



PACIFIC ISLANDS FORUM

PACIFIC ISLANDS FORUM  
*40th Anniversary 1971-2011*

**Report of the Pacific Islands Forum  
Election Observer Mission to the  
November 17, 2010 Cook Islands General  
Election**

**30 August 2011**

## Executive Summary

On 17 November 2010, 10,038 Cook Island electors went to the polls to elect by secret ballot under a system of universal suffrage, from amongst 70 candidates (of 9 women and 61 men), 24 Members of Parliament (MPs). These MPs are elected from the Islands of Manihiki, Mauke, Mitiaro, Penrhyn, Pukapuka-Nassau, Rakahanga, Aitutaki, Mangaia, Atiu and Rarotonga. Approximately 85% of the electors voted to replace half of the MPs, effectively turning political power over from the Democratic Party to the Cook Islands Party. These are the two major political parties that continue to dominate Cook Islands' politics. Out of the 9 women candidates that stood, only one, an incumbent Democratic MP was re-elected.

On 17 November 2010, Cook Island electors simultaneously voted on a nation-wide referendum on the question, "Should there be a reduction in the number of Members of Parliament?" The referendum failed to obtain the necessary two-thirds vote required of the valid votes cast. Only 59.2% of the electors voted for it and 33.4% voted against it. The remaining 7.4% constituted informal votes.

Polling results as tabulated in the final count saw the Cook Islands Party win 16 seats with the remaining 8 seats going to the Democratic Party, effectively paving the way for the Cook Islands Party to form government with an overwhelming majority in Parliament. Its parliamentary leader, a lawyer by profession, Hon. Henry Puna and newly elected MP, duly assumed the position of Prime Minister for the Cook Islands. However, the final count for the constituencies of Tamarua (Mangaia), Vaipae-Tautu (Aitutaki), Pukapuka-Nassau and Rakahanga (Outer Islands) were disputed, and subsequently adjudicated upon by the Courts in 2011. The petition for Pukapuka-Nassau, won by a Cook Islands Party candidate who was convicted for a corrupt practice, i.e. bribery, was upheld by the Courts and the final result consequently declared void by the Court of Disputed Returns. The other three petitions were unsuccessful. A by-election was ordered for the Pukapuka-Nassau constituency and held in June 2011.

According to many Cook Islanders, the atmosphere preceding the polling and the campaign was subdued and quiet, compared to previous general elections. Nonetheless, the high voter turn-out indicates electors' general awareness of the national election through the timely and effective notification and dissemination of key electoral information by the Cook Island Electoral Office, extensively through the private media. Polling was well-organised and efficiently conducted, and was peaceful. Electoral officials, despite experiencing some logistical challenges and associated high costs of delivering polling materials to electors on isolated outer islands, were able to get their job done, enabling electors' to exercise their right to vote freely and fairly.

Overall, the 2010 general election in the Cook Islands was well-managed and organised, and held in accordance with the principles of democratic good governance and the relevant laws of the Cook Islands, and was free and fair.

**Report of the Pacific Islands Forum Election Observer Team to the November 17, 2010  
Cook Islands General Election**

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## Abbreviations

CEO	-	Chief Executive Officer
CIP	-	Cook Islands Party
DP	-	Democratic Party
MP	-	Member of Parliament
MPs	-	Members of Parliament
NZ	-	New Zealand
NGOs	-	Non-Government Organisations
PC	-	Polling Clerk
PCs	-	Polling Clerks
PGSP	-	Political Governance and Security Programme
PO	-	Presiding Officer
POs	-	Presiding Officers
RO	-	Returning Officer
ROs	-	Returning Officers

## INTRODUCTION

### *Background*

1. The Cook Islands comprises 15 widely dispersed islands in the South Pacific Ocean between French Polynesia and Fiji. The total land area of the country is 240km<sup>2</sup> (88 square miles) but its exclusive economic zone covers a maritime area of nearly 2 million square kilometres. The Northern parts of the Cook Islands comprises of seven low lying, sparsely populated coral atolls while the Southern region of the Cook Islands where most of the population lives consists of 8 elevated fertile volcano isles, including Rarotonga with 67 square kilometers.

2. According to the Cook Islands Statistics Office's quarterly statistical up-date for December 2009, the resident population was 12,000<sup>1</sup>. The Cook Islands are small in terms of land area and population. A major factor which affects the size of the resident population is movement by Cook Islanders, migrating and traveling overseas, in particular to New Zealand. Movement of people from Cook Islands to New Zealand also reflects the strong historical ties that exist between the two countries since the Cook Islands came under New Zealand's administration in 1900. In 1965, Cook Islanders chose self government in free association with New Zealand. The Cook Islands is largely responsible for its own internal and external affairs. New Zealand, however, retains limited responsibility for external affairs, but in consultation with the Cook Islands.

3. Tourism and earnings from pearl farming, aside from remittances from Cook Islanders residing in New Zealand and elsewhere, are the country's main revenue earners. Tourism accounts for more than 50% of the gross domestic product.<sup>2</sup> It has also been the catalyst for the emergence of spin-off commercial investments such as hotels and guest house accommodation, restaurants and leisure travel industries. Consumer spending as well as the global financial crisis has had significant and disproportionate impact on tourism arrivals. The after-effects of Cyclone Pat which caused an estimated NZ\$15 million damage to public and private buildings and infrastructure on Aitutaki, the second most visited island in the Cook Islands, remain visible.<sup>3</sup>

4. The Cook Islands has a bicameral Parliament consisting of 24 members and a Council of Chiefs known as the House of Ariki which comprises traditional leaders who are appointed by the Queen's Representative. Except for providing advice on traditional matters, the role of traditional leaders in national governance is limited. Local governments also operate on Rarotonga and on the outer islands.

5. Political power in the Cook Islands is played out between the two political parties, the Cook Islands Party (CIP) and the Democratic Party (DP) with the former having a stronghold on political power. The CIP dominated national politics between 1965 and 1978, winning elections in 1965, 1968, 1972 and 1978. The integrity of elections was seriously affected by allegations of

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<sup>1</sup> See Cook Islands Statistics Office, December Quarter 2009.

<http://www.spc.int/prism/country/ck/stats/CurReleases/popnetVital/popnest.htm>.

<sup>2</sup> See *Country Operations Business Plan Cook Islands 2010-2012*, Asian Development Bank, (December 2009), p.1.

<sup>3</sup> See *Pacific Economic Monitor*, Asian Development, (July 2010).

vote rigging and fraudulent election practices in 1978.<sup>4</sup> The Premier Albert Henry was forced to resign in a voting scandal involving overseas Cook Islanders who were flown into Cook Islands from New Zealand by the CIP. He was found guilty of electoral fraud and stripped of his knighthood in 1979 and political power was handed to the DP.

6. In 1983, the DP lost political power to the CIP but the CIP's hold on power was tenuous. The Premier Sir Geoffrey Henry later resigned in August of that year. Following a general election in November 1983, the DP came to power under the leadership of Sir Thomas Davis. However, in July 1987, following a motion of no-confidence, he was succeeded by another DP member Dr. Pupuke Robati. The CIP regained political power in the 1989 general election and Sir Geoffrey Henry became Prime Minister. In his term of leadership, the size of Parliament was increased to 25 seats. The CIP again retained power in the 1994 general election with an overwhelming majority of 20 seats.<sup>5</sup>

7. The period after the 1999 general elections witnessed coalition governments, frequent changes of government and high-turn-over of Prime Ministers. The CIP continued to stay in political power in coalition with the New National Alliance Party and with Sir Geoffrey Henry as Prime Minister until his resignation in July. He was replaced by Joe Williams who also later resigned in November before a motion of no-confidence was tabled by Dr. Terepai Maoate of the Democratic Alliance Party to oust him. The Democratic Alliance Party under the leadership of Dr. Maoate as Prime Minister shared power with the New Alliance Party until he was also ousted in a no-confidence motion in 2002.

8. The 2004 general election saw the DP continue to hold political power under the leadership of Prime Minister Robert Woonton. The Prime Minister won by 4 seats. A recount of votes in the seat held by the Prime Minister resulted in him being unseated by Jim Marurai in December 2004 with the challenger subsequently being sworn in as the Premier.

9. The last election held on 26 September 2006 was a snap election. Counting of votes in one of the constituencies (Akoa) in the 2006 election produced a tied result so the Courts ordered a by-election which was eventually won by a CIP candidate. The final count saw the DP win 15 of the 24 seats in Parliament with the CIP securing 8 seats and an Independent candidate winning one seat. Although the DP held a majority of seats in Parliament, it was unable to meet due to petitions filed by the CIP over allegations of voting irregularities.

10. The DP completed its term in office under this environment. Aside from the threats of motion of no-confidence, other challenges for the DP while in office came from inside its party, some of which may be attributed to key controversial decisions, in particular, the scheme to nationalise fuel supply (the Toa Tank Farm). Consequently, and perhaps for reasons of political survival, Parliament did not meet for several months. Hence, election issues such as robust codes of conduct with effective sanctions for parliamentarians, heads of ministries and government agencies became relevant and timely national issues. Other issues included the widely unpopular telecommunications monopoly by Telecom, concerns about the state of the infrastructure on Rarotonga and the environment.

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<sup>4</sup> See Crocombe, R., (ed) 1979. *Cook Islands Politics The Inside Story*. Auckland: Polynesian Press

<sup>5</sup> <http://www.cookislands.de/index.php?page=703756965&f=1&i=703756965>

### *Invitation to Observe the Election*

11. On 29 October 2010, the Government of the Cook Islands conveyed its formal endorsement of a request made by the Pacific Islands Forum Secretariat to send a team to observe the general election to be held on 17 November 2010. The Secretary General of the Pacific Islands Forum Secretariat accepted the invitation by letter dated 3 November 2010.

### *Composition of the Team*

12. The Forum Election Observation Team ("the Team") comprised the following:

<b>Mr. Walter Rigamoto</b> Consultant and Practising Lawyer Team Leader	<b>Dr. Henry Ivarature</b> Regional Governance Adviser PGSP	<b>Mr. Fakavae Taomia</b> SIS Programme Officer Strategic Partnerships and Coordination Programme
<b>Ms. Desna Solofa</b> Political Issues Adviser Political, Governance and Security Programme (PGSP)	<b>Ms. Amelia Dungan</b> PGSP Intern	<b>Ms. Daiana Buresova</b> Legal Drafting Officer PGSP

13. The Mission arrived in the Cook Islands on 11 November 2010. Four members of the team departed on 21 November 2010, while the Team Leader and a senior Forum Secretariat officer remained in Rarotonga until 25 November 2010 to observe the outcome of the final count.

### *Terms of Reference*

14. The Terms of Reference for the Mission were as follows:

*The Pacific Islands Forum election observer team ("the Team") will be present in the Cook Islands before, during and after the General Elections of 17 November 2010 in order to observe the preparations for the election, the polling, the counting and the results process, and the overall electoral environment.*

*The Team will act impartially and independently and provide validation that the elections are held in accordance with the principles of democratic good governance, relevant laws of the Cook Islands and are free and fair.*

*Following the elections, the Team will provide a report to the Secretary General of the Pacific Islands Forum Secretariat, the Government of the Cook Islands, Cook Islands Ministry of Justice and the Electoral Committee setting out its observations on the elections for discussion by the Cook Islands Ministry of Justice and the Electoral Committee. All proposed recommendations to refine, enhance or improve the way elections may be carried out in the Cook Islands in the future will also be tabled in this report.*

## ***Methodology***

15. The principal work of the Team was conducted in the Cook Islands from 11 to 25 November 2010. Prior to polling day, the Team met with a wide range of stakeholders including the representatives of the Government, the Electoral Administration, police, the two major political parties and some independent candidates, NGOs, women's groups, the private sector and the media. We also spoke informally with voters, election officials, candidates and poll watchers as we went about our work. After the poll, two of the Team members that remained to see the outcome of the scrutiny of rolls and the final count also met with officials of a diplomatic mission, church leaders of the Cook Islands Congregational Church and the Seventh-Day Adventist Church, and the Parliamentary Leader of the CIP, now Prime Minister of the Cook Islands.

16. For the polling and counting, the Team of six was divided into three groups. One group observed the polling and counting on Rarotonga while the remaining two groups were deployed to the islands of Mangaia and Aitutaki respectively. The Team however spent most of its time on the main island of Rarotonga. Logistical problems compounded by the grounding of the vessel that transported fuel to the islands in the North prevented the Team from deploying any observers to the other islands in the Northern group.

17. In accordance with the agreed terms of reference, the focus of the Team's observation and this report was the election of the members of the Cook Islands Parliament. However, a nation-wide referendum on the question, "Should there be a reduction in the number of Members of Parliament?" was conducted simultaneously with the Parliamentary election so the Team also observed the voting on the referendum. We were able to observe the logistical challenges for electoral officials in managing a referendum during a general election. There were also questions about how well the electors were informed about the referendum and its implications so that they would be able to make an informed decision on the matter.

## **THE CONTEXT**

### ***Legal Framework Governing Election in the Cook Islands***

18. The general election in the Cook Islands is governed by two legislative instruments, the Constitution and the *Electoral Act 2004* as amended in 2007 (hereafter referred to as "the Act"). The key Constitutional provisions pertaining to elections are Articles 27, 28, 29, 37 and the First and Second Schedules<sup>6</sup>.

19. A general election of MPs is invoked through Article 37 of the Constitution which provides for the prorogation and dissolution of Parliament by the Queen's Representative at the expiration of 4 years from the date of the last preceding general election. A general election of the MPs is held within 3 months after the dissolution of Parliament. In accordance with the

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<sup>6</sup> The First Schedule defines the electoral boundaries of the constituencies and the Second Schedule sets out the crimes that disqualify a person from being elected to Parliament.



requirements of the Constitution, the general election for the year 2010 was held on 17 November.<sup>7</sup>

20. The size of the Cook Islands Parliament is prescribed in Article 27(2) of the Constitution which provides for 24 MPs representing 11 main islands to be elected by secret ballot under a system of universal suffrage. The islands of Manihiki, Mauke, Mitiaro, Penrhyn, Pukapuka-Nassau and Rakahanga each have one MP. Aitutaki and Mangaia each have 3 MPs representing these islands. The island of Atiu is represented by 2 MPs whereas electors of the largest island of Rarotonga elect 10 MPs.

21. Article 28 of the Constitution and section 7 of the Act prescribe the qualification to be an elector. Broadly, an elector must be of sound mind, not convicted for corrupt practices and imprisoned and;

- must be a Cook Islander, or New Zealand citizen or has the status of a permanent resident of the Cook Islands; and
- the person has at some time resided continuously in the Cook Islands for not less than 12 months; and
- must not be absent from the Cook Islands for a continuous period of 3 months; and
- must be 18 years of age or over; and
- Registered electors undertaking educational studies or receiving medical treatment abroad or serving in a Cook Islands diplomatic mission are exempt.

22. The last constituency in which an elector resided continuously for 3 months or more is where the elector is entitled to enrol and to vote as an elector. For electors who are applying for the first time as an elector, or who have been disqualified as an elector, or disqualified as an elector of a particular constituency, but have not resided continuously in a constituency for 3 months, these electors can register in a constituency where the greatest part of their time was spent during the 3 months preceding the date on which they applied to register as an elector.

23. For an interpretation on the issue of residency in a particular constituency, refer to the decision in *Puna v Woonton* [2004] CKNZCA3; Appeal 10.2004 (1 November 2004), which raises important policy questions on the constitutionality of section 96(3)<sup>8</sup> of the *Act* with regard to the application of certain Articles of the Constitution, in particular, Articles 28<sup>9</sup>, 39<sup>10</sup> and 65<sup>11</sup>. An elector's attachment to a particular constituency is made clear through subsections (3), (4) and (5) of section 7 of the *Act*<sup>12</sup>.

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<sup>7</sup>Cite relevant legal notice that gives effect to this

<sup>8</sup> See section 96(3) of the *Act* which reads "... no petition may be filed or inquired into on the grounds that any person's name was or was not on a roll by reason of the presence or absence of that person in or from a particular constituency".

<sup>9</sup> Article 28 of the Constitution prescribes qualification of electors.

<sup>10</sup> Article 39 prescribes the powers of Parliament to make laws.

<sup>11</sup> Article 65 prescribes the construction of law.

<sup>12</sup> See *Puna v Woonton* [2004] CKNZCA3; Appeal 10.2004 (1 November 2004).

24. Registration is compulsory (see section 13 of the *Act*). An elector must be registered within a month of becoming qualified or moving to a new constituency. A person who knowingly and wilfully fails to register attracts a fine not exceeding \$100 for the first offence and a fine not exceeding \$200 for any subsequent conviction. The Team understands that this provision is not vigorously enforced.

25. The *Act* is the main operative legislation governing the conduct of elections. Its legislative scheme is covered in 11 main parts essential to the administration and implementation of elections. Each of these parts deal with essential components pertaining to elections, and include the electoral offices and officers appointed to oversee the conduct of elections, the constituencies and qualifications of electors, and the nominations and tenure of office of MPs. Other important components include the registration of electors, voting and counting. The *Act* prescribes 9 electoral offences which are breach of secrecy, interference with or influencing voters, defamatory publications, corruption, bribery, treating, undue influence and personation. Offences in respect of voting papers and ballot boxes are also established. Also provided for by the *Act* are processes for handling election disputes, by-elections and an account of campaign receipts and expenditure.

26. An amendment to the *Act* in 2007 is intended to curb party-hopping which can lead to political instability. The amendment regulates how Parliamentarians vote on matters of confidence against the Government. These matters are votes taken on motions of no-confidence in Cabinet, votes taken on any question or issue which the Prime Minister declares to be a question or issue of confidence and votes taken on the national budget. The Team draws attention to recent developments in Papua New Guinea where the Supreme Court ruled against a similar type of law. The Supreme Court found that these provisions infringed on the rights of Parliamentarians on how they voted on such matters (motion of no confidence, national budget and constitutional amendments) and were found to be unconstitutional<sup>13</sup> While the laws of the Cook Islands may be slightly different in nature, there is perhaps merit in reviewing them in light of the recent judicial development in Papua New Guinea.

27. On accountability of receipts and expenditure by political parties and candidates for election campaign purposes, the *Act* provides guidelines on what regulations could cover. While these provide a good first step, it appears that regulations are yet to be promulgated. The Team believes that the disclosure of finances may aid in providing greater transparency, but at the same time, cautions against making financial disclosure requirements that are cumbersome or overly complicated. The Team also believes that in order for these transparency provisions to be effective, disclosure requirements must also be made mandatory and include deterrent financial penalties for non-compliance.

28. Parliament is required to assemble no later than 90 days after the results of the poll are declared, i.e., 17 February 2011. On 18 February 2011, Parliament convened for business following the Court handing down its decisions in respect of the election petitions that were before the Court. Article 29(2) of the Constitution provides for all elections petitions to be concluded before Parliament sits.

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<sup>13</sup> (See *Special Reference by the Fly River Provincial Executive Council; Re Organic Law on the Integrity of Political Parties and Candidates* [2010] PGSC3; SC1057 (7 July 2010).

### Recommendations:

- (i) *That the guidelines on accountability of receipts and expenditure by political parties and candidates for election campaign purposes as stipulated in Part 10 of the Act be strengthened through the development of appropriate regulations;*
- (ii) *That these regulations should be kept simple for ease of implementation and that disclosure requirements should be made mandatory. Non-compliance should result in sufficiently deterrent financial penalties;*
- (iii) *That those provisions of the Act which are contrary to the Constitution and which are lacking clear enforcement (such as the failure of electors to register) be removed, or to be reviewed and replaced with provisions that can be enforced.*

### *The Electoral Timetable*

29. In accordance with Article 37(5) of the Constitution and section 30(1)(a)(b) of the Act, Parliament was dissolved on 24 September 2010.

30. The Queen's Representative, upon the advice of the Prime Minister, appointed the 17<sup>th</sup> day of November 2010 as the day of election. General elections are held every 4 years, counting from the date of the last preceding general elections, which was held on 26 September 2006. The key electoral activities, as listed below, were advised to the public through the Cook Islands Gazette,<sup>14</sup> and subsequently published in the local newspapers.

Key Electoral Events	Dates
Close of main roll	5 October 2010 at 4 pm
Objections to the main roll	12 October 2010 at 4 pm Extended to 15 October at 4 pm <sup>15</sup>
Opening of nomination of candidates	2 October 2010
Withdrawal of nominations	Closed 11 October 2010
Closure of nomination of candidates	15 October 2010 <sup>16</sup>
Close of supplementary roll	19 October 2010
Objection to the supplementary roll	26 October 2010
Voting in advance	20 October 2010 – 16 November 2010 <sup>17</sup>
Postal votes	18 October - 10 November 2010
Polling and preliminary count	17 November 2010
Scrutiny of roll and final count	23-25 November 2010

<sup>14</sup> See Government of Cook Islands, 'Cook Islands Parliamentary General Election 2010', *The Cook Islands Gazette* 69/2010, Public Notice No. 1, 28 September 2010.

<sup>15</sup> See Government of the Cook Islands, 'Cook Islands Parliamentary General Election 2010', *The Cook Islands Gazette* 71/2010, Public Notice No. 3, 12 October 2010. In this public notice, it states the reason for the extension of date for objections to the main roll was "for lack of communication between the islands and the main office in Rarotonga".

<sup>16</sup> See Government of the Cook Islands, 'Cook Islands Parliamentary General Election 2010', *The Cook Islands Gazette* 69/2010, Public Notice No.1 28 September 2010.

<sup>17</sup> See Government of the Cook Islands, 'Cook Islands Parliamentary General Election 2010', *The Cook Islands Gazette* 74/2010, Public Notice No.5, 19 October 2010.

31. Notice on the referendum question, which was to be conducted simultaneously with the election of MPs was also issued, along with other key election activities by the CEO through the Cook Islands Gazette, dated 28 September 2010, in English and in Cook Island Maori.

### *The Electoral System*

32. The First-Past-The-Post system is the voting system used in the Cook Islands. There have been discussions about the advantages and disadvantages of this system and the need to perhaps review the country's electoral system. Those consulted did not seem to place much urgency on such a review taking place although they acknowledged that it would be a useful exercise to undertake.

33. The candidate with the largest number of votes wins the election. Unlike some of its Pacific neighbours, the Cook Islands electoral system offers postal voting, absentee balloting and vote by declaration. These different voting methods underpin the spirit of the *Act*, which is to prevent the disenfranchisement of an elector. In this regard, the *Act* is consistent with Article 21 of the Universal Declaration of Human Rights, whereupon every eligible Cook Island elector has the right to participate in the governance of the day, through freely and lawfully chosen representatives.

### *Candidates and Political Parties*

34. Section 8 of the *Act* prescribes the qualifications and disqualifications of candidates. Briefly, candidates must:

- a) Be enrolled as an elector of any constituency;
- b) Not be bankrupt;
- c) Not be convicted of offences as specified in Part 1 of the *Act*;
- d) Not be a Crown servant or a judicial officer; and,
- e) Not be an elected office holder under the *Rarotonga Local Government Act 1997*.

35. The 2010 general election was contested by 70 candidates, comprising of 9 women and 61 men. The names of the candidates nominated along with political party affiliations were duly published in the *Cook Islands Gazette*, dated 15 October 2010.<sup>18</sup> Nearly half of the candidates were from Rarotonga with 32 candidates (5 of whom were women), while the six Outer Island constituencies (Mauke, Mitiaro, Rakahanga, Manihiki, Pukapuka-Nassau and Penrhyn) all accounted for 15 candidates, one of whom was a woman. The islands with three constituencies each (Aitutaki and Mangaia) had 11 and 8 candidates respectively. Only 1 woman candidate stood in Aitutaki compared to two women candidates in Mangaia. The two constituencies of Atiu had 4 male candidates. Atiu was also the only constituency that did not field a woman candidate.

36. Under section 33(3) of the *Act*, an unsuccessful candidate with less than 25 per cent of the total number of votes received by the successful candidate forfeits the NZ\$500 deposit. This

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<sup>18</sup> See Government of the Cook Islands, 'Cook Islands Parliamentary General Election 2010', *The Cook Islands Gazette* 72/2010, Public Notice No.4, 15 October 2010.

money is paid into the Consolidated Fund. This is generally designed to discourage a floodgate of candidates with limited prospects of winning from contesting the elections.

37. Although the Cook Islands political landscape has been dominated by two main political parties since 1965, legislation governing the workings of political parties in Parliament was only introduced in August 2007 through an amendment to the *Act*. For the 2010 general election, the Democratic Party and the Cook Islands Party fielded 23 and 24 candidates respectively. Sixteen candidates contesting as Independents also contested the 2010 elections, but were all unsuccessful. Other new political parties which emerged before the 2010 election such as the Te Kura O Te Au Party and Party Tumu also fielded candidates but had little success.

## 2010 ELECTION: ISSUES AND OBSERVATIONS

### *Election Management and Personnel*

38. The Cook Islands does not have a permanent electoral office or a permanent position of Chief Electoral Officer (CEO) with full-time responsibilities for elections and matters associated with elections. The management of elections is run on a temporary basis. At every election the Minister for Justice, in accordance with the *Act*, commissions an electoral office which comes under the Ministry of Justice to administer elections. Upon the conclusion of an election, the Electoral Office is decommissioned. The CEO, however, is appointed by Order of the Executive Council, and as is the case with the electoral office, this appointment is also a temporary one. The current practice is for the person appointed as CEO to revert to his or her permanent position in the Cook Islands' public service following the elections.

39. As was the practice in the 2006 election, the Cook Islands Statistics Office was commissioned by the Minister of Justice to administer the 2010 general election. Once commissioned it falls within the Ministry of Justice. In accordance with past practice, the officer-in-charge of the Statistics Office, who is currently the Government Statistician, was appointed CEO with responsibilities for implementation of registration, polling, counting and declaration of results. Post-election responsibilities included dealing with election petitions.

40. For the 2010 general election, the CEO was assisted by about 130 electoral officers, comprising Returning Officers (ROs), Presiding Officers (Pos) and Polling Clerks (PCs). All of these officials were recruited primarily from the Cook Islands public service. Upon the conclusion of the election, these officials return to their permanent positions in the public service. Except for a few, most of these electoral officials had acquired substantial knowledge and experience as electoral officers in previous general elections. Nonetheless, in preparation for the 2010 polling, all these electoral officials underwent training and briefing workshops, essential to effectively managing the poll.

41. Notice of the appointment of Registrars of Electors, ROs and Deputy Returning Officers (DROs) were issued through the *Cook Islands Gazette*<sup>19</sup> and subsequently published in the local newspapers. The public was kept informed of new appointments and replacement of electoral

<sup>19</sup> See for example, Government of the Cook Islands, 'Cook Islands Parliamentary General Election 2010- Appointment of Registrar of Electors and Returning Officers', *The Cook Islands Gazette* 70/2010, Public No. 2, 4 October 2010.

officers. The public was also kept informed of the changes to key electoral activities up to the time of polling. The Team commends the Electoral Office on the timely dissemination of important notices on all appointments of electoral officers, polling stations and changes on key electoral activities to the public. Facilitating such timely communication of vital electoral information was also supported through the cooperation of the Cook Islands media.

42. Appropriate arrangements were also taken to ensure voters with disabilities, special care needs or illnesses exercised their right to vote through the use of mobile units. To receive this service, an elector must submit a written application to the RO, which must reach the RO by noon of the polling day. Special care voters cast their votes between 12.00 noon and 6.00pm. At present there is no standard application form to be completed if assistance is needed. The Team proposes that consideration be given to developing a standardised form for use by an elector seeking to vote through a mobile unit. Scrutineers on behalf of candidates accompany mobile teams using their own vehicles to get to homes to witness electors casting their votes. Three mobile units were used in Te-au-o-Tonga, Puaikura and Takitumu, with one mobile unit available for the constituencies of Aitutaki, Mangaia and Atiu.

43. During our discussions and consultations with stakeholders, the question of whether or not a permanent electoral office should be established to oversee on-going registration of voters, attend to public awareness programmes and generally keep the office ready for any by-election or snap election was raised. This would also enable staff members to undertake relevant training programmes as well as attend to the preparatory work for a general election towards the end of a parliamentary term in good time. While most stakeholders would like to see a full-time electoral office set up, they acknowledged that the costs would be prohibitive for a small island country. Concerns were also raised about the work this office would undertake, which, apart from registration, would be minimal during the "off" period.

44. Another suggestion is to establish a part-time independent electoral commission which would look at the whole range of electoral activities as well as perhaps reviewing electoral boundaries. This body, it is suggested, could be established one year before the end of the parliamentary term and its term is to end say 6 months after the upcoming general election.

45. There are many options available for consideration. The Team is of the view that an expert should be contracted to assess the desirability of establishing a full time electoral office taking into account the socio-economic conditions prevailing in the Cook Islands and to make recommendations to the government on the best way forward.

#### **Recommendations**

- (iv) *That the government contract an electoral expert to assess the desirability of establishing a full time electoral office taking into account the socio-economic conditions prevailing in the Cook Islands and to make recommendations to the government on the best way forward;*
- (v) *That funding agencies favourably consider supporting such an initiative by the Government of the Cook Islands.*

### *Electoral roll*

46. The Registrar-General of Births and Deaths, upon the calling of a general election, assumes the positions of Chief Registrar of Electors. This person heads the Electoral Registration Office as commissioned by the Minister of Justice. During the period of an election, the Chief Registrar of Electors supports and assists the CEO.

47. The accuracy and integrity of the electoral roll is of critical importance to the effective administration of any electoral process. Section 14 of the *Act* provides that for each of the 24 constituencies, there are two types of rolls: the main electoral roll and a supplementary electoral roll which is required for an election or a by-election. The Chief Registrar of Electors is responsible for the compilation and updating of these rolls, as mandated under sections 14 and 15 of the *Act*. The main roll is closed seven days after the publication of the notice of the general election. The supplementary roll opens on the day after the closing of the main roll and closes 14 days thereafter. The same applies for both rolls during a by-election.

48. Section 15(3) requires the Chief Registrar of Electors to print a copy of the main roll for each constituency, at least once, in each year, and as considered necessary. Public inspection of both rolls is provided for under section 17 of the *Act*, during official working hours, and at such other places in the constituency, as determined by the Chief Registrar of Electors. The typical electoral roll sets out an alphabetical listing of the names, addresses and occupation of electors in a particular constituency. There is no listing of gender or dates of birth on the electoral roll. Many electors considered the entry of occupation sensitive and irrelevant. Copies of the rolls are supplied to the CEO who makes it available to each RO.

49. The Chief Registrar of Electors is empowered to remove from the list, an elector who has died, or is no longer qualified. If this is done, the Chief Registrar must notify the elector who is no longer qualified, in a notice addressed to the elector, at his or her last known address.

50. Applications for registration must reach the Registrar in charge of the rolls, on which the applicants are entitled to be enrolled, before the date on which the rolls are closed, or the applications must be received by the Registrar, before 4 pm on the day on which either of the rolls is closed (see section 20(6) of the *Act*). For the 2010 polling, the rolls were open for registration, but more specifically, to cater for electors voting by declaration, and those electors who had turned 18 years and were therefore, eligible to vote. Electors must also notify any Registrar, within one month, changes to their names, deed poll or constituency. The onus on all of these requirements rests with the applicant. Failure to notify without reasonable justification carries a monetary penalty of \$100.

51. The Team was told by election officials during polling day that imperfections remained a challenge for the electoral process. The common challenges concerned the failure to remove names of deceased persons and the absence of some voters' names on the roll.

### **Recommendation:**

- (vi). *That a comprehensive review or replacement of the current constituency rolls be conducted prior to the next election to significantly improve the integrity of the roll.*

### *Voter education*

52. The Team noted that voter education was largely a matter for the political parties, civil society organisations and independent candidates to pursue with voters. There was very little voter education programmes conducted by the Electoral Office. The Team commends the efforts of these organisations to conduct voter education and awareness programmes. An area where such awareness was necessary was the nation-wide referendum. The Team commends the additional effort of electoral officials at the polling places in explaining the purpose of the referendum to each elector. However, the lack of a fully fledged public awareness exercise may have prevented electors from making meaningful and informed decisions on such an important question.

53. This report lacks the statistics on the number of invalid votes cast to determine with certainty the effectiveness of the voter education activities provided by these organisations. Nonetheless, general elections and by-elections being the fundamental process for electors' direct participation in governance, wherein their votes legitimately mandate MPs to govern on their behalf, makes voter/civic education exercises important and should be an integral part of the education syllabus for secondary schools.

54. Four months prior to the general election, the Office of the Public Service Commissioner issued a circular to all Heads of Ministries, Crown Agencies and Island Secretaries on the principles of "political neutrality", integrity and professionalism<sup>20</sup>. Adopted from New Zealand, this circular served to remind public servants of their duty, to serve government "faithfully and loyally, regardless of their political beliefs and affiliations". The circular also reminded public servants who were intending to contest the elections to resign from office before accepting nomination as a candidate. While this is not directly voter education in the strictest sense, it was nonetheless a timely and useful ethical guideline for public servants to observe in all elections.

### **Recommendations**

- (vii). *That election administrators ensure that effective and impartial voter or civic education programmes are developed and implemented prior to the next election;*
- (viii) *That in the longer-term, Government seriously considers integrating voter and civic education programmes into the national education syllabus for secondary schools;*
- (ix). *That prior to every election, the Office of the Public Service Commissioner circulate a copy of the ethical standards designed for Cook Islands' public servants during a general election, as a timely reminder of the type of conduct that is expected of them.*

### **The Campaign**

55. Having spoken to a wide and diverse range of people in the community within the limited timeframe of the Mission, the Team noted that the campaign was more subdued in comparison to campaigns held in previous elections. The media was used extensively; both public television

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<sup>20</sup> See Government of the Cook Islands, 'Re: Political Neutrality Principles', Office of the Public Services Commissioner, 7 July 2010.



and radio broadcast campaign speeches from candidates, particularly those contesting under the banner of the two major political parties. On Rarotonga, the two main political parties and several independent candidates placed advertisements in the local newspapers, on the local television and through the local radio stations. However, the main form of campaign was door-to-door visits by candidates appealing to voters in the constituencies they were contesting.

56. The Team was informed by many who were consulted that family allegiances and attachments to one of the two major political parties, continued to be the driving factor in shaping a voter's view of a particular candidate. Loyalty and allegiance to large extended families, church and community relationships also cement electors' political party allegiances. This might help to explain the failure of candidates standing as independents from winning seats although a proper study is needed to confirm this assumption. Loyalties however can be fluid.

57. Issues aired during the campaign period included budget allocations by the Government, the impact of climate change on society, and enhancing the role of women in economic and social development. More controversial issues included the failure of the fuel farm, MPs being viewed as self-serving people for awarding themselves salary increases, while public servants who were promised 4% Consumer Price Index adjustment received half of what was promised, and the failure of Parliament to convene and pass laws for extended periods. In 2010, Parliament allegedly sat for only 10 days.

58. Unlike previous general elections, there were no major public rallies held during the general election. Generally, the election was considered by many Cook Islanders as very quiet. For example, in Aitutaki, except for the placards of the Te Kura O Te Au Party protesting against Sunday flights to Aitutaki by Air Rarotonga, there was an absence of posters and flyers of candidates or political parties and other election campaign paraphernalia on the island. This, however, did not imply that candidates did not campaign.

### *Polling*

59. In order to cater for voting on polling day, there were a total of 30 polling places, including mobile units in the 24 constituencies. Six constituencies, due mainly to the size of electors and geography had 2 polling places each, mostly on the island of Rarotonga. Electors were informed of the addresses of these polling places by the CEO through public notices published in newspapers.<sup>21</sup> These polling places were set up either in community halls, in church halls or in Sunday school halls in each of the constituencies. They were known to the electors and accessible.

60. Electoral officials arrived well before the scheduled polling time to set up the rooms for polling. For this election, a separate ballot box was set up to collect the voting papers for the referendum. The POs also briefed scrutineers and were also shown the insides of ballot boxes prior to their sealing. The layout of the polling booths enabled electors to cast their votes in privacy. It was also set up in the standard arrangement so that electoral officers and scrutineers were able to properly oversee the poll.

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<sup>21</sup> For example, see 'Public Notices', *Cook Islands News*, 16 November 2010; Government of the Cook Islands, *The Cook Islands Gazette* 79/2010, 12 November 2010.

61. Polling on 17 November 2010 commenced at 9.00am and closed at 6.00pm. The simple and open layout of the polling booth and the experience of the electoral officials saw electors being processed efficiently. Employees were also given time-off to vote with many arriving at the polling place in the afternoon. By 6.00pm most polling places were empty. The fairly smooth running of the polling places can be attributed to the excellent leadership of the CEO combined with the team experience and work ethic of the electoral officials.

62. However, the Team observed that in one constituency in Aitutaki, ballot boxes although closed, were not sealed in accordance with the *Act*. To help prevent administrative problems of this kind and others from recurring in the future, perhaps the CEO may wish to reiterate to all ROs, POs and Polling Officers the need to tick off the checklist on page 11 of the *Handbook for Polling Officials* on polling day. A similar check-list could also be made available to scrutineers to monitor the work of ROs, POs and Polling Officers. Given the fact that experienced electoral officials were in-charge of the polling place where this happened, consideration may be given to conducting a refresher course at two yearly intervals to prevent complacency setting in and affecting what would normally be a professionally managed polling exercise.

63. While the Team was unable to be present on the outer islands, particularly the Northern Group, the Team was advised that polling was conducted smoothly at these locations. Despite initial logistical problems, caused by the grounding of the vessel that transports fuel to the Northern Group of islands, materials and officials were able to reach these locations in time to conduct the ballot. Logistical challenges saw section 111 of the *Act* invoked by the CEO for electors in the islands of Palmerston and Nassau to vote in advance, on 9 November and 13 November 2010 respectively.<sup>22</sup> Voting hours for Palmerston and Nassau were between 1.00pm to 4.00pm and 8.00am to 12.00pm respectively. Registered electors who were intending to travel out of the country and those from Rarotonga who were intending to travel to the outer islands, cast their votes in advance on working days between 20 October and 16 November 2010. Their votes were processed between 9.00am and 1.00pm at a polling place at the Electoral Office.

64. Polling in Aitutaki, Mangaia and Rarotonga where the Team observed was conducted smoothly and without difficulties or trouble of any sort. Electors basically polled freely without hindrance. Arrangements were also made to enable electors, entitled to vote in other constituencies in the Cook Islands but present on other islands, to cast their vote at a nominated constituency on the island. The Team notes and commends the CEO for preparing a comprehensive handbook for electoral officials' reference and guidance on polling day and another for scrutineers.

#### **Recommendations:**

- (x) *In order to reduce administrative mishaps, perhaps, a simple one page checklist could be prepared and signed-off by a polling official and counter-signed by the POs, attesting to compliance with all necessary procedures, prior to and on completion of polling;*

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<sup>22</sup> See Government of the Cook Islands, 'Cook Islands Parliamentary General Election 2010 - Advance Voting', Public Notice No. 6, *The Cook Islands Gazette* 79/2010, 9 November 2010.

- (xi) *That the checklist list referred to in recommendation (x) be incorporated in the Handbook for Scrutineers to enable scrutineers to remind electoral officials of their duties where considered necessary.*

### ***The Count***

65. The counting of votes in the Cook Islands is done twice – a preliminary count and then the final count. The preliminary count takes place immediately at the polling place of the constituency after polling concludes. Preliminary results are announced at the polling place by the PO for the constituency. In terms of the preliminary count, the Team observed that this commenced, in most, if not all constituencies within 20 minutes of the closure of the polling place at 6.00pm. Preliminary counting of votes was dealt with expeditiously. By 9.00pm on 17 November 2010, the counting of ordinary votes throughout the Cook Islands was completed and the preliminary results released to the public. This gave electors a fairly clear indication of the political party that was likely to form the government.

66. The final count proceeds after the scrutiny of rolls is completed. Basically, a scrutiny of the rolls entails a double-checking of all the rolls for potential cases of double voting by electors. This process requires the RO to “compare one with another, all the copies of rolls on which an elector having received a voting paper or has exercised a postal or a special vote has been noted”. This is a tedious process. If the same elector has received more than one of the voting papers, the parcels of voting papers of the polling place is identified and the voting paper is extracted using the counterfoil number to identify the ballots. The elector’s vote is then disqualified.

67. After setting aside the informal votes, the legitimate votes are recounted and the results are declared by the CEO. The final count took place in Rarotonga. The winner of each constituency was declared immediately after the final count for that particular constituency was completed, and so on until all the constituencies in the Cook Islands were completed. The scrutiny of the rolls and the final count commenced on Wednesday 23 November 2010 and was completed on Thursday 25 November 2010.

68. Scrutiny of the rolls and final counts were done in three different offices on Rarotonga, beginning with the small constituencies of the outer islands, including Aitutaki on 23 November through to the larger constituencies on Rarotonga on 25 November 2010. The process of scrutiny and counting was done in the conference rooms of the Ministry of Finance and Economic Management, the Ministry of Justice, and the Electoral Office.

69. The remaining two members of the Team departed the Cook Islands on the final day of the final count and were therefore unable to obtain the certified results of the constituencies that had not been declared. Nonetheless, the final results reaffirmed the preliminary results to confirm a majority of 16 CIP members in the 24-member Parliament. The final results also conclusively decided the winner of the constituency of Pukapuka-Nassau where two candidates were found to have tied with 73 votes each in the preliminary count. However, a successful petition by the candidate with the second highest number of votes resulted in the final result being declared void by the Court.

70. The votes for the referendum were not counted in the constituencies. Instead, the ballot boxes containing the referendum voting papers were transported to Rarotonga where they were

counted at the final count. The referendum results failed to receive the required two-thirds of the valid votes cast to reduce the size of Parliament. Only 59.2% voted in support of the referendum, 33.4% of the electors voted against it, and informal votes were 7.4%.

71. Section 74(2) of the *Act* prohibits anyone other than the RO, the PO and the PC, in the presence of scrutineers to open the ballot boxes, to sort out the voting papers and to count the votes for each candidate. As a result, the Team did not observe the counting of votes for the preliminary and final counting process. Similarly, section 76(3) of the *Act* also prohibits anyone other than the mandated electoral officials and scrutineers to be present during the scrutiny of rolls. The counting of votes and the scrutiny of the rolls are very important aspects of the electoral process. It is therefore important that accredited election observers be permitted to witness these. The *Act* will need to be amended accordingly to permit this. Volunteer scrutineers from the outer islands were also selected and they travelled to Rarotonga to witness the scrutiny of rolls and the final count.

**Recommendation:**

(xii). *Sections 74(2) and 76(3) of the Act should be amended to enable accredited election observers to observe the counting process and the scrutiny of the rolls.*

**Disputed Elections**

72. Election petitions usually follow the final results of a general election and were, in fact, anticipated by electoral officials. Part 8 (sections 92-104) of the *Act* provides for disputed elections. For the 2010 general election, four election petitions were filed, as required by law within seven days after the declaration of final results. These petitions were for the constituencies of Tamarua on the Island of Mangaia, the constituencies of Rakahanga, Pukapuka-Nassau in the Outer Islands and the constituency of Vaipae-Tautu on the Island of Aitutaki.

73. Election petitions for these constituencies were to be expected as the final results were extremely close. Winners of the Vaipae-Tautu and Pukapuka-Nassau constituencies won by 4 votes each whereas the winners of the constituencies of Tamarua and Rakahanga won by 1 vote and 2 votes respectively. The total votes cast for the winning candidates of these constituencies being 163, 88, 31 and 30 votes respectively.

74. Three petitions for the constituencies of Tamarua<sup>23</sup>, Vaipae-Tautu<sup>24</sup> and Rakahanga<sup>25</sup> were dismissed by the Court whereas one, the constituency of Pukapuka-Nassau<sup>26</sup> was upheld as the declared winner committed a corrupt practice, namely bribery, which consequently resulted in the final count being declared void.

75. Aside from bribery, the qualification of electors is one of the most common issues that trigger election petitions in the Cook Islands. In order to place some restraint on the number of election petitions, section 96(3) of the *Act* was passed prior to the 2004 election, but was

<sup>23</sup> See *Matapo v Pukeiti & Ors* Misc No. 111-2010 31 January 2011, Weston J; and reported as, 'CIP retains Tamarua seat' *Cook Islands News Online*, (Rarotonga), 2 February 2011.

<sup>24</sup> See *Ioane v Kake & Ors* Misc No. 112-2010, 3 February 2011, Weston J.

<sup>25</sup> See *Hagai v Toka & Ors* Misc No. 113-2010 1 February 2011, Weston J.

<sup>26</sup> See *Peua v Lazaro & Ors* Misc No. 115-2010 17 February 2011, C Nicholson J.

subsequently found by the Courts to be contrary and unconstitutional with regard to Articles 27, 28, 39 and 65.<sup>27</sup> Election petitions play an important role in strengthening electoral systems and maintaining the integrity of electoral processes. The relevant authorities may wish to examine the key causes of election petitions. Two of the key causes of electoral petitions seem to be the high mobility of electors and the increasing trend of multi-household residential living arrangements by Cook Islanders. These factors are directly relevant to electors' residential qualification requirements. Perhaps, a study may help to respond to some of the challenges of the current residential qualification requirements which have been highlighted in a number of election petitions.

**Recommendation:**

- (xiii). *That consideration be given to commissioning a study which examines the causes of election petitions, in particular, the mobility of electors and multiple household residential living arrangements and their relevance to electors' residential qualification requirements to minimise election petitions without unduly impeding the importance of election petitions to maintaining the integrity of election processes.*

***The Role of Police***

76. Security on polling day was provided by police officers from the Cook Islands Police Service. In fact, police officers are part of the electoral team. According to the *2010 Handbook for Polling Day*, police constables are expected to assist POs enforce and maintain peace and order at any election. Police officers were present at the polling places from the start of polling to its conclusion, including being present during the preliminary counts. Where necessary, police officers are utilised to escort the electoral materials to the custody of the RO. The Team observed that the support of police officers played an important part in Rarotonga, Aitutaki and Mangaia on polling day. This was also confirmed by the Commissioner of Police who noted the Operations Order pertaining to security arrangements for the election was implemented without any hindrance from members of the public.

77. The Team is unaware of any security incidents as police were well represented at polling/counting stations. The police played a key role in protecting the security of the votes in particular those ballot boxes that were transported from the Northern group of islands. The Operations Order issued by the Commissioner of Police and the Contingency Plan they had in place ensured that the police were able to maintain order and peace during the polls. The commitment and dedication of the police officers of the Cook Island Police Service in supporting the work of electoral officials on polling day in the Cook Islands was outstanding and commendable.

***Women and the Election***

78. The Team notes the low representation of women in Parliament. Although, nine women candidates contested the election, only one was elected. She is the Honourable Ms. Ngamau Munokoia, the incumbent MP for the constituency of Nikao on Rarotonga and also a member of

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<sup>27</sup> See *Puna v Wootton* [2004] CKNZCA3; Appeal 10.2004 (1 November 2004).

the DP. Her election to Parliament sees her attain a record fifth term in the Cook Islands Parliament, the longest and most number of terms served by a Cook Islander woman as an MP. The MP for Matavera and one of the only two women sitting MPs, Ms. Cassey Eggeleton, however, failed to get re-elected.

79. Of the nine women candidates, three (3) women ran as Independents, two (2) contested as members of the Te Kura O Te Au Party, three (3) stood as Democratic Party candidates, and one (1) as a Cook Islands Party candidate. The women candidates stood in 9 out of the 24 constituencies.

**Recommendation:**

(xv) *Noting the comparatively low success rate of Cook Islander women candidates in the 2010 general election, we recommend that political parties consider investing in programmes that enhance the role of women in national decision-making at the local and national levels, with special emphasis on supporting women to prepare and stand for parliamentary elections.*

***The Role of the Media and Public Access to Information***

80. The Team acknowledges that the media in the Cook Islands played an important and useful role in keeping the public informed of the elections. Furthermore, the media also up-dated the public on the progress of preliminary counts throughout the islands on polling day as well as on the final count. The main forms of media are radio, newspapers (the *Cook Islands News* and the *Cook Islands Herald*), and the local television station.

81. The Electoral Office, in particular the CEO, also used the media extensively and effectively to disseminate information on the election to the public. Similarly, candidates and political parties embraced the media to articulate and debate political issues generated throughout the period of the election. Candidates and political parties also used the media for political advertisements and campaign messages. The media was allowed to gather and report on information freely, without hindrance, intimidation, obstruction or censorship.

82. The media is to be commended for its role in providing up-to-date news and information on the 2010 general election. The Government is to be commended for supporting and facilitating an environment that promotes free and independent media to do its work. These elements are vital in a genuine and democratic election process.

**Recommendation:**

(xvi) *That the Act be amended to permit the media to be accredited as observers and allowed to observe the counting of votes and scrutiny of rolls in furtherance of transparency and openness in elections.*

## CONCLUSIONS AND RECOMMENDATIONS

83. Overall, the Team observed that, in general, the 2010 general election in the Cook Islands was conducted in accordance with the principles of democratic good governance and the relevant laws of the Cook Islands, and was free and fair. On 17 November 2010, electors participated fully in the governance of the day whereby their votes of well over 80%, gave legitimacy and mandate to their representatives.

84. Our task, according to our terms of reference was to observe the preparations for the election, the polling, the counting, the result process and the overall electoral environment. We went as observers to see that the election in the Cook Islands was conducted in accordance with the law, and therefore we too, respected the requirements of the electoral law which did not permit us to observe the counting both at the preliminary and the final counts, including the scrutiny of the rolls. But we have discussed how the process was undertaken and how future accredited observers could be involved.

85. The Team has identified a number of recommendations and these are respectfully submitted for the consideration of the Government of the Cook Islands.

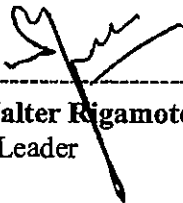
## ACKNOWLEDGEMENTS

86. The Team thanks the Government of the Cook Islands for the honour of inviting the Pacific Islands Forum to observe the Cook Islands Parliamentary general election held on 17 November 2010. We are especially grateful to officers of the Ministry of Foreign Affairs and Immigration, the Ministry of Justice and the Electoral Office for their support and kind assistance. We also recognise the hospitality and reception from other high officials in government, political parties, Church and NGOs and the resident diplomatic mission to meet with us and to share their observations. A special acknowledgement goes to Mr. Carl Hunter of the Ministry of Foreign Affairs and Immigration and Ms. Tutu Mare of the Ministry of Justice who provided valuable assistance on a daily basis to facilitate the completion of our work.

87. We appreciate the willingness of many people who met with us, both formally and informally to share their insights, opinions and perspectives on the electoral environment, on politics and on the electoral processes. We value the information we were provided as it helped us to better understand the context in which the Cook Islands election was held and on shaping our observations in general.

88. We were privileged and honoured to observe the general election held on 17 November 2010 and are pleased to report on our observations of the election, and hope that the recommendations are useful to the Government and authorities responsible for elections in the Cook Islands.

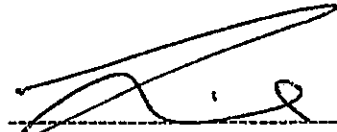
With deepest respect,



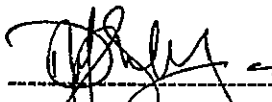
Mr. Walter Rigamoto  
Team Leader



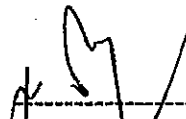
Dr. Henry Ivarature  
Regional Governance Advisor  
Pacific Islands Forum  
Secretariat



Mr. Fakavae Taomia  
SIS Programme Officer  
Pacific Islands Forum  
Secretariat



Ms. Desna Solofa  
Political Issues Advisor  
Pacific Islands Forum  
Secretariat



Ms. Daiana Buresova  
Legal Drafting Officer  
Pacific Islands Forum  
Secretariat

Suva  
Fiji

30 August 2011



**Annexure "A": SUMMARY OF RECOMMENDATIONS**

Listed below is a summary of the recommendations of the Pacific Islands Forum Election Observer Team.

- (i) *That the guidelines on accountability of receipts and expenditure by political parties and candidates for election campaign purposes as stipulated in Part 10 of the Act be strengthened through the development of appropriate regulations;*
- (ii) *That these regulations should be kept simple for ease of implementation and that disclosure requirements should be made mandatory. Non-compliance should result in sufficiently deterrent financial penalties;*
- (iii) *That those provisions of the Act which are contrary to the Constitution and which are lacking clear enforcement (such as the failure of electors to register) be removed, or to be reviewed and replaced with provisions that can be enforced;*
- (iv) *That the government contract an electoral expert to assess the desirability of establishing a full time electoral office taking into account the socio-economic conditions prevailing in the Cook Islands and to make recommendations to the government on the best way forward;*
- (v) *That funding agencies favourably consider supporting such an initiative by the Government of the Cook Islands;*
- (vi) *That a comprehensive review or replacement of the current constituency rolls be conducted prior to the next election to significantly improve the integrity of the roll;*
- (vii) *That election administrators ensure that effective and impartial voter or civic education programmes are developed and implemented prior to the next election;*
- (viii) *That in the longer-term, Government seriously considers integrating voter and civic education programmes into the national education syllabus for secondary schools;*
- (ix) *That prior to every election, the Office of the Public Service Commissioner circulate a copy of the ethical standards designed for Cook Islands' public servants during a general election, as a timely reminder of the type of conduct that is expected of them;*
- (x) *In order to reduce administrative mishaps, perhaps, a simple one page checklist could be prepared and signed-off by a polling official and counter-signed by the POs, attesting to compliance with all necessary procedures, prior to and on completion of polling;*
- (xi) *That the checklist list referred to in recommendation (x) be incorporated in the Handbook for Scrutineers to enable scrutineers to remind electoral officials of their duties where considered necessary;*

- (xii) *Sections 74(2) and 76(3) of the Act should be amended to enable accredited election observers to observe the counting process and the scrutiny of the rolls;*
- (xiii) *That consideration be given to commissioning a study which examines the causes of election petitions, in particular, the mobility of electors and multiple household residential living arrangements and their relevance to electors' residential qualification requirements to minimise election petitions without unduly impeding the importance of election petitions to maintaining the integrity of election processes;*
- (xiv) *Noting the comparatively low success rate of Cook Islander women candidates in the 2010 general election, we recommend that political parties consider investing in programmes that enhance the role of women in national decision-making at the local and national levels, with special emphasis on supporting women to prepare and stand for parliamentary elections; and,*
- (xv) *That the Act be amended to permit the media to be accredited as observers and allowed to observe the counting of votes and scrutiny of rolls in furtherance of transparency and openness in elections.*

## SCHEDULES AND TABLES

**Schedule 1: Consultation List 12 – 24 November 2010**

	<b>Names</b>	<b>Positions</b>
1	Dr Jim Gosselin	Secretary, Ministry of Foreign Affairs and Immigration
2	Ms Taggy Tangimetua	CEO
3	Mr Mark Short	Secretary, Ministry of Justice
4	Ms Claudine Henry-Anguna	Registrar/Acting Secretary, Ministry of Justice
5	Mr. Maara Tetava	Police Commissioner
6	Mr. John Strickland	Police Inspector
7	Mr Martin Tiffany	News Editor, Cook Islands News
8	Mr. Sean Willis	President, Democratic Party
9	Mr Mark Brown	Vice President, CIP and candidate for 2010 election
10	Ms Lindsay Frances	Group for Political Reform
11	Mr John Tangi	Independent MP for Tupapa-Maraerenga constituency
12	Mr. Henry Puna	MP for Manihiki and Prime Minister Elect
13	Mr. Jim Marurai	MP for Ivirua and immediate past Prime Minister
14	Mr. Tingika Elikana	Solicitor General
15	Ms Vaine Wichman	President, National Council of Women
16	Ms Taputu Mariri	National Coordinator, National Council of Women
17	Mr. Navy Epati	Public Services Commissioner
18	Ms. Priscilla Maruariki	Chief Executive Officer
19	Ms. Jeannine Daniel	Assistant Ombudsman
20	Mr. Jonah Tisam	Chief Executive Officer, Office of the Opposition
21	HE Ms Linda Te Puni	High Commissioner, New Zealand High Commission
22	Ms. Nicola Ngawati	Deputy High Commissioner, New Zealand High Commission,
23	Ms. Nare Samuel	Cook Islands Women's Counselling Centre
24	Ms. Eteta Mose	Deputy Registrar, Ministry of Justice, Arutanga High Court, Aitutaki
25	Mr. Mag Toko	PO, Amuri-Ureia
26	Ms. Teparaueru Comeron	PA, Aitutaki
27	Mr. Harold Arthur Browne	Independent Candidate, Arutanga-Reureu-Nikaupara, Aitutaki
28	Mr. Boaza Ngaro Tau	Scrutineer, Vaipae-Tatau Constituency, Aitutaki
29	Ms. Winnie Ngaro Tau	Scrutineer, Vaipae-Tautu Constituency, Aitutaki
30	Mr. Maitoe Henry	Probation Officer, Ministry of Justice, Aitutaki
31	Ms. Elizabeth Ponga	Policy Manager, Ministry of Cultural Development, Rarotonga
32	Mr. Tangata Vainarere	Director, Pacific Legislature for Population and Governance
33	Reverend Tangametua Tangatatuai	President, Cook Islands Christian Church
34	Pastor Erick Toleafoa	Seventh Day Adventist Church
35	Pastor Sarah Aratai	Seventh Day Adventist Church

Table 1: Final Results 17 November 2010 General Elections

Constituencies	Population of Voters	Number of Candidates**	Preliminary Votes	Final Votes	% Voter Turn Out	% Votes Polled by Winning Candidates	MPs Elect	Party
<b>RAROTONGA</b>								
1 Tupapa-Maraerenga	1113	4	870	966	87	44.51	George M Angene	CIP
2 Takuvaine-Tutakimoa	709	2	479	540	76	63.70	Mark Brown	CIP
3 Avatiu-Ruatonga-Palmerstone	734	4	489	574	78	46.86	John M Tikaka Henry	CIP
<b>Nihoa-Panama</b>								
4 Nihoa-Panama	961	3	588	638	66	39.97	Ngamau M Munakoa	Demo
<b>Ruaau</b>								
5 Ruaau	746	3	536	592	79	64.7	William Heather Jr	Demo
<b>Akoa</b>								
6 Akoa	466	2	336	380	83	53.42	Teariki Heather	CIP
<b>Murienua</b>								
7 Murienua	556	5	408	452	81	42.69	Tom Marslers	CIP
<b>Tilikaveka</b>								
8 Tilikaveka	781	4	634	696	89	47.12	Robert Wigmore	Demo
<b>Ngatangia</b>								
9 Ngatangia	623	3	505	543	87	40.15	Alatua J Herman	CIP
<b>Malavera</b>								
10 Malavera	598	2	507	559	93	57.96	Kiritau Turepu	CIP
<b>AITUTAKI</b>								
<b>Amuri-Ureia</b>								
11 Amuri-Ureia	396	4	278	352	89	48.86	Toanui Isamaela	CIP
<b>Arutanga-Retireu-Nikaupara</b>								
12 Arutanga-Retireu-Nikaupara	336	3	301	335	99.7	55.52	Teina Bishop	CIP
<b>Vaipae-Tautu</b>								
13 Vaipae-Tautu	434	4	287	349	80	46.70	Mona Ioane Kake	CIP
<b>MANGAIA</b>								
<b>Oneroa</b>								
14 Oneroa	224	3	193	216	96	56.94	Winton B Pickering	Demo
<b>Mirua</b>								
15 Mirua	76	2	60	74	97.4	93.24	Jim Marurai	Demo
<b>Tamarua</b>								
16 Tamarua	67	3	60	61	91	50.82	Pukeiti Pukeiti	CIP
<b>ATIU</b>								
<b>Teenui-Mapumai</b>								
17 Teenui-Mapumai	123	2	106	113	91.8	69.91	Norman George	CIP
<b>Tengatangi-Areora-Ngatarua</b>								
18 Tengatangi-Areora-Ngatarua	163	2	106	159	97.5	56.60	Nandi Tuaine Glassie	CIP
<b>OTHER ISLANDS</b>								
<b>Mauke</b>								
19 Mauke	219	2	183	209	95	59.33	Tai Tura	CIP
<b>Mitiaro</b>								
20 Mitiaro	117	2	89	108	92	60.19	Tangata Vavia	Demo
<b>Rakahanga</b>								
21 Rakahanga	62	2	48	58	93.5	51.72	Taunga Toka	CIP
<b>Manihiki</b>								
22 Manihiki	182	3	147	183	100.5	50.76	Henry Puna	CIP
<b>Pukapuka-Nassau</b>								
23 Pukapuka-Nassau	242	3	218	249	103	35.34	By-election to decide	
<b>Penthyon</b>								
24 Penthyon	120	3	115	142	118	50.00	Wilkie Rasmussen	Demo
<b>Totals</b>	<b>10,038</b>	<b>70</b>	<b>7,544</b>	<b>8,505</b>	<b>84.74</b>		<b>84.74%</b>	

Notes: Final results were obtained from the Cook Islands Gazette 10/2010 of 24 November 2010 and 10/12010 of 25 November 2010 and voter population was \*\* Obtained from the Cook Islands News of 10 November 2010, p1.

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