



PACIFIC ISLANDS FORUM SECRETARIAT

PACIFIC ISLANDS FORUM ELECTION OBSERVER TEAM REPORT

2019 NAURU PARLIAMENTARY GENERAL ELECTION

EXECUTIVE SUMMARY

1. The Pacific Islands Forum observed the 2019 Nauru Parliamentary General Election, which was held on 24 August 2019. The Forum was appreciative of the opportunity to observe the election and is grateful to the Nauru Electoral Commission (NEC) and Government of Nauru (GoN) accordingly.

2. On election day, the Forum Election Observer Team (Forum Team) observed polling at all 14 polling stations in Nauru. It is the view of the Forum Team that polling was safe, free and fair. It was evident that all polling and counting officials observed had received extensive training in the necessary processes, were confident, and able to answer various questions posed by the public. The Forum Team did not observe any attempts to disrupt polling on election day. The Electoral Commissioner and his staff are commended for the overall successful implementation of the legislative and technical aspects of the election. Despite this, the Forum Team heard several recurring key issues raised by stakeholders during its consultations. For the large part, the main issues identified relate to the enabling environment, including:

- alleged widespread reports of electoral treating and bribery;
- the high number and influence of voter transfers;
- the registration of *new citizens* on the electoral roll;
- resignation requirements for public officers to contest the election;
- access to media for candidates outside of government;
- the low number of women candidates, Members of Parliament and Cabinet Ministers; and
- youth empowerment in the electoral process.

3. Detailed discussion of all the issues observed are addressed in this report. Given the deployment duration of the mission (ten days), many of the issues raised could not be substantiated. However, the Forum Team is obliged to bring these issues and allegations to the attention of the NEC and GoN. In the interest of the democratic process and the integrity of this report, the Forum Team believes that stakeholders to the Nauru election are made aware of these issues so that they can be addressed as appropriate.

KEY RECOMMENDATIONS

4. The Forum Team recommends the following for the consideration of the GoN and the NEC, as appropriate:

Recommendation 1

5. That the NEC and relevant authorities consider:

- a) investigating the validity of allegations against candidates of treating and other electoral offences, to ensure compliance with the relevant sections of the *Electoral Act*; and
- b) addressing the described voting culture in Nauru through focused civic awareness on the purpose, role and significance of elections and electoral legislation in determining Nauru's future, and other appropriate means.

Recommendation 2

6. That the GoN, in consultation with the NEC, reconsider the:

- a) conditions for the mandatory period for public service employees to resign prior to elections, and consider alternative options including the holding of positions for public service employees that resign and are unsuccessful with their candidacy; and
- b) timeframe for which public service employees must resign from their positions.

Recommendation 3

7. That the GoN, in consultation with the NEC, introduce measures in the *Electoral Act* to explicitly prohibit candidates or campaign managers paying for the transfer fees of electors from external districts.

Recommendation 4

8. That the restrictions on the use of television for candidate election campaigning be lifted to ensure that no candidates have an advantage over others with respect to access to the voting public.

Recommendation 5

9. That the NEC and relevant authorities:

- a) consider reducing the election candidacy fees for men and women to encourage greater political participation; and
- b) continue to provide and conduct initiatives with relevant authorities and stakeholders that encourage greater female participation and representation in politics. It is recommended that the initiatives should not only be targeted at women, but also the wider community through relevant platforms and opportunities so as to address embedded societal perceptions of female participation in politics.

Recommendation 6

10. That the NEC identify, consult and collaborate with relevant Civil Society Organisations on electoral civic awareness opportunities for future elections.

Recommendation 7

11. That the NEC expand on the High School initiative to encourage youth participation in Nauru's electoral processes, and look to collaborate with other youth and youth groups on similar initiatives to support recommendation 1(b) of the report.

Recommendation 8

12. That the term of appointment of members of the NEC be reconsidered to allow for members to prepare and conduct more than one general election, and to encourage the retention of experienced electoral officials.

Recommendation 9

13. That the NEC explore alternative options for Proxy Voting, including the use of online proxy voting systems, to afford greater secrecy to overseas voters. Should this recommendation be explored, the Forum Team recommends that this is done as soon as possible to ensure that maximum trust is instilled in the electorate before the next general election.

Recommendation 10

14. That the NEC consider:

- a) using uniform counting tables, preferably trestle tables, to allow greater monitoring of the counting process; and

- b) implementing tighter measures for the monitoring and scrutiny of the counting process to avoid malfeasance.

INTRODUCTION

15. The Pacific Islands Forum Secretariat was invited by the NEC to observe the 2019 Nauru Parliamentary General Election. The election was held on 24 August 2019. The Forum Team deployed to Nauru from 18 August to 28 August 2019. The Forum Team was led by Mr Joseph Teokotai, Secretary of the Ministry of Corrective Services of the Cook Islands, and Returning Officer of the Cook Islands Electoral Office, and Mr Noel Bugotu, Data Manager, Solomon Islands Electoral Commission. The Forum Team was supported by two Secretariat staff (see **Annex 1** for the list of Team members).

16. Prior to the election date, the Forum Team met with the Caretaker Government including His Excellency, President Baron Waqa; Members of Parliament; senior Government Officials; the NEC; candidates; civil society; media representatives; youth representatives; and members of the diplomatic corps.

17. The Forum Team commends the NEC on the thorough preparation and organisation of the election, and congratulates the Nauru Electoral Commissioner and his staff for delivering a well conducted election. It was clear to the Forum Team that the NEC had utilised the *full* electoral cycle to prepare for the election, the first time it has had the opportunity to do so since its establishment in 2016. The Forum Team was also pleased to note that several recommendations of the *2016 Pacific Islands Forum Election Observer Team to the Nauru National Election Report* were successfully implemented.

18. The Forum Team also wishes to thank the NEC for the invitation extended to the Pacific Islands Forum Secretariat to observe the 2019 Nauru Parliamentary General Election. Pacific Islands Forum Election Observation Missions serve as an integral part of strengthening good governance in the region.

CONTEXT

19. Nauru has a total land area of 21 square kilometers and is located in the Western Central Pacific. There is no official capital. Government offices are located in the district of Yaren. Nauru's nearest neighbor is Banaba Island in the Republic of Kiribati, 300 kilometers to the east. Nauru's estimated population is 11,000 (2018). For the 2019 election, there were 7,508 registered voters, from which 7,167 electors exercised their right to vote. The effectiveness of the NEC's outreach programme is clearly demonstrable with an overall voter turn-out of 95.5%, amongst the highest globally.

20. On 31 January 1968 Nauru gained independence of a United Nations Trusteeship administered by Australia, New Zealand, and the United Kingdom, and became a Parliamentary Republic. The Republic of Nauru has a unicameral parliament of 19 members. Members of Parliament are elected through universal suffrage every three years. 60 candidates (five women) from Nauru's eight constituencies contested the 2019 election. The President is elected by the Parliament from among its number. The President is both Head of State and Head of Government.

21. Nauru has a narrow economic base, in part due to its geographical size and location. The main revenues are earned from the hosting of the Regional Processing Centre, mining of secondary phosphate deposits, and the sale of fishing licenses.

PART 1: THE INSTITUTIONAL FRAMEWORK AND ENABLING ENVIRONMENT FOR CONDUCTING ELECTIONS IN NAURU

The legislative framework

22. The Primary legislation under which elections are conducted in Nauru are the *Constitution of Nauru 1968* and the *Electoral Act 2016* ("the Electoral Act") and amendments. Other related legislation include the *Public Service Act 2016*, the *Births, Deaths and Marriages Registration Act 2017* and relevant regulations and rules that complement electoral laws, allowing the NEC to regulate specific topics of the *Electoral Act* as necessary (including Voters' Verification, Mobile Polling Stations, Proxy Voting, Early Voting, Remote Witness, and Petition Rules).

Legislative changes and contention

23. Significant legislative and administrative changes for the 2019 Parliamentary General Election included:

- the introduction of Early Voting;
- the number of overseas votes a voter could act as a Proxy for reducing from five to four;
- supplementary criteria for the eligibility of voters to transfer their registration to other constituencies;
- supplementary legislation to support reemployment in the civil service for employees that resign to run as a candidate; and
- the automatic recount of a constituency if the total count of contesting candidates came within 0.025% of each other.

24. While many of the changes are commended by the Forum Team and welcomed by stakeholders, several existing and new sections of primary electoral legislation were either questioned, criticised or considered untrustworthy by relevant stakeholders. In particular, these

included the identification of electoral treating and bribery; candidacy requirements; the artificial inflation of district voter rolls through the transfer of voters; campaigning methods; participation of underrepresented groups; secrecy and validity of proxy votes; and uncertainty around the Early Voting process.

Electoral treating and bribery

25. To ascertain a broader understanding of the electoral processes and enabling environment in Nauru, consultations often began by asking key stakeholders to broadly offer their perspectives on the state of elections in Nauru, and the peculiarities that may influence the democratic processes under which elections take place.

26. Acknowledging elements of Nauru's very rich and proud history, many stakeholders noted that history had been unkind to the small island nation, particularly concerning the poor management of its financial and natural resources. The Forum Team understands that the issues of the past continue to affect Nauru today, including the electoral process in both obvious and subtle ways. The Forum Team acknowledges the views of several stakeholders, recognizing that particular nuances cannot be addressed in isolation of the electoral process, especially the reality that alleged 'handouts' have become common during election periods.

27. A common issue raised during the Forum Team's consultations was the uncorroborated allegations and instances of bribery and electoral treating on the part of both candidates and voters in the lead up to polling day. The Forum Team has no way of determining the extent to which this allegedly occurred, however it understands from its consultations that the practice is significantly widespread.

28. To support the claims, the relevant stakeholders shared examples (some personal) of electoral treating and bribery, and their perceptions of how this voting culture has become 'accepted' by a significant number of Nauru's electorate and candidates. Several stakeholders noted that the current voting culture in Nauru has been exacerbated over time, stemming from the socio-economic circumstances of voters and the offering of electoral gifts or bribery to momentarily relieve such circumstances, and alleged electoral offences that have been unaddressed in multiple previous elections. It was noted that the practices described inherently support candidates and interests that have the financial means to influence the outcome of an election.

29. Further, various stakeholders noted that the extent of the activity goes deeper than one off exchanges. It was noted that some electors would promise their votes to certain candidates in exchange for money or 'gifts', and would thereafter approach rival candidates to further negotiate their vote. Some candidates shared instances where they were personally approached by electors actively looking to be bribed for their vote. While the Forum Team cannot corroborate these

claims, the volume of allegations the Forum Team heard, in addition to historical reports describing this type of voting culture, supports them.

30. Part 10, sections 124 and 129 of the *Electoral Act* address the corrupt practices and electoral offences of bribery and electoral treating. Relevant stakeholders noted that while the *Electoral Act* has strengthened the process for addressing these issues, a lot of work is required to ensure that both candidates and the electorate adhere to their legal obligations during elections. Further, it was noted that the NEC was yet to be fully empowered by the powers granted to it under the relevant electoral legislation.

31. The Forum Team appreciates the contextual and historical environment that has influenced the described voting culture in Nauru, and acknowledges the rights of eligible citizens to cast their votes for whomever they choose. The Forum Team also acknowledges that there will be particular nuances that Smaller Island States like Nauru will have (like small electorates and large families), which need to be considered. However, where undemocratic practices are allegedly used and reinforced on a large scale to influence voters, the Forum Team is obligated to bring the allegations to the attention of relevant authorities and groups to address the matter.

Recommendation 1

That the NEC and relevant authorities consider:

- a) investigating the validity of allegations against candidates of treating and other electoral offences, to ensure compliance with the relevant sections of the *Electoral Act*; and
- b) addressing the described voting culture in Nauru through focused civic awareness on the purpose, role and significance of elections and electoral legislation in determining Nauru's future, and other appropriate means.

Requirement to resign three months prior to elections for public service employees

32. Under the *Public Service Act 2016*, public service employees who intend to submit a nomination as a candidate in Nauru's general elections must resign at least three months prior to submitting their nomination. This is not an uncommon requirement in democracies around the world, a practice that discourages conflicts of interest and the potential use of public resources (including candidate time and commitment) to support a candidate's nomination.

33. The Forum Team heard from several stakeholders that the requirement for public service employees to resign was not only a disincentive to contest an election, but that many also did not trust the additional supportive legislation in place to reassure public service employees of their re-employment should their candidacy be unsuccessful. More specifically, the *Public Service Act 2016* stipulates that a candidate who resigns from their position to contest an election would be eligible for re-employment in the public service if they failed to be elected and, within two months of the declaration of the result, applied in writing to the Chief Secretary for re-employment in the public service. Several stakeholders noted that such measures were insufficient in *guaranteeing* the position they resigned from, and in fact that it only mentions re-employment in the public service in its entirety.

34. It was also brought to the Forum Team’s attention that some members of society have a personal and professional distrust in some of the political elite, and that the nature of aspects of Nauru’s political culture meant that any challenge to the government (including candidacy in an election) may hamper their professional and personal opportunities by being put on an alleged unofficial ‘blacklist’. For many stakeholders, the described circumstances were strong disincentives that not only affected their personal futures, but also their family members’.

35. The Forum Team notes that the three-month resignation period for public service employees wishing to run as candidates also does not reasonably provide adequate time for them to resign before an election, as election dates are not fixed and are difficult to forecast three months before an election. For the 2019 election, the Writ was issued on the 12 July, six weeks prior to the election.

36. While the Forum Team notes that the practice of requiring public service employees to resign prior to an election serves an integral component of democratic practices, it should not affect other integral components of a democracy, like the fundamental right of all eligible individuals to feel free, safe and not disadvantaged in contesting an election. The insecurity of loss of income, potentially beyond three months, is enough to significantly deter public service employees from contesting an election.

Recommendation 2

That the GoN, in consultation with the NEC, reconsider the:

- a) conditions for the mandatory period for public service employees to resign prior to elections, and consider alternative options including the holding of positions for public service employees that resign and are unsuccessful with their candidacy; and
- b) timeframe for which public service employees must resign from their positions.

Registration and the Electoral Roll

37. The *Electoral Act* stipulates that voting in Nauru is compulsory for all Nauruans that meet the eligibility criteria. To encourage greater participation and eliminate administrative obstacles to the voting public, Nauruan citizens are automatically registered as voters in the district for which they were registered at birth, once they reach 20 years of age. The electoral roll is updated from time to time following consultations between the Electoral Commissioner and the Registrar for Births, Deaths and Marriages.

38. Several stakeholders raised concerns over the timeliness and motivations of the government's granting of citizenship to several foreign individuals eligible for Nauruan citizenship. *New citizens*, as they were referred to, were also registered on the electoral roll after it had closed at 5pm 3 August 2019. The NEC was heavily criticized for this. The Electoral Commissioner addressed the issue through the release of a public statement, in which he conveyed his obligations under the *Electoral Act* and the steps taken in the registration process. The Forum Team is satisfied that the Electoral Commissioner registered *new citizens* on the electoral roll following due process, particularly under Part 3 sections 38 and 53 (3) of the *Electoral Act*, which:

- I. provides for the registration of a person as a voter if he or she has attained the age of 20 and is a Nauruan citizen; and
- II. allows the Electoral Commissioner to correct an error or omission on the electoral roll while it is closed.

39. To this issue, the NEC fulfilled its obligations to ensure that eligible Nauruan citizens were registered to vote in the 2019 election.

40. Aside from the registration issue of *new citizens* on the electoral roll, several stakeholders did raise concerns over the influence that several *new citizens* may play in the 2019 and future elections of Nauru. Noting the small size of Nauru's electorate and the nature of influencing voters described, stakeholders were concerned that the ability to influence voters would be affected particularly by very wealthy *new citizens* and their preferred candidates. The Forum Team acknowledges the valid concerns raised.

Voter transfers

41. A registered voter may apply for the transfer of his or her name from their district roll to another if they satisfy the relevant criteria under sections 41, 42 and 47 of the *Electoral Act*. The option to transfer a voter's registration to another district is typically to cater for the residential movement of citizens between districts and/or to vote in a district in which they have personal or

customary links. During the Forum Team’s consultations however, almost all stakeholders interviewed were alarmed over the nature and purpose of voter transfers transpiring in the lead up to polling day. The Forum Team were informed that while in previous elections an elector’s vote typically aligned with family-member candidates (which inherently supported larger families), the 2019 election saw widespread challenges to this norm as individuals and entire families transferred to other districts, allegedly to support their preferred candidate. The percentage of transfers for the 2019 election was 22%, a significant proportion of the Nauruan electorate.

42. It also came to the attention of the Forum Team that candidates paying for the transfers of electors was not only common, but also widely interpreted as permissible under the *Electoral Act*. The Forum Team heard of whole families, some as large as having 18 members, transferring their votes to neighboring districts in support of a candidate that had incentivized their transfers through transfer fee payments and additional monetary incentives. While stakeholders noted that on polling day electors could still vote for whomever they wanted, the Forum Team believes that this practice builds on and reinforces the prevailing attitudes towards electoral treating and bribery.

43. Noting the concerns raised by stakeholders, the Forum Team notes that without adequate legislative measures in place, voter transfers have the ability to influence election outcomes, including in ways that are not representative of the majority vote of the resident population in any given constituency. This is therefore cause for concern.

Recommendation 3

That the GoN, in consultation with the NEC, introduce measures in the *Electoral Act* to explicitly prohibit candidates or campaign managers paying for the transfer fees of electors from external districts.

Campaigning and Media

Community Platforms

44. Candidates in Nauru use door-knocking and ‘community platforms’ as the main forms of campaigning. Platforms are events at which candidates come together to promote their candidacy for the election, and to engage with voters. Platforms are very well-attended by the public, who engage in the debates and discussions. The platforms were conducted in the Nauruan language, and the Forum Team attended the Meneng constituency platform. There was a very heavy police presence within the venue and outside, forming road blocks to better control the environment. The Forum Team was pleased to see a healthy turnout at the platform, something that was

reportedly similar across all platforms for the 2019 election. The Forum Team did hear that one platform had to be adjourned due to verbal clashes between candidate supporters and families. The Forum Team is aware that the police rightfully stepped in to defuse the tension by calling the platform to a close.

Other forms of campaigning and mass media

45. Candidates also use billboards to supplement other forms of campaigning, however this was only used by a handful of the 60 candidates contesting the election. The Forum Team noticed that some billboards were erected the morning of the election, in total likely used by less than half of the candidates.

46. The Government Information Office, which sits in the Office of the President, prepares and distributes media releases in Nauru. Mass media, particularly television, is not officially used as a campaign tool in Nauru during elections.

47. Several stakeholders however, particularly candidates that had not served as Cabinet Ministers in the former government, raised their frustrations over their inability to access mass media to campaign. Exacerbating their grievances was the use of television by the government to broadcast their activities and several key achievements during its term.

48. The Forum Team observed several lengthy video clips on television, as described by the concerned stakeholders. The content of the advertisements was subjective, and its interpretation varied depending on who the Forum Team spoke to. What is clear however is that the segments could influence voters, a campaigning platform only available to a select few candidates in the 2019 election.

Recommendation 4

That the restrictions on the use of television for candidate election campaigning be lifted to ensure that no candidates have an advantage over others with respect to access to the voting public.

Women in Politics

49. Prior to the 2016 election, only two women had been elected to parliament; Hon. Ruby Thoma (1986-1992 and 1995-1997) and Hon. Charmaine Scotty (2013-2019). In 2017, a by-

election in the constituency of Ubenide resulted in the election of Nauru's third female Member of Parliament, Hon. Gabriella Hartman.

50. The Forum Team notes that female-candidate representation in elections increased between 2016 (four) and 2019 (five) elections, and is pleased that for the first time in a general election, two female candidates were elected to Nauru's Parliament; Hon. Charmaine Scotty and Hon. Isabella Dageago, both representatives of the Yaren constituency. While female representation remains low, the improvement is highly commended and acknowledged by the Forum Team as a positive step.

51. Nauru is a matrilineal society. The Forum Team was advised that women have a powerful voice at the domestic and community level, and have traditionally played a role in conflict resolution. As such, women are considered empowered in certain areas of Nauru's society.

52. Based on stakeholder interviews however, the Forum Team noted that prevailing attitudes around the appropriate role of women in society appear to influence their desire to pursue office. The Forum Team were informed that the role of women is centered around domestic responsibilities, specifically noting that women ought to first be concerned with the welfare of their families before their professional careers.

53. From its discussions, the Forum Team understands that in general there is a societal belief that the nature of parliament and its discussions are 'not a place for women'. In this case, it was argued that women could be 'too emotional' for parliament. Further, it was argued that their nature as *family carers* was better suited to them. Several stakeholders also noted that while they acknowledged that women face more motivational and societal obstacles to getting into politics, that no 'special' or 'extra' support should be afforded if they did want to participate. This view was reinforced in favor of keeping a *level playing field*.

54. Although a matrilineal society, in practice, the Forum Team's consultations suggest that men dominate the decision-making platforms and process in Nauru.

55. The Forum Team acknowledges that the lack of female participation in Nauru politics is not particular to just Nauru nor the Pacific, and is in fact a regional and international issue that requires greater global attention. Nevertheless, the Forum Team remains concerned that deep-seated societal views of women, broadly, will affect greater female participation in politics.

56. The Forum Team notes that the NEC extensively encouraged women to participate in the electoral process, including through the organization of workshops to support greater participation of underrepresented groups.

Recommendation 5

That the NEC and relevant authorities:

- a) consider reducing the election candidacy fees for men and women to encourage greater political participation; and
- b) continue to provide and conduct initiatives with relevant authorities and stakeholders that encourage greater female participation and representation in politics. It is recommended that the initiatives should not only be targeted at women, but also the wider community through relevant platforms and opportunities so as to address embedded societal perceptions of female participation in politics.

Civil Society

57. Civil Society Organisations in Nauru are less visible and active compared to other Forum Island Countries, and the notion of a vibrant civil society responsible for advocating key issues is not evident nor is it a widely accepted concept in Nauru. From the Forum Team's meetings, it was also clear that civil society has not been collectively active in promoting the upcoming elections.

58. The Forum Team is of the view that Civil Society involvement in elections is crucial to the transparency and inclusivity of electoral processes. The Forum Team also notes that civil society in Nauru be developed in manner that is relevant to its small size and population.

Recommendation 6

That the NEC identify, consult and collaborate with relevant Civil Society Organisations on electoral civic awareness opportunities for future elections.

Youth and political participation

59. Over the course of its consultations, the Forum Team came to understand that Nauru's youth participation in the electoral process is minimal. While youth do practice their democratic right to vote, there is a widely accepted tradition of youth voting in-line with what the head of their families direct. The Forum Team acknowledges that this practice has been long engrained in Nauruan custom, and is in fact not dissimilar to many other Pacific Island Countries that share the same customary and traditional familial dynamics and obligations.

60. The concept of heads of families dictating where and who entire families place their vote is of concern to the Forum Team, as it can lead to the election of candidates that do not represent the interests of the wider electorate. Several stakeholders in Nauru are working to address the issue of youth empowerment, however there does not seem to be an integrated or collective approach.

61. The Forum Team commends the NEC on an initiative it administered that encouraged High School students to get involved in the electoral process. In the lead up to polling day, selected High School participants participated in workshops discussing democracy and Nauru's electoral process, and were active on polling day moving between polling stations to observe the process. The Forum Team was able to talk to a few of the participants and was impressed with their knowledge and attitudes toward the electoral process. The NEC noted that they envisage the participants discussing and sharing what they learnt with their friends and family, in the hope of empowering youth in the electoral process in the long-term.

Recommendation 7

That the NEC expand on the High School initiative to encourage youth participation in Nauru's electoral processes, and look to collaborate with other youth and youth groups on similar initiatives to support recommendation 1(b) of the report.

Civic awareness

62. The NEC is the primary stakeholder responsible for civic awareness, including in relation to the electoral process. The NEC had an extensive public outreach programme, which included:

- civic voter education activities with the general population and influential community members;
- press releases and media engagement;
- door-to-door awareness (mainly concerning voter roll details);
- country-wide SMS messaging;
- voting demonstration videos; and
- billboard/poster campaigns using interactive and powerful imagery.

The NEC's website and social media pages were also sources of informative and up-to-date election information.

63. Stakeholders acknowledged that in general, the NEC had done well in promoting awareness of the elections. The Forum Team shares this view, as it is particularly demonstrable by the significant voter turnout of 95.5%. While the legislation requires that all eligible Nauruan citizens must vote in elections, this requirement, as demonstrated by countries with similar legislation, is not always respected and followed. Voters in Nauru were highly aware of their obligations to vote. Further, the materials distributed and displayed by the NEC were interactive, engaging and inclusive of underrepresented groups. The Forum Team highly commends the NEC's civic awareness strategies to promote voter participation.

Term of appointment of Nauru Electoral Commission members

64. The Forum Team notes that the term of appointment for members of the NEC (an Electoral Commissioner and two Deputy Electoral Commissioners) is for a four-year period. While the current term allows for NEC members to oversee the administration of at least one election, it was clear through the thorough administration of the 2019 election that the current members had administered at least one other election (albeit a very short preparation period for the 2016 general election). The Forum Team however notes that at any given point in time, the current four-year term arrangement afforded under the *Electoral Act* does not guarantee that members will oversee a *full* electoral cycle before their term ends.

65. As a relatively new entity in Nauru, the Forum Team acknowledges the importance of retaining experienced electoral officials, further suggesting the need for a review of the terms of appointment. The Forum Team believes that providing NEC members with the opportunity to review, amend and strengthen aspects of the electoral process from their experiences (including through the use of national and international electoral observation reports) is integral to the continued improvement of Nauru's electoral processes.

Recommendation 8

That the term of appointment of members of the NEC be reconsidered to allow for members to prepare and conduct more than one general election, and to encourage the retention of experienced electoral officials.

Other observations

66. On 22 August, two days before polling, His Excellency President Waqa announced the approval of \$1 million in payments, capped at \$10,000, to be paid to 734 Nauruans that were

affected by the collapse of the Bank of Nauru. Many criticized the timing of the announcement, stating that it was an attempt by the President to influence and capture votes.

67. The Forum Team is of the view that the government's announcement and deposit of \$1 million to members of Nauru's electorate on such a scale was democratically unethical, and does not align with democratic principles that guide the actions of governments in caretaker mode.

PART 2: THE 2019 PARLIAMENTARY GENERAL ELECTION

The Poll

General

68. The 2019 Nauru Parliamentary General Election was conducted from 9am to 6pm on Saturday 24 August 2019. Failure to vote on polling day is an electoral offence, punishable by a penalty not exceeding \$100. The Forum Team observed polling in all 14 polling stations. This included the opening of polls at the Meneng Infant School, and the closing of polls at Nauru College. At all stations, the Forum Team and other observers were asked to sign an attendance sheet.

69. Prior to polling, polling officials met at the NEC to collect all the materials necessary for the conduct of polling day. While the Meneng Infant School polling station opened on time, the Forum Team did hear reports of several polling stations in neighboring districts that opened after 9am due to preparation delays during the distribution of materials earlier in the morning.

70. The Forum Team observed that the layout in polling stations generally differed, but was necessary as all polling stations were unique (for example school corridors, halls, outdoor and semi outdoor settings). Polling stations were set up to ensure a natural flow of movement. The polling stations in large electorates had allocated marked lines and queue masters to control the number of voters in the polling station.

71. Polling stations were equipped with ramps for wheelchairs where necessary, however it was observed that ramps were at times difficult to access because of rough terrain to get to them. Where this and other related issues were the case, Presiding Officers were permitted to take ballot papers to voters in their vehicles to be marked, so long as they were in close proximity to the polling station. For voting in a vehicle, the same privacy entitlements were afforded to the voter as if he or she were voting in the polling station. The Forum Team observed non-voting passengers and drivers standing outside their vehicles to allow for the voter inside privacy. Upon the marking of the ballot, the Presiding Officer would walk back to the polling station with the ballot held above his or her head, and would place it in the ballot box.

72. Electors that had difficulty voting or who were unable to get to a polling station on election day had the option of requesting Mobile Voting. This form of voting was available to eligible voters that were in hospital or a correction center, or at a private residence and had the approval of a doctor's certificate to request this voting method.

73. Each polling booth had a photo of each candidate in the district. The photos supported voters to more accurately identify their preferred candidates, particularly in districts with many candidates.

Voting process

74. Polling stations were organized to support the procedural flow of the voting process. Voters would enter the polling station and first approach the Issuing Officer. After checking the voter's left forefinger for any ink marks, the Issuing Officer would ask for the voter's proof of identification to locate the voter's name on the roll. If the voter did not have valid identification, the Issuing Officer would ask the voter three questions to verify who they were. Upon satisfying the necessary requirements, the voter could proceed. The Issuing Officer would rule a red line across the voter's name and apply indelible ink to the left forefinger of the voter. The voter would then sign the voter roll next to their name. Before presenting the voter with a ballot and directing them to a polling booth, the Issuing Officer would initial the back of the ballot paper with their initials. Once the voter had marked their ballot appropriately, they folded it to ensure its secrecy, placed it in the ballot box and exited the polling station.

75. Nauru's electoral system, the Borda count (also known as the Dowdall system), is a unique form of preferential voting. At the polling booth, voters would need to indicate a preference for all candidates on their ballot paper for it to be considered valid. All candidates on the ballot needed to be numbered in order of preference starting from the number one (1). During the count, each preference marked on the ballot was allocated a value corresponding to its fraction of a vote (explained further in *Count*).

76. In the event a voter was not on the roll, they would have to make their way to the NEC to request a Temporary Voting Authorisation form, which would only be approved by the Electoral Commissioner once he was satisfied of the circumstances for not being on the roll. Upon the receipt of the authorization, the voter could then return to the polling station to be issued with a ballot.

Polling Officials

77. Polling officials were knowledgeable and professional in carrying out their duties on polling day. The Forum Team was impressed with their efficiency and ability to accurately answer

questions from voters. The Forum Team commends the NEC for the extensive training sessions it conducted, and further, for conducting them in both the English and Nauruan languages. Several polling officials noted that because most understood the two languages, they effectively went through the training twice. Polling officials were well remunerated for their work on polling day, the sum dependent on their roles. It was clear to the Forum Team that the NEC had taken the necessary steps to ensuring polling officials were equipped with the necessary tools and knowledge to both conduct polling and problem-solve when issues arose.

Early Voting

78. Early Voting was introduced for the first time at the 2019 election, and was used by 3.75% of the electorate. It was open from 15 – 23 August 2019 for voters that could not vote on polling day for valid reasons including travelling abroad, religious beliefs, illness, approaching maternity and/or occupational reasons. The Forum Team was able to observe Early Voting and was impressed with the number of voters that chose to use the option. The Early Voting room was adjacent to the office of the NEC, guarded by a police officers, secure, and monitored by 24/7 video surveillance.

79. While the above steps were taken to reassure the electorate and candidates of the Early Voting room's security, several stakeholders noted that they had reservations and were yet to be convinced on the secureness of the Early Voting room and ballot boxes at the end of each day. Stakeholders raised concerns over the monitoring of footage, and whether the NEC was reviewing the surveillance footage on a daily basis to ensure that no tampering was taking place after Early Voting hours.

80. The Forum Team is of the view that as much as they could, the NEC put in place the necessary arrangements to ensure that the Early Voting room was secure during and outside Early Voting hours. It also understands that voter reservations may also be affected by the public's unfamiliarity with the new initiative.

Proxy voting

81. Proxy voting was available to eligible Nauruan voters that were outside of Nauru on polling day. To vote via proxy, a voter would need to complete the *Application for Proxy Authorisation* form, nominating an eligible voter from the same district in Nauru to vote on their behalf. A voter in Nauru could be nominated as a proxy for four eligible voters abroad.

82. The voting process for an authorized proxy voter on polling day is the same for regular voters, except that before the nominated proxy voter is issued with the ballots, he or she must provide the Issuing Officer with the *Proxy Voting Authorization* form(s) to prove their

nomination, and sign the voter roll next to the name of the person(s) who authorized them to cast a proxy vote.

83. Several concerns were raised during the Forum Team’s consultations, specifically concerning the potential for authorised persons to vote against the wishes of their nominators. The current process relies heavily on trust, honesty, and the willingness of overseas voters to forego the secrecy of their ballot. The Forum Team is concerned that the secrecy of the vote is inherently compromised through this process.

Recommendation 9

That the NEC explore alternative options for Proxy Voting, including the use of online proxy voting systems, to afford greater secrecy to overseas voters. Should this recommendation be explored, the Forum Team recommends that this is done as soon as possible to ensure that maximum trust is instilled in Nauru’s electorate before the next general election.

Closing

84. The Forum Team observed the close of polls, which closed at 6pm. Polling officials followed the necessary procedure to close polling, and pack all relevant polling materials including used rubbish bags. After polling officials had packed up, a bus arrived at the polling stations to transport ballot boxes to the counting center. Accompanying the ballot boxes in the bus were polling station Presiding Officers and Police Officers. The bus drove to other polling stations to pick up other Presiding Officers and their ballot boxes, before returning to the Parliamentary Chamber for the count. The bus was escorted by police.

85. At 6pm on polling day, the Forum Team received an automated SMS message to inform all Nauruans with a cellphone that polling had ended.

The Count

86. The Count took place in Nauru’s Parliamentary Chamber. Counting Officials were divided into teams and sat around long tables (trestle-like tables and Parliamentary Chamber tables), each responsible for supporting the counting process of assigned constituencies.

87. Teams divided ballots into piles marked ‘valid’ and ‘invalid’ to speed up the counting process. Invalid ballots typically included those that either had doubled-up on a preference number or were incomplete. Ballots that were difficult to determine values for or that were marked

untidily were also placed in the invalid pile for the Electoral Commissioner's oversight. For consistency purposes, only the Electoral Commissioner could determine whether a vote was invalid.

88. Observers, the media and the general public observed the count from behind plexiglass windows in the gallery. At regular intervals, observers were allowed to enter the Parliamentary Chamber to observe the count up close. The process to enter the Parliamentary building was strict, which included a long wait at times for the main door to be unlocked by a single officer that had the key. The doors were guarded from the inside by police officers that could not leave until the Count was complete. Entry into the Parliamentary Chamber on the other hand was not monitored closely, possibly because entry into the building was sufficiently secure.

89. It was clear to the Forum Team that Counting Officials had been trained very well. Counting Officials were aware of their roles and tasks, and rarely needed directives on the process from supervisors. The nature of the counting process in Nauru however is inherently difficult as each preference on a ballot is allocated a value corresponding to its fraction of a vote. A first preference was allocated a value of one (1), and a sixth preference was allocated one sixth of a whole vote (0.16). Preferences were valued respectively as 1, 0.5, 0.33, 0.25, 0.2, 0.16 and so on according to the number of candidates on a ballot. Should a single ballot value be entered or calculated wrongly, the figures would not reconcile, forcing a recount of the preference value. The recounting process was manageable for smaller constituencies, however for larger constituencies the process became lengthy. Reconciling the vote and the result of each constituency was generally a long and drawn out process.

90. Once a constituency's count was reconciled and complete, the candidates with the highest values according to their constituency-seat allocations in Parliament were elected. The result was printed, stamped, signed by the Electoral Commissioner and displayed on the Parliament Chambers' plexiglass window for the public's information. As they were released, results were broadcast by media.

91. The Forum Team was alerted to a discrepancy of six votes between the total votes (including valid and invalid) for the constituency of Ubenide following the completion of the Count. The discrepancy was caused by six missing ballot that were found on Monday 26 August by Parliamentary staff when they unscrewed fixed chamber-tables to reorganize the Chamber. The ballots had either been accidentally or purposely slipped through a very small gap in-between the joining tables.

92. While the six missing ballots were numerically too small to impact on the election results for Ubenide in any way, for transparency purposes, the Electoral Commissioner ordered a full recount of the Ubenide constituency the same afternoon. Accordingly, and following the re-count,

the election results did not change; nevertheless, the Forum Team commends the NEC for ordering a recount, demonstrating transparency and adherence to proper process.

Recommendation 10

That the NEC consider:

- a) using uniform counting tables, preferably trestle tables, to allow greater monitoring of the counting process; and
- b) implementing tighter measures for the monitoring and scrutiny of the counting process to avoid malfeasance.

Post-election

93. The Forum Team was in Nauru to witness the first parliamentary sitting, at which Nauru's President was elected from among Parliament's number. His Excellency Lionel Aingimea, a candidate of the Meneng constituency, was elected as Nauru's President on 27 August 2019. The Forum Team noted that the process was conducted and completed in peaceful and respectful circumstances, in many ways reflecting a sanctioning of the election by the voting Nauruan public.

CONCLUSION

94. Overall, the Forum Team is of the view that:

- the NEC administered a well organized and conducted election, and should be highly commended and congratulated for it;
- polling and counting officials conducted themselves in a highly professional and impartial manner, pending ongoing investigations into the six missing and later-found ballots of the Ubenide constituency;
- polling was safe, free and fair. Authorities worked collectively to ensure that the conduct of the election went smoothly and uninterrupted; although
- there were a number of issues relating to the enabling environment for the conduct of elections, that the Forum Team recommends the GoN, NEC and relevant authorities address.

ACKNOWLEDGEMENTS

95. The Pacific Islands Forum Election Observer Team acknowledges with gratitude:

- the Nauru Electoral Commission and the Government of Nauru for the invitation and facilitation of the Forum Team's mission to observe the 2019 Nauru Parliamentary General Election;
- the Electoral Commissioner and staff of the Nauru Electoral Commission for their support of the mission including facilitating access for the Forum Team to polling stations and the counting room;
- the polling and security officials at all booths visited by the Forum Team and for taking time where requested to clarify and answer questions about the process;
- all the interlocutors the Forum Team met with including Government representatives, candidates, civil society, media, youth representatives and the diplomatic corps; and
- the people of Nauru for their warm welcome and hospitality.

Pacific Islands Forum Election Observer Team

15 January 2020

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