

COMMONWEALTH PARLIAMENTARY ASSOCIATION
BRITISH ISLANDS AND MEDITERRANEAN REGION

ELECTION OBSERVER MISSION

CAYMAN ISLANDS GENERAL ELECTION
MAY 2013



FINAL MISSION REPORT

FINAL REPORT

Executive Summary

The 2013 General Elections in the Cayman Islands met the international standards for democratic, genuine and transparent elections. The election campaign allowed different opinions to be expressed freely and the voting and counting process on Election Day were very well conducted. The high voters' turnout was also a very positive sign and it showed commitment of the Caymanian people to the principles of democracy.

- The Elections Office acted in an impartial and transparent manner and demonstrated a high level of professional competence. All electoral preparations were completed on time and from the technical point of view the elections were very well prepared and administered.
- The overall conduct of voting operations was assessed by the EOM observers as very good or good in all polling stations. The procedures were followed, polling staff was generally well trained and polling agents representing different candidates were present in all polling stations.
- The counting procedures were followed, votes were counted in a transparent manner in the presence of counting agents representing different candidates and no recount was requested. The turnout was high and reached 79.94 per cent.
- The election legal framework provides for holding genuine democratic elections. The fundamental civil and political rights and freedoms, such as freedom of expression, assembly, association and movement, as well as principle of non-discrimination are guaranteed in the Constitution Order 2009.
- The total number of registered electors reached 18,492, which is a notable and commendable increase of 20 per cent compared to 2009 General Elections. However, the 2010 Census data indicate that there are still around 5,000 Caymanians of voting age who are not registered as electors and were therefore left out of the election process.
- In total 56 candidates were contesting 18 seats in the Legislative Assembly and competitive elections were held in each of the six electoral districts. While to a large extent candidate qualification requirements are reasonable, some of them related to the required duration of residence in the Cayman Islands prior to the date of nomination appear to be unreasonable and undermine the right to stand for elective office.

- The election campaign was conducted in a peaceful atmosphere, candidates were able to campaign freely and voters were able to receive sufficient information to make an informed choice. The fundamental rights and freedoms, such as freedom of expression, freedom of assembly and freedom of movement were respected at all times.
- Both public and private media played an important role in the election campaign. The public media provided balanced reporting and contributed to the fair conduct of the election campaign.

I. Introduction

A Commonwealth Parliamentary Association, British Islands and Mediterranean Region, Election Observer Mission (EOM) was deployed to the Cayman Islands between 16 and 27 May 2013 following an invitation from the Governor of the Cayman Islands and with agreement of the Government and the Legislative Assembly. The EOM was composed of six observers deployed to all districts of Cayman Islands:

- Hon. Mario Galea, MP, Head of Mission (Malta);
- Ms Margaret Mitchell, MSP (Scotland);
- Senator Philip Ozouf (Jersey);
- Speaker Hon. Randolph Horton JP MP (Bermuda);
- Ms Fern Narcis, Legal Officer (Trinidad and Tobago);
- Ms Juanita Barker, Legal Officer (Guyana).

The EOM was further supported by two Election Analysts and an Election Administrator.

The remit of the EOM was to assess the electoral process in accordance with international commitments for elections as well as the laws of the Cayman Islands. The EOM was independent in its findings and conclusions and adhered to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005.

The EOM organised two press conferences to issue the introductory press release on 17 May and a preliminary report on 24 May 2013. In general the EOM enjoyed a high visibility in the local media as well as among the general public.

The EOM would like to express its appreciation to the Association of Caribbean Electoral Organisations (ACEO), Electoral Reform International Services (ERIS), the authorities of the Cayman Islands, election officials, candidates, political parties, local media as well as the people of the Cayman Islands for their cooperation and assistance in the course of the observation.

II. Political Background

The 2013 General Elections were the third elections since the introduction of the political parties system in the Cayman Islands. The amendment of elections law in 2012 increased the number of elected members of the Legislative Assembly from fifteen to eighteen. Three political parties fielded a total of 32 candidates while another 24 candidates ran as independents.

The United Democratic Party (UDP) won the previous elections in May 2009, with McKeeva Bush OBE MLA assuming the post of Premier. The UDP lost its majority in December 2012 after a vote of no-confidence in the government at the Legislative Assembly. Subsequently five members of the UDP formed a new government headed by the former Deputy Premier, Juliana O`Connor-Connolly JP MLA.

The political situation prior to elections was also significantly influenced by the unsuccessful referendum in July 2012 which aimed at changing the electoral system to single-member constituencies. The referendum was originally initiated by the peoples' petition; however it was eventually called by a resolution of the Legislative Assembly. Although a majority of participating electors were in favour of a change, the level of support did not reach the required 50 per cent plus one vote of all registered electors¹. The Cayman Islands is one of only a few jurisdictions in the world where voters have unequal number of votes in general elections.

III. Legal Framework

The election legal framework consisting of the Cayman Islands Constitution Order 2009 and Elections Law (2009 Revision) in general provides for holding genuine democratic elections. The fundamental civil and political rights and freedoms, such as freedom of expression, assembly, association and movement, as well as principle of non-discrimination are guaranteed in the Bill of Rights, Freedoms and Responsibilities of the Constitution Order 2009.

Eighteen members of the Legislative Assembly are elected for a four year term in four multi-member and two single-member electoral districts. The number of elected members in multi-member districts varies between two and six. This disproportion in the number of elected members per electoral district contradicts the equal suffrage principle of one person, one vote. The equality of vote is further undermined by the fact that the number of registered electors represented by one elected member in the Legislative Assembly varies considerably between 520 in Cayman Brac and Little Cayman electoral district and 1,240 in George Town electoral district.

Table 1: Number of elected members, registered electors and registered electors represented by

¹ A 50 per cent plus one requirement was established for this referendum.

one elected member per electoral district and nationwide

Electoral District	Number of elected members	Number of registered electors	Average number of reg. electors represented by one elected member
George Town	6	7,441	1,240
Bodden Town	4	4,550	1,137
West Bay	4	4,220	1,055
Cayman Brac and Little Cayman	2	1,041	520
East End	1	641	641
North Side	1	599	599
NATIONWIDE	18	18,492	1,027

While the Elections Law requires voting by secret ballot, the very same law also mandates numbering of ballot papers, thus undermining the secrecy of the ballot. Ballot papers (on the reverse) and their corresponding counterfoils include an identical serial number creating a theoretical opportunity to determine the choice of a particular elector. Although numerous safeguards are put in place to minimise this opportunity², the fact that it exists could be used to intimidate and coerce electors.

IV. Election Administration

The Elections Office is responsible for organising elections and referenda in the Cayman Islands. As an executive election management body, it is part of the government portfolio of internal and external affairs. The Supervisor of Elections as well as his three Deputies are appointed by the Governor.

The Elections Office is not an independent body as it is part of the government structure. However, there was no indication of Government interference in the electoral process and the existing arrangement is widely accepted by election stakeholders.

During the entire electoral process the Elections Office acted in an impartial and transparent manner and demonstrated a high level of professional competence. The contesting political parties, as well as independent candidates expressed general satisfaction with the performance of the Elections Office. A comprehensive electoral calendar was published well in advance of the electoral process. All electoral preparations were completed on time and from the technical point of view the elections were very well prepared and administered.

The voter education was conducted by the Elections Office in close co-operation with local electronic and print media. The Elections Office regularly briefed the media outlets on the state of electoral

² E.g. different polling and counting staff, covering the serial number on the ballot paper by counting officers when showing the ballot paper to agents during the count and secure storage of used ballot papers, counterfoils and poll book in three separate sealed envelopes until their incineration twelve months after election day.

preparations and the media in-turn provided significant airtime and space to inform and educate electors about the election process.

V. Voter Registration

The right to vote is guaranteed by the Constitution Order 2009 to all Caymanians who are registered electors. The required qualifications for registering as an elector are generally reasonable. However one notable exception is the requirement to be a resident in the Cayman Islands for a period (or periods) amounting to not less than two years out of the four years immediately preceding the date of registration. Although any period of absence for certain specific purposes³ stipulated in the Constitution Order 2009 is disregarded, this requirement appears to be overly restrictive and might have prevented a number of otherwise eligible Caymanians from exercising their right to vote. It should also be noted that according to the 2010 Population and Housing Census, only 56.3 per cent of the resident population are Caymanians who are, after meeting the other qualification requirements⁴, eligible to register as electors.

The total number of registered electors for 2013 General Elections reached 18,492, which is a notable and commendable increase of 3,131 electors, or 20.4 per cent compared to 2009 General Elections. This reflected the proactive action taken by the Elections Office to register more electors. However, the 2010 Population and Housing Census data indicate that still around 5,000 Caymanians of voting age have not registered as electors and are therefore left out of the election process.⁵

It should be pointed out that the Elections Office expressed doubts about credibility and accuracy of the last population census data and estimated that there are approximately only 2,500 Caymanians of voting age who are not registered as electors. The lack of interest in elections among the younger generation and unwillingness to serve on a jury⁶ were cited as the most likely reasons why these people are not registered.

³ Any period of absence for the following reasons shall be disregarded: performance of duty on behalf of the Government; attendance as a student at any educational establishment; attendance as a patient at any hospital, clinic or other medical institution; employment as a seaman aboard an ocean-going vessel; or employment as a crew member on any aircraft.

⁴ See articles 90 and 91 of the Constitution Order 2009.

⁵ This Census is the only official source of population data in the Cayman Islands.

⁶ Jurors are chosen exclusively from amongst the registered voters.

Table 2: *Number of registered electors per electoral district and nationwide as of 1 April 2005, 2009 and 2013*

Electoral District	Number of registered electors 2005	Number of registered electors 2009	Number of registered electors 2013
George Town	5,029	5,968	7,441
Bodden Town	2,788	3,481	4,550
West Bay	3,230	3,762	4,220
Cayman Brac and Little Cayman	910	980	1,041
East End	591	599	641
North Side	570	571	599
NATIONWIDE	13,118	15,361	18,492

The Elections Law stipulates that each registered elector shall be issued with a photo elector registration card. However, presenting an elector registration card at the polling station is not mandatory and an elector can vote even without a registration card (or any other ID card) providing that s/he satisfies the polling clerk that s/he is the person whose name appears in the register of electors.

VI. Candidate Nomination

In order to be elected as a member of the Legislative Assembly there are several qualification requirements that must be met. To a large extent these requirements are reasonable; however some of them appear to unreasonably limit the universal right to stand for elective office. These are namely:

- The requirement for a person born in the Cayman Islands or outside the Cayman Islands but having at least one Caymanian parent or grandparent who was born in the Cayman Islands to reside in the Cayman Islands for a period of not less than seven years immediately preceding the date of nomination. The number of days of absence from Cayman Islands during this period shall not exceed 400 excluding any period of absence for certain specific purposes stipulated in the Constitution Order 2009⁷.
- The requirement for a person born outside the Cayman Islands to reside in the Cayman Islands for a period or periods of not less than fifteen years out of the twenty years immediately preceding the date of nomination and in the seven years immediately preceding the date of nomination. The

⁷ Any period of absence for the following reasons shall be disregarded: performance of duty on behalf of the Government; attendance as a student at any educational establishment; attendance as a patient at any hospital, clinic or other medical institution; employment as a seaman aboard an ocean-going vessel; or employment as a crew member on any aircraft.

number of days of absence shall not exceed 400 excluding any period of absence for certain specific purposes stipulated in the Constitution Order 2009.

- A person can also be disqualified if they are by virtue of their own act under any acknowledgement of allegiance, obedience or adherence to a foreign power or state. The lack of clarity in the Constitution Order 2009 on what constitutes “his or her own act” led the Elections Office, which has the authority to initially decide on eligibility of candidates, to make different decisions in similar cases. It should be noted that many Caymanians were born outside the Cayman Islands or to parent(s) with other citizenship and therefore either possess or have right to some other citizenship.

In total 56 candidates were contesting 18 seats in the Legislative Assembly and competitive elections were held in each of the six electoral districts.

Table 3: Number of elected members and nominated candidates per electoral district and nationwide

Electoral District	Number of elected members	Number of nominated candidates
George Town	6	21
Bodden Town	4	13
West Bay	4	14
Cayman Brac and Little Cayman	2	4
East End	1	2
North Side	1	2
NATIONWIDE	18	56

VII. Election Campaign and Media

A lengthy election campaign period started immediately after the nomination of candidates on 27 March. The election campaign was conducted in a peaceful atmosphere. All candidates were able to campaign freely, presenting their political pledges. Voters were therefore able to receive sufficient information to make an informed choice. 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.

Both public and private media played an important role in the election campaign. According to various stakeholders the public media provided balanced reporting and contributed to fair conduct of the election campaign. The private media reportedly provided airtime and space to all candidates on an equal basis, however the UDP accused some private media outlets of being openly biased against the party. The Mission did not conduct any systematic qualitative and quantitative media monitoring and

therefore can neither confirm nor refute these accusations. Furthermore there is no legislation or code of conduct regulating the conduct of media during the election campaign.

The Mission received numerous allegations of widespread vote buying during the campaign by different candidates and political parties. However, according to the Police, no official report has been filed in this regard. At the same time the Police claimed that they made an effort to investigate every unofficial report they have received. For the first time, during this election, the Caymanian authorities, namely the Police Service, Anti-Corruption Commission and Elections Office took an active approach and launched a media awareness campaign. This included a confidential reporting line to prevent and fight against any illegal practices of distribution of money, goods or other benefits in exchange for potential votes.

The Elections Law sets the limits for candidates' election expenses. Several candidates expressed the views that the limits of CI\$ 30,000 and CI\$ 35,000 for different categories of candidates are unrealistically low given the duration of campaign period and existing price level in the Cayman Islands. They alleged that many candidates across the political spectrum will exceed these limits. In addition the leadership of two political parties as well as some candidates expressed the views that election campaign expenses paid prior to the nomination of particular candidate are not included in the limit⁸.

After elections, all candidates are obliged to submit to the Supervisor of Elections a declaration of election expenses containing a statement of all payments made or received by or on behalf of the candidate. Unfortunately there is no obligation for any state institution to actually verify the completeness and accuracy of declared expenses and contributions.

VIII. Voting and Counting

On Election Day, the Election Observer Mission (EOM) observers visited **all** 46 polling stations located within 18 polling divisions in six electoral districts. The overall conduct of opening, voting and closing procedures was assessed by the EOM observers as very good or good in all polling stations. The procedures were followed, polling staff was generally well trained and polling agents representing different candidates were present in all polling stations. The mission would like to commend the fact that women were well represented among the polling staff as well as among the

⁸ E.g. pre-paid air time and space in the media to be used by political parties and candidates during the election campaign period. These views contradict the definition of "election expenses" provided in the Elections Law. The Elections Office refuted this view during the meeting with the EOM claiming that any pre paid expenses carried out before date of nomination are part of the election expenses.

polling agents. With a very few exceptions, the polling stations were easily accessible by people with disabilities.

Approximately 7.8 per cent of registered electors cast the votes through mobile and postal voting. This number appears to be appropriate given the relatively high number of elderly people in the Cayman Islands and high cross-border mobility of Caymanians. The mobile voting took place between 10 and 16 May 2013 in all six electoral districts and postal ballots were accepted by the Elections Office until 6 p.m. on 22 May. All applicants for mobile and postal voting had to meet certain qualification criteria as stipulated in the Elections Law⁹. The candidate agents had access to the mobile voting process, as well as to the process of issuing, receiving and counting of postal ballots. The EOM directly observed some mobile voting in West Bay electoral district on 16 May and did not notice any irregularities.

Around 17 per cent of all postal ballots mailed to entitled electors were not delivered to the Returning Officers within the set deadline. Unreliability of postal services, both in the Cayman Islands and the countries of destination, is likely to be one of the possible explanations for this situation. The EOM observers received complaints from three electors who claimed that they had not received the postal ballot.

The counting of votes took place in the counting stations and the EOM observers observed the process in ten out of nineteen counting stations in four electoral districts. The counting procedures were followed, votes were counted by the Returning Officers and Deputy Returning Officers in a transparent manner in the presence of counting agents representing different candidates; no recount was requested.

The total number of invalid ballots nationwide was only 134 or 0.9 per cent of the total votes polled. Prior to Election Day a number of interlocutors expressed concerns that the recent increase in the number of members to be elected in Bodden Town and particularly in George Town could lead to an increased number of invalid votes. However, these concerns were not confirmed and the total number of invalid ballots in George Town was only 64 or 1.09 per cent. Furthermore, according to the internal statistics of the Elections Office, more than 85 per cent of electors correctly utilised all six votes.

⁹ An elector is entitled to mobile voting if s/he is unable or likely to be unable: (i) to go in person to the polling station because s/he is or is likely to be in a hospital, rest home or other similar institution, or because s/he is a geriatric at home; (ii) by reason either of blindness or any other physical incapacity to go in person to the polling station or, if able to go, to vote unaided; or (iii) to go in person to the polling station because of the general nature of his occupation, service or employment. An elector is entitled to vote by postal ballot if s/he is unable or likely to be unable to go in person to the polling station due to his absence for whatever reason outside the Cayman Islands.

IX. Tabulation and Announcement of Results

The election results for all six districts were tabulated at the Elections Command Centre in George Town. As a transparency enhancing measure, the two-hourly voters' turnout reports as well as progressive results of the count were continuously published on the Elections Office website. The full provisional results for all six electoral districts with polling division and polling station breakdown were available online in the morning of 23 May. The final results were sent for gazetting on 24 May 2013.

The turnout was high and reached 79.94 per cent. An almost identical, though slightly higher percentage of registered electors (80.54 per cent) participated in the 2009 General Elections.

Table 4: *Final results of the General Elections 2013*

Entity	Number of seats won
People's Progressive Movement (PPM)	9
United Democratic Party (UDP)	3
Independent candidates endorsed by the Coalition for Cayman (C4C)	3
Independent candidates	2
People's National Alliance (PNA)	1
TOTAL	18

X. Candidate Agents and Domestic Observers

According to the Elections Law each candidate can appoint two polling agents and two counting agents to monitor voting and counting processes on his/her behalf¹⁰. The candidates took full advantage of this policy resulting in the Elections Office accrediting more than 600 agents. The large presence of candidate agents at polling and counting stations contributed significantly to the credibility and transparency of the process.

The Elections Law allows observers authorised by the Supervisor of Elections to be present at the polling stations during the voting process, however it is silent on further details regarding their rights, responsibilities and accreditation. In these elections there was no local citizens' or NGO initiative aimed at domestic election observation. As with the 2012 referendum, the Elections Office appointed a domestic observer team, consisting of ten members and representing a cross-section of the Caymanian community. Their role was to scrutinise the voting and counting process. However, using the term "domestic observer" in this case was not appropriate. The team lacked independence as the members

¹⁰ Candidates themselves are also allowed to be present at the polling and counting stations during the voting and counting processes.

were selected and appointed by the Elections Office – an institution whose performance the team was supposed to assess. It was also not clear to whom the team should report. The independence of the team was further undermined as the team leader nominated two political party candidates contesting these elections.

XI. Recommendations

In order to improve future electoral processes in the Cayman Islands, the EOM would like to offer for consideration the following recommendations:

Equal suffrage

The equal suffrage principle of “one person one vote or equal number of votes” could be achieved by introducing an electoral system with single-member constituencies or multi-member constituencies with equal number of elected members of the Legislative Assembly. The newly defined constituencies could contain, as far as possible and practicable, the same number of inhabitants and registered electors.

Right to vote

Reducing the required period of residency in the Cayman Islands prior to the registration as an elector could increase the number of registered electors and enhance overall inclusiveness of the election process.

Right to stand for elections

Reducing the required period of residency of candidates in the Cayman Islands prior to the date of nomination would open up the universal right to stand for elective office to a larger number of otherwise qualified citizens. A clear legal definition of “his/her own act” in relation to other citizenship could bring more clarity for the Elections Office when deciding on eligibility of candidates, as well as for potential candidates when deciding whether to contest elections.

Independent Election Management Body

Establishing an independent election management body with independent budgetary financing could further increase the public confidence in the election process. A broad public and political consensus would be needed to define the qualification criteria, selection process and terms of reference for the members of such independent body.

Voter and civic education

A comprehensive and effective voter and civic education programme carried out well in advance of any electoral event would ensure that all citizens are informed about all necessary elements of the election process, starting from registration of electors to the precise location of polling stations and voting modalities.

Campaign financing

The existing provisions of the Elections Law could be reviewed in order to ensure meaningful scrutiny of campaign expenses declared by the candidates. Such a review could also reassess the current level of limits for campaign expenses and clarify the definition of election expenses, particularly regarding the pre-paid services and goods used during the campaign period. Clearly defined, realistic and enforceable campaign financing rules could reduce the role of money in elections and politics in general.

Treating of electors

The existing provisions in the Elections Law which forbid candidates to provide any food or drinks at the campaign meetings could be reviewed in order to allow candidates to offer reasonable refreshments to the campaign meeting participants.

Media regulation

The election process would benefit from establishing the rules for conduct of public and private media during the election campaign period. Such rules could guarantee equitable access to the media for all contesting candidates and particularly in case of public broadcasters. A media monitoring mechanism could be established to monitor whether media outlets adhere to the rules.

Secrecy of the vote

An amendment to the Elections Law to remove the requirement that ballot papers contain serial numbers would guarantee the right to vote in secret. Alternative means of protecting the integrity of the ballot, such as the use of bar codes or embossing techniques could be explored instead.

Voter identification

Removing the requirement for voters to state their occupation when presenting themselves to vote could avoid demeaning situations in the case of some voters.

Assisted voting

The Elections Law could reflect the practice established by the Elections Office that any person/friend can assist only one voter in marking the ballot paper. Secrecy of assisted voting could be increased if the process takes place behind the voting screen in a polling booth.

Mobile voting

The Elections Office could consider the introduction of mobile voting for those electors who were hospitalised in medical and social care facilities after the deadline for application for mobile voting. At present such voters were disenfranchised.

Postal voting

The Elections Office together with the Postmaster General could examine all currently available options for sending the postal ballots in order to ensure that, as far as possible, all postal ballots are delivered to the electors and subsequently to the Returning Officers in a timely manner.

Domestic observers

Establishing an institute of domestic observers' independent from the Election Office, with clearly defined rights, responsibilities and accreditation requirements in the Elections Law would increase the public oversight and confidence in the election process.

For any further information please contact the Head of Mission, Hon. Mario Galea,
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