



PACIFIC ISLANDS FORUM SECRETARIAT



PACIFIC ISLANDS FORUM  
*40th Anniversary 1971-2011*

**Report of the Pacific Islands Forum  
Secretariat Election Observer Mission to  
the May 7, 2011 Niue General Election**

**15 August 2011**

## Executive Summary

Electors in Niue aged 18 years and above went to the polls on 7 May 2011 to elect 20 Members of the Niue Legislative Assembly (MNLA) by secret ballot under a system of universal suffrage. The 20-member Niue Legislative Assembly (NLA) comprises six Common Roll Seats (CRS) and fourteen Village Constituencies (VCs). A total of 42 candidates stood for elections. Seventeen candidates contested the CRS and twenty-five candidates contested the VCs. Six candidates who contested the VCs were elected unopposed so electors from these VCs participated only in electing candidates that stood for the CRS. Electors from eight VCs however voted for candidates who contested the VCs and the CRS. The practice of some MNLA being elected unopposed in general elections is not uncommon in Niue. Out of the 42 candidates, eleven were women but only three women were elected.

All the incumbent MNLA re-contested their seats. Four MNLA were not re-elected. At present there are no political parties in Niue. Candidates contest the seats as individuals. Although some candidates discussed a number of national issues, electors in Niue vote generally on the basis of family, village, personal friendships and church. In this general election, candidates campaigned by visiting households, talking to families and distributing campaign leaflets. Some candidates and their friends and relatives also emailed these leaflets to individual electors. After the election results were declared, politicking to form the government was polarised between two factions.

Polling was well-organised and conducted according to the laws governing elections in Niue. Polling was also peaceful and trouble-free. Electoral officials ensured that electors exercised their rights to vote by making sure that the necessary administrative arrangements were in place as required by the *Niue Legislative Assembly Act 1966*. The only incident, and an uncharacteristic one, was the burning down of a house in the village constituency of Hikutavake on the night of the polling day. The incident happened several hours after the provisional results were released and during the time when successful candidates, their families and supporters partied to celebrate their election into the NLA. Police acted promptly and attended to the matter. The incident was treated by police as arson.

Depopulation is a very serious issue for Niue. Aside from its negative ramifications on economic growth and investment, depopulation through excessive overseas migration has led to some VCs being left with a very small registered voter population. For example, the constituency of Namukulu in 2011 had only 6 registered electors. The largest village constituency (VC) is Alofi South with 246 registered electors. Its relatively large elector population is believed to be the reason why more candidates from Alofi South are elected through the CRS compared to candidates from other VCs.

In summary, 1,046 electors were registered on the electoral roll but 813 electors voted. For the CRS, the voter turn-out was 77% whereas it was 50% for the VCs. Approximately, 33% of the votes cast for the CRS were invalid. In the VCs there were 8 invalid votes. One electoral petition was lodged for the VC of Mekefu but it was subsequently dismissed by the Court. Overall, the 2011 general election in Niue was well managed and held in accordance with the principles of democratic good governance, the relevant laws of Niue, and was free and fair.

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## Abbreviations

CEO	-	Chief Electoral Officer
CRS	-	Common Roll Seats
DCEO	-	Deputy Chief Electoral Officer
DoJLS	-	Department of Justice, Lands and Survey
MNLA	-	Members of the Niue Legislative Assembly
NA Act	-	<i>Niue Assembly Act 1966</i>
NBC	-	Niue Broadcasting Commission
NLA	-	Niue Legislative Assembly
NPSC	-	Niue Public Service Commission
NPP	-	Niue People's Party
PC	-	Poll Clerk
RO	-	Returning Officer
VCs	-	Village Constituencies
VC	-	Village Constituency

## INTRODUCTION

### *Background*

Niue is a single island – a raised coral atoll of 259 square kilometres – situated 480 kilometres southwest of Tonga, 930 kilometres west of the Cook Islands and 660 kilometres south of Samoa<sup>1</sup>. The estimated population of Niue in 2008 was 1,520, a decrease of 105 people since the 2006 census which recorded a total of 1,625 people.<sup>2</sup> Depopulation through out-migration is a major issue for Niue with many Niueans migrating permanently overseas to New Zealand to access opportunities for education and employment. In the 1960s, Niue had around 5,000 people. There are 14 villages situated around the island. Alofi is the capital of Niue and is also the hub of government, commerce and business.

2. The small size of Niue's land mass and population has major implications for commerce, economic growth and governance. Economic growth is constrained by limited air and shipping services, a small population of skilled professionals and entrepreneurs and limited arable land for commercial farming.<sup>3</sup> The government is the main employer. Niue's main trading partner is New Zealand with whom it shares a close historical relationship since 1901. Value of imports from New Zealand grew from NZ\$4.8 million in 2006 to NZ\$10.48 million in 2008.<sup>4</sup>

3. In 1901, in an agreement with Great Britain, New Zealand assumed responsibility for Niue that lasted over half a century until October 1974 when Niueans, in a referendum held in September 1974, voted to become a self-governing state in free association with New Zealand. As a self-governing state, Niue remains a Realm of New Zealand but makes its own laws and its government has full executive authority.<sup>5</sup> Under the *Niue Constitution Act 1974*, Niueans became New Zealand citizens and therefore are entitled to enter, work and reside in New Zealand. New Zealand however is responsible for Niue's external affairs and defence, and also provides economic and administrative assistance. In recognition of the economic vulnerability of Niue, the two countries signed a Memorandum of Understanding known as the *Halavaka ke he Monuina Arrangement* in 2004 for a new Strengthened Cooperation Programme. The Programme spans a period of five years wherein an additional NZ\$20 million was secured outside of the Recurrent Budget Support<sup>6</sup>.

4. Niue is a parliamentary democracy with a unicameral assembly known as the Niue Legislative Assembly (NLA) comprising 20 members. Fourteen members represent village constituencies and six members represent Niue. The six members who represent Niue are elected from the common electoral roll also known as the common roll seat. The government is comprised of four ministers with the Premier as the Head of Government. The Honourable Mr.

<sup>1</sup> See David Butler (2001) in *Niue First Country Report to the Convention on Biological Diversity*, Department of Community Affairs, <http://www.sprep.org/org/at/IRC/eCOPIES/Countries/Niue/15.pdf>

<sup>2</sup> See New Zealand Ministry of Foreign Affairs and Trade <http://www.mfat.govt.nz/Countries/Pacific/Niue.php>

<sup>3</sup> See New Zealand Ministry of Foreign Affairs and Trade <http://www.mfat.govt.nz/Countries/Pacific/Niue.php>

<sup>4</sup> See "Niue" in *Country Reports on Actual Leadership Study against the Forum Principles of Good Leadership Baseline Survey for Year 2008 (2010)*, Pacific Islands Forum Secretariat, Suva p.88.

<sup>5</sup> See New Zealand Ministry of Foreign Affairs and Trade <http://www.mfat.govt.nz/Countries/Pacific/Niue.php>

<sup>6</sup> See "Niue" in *Country Reports on Actual Leadership Study against the Forum Principles of Good Leadership Baseline Survey for Year 2008 (2010)*, Pacific Islands Forum Secretariat, Suva p.87.

Toke Talagi is the current Premier. The Speaker of the NLA may not necessarily be a member of the Assembly.

#### *Invitation to Observe the Election*

5. On 5 May 2011, the Government of Niue through the Office of the Secretary of Government invited the Pacific Islands Forum Secretariat “to send a General Election Observation Team to observe the 2011 General Elections. The invitation stated that “an independent view and reflection of [Niue’s electoral] processes and procedures will assist and strengthen the principles of Good Governance that [Niue] aspire to achieving”.

6. The Forum Secretariat deployed its Regional Governance Adviser, Dr Henry Ivarature, to observe the elections. According to some senior officials of the Government of Niue, this was the first-time for Niue’s elections to be observed by election observers.

#### *Composition of the Team*

7. As mentioned above, the Pacific Islands Forum Secretariat Election Observer to Niue (hereafter referred to as the “Observer”) was:

<p>Dr. Henry Ivarature Regional Governance Adviser Political Governance and Security Programme</p>
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8. As part of the Forum Secretariat’s election observation programme, the Observer has participated in election observation missions to Papua New Guinea (2007), Nauru (2010), Cook Islands (2010) and Samoa (2011). The Observer arrived on 6 May 2011 and departed on 13 May 2011.

#### *Terms of Reference*

9. The Terms of Reference for the Mission was as follows:

*The Pacific Islands Forum election observer team (“the Team”) will be present in Niue before, during and after the General Elections of 7 May 2011 in order to observe the preparations for the election, the polling, the counting and the results process, and the overall electoral environment.*

*The Observer 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 Niue and are free and fair.*

*Following the elections, the Observer will provide a report to the Secretary General of the Pacific Islands Forum Secretariat, the Government of Niue, Niue External Affairs, the Election Management Body setting out its observations on the elections for discussion by the Niue Department of Justice, Lands and Survey and the Election Management Body. All proposed recommendations to refine, enhance or improve the way elections may be carried out in Niue in the future will also be tabled in this report.*

### ***Methodology***

10. Aside from consultations with key stakeholders on the preparations for the elections, the Observer visited all the polling places on Niue to see how polling was conducted. The observations began with observing the preparations to set up the polling booth and the opening of the polling place at the VC of Alofi South at 9.00am. From there, the Observer accompanied the Chief Electoral Officer (CEO) to all the polling places.

11. The route for the visits to the polling places began from the northern end of the island, moving along to the eastern side, proceeding to the southern side, then onto the western side and returning to the northern side of the island in time to witness the closure of the polling place at Alofi South at 6.00pm. Here, the Observer saw the counting of votes and the declaration of the winning candidate for this VC. Afterwards the Observer proceeded to the Department of Justice, Lands and Survey (DoJLS) to see the provisional results for all the VCs and the CRS. By 10.00pm, the provisional results were declared.

12. Further information and views on the general election were obtained from open-ended meetings held with some candidates, senior government officials, including the caretaker Premier Honourable Mr. Toke Talagi, the CEO and the Deputy Electoral Officer (DCEO), the Chief of Police, a senior representative of the *Ekalesia Niue* which is the main church in Niue, media, the New Zealand High Commissioner to Niue and the members of the Niue Chamber of Commerce. The official results and other relevant election information were obtained from the CEO.

### **THE CONTEXT**

#### ***Legal Framework Governing Elections in Niue***

13. The general elections in Niue are governed primarily by two legislative instruments, the *Niue Constitution Act 1974* (the Constitution) and the *Niue Assembly Act 1966* (the NA Act). The key constitutional provisions in the Constitution are Articles 5(4), 6, 16-20, 24-26, some of which are discussed below. Other relevant laws include the *Niue Assembly Standing Orders* and the *Public Service Regulations 2004* (specifically the provisions concerning "Candidacy and Membership of the Niue Assembly or Village Council").

14. A general election is invoked through Article 26 of the Constitution which empowers the Speaker who, by notice in the Niue Gazette, dissolves the NLA on the following basis:

- (a) At the expiration of 3 years from the date of the last preceding general election, if it has not been sooner dissolved;
- (b) At any time after the expiration of 2 years and 9 months from the date of the last preceding general election, if the Premier so requests;
- (c) If, pursuant to Article 6(3) of this Constitution, the Premier requests him to dissolve the Assembly;
- (d) If a new election of Premier has been held pursuant to Article 5(4) of this Constitution and that the new election has become of no effect pursuant to that subclause.

15. Upon the dissolution of the NLA, general elections to elect members of the Assembly must be held “not less than 4 weeks nor more than 6 weeks” after the date of dissolution of the Assembly (see Article 26(2) of the Constitution).

16. Article 16 of the Constitution prescribes the size of the NLA. Fourteen members representing a village constituency (VC) are elected by electors of that constituency<sup>7</sup>. Six members are elected by all electors of Niue voting on a common roll. In this general election seventeen candidates contested the CRS and twenty-five candidates contested the VCs. Six members from six VCs were elected unopposed as there were no other competing candidates.

17. The qualifications for candidates for the NLA are prescribed in Article 17 of the Constitution. These qualifications are the same for electors and are as follows:

- (a) Is either (i) a New Zealand citizen; or (ii) a permanent resident of Niue as defined by the Act; and,
- (b) Has been ordinarily resident in Niue throughout the period of 12 months immediately preceding an application for enrolment as an elector or, as the case may be, nomination as a candidate.

18. The meaning of “ordinarily resident” is defined in Article 17(2) of the Constitution. It means that the person is actually residing in Niue, or the person is currently overseas but had actually resided in Niue and has intentions to return and reside in the country indefinitely. Persons who are abroad continuously for any period of more than 3 years and are not studying or serving the Government of Niue abroad are not “ordinarily resident”.

19. In the course of the Observer’s consultations, many electors expressed concern about this definition. Some electors want the government to review and clarify the residential qualifications. The then care-taker Premier also noted this issue and informed the Observer that the Government would review this and other provisions, as well as the electoral rolls.

20. Further provisions which prescribe the qualifications of members are found in Parts 2 and 3 of the NA Act. To qualify as a candidate, the person must be: a registered elector of a constituency and not subject to disqualification; not subject to bankruptcy; 18 years old and over; not convicted of an offence in Niue or in any part of the Commonwealth that is punishable by death or imprisonment for 1 year or more; and not convicted of a corrupt practice in Niue. If punished the candidate is adjudged of the offence upon serving the punishment or has been pardoned.

**Recommendation:**

- (i) *To review residential qualifications as prescribed in Article 17(2) of the Constitution to make the meaning of “ordinarily resident” clear with respect to strengthening the electoral roll.*

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<sup>7</sup> The fourteen village constituencies are: (1) Alofi South (2) Tamakautoga (3) Avatele (4) Vaiea (5) Hakupu (6) Liku (7) Lakepa (8) Mutalau (9) Toi (10) Namukulu (11) Tuapa (12) Makefu (13) Hikutavake (14) Alofi North.



### *The Electoral Timetable*

21. The 13<sup>th</sup> NLA was dissolved on Friday 8 April 2011. The general election was held on 7 May 2011. On 16 May 2011 the 14<sup>th</sup> NLA met, swore in members of the Assembly, and elected and swore in the Speaker and Premier.

Key Electoral Events	Dates
Inspection of village electoral rolls	8 April 2011
Opening of nomination of candidates for VCs and CRS	8 April 2011
Closure of nomination of candidates	21 April 2011 (12.00 noon)
Withdrawal of nomination	30 April 2011
Compulsory registration of electors	8 – 27 April 2011
Objections against registration on village electoral rolls	8 - 27 April 2011
Voting in advance	6 May 2011
Polling and preliminary count	7 May 2011
Scrutiny of rolls and final count	9 May 2011
Declaration of uncontested elections	10 May 2011
Declaration of result of poll	10 May 2011

### *The Electoral System*

22. Niueans, as mentioned earlier, elect members of the NLA by secret ballot under a system of universal suffrage upon turning 18 years of age. The First-Past-The-Post system is the method of voting. In the CRS, the first six candidates with the highest number of valid votes are deemed to be elected. Similarly, in the VCs, the candidate with the most number of valid votes wins the election.

23. The NA Act is the principal legislation governing the conduct of elections. It provides that the CEO who is appointed by the Niue Public Service Commission (NPSC) administers, enforces and implements the electoral laws of Niue. The NA Act also defines the constituencies in Niue.

24. In addition to setting out the qualifications of members, the NA Act sets out the tenure of office of members and the procedures to be followed when members resign or the seat otherwise becomes vacant.

25. The NA Act prescribes the qualifications of electors and defines the two electoral rolls, the procedures for enrolment by electors, for registration and objections and the duties of the Registrar, including the role of the NPSC in adjudicating disputes and objections. The NA Act also sets out the process for closing, printing and inspecting rolls, including the offences relating to the electoral rolls.

26. The procedures for the conduct of general elections and by-elections before, during and after polling day, as well as the procedure for counting of votes are stipulated in Part 3 of the NA Act. Amongst others, these include the procedures for the nomination and consent of candidates, deposit of nomination fees and determination by the CEO to either accept or reject the candidate's nomination, and withdrawal of nomination. Also included in the NA Act are: the procedures for polling (including arrangements for polling places and ensuring the secrecy of the ballot) and the procedures for uncontested elections.

27. Part 4 of the NA Act defines corrupt practices as bribery, treating, undue influence and personation. Any person who is found guilty of corrupt practices is liable to be imprisoned for a term not exceeding one year. Also prescribed in Part 5 of the NA Act is the provision for disputed elections. An election petition must be lodged in the High Court within 14 days after the declaration of election results.

#### *Candidates and Political Parties*

28. At present, there are no political parties.<sup>8</sup> Candidates campaigned as individuals by appealing to families and friends. After the elections results were declared, winning candidates formed two groups with the aim to form the government.

### **2011 ELECTION: ISSUES AND OBSERVATIONS**

#### *Election Management and Personnel*

29. The CEO is appointed by the NPSC. He or she exercises the powers and duties conferred by the NA Act. In this general election, a DCEO was also appointed by the NPSC to assist the CEO. The CEO was Mr. Justin Kamupala. He is also the Secretary of the DoJLS. He was assisted by the DCEO Mr. Hubert Kalauni who is also a senior official of the DoJLS.

30. They were supported by the Registrars who are responsible for the management of electoral rolls for each VC. During the general election, government officials from within the Niue Public Service were appointed as Returning Officers (ROs) and Polling Clerks to assist with polling. These officials reported to the CEO and were the team that made-up the electoral management body to oversee and manage the general election.

31. A number of important challenges to future elections emerged in this general election. These included questions about electoral boundaries due to depopulation and the alleged inclusion in electoral rolls of some people who do not meet the residency requirements for electors, i.e., people who live overseas permanently but return to Niue to vote. Another issue raised by a candidate was for the Government to consider evenly distributing the CRS. The objective is to improve representation on the CRS across Niue instead of the CRS being dominated by candidates from one particular VC. Given the highly sensitive nature of electoral boundaries, if this proposal were to be considered and discussed, it should be approached with a

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<sup>8</sup> In the past a political party known as the Niue People's Party (NPP) existed. It was established in 1987 and ended its activities in 2003. See Commonwealth Secretariat <http://www.thecommonwealth.org/YearbookInternal/140411/140413/niue>

full appreciation of its implications. To this end, the government may consider establishing a part-time independent electoral commission to look into these matters and identify ways to further strengthen the administration and conduct of elections.

**Recommendation:**

- (ii) *That the government consider the establishment of an independent electoral commission or commission an independent study, amongst others, to examine Niue's electoral boundaries, in particular, the CRS and the electoral roll. On the CRS, one purpose of the review is to ascertain the merits of distributing the CRS by fixing these to specific geographic boundaries. On electoral rolls, to examine the qualification requirements, including developing mechanisms for people to challenge other electors from voting if they are not qualified to vote.*

***Electors and Electoral Rolls***

32. Part 3 of the NA Act provides for the electoral roll and defines who is qualified to be listed on the electoral rolls as an elector. Section 12 of the NA Act sets out the qualifications of electors wherein it states that an elector:

- (a) Is either (i) a New Zealand citizen; or (ii) a permanent resident of Niue as defined by the Entry Residence and Departure Act 1985; and
- (b) Has at some period resided continuously in Niue for not less than 3 years;
- (c) Has been ordinarily resident in Niue throughout the period of 12 months immediately preceding application for enrolment as an elector or, as the case may be, nomination as a candidate;
- (d) He is of or over the age of 18 years; and
- (e) He has not been convicted in Niue or in any part of the Commonwealth of any offence punishable by death or by imprisonment for a term of one year or upwards, or has been convicted in Niue of a corrupt practice, unless in each case he has received a free pardon or has undergone the sentence or punishment to which he was adjudged for the offence; and
- (f) He is not of unsound mind; and
- (g) He is a resident of that constituency.

33. Furthermore, Section 12(2) of the NA Act defines a resident as actually residing in Niue, or having been actually a resident with the intention to reside indefinitely in Niue, and if he or she is outside of Niue, intends to return and reside indefinitely in Niue. Section 12(3) of the NA Act further clarifies that if a person remains outside of Niue "continuously for any period of more than 3 years" other than for purposes of education, that person is "deemed not to have been actually resident in Niue during that period with the intention of residing there indefinitely."

34. There are two electoral rolls, namely, the "constituency electoral roll" and the "common electoral roll". The constituency electoral roll is for each of the 14 VCs. It is the responsibility of the Registrar for each VC to compile and up-date the electoral constituency roll. A person who qualifies to be registered as an elector is entitled to have his or her name enrolled on the roll of the constituency where he or she is resident. Residence, as defined in section 15 of the NA Act, refers to a person's "usual place of abode at any material time or during any material period", as

well as the occasional absence for occupation or employment. The common electoral roll is kept and compiled by the CEO. It comprises of the rolls of all the constituency electoral rolls of the 14 VCs.

35. During the Observer's consultations with electors, the need to thoroughly review the electoral roll was raised by some electors who believe there are problems with some of the provisions on the qualification of electors. Some of these electors believe that the definition of 'ordinarily resident' in section 12(2)(b) is open to abuse and therefore needs to be strengthened. These electors believe that addressing this provision in the NA Act may help to reduce abuse and strengthen the electoral roll. Also, they believe that it is important for electoral officials to explain to electors the provisions in the NA Act on the qualifications of electors and what "ordinarily resident" means as a way of helping electors understand what it means to be qualified as an elector. The Premier in his meeting with the Observer acknowledged these concerns and is committed to reviewing the electoral rolls. Part of this review includes defining the residential requirements so as to address the concerns which arose in this general election in relation to inconsistent compliance with these requirements.

#### *Voter Education*

36. Voter education is especially important when general elections are due. Five examples which manifested themselves at this general election are discussed below. These examples are intended primarily to assist electoral officials in developing appropriate voter education programmes for electors in Niue. Appropriate assistance may be obtained from suitably qualified and experienced electoral experts who have extensive experience and knowledge in developing and implementing voter education programmes.

37. One area where voter education may be considered is to educate electors on how to vote. In this general election the total number of invalid votes for the VC was 8. The total number of invalid votes for the CRS however was 33. While the number of invalid votes is very small, it is also significant given the extremely small number of registered electors, the difference of one vote in elections, and election disputes.

38. Educating scrutineers on the polling process is another potential area for voter education. If scrutineers' knowledge of the electoral law, processes and procedures is enhanced, this may encourage a closer scrutiny of polling and the work of polling officials. In this general election, very few scrutineers were present at the polling places, including being present at the time of the opening of the polling places until the time of their closure. Moreover, scrutineers were not present to observe the preliminary count, the scrutiny of rolls and the final count. The NA Act provides for scrutineers to be present during the provisional and final counts but there were very few scrutineers present during these counts.

39. During consultations with members of the Niue Chamber of Commerce, it was noted that many people in Niue do not know how the votes are counted, including the processes for counting provisional votes, the scrutiny of the roll and the final count. In light of these observations, the election management body may also consider developing programmes on the country's electoral system.

40. Awareness exercises on electoral rolls (including residential qualifications) and corrupt practices are also essential. On corrupt practices, electors, ought to be made aware of what constitutes corrupt practices in Part 4 of the NA Act. Public seminars and presentations using appropriate examples may help inform electors on what constitutes bribery, treating, undue influence and personation. Understanding corrupt practices as defined in the NA Act is especially relevant for church members and church leaders because candidates tend to target the churches and their members when the general election is due. Electors have raised questions on whether such activities of candidates constitute corrupt practice.

41. The initiative of the Secretary to Government to promote and to protect the integrity of public servants during this general election ought to be commended. Basically, public servants were reminded of their loyal service to the elected government and not to use their office to campaign or distribute campaign materials and information.

#### **Recommendations**

- (iii) *To consider engaging the services and expertise of electoral experts to develop a comprehensive voter education awareness programme aimed at educating electors on Niue's electoral laws, voting and counting processes;*
- (iv) *That the initiative of the Office of the Secretary to Government to promote and to protect the integrity of the public servants should become a standing practice and should be further developed as part of the public servants' code of practice during general elections.*

#### **The Campaign**

42. Many Niueans observed that most candidates began to actively campaign during the week of polling day. The main method of campaigning was for candidates to physically disseminate pamphlets to households or to circulate these by email. Otherwise, the size of a candidate's extended family often determined how many votes a candidate obtained. Other factors include the ability of candidates to give cash or assistance-in-kind to their families and friends, as well as making generous contributions of cash to churches. Playing leadership roles in community affairs and its consequent prominence also aids to increase the profile and recognition of candidates, including the concomitant respect individuals earn from the people.

43. Except for a few candidates who could afford the luxury of coloured posters emblazoned with their faces and their platform statements, the majority of candidates relied on the least costly approach. This method involved candidates going door-to-door and engaging in face-to-face discussions with families on their platforms and policies. A range of national issues such as depopulation, high cost of living, wage increase, economic diversification and programmes to attract expatriate Niueans to return and to invest in Niue were also discussed by some candidates. However, some residents complained about the lack of open and public political debate by candidates. Election campaigns were conducted primarily on a personality, personal and family basis. The atmosphere of the campaigning was quiet and subdued.

### *Polling*

44. Electoral officials arrived at the polling places well before the scheduled time for polling to set up the polling booths. The current practice is for the ROs to take the ballot boxes and voting materials home. These items are kept overnight in their homes and brought to the polling places on the day of polling. When opening the polling place for the poll, ROs as are required by section 54 of the NA Act to open the ballot boxes and in the sight of scrutineers show that the ballot box is empty.

45. For this general election, the polling places of six VCs were set up for electors to vote for candidates contesting the CRS. As such, only one ballot box was allocated to these polling places. These polling places were managed by two electoral officials – one RO and a PC.

46. Otherwise, all other polling places were set up to cater for candidates contesting the VCs and the CRS. These polling places were managed by two ROs and two PCs. One RO and a PC managed the VC election while the other two electoral officials managed the CRS election. In these polling places, there were two ballot boxes. One ballot box was marked “common roll seats”, and the other was marked “village seat” and were set up on separate tables.

47. As electors entered the polling places, they were processed by electoral officials responsible for the VC and upon casting their votes in the ballot box marked “village seats”, they moved onto being processed by the electoral officials responsible for the CRS and thereafter cast their votes in the ballot box marked “common roll seats”.

48. The layout of all the polling places was suitably arranged to enable electors to cast their votes in privacy. Polling booths were set up to ensure transparency as well as secrecy for electors. Outside of the polling places and pasted on the walls of the buildings housing the polling booths were instructions/guidelines including penalties for electoral offences, the village voter roll and instructions for scrutineers. Police constables were present all through the polling day.

49. Polling opened at 9.00am and closed at 6.00pm. In polling places where all registered electors had cast their votes, the polling places were closed before 6.00pm, followed by preliminary counting of votes. In the VC with the lowest number of registered electors, only three electors had cast their ballots by 12.00pm. Several electoral officials have suggested that in view of the low number of electors in some of the VCs that the polling time be reviewed and perhaps shortened. The flow of electors was slow in all the VCs. Nevertheless, electoral officials were extremely patient and diligently complied in keeping to the time specified for polling.

50. Special voting refers to two things – votes cast by special voters and votes cast in advance of the prescribed polling day. Special voting is restricted to registered electors who cannot be in the constituency of which he or she is registered on the day of polling. The process for dealing with special voting is prescribed in section 63 of the NA Act. In this election, special voting was administered mainly for the sick and the elderly who, due to the gravity of their illness or advanced state of their age, could not present themselves at the designated polling places. The CEO and the DCEO were the two officers that conducted special voting.

51. The marked ballot papers of the votes cast by special voters were sealed in two envelopes, one marked for the VC in which the elector was registered and another was marked for the CRS. These envelopes were then placed in a locked ballot box. The locked ballot box was delivered to the polling places in each of the VCs where the special voters were registered, opened and the ballots were retrieved and inserted into the appropriate ballot boxes, after the ROs marked off the names on the corresponding rolls. An important lesson from this general election which the CEO and the DCEO noted is the need for more spare ballots to cater for the high number of spoilt ballot papers.

52. Several registered electors also voted before 7 May. They included ROs, PCs, police constables on electoral duties and registered electors going overseas. The process for voting in advance is prescribed in section 64 of the NA Act. On polling day the CEO delivered the sealed envelopes kept in the same ballot box as the special votes to the ROs in-charge of the polling places in the VC from where these elected are registered. The ROs receipted the sealed envelopes and after recording the number of sealed envelopes, extracted the ballot papers and deposited these into the appropriate ballot boxes. Since polling day fell on a Saturday, members of the Seventh Day Adventist (SDA) church, due to their religious beliefs did not participate in polling. Moreover, they also did not register for advance voting.

**Recommendation:**

- (v) *That the government consider setting aside a day other than Friday, Saturday or Sunday for polling in future so as to cater for the religious beliefs of electors belonging to the Seventh-Day Adventist Church or the members of Ekalesia Niue. Otherwise, should polling day fall again on a Saturday, electoral officials should issue a public notice encouraging SDA members to register for advance voting;*

**The Count**

53. The counting of votes in Niue is done twice. It involves a preliminary count which is followed by the final count. The preliminary count commences immediately at the polling place after polling is completed. Preliminary results are announced at the polling place by the ROs. The instructions for preliminary count of votes, scrutiny of the rolls, and the official count and declaration of results are prescribed in sections 65-70 of the NA Act. The same information is printed in the manual titled "*Instructions to Returning Officers and Poll Clerks*" and which is provided to all ROs and PCs.

54. Upon completing the preliminary count electoral officials announce and post the preliminary results on the notice board outside the community hall. In this election, counting of village seats in the preliminary count was completed ahead of the CRS. Preliminary counting of votes was dealt with expeditiously and completed by 10.00pm on 7 May 2011.

55. The final count happened on 9 May 2011, in a section of the building in the DoJLS. It was done by the CEO and the DCEO. Both officers were ably assisted by three ROs and others as required. The section of the office where counting was done is not demarcated from other parts of the building nor is it isolated from other activities of the Department. Ideally, the official count should be conducted in an environment where there is no disturbance, distraction or interference to the counting process.

**Recommendation:**

- (vi) *That the final count should be done in a separate section of the office where there is no disturbance, distraction or interference from other activities of the Department. This section of the office should be cordoned off for the exclusive purpose of conducting the final count.*

**Disputed Elections**

56. One disputed election was handled by the Niue High Court. The election dispute over residential qualifications came from the Makefu village seat<sup>9</sup>. The candidate who polled the second highest number of votes (i.e., 15 votes) however objected to the names of two electors registered for Makefu VC roll and challenged it.

57. A total of 50 electors were registered on the roll of Makefu VC. Three candidates contested this VC. On 7 May 2011, 39 registered electors actually voted. Two votes were invalid. The final result between the first and second candidates was a close one with the successful candidate winning the village seat by 1 vote. The successful candidate polled 16 votes whereas the petitioner polled 15 votes. The petitioner challenged the registration of the two electors by filing the petition within 14 days of the final results being declared, in accordance with section 90 of the NA Act.

**Recommendation:**

- (vii) *Given the small number of voters and the relative proximity of villages to each other on the island, that consideration be given to examining the mobility of electors and multiple household residential living arrangements and its effect on electors' residential qualification requirements so as to minimise election petitions without unduly impeding the importance of election petitions and the rights of electors to vote.*

**The Role of Police**

58. Security on polling day was provided by police constables from the Niue Police. Section 76 of the NA Act requires police constables to assist the ROs enforce, and maintain peace and order at any election. Fifteen police constables were present at the polling places from the start of polling to its conclusion, including being present during the preliminary counts. Given the overall low level of threat to the security of ballot boxes, police however do not provide a security escort for the delivery of ballot boxes to the electoral office. Police also do not maintain security where the ballots are stored for the final count. Police constables were also not present during the tallying of preliminary results at the DoJLS and during the final count.

59. The only incident which marred polling day was the burning of a house belonging to a son of the winning candidate in the VC of Hikutavake. The incident happened well after the preliminary results were released. Otherwise, there was no report of disorder. A Senior Sergeant was tasked with the responsibility of maintaining order during polling day. The commitment and dedication of the 15 police constables in assisting electoral officials on polling day was outstanding and is to be commended.

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<sup>9</sup> "Niue electoral petition dismissed", *Pacific Islands News Association*, 3<sup>rd</sup> edition, 6 June 2011.



### ***Women and the Election***

60. Altogether, eleven women candidates ran for seats in this general election. Five women, including two incumbent members contested the CRS. However, only one woman was elected from the CRS. On the other hand, six women stood for eight VCs. In fact, for the VC of Alofi North, the only candidates that contested this seat were women. Two women, including the incumbent member for Alofi North were elected. Altogether, three women were elected to the NLA.

#### **Recommendation:**

(viii) *Noting the comparatively low success rate of women candidates in the 2011 general election, consideration be given to investing in programmes that enhance the role of women in decision-making at the national levels, including supporting women to prepare and stand for parliamentary elections.*

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

61. The media in Niue played an important role in keeping the public informed about the elections. The Niue Broadcasting Corporation (NBC) through its live-telecast on the evening of the polling day kept the public informed on the outcome of the preliminary count. Other forms of media such as radio, newspapers, emails and internet-based web pages were also used to disseminate information on the general election.

62. The election management body also used the media to inform the public on election preparation, and for the release of information on the preliminary and final counts, including answering queries on the progress of the count. Many candidates also employed the media to campaign.

### **CONCLUSIONS AND RECOMMENDATIONS**

63. Overall, the general election on 7 May 2011 in Niue was conducted in accordance with the principles of democratic good governance, relevant laws of Niue and was free and fair. Electors of Niue participated fully in the governance of the day and through their ballots duly mandated their elected leaders to govern their country.

64. The task of the Observer, as set out in the terms of reference, was to observe the preparations for election, polling, counting, declaration of results and the overall electoral environment. In compliance with the terms of reference the Observer was accorded the support to independently observe these electoral processes, including being provided with relevant information on the electoral processes and the electoral environment. The observations are written in this report for the consideration of the Government of Niue.

65. A number of recommendations have been made and these are respectfully submitted for the consideration of the Government of Niue. The recommendations are presented as potential solutions to further strengthening and enhancing the integrity of Niue's electoral process and systems.

## ACKNOWLEDGEMENTS

66. The Pacific Islands Forum Secretariat acknowledges the support of the Government of Niue in assisting the Observer observe the country's general election. Many people shared valuable information and knowledge on the election. These have helped the Observer to gain a better appreciation of the electoral environment in Niue.

67. To this end, the Pacific Islands Forum Secretariat acknowledges the assistance of the Hon. Mr. Atapana Siakimotu the former Speaker of the NLA. Others to whom acknowledgement of support are owed include the Hon. Mr. Toke Talagi, Premier of Niue and the Niue Cabinet, Mr. Richard Hipa, Secretary to Government, and Ms Christine Ioane of the Office of External Affairs. The reception, hospitality and cooperation of ROs, PCs and police constables at the polling places were overwhelming. The tremendous support of Mr. Justin Kamupala, CEO and Head of the DoJLS and Mr. Hubert Kalauni, DCEO and their staff is very much appreciated. On the arrangements that enabled the Observer to meet with important stakeholders in Niue society, the business community and government, sincere gratitude is due to Ms. Amanda Heka, External Affairs Officer from the Niue Office of External Affairs.

68. It has been an honour and a privilege to observe the 2011 Niue general election. I am pleased to report on my observations of the election, and I hope that the recommendations are useful to the Government and authorities responsible for elections in Niue.

With my deepest respect,



**Dr. Henry IVARATURE**  
Regional Governance Adviser  
Political Governance and Security Programme  
Pacific Islands Forum Secretariat

Suva  
Fiji

15 August 2011

## Annexure "A": SUMMARY OF RECOMMENDATIONS

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

- (i) *To review residential qualifications as prescribed in Article 17(2) of the Constitution to make the meaning of "ordinarily resident" clear with respect to strengthening the electoral roll;*
- (ii) *That the government consider the establishment of an independent electoral commission or commission an independent study, amongst others, to examine Niue's electoral boundaries, in particular, the CRS and the electoral roll. On the CRS, one purpose of the review is to ascertain the merits of distributing the CRS by fixing these to specific geographic boundaries. On electoral rolls, to examine the qualification requirements, including developing mechanisms for people to challenge other electors from voting if they are not qualified to vote;*
- (iii) *To consider engaging the services and expertise of electoral experts to develop a comprehensive voter education awareness programme aimed at educating electors on Niue's electoral laws, voting and counting processes;*
- (iv) *That the initiative of the Office of the Secretary to Government to promote and to protect the integrity of the public servants should become a standing practice and should be further developed as part of the public servants' code of practice during general elections;*
- (v) *That the government consider setting aside a day other than Friday, Saturday or Sunday for polling in future so as to cater for the religious beliefs of electors belonging to the Seventh-Day Adventist Church or the members of Ekalesia Niue. Otherwise, should polling day fall again on a Saturday, electoral officials should issue a public notice encouraging SDA members to register for advance voting;*
- (vi) *That the final count should be done in a separate section of the office where there is no disturbance, distraction or interference from other activities of the Department. This section of the office should be cordoned off for the exclusive purpose of conducting the final count;*
- (vii) *Given the small number of voters and the relative proximity of villages to each other on the island, that consideration be given to examining the mobility of electors and multiple household residential living arrangements and its effect on electors' residential qualification requirements so as to minimise election petitions without unduly impeding the importance of election petitions and the rights of electors to vote;*
- (viii) *Noting the comparatively low success rate of women candidates in the 2011 general election, consideration be given to investing in programmes that enhance the role of women in decision-making at the national levels, including supporting women to prepare and stand for parliamentary elections.*

## SCHEDULES AND TABLES

**Schedule 1: Consultation List, 6 – 8 May 2011**

	Names	Positions
1	Hon. Mr. Toke Talagi	Care-take Premier of Niue and member-elect – Niue Legislative Assembly
2	Mr. Richard Hipa	Secretary to Government
3	Hon. Mr. Atapana Siakimotu	Speaker of Niue Legislative Assembly
4	HE Mr. Mark Blumsky	New Zealand High Commissioner to Niue
5	Mr. Avi Rubin	President, Niue Chamber of Commerce
6	Mr. Mark Chenery	Chief of Police
7	Mr. Justin Kamupala	Chief Electoral Officer
8	Mr. Hubert Kalaumi	Deputy Chief Electoral Officer
9	Ms. Tiara Tukiniu	Land Court Staff and Returning Officer
10	Ms Patricia Hunter	Secretary, Niue Chamber of Commerce
11	Ms. Catherine Papani	Executive Member, Niue Chamber of Commerce
12	Ms. Maureen Melekitama	Treasurer, Niue Chamber of Commerce
13	Reverend Hawea Jackson	<i>Ekalesia Niue, Alofi South</i>
14	Mr. Terry Coe	Member-elect - Niue Legislative Assembly
15	Ms. Nooroa Marsh	Finance Officer, Department of Justice, Lands and Survey
16	Ms. Stephanie Peaufa	Receptionist, Department of Justice, Lands and Survey
17	Mr. Valetine Mautama	Land Court Staff and Electoral Official
18	Ms. Lili Laufoli	Land Court Staff (Genealogy) and Returning Officer
19	Ms. Mona Ai'nuu	Niue Broadcasting Commission

**Table 1:** Final Results for Village Seats - 9 May 2011 General Election

Constituencies	Registered Voters	Number of Candidates	Final Valid Votes	Invalid Votes	Final Votes of Successful Candidates	% Voter Turn Out	Method of Election	MPs Elect
<b>Village</b>								
1 Alofi South	246	2	193	1	117	79	Election	Dalton Tagelagi
2 Tamakautoga	92	1	--	--	--	--	Uncontested	Peter Andrew Funaki
3 Avatele	88	1	--	--	--	--	Uncontested	Billy Graham Talagi
4 Vaiea	35	1	--	--	--	--	Uncontested	Talaitama Talaiti
5 Hakupu	114	3	76	1	33	68	Election	M. Young Vivian
6 Liku	53	1	--	--	--	--	Uncontested	Pokotoa I.I. Sipeli
7 Lakepa	55	2	41	0	26	75	Election	Halene K Magalogia
8 Mutalau	70	2	47	2	34	70	Election	Bill Vaakai Motufoou
9 Toi	21	3	18	1	11	90	Election	Dion Taufitu
10 Hikutavake	36	2	24	1	13	69	Election	Talafasi Opili
11 Namukulu	6	1	--	--	--	--	Uncontested	Jack Willie Liptioa
12 Tuapa	79	1	--	--	--	--	Uncontested	Fisa Pihigia
13 Makefu	50	3	37	0	16	74	Election	Tulelehenaama Tongia
14 Alofi North	101	2	80	1	62	80	Election	Va'auga Tukuitoga
<b>Totals</b>	<b>1,046</b>	<b>25</b>	<b>516</b>	<b>8</b>		<b>50</b>		

Source: Niue Legislative Assembly General Elections 7<sup>th</sup> May 2011 Provisional Results Saturday 7<sup>th</sup> May 2011 and Common Roll Results of Final Count on 9<sup>th</sup> May 2011

Table 2: Voting Trend of Electors for the Common Roll - 9 May 2011 General Election

Constituencies	Registered Voters	Total Ballots	% Voter Turn Out	Valid Votes	% of Valid Votes	Invalid Votes
<b>Villages</b>						
1 Alofi South	246	195	79	184	94	11
2 Tamakautoga	92	80	87	77	96	3
3 Avatele	88	68	77	65	96	3
4 Vatea	35	33	94	32	97	1
5 Hakupu	114	77	68	73	95	4
6 Liku	53	47	89	46	98	1
7 Lakepa	55	41	75	39	95	2
8 Mutalau	70	49	70	48	98	1
9 Toi	21	19	90	18	95	1
10 Hikuiavake	36	25	69	25	100	0
11 Namukulu	6	6	100	6	100	0
12 Tuapa	79	53	67	51	96	2
13 Makefu	50	39	78	37	95	2
14 Alofi North	101	81	80	79	96	2
<b>Totals</b>	<b>1,046</b>	<b>813</b>	<b>77</b>	<b>780</b>	<b>75</b>	<b>33</b>

Source: Niue Legislative Assembly General Elections 7<sup>th</sup> May 2011 Provisional Results Saturday 7<sup>th</sup> May 2011 and Common Roll Results of Final Count on 9<sup>th</sup> May 2011

**Table 3:** Final Results for Common Roll Seats - 9 May 2011 General Election

Candidates	ALFS	TMK	AVTL	VAI	HKP	LIKU	LKP	MTL	TOI	HKT	NMK	TUA	MKF	ALFN	Final Results	Ranking
1 Terry Donald Coe	104	31	30	24	36	23	19	33	9	19	1	33	16	51	429	2
2 Mathetoe M Hekau	82	22	11	15	12	16	9	15	2	5	2	14	11	26	242	11
3 Stan A Kalauni	70	27	23	22	45	23	17	20	10	6	0	23	17	57	360	4
4 Laga I Lavri	57	10	9	4	9	1	7	11	4	14	3	11	9	10	159	15
5 Willie Sanilei Papani	60	23	36	2	11	3	5	6	5	4	2	7	6	25	195	13
6 Ester Gustava Pavlhi	57	36	47	7	9	12	10	14	2	7	3	14	12	20	250	10
7 David Uake Pohaga	8	2	2	0	2	2	1	2	4	3	0	13	19	9	67	16
8 Dr. Asu Ioane Pulu	90	25	24	8	18	19	16	7	8	7	3	19	15	30	289	8
9 Lofa Pelegi Rex	50	19	11	11	15	15	12	14	5	13	1	13	5	26	210	12
10 Togia L Stonehob	58	41	30	8	25	11	11	37	14	12	6	23	23	27	326	5
11 Grace Sisilia T Talagi	61	16	10	2	12	7	15	4	2	3	3	8	8	18	169	14
12 Maru Talagi	52	17	20	9	44	18	12	18	9	14	1	18	13	25	270	9
13 Toke Tufuka Talagi	93	59	47	25	36	38	26	24	10	12	6	31	26	34	467	1
14 Crossley Taiui	49	34	20	10	68	25	18	24	10	7	0	19	13	27	324	6
15 John Opoleta Taikia	52	25	20	2	42	29	23	25	2	9	3	20	13	32	297	7
16 Joan S. T Villamu	79	45	28	26	22	27	27	23	7	14	2	23	12	31	366	3
17 Vilikaua Vilikai	11	0	2	1	2	7	0	1	0	1	0	5	1	1	32	17
Valid Votes	184	77	65	32	73	46	39	48	18	25	6	51	37	79		
Invalid Votes	11	3	3	1	4	1	2	1	1	0	0	2	2	2		
Total Ballots	195	80	68	33	77	47	41	49	19	25	6	53	39	81		
Registered Voters	246	92	88	35	114	53	55	70	21	36	6	79	50	101		

Source: Niue Legislative Assembly General Elections 7<sup>th</sup> May 2011 Provisional Results Saturday 7<sup>th</sup> May 2011 and Common Roll Results of Final Count on 9<sup>th</sup> May 2011

Notes:

- ALFS = Alofi South, TMK = Tamakauloga, AVTL = Avatele, VAI = Vaiea, HKP = Hakapu, LIKU = Liku, LKP = Lakepa, MTL = Mutatau, Toi = Toi, HKT = Hikilavaka, NMK = Namukulu, TUA = Tuapa, MKF = Maketu, ALFN = Alofi North.

