

ANALYSING THE OPEN LIST SYSTEM OF PROPORTIONAL REPRESENTATION IN FIJI'S 2014 GENERAL ELECTION:

A Perspective from the Fiji Electoral Commission

Fr. D.G. Arms¹

INTRODUCTION

The general verdict on Fiji's 2014 September elections is certainly positive. There were those, obviously, who would have preferred a different result and there were no doubt hitches or irregularities here or there which should be eradicated in the future, but the basic process of the election was well received. Speaking as an Electoral Commissioner, this came as a great relief. Confronted with an entirely new electoral system to be implemented within a short period of time, the Commission's overriding concern was to ensure that the people of Fiji would understand it and be able to operate it. Again, although there were glitches also in the voter education program, the basic job got done and the people went confidently to the polls. The Electoral Commission is very grateful to the Elections Office and all those associated with it, and to all the people of Fiji for their cooperative attitude in bringing off these elections.

This paper is not about the entire electoral process but precisely about the PR (proportional representation) and Open List electoral system and its ramifications.

PROPORTIONAL REPRESENTATION (PR)

This was the first time Fiji used a PR system and I believe the basic concept of PR and how it works is now reasonably clear to voters. Put very briefly, proportional representation means that the number of seats a party gets in Parliament is proportional to the number of votes it received in the election. The actual allocation of seats for our current Parliament was done on the basis that only three parties qualified to receive seats. The number of votes each of the three parties got was: FijiFirst 293,714 (63.76%); NFP 27,066 (5.88%); SODELPA 139,857 (30.36%) for a total (for the three parties) of 460,637 votes (100%). The actual number of seats allotted to each party was 32, 3, and 15, which represents 64%, 6%, and 30% (total 100%). The closeness of these percentage figures to those given just above is apparent, and at this level, proportional representation has clearly been achieved. The allocation of seats was done using what is known as the d'Hondt rule. There is another such divisor method known as the Sainte Laguë rule. Of the two, the d'Hondt rule is the more widely used, but the Sainte Laguë rule is regarded as the more exact and fairer of the two. Interestingly, both rules provide the same apportionment of seats for Fiji's election.

There were also 4 other parties and 2 independents in the election. These won 35,727 votes among them, which is 7.2% of the absolute total of valid votes cast. However, Fiji's Constitution has laid down a threshold of 5% for Fiji's general elections. This means that no party or independent candidate with less than 5% is entitled to receive any seats, hence the figures as given in the previous paragraph. The FLP and PDP parties were excluded by the threshold. The other 2 parties and 2 independent candidates would not have received any seats even without a threshold in place. Of interest, however, is the fact that, without a threshold, by the d'Hondt rule the PDP and FLP would have won a seat each (FijiFirst and the NFP losing one each as a result).

Clearly, the application of a threshold interferes with the strict proportionality of the system and also with the dictum "one person, one vote, one value". Nevertheless, these claims are still valid, even if not 100% so. While some people (including myself) would like strict proportionality etc., there is indeed an argument against it. If too many parties and/or independents win seats, the important business of forming a government can in some cases become a nightmare as the major party tries to stitch a coalition together. And even if a coalition government gets formed, the government leaders have to spend a lot of time and energy trying to keep the coalition together – time that would be better spent running the country. As a result also, small parties can end up wielding too much power as they demand concessions to their own manifesto if they are to remain in the coalition. So the argument runs. Most countries using proportional representation do then have thresholds, but not all.

As was pointed out before the election, in Fiji's context the chances of an independent being elected are very slim and almost, one might say, wasteful; for the number of votes required for an independent to get elected would, if that person had run for a party, elect at least two candidates for that party. A second point to note is that one of the purposes of having a threshold is to discourage party fission (breaking apart) and encourage party fusion (joining together). The FLP and PDP parties both claim support from workers' unions. The number of votes they received

(11,670 for the FLP, 15,864 for the PDP) was 5.55% of the absolute total of valid votes, 496,364. If they had merged and still got this number of votes, they would have passed the threshold.

OPEN LIST

The system used in the 2014 General Election is termed an Open List system. The concept of 'List' is now clear to voters. It is the total list of candidates a particular party is running. What the word 'Open' means is that the voters are free to pick from that list the candidate they prefer. This is in contrast to a Closed List (which was proposed by the Ghai Commission²) where the voter has no choice at all among candidates on the party's list; they simply accept that list in the order set out by the party. (In that case, the total number of seats won by a party would be given to the topmost candidates on the party's list with no input from the voters as to their relative merits).

It is very clear that an Open List gives more power to the voter than does a Closed List – it is rather obviously more democratic. In one way, the Open List is similar to Fiji's former systems of voting. Previously, voters belonged to a local constituency and to support a party they voted for the candidate of that party who was running in that constituency. They might not in fact particularly like the local candidate but they would vote for him anyway since they wished to support the party. The Open List is similar in that to vote for a party, the voter must vote for a candidate of that party, but the voter is no longer tied down to just one candidate; he/she may choose any candidate on the party's list.

The big advantage in the Open List is that if by chance a voter's preferred candidate does not get elected, his vote will count nevertheless towards the party total – it is not wasted. In the old systems, if one's preferred candidate lost out, the vote did not count for the party either, so it had no effect anywhere. Furthermore, the Open List provides better accountability over all. If in the next four years the candidate voted for turns out to be a failure, the voter can at the next election 'punish' him by voting for a different candidate on the list. In the Open List, candidates realize that they need to perform if they are going to be re-elected at the next election. They are being kept accountable.

ONE CONSTITUENCY ONLY

All PR voting systems (whether Open List or not) require there to be one or more multi-member constituencies. A very distinctive feature of the Open List as used in Fiji is that there is indeed only one constituency. This provides maximum variety for the voter (and also in principle more exact proportional representation). But it also poses other interesting questions. What tactics will parties use under these circumstances? Because Frank Bainimarama did very well in this election and the party policy was to steer most votes towards him, some commentators have been led to believe that this would be the best winning strategy overall. I very much doubt it. What is important in the Open List is the total number of votes the party gets. Whether they come mainly through one candidate or through many does not matter. The tactic of steering votes this way or that depends very much on the charisma of the candidates involved and the enthusiasm the party

can muster around certain candidates. This is likely to vary from party to party and election to election.

If a great number of votes do in fact gather on one (or more) candidate(s), this can result in candidates lower down the list being elected with far fewer votes than comparably-placed candidates on other parties' lists. For instance, the last candidate originally elected for FijiFirst had 874 votes, whereas the last candidate elected in the NFP and SODELPA parties had 1,125 and 2,105 respectively. This has led some people to claim that the system is unfair. Not so. It is not unfair but in fact quite reasonable. A little reflection will reveal that the same phenomenon took place under the old systems too. As mentioned earlier, candidates in the old constituencies were often elected more for their being a member of such-and-such a party, not on their own merits. The same applies to the Open List. The fact that some candidates are getting in basically on the coat-tails of somebody else is part and parcel of being a member of a party. It is certainly far preferable to a Closed List where nobody – neither the party nor the voter – has any idea of the respective popularity of the candidates in the eyes of the voters.

BALLOT PAPER

Having just one constituency means, of course, that only one form of ballot paper is required for the whole country – a simplifying feature within the process. As against that, there are a great number of candidates to be somehow accommodated within the ballot paper. The form the ballot paper took – a series of numbers in vertical lines – is now well-known to us all. When it first appeared (in the Electoral Decree at the end of March), it caused some consternation, not least among members of the Electoral Commission. Would not the public be quite confused when confronted with such a ballot paper full of numbers – something so different from previous ballot papers? The political parties also shared their serious concerns. The Electoral Commission made submissions to Government on the issue, but these were not accepted, though an Amendment to the Decree did provide that the National Candidates List be provided at the polling stations to all voters.

It became apparent that education on how to vote would have to be thorough and widespread. And so it was. It seems to have been very successful. The invalidity rate was a little under 0.75%, which is far far less than the 9% or more of the three general elections held under the Alternative Vote system. Such a low rate was a considerable relief to the Electoral Commission.

Nevertheless, a problem remains. Although the invalidity rate in itself was commendably low, there can be no doubt that people made mistakes in voting. Of course under any system a voter might inadvertently mark the wrong candidate, but the current ballot paper may be seen as especially prone to this. With so many numbers on the ballot paper and with the limited permissible assistance to voters in the polling stations, it seems likely that some voters did in fact mark the wrong numbers. Such a mark of course does not invalidate the vote, but the result is nevertheless very negative, because the vote is being counted towards the total of a candidate that the voter did not want. It is very hard to pick this sort of mistake up, and impossible to rectify it.

As an example, it has been pointed out that candidate 297, Ilaitia Vuniyayawa of the PDP, received more than twice the number of votes the leader of his party received – not an expected result. But it also so happens that his number, 297, is an inversion of the Prime Minister's number, 279. It seems certain that this candidate picked up votes that were intended for the Prime Minister. Other such cases surely took place, but are harder to detect because of the lower numbers of votes involved.

The Electoral Commission has the intention of re-approaching Government on this issue. It wishes to re-suggest one or both of the following strategies. Firstly, Section 52 (2) of the Decree, which forbids taking cards or pieces of paper into the polling station, could be modified to allow a single card or small piece of paper to be taken in, on which can be written the name and number of one or more candidates. Secondly, the Amendment referred to earlier could be further amended to allow that, in place of the National Candidates List (or at least in addition to it), an alphabetical list of candidates' names (along with their photos) be provided. This list would also identify which party they belonged to. Party identification needs to be clear to voters for, as said earlier, even if a voter's choice of candidate is not successful, the vote will still count for the party, so the voter needs to be fully aware of a candidate's party affiliation. The National Candidates List lacks that information and is also ordered numerically, not alphabetically, so finding a candidate's name quickly (and voters certainly want to do that when in public view at the voting booth) is very difficult. It is a bit like trying to find a friend's phone number in the telephone directory if the directory had the numbers in numerical order instead of in alphabetical order.

Although the ballot papers were quite large (A3 size), counting them at polling stations was surprisingly successful. The counting procedure devised by the Elections Office worked well, and all counting had been completed within 4 to 5 hours. Counting postal and pre-poll votes went similarly well. The coalescing of the results from all result protocols to produce the Final National Results Tally, on the other hand, was a very lengthy process. For all phases of counting, the attitude taken – rightly – was 'slow but sure', rather than quick but error-prone. At election time it was thought that the final results would be clear sometime over the weekend. In the event, it was 11 on Monday morning before the final list of elected candidates was read out.

REPRESENTATION

As stated at the beginning, a PR electoral system provides proportional representation as between parties. But that does not mean that other sectors of society are also proportionally represented. How they are in fact represented after this election can only be dealt with cursorily here, but this is an area which it will be interesting to keep track of as time progresses.

Having just one constituency frees up the population from having to be represented by a local representative. Some voters may well prefer to be represented on a non-geographical basis. But others will be thinking a lot about their local scene and who they can turn to when facing a problem in that geographical area. The September election has in fact provided us with a wide array of representation in terms of where the elected candidates come from. There are a

reasonable number from all four Divisions and they would seem to be reasonably spread out, although clearly not as methodically spread out as in the previous allotment of candidates to particular constituencies. We can expect them to take an interest in their places of origin, even if they no longer live there. However, they have no obligation to specially represent a place just because they come from there or dwell there. They have been elected in a national constituency, not a local one.

Nevertheless, it can be expected that candidates will pay special attention to areas where they believe they picked up their votes. Parties too, in order to be well thought of at the next elections, may make a point of having party representatives available in various areas to ensure that they can address local needs when called upon to do so. This is where accountability comes in. If a party does not respond, it will suffer at the next poll.

As well as local representation, a lot has been said too about the representation of women in Parliament. Of the 50 elected representatives, 8 (16%) are women. In terms of percentage, this is almost half as much again as previously (11%). Nevertheless, I had hoped for more than that. The number of women run by the parties was good, but modest (averaging 17.74%). In any event, with the work of the Minister for Women (past and present) and various NGOs, greater empowerment for women is assured, and this will surely translate itself into more involvement of women in leadership in the future. (It should be noted, by the way, that the resignation of the former Minister for Women, Jiko Luveni, to become Speaker, reduces the total of women in Parliament as such, but the electoral system - through the voters, of course - did provide 16 %).

There was an unprecedented huge crop of young voters at these elections – 11 years-worth of people who had never voted before, due of course to the long hiatus (8 years) since the last election and the three extra years brought about by lowering the voting age from 21 to 18. Although there is every reason to believe that they, like the rest of Fiji, turned out in large numbers to vote, they did not focus their vote on someone of their own age-group. There is nobody elected from the age group concerned (18 to 29) and not many from the 30 to 39 age group either – only 4, I believe. Because of their lack of years and public exposure, it is hard for youth candidates to draw enough support on a national scale. They are not widely enough known. Whether they would do better in smaller constituencies, however, is also doubtful. Is this a problem? We can hardly expect all groups in society to be separately represented. At least at this juncture, the youth seem to have slotted into the mainstream parties and voted much as other voters. There may, of course have been some special tendencies within the younger sector of society, but because of the secrecy of the vote we will hardly get to know of it.

A much heralded difference between this election and former elections was, of course, the disappearance of communal seats. Beforehand it was alleged that, although proportional representation is between political parties not between ethnic groups or other groupings, it was nevertheless most likely to provide a good ethnic balance in the Parliament. This has in fact happened. Looking at the old categories, there is a Rotuman, an 'Other', and a healthy representation of the two main ethnic groups. There is little cause for disquiet here.

If time permitted, we could look at how far some other groups are represented - for example religions and denominations, the disabled (there is one such representative), and particular professions and walks of life. A particular group that warrants study is the poor, or the lower income bracket. How far do we really believe that a significant group in society needs their own physical representatives in Parliament? The vast majority of people in Fiji do not earn enough in a year to warrant paying income tax – their income does not pass the tax threshold. How many of this group have been elected to Parliament? Not very many, I believe – and nowhere near proportionate to their numbers in society. And, ironically, if they were elected, they would immediately receive an income which would remove them from their lower income bracket status! Does poverty itself retard people from properly representing themselves, whether in an Open List or other type of system? Prior to the elections, the newspapers highlighted how voters were raising the cost of living and poverty as the key issues. The BBC has itself been looking at global poverty and the fact that, in spite of goals and efforts to combat poverty, the gap between rich and poor is growing. Is that in fact to be expected if the poorer sector of society is not sufficiently represented in Parliament?

CONCLUSION

These and other important questions must be left for another occasion. Here I have just gone through some of the features of the Open List system of PR, evaluating how they operated over election time. An evaluation of the whole operation is something that is ongoing. In particular, the way the one constituency feature works out in practice is a challenge that needs not only to be kept in view but to be worked on. But so far, in my view, the Open List system has been successful.

ENDNOTES:

- 1 *Fr Arms is a Commissioner on the Fiji Electoral Commission. This article is based on a presentation made to a Public Forum at USP on 12 November 2014.*
- 2 *The five-member independent Constitution Commission led by Professor Yash Pal Ghai had submitted its draft constitution to the President of the Republic of Fiji in December 2012. However, this document was rejected by the Government.*

The first of these is the fact that the Pacific region is a vast and diverse area, encompassing a wide range of cultures, languages, and traditions. This diversity is reflected in the many different ways in which the Pacific has been studied and represented in the media. For example, some scholars have focused on the role of the Pacific in the development of modernity, while others have emphasized the importance of traditional Pacific values and customs. This diversity of perspectives has led to a rich and complex body of research on the Pacific, which continues to evolve and expand as new studies are published.

Another important factor in the study of the Pacific is the role of the Pacific in the global economy. The Pacific region is a major source of raw materials and labor for the world economy, and it is also a major market for goods and services. This has led to a growing interest in the Pacific as a key area for economic development and investment. As a result, there has been a significant increase in the number of studies and reports on the Pacific's economic role, and this has helped to bring the Pacific's economic importance to the attention of a wider audience.

Finally, the Pacific region has also been the focus of significant attention in the field of environmental studies. The Pacific is home to some of the world's most diverse and valuable ecosystems, and it is also a major source of marine resources. This has led to a growing concern about the impact of human activities on the Pacific's environment, and this has resulted in a large body of research on the Pacific's environmental challenges. This research has helped to raise awareness of the importance of the Pacific's environment and has led to the development of a number of initiatives to protect and manage the Pacific's natural resources.

In conclusion, the Pacific region is a complex and diverse area that has attracted a great deal of scholarly attention. The diversity of the Pacific's cultures, languages, and traditions has led to a rich and complex body of research on the Pacific, which continues to evolve and expand as new studies are published. The Pacific's role in the global economy has also led to a growing interest in the Pacific as a key area for economic development and investment, and this has helped to bring the Pacific's economic importance to the attention of a wider audience. Finally, the Pacific's environment has also been the focus of significant attention in the field of environmental studies, and this has led to a large body of research on the Pacific's environmental challenges. This research has helped to raise awareness of the importance of the Pacific's environment and has led to the development of a number of initiatives to protect and manage the Pacific's natural resources.