



CPA BIMR ELECTION OBSERVER MISSION

ANGUILLA GENERAL ELECTION
APRIL 2015

FINAL REPORT

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“Anguilla’s 2015 election met some key international standards but improvement is required in critical areas. Fundamental freedoms were respected and the process was competitive. The peaceful and orderly manner in which the campaign and voting took place, including high levels of public engagement, is extremely commendable. Turnout on election day was high, Anguillans were free to express their will in secret and voting and counting processes were well managed and transparent. However, equal suffrage is not provided for and the regulatory framework needs to be strengthened, notably in campaign financing, media coverage and the registration of voters.”

Hon. Mario Galea MP, Malta - Head of Mission
Commonwealth Parliamentary Association British Islands and Mediterranean Region
Anguilla, April 2015



Members of the Election Observer Mission 2015. (From left to right) Andy Bruce, Hon. Sharlene Cartwright Robinson MP, Hon. Mario Galea MP, Shivonne White, Matthew Salik and Mark Stevens

INTRODUCTION TO THE MISSION

In December 2014 the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) was officially invited by the Governor, Her Excellency Christina Scott to deploy an independent Election Observation Mission to Anguilla to observe the April 2015 general election. This invitation was supported by the former Government and the official Opposition of Anguilla.

The mission was composed of:

- Hon. Mario Galea MP, Malta – Head of Mission
- Hon. Sharlene Cartwright Robinson MP, Turks & Caicos Islands – Observer
- Shivonne White, Montserrat – Observer
- Andy Bruce, UK – Election Analyst/Observer
- Mark Stevens, UK – Election Analyst/Observer
- Matthew Salik, CPA UK – Election Coordinator/Observer

The Mission was present in Anguilla between the 12 April and 24 April. The Mission was guided by the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers.

The Mission observed the electoral process in accordance with international standards, including Anguilla’s commitments under international law as well as domestic legislation. The Mission met with key stakeholders, including election officials, political parties, candidates, media, civil society representatives, voters, the Governor, Deputy Governor, Attorney-General and Police Commissioner;

it also attended campaign rallies and observed reporting in the media both prior to arrival and whilst on the Island. Our assessment considered the legal framework, election administration, political campaign, media, polling and counting, and opportunities for complaints and appeals. In addition, we considered a number of wider issues such as gender equality and minority issues. Whilst observing the latter part of the campaign, the Mission gave particular attention to the fundamental freedoms of expression, assembly, association, movement and information. On Election Day the Mission made repeated visits to all 20 polling stations including the opening and closing. We observed the counting and tabulation of results and also the immediate post-election period. Since leaving the Island, the Mission continues to examine the complaints and appeals system and follow the handling of any that may arise.

This report is the final report of the Mission and unlike the preliminary report will give a fuller analysis on the general election. In particular, this report will offer a number of recommendations which we hope will be given due consideration by all the election stakeholders, including the general public, for the continuous improvement of elections in Anguilla.

BACKGROUND

Anguilla is the most northerly of the Leeward Islands located east of Puerto Rico and the Virgin Islands in the Eastern Caribbean. It is a flat island with an area of some 91 sq km and limited in natural resources. In 1980, after the Anguilla Revolutions of 1967 and 1969, Anguilla separated from St Kitts & Nevis to become a stand-alone UK Overseas Territory. Since that time it has grown in population and wealth. In 2003, Anguilla graduated from UK bilateral development assistance, however since the 2008 economic downturn Anguilla has financially struggled. This is due in part to the weakening of the tourism and financial services sectors.

Anguilla is a British Overseas Territory and is an internally self-governing Territory with executive powers invested in the British Crown through an appointed Governor. The Governor chairs the Executive Council (Cabinet) which has general control of the direction of Government. The Chief Minister, along with three other Ministers, are also Members of the House of Assembly. The House comprises a total of twelve (seven elected Members, two ex officio – Attorney General and Deputy Governor, two appointed Members and an externally appointed Speaker). The Governor has reserved powers in respect of legislation, and is responsible for external affairs, offshore finance, defence and internal security (including the police force) and aspects of the public service.

Elections are held every five years. Over a number of decades elections have primarily been fought between two political parties/entities; the Anguillan United Movement (AUM) and the Anguillan United Front (AUF). At the 2010 elections, the AUM, led by Hubert Hughes, won the election and took power from the AUF. In total, AUM won four seats, AUF two and a third party, the Anguilla Progressive Party (APP) won one seat. The APP Member would later join the AUM as a Cabinet Minister.

LEGAL FRAMEWORK

The legal framework regulating the conduct of the electoral process consists primarily of the Anguilla Constitution Order (1982, as amended) and the Elections Act (2008, as amended). The International Covenant on Civil and Political Rights (ICCPR) is yet to be extended to Anguilla, but this is currently being looked into as a matter of priority. The same applies to the Convention on the Elimination of Discrimination against Women (CEDAW). Given the status of the ICCPR and CEDAW it is therefore relevant to consider their respective provisions in relation to the conduct of elections, not least because they represent key international standards for elections.

The legal framework meets many ICCPR obligations, but is lacking or inadequate in some key areas. Article 25 of the ICCPR states: *“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2¹ and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives, (b) To vote and to be elected at genuine² periodic elections which shall be by universal and equal suffrage and*

1. ICCPR Article 2.1: “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

2. For an election to be genuine, fundamental freedoms need to be respected and the elections be conducted in an accountable and transparent manner and with a real choice between political alternatives for voters
3. Article 6, Elections Act (2008).
4. Article 7, Elections Act (2008).
5. Article 26, Elections Act (2008).
6. Articles 36 and 37, Elections Act (2008).

shall be held by secret ballot, guaranteeing the free expression of the will of the electors". Other Articles of the ICCPR establish an obligation to provide for other basic freedoms, namely, freedom of expression, assembly, association and the right to an effective legal remedy, among others.

The Constitutional Order provides that seven members of the House of Assembly shall be directly elected. The legal framework largely provides for genuine, periodic elections and key freedoms of association, assembly, expression and movement are provided for, although it is lacking in other important aspects. Citizens of Anguilla are provided with the right to vote and in particular a right to a secret vote. There is also the provision for the right to an effective legal remedy.

However, the legal framework requires updating as there are compliance issues and omissions. Notably, equal suffrage is not provided for, there are limitations on the right to stand and there is a lack of regulation on campaign finance. Furthermore, there is no provision for the formal registration of political parties and no regulations concerning media coverage of elections. Other aspects of the regulatory framework could also be improved, notably the definition of voter eligibility which needs further clarification and the procedures for determining eligibility at the point of registration. This is in need of review in order to ensure integrity of the voter registration process.

With regard to CEDAW and the equal participation rights of women, Article 7(a) of the Convention states: *"States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies"*. There are no legal or administrative restrictions on women's full participation in elections, either as a voter or as a candidate.

ELECTION ADMINISTRATION

Elections are administered by a Central Electoral Office, headed by a Supervisor of Elections. The Supervisor is appointed by the Governor and is tasked with responsibility for exercising general direction and supervision over the administrative conduct of the elections and to ensure that election officers act fairly and properly apply regulations. The Supervisor may also issue to election officers any instructions considered necessary to ensure adherence to the provisions of the Elections Act.³ These responsibilities are purely technical in nature, and fairly narrow. For instance, the Supervisor does not appear to have any broader remit to make recommendations for changes to the electoral process.

The Supervisor of Elections appoints a Registration Officer for the purpose of voter registration.⁴ The Governor, on the recommendation of the Supervisor of Elections, appoints a Returning Officer for each Electoral District.⁵ Returning Officers are responsible for the nomination of candidates as well as the management of the voting and counting in their respective district. Presiding Officers and Poll Clerks are appointed, subject to approval of the Governor, by the Supervisor of Elections.⁶



AUF billboard on display near The Valley

The election administration is temporary, with serving public officials appointed to the role in tandem with their existing duties. For example, the Registration Officers were based in, and working for, the Passport Office. The Supervisor of Elections is a senior civil servant.⁷ While the scale of electoral operations may not justify a permanent election administration, the current system does raise some serious challenges, from both a technical and political perspective, which do need to be addressed in some form. The use of temporary staff has the benefit of enabling the use of senior and capable persons, but such persons do not necessarily have dedicated election expertise or exposure to electoral good practices from elsewhere in the region or beyond.

The problems inherent in such a temporary 'part-time' structure were most evident during the registration of voters when the number of staff able to fully and adequately administer the process was insufficient. Their task was hampered by the poor provisions; comments by the Magistrate regarding the poor quality of records and documentation provided by Registration Officers for complaints and appeals further attests to the lack of capacity in the existing structure (see below).

In such a small community, officials are prone to rumour and conjecture. The Mission heard quite a number of allegations that the Supervisor of Elections and Registration Officers were partisan. The Mission did not find any such problem of bias with the administration. However, this allegation, whether a perception or otherwise, tarnished the confidence in the Election Administration. Such a problem of perception can be endemic to a small community, and is exacerbated by the lack of a balanced and independent institution to manage the process. The lack of clarity in different aspects of the legal framework resulted in more discretionary powers for the election administration, which contributed to allegations of partiality.

The job of election officials was made more difficult by the late setting of the date of the election,⁸ which created some strains on planning.⁹ The election office was further hampered by lack of human and equipment resources. For instance, it lacked adequate facilities to print the voter register, which had to be printed in St Maarten/St Martin. Having said all of this, and notwithstanding concerns regarding the registration of voters, the Mission considers that overall the elections were well prepared, particularly in the management of nominations and polling and counting. This is a testimony to the work of the officials serving for these polls. The challenge going forward is to put in place structures and procedures which provide for a more robust arrangement.

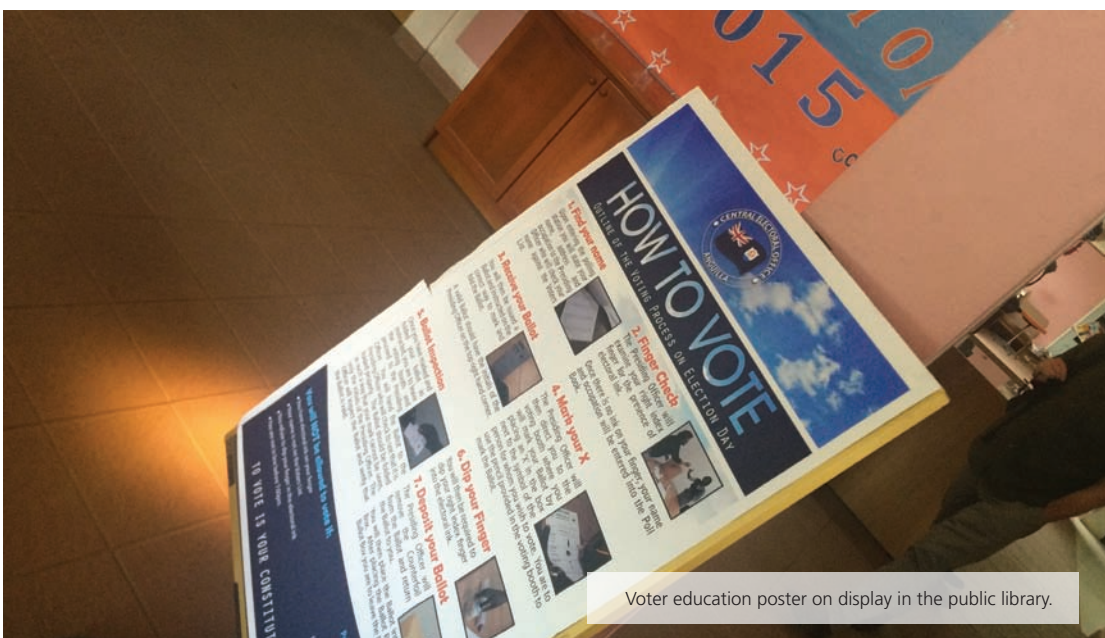
7. The Supervisor of Elections was Ms Aurjul Wilson, Permanent Secretary in the Ministry of Home Affairs.

8. The police also commented to the Mission that their planning for the election was made more difficult by the delay in setting the date.

9. The House of Assembly was dissolved on 25 February 2015, following a long anticipated wait. Many stakeholders commented to the Mission that the country had been in campaign mode for virtually a year. In the event, on 10 March 2014 the Governor's Office issued the election writs, announcing the date of the election to be 22 April 2015.

RECOMMENDATION 1

Authorities in Anguilla may like to consider a permanent or semi-permanent Election Office. This could help the officers assigned to this office to build experience and knowledge in running the election and also focus on the capacity building of such an office, notably with regard to specialist responsibilities such as voter registration and the administration of complaints and appeals.



Voter education poster on display in the public library.

VOTER REGISTRATION

Universal suffrage is provided for and voter registration is conducted on a continuous basis, with lists published on a quarterly basis for public review. The final Voter List, after all complaints and appeals had been addressed, contained the names of 10,908 persons.

According to Article 43 of the Constitutional Order, a person of at least 18 years of age is eligible to vote if they are: a British Dependent Territories citizen born in Anguilla, and domiciled there at the qualifying date; a person who belongs to Anguilla who has resided in Anguilla for a period of not less than twelve months immediately before the qualifying date, and is domiciled there at that date, and is the lawful spouse, widow or widower, or the son or daughter or the spouse of such son or daughter of a person who was born in Anguilla; a person who belongs to Anguilla who is domiciled in Anguilla and has resided there for a period of at least five years immediately before the qualifying date, and is at the qualifying date resident in the electoral district in which s/he claims to be registered. The same Article also states that *“every person who is qualified to be registered as a voter in any electoral district shall be entitled to be so registered provided that a person shall not be registered as a voter in more than one electoral district.”*

The issue of voter registration was a major talking point during the election and a number of concerns were raised. For instance, the Mission heard various complaints regarding the number of overseas Anguillans registered to vote, and the lack of scrutiny of applications by Registration Officers, as well as allegations of double registration and claims that some persons were registered in districts different to the one where they normally reside. All of these claims essentially reflect the fact that definitions in the law on eligibility are open to too broad an interpretation, current procedures for registration are too lax and Registration Officers do not have the capacity to adequately scrutinise and manage the process. In fact little or no scrutiny was made whatsoever to determine validity of Anguillans living abroad who registered to vote.

According to the 2011 census, 13,572 people resided on the island. Given that the number of registered voters for these elections was 10,908, it is clear that a significant number of Anguillans currently abroad were included on the list. While such persons may well be eligible, the manner in which registrations were conducted, together with the scale of such registrations, does raise concerns. At present the requirement for residency and to be domiciled are applied in a very liberal manner, and Registration Officers appear to take each registration at face value unless an objection is raised. Further, for these elections, as for previous polls, it seemed to be a common practice for political parties to visit neighbouring islands and beyond and then submit registration forms en masse on behalf of individuals living abroad. Such practices, which have been left unaddressed by both of the main parties while in government, exposes the process to abuse and need to be addressed. Considering that some seats in Anguilla are won (and lost) by a few votes the issue of *“imported voters”* needs to be dealt with as a matter of urgency. Given the nature of Anguillan society, a lot of people do move abroad for work, so a consensus needs to be reached as to what constitutes eligibility for voter registration in the country, so that the issue does not bedevil future polls.



Young AUF supporter at a rally.

As mentioned, there were also allegations of persons registering in a district different to their usual place of residence or even registering twice. Given the current manual registration, the election management body does not have the capacity to conduct a check of data across districts for double registrants. However, the use of indelible ink for voting should have addressed the potential for double voting. In terms of persons registering across district lines, again, the rather lax procedures and criteria for determining residence also facilitates this.

A number of the complaints and appeals related to voter registration. In fact up until the Monday before the election, the Appeals Court was dealing with a series of objections to the list. Most of these related to claims of people registering in the wrong district and to Anguillans currently living abroad. As a consequence the final list was only published two days before the poll, which is very late. Further, the Magistrate handling the cases was critical of the paperwork for the cases presented to court by Registration Officers, again highlighting the lack of capacity in managing this aspect of the process.

The Mission considers that the key problems with voter registration can be addressed by improving the legal framework and the associated procedures. Going forward, the stated intention to introduce Voter ID Cards is a welcome development, and should increase transparency and confidence. At the same time, the mission was surprised that a voter ID registration tent was set up on Election Day within the parameters of the airport to capture voters who arrived from overseas to vote. Given that the issue of "imported voters" is a major controversial issue, the mission was rather perplexed that this site was chosen to initiate the voter identity registration.

In terms of the future registration of voters, it is good practice to make eligible citizens present themselves in person to register and to require a higher level of proof regarding residency and domicile, based on more concrete and simple criteria in the law. The right to vote is an individual right and this should not be dealt with by parties on behalf of citizens. Further, the total number of voters in Anguilla is fairly modest, so a simple computer check against double registrants should be feasible.

RECOMMENDATION 2

The Voter register was inclusive and the right to vote was guaranteed. Regretfully the Final Voters Register was only published two days before the election which was far too late. Efforts should be made so that in future elections the Voters Register is finalised and published in adequate time before the election.



Head of Mission at the AUM rally.

RECOMMENDATION 3

Universal suffrage was guaranteed. Yet the liberal way in which Anguillans living abroad were allowed to register to vote en masse and subsequently cast their vote seriously tarnished the confidence in the Voter's List. Electoral legislation request "domicile and residency" in order to be able to register as a voter yet the law lacks clear criteria as how to determine "domicile and residency" resulting in broad discretionary powers to the Election Supervisor. The issue of "imported voters" has long been a contentious issue in Anguilla's elections and has been neglected by parties in government for far too long. The mission strongly believes that it is now time to address this issue once and for all. A bipartisan commission could be set up to determine clear criteria to determine who should be eligible to be registered as a voter and subsequently allowed to vote. Further, consideration should be given to requiring a person to have to make the application for registration in person, ending the practice of political parties submitting applications.

RECOMMENDATION 4

Voter identification is problematic in Anguilla. The fact that people know each other well does compensate for the absence of adequate voter identification. The introduction of indelible ink reduced considerably the risk of double voting. The intention of the Election Administration to introduce a Voter ID Card is a step in the right direction and all efforts should be made to have such a system in place before the next election



Voter displaying her inked finger, indicating she had voted.

BOUNDARY DELIMITATION

Under the current electoral system, Anguilla has seven election districts and each district elects one Member of the Assembly on a first past the post basis. The seven districts are as follows:

District No.	District Name	Registered Voters	% variance from ave ¹⁰
1	Island Harbour	1,696	+8.8%
2	Sandy Hill	964	-38%
3	Valley North	2,005	+28.6%
4	Valley South	2,355	+51.1%
5	Road North	1,187	-23.8%
6	Road South	1,718	+10.3%
7	West End	983	-36.9%
TOTAL:		10,908	

10. The average number of voters in each district is 1,558.

It is evident from the table above that equal suffrage is not provided for. The average number of voters per district is 1,558. Good electoral practice is for districts to be of roughly equal, in terms of numbers of registered voters, with an allowed variance of some 10%, or up to 15% given specific geographic challenges (which do not exist in the Anguillan context).

Rather like the issue of poor voter registration practices, this problem has been allowed to drift over the years, reflecting negligence by both of the main parties while in government. In fact the last boundary demarcation review was carried out in 1972. A mechanism should therefore be introduced for a regular review of the size of districts to ensure that equal suffrage is provided for. There has been some discussion locally about prospective changes to the electoral system. Whether the existing system is retained or a new system adopted, it is critical that the principle of equal suffrage is respected, so that each vote has roughly equal weight.

RECOMMENDATION 5

The high voter turnout and participatory engagement of Anguillans is commendable. This can be further enhanced if the universal principle of Equal Suffrage is ensured. This could be done by revising the Electoral Boundary Delimitation which was last reviewed in 1972 to address the alarming disparity of voters between one district and another which clearly defies the principle of Equal Suffrage whereby each vote should as much as possible have the same weight. Such boundary review should provide for greater parity of votes between one district and another.



Independent candidate Pam Webster leading her campaign motorcade.

11. General Comment 25 the UN Human Rights Committee (HRC) notes "No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of... national or social origin... Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25."

12. The HRC notes: "if there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions (e.g. the judiciary, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected [in ICCPR, article 25]."

CANDIDATE REGISTRATION

The election was competitive and freedom of association was respected. A total of 19 candidates contested the polls. The nomination process, which took place at the House of Assembly on 9 April 2015, was managed well and no complaints were received. Nominations were received by the Returning Officers in each electoral district. Chief Minister, Hubert Hughes, had written to the Governor advising her to appoint 14 April 2015 as nomination day, but she decided to choose an earlier date to allow more time for pre-election preparations.

The candidates nominated represented three different political parties, the Anguillan United Front (AUF), the Anguillan United Movement (AUM), and the Democracy, Opportunity, Vision & Empowerment (DOVE) Party, which was participating in an election for the first time, having been formed in March 2014. The AUF, whose symbol was "The Beacon" and whose campaign theme was "Growing hope, increasing opportunity, embracing our youth, caring for all", and the AUM, whose symbol was "The Tree" and whose campaign theme was "Roots of integrity, trunk of stability, branches of prosperity", both had candidates in all seven districts. The DOVE party, whose symbol was "The Dove" and whose slogan was "Love the dove, vote the dove", had candidates in three districts. There were two independent candidates, Palmavon Webster, who symbol was "The Fish" in District 1 – Island Harbour, and Stachel Warner in District 6 – Road South.

Members of the House of Assembly are constitutionally required to be at least 21 years of age and either born in Anguilla and domiciled there at the date of nomination for election, or been residing in Anguilla for a period of not less than three years immediately before the date of nomination, domiciled there at that date and to have at least one parent who was born in Anguilla. This additional requirement of heritage is restrictive of the right to stand.¹¹

The Constitution further stipulates that "no person shall be qualified to be elected" if he/she "holds or is acting in any public office..." As the Anguillan public service is estimated to be around 25 to 30 percent of the working population, this restriction on nomination affects a considerable proportion of the population, and thus may be regarded as unduly limiting the right to stand.¹² In addition, the Constitution forbids a minister of religion from standing for election, which may also be regarded as limiting the right to stand. Such restrictions also limit competent candidates from running for office.

RECOMMENDATION 6

While candidate registration was smooth, the right to stand for office which is a universal human right was compromised because civil servants, who constitute between 25 and 30% of the population of Anguilla, are barred from running for office unless they resign their post. Ministers of religion are also prohibited from running for office. Legal Amendments could be considered to allow civil servants to take unpaid leave to run for election and if unsuccessful will have the right to be reinstated in the same grade and pay. These legal amendments should also ensure the right of ministers of religion to contest election.

RECOMMENDATION 7

The Constitutional Order requires that a member of the House of Assembly has "to have at least one parent who was born in Anguilla". This additional requirement of heritage is overly restrictive to the right to stand and amendment may be considered to forfeit this requirement.

CAMPAIGN

Campaigning began more than a year before Election Day. The DOVE Party was the first to launch its campaign, on 2 March 2014, followed by the AUF on 26 April 2014 and the AUM on 3 May 2014. Campaigning quietened down for the period of Lent, during which the Governor dissolved the House of Assembly on 25 February 2015. On 10 March, she announced election date as 22 April, and after Easter the campaign increased in intensity, reaching a peak in the run up to voting.

The campaign was vibrant and peaceful and saw high levels of public engagement. Fundamental freedoms of assembly, expression and movement were respected. Parties and candidates were able to campaign freely throughout the country, holding rallies, which were carried live on radio, making door-to-door visits, organizing motorcades and putting up posters. Social media was widely used by candidates and political parties.

The political parties, as well as independent candidate Palmavon Webster, published and distributed detailed manifestos outlining policies they would seek to implement if elected. These covered proposed improvements in a wide range of areas, including the economy, financial services, employment, foreign investment, taxation, health, education, public sector, social benefits, infrastructure, transport, energy, environment, agriculture and fishing, crime reduction, tourism, family life, community services, gender equality and constitutional issues.

A number of public debates were held involving the party leaders and independent candidates, which were broadcast on radio and TV. Campaigning by the main parties focused more on personality rather than policy, including some inappropriate personal attacks. In a welcome development, the DOVE Party and the independent candidate Palmavon Webster focused on policy matters and sought to avoid personal attacks. The Mission observed a number of rallies, including at Little Dix and Blowing Point, where it witnessed examples of candidates from the AUF and AUM resorting to personal attacks at rallies. A number of interlocutors expressed concern to the mission about such personal attacks. The Police maintained a discreet, professional presence at campaign events.

As mentioned above, the legal framework lacks regulation on campaign financing. The Mission received a number of reports that parties and candidates were receiving large donations from business entities, underlining the need for greater transparency in campaign finance. The Mission also received multiple allegations that some political parties were providing air and sea transportation to voters living abroad to enable them to vote, repeating a practice that has reportedly been going on for some time. The Police confirmed that such allegations were rampant but difficult to prove as both those paying for and those receiving transportation would be liable for criminal prosecution. This demonstrates the need to both define the prohibition against treating in the Election Act more clearly and to investigate such allegations more thoroughly, with a view to bringing prosecutions if proof can be obtained.

In a welcome development in November 2014, the Deputy Governor issued *"Election Guidelines for the Anguilla Public Service"*, which provided instructions for the way in which members of the Anguilla public service should conduct themselves during the election period.¹³ These were issued to provide clear direction on matters pertaining to the conduct of public officers leading up to and during a General Election. The guidelines set out the expected behavior of public officers in relation to political activity, the use of government property, as well as communication with the media, political entities (parties and individuals) and the public leading up to a general election.

13. These supplemented section 3.25 to 3.27 on Engagement of Public Officers in Political Activities and Trade Union Affairs of General Orders for the Anguilla Public Service, which came into force on 1 December 2010 and were amended on 14 May 2014.



Voters queuing at a polling station on election day

When dissolving the House of Assembly, the Governor made clear that Ministers should refrain from initiating any action of a continuing or long-term character and that decisions on matters of policy, board appointments and other issues (for e.g. large and or contentious procurement contracts) on which a new Government could reasonably be expected to want the opportunity to take a different view from the present Government should be postponed until after the election.

RECOMMENDATION 8

There is no legal provision in Anguilla which enables registration of political parties. Consequently political parties are completely unregulated. In view of the fact that a tradition of political parties seems to be emerging in Anguilla, authorities might like to consider legal provisions which would allow for formal registration of Political Parties

RECOMMENDATION 9

It is our view that transparency could be enhanced if Campaign Financing is regulated obliging political contestants to declare donations which exceed a certain amount and impose a capping on the donation which could be accepted by the same source. It is also suggested that campaign expenditure should be regulated imposing a threshold on the amount which could be spent by a candidate and a political party.

RECOMMENDATION 10

Treating of voters before or during the election in exchange of votes is illegal. Yet the law fails to define what constitutes treating. For instance does the financing by political contestants for transportation of Anguillans living abroad to travel to Anguilla to vote (which is a rampant allegation in Anguilla) constitute treating? In order for this offence to be effective the law needs to be amended to clearly clarify what constitutes treating.



A polling station on election day.

MEDIA

Anguilla has a pluralistic media environment, which provides access to a broad range of political opinion. Radio is the most important media source, and includes Radio Anguilla, the state broadcaster, as well as Up Beat Radio, Kool FM and Klass FM, which are private stations. TV Anguilla, a private television station recently started broadcasting. In terms of print media, The Anguillan, a private newspaper is published weekly, and Anguilla News is a private internet source of news. The Daily Herald, a St Martin private newspaper, is published from Monday to Saturday.

The media is widely considered by both media outlets and political contestants to be able to work freely, without censorship, obstruction or interference. As mentioned, media coverage of the election campaign is not regulated and there are no requirements to ensure equal access to political contestants or balanced coverage. Nevertheless, the Mission received positive reports from across the political spectrum that Radio Anguilla, the state broadcaster, provided balanced coverage and access to political contestants. In terms of private media, TV Anguilla and The Anguillan newspaper were widely considered to have provided balanced coverage. The media provided extensive coverage of the campaign, including live radio broadcasts of campaign rallies every evening in the run-up to election day, paid for by parties and candidates. Radio and written media carried paid adverts for political parties and candidates.

14. Following election day, both the Governor and Supervisor of Elections wrote to the Commissioner and members of the Royal Anguilla Police Force to thank them for their hard work and professionalism during the election process, especially on polling day itself.

RECOMMENDATION 11

Media played an important role in assisting the people of Anguilla to make an informed choice. Despite the total lack of media regulation, the media in Anguilla provided a fair and well balanced election reporting. Yet the Mission believes that the goodwill and responsibility shown by the media in this election could offer the impetus to introduce regulations which would oblige by law all media outlets to guarantee fair access to all political contestants running for future elections.

VOTING AND COUNTING

On election day Anguillans turned out in large numbers to vote. The process was peaceful and well managed by diligent polling staff, who had received training from the Supervisor for Elections. The police also played a very positive but unobtrusive role through their calm presence at polling centres to maintain order.¹⁴ Polling procedures are cumbersome, resulting in a fairly slow process, but polling officials followed them rigorously. Voters were free to express their will and cast their vote in secret. Indelible ink was applied to all voters observed.

Candidate agents were present in all polling stations and international observers were granted the right of access to all polling stations. Despite the problems in finalising the voter list, it proved quite reliable, with voters finding their names at their allocated polling station. The signage at each station, informing voters of where to vote, was excellent. However, the process for establishing the identity of voters needs to be strengthened, underlining the importance of having voter ID cards ready for the next election.

The cumulative effect of the large turnout and the rather slow voting process, together with imbalances between the numbers of voters allocated to each polling station meant that at many polling stations there were large queues during the day, resulting in many people having to wait several hours to cast their vote. In some places there were still queues at 7pm and polling continued for up to three hours to enable people to vote.

Ballots were transported by police to the counting centre. The counting process by Returning Officers was extremely transparent, with each ballot called out to assembled candidates' agents, media and observers. A total of 7,989 votes were cast out of 10,908 registered voters, resulting in a high turnout of 73.24 per cent. There were 46 rejected votes.

RECOMMENDATION 12

Polling was transparent and orderly but long queues were reported and some Polling Stations, rightly so, extended their time past the official closing time in order to allow voters who were still queuing at 7pm to vote. Consideration could be given as to how to reduce waiting times for voters. For instance, more poll staff could be deployed to each station to speed up the voting process, the number of polling stations could be increased and more care can be taken in ensuring a more balanced distribution of voters between polling stations.

RESULTS

The AUF gained 4,324 votes (54.44 per cent) and six seats (an increase of four seats). The AUM gained 3,039 votes (38.26 per cent) and no seats (a loss of four seats). The DOVE Party gained 110 votes (1.38 per cent) and no seats. Palmavon Webster, an independent candidate, gained 460 votes and was elected, while another independent candidate, Stachel Warner, gained 10 votes and was not elected. The closest contest was in the Road North constituency, where the AUF candidate won by a single vote against the AUM candidate. Following the elections, Victor Banks of the AUF was sworn in as the new Chief Minister.

COMPLAINTS AND APPEALS

Complaints about voter registration issues can be made to the Registration Officer and an appeal on the decision can be made to the Appeals Court, presided over by a local Magistrate. There were over 170 objections to the preliminary voter list and 31 cases were taken to Court. Based on proceedings in the Court it seems that the objections were not well administered by the Registration Officer. A petition against an election result can be submitted to the High Court within 21 days of the announcement of the result. There is no time limit for a ruling to be made, but the Mission was assured it is customary practice in Anguilla, and the Caribbean more broadly, for election cases to be heard expeditiously and given priority over other cases. No petition against the election result was filed.

PARTICIPATION OF WOMEN

There are no legal or administrative impediments to women voting or participating in political life as a candidate. Further, while CEDAW has not yet been applied to Anguilla, the Mission was assured that good progress is being made in this regard.

Women played a fairly prominent role in this election. The senior election management team were all female as were the overwhelming majority of Returning Officers, Presiding Officers and Poll Clerks.

With regard to women participating as candidates, the Mission was informed on a number of occasions that women may be somewhat deterred by the rather harsh and personalised tone and character of campaign rhetoric. However, the 2015 election was historic in that for the first time three women were elected to the House of Assembly. The AUF had two women candidates, the AUM had one and one ran as an independent. Both of the AUF candidates were elected as was the independent female candidate.

ACKNOWLEDGEMENTS

The Mission would like to thank Her Excellency the Governor for her invitation and for the support of her good offices. We would like to thank the former Government and Opposition for supporting the invitation and the Electoral Office for their cordiality and cooperation. During our very brief stay in Anguilla we were very well received and we are all overwhelmed by the warm welcome of the people of Anguilla.

RECOMMENDATIONS

1. ELECTION ADMINISTRATION

Authorities in Anguilla may like to consider a permanent or semi-permanent Election Office. This could help the officers assigned to this office to build experience and knowledge in running the election and also focus on the capacity building of such an office, notably with regard to specialist responsibilities such as voter registration and the administration of complaints and appeals.

2. VOTERS REGISTRATION

The Voter register was inclusive and the right to vote was guaranteed. Regrettably the Final Voters Register was only published two days before the election which was far too late. Efforts should be made so that in future elections the Voters Register is finalised and published in adequate time before the election.

3. UNIVERSAL SUFFRAGE

Universal suffrage was guaranteed. Yet the liberal way in which Anguillans living abroad were allowed to register to vote en masse and subsequently cast their vote seriously tarnished the confidence in the Voter's List. Electoral legislation requests "domicile and residency" in order to be able to register as a voter yet the law lacks clear criteria as how to determine "domicile and residency" resulting in broad discretionary powers to the Election Supervisor. The issue of "imported voters" has long been a contentious issue in Anguilla's elections and has been neglected by parties in government for far too long. The mission strongly believes that it is now time to address this issue once and for all. A bipartisan commission could be set up to determine clear criteria to determine who should be eligible to be registered as a voter and subsequently allowed to vote. Further, consideration should be given to requiring a person to have to make the application for registration in person, ending the practice of political parties submitting applications.

4.. VOTERS IDENTIFICATION

Voter identification is problematic in Anguilla. The fact that people know each other well does compensate for the absence of adequate voter identification. The introduction of indelible ink reduced considerably the risk of double voting. The intention of the Election Administration to introduce a Voter ID Card is a step in the right direction and all efforts should be made to have such a system in place before the next election

5. BOUNDARY DELIMITATION

The high voter turnout and participatory engagement of Anguillans is commendable. This can be further enhanced if the universal principle of Equal Suffrage is ensured. This could be done by revising the Electoral Boundary Delimitation which was last reviewed in 1972 to address the alarming disparity of voters between one district and another which clearly defies the principle of Equal Suffrage whereby each vote should as much as possible have the same weight. Such boundary review should provide for greater parity of votes between one district and another.

6. CANDIDATE REGISTRATION

While candidate registration was smooth, the right to stand for office which is a universal human right was compromised because civil servants, who constitute between 25 and 30% of the population of Anguilla, are barred from running for office unless they resign their post. Ministers of religion are also prohibited from running for office. Legal Amendments could be considered to allow civil servants to take unpaid leave to run for election and if unsuccessful will have the right to be reinstated in the same grade and pay. These legal amendments should also ensure the right of ministers of religion to contest election.

7. RIGHT TO STAND

The Constitutional Order requires that a member of the House of Assembly has "to have at least one parent who was born in Anguilla". This additional requirement of heritage is overly restrictive to the right to stand and amendment may be considered to forfeit this requirement.

8. POLITICAL PARTIES

There is no legal provision in Anguilla which enables registration of political parties. Consequently political parties are completely unregulated. In view of the fact that a tradition of political parties

seems to be emerging in Anguilla, authorities might like to consider legal provisions which would allow for formal registration of Political Parties

9. CAMPAIGN

It is our view that transparency could be enhanced if Campaign Financing is regulated obliging political contestants to declare donations which exceed a certain amount and impose a capping on the donation which could be accepted by the same source. It is also suggested that campaign expenditure should be regulated imposing a threshold on the amount which could be spent by a candidate and a political party.

10. TREATING

Treating of voters before or during the election in exchange of votes is illegal. Yet the law fails to define what constitutes treating. For instance does the financing by political contestants for transportation of Anguillans living abroad to travel to Anguilla to vote (which is a rampant allegation in Anguilla) constitute treating? In order for this offence to be effective the law needs to be amended to clearly clarify what constitutes treating.

11. MEDIA

Media played an important role in assisting the people of Anguilla to make an informed choice. Despite the total lack of media regulation, the media in Anguilla provided a fair and well balanced election reporting. Yet the Mission believes that the goodwill and responsibility shown by the media in this election could offer the impetus to introduce regulations which would oblige by law all media outlets to guarantee fair access to all political contestants running for future elections.

12. POLLING

Polling was transparent and orderly but long queues were reported and some Polling Stations, rightly so, extended their time past the official closing time in order to allow voters who were still queuing at 7pm to vote. Consideration could be given as to how to reduce waiting times for voters. For instance, more poll staff could be deployed to each station to speed up the voting process, the number of polling stations could be increased and more care can be taken in ensuring a more balanced distribution of voters between polling stations.

CONTACT US

Members of the Election Observer Mission would welcome feedback to this report and its findings. Please contact the Head of Mission at the following email address:
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CPA BIMR ELECTION SERVICES

The central aim of the BIMR strategy is to promote knowledge and understanding of constitutional, legislative, economic, social and cultural aspects of parliamentary democracy within the Commonwealth. By promoting close relations and cooperation between its branches and other CPA Regions, the BIMR works to build informed parliamentary communities within the Region and across the Commonwealth. Its two key outputs are in promoting gender equality through its Commonwealth Women Parliamentary (BIMR CWP) activities and its strengthening democracy through EOMs.

Our first foray into EOMs was in November 2011 when we coordinated the first ever EOM to the Virgin Islands (UK) and more recently to Anguilla in April 2015. These unique and historic missions were conducted to the highest standards in partnership with regional organisations like CARICOM, ERIS and ACEO.

CPA BIMR Secretariat