

AUDIT OF THE ELECTORAL ROLL IN EAST TIMOR

TEAM LEADER'S REPORT

1. INTRODUCTION

During the latter half of July 2001 a three-person audit team was appointed to conduct an audit of certain systems and procedures relating to the creation of an electoral roll for a national election to be conducted on 30 August 2001 to elect a constituent assembly for East Timor. In the event, only Justice Johann Kriegler (as team leader) and Mr Célio S. de Assunção (an electoral information technology expert) assumed duty; the third member, a statistician/demographer, was unable to take up his appointment.

The remaining two members met in Dili on Monday 30 July in the afternoon and had a first exploratory discussion. The team leader had since the previous Friday held information sessions with UNDP staff members, some Commissioners of the Independent Electoral Commission (IEC) and the Chief Electoral Officer (CEO). More specifically he had been briefed with a dossier of background documentation.

Each of the team members has now prepared a report in accordance with his particular perspective and discipline; and although they are in substantial agreement on several aspects, some differences could not be resolved in the time available before Mr de Assunção's departure for home early tomorrow morning. The team is therefore regretfully obliged to present two reports. For my part, I accept without qualification the factual findings and consequent opinions expressed by my colleague in respect of his field of expertise, in which he is manifestly highly skilled. As to the balance, I prefer to rest with what is said below.

2. TERMS OF REFERENCE

The starting point of the audit team's activities was an analysis of its mandate and the relevant statutory framework. It is unnecessary to detail the terms of reference (TOR) here. It suffices to say that they are directed at (a) the adequacy of the database of the civil registry as the basis for an electoral roll and (b) recommendations regarding the development of electoral rolls for future elections in East Timor. An audit of this nature entails a critical analysis of past events with a view to learning lessons for the future.

3. STATUTORY FRAMEWORK

On 16 March 2001 the Special Representative of the Secretary-General of the United Nations (SRSG), in his capacity as the Transitional Administrator under United Nations Security Council resolution 1272 (1999) of 25 October 1999, signed and promulgated two statutes that set the framework for the audit. The first was Regulation No. 2001/2, On

the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor. The second was Regulation No. 2001/3, On the Establishment of the Central Civil Registry for East Timor.

Regulation No. 2001/2 makes provision for the election of an 85-member constituent assembly (by a mixed system of proportional and constituency representation) in order to draft a constitution for East Timor. Part II establishes the IEC and invests it with exclusive electoral authority. It consists of the CEO and five voting commissioners (two East Timorese and three internationally recognised experts in electoral matters appointed by the Secretary-General). Voter eligibility is governed by section 30, which effectively enfranchises all habitual residents (as defined in Regulation No. 2001/3, section 6.1(a)) aged 17 and above. Section 31 prescribes that “[i]n order to vote, an eligible voter must be included on the electoral roll established by the IEC”.

Regulation No. 2001/3 in turn establishes a Central Civil Registry (CCR) to “maintain a register of the residents of East Timor” (section 1.2) and lists as one of its several purposes “furnishing data to the duly constituted competent authorities for the compilation of electoral lists for East Timor” (section 2.1(c)). Section 6.1 divides residents of East Timor into “habitual residents” and “long-term residents” and defines each category. The definition of the former category corresponds with the voter eligibility requirement in force for the Popular Consultation of 30 August 1999.

It is important to note that, whereas the CCR is intended to be a permanent institution, Regulation No. 2001/2 relates to the upcoming Constituent Assembly elections only. The IEC is created for that limited purpose and section 12 makes plain that it is a transient body due to be dissolved by executive *fiat* after the results of that election have been declared. At the same time it can safely be predicted that the constitution adopted by the Constituent Assembly within the next few months will call for at least one further election shortly thereafter. Consequently, unless provision is made for the establishment of an electoral agency, there will be an electoral vacuum at a crucial stage of East Timor’s emergence as a free nation.

4. AUDIT METHOD ADOPTED

Having studied the background material relating to the establishment of the Civil Registration Unit (CRU) and the IEC, the team addressed a series of written questions to both organisations, interspersed with concomitant interviews with key staff members. An attempt was made to traverse each of the questions posed in the TOR with the appropriate respondent. The CEO responded in writing to the written questions. In the case of CRU, responses were tendered in the course of interviews. Both the CEO and CRU provided documentation in amplification and support of their replies. The issues addressed in the written inquiries and probed in the course of the interviews cover the areas specified for audit in the TOR.

At each establishment Mr de Assunção also carried out a “detailed and comprehensive technical review of the technical devices, systems and computer programs used,

searching for systematic faults or possibilities for the intentional manipulation of the data, other sources of errors and other issues or circumstances that have the potential to compromise the integrity and accuracy of the system” (paragraph 2.1(e) of the TOR). In addition, the team conducted an inspection at the Dili Registry Office of CRU, where they were able to witness the registration of applicants by East Timorese staff, using the equipment as had been used in the registration campaign.

Over the weekend of Saturday 4/Sunday 5 August, the team conducted an extensive field survey, extending over seven of the 13 districts and involving meetings at a number of IEC offices and random interviews with several dozen East Timorese people of both sexes and all ages. The team had the benefit of the services of an interpreter-cum-facilitator in relating to interviewees and was able to make a fair assessment of their knowledge of and interest in the impending election. The general level of political awareness we encountered was astounding, as was the degree of sophistication and manifest determination to participate in what is clearly regarded as a momentous occasion in their history. Therefore, although the fervour that characterised the Popular Consultation two years ago may have faded, I would venture to predict a high voter turnout on polling day.

5. OVERVIEW OF FINDINGS

Notwithstanding the time constraint, it has been possible to come to clear and unqualified conclusions on the main issues addressed in the TOR, although answers have not been found to all the incidental questions. The main conclusions can be summarised as follows:

5.1 Demography

It is apparent that there is no reliable information as to the total population of East Timor. This is understandable, having regard to its recent history. What is less understandable is that the audit team was unable to ascertain the total number of registrations effected by CRU. A number of different figures were published at or about the time of the handover and clarity could not be gained during the audit. Consequently claims regarding registration percentages achieved cannot be verified. In the absence of reliable data in this regard, it is impossible to gauge the likelihood that significant numbers of potential voters have been overlooked.

It also became apparent at the exhibition and challenge (E & C) stage of the preparation of the electoral roll that the register of villages provided by the Census and Statistics Unit was not sufficiently detailed (or accurate) down to the sub-village level. This led to numerous instances of incorrect coding of data, leading in turn to eligible voters being allocated to inappropriate voting stations. Many such cases were unearthed during the E & C but probably represent the tip of the iceberg. In a country such as East Timor, with its forbidding terrain and ravaged infrastructure, these misallocations could affect voter turnout.

5.2 Coordination

In principle it is not inappropriate to base an electoral roll on a population register, as was done here. Indeed, with limited material and human resources, it is prudent to avoid duplication of effort in conducting two separate exercises to compile initial databases for a civil register and a voters' roll. However, as this case bears out, the compilation of the civil register must be conducted in the knowledge that the production of a voters' roll or voters' rolls will be one of the principal secondary objectives. The electoral agency, whatever its composition, is a crucial client and its requirements must be ascertained *a priori* and scrupulously met both in planning and executing the initial registration exercise and in maintaining the register thereafter.

In this case, unfortunately, this did not happen. The reasons for this fall outside the scope of our mandate. The results do not. They evidence a lack of coordination between activities that preeminently require close integration. Although there was cooperation between CRU and IEC in the transmission and checking of data prior to the formal date of handover, the civil registration exercise was planned and executed without the requirements of an election being in the forefront. In the result, the quality and suitability of the data handed over to IEC were compromised.

It should be emphasised, however, that this turn of events was an inevitable consequence of decisions taken at the political level. By the time CRU was eventually able to start its registration drive on 16 March 2001, the course had been set, and *a fortiori* when IEC became involved, unalterable political decisions had already been taken that left little room for manoeuvre.

5.3 Time constraint

Manifestly the registration exercise, through no fault on the part of CRU, was squeezed between, on the one hand, delays in getting started and, on the other, the exigencies of the electoral timetable. Registration was originally planned to commence in 2000 and to run for some six months. In the event, it got going only in mid-March 2001 and even then the operation was handicapped by insufficient staff and registration equipment. Consequently registration had a slow and patchy start. Moreover, this pressure in conjunction with the desire to optimise the registration total probably resulted in quality being sacrificed to quantity.

5.4 Defects in database

The database delivered to IEC by CRU for the purpose of extracting an electoral roll was blemished in a number of material respects. Although there are differences of opinion as to the extent and causes, some are not in dispute and others are irrefutable. Thus:

- It is common cause that 1,361 compact disks used in the registration exercise were not capable of being read. The records of 6,300 affected voters were therefore retrieved from hard copy.

- After conclusion of the registration process, a number of compact disks containing registration data were found in a cupboard where they had been mislaid by a civil registration officer (CRO). Despite a tracking procedure for the delivery of compact disks, the possibility of more such instances cannot be excluded, since no record was kept of the number of compact disks issued to each CRO.
- At the E & C, the names of 233,450 people with proof of registration were checked against district segments of the preliminary roll. Of these, 28,114 whose names could not be found filed claims for inclusion on the roll. The particulars of 26,331 successful claimants were added to the roll. No trace of some 8,000 of these had been found in the CRU database, some 4,000 had been added by CRU from paper copies of data on the unreadable compact disks after extraction of the roll, and the rest were found in the database but were in some way erroneous and had therefore not been included on the roll. The addition of the successful claimants boosted the preliminary voters' roll total of 382,688 to its present 409,019. It can be surmised that if the entire roll had been checked at the E & C, the total electorate would stand at about 420,000; that is, if IEC had not taken corrective steps, there would have been a disenfranchising error of some 10%.
- In an indeterminable number of cases the use of incorrect coding resulted in the voter being allocated to a wrong village in another district, thus effectively disenfranchising them for the district election.
- In addition to the misallocations mentioned in 5.1 above, there are numerous instances of incorrect inputting by CROs resulting in voters being registered under the wrong (sub-)village. Unless such cases are discovered and rectified, the voters concerned could effectively be disenfranchised.
- Although numerous true duplicate entries were discovered by CRU and eliminated prior to handover, many were discovered thereafter and there is no certainty that some do not remain.
- More disturbingly, IEC discovered a number of instances where two different persons had been registered under identical registration numbers.
- Cases were also reported where data relating to one voter was confused with that of another. Thus a proof of registration card might bear the photograph of A, the personal details of B and the birthdate of C.
- Several instances of pollution of live (actual) data by test data and information inserted in jest or by way of demonstration went uncorrected by system checks and were discovered only by manual investigation.

5.5 Consequences of a defective database

Purely from an electoral point of view, the consequences of a defective database are manifold and serious, ranging from the potential disenfranchisement of an indeterminable number of voters in their country's constituent election to uncertainty as to voting station location, staffing and provisioning. Many of these have been counteracted as a result of information elicited in the course of the quite unusually active E & C exercise. The counteractive steps taken by IEC and an evaluation of their probable efficacy fall outside

the scope of this audit. However effective they may prove in preventing disenfranchisement, the reality is that strategems such as supplementing voters' rolls with write-ins on polling day and the use of "common rolls" exact a high cost in logistics and staffing, in the rate of voting and in voter satisfaction.

Much more importantly, the legitimacy of the process is tarnished. In the conduct of elections perceptions are of paramount importance. In elections as in war, truth is an early casualty. Rumours are rife, losers snatch at straws, inefficiency is readily seen as partiality and voter confidence is shaken. Voting station staff are unable to cope with additional tasks, voter throughput lags, queues stretch and become restless, while party representatives complain and observers become disenchanted. Therefore, commendable though they were, IEC's remedial steps will unfortunately but inevitably take their own toll. This is the more regrettable in what should have been an exemplary demonstration of electoral competence.

In short, the database of the civil registry handed over to IEC on 30 June 2001 was inadequate to serve as a satisfactory basis for the current electoral roll.

5.6 Sustainability

The question of the sustainability of the CCR, both as a source of data for general governmental purposes and as the basis for future electoral rolls, was present to the mind of the planners of the registration exercise and continued to play a role in its actual execution. However, the probability is that, largely because of language and educational barriers, there are few East Timorese available to whom a meaningful transmission of skills can be effected. The technology used in gathering the data *in situ* and particularly in compiling the central database required a considerable degree of computer literacy. Local people with these skills are scarce and unlikely to be attracted by civil service salaries. Therefore, notwithstanding the commendable efforts of CRU in this regard, the maintenance of the civil registry in its present form – and as a future base for the generation of voters' rolls – will require foreign technical assistance for some time to come.

If the CCR cannot be maintained, the implications for the development of electoral rolls for future elections in East Timor are very grave indeed. The capacity to produce reliable voters' rolls as and when required – perhaps at short notice – is essential to the delivery of transparent and fair elections. Legitimate elections are the source of governmental legitimacy. Conversely, suspect elections are a cancer. Within the last year we have seen that even in a mature and stable democracy, loss of confidence in the electoral process quickly erodes belief in the very foundations of the body politic. This East Timor cannot afford. Therefore, whatever may be done to promote sustainability of the CCR, special attention should be given to ensuring that the data now on the electoral roll, as it will be supplemented by write-ins on polling day, is suitably preserved, either within the CCR or on its own. More importantly, the data must be maintained and updated to a level that permits the production of voters' rolls at sufficiently short notice to satisfy the needs of whatever electoral system is devised by the Constituent Assembly.

6. FINDINGS IN REGARD TO SPECIFIC AREAS IDENTIFIED FOR AUDIT

The technical aspects of the detailed questions raised in paragraphs 2.1 to 2.3 of the TOR are dealt with in the accompanying report by Mr de Assunção. For the rest, the responses are as follows:

Ad 2.1(a)

- It has not been possible to obtain a “[d]etailed chronology of how the civil registry was established” nor a project plan.
- The “methods and techniques used” in its establishment were in principle adequate.
- There is adequate provision for the issuing of replacement documents for lost or stolen cards.
- There was no planning for the registration of persons who could not easily make their way to a registration site.
- There was no planning for registration in hospitals nor was any necessary.
- A one-off registration was conducted in all prisons.
- The duration of the registration period was generally adequate to meet the needs of persons turned away because of equipment breakdowns etc.
- Sustainability has been discussed in paragraph 5.6. There is no “documentation of the process to facilitate its handover to East Timorese managers”. The software documentation is reportedly in the possession of the consultant in Switzerland.

Ad 2.1(b)

It was entirely “feasible to establish an accurate civil registry within the given timeframe”.

Ad 2.2(a)

Little material was made available by CRU relating to the planning of the registration process. As to execution, we were briefed with copies of the CRO training manual and of periodic reports to the SRSG regarding the progress of the exercise. We were further informed that registration commenced on 16 March 2001 with 65 CROs, each with a registration pack, operating in all sub-districts. Some time thereafter – the date was not furnished – an additional 65 CROs with their registration packs were trained and deployed countrywide. Extensive use was made of mobile registration, with stays of as brief as half a day, and eventually serving in some 500 sites. The exercise was concluded on 23 June.

Ad 2.2(b)

There were no “opportunities and procedures for the general public to apply for [amendments to] the register” during the registration period; however, since 1 August, the public has been able to apply to any of CRU’s 13 district offices for such amendments.

Ad 2.2(c)

The “administrative procedures and routines, and movement documentation requirements

... when manually handling and processing data disks” are recorded in the training manual and illustrated in pamphlets. The procedure is elaborate and ostensibly secure but we were shown no registers recording the receipt of specific consignments and indeed an informal memo from CRU head office to CROs indicates that CivPol, PKF and UN staff could be used as couriers and that after-hours deliveries could be effected by leaving parcels at the UNTAET security desk in Dili. The fact that the loss of a number of data-bearing disks was ascertained only when the disks were discovered in a CRO’s cupboard is proof that the system was fallible. The extent of the consequences of the fallibility can obviously not be ascertained.

Ad 2.2(d)

Most of the staff at the central level were trained in Germany well before the project started. Some field staff were trained in Darwin and some in East Timor. Apart from the training manual, we have been furnished with no information regarding training.

Ad 2.2(e)

In addition to what has been said in paragraph 5.6 above, it should be noted that no procedure has yet been instituted for supplementing and correcting the CRU database with the data gleaned by IEC in the course of its checking and verification of the database and that obtained in the course of the E & C. The same applies to data that will be added to the various segments of the voters’ roll on polling day when unlisted voters with proof of registration are written in. The requisite liaison mechanisms between CRU and IEC remain to be created. Moreover, it does not appear that CRU has at the moment the software necessary for incorporating into the central database additions, deletions, corrections and alterations being recorded since reopening of the registry on 1 August. On the face of it these constitute grounds for grave misgivings regarding the prospects for producing accurate voters’ rolls in the future by making use of the database.

Ad 2.3(a)

Save as said in paragraph 5.1 above, there is little to report regarding the target for the registration exercise and the manner of its determination. Perhaps understandably, we were given no hard information on either score.

Ad 2.3(b)

The “internal migration of the population” was not “integrated into the strategy”, nor was it necessary that it should be. What was necessary and should be integrated into future strategies, however, is a proper study and understanding of the migrant nature of some sub-villages. There is also reason to suspect that there is a misunderstanding of the sociological significance of the relationship between various components of a village, whose primary links may well be social rather than geographical. This has obvious implications for the allocation of sub-village-dwellers to specific voting stations.

Ad 2.3(c)

Any past “movement of entire villages” was irrelevant to this civil registry exercise, which sought to record the population in its present locations.

Ad 2.3(d)

The electoral register of 1999 was not used.

Ad 2.3(e)

The geographical basis for the civil register was the register of villages provided by the Census and Statistics Unit. CRU was aware that this register was not satisfactory but regarded it as legally and politically binding.

7. RECOMMENDATIONS

7.1 As to recommendations for the development of electoral rolls in the future there is one transcending recommendation. That is that the CCR be corrected and updated as quickly as possible and that it be maintained scrupulously thereafter in the knowledge that it may have to serve as the basis for the production of an electoral roll at short notice. Updating and correction of the register over time may be good enough, but the stage of the country's development and its probable political and constitutional evolution render electoral preparedness at all times a priority. In particular, urgent attention should be given to the incorrect allocation of sub-villages to villages which was derived from the register of villages provided by the Census and Statistics Unit. If necessary, the issue should be taken up at a political level as a matter of urgency.

7.2 Hardly less vital is that the air be cleared between CRU and IEC. Whatever the rights or wrongs may have been, the two are reciprocally dependent and neither can perform its task without the active cooperation of the other. Moreover, it is important at this stage of the creation of the new state that the legitimacy of the country's CCR and of its voters' roll be beyond question. Mutual recrimination cannot be to anyone's advantage. Whatever mistakes may or may not have been made, the cause of East Timor's orderly emancipation is more important.

7.3 Without apology for repetition, I would conclude by emphasising yet again that there is an urgent need to resolve the question of future responsibility for maintaining electoral rolls. Although the new political masters of the country will have to decide what is to happen in the long term, an interim agency dedicated to election administration is necessary. The sequence of events that precipitated the appointment of the audit team and/or predicated the TOR underscores how important it will be also to empower this agency to attend to the maintenance of electoral rolls.

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Dili
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