

Obstacles to a credible election: NFP

By NFP PRESIDENT RAMAN SINGH

Denial of Electronic Copy

Last Saturday (Fiji Sun 1/3) Electoral Commission Chairman Chen Bunn Young stated that legislation in place disallows political parties from obtaining an electronic copy of the National Voters Register.

He is also reported as saying that the advice from the Solicitor-General's office is the basis of the Commission's decision. The Party therefore questions the independence and neutrality of the Commission.

The Electoral Commission is an independent body solely responsible for the conduct of free, fair and credible elections. It must interpret legislation in place governing elections and not rely on an office (in this case Solicitor-General's office) for advice or interpretation of legislation that the S-G's office had a hand in formulating.

In our letter to the Permanent Secretary Responsible for Elections on 30th January 2014, the NFP pointed out that the Electoral (Registration of Voters) Decree 2012 does not prevent the release of an electronic or soft copy of the National Voters Register to political parties.

The Decree defines the National Register of Voters "as a register of persons entitled to vote at an election and includes an electronic register". Section 14(4) of the Decree allows a person, upon application to the Permanent Secretary, and upon payment of a prescribed fee to obtain copies of any sub-division of the National Voters Register.

The Decree also stipulates the role of the Permanent Secretary Responsible for Elections to publish the Register and defines "publish" "to produce and make available to the public, including electronically". The Register has been published in bulky hard copies. The work of the Permanent Secretary Responsible for Elections is incomplete because the Register must also be published electronically.

There is nothing whatsoever in the Decree that prevents political parties from obtaining an electronic copy of the National Voters Register.

Mr Young should know that an electronic copy of the National Register of Voters has always been made available in previous elections, both in provisional and final forms, then known as voter rolls. This was done to facilitate accessibility.

The NFP re-iterates that while revealing the theft of a laptop containing the National Voters Register, the Attorney General revealed that the laptop contained analysis of statistical data like gender, age, voter distribution etc.

Mr Young's denial of access to the electronic copy of the National Voters Register by political parties shows he is condoning exclusive use of the Register and statistical analysis by the Government's proposed political party only, giving it unfair advantage over other parties. This undermines the Commission's credibility and neutrality.

The NFP requests Mr Young to re-look at the issue with urgency and make a decision that is sensible and based on rationale, with a view to ensuring free, fair and credible elections.

Basing it on the advice received from the Solicitor-General's Office, which had a hand in the Decree's formulation, is erroneous and raises perceptions about the inability of the Commission, which is eminently qualified, to interpret electoral legislation independently.

State Proceedings (Amendment) Decree

The State Proceedings (Amendment) Decree 2012 prevents any aggrieved organisation, political party or person from taking legal action against the Prime Minister or any Minister of his Government, and any media organisation for defamation. While Government is claiming the Decree is nothing new and based on parliamentary privilege, nothing can be further from the truth. Parliamentary privilege is applied by democratically elected leaders, only in their official capacity, and only from the floor of Parliament.

Under parliamentary privilege, any Member of Parliament has the right to counter any statement by another Member, which is incorrect, defamatory or frivolous. Not so under this Decree.

The Decree has amended State Proceedings Act (Cap 24) by inserting a new section which says the Prime Minister, any Minister or the State shall not be liable for any verbal or written statements made in their official or personal capacity.

The Decree also states no media shall be liable for broadcasting or publishing any such statement, and further, that no Court, Tribunal, Commission or any adjudicating body has the jurisdiction to accept, hear or determine any case brought by any person or organisation.

If anyone does decide to start Court proceedings, the Chief

Registrar of the Judiciary will terminate the proceedings and issue a certificate to this effect.

The Decree remains in force throughout the pre-election campaign period and expires on the day the Parliament is convened.

It is abundantly clear that the Prime Minister, Ministers of Government and State officials have put themselves above the law. The recent utterances of the Prime Minister, especially when he made sweeping generalization against former politicians, is a good example of how Government intends to make defamatory and frivolous statements because both the PM and his Ministers and the media know they have immunity to do so, albeit illegally and unjustly.

The NFP believes a leadership, which protects itself from defamation, but not its people, wants to stifle public discussion and consultation in the lead-up to the elections.

The NFP has submitted that the Electoral Commission seek the revocation of this Decree, especially Section 18(A) to promote free and fair debate between government and political parties.