

**THE JOINT ELECTION OBSERVER MISSION TO THE
TURKS & CAICOS ISLANDS ELECTIONS CONDUCTED
BY
THE COMMONWEALTH PARLIAMENTARY
ASSOCIATION BRITISH ISLANDS & MEDITERRANEAN
REGION
(CPA BIMR) AND THE ASSOCIATION OF CARIBBEAN
ELECTORAL ORGANIZATIONS (ACEO)**

**Turks and Caicos Islands
9 November 2012 Legislative Assembly
Elections**



FINAL REPORT

London 31 January 2013

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I. EXECUTIVE SUMMARY

The 9 November 2012 elections in the Turks & Caicos Islands (TCI) were an important step in returning to democratically elected government. The Legislative Assembly was dissolved in 2009 following the publication of the Commission of Inquiry's report on corrupt practices by senior members of the last elected government.

The voters had a genuine choice from amongst 26 candidates contesting the 10 seats elected in single mandate districts and 11 candidates running for 5 seats in "all islands" district. The candidates represented all three political parties; there were also two non-party candidates.

The election process was transparent and accountable. Voting took place in an orderly manner despite organisational shortcomings. Observers visited all 17 polling stations (some of them several times) and evaluated the process as good or very good in the majority of cases. However, despite efforts and professionalism of election officials, time-consuming voting procedures resulted in long lines at most polling stations visited. Secrecy of the vote was of concern as voter registration number was handwritten on each ballot potentially allowing for disclosure of voter's choice during the count or after the elections.

The counting of votes was conducted in a largely transparent manner in the presence of candidates, party agents and observers although there was a degree of variation of counting procedures adopted by election officials. Following a request from one of the candidates, a recount of "all islands" votes took place in Grand Turk on 12 November 2012. The outcome of the elections did not change.

The elections were governed by new legislation, including Turks & Caicos Constitution Order (2011) as well as the Electoral Ordinance and the Political Activities Ordinance both adopted in 2012. While in the past 15 members of the Legislative Assembly were elected in single mandate constituencies, the new Constitution Order modified the electoral system providing for 10 members to be elected in single-mandate districts and five elected in "all islands" constituency.

In a welcome development, the new Political Activities Ordinance introduced strict regulations on campaign activities to address problems identified in previous elections. Parties and candidates campaigned through advertisements in the media, posters, door-to-door meetings with voters and rallies. According to the new regulations, distribution of free food and alcohol to voters was prohibited. Prior to the elections, all three parties signed the Code of Conduct issued by the Integrity Commission.

The elections were administered by election officials appointed by the government – one Supervisor for Elections responsible for the whole territory and 11 Returning Officers organising elections on a district level. Presiding Officers (26) and Poll Clerks (26) were in charge of voting and counting in 17 polling stations established across TCI. The election officials had to cope with

short deadlines. This at times led to criticism by some political parties which complained about insufficient consultations, particularly regarding voter registration.

Only adult persons who have a Belonger (“islander”) status can register as voters in the Turks and Caicos Islands. Thus, only 7,250 persons are qualified to vote out of a permanent population of over 30,000.

The delineation of new constituencies required an assignment of voters to the new 10 districts. Some parties expressed concerns about last-minute shifts of voters between constituencies. There was also a significant discrepancy in the numbers of voters assigned to each constituency. While on average there should be around 700 voters in each district, the biggest constituency had 983 voters while the smallest had only 373. The law requires that the maximum difference of the number of voters per constituency should not exceed 15 per cent.

Three formal complaints (petitions) were submitted after the elections alleging election-related corrupt practices and the ineligibility of one candidate. All three cases are pending resolution in the courts.

II. MISSION INFORMATION

The Election Observation Mission to TCI was led by Hon. Joe Bossano MP (Gibraltar) and was composed of Mr. James Duddridge MP (UK) and Mr. Thomas Docherty MP (UK) representing CPA BIMR, Ms. Juliette Penn (British Virgin Islands), Mr. Keith Lowenfield (Guyana), Mr. Gasper Jn Baptiste (St Lucia) and Reverend Lenworth Hayworth Sterling (Jamaica) representing the Association of the Caribbean Electoral Organizations and Mr. Konrad Olszewski, Senior Independent Adviser (Poland).

The mission arrived in TCI on 6 November 2012. The observers met with representatives of all three political parties and the election administration. Some observers also monitored a political rally. On Election Day, observers visited all polling stations in TCI.

III. VOTING, COUNT AND RECOUNT OF VOTES

Voting took place in an orderly manner despite organisational shortcomings. During the course of voting, observers visited all 17 polling stations (some of them several times) and evaluated the process as good or very good in the majority of cases.

The voting process was transparent and accountable and there were examples of very well organised polling stations. No one was observed voting more than once, and no incidents were noted of anyone trying to inappropriately influence voters on whom to vote for. Ballot boxes were properly sealed in all polling stations visited. Procedural steps were generally followed – voters’ fingers were inked and identification documents checked in nearly all cases.

However, despite the efforts and professionalism of election officials, time-consuming voting procedures resulted in long lines in most polling stations visited. The processing of voters was very slow; frequently it took 5 minutes for one voter to vote. A number of details regarding voter identity had to be handwritten in the poll book and on a counterfoil of each ballot. In addition, after marking their ballots, voters had to return to poll workers for verification of data on counterfoils.

Observers noted problems with queue control in many polling stations visited. While polling station layout was generally adequate, in many overcrowded polling stations party agents did not have a clear view of voting procedures. There were also occasional disputes between election officials and candidate agents regarding organisation of voting and/or applicable procedures. Police were present inside most polling stations visited but they were not seen as interfering in the voting process. There were only isolated cases of campaign posters and campaigning observed in the vicinity of polling stations.

Secrecy of the vote was of concern. Firstly, voter registration number was handwritten on each ballot, potentially allowing for disclosure of voter's choice during the count or after the elections. Secondly, due to ballot design and folding instructions, the way voters marked their ballots was occasionally exposed before casting ballot. Moreover, voters had to hand over marked ballots to poll workers for inspection of counterfoil before placing them in the boxes.

Four prisoners were eligible to vote. All of them were transported on Election Day to their official residential address at the time of voter registration earlier in 2012 (Grand Turk and Providenciales). Given the clear view of the House of Commons against prisoners voting in UK elections, this was rather a surprising development.

The counting of votes was conducted in a largely transparent manner in the presence of candidates, party agents and observers. Despite a degree of variation of counting procedures adopted by election officials, votes were counted accurately and results reported without delays.

Following a request from one of the candidates, a recount of "all islands" votes took place in Grand Turk on 12 November 2012. The ballot boxes were brought by the police and there was no indication of tampering with the sensitive election material. The recount was generally organised efficiently and transparently. The outcome of elections did not change.

IV. POLITICAL BACKGROUND

The 9 November 2012 elections to the Legislative Assembly (House of Assembly) marked a return to an elected administration for the first time since August 2009.

The Legislative Assembly was dissolved in 2009 following the publication of a substantial 265-page report by the Commission of Inquiry on corrupt practices by senior members of the last elected government led by the Peoples National Party.

The report alleged “possible corruption and/or other serious dishonesty, including misfeasance in public office”.¹ Most of the concerns referred to poor financial management and permissions for foreign investments to develop Crown Land. As a result, thirteen former ministers, public officials and businessmen currently face a variety of charges following lengthy and detailed investigations by the Special Investigations and Prosecution Team.

The organisation of 2012 elections was in line with the UK government’s commitment to return the government of TCI to a locally elected administration as soon as practicable. The elections represented also a significant step in the fulfilment of a programme of economic stabilisation, the introduction of sound financial management and the extensive reform of the public service required by eight “Ministerial milestones” (plan of reforms) published in December 2010.

V. ELECTION LEGISLATION AND THE ELECTORAL SYSTEM

The elections were governed by new legislation, including Turks & Caicos Constitution Order (2011) as well as the Electoral Ordinance and the Political Activities Ordinance both adopted in 2012.

The Constitution Order, approved following a 15-month consultation period, modified the electoral system for Legislative Assembly elections. The Assembly has 19 members – 15 elected and four appointed by the Governor after the elections (two at his own discretion, and two following consultations with the new Prime Minister and leader of the opposition).

While in the past the 15 members were elected in single mandate constituencies in a first-past-the-post system, the new Constitution Order provided for 10 members to be elected in single-mandate districts and 5 elected in “all islands” constituency, also in a first-past-the-post system. Thus, voters received two ballots – one for their district and one for “all island” constituency. They could mark one candidate of their choice in their district and up to five candidates contesting the “all-island” constituency.

¹ The report is available at <http://turksandcaicosislands.fco.gov.uk/resources/en/pdf/2011/commission-of-inquiry/inquiry-report.pdf>

The new system was expected to achieve a more representative parliament and the possibility of a more proportional result. Some of the political parties met by the Election Observation Mission expressed concerns about the recent modifications of the electoral system.

The new Constitution Order also introduced some changes relating to other electoral matters such as the qualification and disqualification of candidates, declarations by candidates and appointed members, qualification of electors and constituency boundaries.²

The Electoral Ordinance was drafted with the assistance of the Westminster Foundation for Democracy. The Ordinance was generally based on the previous election law, providing for organisation of elections largely based on a UK model including similar election administration and voting systems.

In a welcome development, the new Political Activities Ordinance introduced strict regulations on campaign activities to address problems identified in previous elections. The Ordinance regulated the financing of election campaigns thus increasing the transparency and levelling the playing field amongst parties and candidates.

While there are no limits on total donations received by political parties and candidates, individual donations from residents or companies could not exceed 30,000 USD. The campaign spending ceilings for parties and independent candidates were: 30,000 USD in each electoral district contested by a party or an independent candidate and 40,000 USD for each candidate in “all islands” district. In addition, each party could spend up to 100,000 USD for the promotion of a party leader. In total, each political party could not spend more than 600,000 USD for campaigning.

The campaign donations and expenditures are public. Reports about all donations received are submitted to a newly appointed Integrity Commission and published weekly before the elections. Parties and independent candidates are also obliged to submit reports about their expenditures 3-6 months after the elections (depending on the amount spent).

VI. CANDIDATE REGISTRATION AND CAMPAIGN

The voters had a genuine choice from amongst candidates. Three parties contested the election, including two older parties – Peoples National Party (PNP) and Peoples Democratic Movement (PDM) as well as a newly established Peoples Progressive Party (PPP), consisting of a mainly Haitian born leadership who wanted to offer a third choice to voters.

Candidate registration was inclusive. No candidate was denied registration and no one was challenged during the five-day challenge period before they were placed on the ballot. A comprehensive nomination pack produced by the

² See Constitution Articles 45-50, 55, and 60-61. The Constitution is available at <http://www.legislation.gov.uk/ukxi/2011/1681/made>

government was made freely available to all parties, candidates and the media. The closing date for candidate nominations was 25 October.

Twenty six candidates registered to contest the 10 seats elected in single mandate districts and 11 candidates ran for five seats “all islands” district which offered voters a genuine choice from amongst a plurality of political options. In addition to candidates representing political parties, there were two non-party candidates - one in all-island district and one in Election District #5.

Parties and candidates campaigned through advertisements in the media, posters, door-to-door meetings with voters and rallies. According to the new regulations, distribution of free food and alcohol to voters was prohibited. In a welcome development, prior to the elections, all three parties signed the Code of Conduct issued by the Integrity Commission.

The three competing parties produced statements of policies/manifestoes only in the last week of the election campaign. They generally sought to highlight similar policies, namely: grow the economy by increasing development and inward investment; improve education standards and increase the number of scholarships to universities; increase belonger employment (sometimes with intentions to increase public sector employment that was seen by many as unsustainable); change the present health contract; restrict immigration to TCI; and several promises to expand TCI’s infrastructure.

VII. ELECTION ADMINISTRATION

Similarly to the UK and to other UK Overseas Territories, the elections were administered by election officials appointed by the government – one Supervisor for Elections responsible for the whole territory and 11 Returning Officers organising elections on a district level. Presiding Officers (26) and Poll Clerks (26) were in charge of voting and counting in 17 polling stations established across TCI. In general, there were two election officials in each polling station (one Presiding Officer and one Poll Clerk) but a few larger polling stations were split and thus required more polling staff. The majority of election officials were women.

The election administration had to cope with short deadlines. This at times led to criticism by some political parties complaining about insufficient consultations, particularly regarding voter registration.

Following the introduction of a new voting system (two ballots) and new constituency delineation, the election administration organised a voter information campaign with leaflets and visits. Information on identification required to vote and how to properly mark ballots was also broadcast on radio and television. In addition, the Supervisor and Training Officer visited each Island and held meetings with voters on various electoral issues, including on how to mark ballot papers so that they will not be spoiled or rejected. Political parties and media were also active in getting this message across.

According to the interlocutors, one and a half days' training for Presiding Officers and Poll Clerks was conducted by the Supervisor and a Training Officer in Grand Turk (for staff from Grand Turk, Salt Cay and South Caicos) and in Providenciales (for Middle and North Caicos and Providenciales).

VIII. SUFFRAGE RIGHTS

Only people who have a Belonger ("islander") status and who on Election Day are 18 years old or above can register as voters in TCI.³ In addition, there is a residence requirement - an aggregated 12 months residence in TCI in the two years preceding the elections. This requirement however does not apply to voters who are members of Her Majesty's Forces, are working abroad on Government business or studying abroad. Citizens certified to be insane, serving a sentence of imprisonment for a term of at least 12 months, and those convicted for an offence relating to elections are disenfranchised.

According to the law⁴, the Belonger status could be obtained by a person who:

- was born in TCI, and at the time of his/her birth at least one of his/her parents had belonger status,
- was born outside TCI and at least one of his/her parents had belonger status at the time of his/her birth and at least one of his/her parents was born on the Islands,
- was born outside TCI and lawfully adopted by a person who had belonger status,
- has been granted a Certificate of Belonger Status by the Governor for having made a significant social or economic contribution to the development of the islands, or
- is the spouse of a belonger who has made an application for belonger status and has lived with his/her spouse for a period of five consecutive years.

According to the census conducted in 2012, total population in TCI was 31,458. Over 12,000 of them self-declared their Belonger status whilst others were British Overseas Territory citizens or foreign nationals who reside in TCI. From those who declared their Belonger status, 9,853 were adult persons thus potentially qualifying to vote.

However, the total number of voters announced before the elections was 7,250, more that 2,600 lower that the number of persons who declared their Belonger status during the census. Apparently, some of the Belongers refused to register to vote due to religious (Jehovah Witnesses) or other reasons. Moreover, no attempt was made in the census to verify applicants' declarations and some persons could believe that they were Belongers whilst *de facto* they did not meet the legal requirements to obtain such status.

³ Article 55 of the Constitutional Order.

⁴ See Immigration Ordinance available at <http://www.immigrationboard.tc/content/root/files/20070802123946-immigrationordinance.pdf>

IX. VOTER REGISTRATION

Citizens could register to vote when they applied for confirmation of their Belonger status with the Ministry of Border Control and Labour. People who wanted to enroll were required to complete elections registration application and, if their status was approved by Border Control, their names were added to the voters list.

The voter registration process commenced on 16 April 2012 and concluded on 29 June 2012. The preliminary voters list was published on 24 July 2012 and the final register was published on 1 October 2012. As a result of late approval of voters by the Ministry of Border Control, a supplementary voters' register was created on 12 October 2012. After the publication of the voters list and supplementary register, a claim and objection process was conducted. The final voter register to be used in the elections was published only on 6 November, two days before the elections.

The Election Observation Mission noted limited confidence of political parties in the integrity of the voter registration. The delineation of new constituencies required assignment of voters to the new 10 districts. Some parties expressed concerns about last-minute shifts of voters between the constituencies. Apparently, there were 146 voters who were assigned to incorrect districts. This mistake was corrected by the election administration and the register of voters was amended accordingly. Elections Office staff contacted these voters directly to inform them about the changes. A corrected voter register was shared with the political parties shortly before the elections.

There was also a significant discrepancy in the numbers of voters assigned to each constituency. While on average there should be around 700 voters in each district, the biggest constituency had 983 voters while the smallest had 373. The law requires that the maximum difference of the number of voters per constituency should not exceed 15 per cent.

The delineation of the new constituencies was done on the basis of the recommendations by the Independent Boundaries Commission which suggested that there was a need to ensure adequate representation of five smaller islands. The parties accepted these recommendations. Furthermore, the Commission defined the electoral boundaries on the basis of census population data where respondents self-declared their Belonger status, while the final number of voters in each electoral district was based on voter registration where Belonger-ship had to be verified.

X. COMPLAINTS AND APPEALS

Following the elections, there were three formal complaints (petitions) submitted to the courts regarding elections in single electoral districts (ED1 – Grand Turk, ED4 - Middle and North Caicos and ED7 - Cheshire Hall and Richmond Hills, Providenciales). While two petitions alleged election-related corrupt practices, one complaint was related to alleged ineligibility of one

candidate who was a US passport holder. All three cases are pending resolution in the courts at the time of drafting of this report.

There were no challenges to the all-islands district recount results.

XI. RECOMMENDATIONS

1. Organisation of the voting process should be reconsidered with the view of streamlining and simplification. It would be recommendable to employ more poll workers in bigger polling stations.
2. Voting procedures should be changed to ensure secrecy of the vote. Consideration should be given to abandoning the requirement that a voter registration number be handwritten on each ballot and that voters hand over marked ballots to poll workers before placing them in the boxes.
3. Training of election officers should be strengthened and a more user-friendly election procedures manual should be produced before the next elections.
4. Despite recent improvements, the Elections Ordinance remains unclear in many aspects such as the voting and counting procedures, and in general would benefit from a thorough review and modernisation.
5. Given that a new and complete data of persons with Belonger status is now available, constituency delineation should be reconsidered to ensure more equal representation of voters.
6. A final list of voters should be published at a sufficient time before the elections. There is a balance that needs to be struck between completeness of register and providing certainty to candidates and to the voters about who can vote and where they should vote.

ANNEX. FINAL RESULTS

Results for “all island” constituency:

NAME OF CANDIDATE	POLITICAL PARTY	ED1	ED2	ED3	ED4	ED5	ED6	ED7	ED8	ED9	ED10	Totals
Sharlene Robinson	PDM	360	568	134	267	343	332	419	330	375	272	3400
Rufus Ewing	PNP	393	308	232	276	369	361	451	329	342	225	3286
Derek Taylor	PDM	335	525	125	241	312	319	383	330	346	262	3178
Charles Misick	PNP	330	300	216	267	368	354	444	320	306	202	3107
Josephine Connolly	PDM	301	512	115	232	298	304	383	328	348	228	3049
Carlos Simons	PNP	367	290	214	240	325	332	414	280	294	185	2941
Samuel Harvey	PDM	282	478	118	227	276	281	334	320	352	233	2901
Oswald Skippings	PDM	307	500	118	234	270	267	335	310	332	229	2902
Wayne Garland	PNP	327	259	211	252	310	324	388	276	289	177	2813
Royal Robinson	PNP	353	259	206	258	291	298	361	252	276	166	2720
Oswald Simons	IND	29	32	9	12	18	41	51	14	18	5	229
Total												30526
Rejected		6	4	5	2	4	10	20	36	1	0	88
SPOILED		1	0	1	0	0	0	12	0	6	1	21
No. of Ballots Cast		3391	4035	1704	2508	3184	3223	3995	3125	3285	2185	
Electorate	7245											

Results from 10 single-mandate constituencies:

Electoral District	Political Party	Candidate	Results	Registered Voters	No. of Voters	Percentage Turnout
ED1	P.N.P	George Lightbourne	353	765	689	90.07
	P.D.M	Derek Rolle	336			
ED 2	P.D.M	Edwin Astwood	524	925	816	88.22
	P.N.P	Rex Swann	292			
ED 3	P.N.P	Norman Saunders	219	373	352	94.37
	P.D.M	Edith Cox	132			
ED 4	P.N.P	Ricardo D.H Gardiner	261	564	511	90.60
	P.D.M	Ashwood Forbes	250			
ED 5	P.N.P	Akierra Missick	337	721	646	89.60
	P.D.M	Ezra Taylor	305			
	IND	Benneth William	4			
ED 6	P.D.M	Sonny Forbes	294	800	665	83.13
	P.N.P	Porsha Stubbs	335			
	P.P.P	Dorell Smith Delancy	36			
ED 7	P.P.P	Edward Smith	58	983	816	83.01
	P.N.P	Amanda Missick	394			

	P.D.M	Oral Selver	364			
ED 8	P.P.P	Wendal Wilson	84	784	663	84.57
	P.N.P	Adrian Williams	232			
	P.D.M	Goldray Ewing	347			
ED 9	P.N.P	Thomas Clay Ewing	253	844	703	83.29
	P.D.M	Sean Astwood	347			
	P.P.P	Harold Charles	103			
ED 10	P.D.M	Vaden Delroy Williams	265	486	451	92.80
	P.N.P	Gregory Lightbourne	157			
	P.P.P	Zhivargo Jolly	29			
Totals			6125	7245	6312	87.96