



The Commonwealth

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 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 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.¹ 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.

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

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 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 hours 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 11:59pm on Election Day in order 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 party 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.