A report prepared for

the Commonwealth Secretariat
for presentation at the preparatory meeting of
the 2002 Roundtable of Heads of Government
of Commonwealth Pacific Island Countries
on The Challenges of Democracy in the Pacific

The Quality of Democracy in the Pacific
Introduction

“The quality of democracy greatly affects the quality of development.”¹ This comment from Columbia University Professor Jagdish Bhagwati tells us a simple but deep truth about the relationship between democracy and development. It is a relationship that has been the subject of considerable commentary over the years.

1. Democracy and Development

1.1 Initial thinking was that democracy depends on development and that a certain level of income enjoyed by a large urban middle class was required before democracy could take hold.² This rather elitist concept of the flowering of democracy was a fundamental influence on the shape of the international community’s development assistance strategy in the 1960s, 70s and 80s. According to this view, the emphasis needed to be placed on economic growth, creation of export industries and trickle down models of social uplift. Democracy and its benefits would soon follow. One of the original proponents of this view was Professor Bhagwati himself. In 1966 he wrote an influential book³ in which he argued that developing countries faced a ‘cruel dilemma’, they had to choose between democracy and development. At that time he claimed that democracy handicaps development because democratically elected governments could not display the economic discipline to generate the national savings necessary to fuel development.

1.2 This blunt view of the relationship between development and democracy became more nuanced as the years went by and commentators stopped using the concept of development as a precondition for democracy. Rather, they spoke of certain factors, such as high literacy rates, limited income inequality and substantial economic activity independent of the state, as facilitating the development of democracy.⁴ Nevertheless, democracy continued to be seen as an end product of a largely economic process.

1.3 Nobel laureate Amartya Sen, Professor of Economics at Cambridge, turned this thinking on its head when he argued that it was wrong to ask if a country was ‘fit for democracy’. He argued that the correct way to look at the issue was to understand that a country became ‘fit through democracy’.⁵ He based this finding in part on his research that shows that no substantial famine has ever occurred in any independent and democratic country with a relatively free press.⁶ He concludes, accordingly, that it is not lack of food

---

² Barrington Moore, Social Origins of Dictatorship and Democracy, Boston Beacon Press 1966
³ Jagdish Bhagwati, Economics of Underdeveloped Countries McGraw Hill 1966
⁴ Larry Diamond, Juan J Linz and Seymour Martin Lipset, Politics in Developing Countries: Comparing Experiences with Democracy, Lynne Reinner, Boulder 1995
⁵ Amartya Sen, Democracy as a Universal Value, Journal of Democracy, 10.3 (1999) 4
⁶ Amartya Sen, Resources, Values, and Development Cambridge, Harvard University Press, 1984
that causes famines but lack of democracy. Democratic governments respond to the needs of their people in a way that authoritarian governments cannot. This new thinking amounts to the antithesis of the earlier accepted wisdom that democracy depends on development. The new proposition is that perhaps development depends on democracy.

1.4 Professor Bhagwati’s change of heart, thirty years after he posed his original cruel dilemma, is an illustration of the new thinking that has emerged on the relationship between development and democracy. By accepting his view that the quality of democracy affects the quality of development, we are faced with a further challenge to improve the quality of democracy.

2. Judging the Quality of Democracy in the Pacific

2.1 How can the quality of democracy be judged? One useful method is to have an independent body within each country conduct a democratic assessment using the framework developed by the International Institute for Democracy and Electoral Assistance (IDEA). The IDEA framework requires the assessment to reach conclusions on popular control over decisions and on equality between citizens in the exercise of that control. Issues of participation, representativeness, accountability, transparency, responsiveness and solidarity are used as mediating principles to determine the quality of a nation’s democracy. Institutional aspects of democracy concerning elections, representative bodies, rule of law and the work of the civil service are also examined. It is this examination of the relationship between values and institutions that provides a strong means of assessing the quality of democracy.

2.2 Thus far, New Zealand is the first South Pacific nation to participate in the IDEA initiative. Australia’s democracy audit, to be conducted by the Australian National University, is now underway. Pacific island nations may wish to consider their own participation.

2.3 Another way for South Pacific countries to assess the quality of their own democracies might be to look at issues such as longevity, resilience, participation and institutional integrity. While these are not the only factors involved in such an assessment, they nevertheless provide a useful way of looking at the vigour and quality of democracy.

2.4 Commonwealth Pacific Island Nations emerged from the decolonisation process with Westminster-style political systems. Many of these countries are now completing their third and fourth decades of independence under a

---

7 http://www.idea.int
8 IDEA, Trends from the Pilot Countries – an Overview of Democracy Assessment Reports in Bangladesh, El Salvador, Italy, Kenya, Malawi, New Zealand, Peru and South Korea, ibid, 23 November 2001
system of elected representative government. On the whole, representative democracy in the South Pacific has fared relatively well and can be said to have imbedded itself as the norm. A whole new generation of Islanders has grown up knowing only the democratic process as the form of government and thus in terms of the longevity of democracy, the South Pacific compares favourably with other regions of the world such as Africa, the Middle East and Asia. Importantly, South Pacific countries have been able to overcome the passing from power of the decolonisation leader, the point at which many newly independent states have reverted to authoritarian forms of government.

2.5 There is however, a question mark about the resilience of South Pacific democracy. The most serious departures from democratic processes have occurred in Fiji and the Solomon Islands in recent times where there have been violent interruptions of the democratic way. Resort to political violence casts a shadow over the region and detracts from the regional commitment to democracy. Fiji has re-established electoral democracy but the benefits of longevity have been compromised by the uncertainty caused by ethnic division in politics. The Solomon Islands is struggling to reassert the power of electoral democracy over the power of the gun. Papua New Guinea, Samoa and Vanuatu have faced issues of secession, political assassination and internal military threats but they have ultimately demonstrated the resilience to overcome such crises with their democratic forms of government intact.

2.6 The situation with regard to participation of the people in the democratic process is mixed. Elections in the South Pacific are robustly contested affairs with distinct winners and losers. Candidates work hard to attract votes and this level of competition puts pressure on candidates to involve people and get them enthused about the political process. Although it is a blunt means of measuring popular participation, voter turnout as a percentage of registered voters provides a useful comparative guide, though allowance needs to be made for those few countries including Australia and Fiji who have compulsory voting. While there has been a global trend of a lowering of voter turnout percentages in the 1990s (the global figure having fallen from 68% in the 1980s to 64% in the 1990s9), voter turnout in the Pacific has not reflected the same trend and is encouragingly high.10 Fiji’s difficult change to

---

9 http://www.idea.int/voter_turnout/voter_turnout1.html
10 According to International IDEA, ibid, voter turnout in Oceania is comparatively high:

### Oceania: Ranking of average turnout among registered voters in the 1990s parliamentary elections.

<table>
<thead>
<tr>
<th>Country (no. of elections)*</th>
<th>Vote/Reg</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Nauru (3)</td>
</tr>
<tr>
<td>2</td>
<td>Australia (4)</td>
</tr>
<tr>
<td>3</td>
<td>Cook Islands (1)</td>
</tr>
<tr>
<td>4</td>
<td>New Zealand (4)</td>
</tr>
<tr>
<td>5</td>
<td>Western Samoa (2)</td>
</tr>
<tr>
<td>6</td>
<td>Fiji (3)</td>
</tr>
<tr>
<td>7</td>
<td>Palau (1)</td>
</tr>
<tr>
<td>8</td>
<td>PNG (2)</td>
</tr>
</tbody>
</table>
compulsory voting under the 1997 Constitution was successful with voter turnout increasing from 73.4% to 90% between the 1994 and 1999 general elections.\(^\text{11}\)

2.7 There are aspects of popular participation in politics in the South Pacific that are less encouraging. The number of women candidates and elected members is low and there are several parliaments in the Pacific with no women members.\(^\text{12}\) This impacts negatively on the quality of democracy not only on grounds of equity and fairness but also in terms of having issues of particular interest to women dealt with effectively by Parliament. It must also be accepted that there is a problem of voter education in most Island countries. While voter turnout may be relatively high, the reasons the voters are turning out may be less satisfactory. Problems of money politics and ethnic politics plague Pacific Island Nations with the result that elections tend not to be decided by reference to political party platforms, which in turn leads to the formation of coalition governments with uncertain mandates.

2.8 Longevity, resilience and participation tell us a great deal about a country’s democracy but the integrity and effectiveness of the key institutions of that democracy remain the key factors contributing to the success of representative democracy. The key institutions can be seen as those concerned with policy setting, law making, adjudication of disputes and ensuring accountability. This is not to downplay the importance of service delivery institutions such as those in the health and education fields. The people of the Pacific Islands are keenly interested in securing such services and indeed judge the success of their leaders largely in these terms. But service delivery in any society is acutely dependent on the governance of that society. Dedicated teachers and competent nurses alone cannot assure the delivery of these much needed services. They need to be supported by the institutions of governance that are regulated through the system of electoral democracy. It is in this field that critically important improvements and reforms can be achieved and this ultimately falls on the shoulders of each nation’s political leaders.

3. The Political Institutions of State

3.1 Political institutions of Pacific Island nations comprise many bodies; the head of state, the executive, the bureaucracy, the parliament, the judiciary, the regulatory bodies such as electoral commissions and Ombudsman offices,

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vanuatu</td>
<td>68.5%</td>
</tr>
<tr>
<td>Solomon Islands</td>
<td>66.0%</td>
</tr>
<tr>
<td>Tonga</td>
<td>55.2%</td>
</tr>
</tbody>
</table>


\(^\text{12}\) According to the Inter-Parliamentary Union (http://www.ipu.org/wmn-e/classif.htm), FSM, Palau, Solomon Islands and Tuvalu have no women parliamentarians. And Kiribati, Marshall Islands, PNG, Tonga and Vanuatu have only one or two.
political parties, civil society groups, the army and in some cases even the churches.\textsuperscript{13}

3.2 To serve society effectively each institution needs to perform its allotted tasks efficiently and conscientiously. Small societies need to conserve their resources and must therefore receive value for money and return for effort. The public service cannot be seen as an employment agency but must be a deliverer of government services. Each of the political institutions needs to understand its role and develop the skills to perform it.

3.3 Efficiency and probity must be hallmarks of the political institutions of a nation. But even these attributes are insufficient. Each institution also needs to grow with the times and adapt to changing circumstances. This requires a facility for self-assessment and the acceptance of criticism. It also requires an embrace of the process of reform as a normal part of institutional life. Without this process of retooling, institutions will become non-responsive and will gradually lose their effectiveness.

3.4 A further attribute is that the various institutions need to work together as a coherent whole. It is in this area that each country must find its own formula for success within the accepted parameters of the separation of powers, the independence of the judiciary and respect for human rights.

3.5 A final attribute is that the political institutions of state must be open to the outside world. This is particularly true in the age of globalisation where decisions by the money market or commodity traders can have impacts on unknown producers and consumers at the other end of the world. Observing global developments is in part a protective posture to help society adjust to the changes around the world. It is also a pro-active posture because it allows institutions to observe and borrow best practice examples and avoid repeating others' mistakes. A recent example of this interdependence is the Biketawa Declaration adopted by the Pacific Forum in 2000 which was aimed at 'upholding democratic processes and institutions which reflect national and local circumstances, including the peaceful transfer of power, the rule of law and the independence of the judiciary, just and honest government'.\textsuperscript{14}

3.6 In examining the political institutions of the Pacific island nations, issues for consideration will cover efficiency and effectiveness, probity and responsiveness, reform-mindedness and openness to new ideas. This paper will attempt to apply these concepts to the two most identifiable democratic institutions in the eyes of the public, elections and parliaments.

\textsuperscript{13} Peter Larmour, \textit{Political Institutions}, in Howe, Kiste and Lal (eds) \textit{Tides of History: The Pacific Islands in the Twentieth Century}, Allen and Unwin 1994

\textsuperscript{14} Forum Press Statement 5200, Biketawa, Kiribati, 28 October 2000
4. Electoral Systems

4.1 Pacific island nations have quite a strong record of conducting successful elections at the national level. The small size of most electorates can be an advantage in this regard though the scattered nature of some archipelagos and the rugged mountains of PNG provide particular challenges.

4.2 Elections in the Pacific are considered to be free and fair and have not been placed in the category of pseudo-democracies.15 This is a testament to the effectiveness of the various electoral administration bodies in the Pacific. Electoral Administrators in the Pacific have earned respect and high status in their home countries. They have benefited from Official Development Assistance from Australia, New Zealand and the Commonwealth16 to help them follow best practice. Problems, however, persist in the integrity of electoral rolls and occasionally there have been some incidents of violence in isolated electorates.17 In some Pacific countries there is also a disproportionately high level of petitions to the courts disputing election results.18

4.3 An important initiative in relations both to the development of a reform culture and openness to the world has been the establishment of the Pacific Islands, Australia and New Zealand Electoral Administrators Network (PIANZEA) in 1997. It was formed with the commitment to continue and maintain in the Pacific spirit, a close association of Pacific Electoral Administrators with a view to establishing a networking arrangement to facilitate and encourage the free flow of electoral information among member countries and to provide assistance where possible.19 PIANZEA has a secretariat in the Australian Electoral Commission and distributes a newsletter among its members and it provides the architecture for networking among Pacific electoral administrators. It also provides a good model for other possible institutional networking arrangements in the Pacific.

4.4 The reform culture can also be seen in the acceptance, at times reluctantly, of the need for reform of electoral systems to achieve more democratic and workable outcomes. The First Past the Post (FPTP) system has long been criticized as producing results with small pluralities and poor prospects for re-election in the Pacific.20 The system has had a particularly negative result

---

15 Larry Diamond, Developing Democracy – Towards Consolidation, Johns Hopkins 1999, Appendix
16 In particular through its ‘Deepening Democracy’ program which included workshops and reports on ‘Good Commonwealth Electoral Practice, Domestic Election Observation and Democracy and Small States
18 In PNG 88 election petitions were filed after the 1997 elections. John Nonggorr, Preparation for the 2002 Elections in PNG: the Courts, The National 1 April 2002
in PNG.\textsuperscript{21} It has contributed to unstable government with commentators arguing that it leads to a large turnover in Cabinet membership.\textsuperscript{22} This in turn has weakened the legislatures and has led to a loss of confidence by the electorate in their system of governance.

4.5 PNG has utilised two different electoral systems—the Alternative Vote (AV) from 1964-1975 when it was an Australian territory, and FPTP from 1975 onwards. The Parliament has now taken the decision to reinstate the AV system after the 2002 elections. Fiji also has moved to the AV system and the idea is being considered in the Solomon Islands. The AV system requires candidates to form broader coalitions of electors to gain a seat and tends to reward better organisation and strategy. This should favour the candidates from established political parties and thus contribute to greater stability in politics.

4.6 The capacity for analysis, criticism, review and reform as demonstrated in the decisions eventually to move to AV systems in the larger Pacific island nations is a sign of institutional strength. The decision is particularly praiseworthy, as it will have an unpredictable effect on incumbents’ chances of re-election.

4.7 The least praiseworthy aspect of Pacific elections is money politics. While ceremonial gift giving is a universal practice in the Pacific, in many nations this has been translated into vote buying. If they are not personally wealthy, candidates need to borrow heavily from their kin to finance their campaigns. These funds then need to be paid back by successful candidates who face the additional pressure of the difficulty of being re-elected.\textsuperscript{23} Melanesian Parliamentarians concede privately that this is a ‘no-win’ situation for them. They tend to displease more people than they please because their funds do not stretch very far and the amount expected of them is forever rising.

4.8 An account of the process in Samoa\textsuperscript{24} describes the relatively large amounts involved, the cash and money distributed to the villagers and the necessity for shepherding the voters to the polls on Election Day. While some might view this as a form of trickle down benefit, this is illusory. The political system is corrupted by the successful candidates’ need to make back these

\textsuperscript{21} FPTP also encourages high candidate numbers. In 1964, a total of 298 candidates contested 54 electorates. In 1997, 2,370 candidates vied for 109 electorates. There is a mentality encouraged by FPTP - the “train lak” (trying one’s luck) thinking because the pluralities are so low and appear within reach. The Independent, Issue 155, 8 May 1998
\textsuperscript{22} Of the 29 members of the Skate Cabinet in 1998, the average length of service in Parliament was 4 years and 4 months, including 13 members in their first term. The average electoral plurality was 21.1%. Ibid.
\textsuperscript{23} In the PNG highlands the percent of parliamentarians being returned did not reach 40% throughout the 80s and 90s. David Kavanamur citing PNG Electoral Commission in The Interplay between Politics and Business in PNG, SSGM Project, ANU, Working Paper 01/6, 2001
\textsuperscript{24} Asafou So'o, The price of election campaigning in Samoa, in Peter Larmour (ed) Governance and Reform in the South Pacific, Pacific Policy Paper 23, NCDS, ANU 1998
amounts as quickly as possible. Pacific politicians are thus put in the impossible position of becoming their country’s unofficial social security safety net and having to deal with never ending demands for cash to cover their individual constituents’ every emergency. The quality of electoral democracy will continue to suffer while money politics flourishes.

5. Pacific Parliaments

5.1 Commonwealth Pacific island nations adopted Westminster forms of government though only Fiji has a bicameral parliament. Some of the strengths and weaknesses of the Westminster system are reflected in Pacific parliaments. The separation between the executive and the legislative arms of government is weak in the Westminster system and this weakness is reflected in the Pacific. The limited though important role of the Opposition is also a feature of Westminster systems in the Pacific. The key role of the Speaker as a lynchpin of the Westminster system is well accepted in the Pacific with Fiji and the Solomon Islands having adopted processes for the appointment of non-Parliamentary Speakers with the view of safeguarding the ‘referee’ role of the Speaker.

5.2 The role of parliament can be viewed as divided into three major duties; passing legislation, oversight of the Executive and constituency support. The quality of a parliament can be judged by how it accomplishes these duties. As a broad generalisation, it might be said that Pacific parliaments tend to be weak on legislative drafting and review, too blunt in the way the executive branch is controlled, and a further criticism might be that its members are too focused on their constituency duties.

5.3 The abdication of responsibility for legislative drafting to the executive branch of government is a worldwide trend caused by the complexity of legal regimes and the resultant specialisation in legislative drafting skills. Private Members’ Bills are rare phenomena these days and the role of the parliamentarian has tended to evolve from that of a drafter of laws to that of a reviewer of bills put forward by the government. Even when reviewing Bills considerable specialist knowledge is required and it is beyond individual Members to be expected to be personally conversant with a broad range of complex political, economic or social issues. The solution to this dilemma has been to invest parliamentary committees with much of the legislative oversight role and to endow committees with the resources, including skilled staff, to assist Members to get on top of the work and build the necessary expertise. By and large, however, Pacific parliaments have weak committee systems and in some cases, the committee structures have completely broken down. Pacific parliamentarians are thus missing out on one of the more collegial forms of parliamentary work and, according to many, the most rewarding. The rehabilitation of the committee systems of Pacific parliaments should be made a priority.
5.4 Committees, and in particular the Public Accounts Committee, also play a critical role in the oversight machinery. A good practice is to have the Public Accounts Committee assisted by the Auditor-General as a means of combining this expertise with parliamentarians’ political muscle. The Guiding Principles for Best Practice in Forum Island Countries’ Legislatures proposes that an Opposition Member chair the Public Accounts Committee. Fiji and the Solomon Islands have followed this practice. It should be commended to other Pacific island nations as a useful way to strengthen oversight mechanisms.

5.5 There is a strong perception in many Pacific island nations that parliament is not sufficiently active in its oversight role. Ironically, while this perception may be well based, Pacific parliaments have all too often resorted to the ultimate weapon of parliamentary oversight, the No-Confidence Motion, to unseat the incumbent government. The use of the No-Confidence Motion has not usually been used as a result of findings of probity adverse to the government of the day but more often it is resorted to as a political means of gaining power. This has forced governments to adopt doubtful tactics such as keeping parliament in recess for months on end as a means of avoiding the possibility of a vote. The result is a further lowering of the prestige of the Parliament in the eyes of the electorate.

5.6 Pacific parliamentarians tend to place great emphasis on constituency work. This is understandable in view of the pressures of re-election and the fact that even in a country like Samoa with well-established political parties, the burden of financing one’s re-election campaign falls squarely on the candidate. In PNG the subsidisation of electioneering by the state has been indirectly achieved by the rural development funds provided to sitting parliamentarians, though the rules for their disbursement have recently been tightened. The Solomon Islands’ Constituent Development Funds serve a similar purpose. Pacific parliamentarians are often seen by their constituents as a cross between an ombudsman and a welfare society and there is an expectation that they will personally assist constituents who seek their help. The parliamentarians seem to be trapped in this role by constituents’ expectations. The best answer to this problem in the longer term

---

28 Asafou So’o, op cit
29 Sinclair Dinnen, *Law, Order and State in PNG*, Discussion Paper 97/1, SSGM, ANU
30 Quentin Clements, op cit
is a revitalised effort at civics education targeted both at the school level and beyond through adult education techniques such as learning circles.\textsuperscript{31}

5.7 A very positive development in relation to Pacific parliaments is their growing regional and international networking. Cooperating through institutions such as the Inter Parliamentary Union, the Commonwealth Parliamentary Association and the Asia Pacific Parliamentary Forum and networking through activities sponsored by UNDP, the Commonwealth Secretariat and CDI’s annual Pacific Parliamentary Retreat, there is a growing sense of striving for common goals and seeking best practice. This has resulted in some excellent initiatives including the Pacific Islands Forum’s Eight Principles of Accountability (Appendix 1) and the Guiding Principles of Best Practices for Forum Island Countries’ Legislatures (Appendix 2).

5.8 Another positive development is PNG’s Integrity of Political Parties and Candidates legislation which is an attempt to create more discipline in parliamentary voting practices and to stop the practice of shifting alliances to topple sating governments for reasons of personal gain. Sir Mekere Morauta described this process as “a secret business, illegal, unmanaged and totally unacceptable.”\textsuperscript{32} The legislation depends on political parties working in a more organised fashion and respecting the rules. PNG’s political parties will therefore be sorely tested because, as Sir Anthony Siaguru puts it, “they are creatures of parliament not of the people or the country.”\textsuperscript{33} The success of the legislation will be closely watched in other countries like the Solomon Islands and Vanuatu, which face similar challenges.

6. Conclusion

6.1 This paper has only dealt with the major political institutions of elections and parliaments. That is not to deny the importance of the other political institutions of state and in particular civil society and the media. Ultimately it is the scrutiny of the other political institutions by civil society and the media that acts as a corrective to the political process. In the Pacific, the churches are key pillars of civil society. They need to respect the secular nature of Pacific polities while at the same time remaining a focal point for the scrutiny of officialdom.

6.2 An informed electorate, in which civil society organisations are active, alongside an independent and competent judiciary, upholding the rule of law, comprise the bedrock on which the other institutions of state stand. The leadership of those institutions should have a clear understanding of their respective roles and the limits of their responsibilities. The resulting system

\textsuperscript{31} The Centre Democratic Institutions and the Asia Pacific Bureau of Adult Education are piloting a Democracy Learning Circles project in Vanuatu
\textsuperscript{32} PNG Parliament, second reading speech for the Integrity Bill.
of checks and balances may have certain built-in tensions but these should not lead the system to the point of impasse. The regulatory institutions of state such as auditors and ombudsmen have a particularly critical role to play in the system of checks and balances. Representative democracy is therefore a complex system of many parts requiring each nation’s political leaders to accept and appreciate the various functions being discharged. It is in this setting that democracy delivers its best results leading to stable and effective government and ensuring economic and social development.

6.3 All Pacific nations are in a position to strive for higher quality democracy by strengthening and reforming their institutions of state. The result will be quality development to their people.

Roland Rich
Director
Centre for Democratic Institutions
Research School of Social Sciences
Australian National University
Canberra
June 2002
Appendix 1

The Pacific Islands Forum's Eight Principles of Accountability

**Principle 1: Budgetary processes**
Budgetary processes, including multi-year frameworks, to ensure Parliament/ Congress is sufficiently informed to understand the long-term implications of appropriation decisions.

**Principle 2: Accounts**
The accounts of governments, state-owned enterprises and statutory corporations to be promptly and fully audited, and the audit reports published where they can be read by the general public.

**Principle 3: Loans**
Loan agreements or guarantees entered into by governments to be presented to Parliament/ Congress, with sufficient information to enable Parliament/ Congress to understand the longer term implications.

**Principle 4: Contracts**
All government and public sector contracts to be openly advertised, competitively awarded, administered and publicly reported.

**Principle 5: Financial regulations**
Contravention of financial regulations to be promptly disciplined.

**Principle 6: Disclosure to Parliament**
Public Accounts/ Expenditure Committee of Parliament/ Congress to be empowered to require disclosure.

**Principle 7: Auditor General/Ombudsman**
Auditor general and Ombudsman to be provided with adequate fiscal resources and independent reporting rights to Parliament/ Congress.

**Principle 8: Central bank**
Central Bank with statutory responsibility for non-partisan monitoring and advice, and regular and independent publication of informative reports.
Guiding Principles of Best Practices for Forum Island Countries’ Legislatures

I. FIC Legislatures

1. The legislative function is the primary responsibility of the legislature as the elected body representing the people.

2. Speedy and effective steps should be taken by the legislature to implement its country’s international human rights obligations by enacting appropriate human rights legislation.

3. The legislature to raise awareness and encourages people to enforce their rights through courts, the Office of the Human Rights Commission, the Office of the Ombudsman and other institutions.

4. All Members of Parliament and Congress to have access to human rights education.

II. Preserving the Independence of the Legislature

1. Article 9 of the Bill of Rights 1688 is reaffirmed. This article provides: “That the Freedome of Speech and Debates or Proceedings in Parlyement ought not to be impeached or questioned in any court or place out of Parlyement”

2. Security of members during their term is fundamental to legislative independence and therefore:

   (a) the expulsion of members from the legislature as a penalty for leaving their parties (floor-crossing) should be viewed as a possible infringement of members independence; anti-defection measures may be necessary in some jurisdictions to deal with corrupt practices;
   (b) laws allowing for the recall of members during their elected term should be viewed with caution, as a potential threat to the independence of members;
   (c) the cessation of membership of a political party of itself should not lead to the loss of a member’s seat.

3. In the discharge of their functions, members should be free from improper pressures and accordingly:

   (a) the criminal law and the use of defamation proceedings are not appropriate mechanism for restricting legitimate criticism of the government or the parliament;
(b) the defence of qualified privilege with respect to reports of parliamentary proceedings should be drawn as broadly possible to permit full public reporting and discussion of public affairs;
(c) the offence of contempt of parliament or congress should be drawn as narrowly as possible.

4. The legislature must have an adequate and independent budget and an all-party committee of Members of Parliament or Congress should formulate and review the legislature’s budget, which should not be subject to amendment by the executive.

III. Legislative Ethics

1. Codes of Conduct for all Members of Parliament and Congress should be developed and published;

2. Conflict guidelines, Codes of Conduct and Rules and Procedures of Parliament or Congress should require full disclosure by Ministers and Members of their financial, monetary and commercial interests;

3. Members of Parliament or Congress should not hold any other paid public office;

4. Members of Parliament or Congress should be appropriately remunerated for their participation in legislative committee works;

5. Whilst responsive to the needs of society and recognising minority views in society, Ministers and Members of Parliament and Congress should avoid improper influence of lobbyists and special interest groups.

IV. Executive Accountability to Parliament/Congress

Legislative procedures should provide adequate mechanisms to enforce the accountability of the executive to parliament. These should include:

1. A committee structure appropriate to the size of the legislature, adequately resourced and with the power to summon witnesses, including Ministers. Governments should be required to announce publicly, within a defined time period, their responses to committee reports;

2. Standing orders should empower Speakers to allow for Members to question Ministers, full debate on legislative proposals and to disallow gagging of debate;

3. The Public Accounts should be independently audited by the Auditor General who is responsible and reports directly to the legislature. For State
Owned Enterprises, the Auditor General should appoint an independent audit firm to audit the account of the SOE, paid for by the SOE concerned, and certify and forward the audited account to the legislature;

4. The chair of the Public Accounts/Expenditure Committee should normally be an opposition member;

5. All state institutions including public bodies such as the Courts, Offices of the Ombudsman, Human Rights Commission and other constitutional offices should report directly to Congress or Parliament on their operations each financial year;

6. The Public Accounts/Expenditure Committee should be empowered under relevant laws to initiate prosecution for all offences relating to public accounts arising from its own investigation.

V. The Law-Making Process

1. Gender-neutral language should be used in the drafting and use of legislation to promote a more gender balanced society.

2. Procedures for the preliminary examination of issues in proposed legislation should be adopted and published so that:

   (a) there is public exposure of issues, papers and consultation on major reforms including draft bills;
   (b) standing orders provide a delay of some days between introduction and debate to enable adequate representation of public comment unless suspended by consent or a significantly high percentage vote of the chamber; and
   (c) major legislation can be referred to a select committee for the detailed examination of such legislation and the taking of evidence from members of the public.

3. The legislature should be serviced by professional staff independent of the regular public service. In small FIC legislatures professional staff of the legislature may continue to be regular public servants, however, their deployment elsewhere in the public service should be done only after the Speaker has agreed to the reshuffle.

4. Adequate resources to government and non-government back benchers should be provided to improve legislative input and should include provision for:
(a) training of new Members;
(b) secretarial, office, library and research facilities;
c) drafting assistance including private member bills.

5. Appropriate legislation should incorporate international human rights instruments to assist in interpretation and to ensure that Ministers certify compliance with such instruments, on introduction of the legislation.

6. The legislature must have the service of an independent legal counsel.

7. Subordinate legislation and regulation established by Ministers must be tabled in the legislature as soon as they come into force.

8. An international Treaty or Agreement must be referred to Parliament/ Congress before Government commits the country to its implementation by signing it.

VI. The Role of Institutions other than the Legislature

1. The legislature shall safeguard the freedom of the press and appropriate standard of responsible reporting by journalists.

2. The legislature and the executive should ensure that all constitutional institutions, such as the Auditor General, the Public Defenders, State Prosecutors, the Human Rights Commission, the Courts, the Leadership Code Commission, the Office of the Ombudsman and others play key roles in the promotion of good governance and rule of law issues and adequate funding and resources should be made available to enable them to discharge these functions.

1st Pacific Island Speakers Forum
Nuku’alofa, Tonga
27 April 2001