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11 February 2008
December 2007

Mr Greg Urwin
Secretary General
Pacific Islands Forum Secretariat
Suva, **FIJI**

BY HAND

Dear Secretary General,

Thank you for inviting us to observe the 2007 Nitijela elections in the Republic of the Marshall Islands, as members of the Forum Election Observer Team.

2. We are pleased to submit to you the attached report of the Team. As per the Terms of Reference agreed between yourself and the Government of RMI, we request that you transmit it to the Government and the Chief Election Officer of RMI. We also recommend that the report subsequently be shared with other Forum member countries and be made public.

3. Our work in RMI was a pleasure and a privilege. We wish the Government, the Nitijela and the people of the Republic of the Marshall Islands every success in their future.

Yours Sincerely



Ms Maria Decherong



Mr Martin Tete



Mr Andrew Trawen



Mr Lawrie Cremin



Ms Shennia Spillane



Ms Constance Tafua-Rivers

Attach.



**REPORT OF THE PACIFIC ISLANDS FORUM ELECTION OBSERVER TEAM
TO THE REPUBLIC OF THE MARSHALL ISLANDS'
NITIJELA (PARLIAMENTARY) ELECTIONS, 19 NOVEMBER 2007**

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INTRODUCTION

Brief Political Background

The Republic of the Marshall Islands (RMI) consists of 180 square kilometres of atolls and coral islands spread over two million square kilometres of Pacific Ocean. Two roughly parallel chains of atolls, the Ratak and Ralik groups, run along a North-West to South-East axis in the Northern Pacific. In the northern part of the group Bikini, Rongelap, Enewetak and Utrik atolls were affected by 67 nuclear tests conducted by the United States between 1946 and 1958. Further south, Kwajalein Atoll, which encircles the world's largest lagoon, is the site of a sizeable US Military base and missile testing facility. Agreed payments and support under the 1986 Compact of Free Association between RMI and the US, along with US compensation for injuries arising from the testing and payments for the occupancy of the Kwajalein base, account for a large part of RMI's annual income.

Notwithstanding its special relationship with the US, RMI gained its independence in 1979 and is a sovereign nation with political autonomy. The Government operates under a mixed parliamentary-presidential system. Elections are held every four years under universal adult suffrage for the lower house of RMI's bicameral legislature, the Nitijela. The President, who is head of state as well as head of government, is elected in turn by the 33 Senators of the Nitijela. Legislative power lies with the Nitijela. The upper house of Parliament, called the Council of Iroij, is an advisory body comprising twelve traditional chiefs. The Executive branch consists of the President and a Cabinet of six to ten Ministers nominated by the President from within the Nitijela.

For the first 17 years of RMI's independence, the country was led by President Amata Kabua, Iroijlaplap (paramount chief) of Majuro Atoll, with relatively little organised opposition or political party activity. Following President Amata Kabua's death in 1996, his cousin and Iroijlaplap for Kwajalein Atoll, Imata Kabua assumed the Presidency.

The late 1990s proved a watershed in Marshallese politics. In elections held in November 1999, an opposition party for the first time dislodged an incumbent government. Five of the eight Ministers lost their seats and for the first time a commoner became President. In the 2003 election the United Democratic Party (UDP) government retained power despite the strong opposition of traditional chiefs and their supporters who had formed a new political party, the Ailin Kein Ad (AKA).

The 2003 election was the subject of some controversy and a record number of complaints and court petitions which challenged the integrity and security of the count, the validity of a large number of rejected votes (particularly postal votes from overseas), and other alleged irregularities. Not all of the court challenges were concluded; of those that were, none were successful. Notwithstanding the controversy, the result confirmed that the outcome of the 1999 election was not an anomaly, and created the context for a vibrant contest in the 2007 election.

Invitation to observe the elections

On 27 March 2007, the Republic of the Marshall Islands' Nitijela adopted Resolution 73 calling on the Cabinet to invite regional and international observers to monitor the elections scheduled for November. In August 2007 Witten T. Philipppo, Minister in Assistance to the President, wrote to the Secretary General of the Forum formally inviting the Forum Secretariat to send a team of observers to monitor the elections. The Secretary General formally accepted the invitation by letter of reply on 29 October.

Composition of the Team

The Forum Election Observer Team (“the Team”) consisted of:

Ms Maria Decherong
Assistant Election Administrator
Palau

Mr Martin Tete
Principal Electoral Officer
Vanuatu

Mr Andrew Trawen
Electoral Commissioner
Papua New Guinea

Mr Lawrie Cremin
Political Issues Adviser
Forum Secretariat

Ms Shennia Spillane
Legal Adviser
Forum Secretariat

Ms Constance Tafua-Rivers
Young Professional - Legal
Forum Secretariat

Terms of Reference

The Terms of Reference for the Team were as follows:

The Pacific Islands Forum election observer team (“the Team”) will be present in the Republic of the Marshall Islands (RMI) before, during and after the General Elections of 19 November 2007 in order to gain a broad overview of the environment in which the elections take place, the electoral process and the elections themselves. Following the elections the Team will provide a report to the Secretary General of the Pacific Islands Forum Secretariat, the Government of RMI and the RMI election management authorities, setting out its observations on the elections and any recommendations for improvement of future elections in RMI.

Methodology

The Team conducted its principal work in RMI between 12 and 24 November 2007. Prior to election day the Team met with a wide range of stakeholders including representatives of the Government, the Electoral Administration, police, the two major political parties and some independent candidates, NGOs, women’s and youth groups, the private sector and the media. We observed some pre-election campaigning including

public campaign events. We also spoke informally with voters, election workers, candidates and poll watchers as we went about our work.

For the voting and counting, the Team divided into pairs. Two pairs observed on Majuro Atoll while the third pair deployed to Ebeye (Kwajalein District). Unfortunately logistical problems (principally the grounding of Air Marshall Islands) prevented the Team from deploying any observers to other outer island locations. On election day, the Majuro group visited all 30 polling places at least once, while the observers in Ebeye observed voting for the whole of election day at the single polling place there. Team members also observed the counting of votes in the Majuro and Ebeye counting centres.

Prior to its departure from RMI, the Team issued on 23 November a Preliminary Statement on our observation of the voting and initial counting. That Statement is attached as Annex One.

Following its departure, the Team continued to monitor developments in the electoral process, and noted media reports of controversy surrounding the ongoing counting of votes including postal ballots, and the conduct of re-counts. On 16 December the Team issued the Interim Statement attached as Annex Two, advising that one member of the Team would conduct a follow-up visit to RMI to discuss these issues with the Electoral Administration and key stakeholders. That visit was conducted from 15-19 January 2008.

In line with the request from the Government of the Marshall Islands and the resolution of the Nitijela upon which that request was based, the focus of the Team's observation – and this report - was on the election of the Nitijela (national parliament). However, mayoral and local government elections were conducted simultaneously with the Nitijela election, so the Team necessarily observed the voting and counting for these as well.

The Team acknowledges that there were limits to our observation mission. The Team was small in size and only visited RMI for a limited time period, although we sought to monitor key events before and after the election via media and through direct (email) contact with Marshall Islands residents. In addition, logistical and linguistic constraints further challenged the Team in its work in RMI. This report therefore seeks only to comment on those matters which the Team either observed directly, or upon which we gathered enough information from primary sources to make a credible assessment.

THE CONTEXT

The Legal Framework

National Elections in the Republic of Marshall Islands are governed by 3 key legislative instruments:

- The *Constitution of the Republic of Marshall Islands* (the “Constitution”);
- The *Elections and Referenda Act* [Title 2 MIRC Ch 1] (the “Elections Act”); and
- The *Election Offenses Act* [Title 2 MIRC Ch 2].

Provisions under Article II of the Constitution, entitled Bill of Rights, provide the right to participate in the electoral process as a voter or a candidate for office. Qualifications for candidacy in elections to the Nitijela are prescribed in Art.IV s.4, and its composition is governed by Art.IV s.1. The election itself is “conducted by secret ballot under a system of universal suffrage” for all citizens 18 years and older (Art.IV s.3). The Nitijela elects the President of the RMI by majority vote and the President in turn nominates the appointment of Ministers (Art V ss.3,4).

National elections to the Nitijela are conducted simultaneously with local government elections. The procedures follow directives from the Elections Act (see s.124 The *Local Government Act 1980* (4 MIRC Ch 1). The Local Government Act provides for the division of local governments into wards, which corresponds with the division of the 24 national electoral districts into 86 wards for polling and counting.

The Elections Act reiterates the Constitution’s provisions regarding qualifications for candidates and voters for both Nitijela elections and local governments, and also covers administrative issues (such as registration of voters, nominations, conduct of elections and counting processes).

Organisation of the Electoral Administration is provided for under s110. The Elections Act also establishes processes for absentee and postal votes under ss.154-166. These are discussed further below.

A supplement to the Elections Act is the *Elections and Referenda Regulations 1993* which provide more detailed provisions on the electoral register, registration of voters, absentee/postal voting procedures and the overall conduct of elections. It is understood from meetings with the Election Administration that a further supplement to the legislation is provided by *Election Instructions* published in Marshallese. These clarify electoral procedures in detail for the edification of electoral staff.

The newly enacted Election Offenses Act of 2004 had its trial run with the 2007 elections and lists a number of offences related to the electoral process, including interference with the election, intimidating or bribing voters or candidates, double voting and personation. The Act also restricts or prohibits a number of activities on voting day such as sale of alcohol, gambling, and campaigning.

The Electoral Timetable

Pursuant to the Constitution of the Republic of Marshall Islands the Nitijela was automatically dissolved on 30 September 2007 and a general election was scheduled for the third Monday of November. The following Election Timetable was published for the Nitijela and the 24 Local Governments:

31 December 2006	-	Closure of Electoral Roll
15 August 2007	-	Nomination of candidates opens at 10.00am
19 September 2007	-	Nomination of candidates closes at 2pm
5 October 2007	-	Official lists of candidates released
8 October 2007	-	Voters can request postal ballots
5 November 2007	-	Last day to request postal ballots for those permanently residing outside RMI
14 November 2007	-	Last day to receive request for postal ballots for those who will be outside RMI on election day or are prevented by illness or physical disability from attending a polling place
19 November 2007	-	Election Day 7.00am – 7.00pm
3 December 2007	-	Last day for receipt of postal ballots

In the event, due to delays in the opening of the polls on Majuro atoll, the Attorney General announced an extension of polling times for those polling places, such that voting was not completed in the last polling place until 4.00am on 20 November 2007.

The timelines observed in relation to the counting and results process were determined by the length of the count, and are discussed further below. The final unofficial result was declared on 10 December 2007, and 22 of the 24 district results were confirmed on 24 December, following the 14-day period for re-count petitions. Two district re-counts were conducted after that date, with the announcement of their official results on 5 January 2008. The new Nitijela convened and the President was elected on 7 January.

The Electoral System

The electoral system used in RMI is a combination of single- and multi-member electorates; all elect their members using the “first past the post” system. For the Nitijela, 33 Senators are elected from 24 electoral districts. The electoral districts and the number of representatives for each are set out in the Constitution. Majuro district elects five Senators, Kwajalein three, three outer islands elect two Senators each, and the remaining nineteen districts elect one Senator each. On the ballot paper the voter must mark (tick or cross) as many boxes as there are Senatorial seats in that district.

For administrative and local government purposes the districts are further divided into sub-districts known as Wards. Local government systems vary from Ward to Ward although all also use the first-past-the-post system. Mayoral and local government elections are conducted simultaneously with the Nitijela election, and all the elections are included on the same ballot paper in each Ward.

Unlike some of its Pacific neighbours, RMI also offers postal and absentee balloting for those outside their district on election day. Those in another part of RMI than their registered district may cast an absentee ballot for their district at an ordinary polling place on election day. The significant community of Marshallese citizens staying or residing outside RMI, and those unable to attend a polling place due to disability or illness, are offered the opportunity to vote by postal ballot. Voting is not compulsory.

Candidates and Political Parties

Under the Constitution any eligible voter at least 21 years of age may be nominated as a candidate. The 33 seats of the Nitijela were contested by 89 candidates. The number of candidates contesting the election in each constituency ranged from 1 to 15.

As at the 2007 elections there were two major parties in the Marshall Islands: the United Democratic Party (UDP) and the Ailin Kein Ad (AKA) Party. The AKA is widely regarded as the party representing the Chiefs (Iroij) and the UDP the commoners. While this generalisation is not strictly reflected in the composition of the parties and the interests they represent, it is the basis upon which many public commentators in RMI characterise the political landscape.

The UDP formed in 1999 in preparation for the national election that year. It led an active grass roots campaign on a platform of anti-corruption and succeeded in establishing a majority in the Nitijela, led by President Kessai Note. During late 2003, what had been an unnamed and loosely organised opposition led by former President Imata Kabua formed into the AKA, and campaigned particularly on issues related to the Compact of Free Association between RMI and the United States. The formation of the AKA in 2003 meant that the election of that year was the first in the country's history with two formally organised political parties campaigning.

This two-party structure was carried into the 2007 election campaign, although party membership is not formally registered as part of the electoral process and can be fluid, with some independent candidates also expressing their allegiance to one or other of the major parties. (This fluidity of party allegiance was demonstrated in the formation of government following the election, which is discussed further below.)

ELECTION 2007: KEY ISSUES AND OBSERVATIONS

Election Management and Staff

The Elections Act provides that “the Electoral Administration shall be a part of the Ministry of Internal Affairs” (s110). The Electoral Administration consists of the Secretary of Internal Affairs, the Chief Electoral Officer (CEO), Boards of Elections, Counting and Tabulation Committees, and certifying officers. The law seeks to preserve the independence of the Electoral Administration by making the Secretary of Internal Affairs (rather than the Minister) responsible for the overall conduct of the election.

It is the Team’s view that this arrangement does not reflect accepted international practice in terms of ensuring the independence of the Electoral Administration, notwithstanding the presumed role of the Public Service Commission in appointing the Secretary of Internal Affairs and the CEO. The Secretary of Internal Affairs necessarily reports to the Minister of Internal Affairs in all other aspects of the role, and the Electoral Administration is not only legally placed within the Ministry, but physically located with it, and generally regarded as part of the Ministry. It is very difficult to ensure not only independence but the essential perception of independence under such circumstances.

The Team heard that close relatives of candidates had been appointed to key positions as permanent electoral officials, compromising both independence and experience within the office. The Team also heard accusations of active political engagement by the incumbent Government in the electoral process: these were particularly pervasive and damaging in the context of controversies which arose in relation to the counting and re-counting of votes after the election, as well as the administration of postal voting.

Whether or not government influence was exercised on the Electoral Administration, only a fully independent election administration will put to rest the possibility of political interference and safeguard public confidence in the integrity of the system for the future. The Team regards strengthening the independence of the Electoral Administration as a crucial and priority issue for consideration by RMI in advance of the next election.

Recommendation:

- 1. That the Elections Act be amended to create a fully independent Electoral Administration, selected and supervised by an impartial Electoral Commission or similar oversight body under a process ensuring bipartisan support. Several regional and international good practice models exist for this and could be examined – with international assistance if needed - to create a model best suited for RMI.*

Further, it is imperative that the Electoral Administration be sufficiently resourced to undertake all the functions necessary for effective and fair elections, with minimal reliance on line agencies of the incumbent government. The Team observed that the Electoral Administration had very few permanent staff and the majority of those involved in the election were casuals only employed a short time before election day. These

factors were, in the Team's view, undeniably linked to problems which emerged in the election process such as late release of finances, poor public communications, and shortcomings in staff training and logistical planning. The Team recommends that in reviewing arrangements for the independence of the Electoral Administration, RMI should also examine its resourcing, with a view to increasing permanent staff strength and capacity.

Regional and international technical assistance could also be sought by RMI to build the capacity and systems within the Electoral Administration to allow for more effective management of the various aspects of elections in the future. This may include assistance with the reform process itself, and/or technical assistance and capacity building in such specific areas as development and maintenance of the voters' register, logistical planning, statistical documentation, financial management, development of training programmes and materials for election staff, education and communications.

Moreover, given some of the logistical problems which occurred in relation to matters such as lighting, tents and furniture, the Electoral Administration may benefit from the creation of a planning committee in advance of the election which includes all government and private agencies whose work is relevant to the successful conduct of the elections. Such a committee could examine and carefully plan all aspects of the process and ensure that appropriate arrangements are in place to deal with anticipated problems.

Recommendation:

2. *That the Government of RMI commit to the provision of sufficient resourcing for an independent Electoral Administration to carry out effectively all aspects of the electoral process, and afford priority to building the capacity of the Electoral Administration to do so, including through seeking regional or international assistance where necessary.*

Under the Elections Act a permanent Board of Elections (BoE) is appointed by the CEO for each electoral district, and a BoE member supervises polling in each polling place. These are supported by casual staff who may be appointed as necessary. The Team was advised by the CEO that due to many BoE members having limited access to training, the situation in reality tended to be a little different, with trained casual election officials sent from Majuro to manage the polling with the support of the BoE.

The Elections Act further provides for the appointment of a national Counting and Tabulation Committee (CTC), supported by local CTCs where counts are conducted locally. In the event the CTCs appeared to comprise a subset of the election casuals who managed the voting.

The casual electoral staff was appointed by a process of advertisement and selection in Majuro and Ebeye, with a test given to applicants to determine their capacities to do the work (including basic mathematics). While the Electoral Administration was confident that the best applicants had been selected on merit, the Team heard from various others in

the community allegations of nepotism in the selection of electoral staff. In a small island community such as RMI, the pool of qualified personnel for labour-intensive tasks like elections can be limited, and it is hard to completely avoid anyone who is related or connected to any candidate in the selection of staff. Nevertheless, there seemed little clarity in the community right up to election day regarding exactly who was on the BoE, CTC and electoral staff, fuelling some suspicion about their identities and independence.

To avoid any perception of nepotism or bias, it would be advantageous for the CEO to publish in advance the names of all those working in the electoral process, and in cases where objections might or indeed do arise, deploy staff in such a way as to ensure that no relative or close associate of a candidate is involved with the electoral process in that candidate's district.

It should be added that in the actual administration of the voting and counting, the Team did not witness nor receive any report of actual bias, misconduct or attempted fraud on the part of any permanent or casual election official.

Recommendation:

- 3. That the names of permanent and casual election staff and their designated responsibilities be published in advance of the election, and that in the selection and allocation of duties to such staff, the Chief Electoral Officer take all practical measures to ensure that no conflict of interest is present, for example, by swapping conflicted officials to a district where they have no (or fewer) connections.*

We were advised by the CEO that the election casuals and available BoE members were given three days' training in either Majuro or Ebeye a few weeks before the election. The Team was also aware that additional briefing was provided to elections staff in the days leading up to election day.

In Ebeye the training appeared to be reasonably effective, with the staff having a good idea of what to do. In Majuro, while electoral procedures were ultimately followed correctly in most cases, Team members witnessed inconsistencies between the procedures being followed in different polling places. The Team was also concerned by a high level of confusion evident among polling officials, and an apparent reluctance or inability on the part of staff in the polling places to take measures to address soluble problems which arose (such as long queues and lack of voting booths). This may have been due to the absence of experienced BoE members with a clear management mandate – it is notable that it did not occur in Ebeye where the electoral staff was headed by a qualified and experienced BoE member who took charge of the polling place and worked proactively to resolve problems.

It is the view of the Team that the training of election staff could be improved and extended to ensure they are skilled to a high level for future elections. In addition, the management of staff at polling places should be clearly delineated, with a leader in each

polling place trained to a high level and empowered to make decisions, direct other staff and take remedial action where required, in consultation with the CEO as necessary.

Recommendation:

4. *That measures be taken to improve the training and preparation of polling and counting officials for the election, including ensuring a clear and appropriate management structure in each polling place.*

Voter Registration and Representation

In RMI, the Constitution allows eligible citizens to register to vote in the district where they reside, or in which they hold land rights. The Team was advised that for many Marshallese, this means there may be up to half a dozen districts in which they could register, given the complex nature of family and clan ties and land ownership. The Team was advised that re-registration between districts is a common practice prior to each election, with candidates encouraging supporters to switch registration into the district in which that candidate is standing.

This flexible system of registration and re-registration, with the absence of a residency requirement for registration, is unusual by international standards and may give rise to concerns about democratic representation, some of which were expressed to us. For example, the Senators and local governments for most outer islands are determined by a majority of voters who live in Majuro and Kwajalein, or even overseas. There is some concern that voters residing on outer islands are disempowered under such a system, and elected representatives are not sufficiently accountable for services to their communities as a result. The Team notes that some of these issues were being raised in political and public debate within RMI in the aftermath of the election.

However linkage of voting rights to land does occur elsewhere in the Pacific and it reflects the strong importance of land rights to the Marshallese as Pacific peoples. As such the system seems to have consensus public support, and in these circumstances the Team does not wish to recommend any change absent a clear public sentiment in favour of reform. At the same time, the Government, Nitijela and community may wish to consider these matters further in any revision of RMI's electoral arrangements.

In accordance with the law, the registration of voters for the 2007 election closed on 31 December 2006. According to Electoral Administration figures there were 9339 new or re-registered voters for this election, and the roll increased to 36,275 voters overall, from 31,302 in 2003.

The CEO told the Team prior to the election that he was aware of a significant number of imperfections in the roll, principally deceased voters who had not been removed, and multiple registrations. The CEO suggested these might number up to 5000, and advised the Team that his intention following the 2007 election was to dispense with the existing roll and create an entirely new roll. In the meantime, the CEO noted the introduction of a

new practice for this election of marking voters' finger with indelible ink, to ensure that multiple voting could not occur.

During the election, the Team saw many cases of voters who could not locate their names on the roll, although some were resolved upon extra checking. While the Team is confident that the voter identification rules combined with the use of indelible ink effectively prevented multiple voting at this election, the Team agrees that a concerted effort should be made to strengthen the integrity of the roll for future elections. This could include development of a provisional roll and its display in the community prior to finalisation of the roll as is done in other countries, which allows the public to correct mistakes and helps contribute to the integrity of the roll.

Recommendation:

5. *That a review or replacement of the register of voters be conducted prior to the next election, to strengthen the integrity of the roll.*

A related issue is that of representation of voters in the Nitijela, and the apportionment of Senators to electoral districts. The present apportionment is set out in Article IV Section 2 of the RMI Constitution, which goes on to provide that the Nitijela may vary the total number of its members, or the districts or the number of members from each. Importantly, the Constitution requires the Nitijela to seek a report on the matter at least once every ten years in order to determine whether any change is needed. However, the Team was advised that no such review has been conducted in the 21 years since RMI's independence.

The Constitution requires that any amendment of electoral boundaries or apportionment should "so far as practicable, be made in accordance with the principle that every member of the Nitijela should represent approximately the same number of voters", while at the same time taking account of other factors such as geography, community interests, traditional boundaries and population mobility.

Examination of the statistics on registered voters for the 2007 election shows that there is now a wide disparity between the number of voters represented by each Senator in the Nitijela – between 272 (Jabat) and 1964 (Mejit). While the Team recognises that there is often a case in Pacific communities for specific representation of very small islands at the expense of population parity, it is nevertheless apparent from even a cursory examination of the numbers that some reapportionment could be done to improve the equality of representation. "One person one vote one value" is a crucial democratic principle, albeit one which needs to be exercised in appropriate balance with other considerations, and the Team therefore believes it would be timely to commission a report on apportionment as required by the Constitution, for consideration by the Nitijela.

Recommendation:

6. *That the Nitijela commission and consider a report as required by the RMI Constitution reviewing the electoral boundaries and/or apportionment of Senators to each electoral district, in accordance with the principle that each member of the Nitijela should represent approximately the same number of voters, along with the other considerations noted in the Constitution.*

Voter Education

The Team was advised in a meeting with local NGO Women United Together in The Marshall Islands (WUTMI) that with assistance from UNIFEM and USAID, it had conducted a voter education project in 2006-2007, with a particular focus on the political empowerment of women. Workshops were conducted throughout RMI to raise the level of awareness about such concepts as democracy, representative government, universal suffrage, registration requirements in RMI, nature of candidacy, bribery, and secrecy of the ballot. The voter education project also included a programme for radio broadcast known as “the People are the Government”. This was a cooperative effort between WUTMI and private radio station Radio V7Emon, which broadcast the half-hour programme in English and Marshallese several times a day for Majuro listeners in the lead-up to the election.

The Team understands that there was some political controversy surrounding the voter education effort, to the detriment of voters. Government-owned radio station V7AB declined to broadcast the WUTMI voter education programme on the instruction of the Minister for Internal Affairs, meaning that it did not reach voters on outer islands. While the Electoral Administration did not produce its own voter education programme, the Team was advised that the approach taken by radio V7AB was to edit specific instructional comments made by the CEO concerning the conduct and process for the election and regularly re-broadcast them in the lead-up to the election. The Team also understands that at least one public meeting was held by the CEO in Majuro to explain electoral procedures to the voters, but that this was poorly attended.

The Team commends the efforts made by civil society in RMI to conduct voter education and advocacy for integrity of the elections. At the same time the Team believes that further development and implementation of civic and voter education should be conducted in advance of future elections. While no statistics were available at the time of this report regarding the percentage of invalid votes cast, the principles of good governance and transparency and the still-evolving state of RMI’s young democracy provide strong arguments for continued effort to build voter awareness, including reinforcement of the concepts of democratic rights, ballot secrecy and electoral integrity.

While a formal programme of voter education should be under the control of an independent Electoral Administration, practice in other countries such as Papua New Guinea has shown that partnerships between electoral authorities, relevant government ministries (such as Education), civil society groups and the media can be an enormously

effective means of delivering voter and civic education. The Team believes that the voters of RMI would benefit from all parties involved in voter education working together towards having an agreed, effective, impartial and long-term education programme with combined cooperation and support. There are many regional and international good practice models which could be drawn upon in this regard.

Recommendation:

- 7. That the Electoral Administration ensure the development and implementation of an effective and impartial voter education programme prior to the next election, making every effort to establish and utilise partnerships with other stakeholders including civil society and the media to that end.*

The Campaign

As the Election Observer Team was a short term mission, we were only able to observe a limited part of the election campaign. However, we spoke with a wide variety of people in the community who informed us that the campaign was more subdued than in previous elections. The media was used extensively. The national government radio station broadcast campaign speeches from each candidate in 15 minute allotted spaces. These speeches received wide coverage throughout Marshall Islands. The two major parties and certain candidates also used the Marshall Islands Journal to place campaign advertisements, including some that targeted opponents' personal and professional standing in the community. The Team observed that a great deal of informal campaigning occurs in Marshall Islands including through face-to-face interaction and public rallies. We were also informed that the Iroij can have a strong influence on voter behaviour, but this varies somewhat between different local communities.

Key issues in the campaign included budget allocations by the Government, the Compact with the United States, land use and management, and the China/Taiwan issue. As has been the case in previous elections, candidates held political rallies which we were able in some cases to observe. The Team notes that as we did not have interpreting services our appreciation of what occurred during the rallies was limited.

Some concerns about campaigning were raised with the Team, such as the incumbent Government's use of state funds to promote its achievements in the election year, influence by Iroij on voters, acceptance of foreign "assistance" for campaigning by candidates on both sides, and candidates handing out food to encourage attendance at campaign events. Some stakeholders with whom we spoke suggested that RMI should adopt election funding and disclosure laws, including limits on permissible campaign spending, to prevent financial imbalances and improprieties creating unfair advantage for certain candidates. Such laws exist in many jurisdictions and, provided they are able to be adequately enforced, can contribute a valuable safeguard to the equity and integrity of election campaigns. While the potential effectiveness of such provisions in RMI would need to be carefully considered, this may be an issue worthy of consideration in any review of RMI's electoral laws.

At the same time, in the context of a lively and passionate campaign the Team did not hear reports of serious bribery or intimidation taking place, and does not believe that the campaign was seriously tainted or biased by unlawful activities.

The Vote

Election day was one of contrasts for RMI. Majuro experienced significant difficulties with polling, while Ebeye and the outer islands proceeded smoothly. On the whole, however, the voting was peaceful and the Team observed no unlawful interference with the integrity of the poll.

The Team is aware that the Electoral Administration implemented some reforms to voting procedures in response to concerns raised about the 2003 elections, and for the most part these were positive changes which should be commended. These included the introduction of transparent ballot boxes with plastic seals, and the application of indelible ink to voters' fingers to prevent multiple voting. Other attempts to improve the polling process met with less success – notably, the decision to increase the number of polling places on Majuro atoll, and to provide for absent voting for all districts at all of the stations.

There were significant problems with the administration of the vote at all 30 polling places on Majuro atoll. Voting commenced late with the earliest opening at 8:30am, one and a half hours after the official opening time, and others at varying times during the day up to as late as 4.00pm. While the Electoral Administration cited bad weather for the late openings, it was the Team's assessment that poor organisation was the main reason for the delays.

The Team also observed a number of variations in the practices employed at polling places and attributed this to insufficient training and management of staff, as discussed above. We further noted that there was an inadequate number of polling booths set up in each polling place (in most cases only one or two) and this led to significant delays in voting including very long lines, with many voters waiting several hours to cast their votes. It is impossible to assess how many voters may have been disenfranchised by the long wait and slow process, although preliminary figures suggest that voter turnout in 2007 was markedly lower than that in previous elections.

Other, seemingly predictable, logistical problems plagued the polling and contributed to inefficiencies and delays. These included lack of appropriate weather-proof shelter in some polling places, absence of necessary furniture in several, lack of lighting as polling proceeded into the evening, and even a land dispute in relation to one of the polling places which required it to be relocated before polling could commence. As noted above, a more effective and coordinated whole-of-government approach to election planning, spearheaded by a well-resourced and capable Electoral Administration, would conceivably have prevented most if not all of these problems.

In Ebeye, voting proceeded smoothly and without incident. The facilities on Ebeye were well equipped and set up for both Kwajalein district and absentee voting. Staff appeared relatively well organised and trained, and voting opened and closed on time. The process was transparent for both poll watchers and the public, and poll watchers were satisfied with the conduct of the vote.

While the Team was not able to be present on the outer islands, we were advised that polling was conducted smoothly at outer island locations. Despite logistical problems caused by the grounding of RMI's domestic airline, materials and officials were able to reach their locations on time to conduct the ballot. It is noted that there were reports that some locations ran out of certain ballot papers, at which point the CEO authorised officials to copy the ballots and initial the copies to verify their authenticity.

The Team believes that in addition to the measures in relation to the Electoral Administration and staff recommended above, a number of reforms could and should be implemented to improve the administration of polling on election day and prevent the types of problems which occurred in Majuro at this election. Primarily this requires provision of more (well-trained and managed) staff in the polling places on Majuro, and more individual secret polling booths to allow for speedier voter processing. In addition, polling procedures could be revised and improved to increase the efficiency of the process, for example, by using a simple tally sheet rather than a duplicate form to record voter attendance.

Recommendations:

8. *That more polling staff and more polling booths be located in each polling place to allow for faster voter processing.*
9. *That the Electoral Administration undertake a revision of other aspects of polling processes, with external expert advice if necessary, to ascertain where processes might be made more simple, speedy and effective without compromise to the integrity of the ballot.*

Postal and Absentee Voting

Absentee and postal voting is a crucial element of the electoral process in RMI. For many outer island districts the majority of voters actually reside in Majuro and Kwajalein, necessitating large-scale absent voting. Overseas residents also make up an increasing proportion of RMI's population, and therefore at least potentially a significant portion of the electorate. Thus the efficient and effective conduct of absentee and postal voting is essential to the overall integrity of the election.

The Elections Act and Regulations make provision for both absentee and postal voting. A voter who is absent from his or her registered district on election day may cast an absentee vote at a special polling place designated for that purpose. A registered voter who is unable to attend a polling place on election day due to illness or disability, or

because they reside or will be outside RMI, may cast a postal vote. A number of provisions and Regulations govern the conduct of absentee and postal voting.

In relation to absentee voting, the process undertaken in Majuro was altered for this election. In previous elections, particular polling places on Majuro were designated for certain outer island voters, so that all voters from each outer island voted in one Majuro polling place, putting their ballots in a designated box for that outer island. In an effort to increase accessibility for voters, and to address allegations of unfair campaigning by some candidates in transporting absent voters to the special polling place, the Electoral Administration designated all 30 Majuro polling places to accept absent votes for all districts. While the intention behind this was laudable, the Team regards the implementation of this change as a major contributor to the logistical problems, long delays, slow voter processing and convoluted counting which occurred in Majuro. The Team believes that the procedure for absent voting on Majuro should be reviewed prior to the next election, to determine whether the benefits of more accessible absent voting outweigh the costs, or whether a return to the former system would be preferable. At a minimum, if absent voting is to be continued in all polling places, sufficient resources and planning need to be provided – including consideration of multiple ballot boxes in each polling place – to make the system workable.

The Team also noted a controversy which arose in relation to the counting of absent votes on certain outer islands, where the absent votes were not counted on the island (due to the absence of poll watchers for those candidates) but sent to Majuro for counting. This led to concerns about the security and legality of those ballots, and needs to be clarified and addressed in the training of polling officials on outer islands prior to the next election.

The Team was also aware of concerns raised by candidates and overseas Marshallese regarding the processing of postal votes. According to figures from the Electoral Administration, 2629 applications for postal votes were received prior to the published deadline, and 2407 ballot papers were sent out in response (222 were rejected due to the applicants not being found on the register of voters). 1239 returns were received by the Electoral Administration, but of these only 621 were accepted for counting. Most of the 618 rejected ballots were disallowed due to being returned late, including 136 envelopes postmarked 19 November.

Complainants raised a number of issues of concern in this regard, some relating to departures from past practice. First, in contrast to the 2003 election, officials did not visit the United States or other overseas countries in 2007 to handle postal vote applications, which led to some voters not realising until too late that they would have to actively send in applications for postal ballots. Second, many US-based voters complained that postal ballots were sent out unusually late to the overseas voters, and in some cases too late to return them within the legal deadlines. Moreover, accusations were made of selective posting of ballots on the part of either the Electoral Administration, post office or both, in order to influence the vote. The Electoral Administration attributed delays in posting the ballots in part to the late release of funds from the Ministry of Finance for the purchase of

return stamps, although it maintained that the vast majority of postal ballots were dispatched in plenty of time, including more than 1500 sent out on 31 October 2007.

Third, election officials appeared to change the previously understood interpretation of the Elections Act in relation to postmarking of ballots, by requiring that Marshallese voters living in the United States had to have their ballot envelopes stamped by the post office no later than 18 November to be valid – because 18 November in the United States was election day, 19 November in RMI. Furthermore, the RMI President’s Office web site posted official instructions for postal absentee voting on 6 November but did not specify the deadline for postmarking of envelopes, saying only that voters outside RMI should post them as soon as possible. It appeared to the Team that there was some confusion and a lack of clear communication from authorities in regard to the “new” rules about postmarking of ballots. The Team notes that following the election a class action suit has been filed on behalf of 12 Marshallese voters resident in the United States, challenging the disqualification of US ballots postmarked November 19.

Fourth, the Team held some concern about the manner in which postal votes received from overseas were handled and secured at the Majuro post office. Despite the large number of expected incoming votes, it appeared that the Electoral Administration had not reached a clear agreement with the post office on how postal votes were to be handled.

While the Team is not in a position to offer incontrovertible conclusions about the reasons behind the postal ballot problems, we note that postal balloting has proven problematic and controversial in both the 2003 and 2007 elections. With the overseas electorate only likely to grow in future, the Team believes the postal ballot system needs to be reviewed and possibly redesigned for future elections. At a minimum, this would require developing clear, consistent, well-communicated and broadly accepted procedures for the administration of postal votes, with a particular view to maximum transparency and security at all stages of the process.

Beyond such improvements, the Team believes there may be a case for RMI to consider alternatives to the postal voting system, particularly the establishment under law of overseas polling places in those locations where large Marshallese communities reside. While the costs and other implications of such an initiative would need to be carefully considered, the potential gains in terms of security and simplicity of the vote for overseas Marshallese are worthy of consideration, especially given the large proportion of voters involved.

As noted above, the Team also observed that the issue of whether overseas residents should have voting rights at all in RMI became a subject of debate in the aftermath of the election. The Team makes no recommendation on this point, however, regarding it as a matter for the people and government of RMI to consider.

Recommendations:

10. *That the Electoral Administration examine possible improvements and alternatives to the present postal voting system, including the possibility of overseas polling places, to maximise the access of overseas citizens to the vote and the transparency and security of the process.*
11. *That subject to any court decisions in relation to postal voting, the Elections Act be amended to ensure there is no ambiguity on the deadlines for postal voting, and that the rules and procedures be clearly communicated to voters well in advance of future elections.*

The Count

The Team observed the counting in Majuro and Ebeye. In Majuro, the counting of votes got off to a slow and uncertain start, affected by the delay in polling times but also appearing to suffer from a measure of disorganisation and confusion among counting staff. Once underway, the progress of counting steadily improved, with a fairly transparent process able to be viewed by poll watchers and the public.

Nevertheless, there were some elements of the process in Majuro which created unnecessary confusion and convolution in the counting. The new procedure for absent voting, discussed above, had the result that all 30 Majuro boxes contained votes for up to 23 districts (one district being uncontested). This meant each box opened had to be sorted into up to 23 sets of ballots for separate counting, complicating the count and leading to dozens of piles of votes exposed on counting tables for hours at a time. The checking and rechecking of numerous small numbers of votes for each district from each box also created long delays in the public release of final count figures, even after the count concluded on 24 November, which contributed to unease and suspicion in the community. Once again, there may be an argument for considering whether the absent voting system is on balance worth the potential risks and delays created for the counting process.

If the present absent voting system in Majuro were to be retained, there may be some measures which could still improve the efficiency and manageability of counting, such as colour-coding the ballot papers (printing different districts on different coloured paper), or increasing the number of ballot boxes per polling place (eg one for Majuro and a separate one for outer islands). These types of initiatives at a minimum should be considered for future elections.

In Ebeye, counting commenced a few hours after the close of polls on 19 November, and continued throughout the succeeding three days with little discrepancy or incident. The use of a single polling place with dedicated boxes for each district made the process much simpler than in Majuro. The counting was transparent and the poll watchers and public expressed their satisfaction with the way counting was conducted. Counting was concluded on 22 November.

There are some particularities of the RMI electoral procedures which impact on the speed and efficiency of counting regardless of location. The inclusion of both Nitijela and local government elections on a single ballot reduces the efficiency of the count, since each ballot must be counted individually, rather than being able to be sorted and counted in groups. The Electoral Administration may wish to consider whether printing the Nitijela and local ballot papers on separate pages, or even using separate papers and/or boxes, would enable a speedier procedure to be used for the counting of votes.

Moreover, the method of counting adopted, including passing each individual ballot through five or six pairs of hands and then displaying it for poll watchers and the public to see, made the count a slow process. At the same time, the Team notes that the original count process in Majuro and Ebeye was transparent and seemed to have the strong support of poll watchers and the community. Measures could be taken to increase efficiencies in the count process but these may come at some sacrifice to transparency, and in consideration of any changes, the benefit of greater speed and efficiency should be balanced against potential erosion of public confidence in the process.

A further issue as the count proceeded was fatigue among the counting staff, most of whom had already worked a long day on election day and then worked on the count for several days with little or no sleep. It is undeniable that fatigue increases the risk of human error, and it can also erode efficiency of work. The Team believes the Electoral Administration should consider appointing dedicated count staff and/or the possibility of working in shifts, to ensure fresh eyes and hands throughout the process.

The initial counts resulted in some very close results – two Nitijela seats were won by one vote, and two others with a four- and six-vote margin respectively. In addition, there was unexplained delay in the release of final unofficial counts, and some confusion over the vote counts from outer islands. These factors led to many complaints and allegations of improper process in relation to the counting, and seven petitions for re-counts were filed following the declaration of the final unofficial results on 10 December.

Exercising his discretion under the Elections Act, the Chief Electoral Officer granted only two re-counts. In both cases, in accordance with the Elections Act, previously challenged votes were re-checked and a number of these were subsequently accepted. In addition, one box (Majuro box no.2) revealed two extra ballots than counted on the initial count. In both districts re-counted, the re-counts altered the results to the advantage of candidates from UDP, and in one case a change in the seat winner.

While the CEO was able to explain to the Team the reasons behind the decisions taken in relation to re-counts, and the results of them, the Team recognises that the way in which aspects of the count - and particularly the re-counts - were conducted, gave rise to a great deal of concern and suspicion widely broadcast in the media, which threatened to undermine the credibility of the entire election process in the eyes of the people. Moreover, the revision of challenged ballots in the two districts re-counted, with the result of the acceptance of several ballots previously rejected, gave rise to queries about

the quality of the original count and decisions – in those districts, and by extension, in the 21 other districts which were not re-counted.

The Team believes that the rules, processes and methods for the conduct of re-counts should be carefully reviewed prior to future elections to ensure that both ballot security and public confidence are safeguarded during this crucial phase of the electoral process. Issues for consideration apparent to the Team included whether RMI should institute a provision in the Elections Act, common in many countries, requiring an automatic re-count where the margin of victory in any district is less than a specific amount (eg less than 10% of all votes cast).

In addition, the Electoral Administration should focus on providing improved and apparent security of ballot boxes during the entire life of the count process, to circumvent the possibility or any perception of box tampering during the transport of uncounted ballots, and between counts and re-counts. For example, given that ballot papers in RMI do not contain any security features, a provision requiring polling staff to initial the back of ballot papers on issue would help ensure that “fake” or copied ballots are unable to be inserted at any time during the process. Also, with the new ballot boxes plastic seals are used but their individual security numbers are not being recorded or checked: rather, the Electoral Administration relies on colour coding to verify the sealing of boxes. Requiring officials to record the seal numbers when (full) boxes are sealed, then check those numbers when the box is received after transport and/or opened for counting or re-counting, would provide an added security measure against ballot box tampering. Allowing poll watchers to similarly record and check the seal numbers would provide candidates with added assurance of security as well. These measures are used effectively in other countries such as Australia and Papua New Guinea.

Another important measure is transparency and communication throughout the count process. In line with broader issues about public communication discussed further below, the Team observed that the limited ability of the Electoral Administration to provide constant, clear and timely count information served to increase suspicion and unease. The Team was advised that during the re-count process this situation was addressed by the data projection of running results on to a large screen in the count centre for all to see. Such initiatives are commendable and should be considered more broadly for future elections. Indeed, the erection of a tally board or similar device in public view, updated in real time throughout the count, would be an inexpensive yet invaluable initiative to improve the transparency of the count. The Team further recommends that public reporting of election results by the Electoral Administration should include the number of total registered voters for each district and the total votes cast, for full transparency regarding the count and the reconciliation process.

Recommendation:

12. that the Electoral Administration reviews the current counting procedures, including the rules and processes for re-counts, ballot security and the provision of count

information to the public, in order to determine and implement measures conducive to a more efficient, transparent and secure count.

Election Security and Role of the Police

Security for the election was provided by the national and local police. The Team found the coverage of the police in Majuro and Ebeye on November 19 to be excellent. No security incidents were reported and police were very well represented at polling places and counting centres. While we did not observe it, we were advised by senior officials within government that police escorts were provided for ballot materials returning from outer atolls. We noted that the grounding of airlines had an impact on police capacity to provide security on chartered vessels transferring ballot materials to the atolls before the election, but that the police patrol boat provided security in a number of areas. Overall the Team found the police to have conducted themselves in a thoroughly professional manner and assesses that the security of all ballot materials before and during the election was of a high standard.

The Team recognises that, as discussed above, concerns were expressed about ballot security when discrepancies and disputes arose in relation to postal votes and re-counted boxes. While the Team did not find convincing evidence of ballot box tampering, there were vulnerabilities in these processes which opened the way for accusations of fraud. The Team suggests that the Electoral Administration consider whether a more formal and public role for police in securing the postal votes, and the ordinary ballot boxes following the initial counts, would assist in assuring ballot security and public confidence.

Media and Public Access to Information

The local media in RMI features two mainstream radio stations (V7AB and V7Emon) as well as some religious radio, and two television channels. There is one newspaper, the Marshall Islands Journal, which is published weekly on Fridays and is primarily in English with some Marshallese content. Mention should also be made of informal media through the internet, such as the popular Yokwe.net website. The internet was an influential source of information and discussion on the 2007 election, particularly for overseas voters.

In terms of providing coverage of candidates' and parties' campaigns activities and positions the media was utilised fairly well. The government radio station (V7AB) has monopoly over coverage to the outer islands of RMI. The team was led to understand that it operates under strong Ministerial control and that the alternative privately owned radio station is seen as pro-opposition. This situation did impact directly on election coverage, reducing the ability of Marshallese, particularly in the outer atolls, to hear independent and dispassionate coverage of the campaign and debate over campaign issues. The Team believes there is a need for further strengthening of the independence of news media in RMI, particularly radio given that it is a key source of media for much of the population.

Recommendation:

13. That RMI Government policy and practice promote the freedom and independence of the media, including putting in place arrangements to ensure and protect the independence of any Government-owned media.

As for access to information, across the board the Team was told that electoral information was not adequately disseminated to the people, either through the media or directly. This included but was not limited to information on the rules, procedures and preparations for elections. From our observations on Majuro there was a lot of different information circulating in relation to key matters such as where the polling places would be located, where counting of votes would occur, and how postal ballots were to be processed. Several significant new or changed processes were implemented for the 2007 election, and in many cases too little was done to ensure that voters, candidates and other stakeholders knew about and understood the new procedures and rules in a timely way. Similarly, issues such as the identity and roles of electoral staff, the timetable for different stages of the process, and up-to-date count information were not adequately conveyed to the population.

The Team is of the strong view that the Electoral Administration needs to be significantly more organised and effective in providing accurate and timely information to the public regarding the elections. The 2007 election in RMI demonstrated well that in a small community, in the absence of verified information, rumours and anecdotal reports will flourish and mistruths can gain currency.

As such, consideration should be given to developing and implementing a comprehensive and cohesive information disclosure strategy for future elections. This requires building specific resources and capacity within the Electoral Administration, as well as effective relationships with media and community leaders – effective communication is a challenge, but essential to the success and public acceptance of elections.

Recommendation:

14. That the Electoral Administration develop and implement an effective information and communication strategy which is properly resourced and planned, commences well in advance of the election, and ensures that all stakeholders in the electoral process have access to accurate, clear and timely information about all relevant aspects of the election.

Women and the Election

In RMI women comprise more than 50% of the overall population, and were 51.2% of registered voters for the 2007 election. Like its Pacific neighbours, however, the RMI has had a very low representation of women in parliament since independence. Only one woman has ever been in the Nitijela at any one time, and there was one female Senator prior to the 2007 election.

Eight women stood as candidates for the Nitijela in this election (ten originally nominated, but two withdrew). This was double the four women who were nominated in 2003. A number of women also stood in the concurrent local government elections – we were told that at the local level, around 30% of the candidates were women.

In the event, one woman was elected to the seventeenth Parliament, retaining the previous Nitijela's ratio of just one woman out of 33 Senators. Further activities to encourage and support women in political life should be encouraged. The Team notes that the Forum Secretariat is engaged with other regional partners in a project to enhance women's representation in Pacific Parliaments, and encourages RMI to actively engage in and seek to benefit from this work.

Women were clearly in evidence as voters and workers in the election. In both Majuro and Ebeye women appeared to vote freely and in equal numbers to their male counterparts. Women were also strongly represented as polling officials and poll watchers. The major voter education programme conducted prior to the election, by local women's NGO Women United Together Marshall Islands (WUTMI) with support from UNIFEM, had a strong focus on educating and empowering women voters.

Recommendation:

15. That further activities be undertaken to promote greater representation of women in the Nitijela.

The Result

In the final results, nine new Senators were elected to the 33-member Nitijela. Neither major party scored a majority of seats in its own right, with 15 UDP Senators, 14 AKA Senators and four independents elected. Prior to the convening of the Nitijela, both major parties claimed the support of sufficient independent Senators to form government, with the AKA announcing a new coalition between its members and certain independent and UDP Senators, called the United People's Party (UPP). When the Nitijela convened on 7 January, the UPP was able to form government with the support of 18 Senators to the UDP's 15, and former UDP member and Speaker of Parliament Litokwa Tomeing was elected President.

Seven election-related court challenges had been filed at the time of finalisation of the Team's report – five regarding the Nitijela and two in respect of local government seats. One is a case filed by 12 Marshallese residents of the United States, challenging the validity of the rejection of the US ballots postmarked November 19. Three cases dispute the rejection by the Chief Electoral Officer of petitions for re-count of Nitijela seats. The fifth Nitijela case disputes a rejected re-count petition, but also seeks to have one district's (Mili) vote declared null and void in its entirety. At the time of finalising this report, these challenges remain to be heard by the High Court.

CONCLUSIONS AND SUMMARY OF RECOMMENDATIONS

The Forum Election Observer Team is of the view that the electoral system used in RMI is fundamentally sound, appropriate to the country, and able to deliver a fair and representative parliament to the people of RMI. The RMI electoral system features a notable commitment to providing maximum franchise to its citizens, including comprehensive provisions for postal and absent voting. The existing electoral laws also provide most of the fundamental provisions necessary for effective and credible elections.

The Team wishes to acknowledge the hard work put in by a largely new Electoral Administration and a large number of electoral staff to conduct the 2007 elections. The Team maintains the view that based on its observations the Chief Electoral Officer and his staff made a genuine effort to run a free and fair election, under difficult and vulnerable circumstances in the absence of true independence from Government. The Electoral Administration also sought to put in place a number of innovations to address concerns raised in previous elections, such as the extension of the absent vote through all polling places on Majuro, the introduction of new ballot boxes and seals, and the use of indelible ink to prevent multiple voting.

In a large number of districts, including the major population centre of Kwajalein, the Team is confident that the election process was a credible one whose results reflected the will of the voters.

At the same time, the Team recognises that the 2007 RMI elections suffered from a number of shortcomings, particularly on Majuro atoll, and we acknowledge the serious concerns expressed by many individuals and groups in the RMI community about the handling of a number of aspects of the electoral process. These are discussed in some detail in the earlier sections of this report, and will not be revisited here.

The Team would however emphasise that of the many suggestions and recommendations offered in this report, the establishment of a truly independent Electoral Administration, and the provision of resourcing and capacity commensurate with its importance and responsibilities, are the most crucial, and indeed are essential prerequisites for the success of the other reforms recommended.

The Forum Secretariat stands ready to work with the Government and Electoral Administration of RMI, to facilitate regional or international assistance to implement the recommendations of the Team, should RMI so request. The Team is aware that the new Government has commissioned a review of the 2007 election and the issues arising from it, and we hope this report may contribute usefully to those deliberations.

Finally, the Team wishes to commend the people of RMI for their passion, patience, perseverance and most of all their steadfast commitment to peace and the rule of law during the election period. The Team wishes the Government, Nitijela and people of RMI every success in the further development and strengthening of their young and vibrant democracy, and reiterates its gratitude for their confidence in us as we sought to

assist in that regard. We hope our report and any action which may flow from it will constitute a small but constructive contribution to the success of future elections, and the continued peace and prosperity of the Republic of the Marshall Islands.

In summary, the Team offers the following recommendations:

1. *That the Elections Act be amended to create a fully independent Electoral Administration, selected and supervised by an impartial Electoral Commission or similar oversight body under a process ensuring bipartisan support. Several regional and international good practice models exist for this and could be examined – with international assistance if needed - to create a model best suited for RMI.*
2. *That the Government of RMI commit to the provision of sufficient resourcing for an independent Electoral Administration to carry out effectively all aspects of the electoral process, and afford priority to building the capacity of the Electoral Administration to do so, including through seeking regional or international assistance where necessary.*
3. *That the names of permanent and casual election staff and their designated responsibilities be published in advance of the election, and that in the selection and allocation of duties to such staff, the Chief Electoral Officer take all practical measures to ensure that no conflict of interest is present, for example, by swapping conflicted officials to a district where they have no (or fewer) connections.*
4. *That measures be taken to improve the training and preparation of polling and counting officials for the election, including ensuring a clear and appropriate management structure in each polling place.*
5. *That a review or replacement of the register of voters be conducted prior to the next election, to strengthen the integrity of the roll.*
6. *That the Nitijela commission and consider a report as required by the RMI Constitution reviewing the electoral boundaries and/or apportionment of Senators to each electoral district, in accordance with the principle that each member of the Nitijela should represent approximately the same number of voters, along with the other considerations noted in the Constitution.*
7. *That the Electoral Administration ensure the development and implementation of an effective and impartial voter education programme prior to the next election, making every effort to establish and utilise partnerships with other stakeholders including civil society and the media to that end.*
8. *That more polling staff and more polling booths be located in each polling place to allow for faster voter processing.*

9. *That the Electoral Administration undertake a revision of other aspects of polling processes, with external expert advice if necessary, to ascertain where processes might be made more simple, speedy and effective without compromise to the integrity of the ballot.*
10. *That the Electoral Administration examine possible improvements and alternatives to the present postal voting system, including the possibility of overseas polling places, to maximise the access of overseas citizens to the vote and the transparency and security of the process.*
11. *That subject to any court decisions in relation to postal voting, the Elections Act be amended to ensure there is no ambiguity on the deadlines for postal voting, and that the rules and procedures be clearly communicated to voters well in advance of future elections.*
12. *that the Electoral Administration review the current counting procedures, including the rules and processes for re-counts, ballot security and the provision of count information to the public, in order to determine and implement measures conducive to a more efficient, transparent and secure count.*
13. *That RMI Government policy and practice promote the freedom and independence of the media, including putting in place arrangements to ensure and protect the independence of any Government-owned media.*
14. *That the Electoral Administration develop and implement an effective information and communication strategy which is properly resourced and planned, commences well in advance of the election, and ensures that all stakeholders in the electoral process have access to accurate, clear and timely information about all relevant aspects of the election.*
15. *That further activities be undertaken to promote greater representation of women in the Nitijela.*
16. *That regional and international donors and partners be prepared to consider positively requests from the RMI Government and Electoral Administration for assistance to implement the recommendations in this report, and any other measures which may improve the efficiency and integrity of future elections in RMI.*

ACKNOWLEDGEMENTS

The Team would like to thank:

- The Government of RMI, for the invitation to observe the election and for its openness and assistance to us in our mission;
- The Chief Electoral Officer Mr Carl Alik, Kwajalein BoE Mr Patrick Bing and all the elections office staff, especially in the districts of Majuro and Kwajalein, for welcoming us and freely providing the information and access we needed;
- Similarly, the police and poll watchers present at the voting and counting, for their camaraderie and support;
- The many individuals and groups representing different sectors of the Marshall Islands community who spoke with us and shared their knowledge, views and perspectives, all of which opened our minds and enriched our understanding of RMI and its elections;
- Those who assisted the Team with logistics and facilitation of meetings, in particular Ms Yoko Lokboj; and
- all the people of RMI, for the friendliness which made our visit such a pleasure, and the passionate commitment to democracy which made our work a privilege.

Suva, Fiji
11 February 2008

ANNEX ONE



Pacific Islands Forum Secretariat

PACIFIC ISLANDS FORUM ELECTION OBSERVER TEAM REPUBLIC OF THE MARSHALL ISLANDS

PRELIMINARY STATEMENT

The Pacific Islands Forum Election Observer Team concluded its on-the-ground observation of the Republic of the Marshall Islands' (RMI) Nitijela election today, 23 November. The Team's preliminary assessment is that notwithstanding the logistical problems which occurred in Majuro, the voting and counting was conducted in a democratic manner, enabling voters to exercise their will freely.

The Team was comprised of the Chief Electoral Officers from Papua New Guinea, Palau and Vanuatu, and three officials from the Pacific Islands Forum Secretariat. Before the election the Team consulted with a wide cross section of community representatives, the Electoral Administration and the Government. During the voting the Team was divided into three groups of two observers. One group observed the election on Ebeye while the other two groups observed on Majuro. Due to the grounding of aircraft the Team was unable to visit the outer islands.

In terms of administration, the Team observed shortcomings in the election on Majuro. Commencement of the election was delayed throughout Majuro, by a minimum of one hour and up to 9 hours. Voting continued well past the 7pm official closing time and into the early morning of 20 November. The Team observed that on Majuro voter processing was extremely slow with some voters reporting they were required to wait up to 8 hours to cast their votes. The Team also observed some instances of confusion and inconsistency in the administration of polling. The Team attributed these administrative problems, in part, to the new arrangements for the 2007 election.

Notwithstanding this fact, the Team did not observe any unauthorised interference in the voting and counting processes, and is confident that the overall integrity of the election was maintained.

On Ebeye, the election was conducted smoothly and within prescribed voting hours. No irregularities were observed on Ebeye. The Team was advised that voting on outer islands also proceeded smoothly.

Security for the election was provided by the national and local police. The Team observed that there were no security incidents and that the police were well represented at polling places and during transportation and securing of ballot materials. The Team congratulates the voters of RMI for their patience in the face of the difficulties which arose, and their peaceful and orderly conduct throughout the election process.

The Team suggests that the electoral process could be strengthened through a number of measures. These include but are not restricted to arrangements at polling places to facilitate faster voting, processes at major counting centres to expedite the release of results, stronger information and communication strategies, and measures to enhance the independence of the Electoral Administration. The Team's final report will seek to offer recommendations to the Government and Electoral Administration on measures which might be taken on these and other matters to improve future elections.

At the time of departure, counting on Majuro was yet to finish and postal votes had not yet been processed. Following its departure, the Team will continue to monitor the election process to its conclusion through the media and ongoing communications with stakeholders in RMI.

The Team's final report will be completed in December 2007. The report will be given to the Government and Electoral Administration of RMI and will be made public.

The Pacific Islands Forum Election Observer Team has been privileged to observe the 2007 elections and extends its thanks to all those in RMI who have assisted us with our work. We wish the people of the Republic of the Marshall Islands the very best for the future.

Majuro, Republic of the Marshall Islands
23 November 2007

ANNEX TWO



Pacific Islands Forum Secretariat

Pacific Islands Forum Election Observer Team Republic of the Marshall Islands

Interim Statement

Since its departure from the Republic of Marshall Islands (RMI) on 24 November, the Pacific Islands Forum Election Observer Team has continued to monitor the electoral process. The Team has noted various issues raised in the media in relation to the conduct of the count, and is aware of further concerns expressed by the political parties and others about aspects of the polling and counting, and the integrity of the unofficial results.

In light of these developments, the Election Observer Team has decided that one member of the Team will return to RMI in January for further discussions with the Electoral Administration, political parties and other key stakeholders, in order to gather more information on the conduct of the count and on any election petitions and complaints filed. The Team will finalise its report following that visit.

The Team regrets any inconvenience caused by postponing the release of its report, but we believe the delay and the proposed return visit is the best course of action to ensure our observations reflect the electoral process in its entirety.

Suva, Fiji
18 December 2007