

St Kitts and Nevis General Election

25 January 2010

**REPORT OF THE
COMMONWEALTH EXPERT
TEAM**



Commonwealth Secretariat

Report of the Commonwealth Expert Team

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MAP OF ST KITTS AND NEVIS



Chapter 1

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 St Kitts and Nevis for the General Election held on 25 January 2010.

The Commonwealth had previously provided a Commonwealth Expert Team to the 2004 General Election, and prior to that, a Commonwealth Observer Group to the 1995 General Election. In 2005 the Commonwealth provided an expert Assessment Mission to St Kitts and Nevis, at the invitation of the Government, to provide advice and recommendations on electoral reform.

The Commonwealth Secretary-General's decision to send an Expert Team to the 2010 General Election followed an invitation from the Government of St Kitts and Nevis. A copy of this letter and the Secretariat's response is attached at **Annex B**. The Leader of the opposition People's Action Movement party also wrote to the Secretary-General in 2009 requesting Commonwealth observation of the election.

The Team consisted of:

The Hon Chris Carter MP (Team Leader)

Former Minister; Opposition Spokesperson for Foreign Affairs
New Zealand

Mr Krishnan Srinivasan

Former Foreign Secretary
India

Ms Lorna Simon

Supervisor of Elections
Antigua and Barbuda

The Team was assisted by two staff members from the Commonwealth Secretariat's Political Affairs Division: Ms Shennia Spillane and Ms Charlene Lee Ling.

Terms of Reference

The Terms of Reference for the Team were as follows:

The Team is established by the Commonwealth Secretary-General at the invitation of the Government of St Kitts and Nevis.

The Team is to assess the overall conduct of the electoral process and the environment in which the election is conducted, according to the standards for democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.

The Team is to act impartially and independently. It has no executive role; its function is not to supervise but to observe and assess the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Team is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of St Kitts and Nevis, the electoral authorities, political parties, and thereafter to all Commonwealth Governments.

Background on St Kitts and Nevis

Situated in the Leeward Islands in the Caribbean Sea, St Kitts and Nevis has a total land area of 261 square km (St Kitts 168 sq km; Nevis 93 sq km). The population of St Kitts and Nevis is estimated at 40,131 (July 2009 est). Most citizens are descendants of African slaves brought to the islands; others are of British, Portuguese and Lebanese descent along with more recent migrants to the islands from various countries, and their descendants. The predominant religious denomination is Anglican, followed by other Protestant denominations and Roman Catholics. The main language is English.

St Kitts and Nevis is classified as a middle-income nation, with a per-capita income of USD19,100 (2008 est). The economy is heavily dependent on tourism and international education services, following the decline of the sugar industry and its eventual closure in 2005. St Kitts and Nevis has a high public debt burden equivalent to nearly 185% of GDP (end 2006), largely attributable to public enterprise losses. St Kitts and Nevis is a member of the Eastern Caribbean Currency Union.

St Kitts and Nevis was occupied by Carib Indians for several hundred years before European discovery of the islands. Christopher Columbus landed on the islands on his second voyage in 1493, and gave them their present names. The English and French colonised St Kitts in the 17th century and held it jointly from 1628 to 1713. Nevis was settled solely by the English. Following more than a century of competition over St Kitts, the Treaty of Paris in 1783 definitively awarded both islands to Britain. From 1871 to 1956 both were part of the British colony of the Leeward Islands, then from 1958-62 part of the West Indies Federation.

In 1967 St Kitts, Nevis and Anguilla became a self-governing state in association with Great Britain. Later that year Anguilla rebelled and was permitted to secede. The Federation of St Kitts and Nevis attained full independence on September 19, 1983.

Nevis enjoys considerable autonomy under the Constitution including the ability to unilaterally secede from the Federation under certain conditions. Calls for secession have arisen in the smaller island since independence and in 1998, a referendum was held on separation but fell short of the two-thirds majority needed.

Activities of the Expert Team

The Expert Team began its work in St Kitts and Nevis on 21 January 2010. The Team held a series of briefings over two days with key stakeholders including the Supervisor of Elections, St Kitts-based political parties, the Commissioner of Police, representatives of the media, civil society, and the British and Indian Consuls in St Kitts and Nevis. A list of those with whom the Team met is attached at **Annex D**. Members of the Team were also able to attend political campaign rallies held by both political parties in St Kitts, and to speak to a number of ordinary voters in the course of their work.

These meetings provided the Team with information on the electoral process, the overall political and electoral environment, the conduct of the campaign, and issues of concern to respective stakeholders about the electoral arrangements.

On 24 October members of the Team in St Kitts attended the final briefing of polling staff by the Supervisor of Elections and two Election Commissioners, and the distribution of polling materials. The Team members also travelled around the constituencies to observe the location of polling stations, activities and advertising by the parties, and the mood of the electorate, on the final day of the campaign.

Meanwhile one member of the Team, accompanied by one of the staff team, travelled to Nevis and held meetings with the Premier of Nevis, Commissioner of Police, the Nevis political parties, media, the Nevis-based Election Commissioner, and others. The Team member observed final preparations for the poll and remained on Nevis for polling day and the count there.

Observer Teams from both CARICOM and the Organization of American States (OAS) were also present in St Kitts and Nevis for the elections and interacted with the Commonwealth Team during the course of the mission. The Team was also made aware of local election observers on St Kitts mobilised by a coalition of civil society organisations and comprised of church ministers; Team members encountered and spoke to a few of these observers on election day.

On election day itself members of the Team visited all constituencies and indeed most polling stations in the country. Team members then observed the return of ballot papers from the polling stations to the counting centres in three constituencies, and counting of the votes in five constituencies.

On 28 January, the Team held a follow-up meeting with the Supervisor of Elections.

The Team's presence appeared to be well known and welcomed in St Kitts and Nevis, and the Team was in no way hindered in its work.

This report was prepared prior to the Team's departure from St Kitts and Nevis on 30 January 2010

Chapter 2

THE DEMOCRACY AND ELECTORAL FRAMEWORK

The Constitutional Framework

Queen Elizabeth II is Head of State of St Kitts and Nevis; represented in the country by a Governor-General, who acts on the advice of the Prime Minister and Cabinet. St Kitts and Nevis has a National Assembly comprised of eleven popularly elected members along with three or more Senators appointed by the Governor-General (mainly on the advice of the Prime Minister and Leader of the Opposition), who also sit in the Assembly with limited voting powers. The leader of the party in the House holding a majority of (elected) Representatives becomes Prime Minister, and appoints a Cabinet to conduct affairs of state, responsible to the Parliament.

The Constitution gives Nevis considerable autonomy. Nevis has a separately elected island assembly, a Premier, and a Deputy Governor-General. Under certain specified conditions, Nevis may secede from the Federation.

Constitutional provisions protect a number of fundamental rights including freedom of speech, press, worship, movement and association in St Kitts and Nevis.

Electoral Laws

Election procedures in St Kitts and Nevis are governed by the Constitution, the National Assembly Elections Act, and subsidiary Regulations.

St Kitts and Nevis is divided into eleven electoral constituencies, eight on St Kitts and three on Nevis. Each constituency elects one member of parliament on a first-past-the-post basis, for a five-year term.

The Constitution provides for such matters as qualifications to vote and to stand as a candidate, basic provisions for registration and voting including the secret ballot, and the power of the courts in relation to election disputes. The National Assembly Elections Act provides more detail regarding these procedures, and sets out election offences.

Electoral Reform

Electoral reform issues have been the subject of significant political debate and controversy since before the 2004 election. The Commonwealth Expert Team (CET) that observed the 2004 General Election in St Kitts and Nevis made recommendations in relation to several “important issues that need to be addressed” including a comprehensive review of constituency boundaries, a national registration and enumeration exercise, amendments to law to require wider consultation on the appointment of election staff, and the introduction of a media code of conduct and election financing rules.

At the request of the Prime Minister of St Kitts and Nevis, in August-September 2005 the Commonwealth deployed a Commonwealth Assessment Mission to develop proposals for electoral reform. The Terms of Reference of the Assessment Mission were to:

Assess arrangements in St. Kitts and Nevis for the holding of elections and those matters which have a significant impact on the electoral environment;
and
Make proposals for any reforms that may be necessary.

The Mission recommended “a programme of comprehensive electoral reforms”, echoing those reforms proposed by the 2004 CET, and recommended a Scheme for Implementation of the reform project.

In response, the Government of St Kitts and Nevis produced and tabled in parliament in mid-2006 an “Electoral Reform White Paper”. In the White Paper the Government stated that it had reviewed the recommendations of the 2004 Commonwealth and CARICOM observer teams, and the 2005 Commonwealth Assessment Mission, and decided to pursue the introduction of reforms in two areas: a national registration system including an identity card for voters, and a review of the electoral boundaries to reflect as near as possible equality in the number of constituents. The White Paper set out a system of consultative, advisory and technical committees which would undertake preparatory work on the boundaries reform and report to the relevant parliamentary committee and the Constituency Boundaries Commission.

The process was commenced in August 2006, and a number of amendments to the Elections Act were subsequently passed by parliament in 2007 and 2009, particularly in relation to the voter registration and identification process.

The Government’s process to reform the constituency boundaries, on the other hand, was completed in mid-2009 but immediately challenged in court by opposition political parties on the basis that the boundary changes were implemented too close to the election, and that the process by which the changes were proposed was unconstitutional. The court proceedings were not finalised by the time of the 2010 election and as a result, the electoral boundaries remained unchanged in this election.

The Electoral Authorities

Section 33 of the Constitution provides for an Election Commission of three persons appointed by the Governor-General: one on his own discretion, one on the advice of the Prime Minister and one on the advice of the Leader of the Opposition. Section 33 sets out qualifications for the Election Commissioners, and conditions for their removal.

The function of the Electoral Commission is set out in Section 33(4) as: “to supervise the Supervisor of Elections in the performance of his functions”.

The Commission may make decisions by majority, may act notwithstanding a vacancy or absence, and may determine its own procedures.

Section 34(1) provides that: “There shall be a Supervisor of Elections whose duty it shall be to exercise general supervision over the registration of voters in elections of Representatives and over the conduct of such elections.” The Supervisor of Elections is a public officer appointed by the Governor-General, and Section 34 provides for the powers of the Supervisor, and the Supervisor’s accountability to the Election Commission.

Political Parties

There are four main political parties in St Kitts and Nevis: the ruling St Kitts and Nevis Labour Party (SKNLP), the People’s Action Movement (PAM); and specific to Nevis, the Concerned Citizens’ Movement (CCM) and the Nevis Reform Party (NRP). The political landscape in the Federation is such that each island features entirely separate political parties and campaigns; there was no party which fielded candidates in both St Kitts and Nevis.

There is a third political party on St Kitts, the United National Empowerment Party (UNEP); however, on 15 January 2010 the party announced that it would boycott the election, expressing eight concerns about the process including the allegedly illegal removal of names from the voters’ list, the absence of a level playing field due to state control of the media, and a lack of confidence in the impartiality of the Supervisor of Elections and polling staff. The Team was unable to secure a meeting with representatives of the UNEP.

The 2010 election was also contested by two independent candidates.

The Campaign

The Team observed a vigorous and passionate campaign conducted by the two major political parties on St Kitts. Issues covered in the campaign included the state of the economy, access to land and housing, and employment. The campaign also featured allegations of corruption by both parties against the leader of the other party. Both major parties published manifestos in the lead-up to election day, setting out their positions and promises on a range of issues.

The election rules and procedures themselves also became a subject of the campaign, with allegations of electoral impropriety raised by the main opposition party, particularly in relation to the registration of certain voters. The governing party, meanwhile, laid blame on the opposition for preventing electoral reform through litigation.

The electoral law of St Kitts and Nevis prohibits on polling day the supply, wearing or use on a vehicle of any “loudspeaker, bunting, ensign, banner, standard or set of colours, or any flag”, and the wearing or use of any “flag, ribbon, label or like favour” as a badge to distinguish a party supporter. The Team noticed that the local interpretation of these restrictions appeared to

allow party banners with clear identification of candidates, party colours and in some cases even party names, in the streets on election day, as well as instances of voters and agents wearing party colours clearly identifying party support within the polling stations. While this seemed to be accepted by the parties and their supporters, such practices appear to significantly undermine the ostensible intention of the law to impose a “campaign blackout” on election day.

Chapter 3

ISSUES

Composition and functioning of the Election Management Bodies

According to the Constitution, a three-member Electoral Commission is appointed by the Governor-General to supervise the Supervisor of Elections, whose task is to organise and conduct the polling arrangements. In practice, this supervision by the Commission, which is not a full-time body, is conducted at an arms-length relationship, the Commission did not seem to concern itself with the many problematic issues that were the topic of discourse and contention prior to election day, and regular meetings between the Commission and the Supervisor of Elections to discuss such issues did not appear to occur. On polling day itself, however, the members of the Commission were seen to visit several polling stations with a view to providing moral support to the poll officials and on occasion to help in expediting the process in busy polling stations by offering unobtrusive advice on crowd control.

The Supervisor of Elections is also a part-time official, who has had the advantage of previous experience in the conduct of the 2004 election. He confirmed to the Team that he did not in any way lack for resources, in which case he would benefit by strengthening the Electoral Office under him by the appointment of at least two additional persons: one for information and public relations to handle the various queries posed to the Supervisor of Elections by the political parties, the media and the public, and to address the complaint that the Supervisor is often inaccessible; and the second to advise on legal matters to meet the charge that at present it is the government's Attorney General who fulfils that role.

It was apparent from political discourse prior to the election that there remains a lack of trust in some quarters – particularly the opposition parties and their supporters - in the impartiality of the election management authorities. In principle, there is much to be said for the appointment by the Governor-General of an Electoral Commission of eminent persons after consultation with all the political parties rather than just the prime minister and leader of the opposition as is the case at present; and the appointment, after similar wide consultation, of an eminent neutral personage, such as a retired High Court judge, as a full-time Supervisor of Elections. This would help allay any fears or suspicions and promote the confidence of stakeholders in these positions. The newly constituted Commission assisted by the Supervisor can then expeditiously dispose of all the objections to the electoral procedures and complaints of specific incidents of breach brought to their individual or collective notice.

Apart from the Electoral Office under the Supervisor at Basseterre, there is a registration office in each electoral district supervised by a Registration Officer and run by a full-time Assistant Registration Officer. These could have been

called into play on the occasions when voters turned up at polling stations with election Identity Cards but were not on the voters' list at the visited polling station, to check master rolls and verify the correct polling station. Instead, this task was left to the voter to determine through party agents.

Voter Registration and Identification

Following the General Elections in 2004, the Commonwealth Expert Team recommended as follows:

There is a need for a systematic national registration and enumeration exercise to ensure:

- a reliable and accurate register of electors;
- the introduction of voter identification technology;
- the identification of non-resident electors;
- the regular removal of deceased persons from the register;
- the requirement that voters (other than those residing overseas at the time of an election) are registered in the constituency of their normal residence;

We recommend that the Commonwealth offers technical assistance to the Government to undertake the national registration and enumeration exercise.

The Commonwealth Assessment Mission which visited St. Kitts and Nevis in 2005 reiterated the recommendation of the 2004 CET regarding national registration and enumeration.

The St Kitts and Nevis Government's 2006 White Paper on Electoral Reform stated the government's commitment to "modernise the electoral process" through the following steps:

1. Introduce a National Registration System; leading to the issuance of a "Smart Card" that will among other things assist citizens in accessing their rights and discharging their responsibilities including voting.
2. Introduce a proper ID system for registration.

Following national consultations in accordance with the Government's White Paper, the law relating to the eligibility of voters was amended in December 2007 as follows:

42(1).....a person is qualified to be registered as a voter for a constituency if, on the registration date, he is

- (a) a citizen of Saint Christopher and Nevis of the age of eighteen years or upwards and is ordinarily resident in Saint Christopher and Nevis;
- (b) a citizen of Saint Christopher and Nevis of the age of eighteen years or upwards whose name appears in the register of voters for a constituency and who is ordinarily resident overseas and has a domicile in Saint Christopher and Nevis in accordance with section 42B(2);
- (c) a Commonwealth citizen (not being a citizen of Saint Christopher and Nevis) of the age of eighteen years or upwards who has been

ordinarily resident in Saint Christopher and Nevis for a continuous period of at least twelve months immediately before the registration date.

St. Kitts and Nevis maintains a system of continuous registration in each electoral district and persons wishing to register as voters must –

- (a) apply in person, in writing to the Registration Officer for that constituency to have his name entered in the register of voters for that constituency;
- (b) provide the Registration Officer with a qualifying address submitted by him for that constituency.”¹

The amendment of the above regulation requires that an applicant who claims to be qualified to be registered as a voter shall certify the correctness of the information so entered by placing his signature and date on the application and by producing

- (a) his birth or baptismal certificate;
- (b) certificate of citizenship;
- (c) deed poll;
- (d) passport or driver’s licence; or
- (e) any other form of identification containing his photograph, and such other evidentiary document as may be required by the Chief Registration Officer to authenticate the identity of the applicant.

The Act was also amended in December 2007 by the insertion of the following new sections:

“42A. (1) For the purpose of registration under this Act a person shall be deemed to reside in the constituency where he was ordinarily resident on the registration date.

(2) A person shall not, for the purposes of this Act, be deemed to be ordinarily resident in any constituency to which he has come for the purpose of engaging temporarily in any employment of a seasonal character and for the purposes of this subsection, “seasonal” means temporary employment of not more than six months at any one time.

(3) Subject to subsections (1), (2), (4) and (5), the question whether a person is or was ordinarily resident in a constituency for any material period shall be determined by reference to all the facts of the case.

(4) The place of ordinary residence of a person is, generally the place which has always been or which he has adopted as, the place of his habitation or home, whereto when away from there he intends to return.

¹ Election Registration (Amendment) Regulations, No. 9 of 2008

(5) Where it appears by reference to all the facts of the case that a person has more than one place of residence, such person shall elect in respect of which place he desires to be registered.

(6) Notwithstanding subsections (1), (2), (3), (4) and (5), the Chief Registration Officer or the Registration Officer for a constituency may carry out an investigation and may visit any house within the constituency for the purpose of ascertaining whether persons whose names appear in any list reside in a particular constituency or are still alive or for such other prescribed purposes as the Chief Registration or the Registration Officer may require.”

With regard to overseas voters, the amended law provided that:

42B. (1) A person to whom section 42 (1) (b) applies whose name appear in the register of voters for a constituency is only eligible to vote in the constituency in which that person had been registered immediately prior to leaving Saint Christopher and Nevis to reside overseas.

In 2008, The Election Registration (Amendment) Regulations made under section 104 of the National Assembly Elections Act were amended² by adding the following new Regulation 3A:

“3A Confirmation of Registration

3 A (1) Notwithstanding sub-regulation 3 (1), a person whose name appears in the register of voters shall confirm his registration during the registration period declared pursuant to section 107(1) of the Act by certifying the information contained in the register.

(2) In order to facilitate the confirmation of persons resident overseas, the office of any mission or embassy of the State, may be designated as a Registration Office and a registration officer shall be appointed under the direction of the Chief Registration Officer for that purpose.

(3) A person who has confirmed his registration in accordance with the provisions of these Regulations shall be issued with a national identification card in the same manner as if the confirmation had taken place within the State itself.

(4) Upon confirmation under sub-regulation (1), the applicant’s details shall be entered into the electronic database provided by the Chief Registration Officer.”

The system of confirmation of registration facilitated a computer generated record known as the “National Registration Record” which enabled the issuing of a National Identification Card, as well as the use in polling stations of a Photo Identification List.

Voters already registered in St Kitts and Nevis were therefore required to re-confirm their registration with the Elections Office between the period

² No. 9 of 2008

December 2007 and September 2008 to re-confirm their address and to have photographs taken for the National ID Card. We were advised by the Supervisor of Elections that teams of officials were deployed from the Elections Office to the various constituencies during this period to facilitate such re-confirmation. National identification cards were subsequently produced using the information and photographs obtained, and voters were advised to collect their cards prior to the election.

Those voters not re-confirmed on the roll by 30 September 2008 were required to register anew, which could be done up to November 2009.

This process of re-confirmation of existing voter information, rather than a comprehensive re-registration process as recommended in the 2004 and 2005 Commonwealth reports, led to allegations of persons remaining on the voters list in constituencies in which they did not reside.

This became an issue on polling day in some constituencies, where voters and party agents claimed that voters were registered who had never resided in that area, and in one case, attempted to prevent these voters from entering the polling station. The leader of the major opposition party has subsequently alleged that objections to these voters lodged by the party were not properly handled by the Electoral Office at the time of the re-confirmation process, and has foreshadowed the opposition party's intention to pursue this complaint through an election petition in court. The Supervisor of Elections assured the Team, on the other hand, that the registration officers from the Electoral Office had acted according to law.

This of course will ultimately be a matter for the courts to determine, but it appears to the Team that while the re-confirmation process and the new voter identification procedures have improved the integrity of the roll, the changes have fallen short of fully clarifying and reforming the residency requirements under the law. All parties have conceded that the law remains open in many cases to voters "choosing" the constituency where they wish to be registered, which leaves the process vulnerable to manipulation.

The Team believes that the reform of the voter registration process should be re-examined prior to the next election, to ensure the register is reliable and accurate, and to ensure that voters resident in St Kitts and Nevis are registered in the constituency of their actual residence or, in the case of overseas voters, in the constituency of last residence.

Constituency Boundaries

According to the Constitution, the constituency boundaries are to be determined by a five-member Constituency Boundaries Commission set up by the Governor-General in consultation with the Prime Minister and the leader of the opposition, and the constituencies 'shall contain as nearly equal number of inhabitants as appear... to be reasonably practical.'³ As noted by the

³ Constitution Schedule 2, clause 2.

Commonwealth Expert Team in 2004 and reiterated by the Commonwealth Assessment Team in 2005, the constituency boundaries in St Kitts and Nevis need to be re-adjusted with a view to reflect fairness and balance in the number of electors. The present situation where the biggest constituency has 4681 registered voters [St Christopher #8] and the smallest has 1111 [Nevis #10] is an anomaly.

Attempts to introduce changes in boundary delineation by the government from 2006 to 2009 were met with legal challenges and resignations from the Boundaries Commission on the part of the opposition parties, and a court injunction eventually forestalled any amendment in the existing constituency boundaries before the 2010 elections. This exercise remains to be completed and is unresolved by the courts.

Media

The media plays a critical role in any electoral process and increasingly takes a variety of forms, from traditional print, radio and television to blogs and other web-based campaigning. Both electronic and print media played an important role in the St Kitts and Nevis 2010 campaign, as did some web-based news sites, although the Team was less conscious of other new media such as social networking sites or blogs playing a prominent role.

Concerns about media bias were raised by opposition parties and some ordinary voters as well, particularly in reference to the sole television channel (ZIZ) which is government owned and controlled, and on which only the ruling party appeared to receive coverage. Similarly, concerns were expressed to the Team that a large number of the eleven local radio stations were effectively under government control, and opposition parties and candidates had very little access to radio in regard to news coverage and advertising. Opposition parties made the point that government control of licenses and spectrum frequencies had been used to keep media subservient to Labour Party viewpoints. One independent station appeared to be popular and covered both government and opposition statements and advertisements. A number of journalists and opposition members instanced that station's successful litigation in the courts to confirm a license to broadcast as confirmation that the Government did attempt to exercise an unwarranted control over media independence.

Print media consisted of five newspapers. One (*the Sun*) was a daily, two others, the *Observer* and the *Leewards Times* were weeklies and both the Labour Party and the Peoples Action Movement had their own weekly party papers. Again, accusations about bias in the print media were common, although the Team observed coverage of both parties and their advertisements in some print media.

It appeared to the Team that regulations or a Code of Conduct to provide for fair and balanced media coverage, particularly in relation to the electronic media, remains necessary in St Kitts and Nevis. The country could usefully learn from the practice of other Commonwealth countries where regulations

provide for allocation of equal public airtime to all parties and candidates during an election campaign, mandate balanced coverage in news reporting, and ensure equal access to paid advertising to all who seek it.

Campaign Financing

As raised in the Commonwealth Expert Team's Report in 2004, there are as yet no laws or regulations in St Kitts and Nevis governing campaign financing. The absence of such regulations or guidelines as to limits can lead to excessive spending by one party over the other, accusations of improper use of state resources for campaigning, and a lack of transparency and public accountability from the parties.

Voter Education

The reforms introduced prior to the 2010 election, such as the new National Identification Card and procedures, meant that the mechanics of the election day process were different to 2004. Information about the location of the polling centres, the voting procedures and the names of candidates were widely publicised by the Supervisor of Elections in the media in the days leading up to the election. Beyond that, the political parties appeared to play the dominant role in mobilising voters to register and vote, and explaining voting procedures – although not always accurately. The significant presence of billboards and other election advertising around both islands was a visible reminder to the whole population that the election was happening and who were the personalities and parties participating.

Interest by voters was high, and reflected in the high turnout on election day – at the time of writing final figures were not available, but the Team estimated turnout of above 80%, and a very small proportion of spoilt ballots. This indicated that a lack of formalised voter education did not undermine the ability of voters to be aware of and understand the basic requirements for casting their votes.

On the broader question of civic education and the importance of participation in the democratic process, little work appeared to have been done. This could be an expanded role for the Election Commission which may find suitable partners in the NGO sector, churches and schools willing to work to help raise awareness of the importance of transparent and accountable democratic processes.

Women's participation

During its discussions some concerns were raised with the Team that women in St Kitts remained reluctant to participate in the electoral process, as candidates and in some cases even as voters, due to a political environment characterised by threats, intimidation and character attacks against candidates and their families – including in some cases sexually explicit or discriminatory rhetoric. The Team notes that there were only two female

candidates out of the 24 who contested the election, and one of these was successful.

The Team did note a strong representation of women as polling and counting officials and party agents on election day. The Team observed that women appeared to be proportionately represented as voters, women voters did not express any fears or concerns to Team members about going to the polls, and there was no sign of any intimidation or other hindrance to women casting their vote freely.

Civil Society

The Team noted that an NGO Coalition comprising the Chamber of Commerce and Industry, Evangelical Association and Christian Council, developed a Code of Conduct for the 2010 election (based on one the same group had promoted in the 1995 election) and secured its endorsement by all four political parties participating in the poll. This was a commendable initiative, although it may have benefited from wider promotion in the press as a means of boosting the public accountability of the parties to its terms.

The Team also welcomed the participation, for the first time, of a group of local election observers mobilised by the same NGO Coalition and consisting of church ministers, deployed to each constituency on St Kitts to monitor the vote and the count. The Team believes there is great value in election observation by local civil society representatives, and encourages that this be continued in future, and if possible, expanded to cover all constituencies and to include other civil society representatives. The Team also hopes the observations of the domestic observers will be published in due course and provide a platform for public accountability and informed debate as part of the election process.

Polarisation

There is evidently a great degree of polarisation between the public in St Kitts and Nevis on political party lines and at another level, between St Kitts and Nevis, with the result that in the latter case, the political parties in St Kitts have no standing in Nevis and *vice versa*. While the high degree of political awareness may be commendable, and accounts for the very high turn-out at the polls, the negative consequences of these fissures are that the level of acrimony is high, and suspicion of alleged *mala fides* is rife. To an extent, this is a product of the smallness of the country, the intimate and familiar nature of society, the fact that most people are known to each other, and the knowledge or presumption that individuals are associated with one particular political party or another.

This polarisation creates an atmosphere in which electoral reform providing for an electoral management hierarchy and procedures that are seen to be transparent and impartial is of the utmost importance to engender public confidence and credibility.

Chapter 4

THE POLL AND THE COUNT

Performance of polling and counting staff

On polling day, the previous allegations and charges of bias laid against the election apparatus proved to be unjustified. The actual poll was conducted in an exemplary manner. The poll officials were clearly well-trained in respect of their functions, showing themselves to be patient, helpful and considerate to voters with difficulties, impartial, and displaying a commendable lack of partisanship. Even those who had not served in like capacities previously displayed confidence and aplomb in going about their tasks. In the relatively few cases witnessed by the Team of discrepancies regarding the identity or location of a voter, or other procedural issues, these were resolved professionally to the satisfaction of party agents. In general, a cordial and even friendly atmosphere prevailed between the election officials and the party agents in the polling stations.

The Team also observed professional and appropriate behaviour by the police and security services in their protection of the polling process. Police presence was to be seen at all polling stations, but officers were there only to maintain order, and not in any intimidatory or partisan capacity.

The Team is aware of allegations from the main opposition party of improper conduct by the defence forces, but Team members did not observe any improper deployment or action by the military. The defence force was deployed to quell potential disturbances at two polling stations in St Kitts on election day, and in one of these where Team members were present, the army was able to maintain order without any physical violence.

Events on polling day

The Team visited most polling stations in all eleven constituencies on polling day, with one member deployed to Nevis and two teams comprised of two members each equally covering the eight polling districts in St. Kitts.

By and large, the polling stations were situated at venues that were convenient and the facilities satisfactory, though there was no special access for the disabled. However, in a handful of stations the accommodation was cramped and uncomfortable and there was no protection from the rain for the waiting line of voters. These adverse factors contributed to unnecessary delays, and more appropriate polling facilities should be found in those cases.

Polling stations were observed to open on time at 7.00am after following the prescribed procedures such as showing the party agents that the ballot box was empty, and that the envelopes containing the ballots were sealed and not tampered with.

During voting the candidates and symbols were explained to each voter, the manner in which the choice of candidate was to be indicated on the ballot, and the way it was to be folded when returned to the Presiding Officer to be placed in the ballot box. While the routine was lengthy and led to delays in some polling stations, it was followed meticulously even at the end of the long polling day when at some stations, there were long lines of voters still waiting to cast their ballots. This contributed to delays and slow processing of voters, and seemed to be often unnecessary given that the electoral system is simple and it seemed to the Team that the vast majority of voters were familiar with the process.

On the other hand, these careful instructions and meticulous procedures may well have contributed to the low number of rejected ballots and election officers and voters in general should be commended for that outcome.

The retaining of the counterfoil on the ballot paper before it is delivered to the voter should be re-visited as this has appeared to increase the amount of time voters spend in the polling station. It also seemed to Team members that the consequent requirement that voters hand the ballot back to the Presiding Officer, rather than put it in the box themselves, was an unnecessary and undesirable complication in the process. Further, the use of only one voting booth per polling station contributed to a slow process; many polling stations were spacious enough to have allowed for two or more booths to be used simultaneously.

The Team commends the Electoral Commission for the use of the National Identification Card and the Photo List used in the polling stations. This was a considerable asset to the polling process and served to allay most of the fears from previous elections about multiple voting and personation. The great majority of voters were in possession of their identity card. The few that were not, confirmed their identity by showing other photographic identification such as a passport or driver's license. Voters' lists at each polling station were usually, but not invariably, displayed outside the polling station which also contributed to facilitating the process of identification.

While the Team heard concerns from opposition party commentators and some voters about the indelible ink used to prevent multiple voting – as it appeared to wipe off easily – the Team's observations (and in the case of one Team member, personal testing) revealed that the ink did in fact deepen in colour following its attempted removal, and the Team was satisfied with the performance of the ink.

There were no violent or serious incidents observed during the poll, aside from a report of a person apprehended for photographing her ballot with a mobile phone, and the disagreement among party supporters relating to the registration of certain voters mentioned above at one polling station, which was contained peacefully by police and security forces.

The main concern was in three constituencies where the number of voters allocated to certain polling stations was too many and this caused great

agitation by voters who had turned out early to exercise their franchise and had to wait up to five hours in a long queue. The situation was further compounded by the fact that it was raining for a great part of the day. It was apparent that this problem could have been averted with better distribution of voters and staff between polling stations, or additional resources within the largest ones. The Team noted in particular that while this problem was going on, some polling stations nearby were virtually empty. The Team commends voters in the polling stations in question for maintaining a peaceful demeanour despite their frustration, and notes that all voters in line by 6.00pm were able to exercise their franchise. The Team has also seen public comment from the Supervisor of Elections after election day apologising for this problem and expressing his commitment to ensure a better distribution of resources next time to avoid long queues.

It was the overwhelming observation of the Team that the secrecy of the ballot was satisfactorily observed. In one polling station, it was observed that the number placed in the Poll Book was the number of the counterfoil of the ballot rather than the consecutive number of voters. This could breach voter secrecy and was an apparently isolated incident of a poorly trained and supervised polling clerk. The Team also observed that the process for assisted voting allowed the ballot paper to be marked in the open by the Presiding Officer in the presence of the polling agents, which the Team recognises is in accordance with law but is necessarily a secrecy concern, since in many cases the voter's choice was audible to an entire queue of waiting voters.

Conduct of the Count

The box from each polling station was collected by the Returning Officer when he/she was informed that the voting was over and the box was sealed and ready for collection. The box was conveyed under police escort and also accompanied by party agents to the Counting Centre. The delivery was both safe and secure and not open to any malign interference.

At the Counting Centre, each box was opened in numerical order in the presence of the party agents, and each ballot unfolded, held up to the party agents, the selected candidate's name announced and the ballot paper pierced into a wire stand, one for each candidate. This procedure proved to be exceedingly slow, and in a couple of cases, one in St Kitts and one in Nevis, the constituency result was not announced until after 8am the next day. In the Nevis case, the constituency concerned had only 4295 registered voters, which makes the delay all the more unacceptable in public perception.

In the Counting Centres observed by the Team, as in the polling stations, both the Returning Officer and the tally clerks were diligent, efficient, and impartial. A friendly atmosphere between the election officials and the party agents prevailed. There was a police presence available to the election officials at the Counting Centre at all times.

In some of the Counting Centres observed by the Team, there were recounts requested by the party agents. In one case the party agents themselves recounted the ballots. It was not clear whether this was within the rules, but the recount did allow consensus to be reached.

Contrary to the experience of the 2004 Commonwealth Expert Team, there was no frivolous rejection of ballot papers on the grounds that the pencil mark had touched the edge of the box or for any other reason in cases where the intention of the voter was abundantly clear. This was an important improvement and the approach of the Returning Officers, along with the willingness of the party agents to accept it, should be commended.

Chapter 5

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The Team found in St Kitts and Nevis a highly charged political environment, and heard concerns from various stakeholders about aspects of the electoral process in the country. The Team recognised that while the campaign was vigorous and openly conducted by all major parties, there were issues in the electoral environment that gave legitimate cause for concern – in particular, the lack of equity in the access of parties to state-owned media, and a lack of broad and transparent consultation in the appointment of electoral officials, which undermined the confidence of some political parties and segments of the public in their impartiality.

On election day itself the Team observed a peaceful and successful process. The voting and counting were conducted well and the Team observed that voters were able to exercise their right to vote in accordance with legal procedures, including secrecy. The high voter turnout and low number of spoilt ballots was testament to the successful exercise of the franchise by the people. The Team also observed that the polling and counting staff conducted their duties competently and with integrity, as did the party agents who were able to witness the proper conduct of the polls.

Some interlocutors predicted irregularities or difficulties in the use of the new National Identification Card, but the Team's observation was that the new card, used in conjunction with the photographic register of voters, was a significant improvement in protecting the process from fraudulent and duplicate voting.

At the same time, the Team believes that there remain issues of substance in relation to which the electoral process in St Kitts and Nevis can and must be improved. Some are process-related and simple to resolve – such as uneven distribution of resources on election day leading to long queues in some places – while others are more complex and contested, such as tightening the residency requirements for voter registration.

This is the third time a Commonwealth team has been invited by the Secretary-General to observe elections in St Kitts and Nevis. The Team notes that a number of the same recommendations for electoral reforms and improvements were made in both of the previous reports, and are being echoed again in this one. The Team acknowledges the efforts made by the Government of St Kitts and Nevis to conduct reform on two of the issues previously raised by the Commonwealth teams – voter identification and redistribution of boundaries – although it is unfortunate that the boundaries reform resulted in litigation and was therefore unable to be completed in time for the 2010 election.

The Team encourages the Government to work with all political parties represented in the National Assembly to ensure the boundary redistribution process can be completed and accepted prior to the next election. The Team also urges the consideration and implementation of the other recommendations made in this report, some for the third time. The Team suggests that the Government seek assistance where required from the Commonwealth or other international partners, to ensure this can be achieved.

Recommendations

- Provision should be made to facilitate the widest possible consultation with political parties in the appointment of Election Commissioners and the Supervisor of Elections, to ensure confidence in their impartiality.
- Provision should be made for the Supervisor of Elections to be a full-time position, and for strengthening the Electoral Office.
- A system of complete re-registration should be explored. The Team recognises that considerable resources have been expended on the printing of the National Identification Card and that some may have to be reprinted for those voters who may be required to register in the constituency in which they reside. It may also entail the amendment of electoral Regulations to clarify and strengthen the residency requirements. If possible, registration could be undertaken in each constituency.
- The redistribution of electoral boundaries needs to be finalised, to ensure that each constituency contains as nearly equal number of inhabitants as practicable, in accordance with the Constitution.
- A Code or regulations should be introduced to govern media coverage during an election period, to ensure balanced and fair presentation of issues, parties and candidates. St Kitts and Nevis could draw on the assistance and resources of the Commonwealth Secretariat and relevant Commonwealth organisations in this regard.
- The Electoral Commission should look at the possibility of utilising more than one voting booth in each polling station as a means of speeding the process of voting. The expense of constructing booths could be minimised through the use of smaller cardboard screens which can be sourced regionally.
- The electoral authorities should examine the allocation of staff resources and the distribution of voters between polling stations, to avoid long queues and waiting times. The number of voters in each polling station could be limited to a certain maximum, such as 300 – 350.

- The practice of retaining the counterfoil on the ballot before it is delivered to the voter who returns it to the Presiding Officer for removal should be discontinued. The counterfoil should be retained by the Presiding Officer and the ballot paper separated by a perforated line. The practice of handing the ballot paper to the Presiding Officer for placement in the ballot box should also be discontinued and this step should be done by the voter after the digit is immersed in the electoral ink.
- There is a need for the introduction of campaign financing rules to ensure fairness and transparency.
- Consideration should be given to the effectiveness of the “campaign blackout” provisions and their interpretation, to ensure that the rules are clearly and consistently understood and the intention of the law is upheld.
- Independent voter and civic education should be conducted by the electoral authorities, potentially in cooperation with non-government organisations, churches and schools, to help raise awareness of the importance of transparent and accountable democratic processes.
- Political parties and civil society groups should consider how women may be encouraged to run for parliament in greater numbers, including if necessary promoting changes in campaign practices to increase gender sensitivity. This is an area where the Commonwealth Secretariat could be approached for advice and assistance.
- The role of civil society organisations in the democratic process should be further strengthened, including the possibility of continuing and expanding the deployment of domestic observers in future elections.
- The Commonwealth Secretariat and Commonwealth organisations should be prepared to consider favourably requests for advice and assistance to facilitate the implementation of these recommendations.

ACKNOWLEDGEMENTS

The Team is grateful to the Commonwealth Secretary-General, Mr Kamallesh Sharma, for constituting the Expert Team, thereby allowing us to make a modest contribution to the further strengthening of the democratic process in St Kitts and Nevis.

The Team also expresses its gratitude to all who assisted us in our work in St Kitts and Nevis including the Supervisor of Elections and electoral officials, the political parties, media, civil society and other groups, who shared their knowledge and perspectives with the Team and enhanced our understanding of the electoral environment and the process for the conduct of the poll.

We also thank the drivers, hotel staff, and business houses whose essential contributions to the practical work of the Team made our efforts possible and our stay comfortable.

Above all, we wish to thank the people of St Kitts and Nevis, whose passionate commitment to their own democracy, and in the overwhelming majority to a peaceful exercise of those democratic rights, was a privilege to witness. We have appreciated their warm welcome and engaging hospitality, and we hope that this report, and the ongoing work which should emerge from it, will assist in the consolidation and strengthening of the vibrant young democracy of St Kitts and Nevis.

ANNEX A

Biographies of members of the Expert Team

Hon Christopher Carter MP (New Zealand – Chairperson)

Hon Chris Carter is a Labour Member of Parliament for Te Atatu. He was a senior Cabinet Minister and held a number of ministerial portfolios including Conservation, Local Government, Ethnic Affairs, Housing, Building Issues and Education. In Parliament he has built on a keen interest in Education, Conservation, and Foreign Affairs. He is currently the Opposition Spokesperson on Foreign and Ethnic Affairs, as well as a member of the Foreign Affairs, Defence and Trade Committee. Chris holds a Masters Degree in History from the University of Auckland and was a teacher for over 20 years. He is very involved in community activities and is a Justice of the Peace and a campaigner for human rights.

Mr Krishnan Srinivasan (India)

Krishnan Srinivasan is a former Indian diplomat, who was Foreign Secretary of India and later Commonwealth Deputy Secretary-General. He is a member of Christ Church Oxford's senior Common Room, and has been a Fellow at Cambridge, London and Uppsala Universities. Currently, he is a Senior Fellow at the Azad Institute of Asian Studies at Kolkata and an Honorary Professor at the Administrative Staff College in Hyderabad. He has published several articles on international affairs in newspapers and learned journals, and books on world politics, the latest being *Towards the New Horizon: World Order in the 21st Century*, along with James Mayall, professor of International Relations at Cambridge.

Ms Lorna Simon (Antigua and Barbuda)

Lorna Simon is the Supervisor of Elections in Antigua and Barbuda. Prior to moving to the Electoral Commission, she held the position of Permanent Secretary with the Office of the Governor-General, and the Ministry of Tourism, Youth Empowerment, Sports, and Community Development. She has a degree in Public Sector Management from the University of the West Indies. She has attended public service training courses in Project Implementation and Management, Supervisory Skills Development and Advanced Accounting through the Caribbean Development Bank, Canadian International Development Agency (CIDA), and USAID. Ms Simon has served as a member of several international electoral assessment and observation missions in Central America and around the Caribbean.

ANNEX B

Letters of Invitation and response



COMMONWEALTH
SECRETARIAT

14 January 2010

Dear Mr Edmeade,

Thank you for your letter of 7 January 2010 to the Secretary-General, inviting him to constitute an observation mission for St Kitts and Nevis' General Elections announced for 25 January.

Further to my letter of 11 December (attached) I am writing to confirm that the Secretary-General has agreed to the deployment of a Commonwealth Expert Team to St Kitts and Nevis, and to provide you with details of the Team's composition and terms of reference.

The composition of the Commonwealth Expert Team is:

- Chair: Hon Chris Carter MP, Former Minister and Labour Spokesperson for Foreign Affairs, New Zealand;
- Mr Krishnan Srinivasan, Former Foreign Secretary, India, and Former Commonwealth Deputy Secretary-General; and
- Ms Lorna Simon, Supervisor of Elections, Antigua and Barbuda.

The Experts will be supported by a Staff Team from the Secretariat, which will comprise Ms Shennia Spillane, Adviser and Acting Head, Caribbean and Pacific Section, and Ms Julie Broadbent, Political Affairs Officer, both from the Political Affairs Division.

Ms Spillane is scheduled to arrive in St Kitts and Nevis on Tuesday 19 January, to commence preparations for the Team's work. The remainder of the Team will arrive in Basseterre on Thursday 21 January; and all members will remain in country until 30 January.

The Terms of Reference for the Team will be as follows:

"The Team is established by the Commonwealth Secretary-General at the invitation of the Government of St Kitts and Nevis.

The Team is to assess the overall conduct of the electoral process and the environment in which the election is conducted, according to the standards for democratic elections to which the country has committed itself, with reference to

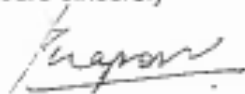
national election-related legislation and relevant regional, Commonwealth and other international commitments.

The Team is to act impartially and independently. It has no executive role; its function is not to supervise but to observe and assess the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

*The Team is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of St Kitts and Nevis, the Election Management Bodies, political parties, and thereafter to all Commonwealth Governments.**

The Team looks forward to its arrival and I wish you the very best with the election process.

Yours sincerely



Amitav Banerji

Director of Political Affairs Division

Mr Joseph L Edmeade
Cabinet Secretary
Government Headquarters
Basseterre
St Kitts and Nevis



COMMONWEALTH
SECRETARIAT

11 December 2009

Dear Mr Edmeade,

Thank you for your letter to the Secretary-General dated 13 August 2009, regarding observation of the upcoming General Election in St Kitts and Nevis. I regret the lateness of this response: as you know, unfortunately your letter did not reach us until 30 November 2009, when a fresh copy was sent from Basseterre.

We appreciate the invitation and I am pleased to advise that the Secretary-General has agreed in principle to the Commonwealth's observation of the election. This will most likely take the form of a Commonwealth Expert Team, as on the previous occasion.

We would welcome receiving advice from you as soon as the date for the election is set, at which point we will be in a position to provide a formal response from the Secretary-General, along with Terms of Reference and other details for the mission.

We wish the relevant authorities of St Kitts and Nevis well in preparing for the elections, and look forward to further contact in the coming weeks.

Yours sincerely,

Amitav Banerji
Director of Political Affairs Division

Mr Joseph L Edmeade
Cabinet Secretary
Government Headquarters
Basseterre
St Kitts and Nevis

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CABINET SECRETARIAT
GOVERNMENT HEADQUARTERS
P.O. Box 186
CAMECK STREET
BASSTERS
St Kitts • Nevis

7th January 2010

His Excellency
Kamalesh Sharma
Secretary-General
Commonwealth Secretariat
Marlborough House
Pall Mall
London, SW 1Y 5HX
England

Dear Sir

With reference to my letter of 13th August 2009, I am pleased to inform you that the Hon. Prime Minister has announced the 25th January 2010 for the holding of the General Elections in the Federation of St. Kitts and Nevis.

The Government will be pleased to receive in the Federation an Observer Mission from your Esteem Organization to monitor the holding of our Elections on 25th January 2010.

Sincerely

Joseph I. Edmeade
Cabinet Secretary

ANNEX C

Press release issued on 21 January 2010

Mr Krishnan Srinivasan

Former Foreign Secretary and former Commonwealth Deputy Secretary-General,
India

Ms Lorna Simon

Supervisor of Elections, Antigua and Barbuda

The team will arrive in Basseterre by 21 January 2010 and stay until 30 January 2010. It will be assisted by a support team of two staff from the Commonwealth Secretariat.

Note to Editors:

For media enquiries, please contact Shennia Spillane on +44 7921 409543 or via e-mail at s.spillane@commonwealth.int

ANNEX D

List of meetings held

Supervisor of Elections
The Governor-General
The Labour Party
People's Action Movement Party
Concerned Citizens' Movement (CCM)
The Premier of Nevis (National Reformation Party)
St Kitts and Nevis Chamber of Industry and Commerce
St Kitts/Nevis Evangelical Association
St Kitts/Nevis Christian Council
People's Action Movement Women's Organisation
ZIZ Broadcasting (TV)
Sun St Kitts/Nevis Newspaper
Radio WINN-FM
The LeewardsTimes
The St Kitts/Nevis Observer
Caribbean Media Corporation
British Consul
Indian Consul
Organization of American States (OAS) Election Observer Team
CARICOM Election Observer Team

Declaration of Principles for International Election Observation

The Commonwealth Secretariat is a signatory to both the Declaration of Principles for International Election Observation and the associated Code of conduct for International Election Observation Missions, which were commemorated on 27 October 2005 at the United Nations in New York.

Commonwealth Observer Groups are organised and conducted in accordance with the Declaration and Commonwealth Observers undertake their duties in accordance with the Code of Conduct.