

The Commonwealth of The Bahamas General Election

16 September 2021



The Commonwealth

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Map of The Bahamas



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Acronyms and abbreviations

BCP	Bahamas Constitution Party
BWFM	Bahamian Way Forward Movement
CARICOM	Caribbean Community
CBL	Cable Bahamas Limited
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
COG	Commonwealth Observer Group
COI	Coalition of Independents
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
DNA	Democratic National Alliance
FNM	Free National Movement
FTMMP	Faith That Moves Mountains Party
GCP	Grand Commonwealth Party
ICCPR	International Covenant on Civil and Political Rights
JCN	Jones Communication Network
KGM	Kingdom Government Movement
PLP	Progressive Liberal Party
PRD	Parliamentary Registration Department
PWD	Persons with Disabilities
RGM	Righteous Government Movement
TSM	Temporary Special Measure
UCP	United Coalition Party
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
URCA	Utilities Regulation and Competition Authority
ZNS	Zephyr Nassau Sunshine

Letter of transmittal



The Commonwealth

**COMMONWEALTH OBSERVER GROUP
THE COMMONWEALTH OF BAHAMAS GENERAL ELECTION
16 SEPTEMBER 2021
LETTER OF TRANSMITTAL**

23 September 2021

Dear Secretary-General,

I am pleased to forward to you the final report of the Commonwealth Observer Group you constituted to observe the 2021 General Election in The Commonwealth of The Bahamas, for onward transmittal to the Government, political parties and other stakeholders.

It was my privilege to chair this eminent group of experts from different regions of the Commonwealth. We were profoundly appreciative of the warm welcome extended to us by all Bahamians we interacted with across the country. In accordance with our mandate, we assessed these elections against the national, regional and international laws and values to which The Bahamas has committed itself.

The fundamental freedoms of association, expression, assembly and movement were broadly respected, and political parties were generally able to freely convey their messages to the voters. Noting the electoral history of The Bahamas, the people have once again demonstrated their commitment to the Commonwealth's fundamental values of democracy by ensuring a credible, transparent and inclusive election on 16 September 2021, especially bearing in mind the considerable challenges confronting The Bahamas in the face of a snap election, as well as dealing with the aftermath of Hurricane Dorian and the ongoing coronavirus pandemic.

We note that the previous incumbent Prime Minister conceded defeat on the evening of Election Day itself, before the results process had concluded formally, but when the emerging outcome was already clear. The graciousness which he displayed, and equally the magnanimity and spirit of inclusivity evident in the speech of the incoming Prime Minister, are to be lauded. These are defining features of a healthy democracy.

We are of the view that any shortcomings identified in the management of these elections can and should be addressed through open, transparent and inclusive dialogue with relevant stakeholders, including through other appropriate domestic mechanisms to take forward the recommendations being proposed. In particular, the Group would like to reiterate three key recommendations of the 2017 Commonwealth Observer Group:

- The establishment of an independent election management body, in order to strengthen adherence to international good practice;
- Statutory provisions for the registration and reporting requirements of political parties;
- Enactment of legislation regulating the financing of political parties and election campaigns.

We urge all stakeholders and citizens of The Bahamas to seriously consider these three recommendations that, we feel strongly, would greatly enhance the democratic credentials of The Bahamas and align them with international best practices.

We are mindful that our value as election observers lies in providing observations and recommendations that can contribute to an enhanced democratic culture in The Bahamas. In this respect, we urge the Commonwealth and other international partners to remain firmly engaged to support constructive efforts to enhance and deepen democracy in The Bahamas.

I conclude by expressing the Group's appreciation, once again, for the privilege to have accompanied the people of The Bahamas through this democratic process. Let me also take this opportunity to express the Group's appreciation to the staff team who provided invaluable support to us.



The Hon Bruce Golding
Chairperson



Josephine Tamai




Ian-Michael Anthony

Tyrone Buckmire



Dr Asha Kissoon

Hon Erick Okong'o Mogeni



Eno Jonathan Ovuorho



Mark Stephens CBE

Executive summary

The Commonwealth Observer Group (COG) for The Bahamas' 16 September general election was present from 8 to 21 September 2021. As this was a snap election, the Commonwealth Secretariat did not undertake a pre-election assessment mission beforehand.

In carrying out its terms of reference, the Group met, among others, the acting parliamentary commissioner and members of the Parliamentary Registration Department (PRD), political parties, civil society organisations (CSOs), the media, international election observer groups and members of the diplomatic corps, including from Commonwealth countries.

The COVID-19 environment constrained the scope of the mission slightly, as restrictions limited the number of observers and the ability to select observers from all regions of the Commonwealth. However, the Secretary-General was able to constitute a COG comprising a chair and seven observers, supported by a staff team of six. Observers were deployed to Abaco, Eleuthera, Grand Bahama and New Providence.

The legal framework in The Bahamas provides an adequate basis for the conduct of democratic elections, with guarantees of fundamental freedoms, yet a number of significant gaps remain. In echoing recommendations from the 2017 COG Report, the Group calls on political parties and the executive to consider the introduction of campaign finance legislation; a regulatory framework for the registration of political parties; and legislative reform for the establishment of an independent election management body. Other recommendations for legislative reform are discussed in this report.

COVID-19 restrictions meant that parties could not conduct mass rallies as they normally would. Somewhat creatively, they facilitated car parades and motorcade rallies instead of holding large gatherings and conducting door-to-door campaigning. Despite strong competition between the two main parties, the campaigns were largely peaceful.

The Commonwealth of the Bahamas has a robust and well-respected media, and media freedoms were on the whole respected. With more than half the population online, and COVID-19 restricting in-person campaigning, social media and online platforms played an increasingly significant and expanded role in this election.

Given ongoing challenges resulting from the impacts of Hurricane Dorian in August 2019, the prevailing COVID-19 pandemic and the snap nature of the election, the PRD had less time and opportunity to prepare for election day than might have been hoped. In the run-up to the election, this led to late decisions by the acting parliamentary commissioner, which were sometimes poorly communicated, and which contributed to uncertainty and anxiety among some electoral stakeholders.

However, the voting process was generally well managed and transparent, and voters were free to exercise their right to vote. Polling officials demonstrated professionalism, confidence and enthusiasm, and issues observed, such as delays or missing materials, were usually resolved efficiently. COVID-19 protocols were adhered to in the polling rooms, and party agents were present and able to perform their duties unhindered.

The close and count at the polling stations visited was conducted in an orderly and transparent manner, with observers and party agents able to follow the process closely. This was also the case during the recount. The results process was concluded satisfactorily, with apparent broad agreement among those present.

The Group's overall assessment was that the election, as a whole, was credible, transparent, fair and inclusive. However, electoral processes can (and should) be further strengthened. In accordance with our mandate, this Report therefore offers a number of recommendations for consideration by electoral stakeholders in The Bahamas.

We wish to commend the Bahamian voters for exercising their democratic franchise. We also congratulate the PRD and polling staff, political parties, civil society, the media and the security forces for their respective roles in maintaining The Bahamas' tradition of peaceful electoral processes.

Recommendations

Electoral framework and election administration

- The statutory and regulatory framework of the PRD should be amended to ensure the Department's functional independence and to strengthen its operational and administrative capacity so it can fully exercise its oversight and management functions in accordance with international good practice.
- Parliament should legislate eligibility criteria and clear terms of employment, including conditions for dismissal, for the position of parliamentary commissioner. This would help ensure transparency in the appointment to this key constitutional role, contributing to the independence of the position and greater confidence in the impartiality of the parliamentary commissioner.
- The governor-general, in consultation with the Public Service Commission, should ensure that there is a substantive parliamentary commissioner in place before an election, and, if the need to appoint an acting commissioner arises, that the appointment of a substantive commissioner is formalised as soon as possible.
- The PRD should develop and regularly deliver robust voter education and civic education materials to help ensure voters are empowered to make informed choices with regard to electing representatives and holding these to account.
- The PRD should ensure maintenance of, and annual updates to, the list of putative poll workers, including reserve poll workers, that can be drawn on in the first instance to support elections. This could also help the PRD keep to timelines set out in law for the publication and inspection of lists before the advance poll, as well as facilitate adequate and timely training of poll workers.
- The PRD should review its communication strategy in advance of the next election in order to facilitate a more open, consultative and co-operative relationship with media and electoral stakeholders.
- The PRD should ensure that all official information and resources pertinent to elections are published on the official website, including processes for registration and the transfer of constituencies, regulations pertaining to the appointment of poll workers and regular updates as necessary.

Participation and inclusion

Civil society organisations

- CSOs should be encouraged and supported to advocate and deliver programmes on the fundamental human, civil and political rights of citizens, and the value of each vote.

Women's political participation

- The Group recommends that political parties and candidates subscribe to a code of conduct that condemns character assassination, cyber bullying and slander.
- The Group recommends that political parties and responsible authorities make every effort to encourage, facilitate and support greater participation of women in representational politics, political leadership and executive government, including through temporary special measures (TSMs) such as seat and cabinet quotas but not being limited to these. CSOs and human rights groups should be meaningfully consulted as part of this process.
- The Group recommends that all political parties include a mandated minimum percentage of women's participation in their constitutions, and make greater efforts to ensure women are given leadership and decision-making positions in political party hierarchies.
- The Group recommends that, following requisite consultations, a new referendum be held on a potential constitutional change to Article 26 (3) of the Constitution, and political parties campaign alongside CSOs and human rights groups in support of this change.
- The Group recommends that political parties, CSOs and human rights groups revive dialogue on the value of strengthening existing laws on cyber bullying and harassment, or the introduction of new legislation on the same.

Youth political participation

- The government, political parties, CSOs and the media are encouraged to continue finding new ways of providing civic education on Bahamian democracy and governance issues targeted at youth, and engaging youth further in democratic processes.

Persons with disabilities

- The Group recommends that special dispensation for fast-track voting by persons with disabilities be standardised across all polling stations, and clear instructions be included in polling manuals.

Campaign and media

Campaign

- The PRD should consider the development of a code of conduct for political parties and candidates, in consultation with electoral stakeholders.
- Prior to the next election, the government and the House of Assembly should initiate consultations on the development of a regulatory framework governing campaign financing in order to promote fairness, transparency and accountability.

Media

- The state-owned media and political parties should work together to ensure equitable access and coverage for all political parties during elections.

- While the merits of the Bahamas Press Club are noted, relevant stakeholders may wish to initiate consultations on the development of a statutory or formal self-regulatory body for the regulation of print media, as well as a formal code of conduct.
- The PRD and political parties should initiate discussions on the development of a code of ethics for political parties and candidates that would commit parties to the responsible use of social media. Such a code should prohibit defamation, slander and ad hominem attacks on opponents on social media.
- To prepare for future elections, the PRD and the Utilities Regulation and Competition Authority may wish to consider initiating discussions with social media companies on the issue of election-related content moderation. The Group recommends that the Commonwealth Secretariat be ready to facilitate such discussions if desired.
- The government should fully proclaim the Freedom of Information Act, develop regulations and ensure public institutions fully implement the Act. The government should also raise awareness of the value of this legislation as part of its broader efforts on civic education.

Voting, counting and the results process

- To ensure greater consistency in the application of electoral procedures, the PRD should strengthen the training of polling officials, including reserves.
- Well in advance of election day, the PRD should publish the locations of polling stations and recount locations, along with other pertinent information.
- In accordance with international good practice, it is recommended that the PRD consider using translucent ballot boxes and numbered security seals. In addition, tamper-proof bags, rather than paper envelopes, should be used to store ballot papers after counting.
- To increase inclusion and ensure consistency and transparency, the PRD should articulate and disseminate a clear process through which polling staff can provide support to illiterate persons or those requiring assistance to cast their ballots.
- The voter registration process should place greater emphasis on identifying voters who may potentially need assistance to vote, and give consideration to noting this on their voter's card. These persons could also be offered the opportunity to participate in the advance poll. This should be done in partnership with groups working with persons with disabilities.
- The PRD should review the official guidance it provides as to examples of good and bad ballots, to ensure it includes examples of where the voter's intention is clear. This should be complemented by robust voter education and incorporated into the training of polling staff.
- At the conclusion of the electoral period, the PRD should undertake a review of policies, procedures and staff capacity, and identify the successes, challenges and lessons learnt. This can be used to build and strengthen the capacity of the PRD for future elections. The review should be incorporated into the PRD's strategic and operational plans to improve the system for the next general election, and include

consideration regarding the establishment of a domestic mechanism to co-ordinate, monitor and evaluate the implementation of these improvements.

Chapter 1: Introduction

At the invitation of Sir Cornelius A. Smith, Governor-General of The Commonwealth of The Bahamas, the Commonwealth Secretary-General, The Rt Hon Patricia Scotland QC, constituted a Commonwealth Observer Group (COG) for the 16 September 2021 general election in The Commonwealth of The Bahamas. As this was a snap election, the Commonwealth Secretariat was unable to carry out a pre-election assessment mission, as is usual practice.

The COG was led by The Hon. Bruce Golding, former Prime Minister of Jamaica, and comprised seven other eminent persons. The Group was supported by a six-person staff team from the Commonwealth Secretariat. Annex A presents a full list of members.

Terms of reference

The terms of reference for the COG was as follows:

‘The Group is established by the Commonwealth Secretary-General at the request of the Government of The Commonwealth of The Bahamas. It is to observe relevant aspects of the organisation and conduct of the General Elections which are scheduled to take place on 16 September 2021, in accordance with the laws of The Bahamas. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole. It will determine in its own judgment whether the elections have been conducted according to the standards for democratic elections to which The Bahamas has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.

‘The Group is to act impartially and independently and shall conduct itself according to the standards expressed in the International Declaration of Principles to which the Commonwealth is a signatory. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly.

‘In its final report, the Group is also free to propose to the authorities concerned recommendations for change on institutional, procedural and other matters as would assist the holding of future elections. The Group is to submit its final report to the Commonwealth Secretary-General who will forward it to the Government of The Bahamas, the Parliamentary Registration Department, political and civil society organisations and thereafter to all Commonwealth Governments.’

Activities

The Group was present in The Bahamas from 8 to 21 September, and observed the advance poll in Nassau, on 9 September.

On 10 September, the Group issued its arrival statement outlining its terms of reference (Annex B). During four days of briefings in Nassau, the Group also met with the acting parliamentary commissioner, political party representatives, civil society organisations (CSOs), media representatives, members of the diplomatic corps (including from the Commonwealth), the Royal Bahamas Police Force and international observer missions. The Group was subsequently deployed to Abaco, Eleuthera, Grand Bahama and New Providence. The Group’s deployment plan is in Annex C.

COG members were deployed to the islands in teams of two on 15 September. During their deployments, all teams co-ordinated with other observers and met with local stakeholders, building up a comprehensive picture of the political environment and the conduct of the process in their respective areas. The teams deployed to Grand Bahama and the Family Islands returned to Nassau on 17 September. On the basis of the Group's initial findings and observations, the chairperson issued an Interim Statement on 18 September (Annex D). The Group's report was largely completed in Nassau prior to departure and was finalised in London before being transmitted to the Commonwealth Secretary-General.

Chapter 2: Political background

The Bahamas is a constitutional monarchy with a bicameral parliamentary system. On 10 July 1973, The Bahamas became a free and sovereign country. The head of state is Queen Elizabeth II of the United Kingdom, represented in The Bahamas by the governor-general. The head of government is the prime minister.

The Bahamas is an archipelago consisting of nearly 700 islands, 30 of which are inhabited. The total population of The Bahamas is approximately 390,000. The capital city, Nassau, on New Providence Island, is administered directly by the national government. All other inhabited islands are administered through a total of 32 local councils. There are 39 constituencies and 32 local government districts. Parliament, known as the House of Assembly, is located in Nassau.

The legislature comprises a lower house - the House of Assembly - and the upper house, or Senate. These two houses carry out all legislative functions of the state. The House of Assembly has 39 members directly elected in single-member constituencies by a plurality of votes cast (first past the post). The Senate consists of 16 members, who are appointed by the governor-general on the advice of the prime minister and the leader of the opposition. The prime minister nominates nine senators and the leader of the opposition four. The governor-general appoints the remaining three on the advice of the prime minister, after consultation with the leader of the opposition. Both senators and members of the House of Assembly serve five-year terms.

The basis of the Bahamian law and legal system is the English Common Law tradition. Justices of the Supreme Court, registrars and magistrates are appointed by the governor-general acting on the advice of the Judicial and Legal Service Commission. The Judicial and Legal Service Commission is chaired by the chief justice. The chief justice and the justices of the Court of Appeal, including the president, are appointed by the governor-general on the recommendation of the prime minister after consultation with the leader of the opposition. An Election Court comprising two Supreme Court judges is convened as needed to hear petitions.

Any citizen of The Bahamas who is 21 years of age or older and has ordinarily resided in The Bahamas for a period of at least one year immediately before the date of his or her nomination for election is eligible for election to the House of Assembly.

The governor-general appoints as prime minister the member of the House of Assembly who, in his judgement, commands the support of the largest group of members thereof. The party that has the second-highest number of seats in the House of Assembly is referred to as the official opposition, and the member who, in the judgement of the governor-general, commands the support of that group is appointed leader of the opposition.

Political developments leading up to the 2021 snap election

The Bahamas last held a general election in May 2017. On 19 August 2021, the Prime Minister, Dr Hubert Minnis, called for a dissolution of parliament and a snap election to be held on **16 September 2021**. Under the Constitution, the governor-general may, acting in accordance with the advice of the prime minister, dissolve parliament at any time.

In a national address on 19 August to announce the dissolution of parliament and the snap election, Prime Minister Minnis acknowledged that the election would happen during the worst public health crisis in modern history. However, he also said that 550,000 doses of

COVID-19 vaccines had been secured, sufficient for the entire adult population of The Bahamas to be double-vaccinated.

While the announcement of the snap election caught some by surprise, a few political commentators had raised the possibility as early as January 2021. Both the then-governing Free National Movement (FNM) party and the opposition party, the Progressive Liberal Party (PLP), had been steadily endorsing candidates for the next election since early in the year. In July, both the prime minister and the leader of the opposition called on first-time voters to register as soon as possible.

The timing of the election was questioned in light of the public health situation, with healthcare providers expressing concern as both private and public health facilities were then overwhelmed. However, government representatives said that officials expected that people would follow safety measures and protocols.

Initially, the government said that no special provisions would be made to facilitate voting for people who were (or might be) in quarantine during the election, or who had tested positive for COVID-19. Under the Emergency Powers (COVID-19 Pandemic) (Management and Recovery) Regulations, quarantined persons must remain in their quarantine location for the duration of their quarantine. However, the Group noted that, on 13 September, the government released a public statement advising that every eligible voter would be able to exercise his or her right to vote.

The Group noted that the election was also held in the context of the country's recovery from the ravages of Hurricane Dorian in 2019, which affected the economy and resulted in the displacement of thousands of residents in the Family Islands.

Contenders

Since independence, two parties have dominated the political scene in The Bahamas, the FNM and the PLP, the oldest political party in the country. The FNM and the PLP have won alternate elections since 2002 and are the only two parties to have formed governments since the first election post-independence in 1977.

Notwithstanding the prominence of these two parties, nine other parties and 29 independent candidates contested the 2021 election. In total, 225 candidates contested 39 seats.

Chapter 3: The electoral framework and electoral administration

Legal framework, regional and international commitments

The Constitution of The Commonwealth of the Bahamas guarantees fundamental rights and freedoms, including freedom of expression, assembly, association and participation in elections. The primary legal and regulatory framework for the conduct of elections comprises the following:

- Bahamas Independence Order (The Constitution) (1973, as amended)
- Parliamentary Elections Act (2008, as amended)
- Supreme Court Act (1996)
- Parliamentary Elections Polling Divisions Order (2007 and 2011)
- Parliamentary Elections Symbols and Time Off Regulations (2002)
- House of Assembly Revision of Boundaries and Re-distribution of Seats Order (2007)
- Relevant case law based on The Bahamas' common law system

In addition, the following is a non-exhaustive list of relevant legislation for the conduct of a general election:

- Broadcasting Act (1956)
- Public Disclosure Act (1976)
- Data Protection (Privacy of Personal Information) Act (2008)
- Communications Act (2011)
- Persons with Disabilities (Equal Opportunities) Act (2014)
- Freedom of Information Act (No. 1 of 2017)

The Bahamas has also committed to regional and international instruments pertaining to civil and political rights. These include:

- The International Covenant on Civil and Political Rights (ICCPR) (1966)
- The Inter-American Democratic Charter of the Organization of American States (2001)
- The Caribbean Community (CARICOM) Charter of Civil Society (1997)
- The United Nations Convention Against Corruption
- The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
- The International Convention on the Elimination of all forms of Racial Discrimination
- Convention on the Rights of Persons with Disabilities (CRPD)
- The Commonwealth Harare Declaration (1991)
- The Charter of the Commonwealth (2012)

At the time of the election, the COVID-19 pandemic had resulted in around 500 deaths and 20,000 infections in total, with approximately 3,000 of these infections occurring in the four weeks prior to the election.¹ As such, campaign activities were required to take place in adherence with emergency COVID-19 public health orders and subsidiary regulations. Such restrictions included a nationwide curfew and a limit of five people per campaigning group, all of whom had to be vaccinated. The public health orders and regulations affecting the conduct of the campaign and election were as follows:

¹ Johns Hopkins University Center for Systems Science and Engineering, accessed at <https://www.arcgis.com/apps/dashboards/bda7594740fd40299423467b48e9ecf6>

- Emergency Powers (Covid 19 Pandemic) (Management and Recovery) (No. 2) Order (2021, as amended)
- Emergency Powers (COVID 19) (No. 2) (Amendment) Order (2020)
- Emergency Powers (COVID 19) Order (2020)
- Emergency Powers (COVID 19) (Lockdown) Order (2020)

The Parliamentary Registration Department

In The Bahamas, the Parliamentary Registration Department (PRD) is responsible for the registration of voters and the administration of elections. The PRD is a central government department, and governor-general appoints its head, the parliamentary commissioner, following consultations with the Public Service Commission. Oversight of the Department is the responsibility of the Minister of National Security.

The Parliamentary Elections Act specifies that the parliamentary commissioner and every deputy parliamentary commissioner shall be public officers. The Parliamentary Elections Act provides the legal basis for the administration of the elections, stipulates certain operational aspects of the Department (including emoluments, salaries and pensions of officers) and outlines the core responsibilities of the Department, including maintenance of the voter register.

Appointment of the acting parliamentary commissioner

In December 2020, the government named Mr Lavado Duncanson Acting Parliamentary Commissioner, following the transfer of the former acting parliamentary commissioner to another ministry. Mr Duncanson was formerly Deputy Permanent Secretary in the Office of the Prime Minister. It is recalled that Mr Duncanson is the third commissioner or acting commissioner to hold the post since May 2017. The Group also recalls that, in May 2017, the parliamentary commissioner was replaced five days before the election.

Following the announcement of the election date on 19 August 2021, some stakeholders raised concerns that the election would be administered by a recently appointed acting parliamentary commissioner who had no experience conducting elections. It was noted, however, that Mr Duncanson was assisted in this endeavour by former Parliamentary Commissioner Mr Errol Bethel, who was engaged as a consultant. Stakeholders were also concerned that an acting commissioner could be subject to undue influence based on uncertainty as to whether he would be confirmed into post.

The Group recognises that lack of a permanent appointee is not ideal. Further, the Group did observe certain aspects regarding the administration of the election that hindered the process, and that should be improved on. However, the Group did not observe, or hear of, any instances of the acting parliamentary commissioner acting in a way that was unduly beneficial to one political party over others.

It was noted that the law does not prescribe minimum eligibility criteria for a parliamentary commissioner. This contributes to a lack of transparency around the appointment process. Similarly, there is a lack of specificity around the conditions of employment and the process by which a parliamentary commissioner might be dismissed, and thus a lack of security of tenure. The Group recommends legislative reform that gives rise to a more transparent process. This should form part of a wider process of reform to electoral management.

Further, the Group is of the view that, in order to properly carry out the important function of managing elections, an election management body, such as the PRD, should be

empowered by law to operate effectively and independently, with adequate resourcing and free from the possibility of undue influence. These factors also help engender the confidence of voters and political parties in the integrity of the electoral body and the elections it conducts.

The 2017 COG to The Bahamas came to similar conclusions and made recommendations accordingly, which the 2021 Group strongly supports.

Registration of political parties

Although political parties have been a feature of elections in The Bahamas since independence, there is no provision in law for their registration. In the 2021 election, 11 political parties and/or coalitions nominated 196 candidates (out of a total of 225). This was an increase from the six political parties that participated in 2017 and nominated 113 candidates. The number of independents contesting the 2021 election decreased from 56 in 2017 to 29.

Political parties provide an important function in democracies, by acting as a platform for the identification and coalescing of public opinions and priorities and as a conduit for voters to mobilise for change at national level.

While there do not appear to be any impediments to the establishment and operation of political parties in The Bahamas, there is benefit in ensuring legal protections, as well as regulations, for political parties. Among other things, legal provision for political parties can ensure equal access to electoral processes for all qualified candidates (including independents), provide protection against arbitrary discrimination and help hold political parties accountable to their constituents.

Candidate eligibility and nomination

Article 47 of the Constitution of The Bahamas stipulates that, in order to qualify to be elected as a member of the House of Assembly, a candidate must be a citizen of The Bahamas of at least 21 years of age and have ordinarily resided in The Bahamas for a period of not less than one year immediately before the date of nomination for election.²

An aspiring candidate in a general election must complete a form (Form C) and submit the signatures of at least five registered voters of that constituency. The candidate must also submit a declaration of qualifications within a specified timeframe and within the presence of a justice or notary person not more than 90 days before nomination day.

Article 48 of the Constitution sets out the following criteria disqualifying persons from contesting a general election:³

- A voluntary citizen of a foreign state;
- By his or her own acts 'in allegiance, obedience or adherence to a foreign power or state';
- Bankrupt, or judged to be of unsound mind;
- A senator, a member of the armed forces or a member of the police;

² <https://www.bahamas.gov.bs/wps/wcm/connect/0e8ecb04-ec4f-4aa7-afaf-f330efef994b/Chap+5+Parliament.pdf?MOD=AJPERES>

³ <https://www.bahamas.gov.bs/wps/wcm/connect/0e8ecb04-ec4f-4aa7-afaf-f330efef994b/Chap+5+Parliament.pdf?MOD=AJPERES>

- Awaiting capital punishment or serving a custodial sentence longer than one year;
- Has responsibility for any aspect of the conduct or administration of the election in which they are seeking to stand, or has been found guilty in a court of law of a prior electoral offence;
- Has interests in a government contract for which he or she has not declared interest via notice in the Gazette at least one month prior to an election.

Voter eligibility

To be eligible to vote in a Bahamas general election, a person must:

- Be at least 18 years of age;
- Be a citizen of The Bahamas;
- Not be subject to any legal incapacity (including serving a custodial sentence, awaiting capital punishment or being deemed mentally incapacitated);
- Be registered to vote and hold a valid voter registration card or other accepted form of official identification (passport, driver's licence, national insurance card, etc).

Further, if a voter wishes to cast their vote in a polling division other than that in which they are already registered, they can do so only if they can provide proof that they have been a resident of the new polling district for at least one year prior to election day.⁴

Boundary delimitation

Article 70 of the Constitution provides for the review of constituency boundaries 'of intervals not more than five years', to be carried out by a Constituency Commission as established by Article 69 of the Constitution. The Commission is chaired by the speaker of the House of Assembly, along with a justice of the Supreme Court. The Commission must include two members of the House of Assembly, appointed by the governor-general in consultation with the prime minister, and one member of the House of Assembly appointed by the governor-general in consultation with the leader of the opposition.

In producing its report, the Commission must consider constituency boundaries such that 'the number of voters entitled to vote for the purposes of electing every member of the House of Assembly shall, so far as is reasonably practicable, be the same and the need to take account of special consideration such as the needs of sparsely populated areas, the practicability of elected members maintaining contact with electors in such areas, size, physical features, natural boundaries and geographical isolation.'⁵

In 2017, a boundary delimitation exercise took place that led to the establishment of one additional constituency in New Providence, bringing the total to 39. Noting that five years had not passed by the time of the 2021 general election, there was no legal necessity for the Commission to undertake a similar delimitation exercise before the 2021 election. However, the Group notes that, given the large numbers of people displaced as a consequence of Hurricane Dorian, boundaries should ideally have been updated before the election to reflect the changed circumstances.

The Group acknowledges that the country is still dealing with the impacts of Dorian, which was followed not long afterward by the global coronavirus pandemic, and further recognises that the 2021 election was a snap election. In light of the importance of accurate

⁴ Section 9 (2) (b) of the Constitution.

⁵ Section 70 (2) of, the Constitution.

constituency boundaries for representative democracy, the Group strongly encourages the government to prioritise the updating of boundaries at the earliest opportunity, or at the latest before the next election.

Legal right to scrutinise the voter register

Section 26 of the Parliamentary Elections Act stipulates it is ‘the duty of the Parliamentary Commissioner to keep at all times and make open for inspection a copy of the register’, with alterations to be made within 7 days (or 14, for alterations to Family Island registrations). Section 21 of the Act allows any person who is registered to vote in any given constituency to object, in advance of the election, to the inclusion of another voter attempting to register within this same constituency.

The Group understands that the public was not provided with a copy of the register until the eve of the election, thus precluding any systematic or actionable review. The Group wishes to underscore the importance of preparedness, transparency and scrutiny regarding the voter register, and the need to avoid any perception - justified or otherwise - of impropriety or maladministration.

Amendments to the Parliamentary Elections Act

In December 2020, the government amended the Parliamentary Elections Act. Some of the key amendments are listed below.

Transition to a continuous voter register

One of the more significant changes to the Parliamentary Elections Act was the transition of the voter register from periodic to continuous. The continuous register is based on the list used for the 2017 election, subject to the addition of newly registered persons, the transfer of constituencies for registered persons who have changed their physical address and the removal of deceased persons and persons who have become ineligible owing to legal incapacity.

Of particular significance to the 2017 register was the impact of Hurricane Dorian in August 2019. The Category 5 hurricane caused immense destruction to life and property, especially on the islands of Grand Bahama and Abaco. At least 74 people are confirmed to have died, and the number of missing persons not yet pronounced dead is estimated at around 245. Several thousands⁶ were left homeless, leading to their displacement and relocation for more than a year to other areas of the country in different voting districts - many having lost everything, including government-issued identity documents.

Such a significant displacement of people would likely have had a significant impact on the number of voters residing in constituencies different from those in which they were originally registered. The Group acknowledges that the onus for transferring constituencies is on voters, and many who were displaced by Hurricane Dorian may not have prioritised this as a result of more pressing concerns, such as securing housing and employment.

The Group is of the view that, because of the hurricane, the continuous register established under the amendment to the Act should ideally have been a completely new register. The Group appreciates, however, the challenges faced in developing a new register in the post-

⁶ Estimates vary but the figure is often put at between 3,000 and 4,000.

Dorian/COVID-19 environment. Going forward, the Group encourages the PRD to appoint enumerators, as provided for in Section 16 of the Parliamentary Elections Act, to undertake a comprehensive survey, as far as is practicable in every house, to ensure the accuracy of the register.

The Group also noted advice that the register had been updated in accordance with the law, with the registrar general, the commissioner of prisons and other registries legislated to share information with the PRD. It was noted that 7,159 deceased voters and 271 incarcerated persons had been removed from the 2017 register for this election. The 2017 voters register contained 181,543 voters and the register for 2021 contained 194,525 voters (a 7.14 per cent increase).

Provision of new voter cards

Section 14(3) of the Parliamentary Elections Act states that ‘biometric permanent voter cards *may* be issued in the place of a paper voters card and counterfoil’ (italics added for emphasis). While noting the non-binding nature of this provision, the Group found that no such biometric voter cards had been produced.

The Group recommends the introduction of digitised biometric data capturing, which would facilitate the issuing of an identification card with appropriate security features. This should be designed in such a way that it could, in the future, facilitate electronic identification and processing of voters at polling stations.

Expansion of eligibility to vote in the advance poll

The law was also amended to expand the definition of ‘special voters’ - that is, those voters entitled to vote in the advance poll, to include persons with disabilities (PWDs) and persons 65 years or older on the day of the poll. The advance poll was previously for, among others, people in hospitals and nursing homes, students studying abroad, diplomats and government officials working abroad and their spouses, and polling and security personnel.

The Group commends the expansion of eligibility to vote in the advance poll to PWDs and older persons to facilitate their ease of access to the polls.

Advance poll

Section 54 of the Parliamentary Elections Act provides for advance polling for select categories of individuals before election day. The provisions of the Act in relation to voters, voting and elections apply *mutatis mutandis* to the advance poll. In total, around 19,000 voters were eligible to vote in the advance poll, representing around 10 per cent of the total registered voters.

Section 54 (4, 5) of the Act stipulates that, after the advance poll, ballots should be placed in ‘separate packets... sealed by the presiding officer’, with each sealed packet returned to the parliamentary commissioner ‘to be kept intact in his office *or in some other safe place* [italics added] until delivery by him on the day appointed for the taking of the poll to one of the presiding officers...’.

The police commissioner and the parliamentary commissioner showed the Group the storage location of these ballots - a secure basement room under 24/7 supervision and CCTV surveillance at the police headquarters. The ballots were contained in ballot boxes, each with its own padlock. It is possible to access the room itself only by passing through cypher-

locked doors and then inserting two separate keys, one of each under the custody of the parliamentary commissioner and the police commissioner.

Representatives of more than one party raised concerns regarding the security of these ballots, and that the parliamentary commissioner or other actors, including the police, had the means to tamper with the ballots. One such concern centred around the mistaken belief that the law provides for the ballots to be kept in the sole possession of the parliamentary commissioner.

Having examined the security arrangements for the storage of the ballots, the Group was satisfied that the police headquarters was adequately safe. Further, as the law requires ballots to be stored only in 'sealed packets', their storage in padlocked ballot boxes entails a level of security beyond that demanded by law. In addition, the advance ballot papers are subject to inspection by polling staff and agents of candidates at the polling stations before the commencement of polling on election day.

Voter education and civic awareness

In any robust democracy, an informed electorate is an empowered electorate. Therefore, voter education is a critical component of elections. In The Bahamas, this is even more relevant in light of the 2020 amendments to the Parliamentary Elections Act.

The transition to a continuous or rolling register is a development that will help the PRD with updates to and maintenance of the register. The law provides for the regular sharing of information between relevant civil registries and departments and the PRD to ensure the register is kept as up to date as possible. However, the robustness of the register also depends on newly eligible voters registering in the first instance and on registered voters updating their registration details with the PRD, particularly with regard to the transfer of constituencies and polling divisions.

It is important, therefore, that the PRD run regular public awareness campaigns to encourage voters to register or formally transfer their constituency when needed. Equally as important as voter education is civic education and awareness, in informing and empowering voters. This should include information on the underlying principles of democracy and elections, the relationship between voting and governments, and the accountability of governments to voters.

Recruitment and training of poll workers

Responsibility for the recruitment of poll workers lies with the returning officers. Section 48 (3) of the Parliamentary Elections Act states that, 'Polling clerks shall so far as is practicable be public officers, and shall not in any event be persons who have been employed by or on behalf of a candidate in or about the election.' The Group understands that returning officers are drawn from the senior ranks of the civil service and tend to recruit from within their own ministries. The Act also provides for the paying of reasonable remuneration and expenses to any presiding officer or polling clerk who is not a public officer.

Section 54 (8) of the Act requires the parliamentary commissioner to make available for inspection a list of returning officers, presiding officers and polling clerks not less than 14 days prior to the date appointed for the advance poll. The Group notes advice received from political parties that no such list was published.

Owing to the pandemic, some regular poll workers declined the opportunity to work at this election. We also noted that infection with COVID-19 meant that some poll workers were unable to attend the polls as anticipated. In the event, reserves were drafted in to fill their places. Reserve lists were prepared on an *ad hoc* basis, resulting in a lack of a uniform level of training in advance of polls for those recruited later in the process.

The Group understands that the training of poll workers was undertaken both virtually and in person. Training manuals were disseminated to presiding officers and included relevant excerpts from the Act and Regulations pertaining to, among other things, the code of conduct for election officials, roles and responsibilities of election officials, procedures for the processing of voters and the use of mobile phones in polling stations.

Recount

Sections 66 and 67 of the Parliamentary Elections Act require the returning officer to recount ballots in the presence of candidates or their party agents as soon as practicable after the election. The Group witnessed part of the recount in Eleuthera and New Providence. The returning officers carried out their duties with the utmost care and professionalism, ensuring the process was transparent and orderly for the benefit of the candidates and party agents in attendance.

The Group notes, however, that the locations of at least two recounts (St Anne's and East Grand Bahama) were not announced until late on election day itself. While this was within the legally specified timeframe and did not severely affect the process, the Group encourages the PRD to communicate the locations of recounts as early as possible in order to ensure confidence in the process.

Complaints, appeals and election petitions

Section 80 of the Parliamentary Elections Act provides for the establishment of an Election Court to hear all electoral petitions. The president of the Court must be either the chief justice or another justice of the Supreme Court. The Election Court has the same powers, jurisdiction and authority as the Supreme Court, including the power to subpoena witnesses and punish guilty parties. Sections 81 and 82 of the Act stipulate who is eligible to present a petition and the types of relief that may be claimed.

Every election petition must be presented within 21 days of the date of the declaration of results, and can, with the leave of the Election Court, be amended within 28 days of its presentation.

Transparency and communication strategy of the Parliamentary Registration Department

The Group recognises that the circumstances in which this election was held made it necessary for the parliamentary commissioner to make adjustments and introduce innovative measures to facilitate smooth conduct. However, a number of political parties and stakeholders expressed concern regarding a lack of consultation and poor communication on the part of the PRD on a variety of issues.

For instance, some political parties pointed to a lack of timely information regarding the re-registering of displaced persons, the locations of polling stations (particularly in split polling divisions), the names of polling staff and the location of recounts. In many cases, such

information was provided to political parties and agents only on the eve of (and in some cases the day of) the election.

The parliamentary commissioner determined in his judgement that the exigencies of this election had necessitated a number of practical adjustments. These adjustments were a departure from the usual custom and practice in The Bahamas. In at least one important instance, the directions issued by the parliamentary commissioner appeared to be contrary to law - namely, his unilateral decision in view of the need for social distancing to reduce the number of agents that a candidate was entitled to have present in the polling station from three to one.

We received widespread reports of little or no consultation, last-minute decision-making and sub-optimal communication of these decisions. Concerned stakeholders have a legitimate expectation, and in some cases a statutory right, to the provision of timely information to facilitate transparency, support legitimate scrutiny of the process, engender confidence and trust in electoral administrators and the electoral process, and enable stakeholders' own effective and efficient preparations for election day. Failure in this regard not only inhibits all of the above but also creates opportunities for misinformation and rumour to circulate.

Recommendations

- The statutory and regulatory framework of the PRD should be amended to ensure the Department's functional independence and to strengthen its operational and administrative capacity so it can fully exercise its oversight and management functions in accordance with international good practice.
- Parliament should legislate eligibility criteria and clear terms of employment, including conditions for dismissal, for the position of parliamentary commissioner. This would help ensure transparency in the appointment of this key constitutional role, contributing to the independence of the position and enabling greater confidence in the impartiality of the parliamentary commissioner.
- The governor-general, in consultation with the Public Service Commission, should ensure that there is a substantive parliamentary commissioner in place before an election, and, if the need to appoint an acting commissioner arises, that the appointment of a substantive commissioner is formalised as soon as possible.
- The PRD should develop and regularly deliver robust voter education and civic education materials to help ensure voters are empowered to make informed choices with regard to electing representatives and holding elected representatives to account.
- The PRD should ensure maintenance of, and annual updates to, the list of putative poll workers, including reserve poll workers, that can be drawn on in the first instance to support elections. This could also help the PRD keep to timelines set out in law for the publication and inspection of lists before the advance poll, as well as facilitating adequate and timely training of poll workers.
- The PRD should review its communication strategy in advance of the next election in order to facilitate a more open, consultative and co-operative relationship with media and electoral stakeholders.

- The PRD should ensure that all official information and resources pertinent to elections are published on the official website, including processes for registration and the transfer of constituencies, regulations pertaining to the appointment of poll workers and regular updates as necessary.

Chapter 4: Participation and inclusion

Legal and policy framework

The Constitution of The Commonwealth of the Bahamas guarantees all citizens freedom of expression, and of assembly and association. In the context of an election, this includes the right to participate freely in all aspects of the electoral process. The Parliamentary Registration Act also provides for assistance to be given to voters with physical incapacity, such as blindness. Furthermore, amendments to the Act in 2020 strengthened access by PWDs and the elderly to the electoral process, by allowing these categories of persons to register for advance voting. Previously, this option was available only to select categories of individuals, including students studying abroad, diplomats and their spouses, security personnel and polling staff.

As a member of the Commonwealth, CARICOM and the United Nations, The Bahamas has committed to a number of fundamental universal human rights, values and principles, including through the Charter of the Commonwealth and the Universal Declaration of Human Rights.

Other international conventions The Bahamas has signed and/or ratified include the ICCPR, CEDAW and the CRPD. Regional commitments made by The Bahamas include the CARICOM Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (the Belem do Para Convention).

The Group observed that, consistent with the provisions in law, and The Bahamas' international commitments, the electoral process was generally accessible to all citizens, including the vulnerable.

Participation rate

Analysis of the results by constituency released by the PRD show that a total of 126,488 valid votes were cast, equivalent to an overall participation rate of around 65 per cent. There were 18,412 registered voters between the ages of 18 and 24, equivalent to 9 per cent of the total. In the 65 years and over age group, there were 26,247 registered voters, or 13 per cent of the total. The majority of registered voters, 112,547 (58 per cent), were between the ages of 31 and 60.

The Group commends the inclusivity of the electoral process, having witnessed large numbers of women and youth among polling staff, as well as among party agents and voters. In many of the polling locations Group members visited, there were also many female security personnel, including several women in leadership positions.

Civil society

The Charter of the Commonwealth recognises not only the inalienable right of individuals to participate in free and fair elections but also the responsibility on governments, political parties and civil society to uphold and promote democratic culture and practices and to be accountable to the public in this regard. The CARICOM Charter of Civil Society articulates similar principles and values. These values and principles are effectively universal,

recognising the importance to the democratic process of having not only an empowered electorate but also, critically, an informed electorate.

It was noted that, in the context of The Bahamas, there was not much mobilisation or discourse by civil society groups and organisations around the broad principles relating to democracy in general and the election in particular. The Group was informed that this was partly because Bahamians do not have a ‘protest culture’ but also because of the way people viewed and understood the impact of their votes.

Notwithstanding the relatively low level of organised public discourse around the issues, it was noted that, since independence, The Bahamas has enjoyed very high turnout of voters of between 80 and 90 per cent - one of the highest rates in the Caribbean region, and indeed the world. Voter turnout was considerably lower for the 2021 election, with preliminary figures putting turnout at 65 per cent. While a detailed analysis to identify the reasons has not been carried out, anecdotal accounts point to possible COVID-related fears.

The Group was informed that there are more than 800 CSOs in The Bahamas. The majority of these are small, localised and staffed by volunteers. As such, very few civil society groups have the capacity to deliver sustained and extensive civic education programmes. That being said, the Group noted that some of the larger, more organised, civil society groups were exploring ways to mobilise and sustain the energy displayed during elections, particularly around social issues.

Recommendations

- CSOs should be encouraged and supported to advocate and deliver programmes on the fundamental human, civil and political rights of citizens, and the value of each vote.

Women’s political participation

According to General Recommendation No. 23 of CEDAW on Political and Public Life:

‘States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, in order to achieve broad representation in public life, women must have full equality in the exercise of political and economic power; they must be fully and equally involved in decision-making at all levels, both nationally and internationally, so that they may make their contribution to the goals of equality, development and the achievement of peace... A gender perspective is critical if these goals are to be met and if true democracy is to be assured.’

The Bahamas acceded to CEDAW in 1993. According to CEDAW, a participation rate of 30-35 per cent is recommended in order to achieve a real impact on the content of political decisions. This recommended rate of participation refers to all aspects of political life, including in legislatures and in political leadership positions. While some progress has been made in recent years to improve women’s political representation and participation, there remains a pressing need to address shortcomings in this regard.

Table 4.1 provides gender-disaggregated data for political parties and independent candidates.⁷

Table 4.1

	Party	Total no. of candidates	No. of women	Share of party total
1	Bahamian Way Forward Movement (BWFM)	2	0	0%
2	Bahamas Constitution Party (BCP)	5	2	40%
3	Coalition of Independents (COI)	33	18	55%
4	Democratic National Alliance (DNA)	22	6	27%
5	Freedom National Movement (FNM)	39	7	18%
6	Grand Commonwealth Party (GCP)	20	11	55%
7	Kingdom Government Movement (KGM)	14	5	36%
8	Progressive Liberal Party (PLP)	39	7	18%
9	Righteous Government Movement (RGM)	5	2	40%
10	United Coalition Party (UCP)	15	10	67%
11	Faith That Moves Mountains Party (FTMMP)	2	0	0%
12	Independents	29	4	14%
	Total	225	72	

The Group noted that, of the 225 candidates contesting the election, 72 were women, equivalent to 32 per cent. Women contested 33 of the 39 constituencies, or 85 per cent of the total.

The Group noted that, of the 11 parties that contested the election, nine nominated women. The percentage of women nominated by smaller parties was, in some cases, well above the CEDAW-recommended percentage of 30-35 per cent - a hugely positive development. Some parties also advised the Group of provisions in their respective constitutions for a minimum participation of women, and four of the 29 independent candidates were women.

Yet significant challenges remain. Within political party hierarchies, women remain underrepresented in leadership and senior decision-making positions. Equality Bahamas' 2018 Shadow Report to the 71st Session of the CEDAW Committee asserted that female candidates were subject to misogynistic remarks during their leadership campaigns, and averred that most political parties had not made concerted efforts to increase the number of women at the highest levels of their hierarchy.⁸

While the number of female FNM candidates has increased from four to seven since 2017, and the PLP's from six to seven, females still represent just 18 per cent of each party's total candidates. Moreover, while the total number of female candidates across all parties might be within CEDAW's recommended target of 30-35 per cent, this has historically failed to translate into the election of a concomitant number of women. In this election, seven women won seats, bringing the share of women in the House of Assembly to 18 per cent.

⁷ <https://www.elections.gov.bs/list-of-candidates-for-2021-general-election/>

⁸

https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BHS/INT_CEDAW_CSS_BHS_32599_E.pdf, p. 10.

Among the successful women candidates, the Group was pleased to note that women had taken five of a total of 22 cabinet positions (22 per cent), up from just one female cabinet minister out of 19 prior to the election. While still below the CEDAW target, this is a significant improvement by the incoming government and is to be commended.

Several stakeholders informed the Group that factors influencing the participation of women in politics include financial and economic considerations, and the family responsibilities of female aspirants. Many women are the primary breadwinners as well as family care providers, which puts additional pressure on their ability to dedicate time and resources to engage more actively in political processes.

Another factor is the hostile nature of political campaigns, which can include direct and *ad hominem* attacks on the character of female candidates. Mudslinging and innuendo about individuals and/or parties are reportedly a feature of elections in The Bahamas in general, and this challenge has become exacerbated by the wide reach and anonymity of social media platforms in recent years. Yet some stakeholders told the Group that cyber bullying against women candidates was of a nature and frequency that male candidates are not subjected to, and that this had an adverse effect on the number of women willing to campaign for public office.

There are no easy solutions to this problem. The Constitution of The Bahamas protects freedom of speech and expression and does not include gender in its definition of discrimination (see later in this section). The Bahamas does not currently have standalone legislation on hate crime (including hate speech) or cyber bullying (beyond the 2003 Computer Misuse Act). The strengthening of existing legislation or the introduction of a new law may go some way to redressing the problem but it is imperative that any such reform ensure that fundamental democratic rights are not unduly impinged on.

Yet many misogynistic comments against women, such as those referred to in the Equality Bahamas Shadow Report,⁹ may not fulfil normative definitions of either hate speech or cyber bullying and may be protected as free speech under both domestic and international law (ICCPR Article 19), thus precluding the ability of such legislation to provide redress. This points to the need for a longer-term, multistakeholder effort to shift societal attitudes to women in politics.

The Group is aware of the 2016 referendum on gender equality, in which citizens voted against the passing of four bills that would have afforded equal rights to women in a number of different ways. Most relevant to the Group's focus is 'Bill #4', as it was known. This Bill would have amended Article 26 (3) of the Constitution, which currently does not include gender, sex or sexual orientation in its definition of discrimination, a deficiency rightfully deemed by the Constitutional Commission as needing urgent remedy.¹⁰

The Constitution, as it stands, is in contravention of The Bahamas' international commitments under CEDAW. Equality Bahamas' Shadow Report to CEDAW offers a view on the role of politicians in national discourse on this issue: 'The popular excuse from politicians for not making policy changes at the national level is the "will of the people," but they seldom take on the challenge to make change within their own systems.'¹¹

⁹ Ibid., p. 10.

¹⁰ Ibid., p. 4.

¹¹ Ibid., p. 10.

While the Group acknowledges the democratic vote of citizens in this referendum, it is important to educate citizens as to the expansion of rights conferred to women by CEDAW and the benefits to their lives that this brings, particularly as these pertain to democratic and civic participation. There is a pressing need for politicians to lead from the front on this issue. The government should ensure that messaging on women's rights is consistent with CEDAW. Further, the government and political parties should meaningfully engage CSOs, human rights groups and the media in strengthening their efforts to educate the public on the provisions of CEDAW and women's political representation specifically, and seek to shift public attitudes and behaviour accordingly. The government should strongly consider the announcement of a new referendum on this constitutional change, and the country's main political parties are urged to provide cross-partisan support for this amendment.

The Group acknowledges that The Bahamas is by no means the only country facing these challenges, and further acknowledges that such a cultural shift in attitudes will no doubt be incremental. This process might be aided by a continued increase in the visibility of women in leadership positions in the executive and legislature. At present, there are no temporary special measures (TSMs) in place, such as seat quotas or quotas for cabinet positions. The Group recommends that draft legislation on such measures be developed in consultation with CSOs and political parties. The Group recommends that the Commonwealth Secretariat be ready to support such efforts.

Recommendations

- The Group recommends that political parties and candidates subscribe to a code of conduct that condemns character assassination, cyber bullying and slander.
- The Group recommends that political parties and responsible authorities make every effort to encourage, facilitate and support greater participation of women in representational politics, political leadership and executive government, through measures that include but are not limited to TSMs such as seat and cabinet quotas. CSOs and human rights groups should be meaningfully consulted as part of this process.
- The Group recommends that all political parties include a mandated minimum percentage of women's participation in their constitutions and make greater efforts to ensure women are given leadership and decision-making positions in political party hierarchies.
- The Group recommends that, following requisite consultations, a new referendum be held on a potential change to Article 26 (3) of the Constitution. Political parties should campaign alongside CSOs and human rights groups in support of this change.
- The Group recommends that political parties, CSOs and human rights groups revive dialogue on the value of strengthening existing laws on cyber bullying and harassment, or the introduction of new legislation on the same.

Youth

The Commonwealth recognises 'young people or youth' as persons between the ages of 15 and 29. According to PRD statistics for the 2021 election, the number of registered voters

within the 18-30 age group was 44,487, equivalent to just under 23 per cent of the total. This is in line with recent estimates of the total population of young people in The Bahamas, which the Pan American Health Organization estimates to be 23 per cent.¹² These are encouraging statistics. The Group also commends the PRD for disaggregating data on youth voter registration.

The Group notes that a number of parties have youth wings, which represent an important early avenue for young people to get involved in politics. The Group also notes government initiatives aimed at increasing youth awareness of democratic processes and good governance, in line with the 2008 Organization of American States Declaration of Medellin on Youth and Democratic Values. Such initiatives include the Youth Ambassadors Programme and the National Youth Parliament.

Yet some stakeholders suggested that more could be done to provide the country's youth with civic education on democracy and governance, in order to reduce youth apathy on political issues and further strengthen the health and vibrancy of Bahamian democracy. The government, political parties, CSOs and the media can all play an important role in enhancing civic education on these issues and are encouraged to continue finding new ways of engaging youth.

On election day itself, there was very good representation of young people in all the polling stations the Group visited. In addition to the large numbers of young people voting, it was encouraging to observe, in many polling stations visited, many young people participating as candidates' agents and polling officials.

The Group notes that participating in the conduct and scrutiny of elections is a good way to strengthen understanding of democratic processes and commends the engagement by young people. The Group strongly encourages the PRD and political parties to continue to constructively engage younger voters in electoral and political processes.

Recommendations

- The government, political parties, CSOs and the media are encouraged to continue finding new ways of providing civic education on Bahamian democracy and governance issues targeted at youth and engaging them further in democratic processes.

Persons with disabilities

The Persons with Disabilities (Equal Opportunities) Act 2014 guarantees equal rights to PWDs and places legal obligations on the state to offer adequate support to this group. Section 26 of the Act relates specifically to voting; it provides PWDs with the right to be assisted to the polls by a person of their choice.

The Group was pleased to note that eligibility for the advance poll was expanded to include PWDs, and that PWDs were given assistance at some polling stations, including the provision of designated seating outside stations. In some polling stations, PWDs were fast-tracked to

¹² <https://www.paho.org/adolescent-health-report-2018/images/profiles/Bahamas-PAHO%20Adolescents%20and%20Youth%20Health%20Country%20Profile%20V5.0.pdf>

the front of the queue. In line with the provisions of the Act, PWDs were allowed to be accompanied by a person of their choice into the booth. The Group also observed that, in line with the law, persons providing assistance to physically incapacitated voters took an oath of secrecy regarding the choice of the voter. Voters requiring such assistance also took an oath attesting to their incapacity.

The Group noted that, while polling officials showed initiative in assisting PWDs, they did so without recourse to specific instructions in polling manuals. The Group commends the initiative shown and recommends that for future elections the practice of prioritising the voting of PWDs be standardised and applied consistently across all polling divisions.

Recommendation

- The Group recommends that special dispensation for fast-track voting by PWDs be standardised across all polling stations, and clear instructions be included in polling manuals.

Chapter 5: Campaign and media

Notwithstanding the prevailing COVID-19 regulations, there were very few restrictions on campaigning in The Bahamas. This is partly because the Parliamentary Elections Act does not prescribe an official campaign period, or what constitutes a campaign.

Section 100 of the Parliamentary Elections Act restricts the printing, publishing and distribution of campaign materials unless said materials bear the name and address of the printer and publisher. On election day itself, Section 98 of the Act prohibits undue influence over voters through the setting-up of campaign tents within 100 yards of any building in which a polling station is situated. The Act also prohibits violence and intimidation of voters and outlaws knowingly making false statements about the personal character or conduct of a candidate.

With regard to the media, under the Utilities Regulation and Competition Authority (URCA)'s Revised Code of Practice for Content Regulation, candidates or intended candidates are allowed to purchase broadcasting time at any time of the year up to midnight at the end of the day before election day. Licensed broadcasters are not permitted to broadcast election-related advertising on election day, including advanced polling day.

COVID-19 public health regulations and the campaign

The Group appreciates the extremely difficult task the government and the PRD faced in seeking to balance the exigencies of the public health situation against the need to protect fundamental political rights and democratic principles, as enshrined in regional and international law and commitments to which The Bahamas is party.¹³ Notwithstanding some minor criticisms from some parties, there also appeared to be broad understanding and support for such measures.

The Group is pleased to note there were no reports of the police enforcing the COVID-19 emergency regulations unfairly against any of the political parties or candidates. Indeed, as with the 2017 election, the police and security forces conducted themselves in an exemplary fashion throughout the campaign and indeed on election day. The Group wishes, once again, to place on record the commendable and laudable way in which the security forces carried out their duties with respect to the election. Their conduct was an example of good practice for police forces across the Commonwealth.

Nature of the campaign

Traditionally, electoral campaigns in The Bahamas are characterised by large-scale indoor and outdoor political rallies. Given the restrictions highlighted above, campaign rallies were not conducted in the usual manner. There was an increase in the use of motorcades and mobile campaign units. The Group noted reports that these motorcades and mobile units may not have fully complied with COVID-19 social distancing regulations.

Parties and candidates also made increasing use of social media to disseminate their message and to connect with the electorate. The media aspect of political campaigning is explored in greater detail in the media section below.

The parties and independent candidates with the means to do so erected signs, billboards and posters across the country, using candidate pictures, party colours and symbols, to boost

¹³ See Chapter 3.

their visibility. Political parties also bought advertisements on television, in newspapers and on local and national radio shows, to convey their manifestos and policies and to increase the familiarity of candidates for voters. However, as discussed in the media section, some parties reported difficulties in buying and securing advertising slots, particularly on the national broadcaster.

Overall, the campaign environment was observed to be orderly, and was conducted in a generally positive spirit. Nonetheless, we encourage the PRD to consider the development of a code of conduct for political parties and candidates. Among other things, this would help provide clarity and transparency around campaign practices, enable a level playing field for candidates and parties contesting elections and help cement the positive atmosphere in which campaigns have been conducted to date.

Campaign finance

At the 2017 Bahamas general election, the COG identified a lack of campaign finance legislation as cause for concern and made recommendations accordingly - including on the enactment of such legislation before the next election. The Group notes that the lack of a regulatory framework for campaign financing has also been raised by other observer groups. At the time of the 2021 election, there remained a gap in the legislative and regulative framework governing campaign financing.

The United Nations Convention Against Corruption calls for transparency in the funding of electoral campaigns and political parties, while the Inter-American Democratic Charter of the Organization of American States draws special attention to the problems associated with the high cost of election campaigns and the establishment of a balanced and transparent system for their financing. The Bahamas is signatory to both documents.

The 2021 COG notes that money can be a very powerful influencing factor regarding the outcome of elections and the accountability of elected officials. This is contrary to the international good practice standard of having a 'level playing field' for all candidates, as well as undermining transparent and accountable government. The majority of stakeholders consulted on this issue agreed on the importance of campaign finance regulation in The Bahamas for these reasons, among others.

The 2021 COG wishes to reiterate the concerns raised by the 2017 COG that 'the absence of regulations or guidelines to campaign financing limits can lead to excessive spending by one party over the other, accusations of improper use of state resources for campaigning and lack of transparency and public accountability for the parties.' The 2021 COG also supports and reiterates the recommendation made in this respect by the 2017 COG.

Recommendations

- The PRD should consider the development of a code of conduct for political parties and candidates, in consultation with electoral stakeholders.
- The government and the House of Assembly should initiate consultations on the development of a regulatory framework governing campaign financing prior to the next election in order to promote fairness, transparency and accountability.

Media landscape

There are over 30 radio stations in The Bahamas, and, of the four television stations in the country, three (Our News, Eyewitness News and Jones Communication Network (JCN)) are privately owned. ZNS (Zephyr Nassau Sunshine) is the national television broadcaster, operated by the state-owned Broadcasting Corporation of The Bahamas, which operates one television and four radio stations. ZNS is the only station with national reach. Multichannel cable is also widely available.

There are around a dozen print media outlets in The Bahamas, all of which are privately owned, and all with an online presence. Among the largest papers are *The Nassau Guardian* and *The Tribune*, with *The Bahama Journal* and *Freeport News* also having significant readership.

Internet penetration in The Bahamas stood at 85 per cent in 2020 and social media users at 64 per cent. Facebook accounted for approximately 73.2 per cent of social media site visits in The Bahamas, followed by Pinterest, with 10.9 per cent, and Twitter, with nearly 10 per cent.

There was extensive use of social media by political parties, candidates and voters throughout the campaign, and their messaging was amplified and embellished by their supporters' social media accounts.

The key laws and regulations pertaining to media in The Bahamas are:

- The Constitution (1973)
- Broadcasting Act (1956), as amended
 - Broadcasting (Licensing) Rules
 - Broadcasting Rules
- Communications Act (2009), as amended
 - URCA Code of Practice for Content Regulation (revised) ECS 08/2020
- Libel Act (1843), as amended
- Penal Code Cap 84
- URCA Act (2009)

The URCA regulates electronic communications, broadcasting and spectrums. Print media is not regulated by any standalone legislation. While there is no statutory regulator or self-regulatory body covering print media, the Bahamas Press Club, formed in 2014 to promote good practices in journalism, does have a code of conduct.¹⁴

Media environment during the election

The media is an essential component of credible and transparent elections. Among other things, it provides opportunities for candidates and voters to engage in public discussion and ensures the dissemination of information so voters can make informed decisions. The media also acts as a crucial watchdog, safeguarding the transparency and integrity of democratic processes. Indeed, a democratic election without media freedom, or with a stifled media, would be a contradiction.

The Group notes that press freedom is generally respected, as provided for by the Constitution, and that the press seemed to be free to cover the campaign and the election

¹⁴ www.thebahamasweekly.com/publish/local/Bahamas_Press_Club_adopts_Code_of_Ethics47578.shtml

without intimidation. While The Bahamas does have libel laws, these have seldom been used against journalists. In 2021, The Bahamas enjoyed a Freedom House score of 91/100, which included a positive assessment of the country's media environment.¹⁵

However, the Group noted concerns that the government-owned national broadcaster, ZNS, did not provide balanced coverage of the activities of the contending political parties and candidates. While even equitable coverage of the campaign will always result in a greater focus on the two main parties, there is nonetheless a need to rebalance coverage to ensure voters have an opportunity to view all candidates' positions.

The main opposition political party alleged that the national broadcaster refused to broadcast its political adverts during the campaign owing to a disputed debt from the previous election, despite the party having offered to clear the debt in advance. In response, ZNS stated that it did offer to sell advertising slots to the PLP, subject to the payment of the outstanding debts, but that the PLP declined as the time spots offered were not deemed favourable.

Were the PLP's allegations to be true, this would have been in violation of Section 6.4 of the URCA Code of Practice for Content Regulation, which prohibits discrimination against, giving preference to or showing bias towards any candidate or political party during election periods. However, the Group was unable to verify either side's claims. Whatever the case, the Group appreciates that this was a snap election and that there may have been limited time to resolve outstanding issues. It is therefore recommended that ZNS and political parties strengthen communication throughout the electoral cycle to work against such occurrences in the future.

The Group acknowledges the role of the URCA, which published notices reminding broadcast organisations of their obligations relating to political broadcasts and advertisements during elections under Part 6 of the Code of Practice for Content Regulation. The Group notes that, if the URCA finds a licensee to be in breach of the Code, its final determinations on such matters are legally binding in accordance with Section 102 of the Communications Act.

The Group is aware of a 22 July Interim Order of the URCA, pursuant to Section 96 of the Act, which upheld a Code of Conduct complaint by opposition leader Philip 'Brave' Davis. The complaint alleged that Cable Bahamas Limited (CBL) had failed to clearly identify political advertisements and broadcasts, and that these broadcasts were defamatory and slanderous of Mr Brave.¹⁶ The URCA ordered CBL to cease and desist from making such broadcasts. The Group commends the URCA for taking swift and decisive action in this regard. Yet the Group notes that the broadcaster was not required to publicly correct the record regarding its defamatory statements. In the interests of natural justice, the URCA may wish to consider adding such requirements to its future orders.

Media stakeholders reported a lack of access to the Office of the Parliamentary Commissioner despite the latter's vital role in communicating information to the public in a timely manner, especially in an election. The role of the parliamentary commissioner was of particular significance in this election because of adjustments he had made to procedures that deviated from both the law and past practice. The failure to communicate these adjustments via the media was unfortunate and left space for inaccurate information and speculation to fill the information void. As discussed in Chapter 3, there is a pressing need

¹⁵ <https://freedomhouse.org/country/bahamas/freedom-world/2021>

¹⁶ <https://www.urbahamas.bs/wp-content/uploads/2021/08/Revised-Interim-Order-Content-Code-Complaint-against-CBL-22-Jul-2021-1.pdf>

for the PRD to revisit its strategic communications and increase both the timeliness and the transparency of its communications with all stakeholders, including the media.

The Group was made aware of concerns from some stakeholders regarding the lack of voter education by the media compared with in previous elections. The media is strongly encouraged to redouble its efforts on voter education and informing citizens on the electoral process, particularly in relation to the new continuous register, with a focus on key inflection points such as registration at the age of 18, as well as amended registration on movement/displacement, marriage and other occasions required by law. We recognise the vital role that the media will have in conveying this information, particularly since the new continuous register may involve a change in the behaviour of voters who have traditionally re-registered just in time for the five-yearly register review.

While the extensive use of social media by political parties, candidates and voters during the campaign is commendable, a number of stakeholders reported a common trend of hostile political campaigns on social media. Some stakeholders informed the Group that it was the norm for women candidates to be subjected to unfair and misogynistic abuse that male candidates are not subjected to, and that this was a discouraging factor for women considering running for office (see Chapter 4).

The Group was also made aware of posts by political party officials who operated Facebook pages that contained inaccurate or misleading information. It is incumbent on political parties to ensure the accuracy of their statements during the campaign period. The Group reiterates its recommendation that the PRD develop a code of conduct for political parties and candidates and ensure that such a code sufficiently captures this issue.

Outside of traditional media, the Group was not made aware of any fact-checking initiatives in The Bahamas. The Group also notes that there is currently no data on political advertisements on Meta's Ad Library¹⁷ (Twitter's global policy does not allow political ads¹⁸). Further, the Group was not aware of any formal or informal cooperation between the PRD, the URCA and social media companies in relation to election-related content moderation. While misinformation and disinformation did not appear to be significant in this election, these issues could arise in the future. It is therefore recommended that the PRD and the URCA proactively engage social media companies. The Group recommends that the Commonwealth Secretariat be ready to facilitate such discussions if desired.

Stakeholders informed the Group that significant advocacy with the government to pass a strong Freedom of Information Act, including by the Bahamas Press Club, resulted in this being passed in March 2017. However, the government had not yet published a commencement notification of the whole Act in the Gazette to bring it into effect.¹⁹ Further, while the Office of the Freedom of Information Commissioner had been established, no regulations had yet been formulated. Such acts are of great democratic value, insofar as they can enhance public accountability, support civil society efforts to develop evidence-based policy proposals and counter disinformation by making official information available for journalistic and public scrutiny. The government should fully proclaim the Freedom of Information Act, develop regulations and ensure that the Act is fully implemented by public institutions. The government should also raise awareness of the value of this legislation as part of its broader efforts on civic education.

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www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=GB&media_type=all

¹⁸ <https://business.twitter.com/en/help/ads-policies/ads-content-policies/political-content.html>

¹⁹ Only Section 47 of the Act, relating to whistleblowing, is in operation after notification of its commencement was published in the Gazette in March 2018.

Recommendations

- State-owned media and political parties should work together to ensure equitable access and coverage for all political parties during elections.
- While noting the merits of the Bahamas Press Club, relevant stakeholders may wish to initiate consultations on the development of a statutory or formal self-regulatory body for the regulation of print media, and develop a formal code of conduct.
- The PRD and political parties should initiate discussions on the development of a code of ethics for political parties and candidates that would commit parties to the responsible use of social media. Such a code should prohibit defamation, slander and *ad hominem* attacks on opponents on social media.
- To prepare for future elections, the PRD and the URCA may wish to consider initiating discussions with social media companies on the issue of election-related content moderation. The Group recommends that the Commonwealth Secretariat be ready to facilitate such discussions if desired.
- The government should fully proclaim the Freedom of Information Act, develop regulations and ensure that the Act is fully implemented by public institutions. The government should also raise awareness of the value of this legislation as part of its broader efforts on civic education.

Chapter 6: Voting, counting and the results process

On 16 September 2021, polling was scheduled to occur from 0800 to 1800 and was organised in 676 polling stations. The Parliamentary Elections Act provides for an extension of time in case of delays. Polling stations were primarily located within public facilities such as schools, churches and community centres. There were two voting booths in each polling station.

A returning officer and an assistant returning officer were appointed to each constituency. Each polling station was staffed by a presiding officer, supported by an assistant presiding officer and up to four polling assistants. In addition, an unarmed police officer was assigned to maintain law and order in each polling station. The Royal Bahamas Defence Force was also deployed to assist with compliance with COVID-19 mitigation measures. Party agents and international observers were also authorised to be present at polling stations. Provisions were made to mitigate the spread of COVID-19, including various methods of sanitisation inside polling stations, and voters were required to wear masks.

Assessment of the advance poll

Some members of the Group were able to observe the advance poll on 9 September. It was noted that, although this phase of the election concluded in an orderly manner, the management of some aspects of the process, especially the close and count, raised questions about the preparedness of election officials.

Specific issues observed by the Group, as well as issues brought to the attention of the Group, include the following:

- Elderly voters and voters with disabilities queued in the hot sun prior to entering polling premises. In at least one location, the queue was quite a distance from polling stations, so these categories of voters also had a long walk to vote.
- Some voters who said they had registered for the advance poll were not on the advance poll register, and were unable to vote.
- The processes adopted at closing varied between polling stations. The Group observed a lack of consistency between polling stations with regard to the handling and sealing of envelopes and ballot boxes. This includes:
 - Advance ballots not being placed in sealed envelopes prior to being placed in the ballot box, as required by law;
 - A box that had been sealed, including with wax, being opened and resealed three times because the presiding officer had missed various required steps prior to sealing the box;
 - A returning officer instructing a presiding officer to stop tallying the ballots and to seal them untallied. The presiding officer complied and no agent complained.
- The Group saw evidence of such inconsistency on election day itself when the advance poll ballots were opened before polling and placed into the ballot box used for election day.

While we saw stark differences regarding adherence to lawful processes and procedures, which intimated a lack of sufficient training, we are satisfied that there was no intention or deliberate attempt to defraud the process. We also note that the PRD used the experience and lessons learnt from the advance poll to ensure that errors did not recur or were minimised on 16 September. We commend the acting parliamentary commissioner, polling staff and the security services in this regard.

Election day: key procedures for opening and voting

The key prescribed procedures for opening and voting are as follows:

Opening of the polls

Voting is officially scheduled to start at 0800. Prior to the opening of the polls, at 0730, the presiding officer must unlock the ballot box and remove all ballot papers and materials from within. The box is then shown to all present to confirm it is empty.

For those polls that had advance ballot boxes or overseas ballots, the envelopes containing those ballots are to be opened and the ballots placed in the box, after which it is locked in the presence of all. The presiding officer then places a seal on it in such a manner as to prevent it being opened without breaking the seal.

The presiding officer must then complete the pre-poll ballot paper account in Form M. Accredited party polling agents and international observers are allowed to be present for the opening.

Voting

The number of voters inside a polling station at any time cannot exceed the number of polling compartments in the station. Voters can vote only in the division where they are registered.

On entering the polling station, a voter must produce their voter's card or alternative accepted form of photo identification. The voter's number, full name and description is called out. If an alternative form of identification is used, the means of identification is noted on a list to be kept by the presiding officer.

The counterfoil of the voter's card, held in a box by polling officials, is marked, and the voter's name on the register is marked to indicate that they have voted in that polling division.

The voter's right thumb is inspected to ensure they have not already voted. The voter is then instructed to insert their thumb in the indelible ink and the voter's card and counterfoil are stamped to indicate that the person has voted in that election in that polling division.

The presiding officer then signs the back of the ballot in the space provided, and issues the ballot to the voter. The voter is directed to the polling compartment and instructed to (i) use the (sanitised) pencil provided; (ii) make a mark next to the name and symbol of the person they wish to vote for; (iii) fold the ballot so as to conceal their vote; and (iv) return to the presiding officer to show him/her their signature on the back of the ballot and only then drop the ballot in the box.

The voter then proceeds to a voting compartment to vote for the candidate of their choice.

Article 63 of the Parliamentary Elections Act outlines provisions for assisted voting, enabling voters with physical limitations to vote with assistance by having a person of their choosing assist them on election day.

Assessment of the opening of the polls and voting

On election day, the Group was made aware that the locations of some polling stations for the advance poll differed from those used for voting on 16 September. This caused some confusion, with some voters erroneously turning up at the advance poll locations on election day instead of their correct poll. This demonstrated the clear need for better and more timely communication from the PRD in this regard, and the Group recommends that this be addressed for future elections.

Pre-poll procedures were generally well conducted in accordance with prescribed procedures, although in some cases the Group observed some delays that affected the timely opening of polls. Political party agents and observers witnessed the opening.

In the majority of polling stations observed, voting commenced on time and stations were well administered. Polling staff generally adhered to prescribed procedures for the conduct of voting. The process was calm and methodical, even if this slowed proceedings in some instances. While there were some inconsistencies noted in polling officials' application of polling procedures, these were minor and did not appear intended to defraud the process, which was very transparent.

The Group was impressed with the conduct and professionalism of polling officials. Polling officials were diligent and courteous while carrying out their duties and dealt effectively with issues that arose. The Group was pleased to observe that PWDs, the elderly, mothers with young children and pregnant women were given assistance at some polling stations, including through the provision of designated seating outside polling stations. In some polling stations, these categories of persons were provided with seats outside the entrance and/or were fast-tracked to the front of the queue. Polling staff showed good initiative in this regard, since such procedures are not proscribed in the training manuals.

The Group occasionally witnessed returning officers consulting with presiding officers to ensure that problems were addressed as rapidly as possible. We commend polling staff for their commitment to their duties and their integrity.

We noted, however, that in many instances polling staff were not easily identifiable, and did not have signs at their tables indicating their specific role. We urge that this be addressed for future elections.

A few members of the Group experienced some inconsistency regarding communications to polling staff and police on the presence of international observers, as is provided for in Section 104A of the Parliamentary Elections Act. While returning officers were generally aware of the accreditation, this apparently had not been communicated to some presiding officers, who were not aware of the role of international observers as provided by law.

Generally, the layout of polling stations was consistent, facilitating the smooth flow of voters, ease of communication between officers and scrutiny of the process. Efforts were made to ensure the secrecy of the ballot, though it was noted that in some cases polling booths faced windows, which could compromise such secrecy.

The turnout of voters was highest at the outset of voting. The acting parliamentary commissioner and his team ensured that COVID-19 mitigation measures were implemented to provide for the health and safety of voters and poll workers, including social distancing and other measures, such as the use of face masks and hand sanitisers. We noted that these were generally adhered to quite strictly inside polling stations, with polling staff diligently sanitising polling booths and indelible pencils at regular intervals. It was also noted that,

thanks to the diligence in ensuring safety and proper sanitation, in most cases voters were processed with sufficient time gaps so that no more than one voter was in the station at any one time. It was also noted, however, that there were often crowds of party agents outside polling stations, and occasionally voters, who were not always adhering to the COVID-19 mitigation measures.

Adequate security was provided, with the Royal Bahamas Defence Force also deployed to deliver ballot boxes to polling stations and assist with compliance with COVID-19 mitigation measures. At least one police officer was assigned to each polling station; the role of this officer included not only preserving the security of the station but also recording any significant occurrence. The Group wishes to commend all security services for their professional conduct and diligence, and for undertaking their duties in a non-intrusive manner.

The Group observed several party agents, especially from the two largest parties, at all polling stations. They were well prepared and meticulous in carrying out their duties, and it was noteworthy that there was great camaraderie and close co-operation among the agents of different parties. In addition to carrying out their own scrutiny, they also assisted polling officials to find names in the register, and sought to engage constructively when any issues emerged. The level of maturity and positive engagement by party agents is to be commended.

It was brought to our attention that, while parties are entitled by law to have three agents inside the polling station, the PRD had issued instructions that each party was to be allowed only one agent in each polling station. This was attributed by the PRD to the impact of the pandemic, with a reduction in the number of people inside polling stations necessary to ensure adequate social distancing. Some political parties were unhappy with this, and one opposition party wrote to the attorney-general to highlight their concern. The Group was advised that the two major parties (the FNM and the PLP) had agreed that, notwithstanding their legal entitlement to three agents, they would assign only two. The Group observed that, in many instances, the FNM and the PLP had two agents present.

The Group recognises that it is long-standing tradition in The Bahamas to prominently display party colours and paraphernalia on election day, including through the wearing of party colours and tee-shirts inside polling stations. The Group also noted the prevalence of apparel worn by party agents and voters inside polling stations, which contained *de facto* advice on whom to vote for. The Group notes that it is international good practice to maintain a sterile environment in and around polling stations on election day and encourages electoral stakeholders to consider adopting this practice. We also noted that the requirement, under Section 98 of the Act, to maintain a distance of at least 100 yards between party tents and any building in which polling stations are situated was not always adhered to.

It was also observed that voting was extended by the commensurate amount of time to compensate for delays in the opening of polls in some cases. In addition, where relevant, polling was extended to ensure that all those who were in the queue at 1800 were able to do so in accordance with the provisions of the law.

Overall, the conduct of voting was an orderly process that was well managed and transparent, with voters free to exercise their franchise.

Key procedures for closing and counting

The key stated procedures for the closing and counting process are as follows:

The polls are officially scheduled to close at 1800. However, if there are voters waiting in line at 1800, the presiding officer shall publicly indicate the last person standing in line and voting continues until that person has voted. Section 66 of the Parliamentary Elections Act states that, before the close of the poll, the returning officer shall inform each presiding officer notice of the appointed time and place of the recount so that the candidates and their agents may be given notice thereof.

Following the last voter, the presiding officer closes the polling station. Candidates, party agents and international observers are permitted to witness the close and count.

The ballot box is opened, and the result of the poll is ascertained by counting the regular and protest votes for each candidate; the result is declared forthwith.

The presiding officer then immediately fills out Form Q, which shows the number of regular and protest votes polled by each candidate, the number of ballot papers entrusted to the presiding officer, the number of unused and spoilt ballot papers, the number of rejected ballot papers and the counted ballot papers.

The presiding officer then places in individual envelopes the documentation entrusted to him or her, including the different types of ballots accounted for in Form Q, the counterfoils and the register. These are placed in the ballot box, which is then locked and sealed in such a manner as to prevent it being opened without breaking the seals.

A signed copy of Form Q is supplied to any candidate or their agent on payment of a fee of \$1.50 and the ballot box together with the Form Q is delivered to the returning officer. Each candidate or an agent is permitted to accompany the delivery of the box to the returning officer.

Assessment of closing and counting

Most of the polling stations observed closed on time. It was also observed that, as stipulated by law, those still in the queue at closing time were allowed to vote.

The closing procedures, including the count and reconciliation processes, were transparent and inclusive, with party agents and observers allowed to witness these. To demonstrate their commitment to transparency, many polling officials methodically communicated every aspect of the counting and tallying process to party agents and observers. The Group commends the PRD and polling agents for trying to ensure maximum transparency of process.

The Group observed that, prior to conducting the count, polling stations were rearranged to enable a clear view of the count process. In all stations observed, the ballots for each candidate were placed in separate piles in view of all. Each pile was then tallied after all the ballots from the box had been so allocated and the empty box shown to agents and observers. In some stations, each ballot paper was displayed to party agents and observers to confirm the signature of the presiding officer, then held up to confirm the mark against the respective candidate.

The presiding officers were observed to correctly fill out Form Q, providing the accounting of all the ballots entrusted to them as prescribed by law. The requisite packets of ballots and documents were made up and sealed in envelopes and placed in the ballot boxes. The ballot boxes were then sealed with plastic zip ties, sealing wax and 'gummed paper seals'. Candidate agents were allowed to affix their own seals on the envelopes and the ballot box.

Candidate agents were also supplied with a signed copy of Form Q on payment of \$1.50 and could therefore reference and confirm the results during the recount.

Notwithstanding the smooth procedures observed with the closing, Group members noted that the envelopes provided to seal the ballots and documents were not tamper-proof. In addition, the stickers used to seal the envelopes and ballot boxes were not particularly adhesive and therefore of limited utility. In a few cases, presiding officers also complained that they had been supplied with insufficient quantities of envelopes. Group members also noted that the use of open flames to melt the sealing wax was potentially unsafe and could present health and safety risks. In one instance, an envelope containing ballots was singed while the presiding officer tried to prevent burning her fingers while melting the wax.

In line with international good practice, the Group recommends the use of tamper-proof bags rather than envelopes, and the use of uniquely numbered zip ties, which would obviate the need for sealing wax and stickers.

The Group notes and commends the decision by the government to extend the national curfew that was imposed as a result of COVID-19, up to 2359 on election day, to facilitate the conclusion of all polling activities. However, the Group noted that the decision to extend the curfew was not communicated to the public until election day itself.

Ballot boxes on New Providence were transported under security escort from polling stations to the police headquarters. The Group was able to observe the handover of several boxes to the jurisdiction of the acting parliamentary commissioner as required by law. The acting commissioner was in possession of one of the two keys to the vault; the other was in the custody of the police. The Group was confident that the ballot boxes were securely stored pending the recount the next day. The transfer of the ballot boxes was witnessed by party agents and candidates, who also followed the buses carrying the boxes to the police headquarters and witnessed the opening and closing of the vault.

The Group's overall conclusion is that the voting, closing and counting processes at polling stations were credible, inclusive and transparent.

Key procedures for the recount

Under Section 66 of the Parliamentary Elections Act, the returning officer shall recount the regular and protest votes from each polling division in the constituency, in front of any candidates or election agents present, as soon as practicable after receiving the ballot boxes and the ballot paper accounts from all the polling places in that constituency.

The returning officer is also required to provide candidates and their election agents present all such reasonable facilities and relevant information to enable them to oversee the proceedings.

For the recount, the returning officer is required to, in front of any candidates and election agents present, open and recount the contents of one ballot box at a time (in any order), check the accuracy of the ballot paper account accompanying the ballot box (i.e., Form Q) and declare the result of the recount to the candidates or election agents present. Before proceeding to open the next ballot box, the returning officer is required to endorse and sign each presiding officer's ballot paper account (Form Q), either stating that it is correct or stating that it is incorrect and the corrections made thereto. The procedure for the recount of each ballot box is the same.

Any candidate or election agent present can ask the returning officer to recount the votes again although the returning officer may refuse if in their opinion the request is unreasonable.

Assessment of the recount

The recount was conducted on the day after the election at the pre-arranged locations that had been communicated to political parties and candidates. The Group was able to observe parts of the recount in Eleuthera and New Providence, having received information on the location of the recounts from political party representatives.

The Group observed that the recount was conducted in accordance with the procedures set out in law. In addition to election and candidate agents, there were also police officers in the room, who not only provided security but also closely followed the recount and conducted their own tally and verification in line with the returning officers. This was an added level of scrutiny that is commendable. In one station, the returning officer did not commence the recount until all candidates contesting the seat were either present or represented, going to the extent of asking the police officers to find them.

The returning officers carried out their duties with the utmost care and professionalism, ensuring the process was transparent and orderly for the benefit of the candidates and party agents in attendance.

The Group notes that the locations of at least two recounts (St Anne's and East Grand Bahama) were not announced until late on election day itself. While this did not have severe impacts on the process, the Group encourages the PRD to communicate the locations of recounts in a timely manner in order to ensure confidence in the process.

A total of 126,495 Bahamians voted in the parliamentary election, representing a 65 per cent turnout. Of the 32 seats won by the PLP, seven of these were women (22 per cent). All seven FNM seats were won by men.²⁰

Recommendations

- To ensure greater consistency in the application of electoral procedures, the PRD should strengthen the training of polling officials, including reserves.
- Well in advance of election day, the PRD should publish the locations of polling stations and recount locations, along with other pertinent information.
- In accordance with international good practice, it is recommended that the PRD consider using translucent ballot boxes and numbered security seals. In addition, tamper-proof bags, rather than paper envelopes, should be used to store ballot papers after counting.
- To increase inclusion and ensure consistency and transparency, the PRD should articulate and disseminate a clear process through which illiterate persons or those requiring assistance to cast their ballots are provided with support by polling staff.
- During the voter registration process, greater emphasis should be placed on identifying voters who may potentially need assistance to vote, and consideration

²⁰ PRD 'General Election 2021 Winner Percentage'. www.elections.gov.bs/2021-general-election-results/#1646163601510-3fd7ab40-e981

should be given to noting this on their voter's card. These persons could also be offered the opportunity to participate in the advance poll. This should be done in partnership with groups working with PWDs.

- The PRD should review the official guidance it provides as to examples of good and bad ballots, so as to ensure it includes examples of where the voter's intention is clear. This should be complemented by robust voter education and incorporated into the training of polling staff.
- At the conclusion of the electoral period, the PRD should undertake a review of policies, procedures and staff capacity and identify the successes, challenges and lessons learnt. This can be used to build and strengthen the capacity of the PRD for future elections. The review should be incorporated into its strategic and operational plans to improve the system for the next general election, and include consideration regarding the establishment of a domestic mechanism to co-ordinate, monitor and evaluate the implementation of these improvements.

Annex A: Composition and biographies of the Group

Commonwealth Observer Group

The Hon. Bruce Golding, Jamaica (Chair)

Hon. Bruce Golding is the former prime minister of Jamaica (2007-2011). Mr Golding was elected to parliament five times during his political career, starting in 1972. He was appointed a member of senate from 1977 to 1983 and 2002 to 2005. He has been minister of housing and construction (1980-1983), shadow minister of finance (1989-1995), chair of the Public Accounts Committee (1989-1995) and shadow minister of foreign affairs and foreign trade (2002-2005). Mr Golding has served on the Board of Governors of the Institute of Jamaica and as a member of the Electoral Advisory Committee (now the Election Commission of Jamaica). Mr Golding is a graduate of the University of West Indies, where he is currently an honorary distinguished fellow, focusing on public policy management.

Josephine Tamai, Belize

Josephine Tamai holds the position of chief elections officer, Belize. She holds a Master's degree in Business Administration with concentration in Management Studies. Under her management, referenda and several elections, including general, municipal, village council and by-elections, have been successfully conducted. Ms Tamai has served as chief and deputy chief of mission on various CARICOM Electoral Observer Missions. Additionally, she has served as an observer on previous Commonwealth Electoral Observer Missions.

Ian-Michael Anthony, Dominica

Ian-Michael Anthony is the chief elections officer of Dominica. He has over 35 years' experience working in the public service, the majority of which has been in tax administration. Since his appointment as chief elections officer in 2018, Mr Anthony has presided over general elections in 2019 and several local government elections. Mr Anthony is trained in electoral observation, having participated in the CARICOM-UN BRIDGE Workshop on Electoral Observation.

Mr Anthony is the holder of a Bachelor's degree in Law from the University of Huddersfield, Holborn College, in the United Kingdom, and a Post-Baccalaureate Diploma in Legislative Drafting from Athabasca University, in Canada.

Tyrone Buckmire, Grenada

Tyrone Buckmire is the director of the Legal Aid and Counselling Clinic in Grenada. He has been involved in the non-governmental organisation movement since 1988, working with most of the established organisations, and has been the co-ordinator of the two main umbrella bodies - Grenada National Coalition on the Rights of the Child and the Inter Agency Group of Development Organisations. In 2007, he founded Grenada Fund for Conservation Inc., and he serves as one of its directors.

Mr Buckmire has worked extensively throughout the region and internationally, as a trainer and motivational speaker, co-organising, hosting and participating in conferences, workshops and training sessions on a host of development issues, spanning social justice and environmental conservation.

Dr Asha Kissoon, Guyana

Dr Asha Kissoon is a medical doctor by profession, specialising in public health, and is currently in charge of the Sophia Health Center and managing director of New Vision Labs Inc. in Guyana. She is the leader of The New Movement political party, which made history when it elected her as the first female candidate in Guyana's history to be supported by a list for the March 2020 elections, and also the youngest running candidate in the 2020

election. Ms Kissoon also played another historic role in her participation in the Tri-Partied Joinder in the 2020 elections, which saw, for the first time in Guyana's history, three political parties collaborate to join their votes on the way forward. Ms Kissoon has campaigned passionately on women's rights and participation in politics, as well as youth representation and their vital importance in politics. She currently serves as a director on the Guyana Women's Leadership Institute Board, the Guyana Water Inc. Board and the Atlantic Hotel Inc. Board; as chair of the Guyana Hemp Association; and as country director of GuyEnergy Inc. Ms Kissoon continues to pursue her passion for helping persons in need as a volunteer medical outreach doctor and medical evacuation doctor.

Erick Okong'o Mogeni, Kenya

Erick Okong'o Mogeni was elected senator for Nyamira County in the 2017 Kenyan general election. He is currently chair of the Committee on Justice, Legal Affairs and Human Rights. Mr Mogeni was previously a member of the Media Council of Kenya, chair of the (now defunct) Kenya Anti-Corruption Commission Advisory Board and president of the Law Society of Kenya from 2007 to 2010. He has a Bachelor's degree in Law from the University of Nairobi and a Master's degree in Governance and Leadership from Jomo Kenyatta University of Agriculture and Technology.

Eno Jonathan Ovuorho, Nigeria

Eno Jonathan Ovuorho was communications specialist for United Nations Development Programme (UNDP) Cox's Bazar in Bangladesh, under the Rohingya Crisis Response. Prior to joining UNDP, she was a TV and radio producer with BBC Media Action Nigeria and a private broadcast station. She comes with many years' experience as a communications strategist for several organisations in Nigeria and Central Asia. This includes a stint as polio communications consultant for the Centers for Disease Control/World Health Organization; secondment to Jalalabad Office of the United Nations Children's Fund (UNICEF) Afghanistan; and work as a social mobilisation consultant for polio eradication and routine immunisation for UNICEF in Nigeria as well as communications analyst for UNDP Maiduguri Sub-Office, Nigeria. Ms Ovuorho also served as communications specialist to the wife of the executive governor of a Nigerian state. She has an MSc in Rural Development and a Bachelor's degree in Mass Communications, and currently serves as a storyteller and freelance consultant for international non-governmental organisations in Nigeria.

Mark Stephens, CBE, United Kingdom

Mark Stephens, CBE is a lawyer by training, as well as a seasoned observer of both elections and trials around the globe. Specialising in international, human rights and constitutional law, Mr Stephens has undertaken some very high profile cases.

Mr Stephens is the co-chair of the International Bar Association's Human Rights Institute. A past president of the Commonwealth Lawyers Association, he has also litigated and advised in many Commonwealth jurisdictions. Mr Stephens has been mandated by the Commonwealth Parliamentary Association to consult and produce draft template legislation in the area of media law, to comply with international human rights standards.

Mr Stephens has been appointed by the United Kingdom foreign secretary to the Foreign, Commonwealth & Development Office Free Expression Advisory Board, and by the Lord Chancellor to be a champion for the Community Legal Service (legal aid providing access to justice for the economically excluded). In 2018, he became board chair of Internews Europe, an international charity dedicated to freedom of expression and a trusted media. Mr Stephens has significant experience in the area of mis- and disinformation.

Mr Stephens acts in many Privy Council cases (the Ultimate Appeal Court for parts of the Commonwealth), as well as before international courts, committees and tribunals such as

the European Court of Human Rights, the Inter American Court of Human Rights, the United Nations Committee on the Elimination of Discrimination against Women and the Optional Protocol to the United Nations International Covenant on Civil and Political Rights.

Commonwealth Secretariat support staff

Linford Andrews

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Angela Thomas

Political Officer, Pacific

Andy Baines

Programme Officer, Electoral Support Section

Temitope Kalejaiye

Media Officer, Communications Division

Zippy Ojago

Executive Officer, Electoral Support Section

Kale Williams

ICT Systems Specialist, ICT Section

Annex B: Arrival statement



**ARRIVAL STATEMENT
BY THE CHAIR OF
COMMONWEALTH OBSERVER GROUP TO THE
COMMONWEALTH OF THE BAHAMAS**

**Statement by HE Bruce Golding
Former Prime Minister of the Bahamas**

Nassau, 10 September 2021

Following an invitation from the Governor-General of the Commonwealth of the Bahamas, the Commonwealth Secretary-General, The Rt Hon Patricia Scotland QC, has constituted an Observer Group to the General Elections, scheduled for 16 September 2021. It is my honour and privilege to have been asked to lead the Group, and to be here in the country for these elections.

Our eight-member Observer Group has been drawn from across the Commonwealth and brings together a wealth of experience spanning the social and political spectrum including civil society, women's and youth groups, human rights organisations, and the media. The Group is supported by a staff team of six, led by Linford Andrews, Head of the Electoral Support Section at the Commonwealth Secretariat.

The Commonwealth also observed the 2017 General Elections in The Bahamas.

Some of our observers arrived in Nassau earlier and have been at various locations observing the final stages and close of the advance polling, which took place on 9 September 2021.

We recognise the significance of these elections to the people of the Commonwealth of The Bahamas, the region and the global community - and appreciate the challenges they present, especially at a time when the world is battling the coronavirus pandemic.

Our mandate is to observe and evaluate the pre-election environment, polling day activities and the post-election period, against the backdrop of Bahamian national legislation and regulations, as well as regional and international commitments. We will then report on whether the elections have been conducted in accordance with the standards to which The Commonwealth of The Bahamas has committed itself, including its own laws.

We will consider, among other things, whether conditions exist for credible elections, including a fair election environment; whether public media has been impartial; the

transparency of the entire process; whether voters are free to express their will; and whether the counting and results process is transparent.

In conducting our duties and undertaking our assessment, we will be neutral, impartial, objective and independent. The Group has no executive role; its function is not to supervise but to observe the process as a whole and to give recommendations accordingly. We are here in our individual capacities as eminent and experienced Commonwealth citizens. The assessment by the Group will be its own and not that of any member government.

Over the coming days we will be meeting stakeholders including the Parliamentary Registration Department, political parties, representatives of the police, civil society groups, national observer groups, and the media. From 14 September we will deploy our observers in small teams across various islands to observe the voting, counting and results process, as well as meet with other stakeholders in respective locations.

On Election Day, they will observe the opening, voting, closing, counting and the results management processes. We will issue an interim statement on our preliminary findings on 18 September 2021. A final report will then be prepared and submitted to the Commonwealth Secretary-General, and subsequently shared with relevant stakeholders and the public.

Our presence here affirms the support of the Commonwealth to this country and its democratic processes, and we hope that our Group's presence will confirm the Commonwealth's solidarity with the Bahamian people.

The Group will depart The Commonwealth of the Bahamas by 23 September 2021.

On behalf of the Commonwealth Observer Group, I wish the people of The Commonwealth of The Bahamas well as they embark upon this election. We encourage all Bahamians to do their part to ensure that a peaceful and credible process takes place on 16 September.

Full composition of the Commonwealth Observer Group:

The Hon Bruce Golding (Chairperson)
Former Prime Minister of Jamaica

Josephine Tamai
Chief Elections Officer
Belize

Ian Michael Anthony
Chief Elections Officer
Dominica

Tyrone Buckmire
Civil Society Expert
Grenada

Dr Asha Kissoon
Leader, Movement Party
Guyana

Erick Okong'o Mogeni
Senator
Kenya

Eno Jonathan Ovuorho
Communications and Media Expert
Nigeria

Mark Stephens CBE
Lawyer
United Kingdom

Annex C: Deployment plan

Island	City/town	Observers
New Providence	Nassau	Team 1: Chair Linford Andrews Temi Kalejaiye
	Nassau	Team 2: Mark Stephens Josephine Tamai
	Nassau	Team 3: Angela Thomas Zippy Ojago Kale Williams
Grand Bahama	Freeport	Team 4: Asha Kissoon Ian-Michael Anthony
Eleuthera	Rock Sound	Team 5: Erick Mogeni Tyrone Buckmire
Abaco	Marsh Harbour	Team 6: Eno Ovuorho Andy Baines

Annex D: Interim statement



**The Commonwealth of The Bahamas
General Election, 16 September 2021**

**Preliminary Statement by The Hon Bruce Golding
Former Prime Minister of Jamaica and
Chair of the Commonwealth Observer Group**

Nassau, 18 September 2021

The Commonwealth is honoured to have been invited by the Government of the Commonwealth of The Bahamas to observe this significant election. Our Group, which was constituted by the Commonwealth Secretary-General, The Rt Hon Patricia Scotland, comprises experts drawn from the political, electoral, legal and civil society fields across various Commonwealth regions. Our observers began arriving in Nassau on 9 September, to be present for the advance poll, and will depart by 23 September after we have finalised our report.

Our preliminary findings will be shared in the following manner: We will first provide our key findings on the pre-election environment, after which we will focus on our observations on Election Day. Finally, we will share our reflections on the post-election environment. This approach is in line with our mandate as underscored in the arrival statement we issued on 11 September 2021.

In accordance with this mandate, we are assessing this election according to the national, regional, Commonwealth and international values and standards to which The Bahamas has committed itself. Our final report will be submitted to the Commonwealth Secretary-General and will afterwards be made available to the Government of The Bahamas, political parties, civil society organisations and the public.

Noting the electoral history of The Bahamas, the people have once again demonstrated their commitment to our shared democratic values by exercising their right to vote in a peaceful manner. This is to be highly commended.

We have met with the Acting Parliamentary Commissioner, senior officers of the Royal Bahamas Police Force, political parties, civil society organizations, media representatives, private sector leaders, as well as other international observers.

On 9 September our Group observed the advance polls in New Providence, and on 16 September, we observed Election Day proceedings at several polling stations in Abaco, Eleuthera, Grand Bahama and New Providence. Our observations included the opening of polls, voting procedures, closing procedures, the preliminary count and the official recount on 17 September.

Before turning to our initial assessment of the critical aspects of the election process and the electoral environment, we note that this was a snap election, and that this may have impacted the readiness of all electoral stakeholders. Further, in our assessment of the conduct of this election, we have considered the deleterious impact of both Hurricane Dorian in 2019, and the ongoing coronavirus pandemic. Our final report will be issued at a later date.

Our key findings are as follows:

The Electoral Framework and Election Administration

It is noted that the Parliamentary Registration Department, which exists and operates as a department under the aegis of the Central Government, was responsible for the registration of eligible voters and the conduct of elections, and that an Acting Parliamentary Commissioner oversaw the conduct of the General Election. As pertained during the 2017 General Election, a number of concerns were brought to the attention of the 2021 Commonwealth Observer Group on the operational capacity and the extent of functional independence of the Parliamentary Registration Department.

It is a standard feature of any election that the manner in which the electoral process is managed can impact the overall quality of the entire process. Citizens should have confidence in all aspects of the management of the process.

The Group therefore wishes to reiterate the recommendation of the 2017 Observer Group that the Government of The Commonwealth of The Bahamas considers reviewing the existing legal framework for the conduct of elections and takes appropriate steps to further consolidate its democratic credentials by establishing an independent election management body. We would urge further dialogue among relevant stakeholders to ensure that an appropriate model for such a body is agreed. If requested, the Commonwealth Secretariat would be ready to provide any necessary support to stakeholders in the establishment of such a body.

We note that laudable attempts were made by the Parliamentary Registration Department to implement a number of adjustments to electoral preparations, given the impact of Hurricane Dorian and the coronavirus pandemic. However, we received feedback from most stakeholders that there was insufficient communication on the part of the Parliamentary Registration Department to key electoral functionaries and the public at large on some of these necessary adjustments. The Group recommends that the Parliamentary Registration Department develop a robust communication strategy and mechanism to inform the public on critical issues. Such a strategy should also seek to counter any instances of misinformation in both traditional and social media that can arise in the absence of clear official information.

Voter register

We note that, in December 2020, the Government passed the Parliamentary Election (Amendment) Act, which converted the voters' register from the 2017 General Election to a continuous or permanent register. It was further noted that those citizens not on the 2017 register, or who have since changed physical addresses, would have needed to register or transfer their registration to a new polling division and constituency. It was brought to the Group's attention by several stakeholders that there was some uncertainty surrounding the status of those persons who were displaced by the impact of Hurricane Dorian in 2019, and whether they could vote in their new locations. This affected those voters who were originally located in Abaco and Grand Bahama, in particular.

The new law also entitles registered voters with disabilities or those aged 65 and above to apply for early voting. Previously, the option was only made available to select categories of individuals, including students studying abroad, diplomats and their spouses, security personnel and polling staff. This new provision is a positive development.

In the light of the move to a permanent register, the expansion of the eligibility for early voting, and uncertainties regarding voter registration for displaced persons, there was a need for a strong voter education programme ahead of this General Election. Whilst noting that the snap election presented a tight timeframe for such voter education, a number of stakeholders nonetheless regarded the efforts of the PRD to be inadequate in this regard. The Group recommends that electoral authorities prepare robust voter education programmes well in advance of any election, and update these to reflect any changes such that they can be readily deployed in advance of future elections.

Political parties reported to us that they had no opportunity to review the list of polling officials, the sub-division of polling divisions into more than one polling station, or the location of polling stations. We consider that the transparent conduct of elections would be enhanced if there was consultation with political parties and candidates before these important decisions are made.

The registration card that is issued to each voter is deficient in many respects. For instance, the information contained on the card is hand-written, the voter's photograph is affixed via adhesive tape, and the card is not laminated and has no modern security features, leaving it vulnerable. Technology is readily available to enable the authorities to produce a more secure and durable means of identification. We will address this issue in more detail in our final report.

The Campaign

Given the restrictions imposed by the coronavirus pandemic, campaign rallies were not allowed to be conducted in the usual manner. The Government imposed a nationwide curfew. However, the Group noted reports that political party motorcades may not have fully complied with COVID-19 social distancing regulations. Notwithstanding this, the campaign environment was observed to be orderly, and conducted in a generally positive spirit.

We further encourage the Parliamentary Registration Department to consider the development of a Code of Conduct for Political Parties and Candidates.

Campaign Financing

There are no statutory provisions regulating financial contributions to or campaign expenditure by political parties and candidates. This leads to a lack of accountability and uncertainty and suspicion as to the extent to which financial contributions influence the outcome of elections and the decisions and actions of the Government that emerges from those elections.

The Commonwealth Observer Group for the 2017 election strongly recommended the enactment of legislation to provide for the registration of political parties and the regulation of campaign financing and expenditure. We endorse and reiterate that call.

These reforms will raise the level of accountability and transparency in the electoral process, and thus deepen the commitment of The Bahamas to international good practice in these areas.

The Media

The Group notes that press freedom is generally respected, as provided by the constitution, and that the press seemed to be free to cover the campaigns and election without intimidation. However, the Group is concerned that the Government-owned national broadcaster, Zephyr Nassau Sunshine (ZNS), did not provide equitable access and/or balanced coverage of the activities of the contending political parties and candidates. This resulted in citizens being deprived of their right to receive balanced information about the election and candidates.

The main opposition political party (PLP) alleged that the Government broadcaster refused to take its adverts due to an alleged disputed debt from the last election, even though it offered to pay upfront and clear the debt. We were not able to determine the veracity of this allegation, but we found it troubling.

The Group recommends that private media give consideration to the development of a media Code of Conduct that would foster greater accountability and fair coverage of election campaigns.

We also received general complaints concerning the lack of voter education by the media, as compared to previous elections. This is an important aspect of the electoral process, and as a key sector of society, the media should be strongly encouraged to bear greater responsibility in their role in educating and informing citizens on the electoral process.

Media stakeholders also reported a lack of access to the Office of the Parliamentary Commissioner. The media plays a vital role in communicating information to the public in a timely manner and, as highlighted earlier, we recommend that the Parliamentary Commissioner puts in place a robust communications system that engages the media.

There was extensive use of social media by political parties, candidates and voters throughout the campaign.

Advance poll

A Commonwealth advance team was in Nassau to observe the Advance Poll on 9 September. It was noted by the Group that, although this phase of the election concluded in an orderly manner, the management of some aspects of the process, especially the close and count, raised some concerns about the preparedness of election officials. We noted, in particular, the inconsistent application of procedures, or what appeared to be a lack of understanding of certain aspects of the process by the polling officials.

As was the case in the previous election in 2017, however, it became evident that the Parliamentary Registration Department used the experience and lessons learnt from the advance polling day to ensure that errors did not recur or were minimised on 16 September. We commend the Acting Parliamentary Commissioner, polling staff and the security agencies in this regard.

The voting process and environment

Pre-poll procedures and opening of polls

Pre-poll procedures were generally well conducted in accordance with prescribed procedures, witnessed by political party agents.²¹ The process was very transparent, although in some cases the Group observed some delays which impacted the timely opening of polls.

Conduct of voting

Polling staff generally adhered to prescribed procedures for the conduct of voting and were professional, diligent, and courteous in the conduct of their duties. The process was calm and methodical, even if this slowed proceedings in some instances.

We commend polling staff for their commitment to their duties and their integrity. We noted, however, that in many instances polling staff were not easily identifiable, nor had signs at their tables indicating their specific role. We urge that this be addressed for future elections.

It was noted that voters were allowed to use alternative forms of photo identification in the absence of their voter identification cards, especially passports and driver's licences, as prescribed by law.

The prescribed layout within polling stations was adhered to and was conducive for orderly voting and followed COVID-19 mitigation measures to the extent possible. The secrecy of

²¹ Refer to Section 56(1) of the Parliamentary Elections Act.

the ballot was largely respected. However, in some cases we observed that the layout of polling booths faced windows where such secrecy could have been compromised.

We also experienced some inconsistency in the communication to polling staff about the presence of international observers. While Returning Officers were generally aware of their accreditation, this apparently had not been communicated to some Presiding Officers.

Our team observed that voting was extended by a commensurate amount of time to compensate for any delays that occurred with the opening of polls in some cases. In addition, polling was extended to ensure that all those who were in the queue at 1800 were able to do so in accordance with the provisions of the law.

Closing procedures and count

The closing procedures, including the count and reconciliation processes, were generally transparent, inclusive and conducted in line with the prescribed law. Party agents and all observers were allowed to witness the process. However, the process of sealing of the ballot boxes was not always uniform. The use of stickers, zip ties and wax to seal envelopes and ballot boxes was not always efficiently or consistently applied across the stations observed by the Group. The Group will consider recommendations on such security features in its final report.

The Group commends the decision to adjust the curfew hour to 2359 on Election Day to facilitate the conclusion of all polling activities.

COVID-19 mitigation measures

In terms of adherence to social distancing and other COVID-19 mitigation measures, for example the use of face masks and hand sanitisers, we noted that these were generally adhered to quite strictly inside polling stations, with polling staff diligently sanitising polling booths and indelible pencils at regular intervals. It was also noted that, due to the diligence in ensuring safety and proper sanitation, in most cases voters were processed with sufficient time gaps so that no more than one voter was casting their ballot at any one time.

It was, however, noted that there were often crowds of party agents outside polling stations, and occasionally voters, who were not always adhering to the COVID-19 mitigation measures.

Role of Police

Adequate security was provided, and it was noted that, due to the impact of COVID-19, the Parliamentary Registration Department had also deployed the Royal Bahamas Defence Force to assist with compliance to COVID-19 mitigation measures. It was observed that there was at least one police officer assigned to each polling station, whose role included not only preserving the security of the station, but also recording any significant occurrence.

The Group wishes to commend all security services for their professional conduct and diligence, and for undertaking their duties in a non-intrusive manner.

Presence of Party Agents

The Group observed several party agents, especially from the two largest parties, at all polling stations, including at various colourful tents outside the polling stations. They were well prepared and diligent in the conduct of their roles, and it was noteworthy that there was great camaraderie and close cooperation among the agents of different parties. They not only assisted polling officials to find names in the register, but also sought to engage constructively when any issues emerged. The level of maturity and positive engagement by party agents is to be commended.

The Group noted that many political party supporters were gathered beyond the one hundred yards limit as outlined in Section 98 of the Parliamentary Elections Act. However, some did not always adhere to this provision.

It was brought to our attention that, while parties are entitled by law to have three agents inside the polling station, the Parliamentary Registration Department had issued instructions that each party was to be allowed only one agent in each polling station. This was attributed by the Parliamentary Registration Department to the impact of the coronavirus pandemic, whereby a reduction in the number of people inside polling stations was necessary to ensure adequate social distancing. Some political parties were unhappy with this, and one opposition party wrote to the Attorney-General to highlight their concern about this. The Group was advised that the two major parties (FNM and PLP) had agreed that, notwithstanding their legal entitlement to three agents, they would assign only two. The Group observed that in many instances the FNM and the PLP had two agents present.

Inclusion

The Group commends the inclusivity of the electoral process, having witnessed large numbers of women and youth among polling staff, party agents and voters. We further noted that differently abled people as well as the elderly, mothers with young children, and pregnant women were given assistance at polling stations. The Group recommends, however, that these voters be fast-tracked to the front of the queue rather than just being given a seat to wait.

Overall Conclusion

Our overall conclusion is that the voting, closing and counting processes at polling stations were credible, inclusive and transparent. The commitment of all Bahamians to the exercise of their democratic franchise is to be commended, bearing in mind the considerable challenges confronting The Bahamas in the face of a snap election, as well as the aftermath of Hurricane Dorian and the ongoing coronavirus pandemic.

We note that the previous incumbent Prime Minister conceded defeat on the evening of Election Day itself, before the results process had concluded formally, but when the emerging result was already clear. The graciousness which he displayed, and equally the magnanimity and spirit of inclusivity evident in the speech of the incoming Prime Minister, are to be lauded. These are defining features of a healthy democracy.

We are of the view that any shortcomings identified can and should be addressed through open, transparent and inclusive dialogue with relevant stakeholders.

The Group would like to reiterate the key recommendation of the 2017 Commonwealth Observer Group that The Bahamas considers the establishment of an independent election management body, in order to strengthen adherence to international good practice. We urge all stakeholders and citizens of The Bahamas to reflect on this recommendation.

We reaffirm the Commonwealth's commitment to remain engaged with The Bahamas and to support national efforts to enhance and deepen democracy.

We wish the Government, opposition parties and people of the Commonwealth of The Bahamas well and urge the Commonwealth and other international partners to remain firmly engaged to support constructive efforts to enhance and deepen democracy in The Bahamas.

We wish to thank all Bahamians for their hospitality and the support they provided during our time here.

ENDS.






Annex E: Status of 2017 COG Report recommendations

The 2017 Bahamas COG Report is available [here](#).

Summary:

- **Total recommendations** **20**
- Fully implemented 1
- Mostly implemented 2
- Partially implemented 1
- Not implemented 12
- Not determined or N/A 4

Table E1. Summary of 2017 Bahamas COG Report recommendations

2017 recommendation	Status of Implementation  Fully  Mostly  Partially  Not implemented  Not determined or N/A	Comments
Electoral framework and electoral administration		
The statutory and regulatory framework of the PRD should be reviewed, with a view to modernising and enhancing its operational and administrative capacity to ensure independence and enable it to fully exercise its oversight and management functions in accordance with international best practice.	Not implemented	The PRD is still under purview of the minister of national security and is therefore not an independent institution.

Regulations governing the appointment, conditions of service and general operational modalities of the Department should be such as to enhance its independence. Additionally, the Department should be allowed to operate without being placed at the mercy of the government for funds with which to operate.	Not implemented	No such legislative or regulatory reforms pertaining to the operation of the PRD have taken place.
To ensure that all eligible voters, particularly those with critical responsibilities such as police and medical officials, are not disenfranchised, and adequate logistical arrangements are facilitated, it is recommended that the special voting provisions be more strictly adhered to.	Fully implemented	Advance poll eligibility expanded.
To strengthen the functioning of an election management body, to highlight the achievements and identify the weaknesses, a post-election performance review is recommended.	Not determined	The Group was not made aware of any such review.
To facilitate a more modern system and engender trust, integrity and accuracy of the voters' register, it is time for a review of the legislation and regulation governing the development and maintenance of a register.	Mostly	The government introduced a continuous voter register, although this was based on the pre-Hurricane Dorian 2017 register.
To ensure trust in the credibility of the registration process, current processes should be reviewed to strengthen the quality control process of external consultants who are contracted to undertake voter registration.	N/A	The country moved to continuous voter registration, thus precluding a standalone voter registration exercise for which consultants might otherwise have been recruited.
Broadly, to increase the representation of women in political and public life, we recommend that	Not implemented	No TSMs, such as quotas on women candidates) have been introduced.

consideration be given to the introduction of special measures for achieving a gender balance in decision-making structures and processes.		
Noting the important role that political parties can play in addressing gender imbalance in political leadership, we urge that political parties commit to the necessary measures required to achieve gender balance in their own decision-making as a starting point.	Partially	While some political parties did disclose internal policies aimed at increasing the number of women candidates and the role of women in party hierarchies and decision-making processes, the majority of political parties (including the two largest parties) provided only limited evidence of progress in this regard.
Participation and inclusion		
In 2017, recommendations on participation and inclusion were included within other chapters of the report, e.g. in the Electoral framework and election administration chapter, above.		
Electoral campaign and media		
Consideration be given to enacting legislation regulating the registration of political parties.	Not implemented	No legislation has been introduced for the registration of political parties.
A regulatory framework governing campaign financing is developed prior to the next election, in order to promote fairness, transparency and accountability.	Not implemented	No political finance legislation has been introduced.
The Public Disclosure Act is reviewed and given the necessary powers, which will increase and renew public trust in their elected officials.	Not implemented	The Public Disclosure Act has not been amended since the 2017 election.
The government prioritises enacting legislation for a robust Freedom of Information Act.	Not implemented	The Act is not yet fully proclaimed and regulations have not been introduced.
The Elections Office provides social media best practice training for political parties well before the	Not determined	The Group was not made aware of any such training for political parties.

run-up to future elections. Political parties should then ensure their social media agents are well trained in appropriate social media practices and that political parties consider agreeing upon a code of ethics, which also includes responsible use of social media.		
Voting, counting and results		
To ensure greater consistency in the application of electoral procedures, strengthening and lengthening the duration of the training of polling officials is recommended.	Partially	The PRD was somewhat constrained with regard to polling official training because this was a snap election and because of the impact of COVID-19. Training was undertaken both face-to-face and virtually.
In accordance with international best practice, it is recommended that the Department consider using translucent ballot boxes and numbered security seals.	Not implemented	Metal boxes and wax seals are still in use.
To avoid fatigue and thereby minimise human errors, it is recommended that the PRD consider deploying its officials in shifts whereby the presiding officer and polling assistants hand over the counting process to a counting officer and counting staff.	Not implemented	Not implemented, although the quick counting process meant that the working day was not overly long.
A clear process for illiterate persons or those requiring assistance to cast their ballots should be articulated and disseminated, to ensure transparency and consistency.	Mostly	Procedures allow for voters to be assisted by friends or relatives. More robust voter education and polling staff training may need to be conducted to foster greater understanding of the assisted voting process.

Greater emphasis should be placed during the registration process on identifying voters who may potentially need assistance to vote and consideration given to noting this on their voter's card. This is recommended to remove any doubt that the most vulnerable might be put upon to vote beyond their wishes or present capacities.	Not implemented	No full voter registration process took place owing to the move to continuous voter registration. Voters used old voter ID cards; therefore, it seems that they were not adapted to indicate voters who need additional assistance.
Tamper-proof envelopes should be used to store ballot papers after counting.	Not implemented	Card/paper envelopes still in use. Inconsistency across polling stations as to whether and how to seal envelopes.
At the conclusion of the electoral period, a review of policies, procedures and staff capacity, is recommended to identify the successes challenges and lessons that can be learnt to build and strengthen the capacity of the Department for future elections.	Not determined	The Group was not made aware of any such review within the Department.

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