

Vanuatu Elections Observer Group for the 2002 National Elections

Overhead presentation to Vanuatu Governance Update 2002,
School of Law, University of the South Pacific

Pastor David Willie Saul
Chairperson Vanuatu Elections Observer Group

Port Vila, 9 August 2002

Introduction

This paper discusses the results of the conduct of the Vanuatu National Elections 2002 as observed by the Vanuatu Elections Observer Group (EOG). The composition of the group and its terms of reference are described. The initial assessment of the likely character of the elections and the methodology of EOG are outlined. Finally, major conclusions and recommendations are summarised.

Composition of EOG

The Elections Observer Group was established on 29 April 2002, following a joint initiative by Mr Sethy Regenvanu, the Chairman of the Electoral Commission and Ms Yvette Sam, President of Transparency International Vanuatu aimed at reducing the potential for electoral fraud associated with the 2002 national elections. The project was funded by donations from the Australian, British and New Zealand Governments and the European Union.

The Prime Minister Hon Edward Nipake Natapei gave the venture his unequivocal support and invited other Pacific nations to assist. Nine of the 12 observers appointed were distinguished citizens of Vanuatu – representing chiefs, churches, police, business, education, non-government organisations, women and youth, and including the Ombudsman. Members included men and women, Anglophone and Francophone, and came from every Province in Vanuatu and three other Pacific countries, Papua New Guinea, Australia and New Zealand.

Terms of Reference of EOG

The group assembled in Vanuatu for the elections week. They were thoroughly briefed by the Electoral Commission and the Principal Electoral Officer (PEO). Their agreed goal was to observe the electoral process in Vanuatu during the 2002 national elections with a view to making an informed judgment about citizen awareness of their electoral rights and capacity to participate in a free and fair election. Specific objectives included:

- To observe freedom of movement, assembly and association on and before polling day
- To observe whether there is freedom from threats and intimidation
- To observe what arrangements exist to ensure that citizens are able to cast their votes in a managed environment, free from threats, harassment, or intervention
- To produce a Report to the Chairman of the Electoral Commission for presentation to the new Government on completion of the mission. This Report was to represent the collective opinion of all members of the Group, each of whom was required to submit an individual report. This Report might include comments on institutional, procedural and other matters as would assist in the conduct of future elections
- To make the findings of the Report public so as to enable the authorities to act upon any recommendations contained within the Report
- To provide a benchmark for electoral observation in Vanuatu.

EOG's Initial Assessment of the Likely Character of the Elections

EOG had the following initial concerns about the Elections:

- The Electoral Commission was significantly under-resourced, having insufficient funding to undertake a national public education campaign informing citizens of their basic democratic rights and freedoms.
- There was no formal register of births, deaths and marriages and other data that is conventionally employed to validate electoral rolls and it was feared the electoral roll was flawed.
- The Government had been less than transparent in recent years and Prime Ministers had ignored Ombudsman's findings and recommendations following investigations into official corruption that were meant to promote principles of good governance.
- The lack of human resources in various parts of the legal system had led to significant non-productivity and the failure to achieve successful prosecutions for criminal activity.
- The post of Police Commissioner had been vacant for more than 12 months.
- A review of the independence of the media and their capacity to be critical of any candidates who might be considered unfit for public office was not encouraging.
- Isolated incidents of electoral-related violence added to concern that citizens might not have freedom to engage in the voting process without fear of intimidation or harassment.

Methodology of EOG

The Review covered six days in Vanuatu from 29 April to 4 May 2002. Five members of EOG were assigned to Tanna, Santo, Luganville and Malekula, three to Efate and two teams of two to Port Vila. EOG members observed the last day of the Elections campaign. On the day before the Elections they travelled extensively to familiarise themselves with the location of polling stations and to organise travel where necessary to the more remote stations at which they were observing polling the next day. EOG was given access to all parts of the voting process on Election Day: the opening of the polls, voting, polling station closures, preliminary counting, transfer and security of the ballot boxes, counting, and the announcement of the preliminary results. The team saw the opening and closing of voting at polling stations and followed the sealed ballot boxes from the polling stations to the counting centres.

EOG members made use of checklists at each of the 59 polling stations they visited in six of the most populous constituencies. They recorded their observations and wrote individual and team reports. Several of the Port Vila based members watched part of the final count by the Electoral Commission. Members' comments collectively formed the basis for an analysis of the electoral process and the recommendations contained in the EOG Report¹. Six EOG members also conducted a voters' survey to assess voters' awareness and experience of electoral corruption.

The checklists and surveys were analysed and a draft report was compiled. Overseas observers commented by email and Port Vila based members of EOG met three more times to review drafts of the report. The Chairperson presented the final report to the Chairman of the Electoral Commission in the second week of June.

¹ Ibid.

Conclusions of the Report

The conclusions of the EOG summarised below fall into four main categories – comments on citizen participation in democracy, inadequacies of the electoral system that contribute to corrupt political practices, weaknesses in the Electoral Act that make the system vulnerable to electoral corruption, and an urgent need to resource the Electoral Office to enable it to conduct free and fair elections.

Citizen Participation in Democracy

- The people of Vanuatu should be congratulated for the orderly and disciplined manner in which they conducted themselves on Election Day in exercising their right to choose the representative of their choice.
- Registered voters were eager to participate. In the larger polling stations, long queues emerged before the official commencement of voting.
- The presence of observers, both national and international was well received by the political parties, candidates and voters.
- Polling officers, political party observers and police officers were cooperative, helpful and willing to share information.
- By and large the atmosphere was peaceful and the secrecy of voting was assured.

Inadequacies in the Electoral System

- The electoral roll is fundamentally flawed and is a major contributor to electoral fraud.
- There are major problems with the security and safety of electoral cards, many of these issues being outside the capacity of EOG to observe.
- Although polling procedures were generally understood and followed, there were significant exceptions, and the set of instructions for elections and arrangements for training of staff for polling stations were inadequate.
- The preliminary count was generally thorough and transparent although the official counting process was necessarily slow, and the mistake over three constituencies in the announcement of results was problematic. The resultant publicity arguably damaged the credibility of the Electoral Commission.
- Voter education and awareness could be improved.
- There is a need for ongoing capacity building and institutional strengthening, including education programs for new MPs to heighten awareness of their responsibilities to the community and the role of the media in providing a forum that contributes in a positive way to free and fair elections and the democratic process:-

Weaknesses in the Electoral Act

- The legislation in relation to elections in Vanuatu needs immediate review and strengthening, especially in relation to eligibility of candidates and voter registration.

Limited Resources in the Electoral Commission and Electoral Office

- The Electoral Commission and Electoral Office are grossly under resourced, both in relation to staffing and physical facilities, and need immediate review and strengthening.

Recommendations

Key recommendations of the EOG are briefly recorded below.

Reviewing Legislation

- The Electoral Law should be reviewed as a matter of urgency.
- The law should be strengthened to make ineligible the candidature of habitual criminal offenders, those who have been convicted of corrupt electoral practices and people with significant debts.
- Enrolment criteria for voter registration should be reviewed to reduce electoral fraud.
- Legal provision should be made to encourage and support women to stand for election and to participate in the political life of the country.
- USP Law School should contribute to a review of the *Representation of the People Act* by following up relevant aspects recommended in this report.

Prosecuting Electoral Fraud

- The Commissioner of Police should rigorously investigate allegations of electoral fraud and Public Prosecutor's Office should be resourced to prosecute offenders.

Strengthening the Electoral Commission and Electoral Office

- The role of and functions of the Electoral Commission under the *Constitution of the Republic of Vanuatu* should be independent from political interference.
- The PEO should be independent of political control and other outside influence.
- The Electoral Commission's resources should be strengthened. The Treasurer should be required by law to ensure adequate resources are available for the Electoral Commission and PEO to carry out their duties, and these should be indexed for inflation.
- Consideration should be given to appointing a legal officer to the staff of the Electoral Commission.

Reviewing Electoral Roll and Electoral Cards

- Measures to instil confidence in the registration process should be initiated. There should be a complete review of the electoral roll, with technical assistance requested where necessary. The Electoral Commission should complete the vetting of the register of voters well in advance of the next election. The roll should be regularly reviewed and updated as a matter of urgency.
- The administration of birth and death certificates should be improved and linked with the electoral roll to help to ensure the integrity of the voters list.
- The system of proxy voting should be reviewed, as it appears to be associated with fraudulent electoral activities.

Supporting Election Coordinators and Polling Staff

- The selection and appointment of returning officers for each constituency should be transparent and free of outside influence.
- Written rules and regulations covering all electoral procedures should be reviewed.
- Properly structured induction courses or seminars on the role, duties and functions of each official should be conducted, so that there is a clear understanding by such officials of their roles and responsibilities.

Preparing Polling Stations

- Polling stations should be prepared in advance of polling day to ensure adequate space and lighting. They should be inspected immediately prior to polling day to ensure these provisions have been met.
- A range of improvements to polling stations should be made to facilitate ease of voting.

Improving Polling Process

- A range of improvements to identification of voters, ballot papers and verification of voters should be made to facilitate the polling process.

Improving Counting Process

- The Electoral Commission in future should conduct counting at the provincial level in order to instil further confidence in the electoral process.
- Counting hours at both preliminary and final counting should be set to ensure observers could be present.
- Regular meal breaks should be scheduled to avoid inaccuracies arising from fatigue.

Improving Security

- The Electoral Commission should collaborate with the Commissioner of Police to implement a range of procedures to improve security of voting, transporting the ballot boxes and counting the votes.

Monitoring Candidates' Expenses

- There should be regulations on the use of MP Allocations; guidelines set to ensure transparency and accountability in the use of funds, and regular reporting to the public.

Increasing Electoral Education and Awareness

- Elections should be preceded by a comprehensive voter education and awareness campaign, directed at the rural and outer lying island populations as well as the urban-based population.
- The Electoral Commission should seek donor funding for a citizenship education program from primary school through to adult education, with a special program for 18 year olds.
- The Electoral Commission should collaborate with TIV and other agencies to undertake more election-related campaigns.

2006 Elections

- The Government of the Republic of Vanuatu should consider inviting a second EOG to participate in the 2006 national elections.

Report Follow-up

- Coordinators of elections in the Provinces and the general public should be asked to comment on the findings of the EOG Report to the Electoral Commission so they can further clarify problematic areas.
- The Electoral Commission in collaboration with aid donors should undertake research into issues of electoral fraud, particularly in relation to the electoral role, the influence of political parties and the roles and relationships between kastom and democracy.
- This Report should be translated into French and Bislama and made widely available so that all citizens have access to the information in the Report.
- The media should be invited to publish the Report in serial form and to follow up recommendations as a matter of public interest.

Summary

The Government of Vanuatu is to be commended for having the foresight and courage to establish the EOG. This is in marked contrast to Papua New Guinea, where the offer of an EOG was refused. In that country shocking corruption and tragic violence have taken place over the election period. At least 23 people have been killed, at least nine women have been raped, ballot boxes have been stolen, tampered with, or destroyed, voters have been intimidated, the Chairman of the Electoral Commission went into hiding, and troops were deployed to trouble spots to help police provide security so the elections could be completed. In the search for good governance in Vanuatu, we should be determined that such problems do not become our future.

The collaboration between the Government, the Electoral Commission and Transparency International Vanuatu depended on relationships of mutual trust and respect between the Prime Minister, Hon Edward Nipake Natapei, Chairman EC Mr Sethy Regenvanu, and the President TIV Ms Yvette Sam. The Transparency International network across the Pacific proved helpful in identifying international observers, Sir Anthony Siaguru, President TI PNG and Mr David Oughton, Treasurer TI NZ. TI Australia's Dr Barbara Butler designed an effective media campaign and assisted in the voter survey analysis. The competence and networks of Executive Officer Dr Shirley Randell were important in facilitating the observation process, data analysis and report writing. The calibre and professionalism of the Chairperson EOG, Pastor Willie David Saul and each of the observers, and the respect they had within the community were key factors in the EOG's success.

The project was conceived four weeks before Election Day. Its effective implementation would not have been possible without very prompt consideration by all donors and tolerance for uncertainty about the budget. There were no models of similar EOGs, apart from enormously expensive international operations. The Australian, British and New Zealand High Commissions, the European Union and the Bundesministerium für Wirtschaftliche Zusammenarbeit (BMZ) contributed generously.

EOG's presence and effective publicity from the media assisted in the reduction of electoral fraud and violence during the 2002 National Elections. Implementation of the EOG's recommendations will be necessary to keep Vanuatu's future elections free and fair. The EOG's Report will be widely distributed, following its consideration by Government. Full consultation is expected. The establishment and operation of the Vanuatu Elections Observer Group has become a benchmark for future EOGs in Vanuatu and indeed the Pacific. It is hoped that the Government will repeat the exercise in 2002 and make an assessment of the effectiveness of the implementation of the EOG's recommendations.

Pastor Willie David Saul, an ex Commissioner of Police, was the Chairman of the Elections Observer Group and is Principal of the Vila Christian School.

Dr Shirley Randell AM was the Executive Officer for the EOG and is Managing Director of SR International and Associates, a consultancy business in Vanuatu.