

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
BRITISH ISLANDS AND MEDITERRANEAN REGION**

**ELECTION OBSERVATION MISSION
CAYMAN ISLANDS GENERAL ELECTION**

MAY 2017



PRELIMINARY STATEMENT

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Well administered new single member district elections reflect the will of Caymanian people

In our view the 2017 General Election in the Cayman Islands amply met the international standards for democratic, genuine and transparent elections and the results truly reflect the will of the people.

We commend the people of the Cayman Islands for the way these elections were conducted, especially given the challenge of implementing elections with new electoral boundaries under a new system of one person - one vote. We were very impressed by the high standard of organisation, meticulous attention to detail and commitment of the Supervisor of Elections and his staff - in the period before, and during polling day itself. The peaceful electoral process allowed different opinions to be expressed freely, and the high voter turnout and enthusiastic participation of Caymanian people demonstrated their high commitment to the principles of democracy.

We are confident that the people of the Cayman Islands - whether pleased with the election results or not - can have confidence in the administration of the elections themselves and the ultimate outcome on polling day.

Political Background

The 2017 General Election was the first election held using a “one person - one vote” single-member district electoral system and the fourth elections since the introduction of a political party system in the Cayman Islands. The amendment of the Elections Law in November 2016 increased the number of elected members of the Legislative Assembly from 18 to 19 and a record number of 61 candidates ran for election. A total of 15 candidates stood for the ruling Progressives party, 11 candidates stood for the opposition Cayman Democratic Party, while 37 candidates stood as independents.

The Progressives party candidates won 9 of 18 seats in the previous elections in May 2013, and gained a majority when former premier Juliana O’Connor-Connolly joined the party and accepted the role of Speaker. The Progressives party leader Alden McLaughlin assumed the post of Premier.

Following an unsuccessful referendum in July 2012, which aimed to change the electoral system to single-member constituencies, the government finally passed legislation facilitating 19 single-member districts with a first-past-the-post electoral system in 2016.

Legal Framework

The legal framework provides a basis for the conduct of elections which is in line with the international legal principles and commitments applicable to the Cayman Islands. There was broad compliance with the requirements for the protection of human rights throughout the electoral process. The political freedoms of expression, association, assembly and movement were well respected.

The 19 Single Member Electoral District Order and the Elections (Amendment) Law, 2016 provided for a change to the electoral system. The amending legislation was assented to on 22 November last, a date relatively close to the election date, allowing just six months for the implementation of measures necessary to bring the changes into effect. A change in the law so close to the election is generally not considered to be good practice internationally, as it is important that prevailing law be clear and certain

well in advance of elections. While the electoral process is well regulated, and most areas of law are clear and comprehensible to all stakeholders, it was unfortunate that there was insufficient time to consolidate the 2016 amendments into the pre-existing law.

Requirements to register to vote and to stand for election were broadly reasonable. Significant support was offered, in the form of mobile and postal voting, to ensure that voters with special needs, such as the elderly and persons with disabilities, as well as those working on polling day, exercised their right to vote. While prisoners serving sentences in excess of twelve months were deprived of the right to vote, prisoners not lawfully deprived of the right to vote were enabled to vote.

The International Covenant on Civil and Political Rights provides that elections are to be conducted by secret ballot. The Elections Law appears to uphold this provision, requiring that the poll shall be taken by secret ballot. The Law also provides, however, for the printing of a serial number on both the ballot paper and the counterfoil, making the tracing of an individual vote possible, which violates the requirement of a secret ballot. Individual votes are also potentially identifiable in the counting for mobile and postal voting, where tiny numbers of votes are counted separate from the larger district count. Beyond this, secrecy is also potentially compromised by the procedures adopted for assisted voting, as votes are cast on the table of the presiding officer, rather than in the secrecy of the booth.

Electoral System

The Legislative Assembly of the Cayman Islands consists of twenty-one members, nineteen of whom are directly elected. The nineteen elected members represent geographic constituencies in single-member districts, with elections conducted on a “first-past-the-post” system, by means of a simple majority of votes cast. The Attorney General and the Deputy-Governor serve *ex officio* as members of the Legislative Assembly. The term of the Legislative Assembly is four years. There are no term limits in place for membership of the Legislative Assembly. The law allows both political parties and independent candidates to contest the election.

The Constitution provides that there should, as far as reasonably practicable, be equality in the number of elected members of the Legislative Assembly to the number of qualified voters in their district. An explicit exception is made in the case of Cayman Brac and Little Cayman, who together must have at least two representatives, while traditional boundaries may also be taken into consideration. The International Covenant on Civil and Political Rights requires that the vote of one elector should be equal to the vote of another. While the Report of the Boundary Commission 2015 and the Elections (Amendment) Law 2016 have contributed to a significant amelioration in the situation, there are still a few instances in which districts depart from the norm which otherwise prevails across Grand Cayman. The districts of North Side (with 716 registered voters) and East End (with 692 registered voters) depart from the average of 1,186 voters in the seventeen Grand Cayman districts. Bodden Town East is the district in which voters are the most under-represented, with just one representative for 1,513 registered voters.

Election Administration

The elections in the Cayman Islands are conducted by the Elections Office, led by the Supervisor of Elections, and three deputy supervisors, all appointed by the Governor. The Elections Office operates within the ambit of the Ministry of Home Affairs, of which the Supervisor is the Chief Officer.

The Elections Office has been highly praised by all electoral stakeholders for the manner in which the election was administered. Their officials enjoyed the confidence of the public and of the political parties. Despite the fact that the time was short between the introduction of the revised electoral system

and the actual conduct of polling, the electoral process ran smoothly. An electoral calendar was established and deadlines were met. Officials acted in a transparent and impartial manner and technical preparations for the elections were accomplished successfully. Extensive training was provided for all polling staff, and educational materials were prepared for staff and for candidate and party agents.

Voter Registration

The right to vote is conferred by the Constitution Order 2009 on those who hold Caymanian Status, a status which is regulated by the British Nationality Act 1981. The International Covenant on Civil and Political Rights requires that states take effective measures to ensure that all persons entitled to vote are able to exercise that right. Deprivation of the right must be only on reasonable grounds.

Registration is a precondition to voting. Qualifications for voting include the attainment of eighteen years of age, as well as residency in the Cayman Islands for at least two of the four years immediately preceding the date of registration. This period appears to be overly restrictive and may operate to exclude otherwise eligible Caymanians from exercising their right to vote. Registering officers review the Register of Electors every three months, and may strike off voters who have previously been registered but have subsequently been outside the country in excess of the permitted time.

Prisoners serving a sentence of imprisonment in excess of twelve months are also deprived of their right to vote. The European Convention of Human Rights, applicable to the Cayman Islands, has been interpreted as prohibiting blanket bans on voting by prisoners.

Voter registration figures have increased to 21,227. This has been achieved by means of a significant voter registration drive by the Elections Office, including going door to door across the country. Nonetheless, voter registration still falls short of including all eligible voters by an estimated 3,000 people, mainly between the ages of 18 to 25. Both the requirement of active registration and the absence of a civic register may be contributing factors to this situation, as well as an intention to avoid jury duty on the part of some eligible voters.

Candidate Registration

The Constitution Order 2009 sets out the eligibility requirements to stand for election to the Legislative Assembly. While to a large extent these requirements are reasonable, some of them, namely the required durations of residence in the Cayman Islands prior to nomination, appear to impose unreasonable limits on the right to stand for elected office.

Eligibility for election may be denied where an individual is a holder of dual citizenship or is under any acknowledgement of adherence or allegiance to a foreign power. The Grand Court has adjudicated upon these provisions in several cases, providing some interpretation of the legal rules. The judgments are complex, with the result that it is difficult to predict with certainty how the eligibility status of any aspiring candidate will be evaluated.

Individuals who have served a prison sentence in excess of 12 months, or who have been convicted of an offence involving dishonesty, are also excluded from standing for public office. This is contrary to the provisions of international law which require that deprivations of the right to participate in public affairs through standing for election should be proportionate and reasonable. The ban in place here does not make any distinction between the different types of offence which might attract prison sentences of over twelve months.

A total of 61 candidates contested 19 seats in the Legislative Assembly. Competitive elections were held in each of the electoral districts; 1 district with 5 candidates, 6 districts with 4 candidates, 8 districts with 3 candidates and 4 districts with 2 candidates. A total of 16 women stood for election, which, at 26 per cent, represented the highest proportion of female candidates participating in an election to date. However only three amongst them were elected, comprising less than 16 per cent of the elected members of the Legislative Assembly. This falls short of realising the commitments to both *de facto* and *de jure* equality for women set out in the Convention on the Elimination of All Forms of Discrimination against Women.

Election Campaign and Campaign Finance

The campaign period of eight weeks began on Nomination day, 29 March, and lasted until the day before elections, 23 May, midnight. Both political parties published informative campaign manifestos outlining their policies. At times independent candidates campaigned together but each candidate provided individual literature.

The campaign period was reported to be peaceful, where candidates could campaign freely and voters received a plethora of information and campaign materials assisting them to make an informed choice. Candidates conducted door-to-door campaigns, put up billboards, printed brochures, distributed t-shirts, held campaign rallies and organised motorcades. As confirmed by numerous candidates across the political spectrum as well as other election stakeholders, fundamental rights and freedoms, such as freedom of expression, peaceful assembly and movement were respected at all times. A non-binding Code of Conduct for Candidates outlines the guidelines for candidates and their agents in assisting with the orderly conduct of the election process.

The transparency of campaign finances was limited as there are no requirements for contestants to submit, or for the authorities to audit or publish, reports on expenditure before polling day. In the absence of public funding for either parties or candidates, some Commonwealth Parliamentary Association British Islands Mediterranean Region Election Observation Mission (EOM) interlocutors expressed concern that the amount of funding from private Caymanians was too high and distorted the fairness of the campaign. Campaign expenses may not exceed 40,000 Cayman Dollars per candidate.

Every candidate must deliver to the Supervisor of Elections, within 35 days of polling day, a statement of all payments made or received by him or on his behalf. The Supervisor will publish a summary and the reports are publicly accessible for inspection. There is, however, no obligation on any state institution to actually verify the completeness and accuracy of the expenses and contributions declared.

The Commission for Standards in Public Life maintains a Cayman Islands Register of Interests. Candidates on nomination day have a constitutional obligation to declare to the Commission interests, assets, income and liabilities as prescribed by law. Higher accounting and oversight standards have been created under the Standards in Public Life Law which, though passed by members of the Legislative Assembly in 2014, have yet to be implemented as the legislation has not commenced to date.

Media

The media played an important role in the election campaign. The media landscape in the Cayman Islands is limited due to the small size of the population. There are only three daily printed newspapers, *Cayman Compass*, *Cayman Reporter* and *Caymanian Times*, as well as numerous commercial radio stations and one local private TV station covering news, the CITN - Cayman 27. In addition there are several online news portals and there is a public radio station, Cayman Radio One.

There was no provision of free airtime to candidates, but public radio was reported to have covered candidates fairly and equally. Those candidates we met commented on the immense increase in advertising rates in the media during the campaign period which allegedly took advantage of the limited media space available paired with the high demand. CITN - Cayman 27 broadcast party campaign rallies live and covered political events for hours against payment. The private media reportedly provided air time and space to all candidates on an equal, first-come-first-served, basis.

There is no legislation or code of conduct regulating the behaviour of the media during the election campaign. However, the Elections Law provides guidance on the quality and language of political broadcasts. The EOM did not conduct any systematic qualitative and quantitative media monitoring.

Voting and Counting

On polling day, 25 May, members of the EOM visited all nineteen electoral districts, including almost all 57 polling stations, across the Cayman Islands. The overall conduct of the opening, voting and closing procedures was assessed by the EOM observers as very good in all instances. Procedures were followed to the letter of the law, with meticulous attention to detail. There was clear evidence of extensive staff training, obvious in the efficient discharge of their duties. The ballot paper, new for this election, was of high quality, including colour photographs of candidates and their logos, as well as the list of names in alphabetical order. There were very few spoiled ballot papers.

The voter turnout was 15,721, amounting to 74.06 per cent of registered voters. Votes were counted in twenty-five counting stations, that being one or two per electoral district. Counting procedures were followed impeccably in the three stations observed by the EOM. Candidate agents were present throughout the process, which was conducted efficiently. All results were officially declared before midnight on polling day.