

ANTIGUA AND BARBUDA GENERAL ELECTION

12 March 2009

Report of the Commonwealth Expert Team



COMMONWEALTH SECRETARIAT

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Letter of Transmittal

COMMONWEALTH EXPERT TEAM

16 March 2009

Dear Secretary-General

We wish to express our thanks and appreciation for constituting the Commonwealth Expert Team to observe the 2009 General Election in Antigua and Barbuda. We are pleased to submit our report to you in the hope that our recommendations will be duly considered for future Commonwealth technical assistance to Antigua and Barbuda.

We have had the opportunity to assess the overall management of the electoral process, the environment in the run-up to Election Day, having conducted extensive consultations with election officials, political parties, NGOs, civil society, and meeting many people during our deployment around the country.

We are indebted for the support provided to members of the Team by various organisations with whom we met. We express our heartfelt appreciation for the warmth and kindness shown by the people of Antigua and Barbuda during our time here.

The patience, high level of interest and enthusiasm in the electoral process among the people of Antigua and Barbuda impressed us. It is our overall assessment that the 2009 General Election was conducted in a credible manner and that any shortcomings highlighted in our report will be received in the positive and constructive spirit in which they are intended.

Finally, our mission could not have succeeded without the invaluable and talented support of the Commonwealth Secretariat staff, Juliet Solomon, Linford Andrews and Anuja De Silva to whom we give our sincere thanks and best wishes.



Hon Christine Stewart (Chair)
*Former Secretary of State for
Foreign Affairs
Canada*



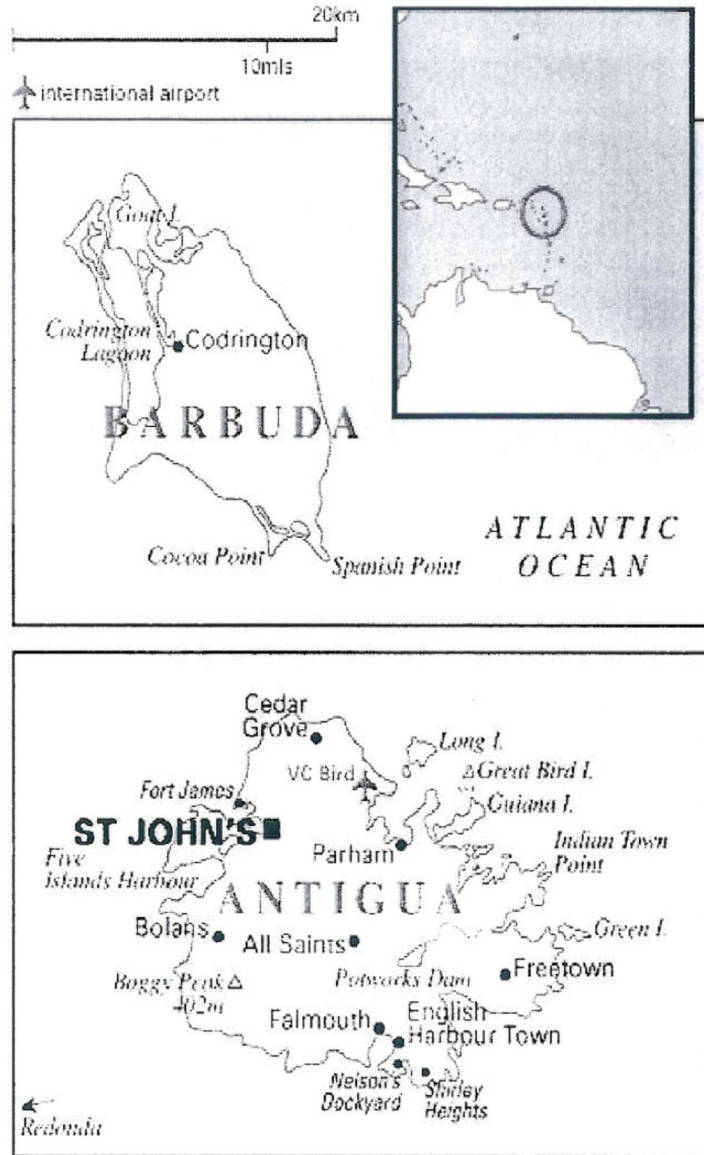
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Map of Antigua and Barbuda



Chapter One

INTRODUCTION

Invitation and Composition of the Expert Team

This report presents the observations, conclusions and recommendations of the Commonwealth Expert Team, which was present in Antigua and Barbuda for the General Election held on 12 March 2009.

The Commonwealth had previously provided a Commonwealth Observer Group to observe the 1999 General Election, and Commonwealth Expert Teams to observe the Voter Registration Process in July 2003, the subsequent Claims and Objections Phase in September 2003 and the General Election in March 2004.

The Commonwealth Secretary-General's decision to send an Expert Team to the 2009 General Election followed an invitation from the Prime Minister of Antigua and Barbuda, Hon Baldwin Spencer (see Annex A).

The Team¹ consisted of:

Hon Christine Stewart (Chair)

Former Secretary of State for Foreign Affairs
Canada

Ms Ruth Arleen Meighan

Chief Elections Officer
Elections and Boundaries Department
Belize

Mr David Yhann

Former Project Director
Elections Monitoring Project
Electoral Assistance Bureau
Guyana

The Team was assisted by three staff members from the Commonwealth Secretariat: Ms Juliet Solomon (Political Affairs Division), Mr Linford Andrews (Political Affairs Division) and Ms Anuja de Silva (Corporate Services Division).

¹ See Biographies of team members at **Annex B**

Terms of Reference

The Team's Terms of Reference were as follows:

The Commonwealth Expert Team for the Antigua and Barbuda General Election shall observe the preparations for the election; the polling, counting and results process; and the overall electoral environment. It will report to the Commonwealth Secretary-General, with recommendations, if appropriate, for Commonwealth technical assistance. The Secretary-General will in turn send the Team's report to the Government of Antigua and Barbuda, the Antigua and Barbuda Electoral Commission, the political parties and to all Commonwealth Governments. It will then be made public.

The experts were invited in their individual capacities and it was made clear by means of a Circular to Commonwealth Governments and a press release (see Annex C) that the views they expressed regarding the election would be their own and not those of either the Governments of their respective countries or of the Commonwealth Secretariat.

Activities of the Expert Team

The Commonwealth Expert Team (hereafter referred to as the “CET” or “the Team”) arrived in Antigua on 5 March 2009 and commenced its work on 6 March by meeting the Antigua and Barbuda Electoral Commission (ABEC) for a briefing on electoral preparations. During the subsequent three-day period (6 – 8 March 2009), the Team held a series of briefings with key stakeholders at the Jolly Beach Vacations Resort (see Annex D). This included meetings with representatives of various political parties (including party leaders)², the diplomatic corps, media, civil society, domestic and international observers as well as other groups.

These meetings provided the Team with information on the electoral process, the overall electoral environment, the conduct of campaigns, and issues with respect to the current electoral arrangements. The Electoral Commission provided the Team with relevant documentation, including the First Schedule of Election Rules, a list of polling stations as well as the Representation of the People (Amendment) Acts 2001 & 2002.

During this time, members of the Team were also able to observe campaign rallies.

For three days prior to the Election Day (9 – 11 March), members of the Team were deployed in three groups, during which they had the opportunity to assess the overall electoral environment, meeting with police officers, election officials and voters, and observing the final preparations for the election. The Chair’s group (Hon Christine Stewart and Ms Juliet Solomon) was deployed to observe the environment and electoral preparations in seven constituencies³ in the northern areas of Antigua. The group also paid a visit to Barbuda on Tuesday 10 March, where the Chair met political leaders, including the Minister for Barbuda, the Chairman of the Barbuda Council, the Chairman of the Barbuda People’s Movement (BPM) and the Antigua Labour Party (ALP) candidate for Barbuda. A second group (Ms Ruth Meighan and Mr Linford Andrews) was deployed to five constituencies⁴ in the southern and eastern regions of Antigua, while a third group (Mr David Yhann and Ms Anuja de Silva) visited four constituencies⁵ in the western region of Antigua and visited Barbuda on Election Day itself to observe the polls.

While preparing its report in the days after the election, follow-up consultations with ABEC took place. The Team’s report was finalised prior to departure from Antigua on 16 March 2009. (see Annex E).

² A meeting with the Antigua Labour Party (ALP) took place on Wednesday 11 March 2009.

³ These constituencies included St. John’s City West; St. John’s City East; St. John’s City South; St. John’s Rural East; St. John’s Rural North; St. George and St. Peter.

⁴ Constituencies visited were All Saints East & St Luke; All Saints West; St Paul; St Philip North and St Philip South.

⁵ St. John’s Rural West; St. John’s Rural South; St. Mary’s North and St. Mary’s South.

Chapter Two

LEGAL FRAMEWORK FOR ELECTIONS

Constitutional Arrangements

The electoral system in Antigua and Barbuda is governed by the 1981 Constitution and the Representation of the People (Amendment) Acts of 2001 and 2002.

In particular, Section 67 of the Constitution⁶ creates the position of Supervisor of Elections and empowers the Parliament to nominate the person to fill the position, who shall be appointed by the Governor-General. The holder of the position functions as the Chief Executive Officer of the Commission, and also serves as Chief Registration Officer, as prescribed in S9(1) of the Representation of the People (Amendment) Act 2001.

Electoral Commission

The Antigua and Barbuda Electoral Commission (hereafter referred to as “ABEC” or “the Electoral Commission”) was established by the Antigua and Barbuda Representation of the People (Amendment) Act 2001, with the first members appointed in April 2002⁷. The Commission is comprised of a Chairman, Deputy Chairman and three other members⁸. The Act provides that the Chairman and two members be appointed by the Governor-General acting on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, and that two other members, including the Deputy Chairman, be appointed by the Governor-General acting on the recommendation of the Leader of the Opposition after consultation with the Prime Minister.

The Mandate of the Electoral Commission

The Antigua and Barbuda Representation of the People (Amendment) Act 2001, S6(1) provides that the Commission is responsible for “the general direction, control and supervision of the preparation of the voters’ register and the conduct of elections in every constituency and enforcing with respect to all election officers, fairness, impartiality and compliance with the electoral law.” In addition, the Commission’s functions include:

- Selecting and appointing all officers of the Commission;

⁶ Chapter IV, Part 6, The Constitution of Antigua and Barbuda (1981), Section 67. The incumbent Supervisor of Elections was Ms Lorna Simon.

⁷ The incumbent Chairman, Sir Gerald Watt KCN QC, was appointed w.e.f. 3rd October 2005 and another member, Ms Agnes Blaize, w.e.f. 7th March 2006.

⁸ The current members of the Electoral Commission are: Sir Gerald Watt QC, Chairman; Mr Nathaniel James, Deputy Chairman; Mr Winston Gomes, Member; Bishop Ewing Dorsett, Member; Mrs Agnes Blaize, Member; Mrs. E. Patricia Simon-Ford, Counsel

- Developing and designing staff training programmes;
- Designing a non-partisan voter education programme; and
- Regulating the conduct of election officials.

Voter Registration Qualifications⁹

A person is qualified to register as a voter in a constituency if he/she is :

- a citizen of Antigua and Barbuda;
- a Commonwealth citizen who has legally resided in Antigua and Barbuda for at least three years immediately before the qualifying date and has met the relevant resident requirements;
- 18 years of age and over;
- Has resided in the constituency for at least one month immediately preceding the qualifying date.

The Electoral System

As set out in Section 40 of the Constitution, Antigua and Barbuda employs a first-past-the-post (FPP) electoral system, with a single MP representing each of the 17 constituencies in the House of Representatives. The party that wins the largest number of the 17 seats becomes the governing party, with the party leader becoming Prime Minister¹⁰.

According to the Chairman of the ABEC, the boundary delimitation of constituencies has not been comprehensively revised since 1984, leading to a wide disparity in the number of voters in each constituency. The ABEC also requested Commonwealth technical assistance in this area.

Nominations Process

Qualifications for election to the House of Representatives¹¹

A person is qualified to be elected a Member of the House of Representatives if he/she:

- Is a citizen of the age of 21 years or above;
- Has resided in Antigua and Barbuda for a period of twelve months immediately preceding the date of his election; and
- Is able to speak and unless incapacitated by blindness or other physical cause, to read the English language with sufficient proficiency to enable him to take an active part in the proceedings of the House.

⁹ Section 40 (2), The Constitution of Antigua and Barbuda

¹⁰ Section 69 (2)(a), The Constitution of Antigua and Barbuda

¹¹ Section 38, The Constitution of Antigua and Barbuda

Nomination of Candidates

Each candidate shall be nominated as specified by law¹², and the nomination papers delivered by the candidates themselves, or their proposers or seconders, to the returning officer at the place fixed for that purpose.

A total of forty-two candidates, including four independents were duly nominated to vie for seventeen parliamentary seats. The ruling United Progressive Party (UPP) nominated sixteen candidates, while the opposition Antigua Labour Party (ALP) nominated seventeen. The Organisation for National Development (OND) nominated four candidates, while in Barbuda, the UPP did not field a candidate but they supported the candidacy of the Barbuda People's Movement (BPM), which nominated one candidate.

¹² The Representation of the People (Amendment) Act, No. 11 of 2002, Section 9

Chapter Three

ELECTORAL ENVIRONMENT AND KEY ISSUES

Overview

Critical elements of a credible and transparent electoral process are the systems for identifying and listing eligible voters and for providing every reasonable opportunity for voters so identified to exercise their right to vote. It is also critical that voters have confidence in the organisation for managing and implementing every aspect of the electoral process and that it is perceived to be independent from external/political control and free from bias.

The social and political environment before and after elections should also be perceived to be facilitating and encouraging freedom of expression and the exchange of views and ideas in a secure and non-intimidatory environment.

Against this background, the CET canvassed the views and concerns of a wide cross-section of stakeholders in the lead up to the Antigua and Barbuda 2009 General Election and observed the electoral process and environment during the period immediately prior to and following Polling Day (6th – 15th March 2009). In the course of its observation, the CET took into account the political and social context of the elections and examined key issues impacting upon the process.

The Political Context

The 2004 election brought a change of government after 26 years of six successive ALP administrations. By the time of the 2004 election, the Lester Bird ALP government was under pressure from damaging allegations regarding misuse of the Medical Benefits Scheme (MBS), which resulted in the appointment of a Commission of Enquiry.¹³ Allegations of corruption dating back to the Bird government surfaced again in the 2009 elections. Counter-allegations of corruption and incompetence were also made against the incumbent government and all these allegations contributed to an elevated level of tension in the pre-election period and to accusations of libel and slander.

The Social Context

There was general apprehension among the electorate about the impact of the current global economic crisis on the local economy. Antigua and Barbuda is heavily dependent on tourism, and the CET received reports that already there were signs of a downturn in tourism business. Reports were also received of employee layoffs, and the view was expressed that there would be more layoffs in coming months. Economic policy was a main feature in party manifestoes, and was the subject of debate in the media.

¹³ Report of the CET, Antigua and Barbuda General Election 2004, pg. 5

The Team was informed by the Security Services that approximately 50 – 52% of the population of Antigua and Barbuda are non-national Commonwealth citizens, with the large majority of these being from other Caribbean Community (CARICOM) countries. Such a large percentage of non-nationals constitute a significant and influential voting constituency and issues were raised in relation to this section of the population on several fronts. Some stakeholders expressed the view that efforts were being made to disenfranchise members of the non-national community; others felt that residency requirements for registering as a voter had been manipulated in order to get ineligible non-nationals on the register. This became a major issue in the run-up to elections (see below).

The Role of the Electoral Commission (ABEC)

Concerns have been expressed by the stakeholders that the procedures for the appointment of members of the Commission and the Supervisor of Elections presents a situation of conflict in the setting of policy and management decision-making for elections. However, in our discussions with the Electoral Commission and the Supervisor of Elections, at the operational level this did not appear to be the case.

While the CET found that the relationship between the Office of the Supervisor of Elections and the Electoral Commission was functioning internally, there remains a lack of clarity as to the respective roles of the two bodies. It is the understanding of the CET that while the Commission is responsible for policy decisions, the Supervisor of Elections is responsible for the administration of the election process, as per legislative and policy mandates of various Acts and the Electoral Commission. However, prior to and on Election Day it was the Chair of the Commission rather than the Supervisor of Elections who was providing information and clarifications to the media on technical issues. This situation was not improved by instances of individual commissioners expressing independent and contradictory views in public. Public bickering among Commissioners created a perception of disunity and inconsistency within the Commission.

The Voters' Register

The continuous registration process commenced shortly after the conduct of the 2004 General Election. A new voters' register had to be published within seven days of the issue of the writ (i.e. by 27th February 2009).

Under the continuous registration process prescribed by the Representation of the People's Act¹⁴, a voter could expect his/her name to be included on the voters'

¹⁴ The Representation of the People (Amendment) Act, No. 11 of 2002, Section 28(5) provides that "the Commission shall publish the supplementary list of electors monthly" and "not later than the fifteenth day of the following month a supplementary list of electors registered in accordance with the provisions of the Act and these regulations". In Section 28(4) it also provides that "the Commission shall, at the end of each month, make available to every political party represented in the House of Representatives and to every independent member of that House, the name and address of each person registered during that month".

register within an approximate period of six weeks following his/her registration. This period allows for a process of Claims and Objections aimed at establishing the bona fides of a potential voter. However, as in most Commonwealth countries, the actual date of a General Election is at the discretion of the Prime Minister (within the time-limit prescribed by the Constitution). In practice this means that the cut-off date for eligible voters' names to be included on the voters list is dictated retroactively by the date of the issuance of the writ of election by the Governor-General.

In the case of the 2009 Antigua and Barbuda General Election, the writ was issued by the Governor-General on 19th Feb 2009. The ABEC accordingly declared 31st December 2008 to be the cut-off date for the 2009 General Election. This caused much controversy because many first-time voters, including young people who had just turned 18, had registered in January and had difficulty understanding why they would not be allowed to vote in an election two and a half months later. Because the 2009 election was the first to be held since the continuous registration process became fully operational (in the past registration took place for one week each year) public confusion and speculation was increased. The ABEC did its best to explain the issue during the immediate pre-election period but perhaps should have been more proactive earlier in explaining the concept of the cut-off date, knowing that an election was approaching.

In the event, several stakeholders expressed concerns about possible disenfranchisement resulting from the non-registration of qualified persons. One organisation contended that the ABEC has the authority under the Representation of the People Act and Amendments to extend the cut-off date for registration, and, as such, it should have continued registration of electors for the 2009 election up to a date closer to the election.

ABEC acknowledged that despite having added over 9,825 first-time registrants¹⁵ to the list in the continuous registration process, a rush of people presented themselves to be registered as the deadline for the election drew near. It also received a higher than usual number of requests for replacement voter ID cards. This put a strain on its resources and appeared to put it in the defensive position with the political parties, civil society organisations, the media and the electorate. However, on Election Day claims of disenfranchisement did not prove to be a major issue of concern.

Registration of Non-nationals

Registration of non-nationals was a contentious and potentially divisive issue in the pre-election period. The Antigua and Barbuda Constitution provides that Commonwealth citizens who have been resident in the country for a period of three years and resident in the constituency of registration for 1 month immediately prior to registration are qualified to vote in elections. However, the issue of what constituted residency was hotly contested. The presumption that 'residency' implies legal residency raised allegations that non-nationals who had overstayed original short-entry permits illegally had in the past been allowed to regularize their situation retroactively and then register based on a receipt from the Immigration Department rather than a stamped passport. The ABEC was challenged on the issue and the

¹⁵ See Annex H for a statistical breakdown provided by the ABEC

procedure was regularised by the passage of legislation in Parliament requiring the stamped passport to be the only proof of legal length of residence. However, the ABEC said that it would be impossible to purge the register of those persons who had previously been registered on the strength of a receipt so speculation and accusations of an illegally inflated list continued. Given the estimated size of the non-national population (see above) as roughly half the population it can be understood why this was a sensitive issue.

Public Information and Voter Education

Evidently, ABEC did mount voter education initiatives but they did not appear to be part of a comprehensive, results oriented communications strategy. In fact, ABEC's public relations consultant was only appointed in the penultimate week before the election.

Several stakeholders with whom the CET met complained about a lack of adequate information forthcoming about preparations for the election. Reports were also made suggesting that ABEC could have been timelier in responding to criticisms and misinformation. It also appears that ABEC was not proactive in engaging stakeholders to clarify misunderstandings and to build confidence in its management of the electoral process.

A case in point is the limited knowledge among voters about the continuous registration process. In particular, stakeholders were sceptical of the integrity of the system for registration of qualified non-nationals. There also appeared to be a high level of frustration with the system for handling applications for replacement ID Cards. Reports have also been received of other instances in which better communication may have prevented the spread of misinformation. Clearly, as preparations for elections advanced and the election drew near, ABEC faced a growing situation in which misinformation was damaging its reputation and undermining public confidence in its ability to manage the election.

Role of Civil Society

Antigua and Barbuda has an active civil society. There is a fairly broad spectrum of organisations which are involved in, among other issues, women's, youth and community development.

There are several trade unions and private sector organisations, which appear to be vibrant, well organised and engaged in the life of the nation. The Christian community also appears to be well organised and active in the national discourse. However, there seems to be limited capacity to respond to and undertake programmes directly related to electoral support, particularly voter education and facilitation of debate on national issues.

Nevertheless, the CET recognised among civil society organisations, including trade unions and private sector and religious organisations, a keen interest and

participation in efforts to support democracy and the electoral process. The efforts of the Free and Fair Elections League were also recognised.

Campaign Finance

In discussions with the ABEC, reference was made to restrictions on campaign financing. However, the CET could find no statute or regulation limiting or setting out guidelines for campaign finance. But in a research paper entitled *Political Financing in the Commonwealth*,¹⁶ Antigua and Barbuda scored zero in an analysis of the amount of government control on political funding. A zero score indicates a lack of both regulations and subsidies. It is important to note that there were only eight Commonwealth member states on the list, five of which are in the Caribbean.

The worrying economic climate was starkly juxtaposed with the obviously high level of campaign spending, including full-page newspaper ads, huge billboards and free concerts featuring international artistes. Despite the fact that Antigua and Barbuda has no legislation imposing limits on campaign financing, many stakeholders felt that such expenditure was wasteful and inappropriate.

The Campaign Environment

By all accounts, the campaigns of the two major political parties were characterised by glitz and heavy spending. The oversized billboards, the proliferation of posters, shirts, bunting and other campaign material and blanket advertising – radio, newspaper and television, begged the question in the mind of many stakeholders, “where is all the money coming from?” As mentioned above, many stakeholders expressed disappointment with the high level of spending in the face of an impending economic downturn.

The campaigns were also characterised by personal attacks and negative campaigning, rather than debate on the issues. However, efforts by the media to engage the candidates and their parties in a discussion on policy and programmes were recognised, and this is to be commended.

The CET did not hear of any efforts by the contending parties to consult citizens and civil society and to seek their input in putting together of the manifestoes. This may have added to citizens’ frustrations with the electoral process.

¹⁶ Pinto-Duschinsky, *Political Financing in the Commonwealth*, commissioned by the Commonwealth Secretariat (2001), p.14

Gender Issues

Prior to the 2009 General Election, a “Women’s Manifesto” entitled “Together We Must”¹⁷ was launched by several women’s groups under the auspices of the Caribbean Institute for Women in Leadership (CIWIL). It was granted wide publicity in a bid to give political parties the opportunity to incorporate the policies it espoused in their own manifestoes or, indeed, to generate debate on the key issues it identified. The women’s groups the Team spoke with expressed disappointment that the political parties did not take up this challenge. Indeed, on the specific issue of increasing women’s representation levels, some candidates were vocal in their views that there is no gender gap in Antiguan and Barbudan politics and that women ‘just need to try harder in the same way as a male candidate would’.

Persons with Disabilities

The Team also met with representatives of the Antigua and Barbuda Association of Persons with Disabilities who expressed their delight at being asked for their views and their disappointment that the ABEC had not consulted them in their election preparations. The Association made a number of suggestions on how the voting process could be made more accessible for the disabled, including the printing of ballot papers in braille and the provision of sign language interpreters at polling stations. While such provisions may appear expensive at first glance, in a small population such as Antigua and Barbuda creative ways to provide such services in consultation with the Association could be found. The Team encourages the ABEC to look into the issues and request the Commonwealth to provide information on best practices in this area.

The Media

While some local media outlets are clearly aligned or perceived to be aligned with one political party or another, there is adequate scope and access for the expression of a wide cross-section of views (including on phone-in programmes and in letter columns) and reasonably objective coverage of the campaign and election process was achieved.

The CET found that stakeholders were in agreement that the quality of coverage of the 2009 election had improved since 2004, and that, overall, the media was more open, encouraged more debate and was more professional. When compared with

¹⁷ In December 2008, a consultation workshop to discuss critical issues of concern to women was organised by the Caribbean Institute for Women in Leadership (CIWIL), under the sponsorship of the Organisation for American States (OAS), in which several women’s groups, NGOs and other civil society organisations in Antigua and Barbuda participated. This led to the adoption of the Women’s Manifesto, which was endorsed by the AIDS Secretariat; the Antigua and Barbuda Disability Association; the Antigua Labour Party Women’s Group; the Antigua Planned Parenthood Association; the Child and Family Guidance Centre; Citizens Welfare Division; Community Development Division; the Directorate of Gender Affairs; GDWG; Gray’s Green Women’s Development Group; Health Hope HIV Network (HHH); Inter-American Institute for Cooperation on Agriculture; Liberta Village Community Group; the Ministry of Agriculture; the Ministry of Labour, Public Administration and Empowerment; the Ministry of Health (Medical Division); Piggott Women’s Group; Professional Organisation for Women in Antigua and Barbuda (POWA); Prophetic Ministries International; the Substance Abuse and Prevention Division; the United Progressive Party Women’s Group; Women Against Rape (WAR); Women of Antigua; the Ministry of Youth and Sports (Youth Department)

reports of media bias during previous elections, it seems that the media has acted more responsibly and has been speaking with a more independent voice about critical national issues.

Domestic observation

It is important to note that the religious community¹⁸ mounted a local observer exercise in the 2004 election and again in this election. Combined, they were able to monitor polling in all 17 constituencies. The CET believes that it is important for local domestic observer capacity to be encouraged and assisted and requests the Commonwealth Secretariat to provide assistance in this regard.

Security

Civil society organisations, including religious bodies, trade unions and private sector representatives, expressed concerns about security and the potential for election related instability. Reported attacks on property belonging to political parties and candidates and the use of inflammatory language on the campaign trail raised public concern and debate. Concerns were also expressed about the potential for use of intimidatory tactics and the eruption of violence, especially on polling day and after the declaration of results.

However, as polling day approached, political parties signed on to codes of conduct and public outrage at some of the language used on platforms seemed to have lowered the political temperature. Tension appeared to dissipate and confidence in the arrangements for polling day also appeared to increase.

In meetings with senior officials of the security agencies, the CET brought these concerns to their attention. The officials indicated that they were aware of the reports and concerns, and that they had taken all necessary steps to deal with the reports and to address the concerns. They also assured the CET that adequate security arrangements were in place for the election and that they did not expect any situation to develop which could destabilise the democratic process.

In the end, the police confirmed that Election Day was “incident free” and that everything went “well” and that “there were no negative reports.”¹⁹

¹⁸ The Antigua Christian Council and the United Evangelical Association

¹⁹ The Daily Observer, Friday, March 13, 2009, pg 21

Chapter Four

THE POLL, COUNT AND RESULTS PROCESS

The Team observed polls in all seventeen constituencies²⁰ on 12 March 2009, with some team members focusing on more densely populated areas. In our overall assessment, the polls were conducted in an atmosphere of calm, with many voters turning up enthusiastically to exercise their franchise. Despite the late opening of polls (see p 17 and Annex F) in five constituencies, Election Day proceeded without any major incidents and it is the view of the Team that, despite a number of shortcomings highlighted below, it was executed in a successful manner.

Arrangements for Election Day

The Voters' Register

In addition to the contentious issues surrounding the finalisation of the voters' register, as commented on in *The Voters' Register* in Chapter Three, in some polling locations the register was not available when the polls opened at 6am on Election Day itself. A malfunctioning printer on the night preceding Election Day had caused a delay in getting voters' registers to those stations. The ABEC claimed that, due to the burden of issuing replacement ID cards to voters and the volume of printing required for the registers to be available for presiding officers, polling clerks and polling agents on Election Day, the failure of one of their printers had contributed to the delay (in this regard, a press release was issued by ABEC: see Annex F). This engendered much unhappiness among many voters, a large number of whom queued for many hours to cast their ballot. Despite the inordinate delays, the Team commends the patience and restraint displayed by those voters who had to endure a lengthy wait, often beyond the official closing hour of 6pm, to cast their ballot.

With respect to the management of the registration process it would be important to develop and strengthen capacity within the ABEC on service delivery, public relations and also to enhance public education on vital aspects of the electoral process. Given the delays caused, consideration could also be given to printing the register a few days prior to Election Day.

Election materials

Election materials were to be issued to Returning Officers the day before the polls. We were informed by a number of Returning Officers that they did not leave the office of the Electoral Commission until the early hours of the morning on Election Day because materials were not ready for collection the previous day. This delay was exacerbated by the challenges faced by the Electoral Commission in finalising other preparations for the election. We recommend that the process of issuing materials to Returning Officers should be streamlined to ensure expediency and consistency.

²⁰ The Team observed elections at 99 polling stations in 42 polling districts.

We were also informed by some Returning Officers that they were responsible for ensuring the security and safety of all materials, including sensitive materials such as the ballots, the ballot boxes and the ink, at their homes on the night preceding Election Day, without any proper clarification on the security measures that were in place. In any election, the integrity and security of the ballot is sacrosanct. It is best practice to ensure that public confidence at all levels of the process is maintained.

We therefore recommend that appropriate steps be taken to enhance the integrity of security measures, which should include the involvement of the police in providing security the night before Election Day (and not just during the polling and for the transportation of ballot materials to counting centres after the close of polls).

Arrangements for Polling

In most instances, polling stations were located in schools, though a few were placed in churches and other public buildings. The Returning Officer was to have responsibility for all polling stations falling within his/her constituency. These polling stations were to be staffed by a Presiding Officer and two polling clerks. Polling agents, representing either a political party or a candidate, were to be present at each polling station. In most cases, we found this requirement to be in place, though in one case there were two additional polling clerks present in the polling station (the Presiding Officer having claimed that the additional polling clerks were relief staff)²¹. At least two police officers were to be in place at each polling station. This was also found to be the case. The Constituencies were broken down into Polling Districts and each station within each polling location was divided according to the surnames of the voters registered in that particular constituency.

The Voting Procedure

According to the guidelines as set out by the ABEC, there are specific voting procedures for the ordinary voter, proxy voting, voting on Transfer Certificates and for the elector who is incapacitated by blindness or other physical cause. A voter upon entering a polling station was required to announce his/her name and occupation to the Presiding Officer. The voter would then hand over his/her ID card to the Presiding Officer, who would then repeat the name and occupation. A polling clerk would then verify the voter ID against the voters' register. Once a voter was found to be duly registered, the Presiding Officer would then check the voter's right index finger to assure that there were no stains of black electoral ink (if the finger was missing, any finger that was situated nearest to the thumb or thumb socket if there was no thumb, was checked). The Presiding Officer would apply an official seal to a ballot paper and the voter was then issued with the ballot paper and given instructions on the correct voting procedure. The voter was then advised to go behind a screen to mark an 'X' against the preferred candidate, in order to assure the secrecy of the ballot. The voter would then fold the ballot, ensuring that the seal was visible. The seal having been verified by the Presiding Officer, the voter would then place the ballot paper in the ballot box. Before placing the ballot paper in the ballot box the voter would be made to dip his/her right index finger into indelible ink. The ID card was returned to the voter who then left the polling station.

²¹ At the Freetown Primary School in the St Philip South constituency.

Observations of Election Day

Opening and Closing Times

As stipulated in the law, polling stations were to open at 6am and close at 6pm. However, due to the delays in the receipt of voters' registers at some polling stations, there were delays in the opening of polling stations in five constituencies. In the effected constituencies, opening times varied from 7am to just after noon. Of particular note was the Parham Primary School, in the St Peter constituency, where one of the polling stations in the school had opened several hours before the rest of the polling stations, having received the voter's register well before the others. According to the Supervisor of Elections, the delay was due to the malfunction of a printer, as referred to earlier in this Chapter (see Voters' Register on page 15 and Annex F).

Voter Turnout

In 2004, the voter turnout averaged 91.19 percent (according to statistics provided by the Electoral Commission)²². However, the 2009 General Election saw a decrease of that figure to an average of 80.57 percent.²³ Though it appeared that turnout had declined, there was an increase in the number of registered voters since the 2004 General Election. It should also be borne in mind that, as the register ages, the turnout of voters, as a percentage of the total number of voters, can be expected to decrease.

Layout of Polling stations

In general, the layout of polling stations was adequate. We found no major issue with the placement and security of polling booths. We note that this is an improvement since the 2004 General Election. However, there needs to be consistency in the layout of polling stations to enhance the efficacy of the process. In some instances, upon entering polling stations, voters were confused about who the Presiding Officer was, as well as by the layout of the station concerned. It is recommended that the station is set up in such a way that the Presiding Officer is easily identified upon entering the station. This could be achieved through having bold signage or clearly identifiable and distinguishable name tags.

We observed that access for elderly and disabled voters was generally good, with appropriate measures in place to ensure that they were able to enter and exit polling stations with minimal difficulty. In one instance, at Freetown Primary School in St Philip South constituency, a wheelchair was made available to allow access to the polling station, which was located a few steps off the ground.

²² See the Report of the Commonwealth Expert Team on the 2004 Antigua & Barbuda General Election, p. 21.

²³ See **Annex G** for the Election Results Summary for all constituencies (as provided by the ABEC)

Incapacitated voters

In the 2004 General Election, the Commonwealth Expert Team reported on the issue of the confusion on what constituted “incapacity”. We note that, since then, there has been an attempt to cut down on those instances where voters had misleadingly claimed to be incapacitated, through the Representation of the People (Amendment) Act 2002. This is a commendable initiative. In terms of the interpretation of the law, the ABEC informed the Team that voters were only allowed to be assisted by a companion if they were blind, while in all other cases of incapacity the voter was to be assisted by a Presiding Officer to cast his/her ballot.

In the St Peter constituency, it was observed that there was a higher number of assisted voters, compared to other constituencies. Indeed, in one polling station²⁴ our Team observed six out of eight persons requesting assistance in a period of 20 minutes. An OAS observer present in the same polling station recorded 13 out of 18 persons requesting such assistance. The reasons given for needing assistance ranged from “feeling nervous” to “eyes a little dark”.

The definition of “incapacity” and the policy for its application in assisted voting should be clarified and the training of polling staff in this regard be enhanced to ensure greater consistency in accordance with the law.

Electoral Ink

The law provided that black electoral ink was to be used by all voters, except for proxy voting where red ink was to be used²⁵. We did observe that it appeared the indelible ink could be effectively removed and therefore did not constitute an infallible security measure.

Training of Polling staff

In general, the training provided to polling staff seemed to be adequate, although there were some observed inconsistencies in the procedures at polling stations. We commend the transparency of the process (e.g. polling staff clearly and audibly calling out the names of voters to ensure that both polling clerks and polling agents could verify the person against the voters’ register). In addition, voting procedures were clearly explained to voters.

Overall, polling staff were found to exercise due diligence in the performance of their duties. Even the polling agents were well versed with the processes and were actively involved in carrying out their duties.

However, the role of the Presiding Officer should be revisited because his/her responsibility should be to have an oversight role, in addition to the management of the polling station. We found that Presiding Officers were carrying out the majority of tasks in polling stations, whereas the efficacy of the process could have been enhanced if some of those tasks were delegated to other polling staff (e.g. to a senior polling clerk).

²⁴ Parham Primary School, [1] A - CL

²⁵ Sections 41 & 45, The Representation of the People (Amendment) Act 2002

Presence of Polling Agents

In all polling stations, the Team found that polling or candidates' agents were present. Their active involvement in the process is to be commended, especially in the verification of voters who presented themselves at polling stations.

Domestic and International Observers

In addition to the Team, domestic observers present at polling stations included the Antigua Christian Council and the United Evangelical Association. Other international observers were from CARICOM and the OAS.

The Close of Polls

Reconciliation and related procedures at the close of poll were transparent, in most cases adhering to the stipulated guidelines.

Following the procedures for the close of polls, ballot materials were then transported from polling stations to designated counting centres in all constituencies. Good security arrangements were made for the transportation of ballot materials to the counting centres. A significant police and defence escort was provided to ensure the safety of the ballot materials.

The Count

In most counting centres, the count commenced shortly after the transportation of all ballot materials was concluded. Taking into consideration the fact that at some polling stations voting was extended well beyond 6pm (due to the lengthy queues present before the official closing time), in general, this took place within a couple of hours after the close of polls. Prior to the commencement of the count, the seals on ballot boxes were removed by Returning Officers. However, there were no observed verification procedures carried out by polling agents and/or candidates to ensure the integrity of the seals. It was noted, however, that during the transportation of ballot boxes, party agents also accompanied the boxes along with polling staff to the counting centres. This could have accounted for the absence of this verification procedure during the breaking of the seals.

Counting procedures were generally methodical, transparent and conducted in accordance with stipulated guidelines, in the presence of polling agents, observers, candidates and other members of the public. The police and defence force personnel were present in large numbers and provided adequate security during the counting process.

The Management of the Results Process²⁶

In any election, official results are to be announced only by an election management body. Returning Officers provide the Electoral Commission with the final results immediately upon the conclusion of counting procedures. As in most countries, it was observed that the media were taking the lead role in providing unofficial results as they emerged. The team commends the Electoral Commission's website, which was updated on a continual basis with official results.

²⁶ See **Annex G** for the Election Results Summary for all constituencies

Chapter Five

CONCLUSIONS AND RECOMMENDATIONS

Although Election Day, 12 March, got off to a difficult start with photo registration lists arriving at some polls up to more than five hours late, the process of the polling ran quite smoothly reflecting a good level of training of the poll officials, education of the public, and most importantly for the delay-affected polls, a public who are to be commended for their patience. The high voter turnout at 80.57%, though a decrease from the 91.19% in 2004, speaks to the public's confidence in the system and the importance that they attach to their democratic right to elect their representatives. We noted improvements to the functioning of the process as undertaken by the ABEC and the Supervisor of Elections.

The political parties all signed codes of conduct and the public themselves voiced their opinion that they disapproved of volatile language and actions which seemed to have a good effect on the conduct of the parties.

The police, military and security officers seemed very prepared for their respective responsibilities during the whole of the electoral process and, as far as we observed, carried out their responsibilities beyond reproach.

Functioning, effective democracies depend on maximum stakeholder participation in the electoral process. High levels of stakeholder confidence in the policy and decision making structures and systems for elections are more likely to engender positive participation, especially from electors and political parties.

Therefore, it is important that election management bodies make every effort to provide timely access to relevant information, and that they adopt a proactive approach to enlisting the support of civil society organisations in disseminating information and educating voters. It is also important to be perceived as being open and responsive to criticism.

This is the third time a Commonwealth Team has been invited by the Commonwealth Secretary-General to observe elections in Antigua and Barbuda (prior Teams observed elections in 1999 and 2004). Our hope is that through our observations, reflections and recommendations that we will be heard and that we will put ourselves 'out of business' so to speak in Antigua and Barbuda. Our hope is that the country will soon be able to successfully meet all the requirements to assure transparent and credible elections without such support as the CET. We believe that Antigua and Barbuda are well on the way.

Our time here comprised meeting with a wide selection of representatives of official and civil society in Antigua and Barbuda, as well as pre-election visits to polls, and Election Day observation of the voting process, the count, and the announcement of results throughout the country. Below are our concluding recommendations which we trust will be helpful and informative to future elections in Antigua and Barbuda.

We would urge the Commonwealth Secretariat and other pan-Commonwealth organisations to respond positively to requests for assistance in implementing any of the recommendations emerging from our report.

Electoral Commission (ABEC)

We were pleased to have a lengthy and substantive meeting with all members of the ABEC and the Supervisor of Elections one week before Election Day, 12 March 2009. We put questions to them pertaining to the recommendations in the Report of the Commonwealth Expert Team to the 2004 Election. We are satisfied that some improvements have been made since the 2004 General Election but make the following observations on remaining and new items which we believe should be considered by the ABEC, the Government and Parliament.

The relationship between the ABEC and the Supervisor of Elections seemed to be resolved, with the Electoral Commission taking responsibility for the policy regarding the running of elections and the Supervisor taking responsibility for the administration and fulfillment of the requisites for the undertaking of successful elections. Understanding that this is the case, such a written policy or regulation should be publicly available for present and future reference. We also recommend the early development of a comprehensive communications strategy, beginning with a full and complete reporting and reflection on the 2009 General Election.

We noted however, that public bickering between members of the Electoral Commission has resulted in some loss of public confidence in both the authority of the Commission and its capability to provide Antiguan and Barbudans with transparent and credible elections. We therefore advise that:

- the Supervisor of Elections and the Electoral Commission's policies or regulations reflect the fact that, despite how each person is selected, that their mandate must reflect political impartiality and independence at all times during their tenure either as Supervisor of Elections or Electoral Commission member and, this must be seen to be so by the public;
- the Electoral Commission decide among themselves a policy as to who may speak publicly on behalf of the Electoral Commission and the Supervisor of Elections in order to avoid public conflict of opinion;
- further consideration be given to the manner in which members of the Electoral Commission are selected to heighten public confidence in the body.

Our recommendation with respect to the management of the registration process would be to strengthen capacity within the ABEC on service delivery, public relations and also to enhance public education on vital aspects of the electoral process. Given the delays caused, it also recommended that the register be printed a few days prior to Election Day.

In terms of the financing of the Electoral Commission, we recommend that it be provided in a timely manner so that the Commission can be adequately resourced, and thereby assure its independence.

Polling Staff

Our report contains observations with regard to the training of Election Day polling staff and polling agents and the procedures for the counting of ballots, as we observed them.

It is our recommendation that the definition of “incapacity” and the policy for its application in assisted voting should be clarified and that the training of polling staff in this regard be enhanced to ensure greater consistency in accordance with the law.

Election Day Problems

In light of the substantial delays in the opening of polls experienced on polling day which were purportedly due to late registrations and the printing of the photo voters’ list, we highly recommend that the printing of the photo voters’ list be done a few days before the poll. It is far too risky to leave such an essential part of polling day subject to technical failure. The overall patience and good humour of the Antiguan and Barbudan populations in such circumstances as we observed are to be commended.

Having observed discrepancies and frustrations on the part of returning and presiding officers and scrutineers at polling stations, the rules with regard to assisted voting need to be reviewed and written for clarity at the time of polling.

Overall, there seemed to be few problems encountered at polling stations with the voters’ register. The turnout of voters continues to be large although less than in the 2004 election, which speaks to the population’s general confidence in the process and its importance.

Registration

There was a considerable amount of dissatisfaction expressed concerning the cut-off date for registration. As a result, a number of citizens believe that they have been disenfranchised.

Not uncommonly, too many citizens waited until the last minute to register either for the first time, or as transfers to other constituencies. We believe that the ABEC could avoid some of this with a public education campaign commencing in the months of September and October before the impending election to be called in the months to follow. This would provide for less last minute registrations, more time for the Claims and Objections process, and therefore fewer contentions about the final voters’ list.

Additionally, we recommend that The Supervisor of Elections should publicise clearly and well in advance, the regulations with regard to the necessary cut-off date for

registrants to be included on the final voters list prior to an election and announces the poll locations for each constituency sooner.

Antigua and Barbuda has a system of continuous registration with a list renewal every 10 years. Approved voter registration is confirmed by the issuance of a voter ID card with some security features embedded. We were informed that the security features of all voter ID cards are not consistent, a fact that should be remedied for the next general registration of the population before the next general elections in 2014.

Youth

We note that the proactive work of the Electoral Commission has resulted in a substantial increase in the number of young and new voters on the list. However, many of the students studying abroad have had some extra problems receiving their voter ID cards when returning home to vote. We understand that the Electoral Commission has shown some flexibility in this regard. A review of procedures with regard to this population is in order in our opinion.

Commonwealth non-nationals

The qualification for registration of Commonwealth non-national residents, who account for about half of the population of Antigua and Barbuda, has been controversial. Legislation enacted by Parliament seems to have addressed these problems, but these provisions were not able to be retro-actively applied. Presumably these problems will be addressed with the new re-registration of all citizens which is due to be completed for the next General Election in 2014.

Boundary Issues

Given that there has not been a comprehensive boundary review since 1984, and given the disparity in the number of voters in constituencies, we recommend that before the re-registration of citizens for the next General Election the Constituencies Boundaries Commission review with the Electoral Commission and the Supervisor of Elections any timing and procedural discrepancies that may exist between the laws and procedures affecting each and that any amendments by Parliament or procedural changes that may be required be enacted immediately.

The legislative enactment of boundary changes should be reviewed in order to prevent boundary changes conflicting with the transfer of names on the list of electors from one constituency to another in the few months leading up to a possible election.

Scrutineers

The continuous registration process demands that party scrutineers, who are paid from the public purse, must be regularly vigilant to changes of boundaries, new and transferred registrants, and any other registration issues, and that their Claims and Objections are carried out in a timely manner. Too many issues seemed to be

related to delayed Claims and Objections processes caused by scrutineers neglecting their due diligence. Additional training for scrutineers may be required.

Campaign Financing

It was noted by our Commonwealth Expert Team and by many of those to whom we spoke that there is a need to enact Elections Expenses legislation in Antigua and Barbuda. Especially in a climate of great economic uncertainty where the needs of every citizen are jeopardized it is incongruous to observe such lavish election expenditures.

We recommend that Parliament enact legislation to stipulate party and candidate election expenditures at all times during the period of the writ.

Mandatory, auditable accounting should be provided post-election by both parties and candidates to demonstrate compliance with the legislation. Appropriate sanctions should be applied to non-complying parties. The Commonwealth can provide some technical assistance in developing appropriate legislation. Such legislation should include all expenses inter alia, party paraphernalia, posters, advertising both print and electronic, transportation, and entertainment. Democratic elections should not be bought and, qualified candidates should not be excluded for lack of campaign funding which becomes excessive without legislated rules.

The neutral Electoral Commission should be the body accounting for compliance to spending legislation.

The Media

With regard to the media, there is improvement in the objectivity and process of the elections process. The Commonwealth could provide some technical assistance through the Electoral Commission on methods and guidelines to improve reportage.

Women

At the higher levels of political engagement we noted an under-representation of women though we understood that the majority of the party workers were women. We therefore recommend that all parties take some affirmative action to assure more participation by women.

Civil Society

We encourage both the ABEC and Political Parties to engage with civil society groups on the election process and related issues. In particular, the Team would encourage the ABEC to hold discussions with the Antigua and Barbuda Association of Persons with Disabilities on their recommendations for making the election process more accessible and convenient for persons with disabilities.

Domestic Observation

We were pleased to note the presence of domestic observers at the 2009 General Election and would encourage the further strengthening of domestic observation capacity in Antigua and Barbuda. We urge the Commonwealth Secretariat to respond positively to any request for assistance in this area.

SUMMARY OF RECOMMENDATIONS

Electoral Commission

- A written policy or regulation should be publicly available delineating the respective roles of the Commission and the Supervisor of Elections.
- Early development of a comprehensive communications strategy, beginning with a full and complete reporting and reflection on the 2009 General Election.
- The Electoral Commission decide among themselves a policy as to who may speak publicly on behalf of the Elections Commission and the Supervisor of Elections in order to avoid public conflict of opinion.
- Further consideration be given to the manner in which members of the Electoral Commission are selected, in order to heighten public confidence in the body. Strengthen service delivery capacity, particularly in the areas of public relations and public education.
- The voters register be printed a few days prior to Election Day.
- The Supervisor of Elections should publicise clearly and well in advance, the regulations with regard to the necessary cut-off date for registrants to be included on the final voters list prior to an election and announce the poll locations for each constituency sooner.
- Financing for the Electoral Commission be provided in a timely manner so that the Commission can be adequately resourced, and thereby assure its independence.

Training of Polling Staff

- The definition of “incapacity” and the policy for its application in assisted voting should be clarified and the training of polling staff in this regard be improved to ensure greater consistency in accordance with the law.

Boundary Issues

- Before the re-registration of citizens for the next General Election the Constituencies Boundaries Commission should review with the Electoral Commission and the Supervisor of Elections any timing and procedural discrepancies that may exist between the laws and procedures affecting each.
- Any amendments by Parliament or procedural changes that may be required be enacted immediately and reviewed in order to prevent boundary changes conflicting with the transfer of names on the list of electors from one constituency to another in the few months leading up to a possible election.

Scrutineers

- The need for additional training for scrutineers should be considered.

Campaign Financing

- Parliament should enact legislation to stipulate party and candidate election expenditures at all times during the period of the writ.
- Mandatory, auditable accounting should be provided post-election by both parties and candidates to demonstrate compliance with the legislation and appropriate sanctions applied for non-compliance. Such legislation should include all expenses inter alia, party paraphernalia, posters, advertising both print and electronic, transportation, and entertainment.
- The Electoral Commission should be the body accounting for compliance to spending legislation.

The Media

- The Commonwealth should be asked to provide some technical assistance through the Electoral Commission on methods and guidelines to improve media reportage.

Women

- All political parties should take affirmative action to assure more participation by women.

Civil Society

- The Electoral Commission should hold discussions with the Antigua and Barbuda Association of Persons with Disabilities on their recommendations for making the election process more accessible and convenient for persons with disabilities.

Domestic Observation

- Encourage the further strengthening of domestic observation capacity in Antigua and Barbuda.

Commonwealth Assistance

- We urge the Commonwealth Secretariat and other pan-Commonwealth organisations to respond positively to requests for assistance in any of the areas highlighted in the above recommendations.

ACKNOWLEDGEMENTS

We wish to extend our gratitude and appreciation to the Commonwealth Secretary-General, Mr Kamalesh Sharma, for constituting this Commonwealth Expert Team, which enabled us to augment ongoing technical support thus deepening the consolidation of democratic processes and institutions in Antigua and Barbuda.

We are indebted to all those who have assisted us during our time in Antigua and Barbuda. We thank the Antigua and Barbuda Electoral Commission, the political parties, civil society organisations and other groups whose contributions enhanced our understanding of the electoral environment, the preparations for the General Election and the process by which it was conducted.

To our excellent and knowledgeable drivers in Antigua and Barbuda, in particular Mr Charley Joseph, Mr Brian George and Mr Josh Lynch, we extend our appreciation and thanks for ensuring that we were able to traverse the entire country safely. This often extended well beyond the normal hours of duty, in particular on Election Day.

Above all, we wish to express our appreciation to the people of Antigua and Barbuda for the gracious and warm welcome extended to members of the Team during our travels around the country. We have been treated with unfailing courtesy and kindness and hope our presence and our work will be beneficial to the consolidation of democratic processes in Antigua and Barbuda.
