal had changed considerably since the 2018 election. The MOG was advised that MIDA no longer has any full-time staff and nor performs the functions prescribed to it under the Act. The MOG also observed that the FEO had taken over some roles that it had previously shared with the MIDA, such as media accreditations, and had taken on a monitoring role, such as requesting the media issue retractions or corrections using the newly created offence on 'publication of false statements'.⁹⁹

Pre-Polling, Postal Voting and Election Day

Voting during Pre-Polling and on Election Day took place in a calm and peaceful environment in which Fiji's police performed their duties diligently and voters demonstrated commitment, often

⁹³ See *Electoral Act*, s 43(4), which requires that 'facilities provided at a polling station where practicable must be reasonably equipped and designed to enable persons with disabilities or other special needs to cast their vote'.

⁹⁴ In accordance with *Electoral Act*, ss 53 and 57.

⁹⁵ For example, under the *Electoral Act*, contravention of the media blackout laws (s 118) carries a maximum penalty of 5 years imprisonment, and commission of the offence of 'publication of false statements' (s 144A) carries a maximum penalty of \$50,000, 5 years imprisonment, or both.

⁹⁶ See *Bill No. 49 of 2022*.

⁹⁷ To, *inter alia*, 'encourage, promote and facilitate the development of media organisations and media services in Fiji...[and] ensure that nothing is included in the content of any media service which is against public interest or order, or national interest, or which offends against good taste and decency and creates communal discord'. See *Media Industry Development Act 2010*, s 8.

⁹⁸ *Media Industry Development Act 2010*, s 50.

⁹⁹ *Electoral Act*, s 144A.

queuing in heat, wind and rain. The MOG observed polling station staff to be competent, courteous, and well-prepared.

Pre-Polling

Pre-Polling provided residents of nursing homes or health care facilities, members of the disciplined forces, those under pre-trial detention or serving a sentence of imprisonment, and those living in remote areas with the opportunity to vote. The MOG acknowledges the geographical and environmental challenges associated with delivering Pre-Polling in Fiji, particularly in remote areas. The MOG commends the FEO on their efforts to support all members of the community in exercising their right to vote.

From 5 to 9 December, the MOG observed Pre-Polling across Fiji's four divisions and visited 115 pre-polling stations. The MOG visited polling stations unannounced and had unrestricted access to conduct their observations. The MOG observed the FEO to be well prepared to deliver pre-polling services.

Most pre-polling stations respected the published times for opening. The MOG welcomes the FEO's decision to extend the time to vote in certain areas to support students who were finishing exams. Pre-poll teams and Fiji Police secured ballot boxes and adhered to ballot box seal and transfer processes. The MOG also witnessed the packing of sensitive materials for Pre-Polling at the FEO Central Warehouse and the checking of materials by the corresponding Presiding Officers on arrival at polling stations. The MOG did not observe any campaigning at pre-polling stations. The overall conduct of Pre-Polling was rated as 'very good' (76.39 percent) and 'good' (23.61 percent) by MOG observer teams.

Postal Voting

The MOG notes the FEO supported voters to exercise their right to vote in the 2022 General Election via postal ballot. In particular, the MOG notes overseas registrations were facilitated by Fiji missions abroad who received training from the FEO in delivering voter services. Voter awareness efforts included an overseas registration drive which saw FEO representatives deliver a schedule of in-person awareness sessions to support overseas voters. Overseas voters who happened to be in Fiji, and who had not applied for postal voting, could vote at a designated polling station in Suva. The 2022 General Election was the first time this option was available to individuals registered as overseas voters but were in Suva on Election Day.

Election Day

The MOG deployed 90 observers across Fiji's four divisions. The observers visited over 450 polling stations. As with Pre-Polling, the MOG visited polling stations unannounced and had unrestricted access to conduct their observations. Of the polling procedures observed, no significant irregularities or impediments were noted. The MOG also notes that staff were welltrained and resourced to undertake their duties. The MOG did not observe any campaigning

at or around polling venues. At the time of issuing this Interim Statement, MOG observer teams rated the overall administration of polling stations on Election Day as very good (70.91 percent) and good (28.81 percent).

The MOG notes there were late changes to the location of some polling stations on Election Day due to *force majeure*. These changes were published widely, including on the FEO website, via local news and on social media which seemed to mitigate any potential impact on voters. The MOG is aware of criticism from some civil society members that these changes had not been communicated as effectively, especially outside urban centres. In many locations, the FEO provided free public transport to assist voters to get to polling stations.

Overall, the MOG observed that voting took place in a calm and peaceful environment in which Fiji's police performed their duties diligently and voters demonstrated commitment, often queuing in heat, wind, and rain.

Counting and Tabulation of Results

Counting on Election Day took place at polling stations, immediately after closing. The count was observed and signed off, as required. The results were then communicated to the National Results Centre in Suva via phone and mobile application¹⁰⁰ to enable provisional results to be published. Hard copies of the protocol of results were placed into a tamper evident envelope at each polling station and then transported to the Central Processing Centre in Suva, from which they were dispatched to the National Results Centre. Pre-poll and postal votes were counted at the National Count Centre in Suva and then the overall tabulation of votes was conducted at the National Results Centre in Suva.

As at the time of issuing this Interim Statement, MOG observers were recorded as being present for the counting of votes at 44 polling stations on Election Day, and during the counting of pre-poll and postal voting at the National Count Centre. The MOG had a continued presence for the tabulation of results at the National Results Centre from its commencement, at 6pm on Election Day. The MOG observed that the FEO's procedures were followed with no significant irregularities noted. Counting proceeded in a systematic, methodical and transparent manner. The MOG observed that the results tallying processes were designed appropriately and had sufficient safeguards to verify the protocol of results before figures were entered into the Results Management Information System (RMiS).

The MOG notes that the *FEO Results App* was taken offline on the evening of 14 December, due to an 'anomaly' in the data.¹⁰¹ The MOG was notified immediately, and MOG observers attended the National Results Centre and were briefed by the SoE and their IT staff. The error was resolved, and the *FEO Results App* was restored after approximately four hours with corrected data.

¹⁰⁰ Named the 'My Polling Assistant App'.

¹⁰¹ The *FEO Results App* provides a means for provisional and final results to be published. The incident referred above occurred while provisional results were being published, as required under the *Electoral Act*, s 102A.

Following this event, several political parties expressed concerns. The MOG notes that the *FEO Results App* is not used to count votes, but only to publish results. Election Day votes are tabulated and counted manually at polling stations and pre-poll, postal and recount votes are counted manually at the National Count Centre, as required. The MOG observed that the tabulation process is robust with appropriate quality assurance processes.

The MOG notes that the periodic publication of final results has initially been slower than anticipated, based on the publication of results every 6 hours in 2014 and 2018. The MOG understands that the delay has been due to additional quality control processes that were implemented after the 'anomaly' that occurred in relation to the *FEO Results App*.

The MOG congratulates the FEO, in particular the polling day workers, for their professionalism and commitment to provide voters with the opportunity to express their political will.

The MOG also congratulates the people of Fiji for taking steps to further advance their electoral democracy.