



PACIFIC ISLANDS FORUM

MINISTERIAL COMMITTEE TO NEW CALEDONIA REPORT ON THE 2021 NEW CALEDONIA INDEPENDENCE REFERENDUM

EXECUTIVE SUMMARY

1. At the invitation of the President of the Government of New Caledonia, Hon. Louis Mapou, the Pacific Islands Forum Ministerial Committee to New Caledonia deployed to observe New Caledonia's third referendum on independence held on 12 December 2021. The Committee acknowledges with gratitude the Government of New Caledonia and the Government of the French Republic for the invitation to observe and support for the Forum's continued involvement in New Caledonia's self-determination journey, as it has done for over 30 years.
2. The Committee deployed in New Caledonia from 29 November – 13 December 2021, conducting consultations with key referendum stakeholders and observing polling activities on 12 December 2021.
3. The referendum took place against the backdrop of (i) the COVID-19 pandemic and (ii) the decision by the pro-independence grouping to not participate in the referendum. Over the course of its consultations, the Committee was concerned that both factors, particularly the non-participation, would have a significant effect on any outcome should the referendum proceed as planned.
4. The referendum question put to registered voters was, 'Do you want New Caledonia to accede to full sovereignty and become independent?'¹. Of the 184,364 registered voters, 80,881 or 43.87% voters turned out producing the following:
 - **No – 75,720 (93.61% of those who voted; 41.07% of total registered voters);**
 - **Yes – 2,747 (3.40% of those who voted; 1.49% of total registered voters); and**
 - **Invalid and blank votes – 2,414 (2.99% of those who voted; 1.31% of registered voters).**
5. Of the 78,467 valid votes cast, 3.50% supported independence and 96.50% rejected it.
6. A large proportion of registered voters, mainly Kanak and pro-independence supporters, refrained from voting in line with the non-participation campaign of the pro-independence movement. It was a position that had been declared in November 2021 following disagreement over the referendum date in relation to the COVID-19 outbreak that was disproportionately affecting Kanak and Pacific communities. The overall outcome casts serious questions over the legitimacy of the referendum result, particularly noting that less than 44% of registered voters participated in 2021, compared to 81.01% in 2018 and 85.69% in 2020. Accordingly, the Committee is of the considered view that the referendum was not carried out in the spirit of the Nouméa Accord, which empowers the status of Kanak identity and custom

¹ As printed in French on the ballot: Voulez-vous que la Nouvelle-Calédonie accède à la pleine souveraineté et devienne indépendante?

in New Caledonia and France. The Committee was regretful that key principles of the Accord such as fellowship, humility and consensus building, which had guided relatively peaceful and consensual exchanges between the parties for over two decades, had regressed. The Committee does not believe that the result accurately reflects the will of registered voters. It was a referendum on self-determination that took place *without* the majority of first peoples of New Caledonia and their supporters.

7. Notwithstanding the issues related to the pre-enabling environment, the Committee was pleased with the organisational arrangements made for polling day, and congratulates all stakeholders involved. The Committee found the referendum day to be peaceful, orderly and well organised. The Committee did not observe any attempts to disrupt, agitate or stop the polling. The Committee is also grateful to all polling officials and Commission delegates for the warm reception extended to its members as it carried out its observations.

8. The Committee observed some minor issues relating to polling station accessibility and protocols, however it did not believe that these issues had an impact on the referendum result.

9. The observations of the Forum Ministerial Committee are contained in its Report.

INTRODUCTION

10. On 9 September 2021, the Pacific Islands Forum Secretary General, Mr. Henry Puna, received an invitation from the Honourable Louis Mapou, President of the Government of New Caledonia, conveying approval for the Pacific Islands Forum to observe New Caledonia's third independence referendum under the 1998 Nouméa Accord.

11. Notwithstanding the health and logistical challenges posed by the COVID-19 pandemic and the outbreak of the Delta variant in New Caledonia on 6 September, preparations were made to deploy the Forum Ministerial Committee to New Caledonia drawing on representatives from Suva-based Forum Island Countries. In an effort to balance sub-regional and gender representation on the Committee, invitations were extended to a number of members. Unfortunately, several members and officials were unable to participate either due to unforeseen commitments or COVID-19 related travel complications enroute to New Caledonia.

12. The Committee was led by Ratu Inoke Kubuabola, Special Envoy of the Prime Minister of the Republic of Fiji and Forum Chair, and was joined by His Excellency Ali'ioaiga Feturi Elisaia, High Commissioner of Samoa to Fiji and the Forum Secretary General, Mr. Henry Puna, supported by staff of the Fijian Government and Forum Secretariat (team list at **Annex 1**). The Committee deployed in New Caledonia from 29 November – 13 December 2021, inclusive of New Caledonia's mandated 7-day quarantine.

13. The Pacific Islands Forum observed referenda in 2018 through the Forum Ministerial Committee to New Caledonia and in 2020 through a Noumea-based Consul General. 2021 was the tenth visit of the Ministerial Committee having first visited in 1990.

The COVID-19 pandemic and implications for a Pacific Islands Forum Observer Mission

14. The COVID-19 pandemic that began in early 2020 continued to adversely affect the region and the rest of world in 2021. On 22 December 2021 there were 275 million cases and 5.3 million globally cases. Of these figures, the region recorded 166,224 cases and 778 deaths.

15. The Committee could not deploy to New Caledonia's second independence referendum under the Nouméa Accord on 4 October 2020 due to health and logistical constraints and concerns. Unlike 2020 however, COVID-19 vaccines had been widely distributed globally in 2021 to mitigate some health concerns, and international borders had gradually begun opening. Further, vaccination levels in Fiji and, albeit to a lesser extent, New Caledonia, further mitigated risks for the Committee to deploy.

16. On 6 September 2021, New Caledonia recorded a COVID-19 community case which quickly became widespread community transmission resulting in 12,379 recorded cases in the period up to 12 December 2021, including 280 deaths. At the Committee's briefing with health officials, the Committee was advised that the real number of COVID-19 cases was likely to be higher noting that many people were not being tested either because they were asymptomatic, or fearful of social alienation. COVID-19 cases and deaths were particularly high in Kanak and Pacific islander communities. This proved to have a significant effect on the referendum.

LEGAL AND ADMINISTRATIVE FRAMEWORK

17. The primary legal framework for the Referendum were the:

- Republic of France Constitution 1958;
- Nouméa Accord 1998;
- French Organic Law No. 99-209 of 19 March 1999;
- French Organic Law No. 2018-280 of 19 April 2018; and
- French Electoral Code 1964.

18. Article 219(3) of Organic Law No. 99-209 1999 provides for a Commission for the Organisation and Conduct of the Referendum² (hereafter ‘Commission’). The Commission was tasked with overseeing the regularity and sincerity of the referendum, and comprised five members with Mr. Francis Lamy, Councilor of the French Council of State, as the Chair. It was a continuation of Mr. Lamy’s role in 2018 and 2020, which enabled advancing lessons learnt from the two previous referenda.

19. The Committee recognises the value of this type of mechanism in overseeing the polling which provided a layer of scrutiny and contributed to a well organised referendum. Of particular interest was the deployment of 260 Commission delegates to New Caledonia’s 307 polling stations. The Committee noted that while it is often party scrutineers and polling officials that are tasked with monitoring polling day activities, the delegates provided strong reassurances on the accuracy of polling day activities and offered valuable support to polling officials.

Registration

20. New Caledonia has three different electoral lists³:

- i) The General List (LEG): registered voters may vote at French national, presidential, municipal, legislative and European Union elections;
- ii) Provincial Special Electoral List (LESP): Registered voters may vote in elections for provincial assemblies and the congress; and
- iii) The Special Electoral List for the Consultation (LESC): Registered voters may vote in the 12 December 2021 Referendum.

21. Only registered voters on the LESC were permitted to vote in the referendum. To be registered on the LESC, a person needed to be 18 and meet at least one of the following criteria:

- Have been registered to participate in the referendum of November 8, 1998 approving the Nouméa Accord;
- While not registered on the electoral list for the referendum of November 8, 1998, nevertheless fulfills the condition of domicile required to be a voter at this referendum;

² Commission de contrôle de l’organisation et du déroulement de la consultation.

³ Lists: LEG – La Liste General; LESP – La Liste Électorale Spéciale Provinciale; and LESC – La Liste Électorale Spéciale pour la Consultation.

- Having not been able to register on the electoral list for the referendum of November 8, 1998 due to non-compliance with the condition of residence, justify that his/her absence was due to family, professional or medical reasons;
- Have had customary civil status or, born in New Caledonia, having had his/her main materials and moral interests in New Caledonia;
- Have one of his/her parents born in New Caledonia, and having his/her main materials and moral interests in New Caledonia;
- Be able to prove a period of twenty years of continuous residence in New Caledonia, no later than at December 31 2014;
- Be born before January 1, 1989 and having had his/her home in New Caledonia from 1988 to 1998; and
- Be born on or after January 1, 1989 and having reached the age of majority on the date of the referendum, have one parent who met the conditions to participate in the referendum on November 8, 1998.

22. A feature of all three referenda has been the accuracy of the LESC. The Committee noted that although the preparation time for the 2021 referendum was the shortest of all three, the frequent revision and maintenance of the LESC by the French High Commission ensured that it was kept to a high standard, and stakeholders the Committee spoke with were in general supportive of it. The roll had a high degree of accuracy and was generally reflective of eligible voters. The Committee commends the efforts of the relevant authorities in the development of the LESC.

23. Further, unregistered voters that met the criteria were able to register on polling day as an additional provision to ensure that voters were provided maximum opportunity to vote. As an initiative that started in the 2018 referendum, the 2018 Ministerial Committee observed that it was inefficient and struggled to deliver on the volume of requests that were lodged. These issues were remedied for the 2020 and 2021 referenda through the development of an application that enabled Commission delegates to rapidly lodge requests for registration. The Committee commends the efforts made to streamline and consolidate the process of registering voters on polling day.

24. A total of 184,364 people were registered to vote in the referendum.

PRE-ENABLING ENVIRONMENT

25. The Committee undertook a number of consultations with key referendum stakeholders from a wide spectrum of society to hear and better understand the range of views and overall context leading up to the referendum. The consultations included meetings with the President and collegial Government of New Caledonia, the French High Commissioner, the President of the New Caledonia Congress, the Customary Senate, the Commission, Comité des Sages⁴, political parties, a provincial government mayor, Forum resident missions, faith-based organisations, women's and youth groups, United Nations Experts, local health officials, the Secretary General of the French High Commission and security personnel.

26. It should be noted that the Committee did not meet with members of loyalist parties. The Committee reached out and confirmed several consultations with loyalist parties, who regrettably could not or did not attend the meetings at the agreed times for reasons that remain

⁴ Committee of the Elders.

unknown. The Committee nevertheless met with individuals that were opposed to independence over the course of its consultations.

27. The most common and significant topic raised across consultations was the issue of whether or not the referendum should be held under the circumstances facing New Caledonia at the time, specifically the flow on effects of widespread COVID-19 community transmission.

The referendum date

28. In June 2021, the State exercised its prerogative under article 216 of the 1999 Organic Law to set the referendum date for 12 December 2021. While the State has the right to set the date, the Committee notes that in the past it had done so after seeking consensus among the parties signatory to the Nouméa Accord. The date upset pro-independence groups that were lobbying for a date as late as possible (up to early October 2022), but reluctantly accepted it with weak support in Congress at the time. Most anti-independence groups had been advocating for a date as soon as possible.

29. As New Caledonia and the State began preparations for the referendum, a community case of COVID-19 was detected on 6 September 2021. The case caused significant disruptions to ordinary life in New Caledonia, and strict measures were enforced by the government to control the outbreak. Article 3 of Government *Order No. 2021-10512 of 6 September 2021* prohibited gatherings or meetings, whether friendly, family, religious or customary, whatever the purpose across New Caledonia. A limit of 10 persons could participate in burial or cremation ceremonies. This measure had a significant impact on all communities across New Caledonia, including direct and indirect effects on the referendum. As case numbers dropped and vaccination levels rose, measures were gradually eased and by 12 December, gatherings were allowed up to 30 people.

30. The Committee was told that the high infection rate in Kanak and Pacific communities attributed to their communal ways of living, and vaccine hesitancy. The Committee was informed that the restrictions deeply affected Kanaks' ability to grieve and pay respect to those that had died, through the customary protocols that follow a death. This caused significant distress, disruption and grief within these communities. As a distinctly Pacific mission, the Committee fully appreciates the customary protocols and particular cultural circumstances that New Caledonia's Pacific communities faced in the run up to the referendum. The Committee met with people who had lost family members to COVID-19 (some up to seven), and understood the pain of not only losing loved ones, but also the burden of not being able to perform the customary obligations associated with death, that prevail among Pacific cultures.

31. From September 2021, pro-independence groups began to voice their concerns over the impact of COVID-19 on the referendum and started making inquiries into a possible postponement. During the visit of France's Minister for Overseas Territories in October 2021, the pro-independence movement requested a referendum postponement to the second half of 2022 – after the French Presidential and Legislative elections. The request was grounded in the belief that the environment to conduct such a crucial referendum on self-determination was deeply problematic from a historical, cultural, contextual and practical sense. Further, the health risks and idea of conducting face-to-face campaigning across an electorate that was in mourning was considered irresponsible from a health perspective and culturally disrespectful.

32. New Caledonia's Customary Senate, an institution established under the Nouméa Accord to oversee matters of Kanak identity, declared a 12-month period of mourning from 6 September 2021. As a conduit for Kanak voices, it also made requests to the State for the referendum to be postponed.

33. The Committee notes that under the Nouméa Accord, particularly its historic preamble, the State acknowledged with regret aspects of its treatment toward the first people of New Caledonia and made within it a number of commitments that respected Kanak customs, structures and identity. The pro-independence movement believes that these commitments and the spirit behind the signature of the Accord were dismissed for the third independence referendum. Reflecting on their own national experiences, the Committee members noted that striking a balance between western colonial and Pacific customary systems can at times be very difficult. In such instances, every effort is used to find a solution that remains within the law, is complementary to both systems, and as much as possible, is considered within the greater context of the issue. The opportunity to postpone to a later date, but within the permitted window to conduct the third referendum, would have appeased the State's commitments to Kanak custom and identity under the Nouméa Accord.

34. The State rejected the postponement requests, noting that only an out-of-control COVID-19 outbreak would warrant a postponement and that there was no guarantee that a postponed referendum in 2022 would not be affected by another wave of COVID-19. Further, the State had earlier declared that a new agreement to govern the relationship between France and New Caledonia would need to be negotiated and agreed to by 30 June 2023, a tight timeline that would be compromised if the referendum was postponed.

35. The pro-independence movement responded by pursuing a strategy of non-participation in the referendum. A clear distinction was also made that the stance was not an 'active boycott', and that should a postponement not eventuate, the polling process on 12 December 2021 should proceed peacefully in accordance with the State's decision. It was a significant decision noting that under article 216 of the Organic Law 1999, an official result only required a majority of the votes *cast*. The movement also announced that it would not enter into any discussions with the State until after French national elections scheduled from April 2022.

36. The date of the referendum caused significant tensions between the parties signatory to the Nouméa Accord, and the Committee fears that the decision by the State to maintain it will have lasting effects into 2022 and beyond. It also believes that the referendum's low-participation rate, ultimately, was due to a disregard for the Kanak people and their identity. While the Committee agrees that no guarantee could be made for the effect of COVID-19 on a postponed referendum in 2022, it also trusts the data behind COVID-19 vaccinations and increasing rates in New Caledonia, with a possible referendum outside of the mourning period.

Arrangements following a Yes or No vote

37. The issue of the governing arrangements following a 'Yes' or 'No' vote has been polarising for some time. Since 2018, the Committee has made clear its concerns over the necessary information available to voters, or lack thereof, following a 'Yes' or 'No' vote. While many aspects remain relatively unclear, the State did release a *Consequences of Yes and No* document detailing some arrangements that would be applied following the result of the 2021 referendum.

38. While the Committee is pleased that a document was developed to inform voters, the Committee heard from its consultations that the 100+ page document was excessively lengthy, technical and difficult to understand. It also heard that it was too heavily focused on the arrangements following a ‘No’ vote and unfavourable towards a ‘Yes’ vote.

39. The Committee believes that it is the prerogative of the State to provide its position on the consequences of either vote. It is also of the view however that the document ought to have been well consulted in its development, at least between the parties signatory to the Nouméa Accord in order to capture the vision and aspirations of all key stakeholders. Ultimately, the Committee had a sense that the voting population was confused and unsure about post-referendum arrangements, mostly due to conflicting information between the groups signatory to the Nouméa Accord.

40. Within that context, the Committee was pleased to meet with civil society representatives from women’s and youth groups. These discussions were starkly different to that of political parties and the State, focusing more actively on the future of New Caledonia and on building a future together, than the more immediate concerns of the 12 December referendum. The Committee found representatives of both the pro-independence and loyalist youth to be very pragmatic in their approach to independence. Youth spoke of wanting certainty for their future, but that the explanation of the consequences of a ‘Yes’ or ‘No’ vote by political leaders from all sides were insufficient to make informed decisions. Because of this, youth were putting their lives on hold in fear of the unknown – whether or not to buy a house, invest in tertiary education that may not be available in the near future, or even start families, to name a few. The Committee was concerned to hear that New Caledonia’s youth were carrying considerable burdens on top of the obvious political challenges ahead.

41. Non-Melanesian stakeholders from these consultations spoke of their support for independence, so long as they could see a future for themselves and their families in New Caledonia. As multi-generational descendants born and raised in New Caledonia, they spoke of growing up in a country where division is normalised. They also fear that they would not be welcomed in the country they have called home for their entire lives, and left ‘homeless’. The Committee found that these perspectives expressed deep and legitimate concerns.

42. Similarly, women’s groups were frustrated with New Caledonia’s political elite, who they believed at times overly politicised the issues at the expense of timely solutions to the challenges facing New Caledonia. It was a profound consultation for the Committee where women shared from their hearts the pain and distress that they continue to carry, all the while feeling that their identity as Kanak was being trivialized and denied by the State. Women also saw the negotiation table on New Caledonia’s political future as male-dominated, and wanted more space provided for civil participation in shaping New Caledonia’s political future. The Committee strongly agrees and draws attention to the role of women’s movements in other self-determination and peace processes in the Pacific like that in the Autonomous Region of Bougainville.

Recommendation 1

That the parties signatory to the Nouméa Accord come together to develop a high level bipartisan document that provides assurances to the spirit and manner in which the consequences of a ‘Yes’ or ‘No’ vote will be negotiated.

Recommendation 2

That women, youth and other relevant civil society groups are afforded the space to make meaningful contributions to the negotiation and planning of New Caledonia's political future.

POLLING DAY

43. On polling day, the Committee divided into three teams and observed polling across 36 polling stations in the Northern and Southern Provinces. Due to the weather forecast that a tropical cyclone and heavy rain were due to affect New Caledonia from 12 – 15 December, the Committee could not deploy to the Loyalty Islands Province. Two teams remained in the Southern Province, observing polling in urban (Nouméa) and rural (Yate, Goro, Unia). The third team observed polling in Koné, Pouembout and Poya in the Northern Province, and La Foa in the Southern Province.

44. Due to the COVID-19 community outbreak, special measures and arrangements were made to ensure that the referendum was as safe as possible. These included:

- the extension of polling hours to avoid congestion from 7am - 7pm in Nouméa; 7am - 5pm in Tiga and Île Ouen; and 7am-6pm everywhere else (originally 8am - 6pm);
- the use of masks, frequent sanitizing, multiple queues, clear signage and social distancing in polling stations;
- appropriate set up and ventilation in, and frequent sanitization of, polling stations;
- minimal interaction between voters and polling officials; and
- COVID-19 vaccination and testing arrangements for polling officials.

Polling

45. All polling stations that the Committee observed at 7am were opened on time and without issue. Polling officials were efficient in their preparation and had organised polling stations in a way that ensured best COVID-19 safety practices. Entry and exit points were either separate or divided to ensure minimal crossover between voters; large signage directed voters through the process; the voting process was streamlined to ensure easy flow; and coloured sticky tape marked out social distancing points inside and outside polling areas.

46. The Committee was pleased with the arrangements made for and the conduct of polling. Polling was orderly and peaceful. Voters normally spent less than five minutes completing the polling process once inside the station.

47. The process to vote included voters:

- queuing outside the polling booth, which was often monitored by a queue master to ensure that the polling station did not become overcrowded;
- entering the polling station and demonstrating their registration on the referendum roll;
- collecting three items: an envelope and a 'Yes' and No' ballot paper;
- entering a polling booth and in private placing their preferred ballot in the envelope while discarding the other;

- exiting the booth and approaching the ballot box, verifying themselves to the presiding officer;
- placing their ballot in the ballot box;
- signing their name in the ‘list of voters’ to confirm their participation in the vote; and
- exiting the polling station.

48. The Committee was able to observe several voters voting by proxy. While the majority were successful, the Committee did note an instance at one polling station where it was reported that a voter’s proxy votes for family members residing in France could not be processed in time because authorities were too busy to verify the eligibility of the family members.

49. The Committee observed that in polling stations that had long queues in the sun, social distancing was difficult and voters were at times visibly agitated. The Committee acknowledges that such instances are difficult to avoid, particularly in larger polling stations. In this sense, the arrangement for a second line reserved for vulnerable voters (such as the elderly and pregnant women) to vote was accommodated across polling stations.

50. Further, the entrance to polling stations were supplemented by a ramp to assist persons with disabilities, the elderly and pregnant women. The Committee did note however that where polling stations were on a hill, getting to and from it was difficult for some members of the public, particularly those in wheelchairs.

51. The Committee also observed voting at decentralised polling stations in Nouméa. The Committee was pleased to see the continuation of this initiative, which allowed voters from the Bélep, Ouvéa, Lifou Maré and Île des Pins municipalities to vote in Nouméa as opposed to returning to their home islands to participate.

Recommendation 3

That polling stations are easily accessible to all members of the public, motorists and pedestrians alike, and where possible, that car parking is reserved for disabled persons, the elderly and pregnant women close to polling stations.

Security arrangements for polling day

52. The security arrangements for the referendum was a sensitive issue. In addition to security forces already based in New Caledonia and the 260 Commission delegates, France deployed approximately:

- i) 270 military personnel;
- ii) 1,350 gendarmes;
- iii) 53 personnel from Formations Militaires de la Sécurité Civile (military personnel skilled to respond to natural and technological disasters);
- iv) 100 police; and
- v) 20 personnel from the équipes régionales d'intervention et de sécurité (units specialised to respond to penitentiary issues).

53. The State also had access to 130 transport vehicles, 80 locally hired vehicles, 65 armoured and light armoured vehicles, two military helicopters, and militarised transport

aircraft. State officials noted that the increase in security for the third referendum was because at the time security arrangements were being made, non-participation had not been declared and a very close result was expected which could pose security risks. Further, there were isolated security incidents during the 2020 referendum.

54. On polling day, the Committee observed minimal police presence in the Northern Province and rural areas of the Southern Province. It seemed as if they were strategically positioned out of sight but close by, so as to not agitate people in areas that predominantly support independence. The Committee was pleased and believes that this was a considered approach and avoided any unintended provocation between parties. Nouméa however had a visibly heavy police presence, with personnel equipped with firearms stationed at all major entry points into the city in what seemed deliberate to dissuade any attempt at disrupting the poll. Military vehicles were also parked in plain sight, or patrolling the streets of Nouméa. The Committee observed a police unit stopping a vehicle to remove a Kanak flag it was flying.

55. Members of the Committee have seldom witnessed such a display of armed force during a referendum/election, and heard from its consultations that people were scared. While the Committee acknowledges that safety is a priority and that visibility of security personnel can be a deterrent to violence, the presence of state coercive forces carries with it the potential to intimidate. Nevertheless, the Committee agrees that the presence of these coercive forces did not deter voters from visiting their polling stations to vote, and polling day was peaceful.

56. It should however be noted that the Committee believes that the peaceful nature and conduct of the referendum was also largely attributable to the calls of the non-participation movement, Comité des Sages and church groups to maintain peace and calm in the lead up to and on referendum day. The Committee believes that such displays of force will be counter-productive in the post-referendum period and should be minimised or avoided altogether.

Recommendation 4

That all personnel deployed to New Caledonia to secure the referendum are withdrawn in a prompt and considered fashion, noting that the referendum is complete.

Close and counting

57. The Committee observed the close of polling and was pleased with the arrangements made. Polling closed on time and without issue.

58. In consideration of the non-participation of the pro-independence camp, the counting was a quick process and largely completed without issue. The Committee did however observe an avoidable breach of COVID-19 safety and counting protocol, which primarily included one scrutineer breaking social distancing guidelines on a number of occasions, at times entering the personal space of some counters and touching ballot papers. The Committee does not believe that the scrutineer's actions raise any doubt as to the outcome of the count at the polling station. However, it suggests that stricter management of counting activities will be necessary in the future. Neither scrutineers nor the public should have direct physical access to ballots, even more so in the midst of a pandemic. The Committee notes that the separation of counters and scrutineers/public was also an isolated issue it raised at the 2018 referendum.

Recommendation 5

That a taped cordon/floor marking divides scrutineers/public from counting officials and activities, which at the same time allows full visibility of the counting processes.

The Result

59. Of the 184,364 registered voters, 80,881 participated accordingly:

- No – 75,720 (93.61%);
- Yes – 2,747 (3.40%); and
- Invalid and blank votes – 2,414 (2.99%).

60. Of the 78,467 valid votes cast 3.50% supported independence and 96.50% rejected it. While the result demonstrated a resounding victory for the ‘No’ campaign, the participation of only 43.87% of registered voters casts a long shadow over the legitimacy of the ‘No’ victory. A significant proportion of registered voters, mainly Kanak and pro-independence supporters, chose to refrain from voting in line with the non-participation stance of the pro-independence movement. While voting is not compulsory, the voter turnout is exceptionally low.

61. While article L66 of the Electoral Code states that blank and invalid votes do not count in the result of the count, the Committee believes that it is important to consider these votes in the overall interpretation of the result. In 2020, invalid or blank votes amounted to 1.21% of the total votes, compared to 2.99% in 2021. The Committee believes that the high number could be a protest vote whereby pro-independence supporters expressed their opposition to the manner in which the referendum was administered. The Committee does not take lightly the decision by many to not participate or cast invalid/blank votes, noting that the right to self-determination is something they have fought for and lost loved ones to throughout history.

62. Further, the Committee notes that while the referendum roll grew by **3,565** voters since the second referendum, the ‘No’ vote received **5,783** less votes than in 2020. The Committee believes that this decrease could be attributed to:

- Voters worrying about contracting COVID-19 at polling stations;
- ‘No’ voters heeding the non-participation campaign’s calls;
- ‘Yes, but not yet’ voters in 2018 and 2020; and/or
- Voters that believed the ‘No’ result would be comfortably reached, and therefore felt that they did not need to participate.

CONCLUSION

63. The Report of the Committee provides a contextual account of New Caledonia’s third independence referendum under the Nouméa Accord. As it has reported, the *self-determination* referendum that took place 12 December 2021 did so with the non-participation of the overwhelming majority of the indigenous people of New Caledonia and their supporters. The result of the referendum is an inaccurate representation of the will of registered voters and instead can be interpreted as a representation of a deep-seated ethnic division in New Caledonia, which the Committee fears has been exacerbated by the State’s refusal to postpone the referendum.

64. On such a significant occasion in New Caledonia's contemporary history, the Committee found that the risk of low voter participation was high and genuine. While the Committee accepts that no minimum voter participation threshold is required to legally legitimise the referendum result, principles of democracy like voter participation were severely lacking. The Committee finds difficulty in supporting a referendum result on self-determination that was essentially conducted without the full participation of the first people of New Caledonia.

65. At a time when New Caledonia, metropolitan France and the globe are experiencing the greatest disruptions to life in modern history, a vote under the conditions that preceded the referendum on 12 December 2021 was avoidable. A postponement could have prevented the political polarisation that now threatens to derail all the hard work and achievements that have been accomplished in the last three decades.

66. The Committee however remains positive and hopeful that the institutions established under the Nouméa Accord can resolve the challenges that lie before New Caledonia. In 2022 New Caledonia will need strong visionary leadership, which the Committee believes it has in His Excellency Louis Mapou, President of the New Caledonia Government. The Committee is confident in New Caledonia's Congress and unique collegial government to find a way to move forward together that is representative of the people they serve. The Blue Pacific has a deep history of peaceful conflict resolution through dialogue, talanoa and the Pacific Way – the Committee encourages all stakeholders to harness these instruments of peace to find a common way forward.

Recommendation 6

That, subject to the political discourse in New Caledonia, the parties signatory to the Nouméa Accord meet to negotiate a way forward, which offers all eligible voters the opportunity to express their wishes on self-determination through the organisation of another referendum.

ACKNOWLEDGEMENTS

67. The Forum Ministerial Committee to New Caledonia acknowledges with gratitude:

- The Government of New Caledonia and the State for their support for the participation of the Forum Ministerial Committee in the 2021 Referendum on Independence;
- All the stakeholders that met with the Committee, who were gracious with their time and happy to share their views on the state of affairs in New Caledonia; and
- The people of the New Caledonia for their warm welcome and generous hospitality.

**REPORT OF THE 2021 PACIFIC ISLANDS FORUM MINISTERIAL TO NEW
CALEDONIA, APPROVED AT THE PACIFIC ISLANDS FORUM SECRETARIAT
2 FEBRUARY 2022**

Ratu Inoke Kubuabola
Special Envoy of the Prime Minister of Fiji
and Chair of the Pacific Islands Forum
Fiji

His Excellency Ali'ioaiga Feturi Elisaia
High Commissioner of Samoa to Fiji
Samoa

Mr Henry Puna
Secretary General
Pacific Islands Forum

ANNEX 1

MEMBERS OF THE 2021 FORUM MINISTERIAL COMMITTEE TO NEW CALEDONIA

Ratu Inoke Kubuabola
Special Envoy of the Prime Minister of Fiji and Chair of the Pacific Islands Forum
Fiji

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