

Papua New Guinea narrowly averts constitutional crisis following "blighted election"

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The Supreme Court in Papua New Guinea has, at least for the moment, narrowly averted a constitutional crisis stemming from national elections that were plagued by violence, vote rigging and protracted delays in counting. Even though a number of seats are yet to be decided, parliament, which is dominated by small parties and independents, will meet on Monday to vote for a new government.

The entire election process has been chaotic, a reflection of the country's deepening social and economic crisis. There have been widespread reports of corruption involving police, electoral officers, candidates and their supporters. Tens of thousands of ballots have been forged or stolen. At least 30 people have been killed. A number of election officials have been assaulted or simply disappeared.

The problems were compounded by the government's decision to withhold \$US2 million from the Election Commission, creating major difficulties in transporting officials to remote areas, in a country that lacks roads and other basic infrastructure. As a result of this anarchic situation, the Electoral Commissioner Reuben Kaiulo was unable to count the votes and declare the polls by the date prescribed in the constitution—July 15—and asked for a two-week extension, indicating as well that a re-vote may be required in some seats.

Kaiulo reported that because of electoral violence and corruption more than 250 ballot boxes have been destroyed or are missing in the Highlands region. According to some estimates, between a third and a half of voters across PNG have been prevented from voting due to deficiencies in the Common Roll and gangsterism at the polls.

In some areas, election officials simply had no votes to count. In others, there were votes in abundance. The scope of the rioting in the Highlands is revealed by the aggregate figures—760,000 more votes were cast than the entire adult population of just under one million. In Enga Province, the number of votes was 2.6 times greater than the number of

eligible voters.

The governor general granted a two-week extension for the return of writs but the decision only intensified the crisis. As seats began to be declared it became evident that the parliament would be deeply fragmented. Prime Minister Mekere Morauta narrowly retained his own seat but his Peoples Democratic Movement was decimated—on the latest counting it will have only 10 seats in the 109-member parliament, down from 40. The largest party—the National Alliance led by the country's first Prime Minister Michael Somare—gained only 19 seats. The other seats have been won by an array of small parties and independents.

The last fortnight has been dominated by frenzied backroom negotiations as contenders for prime minister have sought to patch together a parliamentary majority. The wheeling and dealing has been heightened by recent changes to the constitution which require the governor general to ask the leader of the party with the largest number of seats to try to form a ruling alliance.

With a narrow lead in the number of seats, Somare calculated that he was in the best position to form government and sought to stymie his rivals by attempting to shut down further counting. After winning his own seat on 14 July, he filed a constitutional reference in the Supreme Court challenging the validity of the two-week extension for the official return of writs.

Somare's move appeared to have some constitutional validity but threatened to plunge the country into a political crisis. With nearly 40 seats undecided by July 15, a substantial section of voters would have been formally denied a say in the formation of the government. The resulting frustrations could have become politically explosive. The election violence and vote rigging was itself the product of different tribes, clans and language groups attempting to put their representative into office in order to gain a slice of dwindling government resources.

Moreover, drawn-out legal wrangling in the Supreme

Court would have deepened the crisis. The government could have been left in limbo for weeks in conditions where the IMF, the World Bank and business leaders are demanding immediate action to try to pull the economy out of a deep recession. Technically, Morauta would have remained the caretaker prime minister but he would have had little credibility or authority. Virtually the entire Morauta cabinet, including Deputy Prime Minister Michael Ogi, either lost their seats or, like the Melanesian Alliance's Moi Avei and Sam Akoitai from the United Resources Party, have defected to Somare.

The difficulties were compounded because a number of seats could not be decided even if the two-week extension were declared valid. Electoral Commissioner Kaiulo explained: "It is also impossible to organise new voting between now and July 29 because of continuing lawlessness in the trouble spots which have forced the Electoral Commission to suspend elections in the Southern Highlands and Enga."

Mike Manning, president of the private-sector Institute of National Affairs, summed up the situation, declaring: "However you look at it you've got a constitutional crisis. You've either got to decide either to count them, knowing that they're wrong, or to say 'no we're doing it again', in which case, how do you form a government without those two provinces being there?"

While certainly not averse to opportunist manoeuvres himself, Morauta denounced Somare's move, saying, "Never in the history of Papua New Guinea has such a blatant grab for undemocratic power been attempted. It is our democracy's darkest hour." He also warned: "By taking those fundamental rights away from many, many thousands of people, he is risking widespread civil disorder and unrest."

Morauta supported a counter-submission to the Supreme Court insisting that the decision to extending the counting was constitutional. Constitutional lawyers from the National Parliament, the Electoral Commission, and the Ombudsman Commission made additional submissions.

In the event, Somare backed off from a legal brawl over the constitution and withdrew his case before the Supreme Court hearing. A panel of five judges including the chief justice and his deputy handed down their decision on July 26. The court ruled that the extension of counting was valid and that parliament could meet even if all seats had not been declared. As well, the judges empowered the Electoral Commissioner to rerun the election in seats where voting had been seriously disrupted.

Although the Supreme Court decision averted the immediate crisis, none of the underlying political tensions have been resolved and there is still the possibility of legal

challenges to the poll results. Of the outstanding 15 seats, the Electoral Commissioner finally declared results in six seats in Enga Province and three of the nine in the Southern Highlands—the two areas where counting had been suspended. The poll has been declared "failed" in the other six seats.

The "most blighted election" on record, as the media has dubbed it, has provoked deep concerns in ruling circles in Papua New Guinea and elsewhere. As the *Australian Financial Review* noted, with some trepidation, on July 19: "The next government of Papua New Guinea—and it is now most likely that there will be a change—will have to address warlord-ism and a collapse of the rule of law in the oil-rich Highlands, as well as a more widespread crisis of confidence in government itself after the tarnishing of the electoral process in the recent poll".

It appears likely that Somare will form a government on Monday. He heads a disparate seven-party coalition, including his own National Alliance, the Peoples National Congress Party, Melanesian Alliance, Peoples Progress Party, United Resources Party, Peoples Action Party and a group of independents led by Moses Maladina.

Somare still appears to be short of an outright majority, however. Moreover, even if he does succeed in forming a government, he will be faced with immediate economic and social problems for which he has no solution. Business leaders declared this week that whoever takes the reins of power will have to draw up a rescue package of further austerity measures to deal with an economy that has recorded three successive years of negative growth. "Our economy is in terribly, terribly deep trouble," stated Mike Manning of the Institute of National Affairs.

At the same time, however, the government that emerges from this "blighted election" could quickly face opposition. Large sections of the population, who legitimately feel disenfranchised, will react angrily to any attempts to make further inroads into their living standards on behalf of big business. Under such conditions, the precarious ruling coalition could easily break apart, creating a fresh political crisis.



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