

BRITISH VIRGIN ISLANDS GENERAL ELECTION

APRIL 2023



CPA BIMR ELECTION OBSERVATION MISSION

FINAL REPORT

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EXECUTIVE SUMMARY

- At the invitation of the Governor, the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted an Election Observation Mission to the British Virgin Islands General Elections in April 2023.
- The legal framework for elections in the British Virgin Islands is comprised principally of the Constitution of 2007 and the Elections Act, as amended, of 1994, and offers a sound basis for the conduct of democratic elections.
- The Supervisor of Elections is perceived as politically independent and enjoys the confidence of election stakeholders. In line with good electoral practice, all election staff received standardised training.
- The right to vote is protected in the Constitution, which provides that persons who “belong to the Virgin Islands” are entitled to vote, subject to having reached the age of 18 and being resident and domiciled in the territory. However, the policy on the implementation of the legal regime on access to belonging status has lacked clarity over time.
- The voter registration system is active, i.e. based on voter application, and continuous. No substantial concerns about the accuracy of the voter register were expressed to the Mission.
- The right to stand is limited to a subset of those with belonging status, namely to exclusively those described in the Constitution as “Virgin Islanders.” The distinction between different groups of belongers on historical grounds appears to be in conflict with the protection of equality under the British Virgin Islands Constitution and international human rights law.
- The election campaign was vibrant, with social media playing an important role for the distribution of campaign messages as well as critical views. Fundamental freedoms of movement, expression, and peaceful assembly were respected in the campaign.
- There is a lack of campaign finance regulations, despite the extension of several international instruments which contain obligations of fairness and transparency in the conduct of elections.
- Advance Polling was available to voters with disabilities and the elderly, as well as a number of other specified groups of voters. Voting on Advance Polling Day proceeded smoothly.
- Election Day was orderly, peaceful, and well-run. The Mission assessed the implementation of opening, voting, and closing procedures by election officials in all Polling Stations as good or very good. Polling personnel were helpful and knowledgeable.
- The CPA BIMR Election Expert Mission offers 14 recommendations in this report to enhance the conduct of elections in the British Virgin Islands and to bring it more fully into line with international obligations and standards for democratic elections.

INTRODUCTION TO THE MISSION

At the invitation of Governor John Rankin CMG, with support from the Premier and the Leader of the Opposition, the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted an Election Observation Mission to the British Virgin Islands General Election on 24 April 2023. This was the fourth time CPA BIMR was invited to observe a general election in the British Virgin Islands.

The Mission held virtual meetings before arrival and was present in the British Virgin Islands from Monday 17 April until Wednesday 26 April 2023. The eight-member Mission was composed of:

- Head of Mission – Hon. Fatoumatta Njai (National Assembly of The Gambia)
- Short-Term Observer – Hon. Shellya Rogers-Webster (House of Assembly of Anguilla)
- Short-Term Observer – Hon. Randy Howell (House of Assembly of Turks and Caicos Islands)
- Short-Term Observer – Hon. Samantha Sacramento (Gibraltar Parliament)
- CPA BIMR Election Observation Lead – Fleur ten Hacken (the Netherlands)
- CPA BIMR Mission Coordinator – Matthew Hamilton (USA/UK)
- Legal/Political Analyst – Anne Marlborough (Ireland)
- Electoral/Campaign Analyst – Vasil Vashchanka (Sweden)



The CPA BIMR Team

The Mission conducted an independent assessment of the British Virgin Islands General Election against international legal standards, commitments and obligations as well as domestic laws. Its assessment considered the legal framework, election administration, political campaign, campaign finance, voter and candidate registration and opportunities for complaints and appeals. In addition, the Mission considered a number of wider issues such as gender equality and participation of persons with disabilities. The Mission met key stakeholders, including election officials, candidates, the Attorney General, media outlets, voters, and attended campaign events.

On Election Day, the Mission visited all 18 polling stations across all nine districts and observed the central vote count. The Mission also observed Advance Polling in seven out of ten polling stations across Tortola and Virgin Gorda.

The Mission is independent in its composition, findings and conclusions, adhering to the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers signed at the United Nations in 2005.

This report offers 14 recommendations which it is hoped will be given due consideration by all election stakeholders for the continued improvement of future elections in the British Virgin Islands.

BACKGROUND

The British Virgin Islands

The British Virgin Islands comprise over 60 islands, islets and cays situated in the north-eastern arc of the Caribbean archipelago, covering a geographical area of 152 km². The main islands of Tortola, Virgin Gorda, Anegada and Jost Van Dyke are home to most of the Territory's people. The capital, Road Town, is located on the main island of Tortola.



The population is predominantly of African descent. The remainder are of European, American and Asian extraction. Approximately half the population are immigrants from other Caribbean islands. The majority of the population is Christian. English is the main language and Spanish is the second most widely used language. Diaspora are predominately located in the US Virgin Islands, with smaller numbers based in the US, the UK and the wider Caribbean.

The Territory operates as a parliamentary democracy. Ultimate executive authority in the British Virgin Islands is vested in the King, and is exercised on his behalf by the Governor of the British Virgin Islands. The current constitution was adopted in 2007 (the Virgin Islands Constitution Order, 2007). The Head of Government is the Premier, chosen from among the members of the House of Assembly, elected in a general election.

The last General Election in the British Virgin Islands took place in February 2019. The Virgin Islands Party (VIP) won eight of the thirteen contested seats; while the National Democratic Party (NDP) won three seats; and the Progressive Virgin Islands Movement (PVIM) and the Progressives United (PU) won a single seat each. The VIP subsequently formed a government.

On 28 April 2022, the then premier, Andrew Fahie, was arrested in the USA on allegations of drug trafficking and money laundering. The following day, the British Virgin Islands Commission of

Inquiry Report was published.¹ On 5 May 2022 a motion of “no confidence” in the Premier was passed. A new Government of National Unity was constituted, a coalition comprised of ministers from across party lines, namely the VIP, NDP and PVIM, with the sole PU representative serving as leader of the opposition. This unity government remained in office until the election in 2023.

All four parties contested the 2023 election again, with the VIP fielding 13 candidates, the NDP and PVIM nine each, and one on behalf of the PU. There was also a total of ten independent candidates, some of whom secured endorsements from political parties. The VIP secured six of the 13 elected seats in the House of Assembly, the NDP and the PVIM both won three, and the PU retained its single seat.

LEGAL FRAMEWORK

The British Virgin Islands is subject to a wide range of human rights obligations that have a bearing upon the electoral process. These include:

- the International Covenant on Civil and Political Rights;
- the Convention on the Elimination of All Forms of Racial Discrimination;
- the Convention on the Elimination of All Forms of Discrimination against Women;
- the Convention on the Rights of the Child; and the Convention against Corruption.

The European Convention on Human Rights was extended to the British Virgin Islands in 1969, with the right of individual petition accepted on a permanent basis since 2009.²

While the British Virgin Islands is a member of the International Labour Organisation, ILO Convention 169, the Indigenous and Tribal Peoples Convention, is not yet applicable to the territory. The UN Convention on the Rights of Persons with Disabilities has also not yet been extended to the British Virgin Islands. The British Virgin Islands has been an associate member of the Caribbean Community (since 1991) and is a member of the Eastern Caribbean Supreme Court.



The House of Assembly

The legal framework for elections in the British Virgin Islands is comprised principally of the Constitution of 2007 and the Elections Act, as amended, of 1994. This framework offers a sound basis for the conduct of democratic elections. As a non-self-governing territory, the British Virgin Islands remains on the agenda of the UN Special Committee on Decolonisation with implications for the constitutional future of the British Virgin Islands, as determined by the people.³ The Constitution sets out the electoral system and elaborates an extensive catalogue of fundamental rights, including the political rights to vote, to stand for election, to equality and to freedoms of expression, assembly, association and movement. A Constitutional Review Commission was established in 2022, with completion of their mandate anticipated by the end of 2023, offering an opportunity also for consideration of the recommendations contained in this report.

¹ British Virgin Islands Commission of Inquiry [website](#).

² The UK has extended the territorial application and right of individual petition under the European Convention on Human Rights to the British Virgin Islands [on a permanent basis](#).

³ UN General Assembly [Resolution 9 December 2021 76/93](#) on the Question of the British Virgin Islands.

The Elections Act, enacted originally in 1994, has repeatedly been amended since then. A consolidated version of the legislation was prepared by the Law Revision Commission and published in 2013. A further series of amendments has been introduced since then, in 2017, 2019 and 2023, but no further consolidation has been published. All of these instruments must be read together in order to ascertain the applicable law, which is a burdensome task for electoral stakeholders.

Recommendation 1: Consideration could be given to the preparation of a revised consolidated version of the Elections Act, to facilitate ease of access to the law by electoral stakeholders.

Electoral reform was reportedly considered by Cabinet since the last election, including the regulation of campaign finance, but no measures of electoral reform have been introduced yet. The Elections (Amendment) Act 2023 became law on 17 March 2023, just five weeks prior to the election. It is generally considered good practice not to amend legislation within twelve months of an election, even though the substance of this particular amendment was slight (principally an expansion of categories of advance voters to include medical personnel and election candidates) and did not affect any fundamental aspect of the election. It is important that there be legal certainty, allowing stakeholders to order their activities in line with prevailing law. This is particularly relevant in light of amending legislation also having been introduced in 2019, again less than twelve months prior to the 2019 General Election.

Recommendation 2: Substantive amendments to the election law should be adopted well in advance of the next election and never less than a year before, and should be based on broad consensus among the stakeholders.

The adoption of new voting technology has not been coherently reflected throughout the Elections Act, with the result that some technicalities require further amendment to reflect current electoral practice.

Access to the law is digitally provided to stakeholders. Subscription to the online government Gazette is available free of charge, while there is also digital access to bills, acts and statutory instruments. However, information on the legislative process is not readily available, as the House of Assembly lacks a website to provide information on the proceedings of the legislature and on the progress of legislation through the enactment process. Published transcripts of the House of Assembly is not up to date. There is also no freedom of information legislation in the British Virgin Islands.

Recommendation 3: Action could be considered to enhance access to information, with a particular focus on the availability of information on all stages of the legislative process.

ELECTORAL SYSTEM

The House of Assembly is elected through a mixed electoral system. Nine members are elected in single-mandate electoral districts by a plurality of votes (“first past the post” system). Four members are voted in the territorial “at large” constituency, with the candidates who garner the highest numbers of votes deemed elected (this system is known as “block vote”).

The electoral system is well understood by the stakeholders and is easy to administer. The electoral districts which return nine members of the House are defined in Schedule 1 to the Elections Act. These districts do not correspond to any administrative boundaries and exist solely for electoral purposes. Considerations of equal suffrage imply that votes of the electors should carry similar weight.⁴ The Mission noted that the electoral districts were indeed similar in size.⁵ For election administration purposes, each electoral district is divided into up to four polling divisions, with each division served by one polling station.

During the Mission’s visit, a variety of views were expressed on whether the current electoral system serves the British Virgin Islands well. Among other issues, the Mission learned that proposals have been voiced for a greater say by voters in the choice of the premier. Some argued that it would be in greater public interest for the premier and cabinet ministers to be elected from the “at large” constituency, rather than one of the districts. These discussions are welcome, given that the choice of an electoral system necessarily balances various considerations, such as the accountability of elected representatives and the development of political parties.⁶ At the same time, to preserve stability of electoral law, it is advisable that any change of the electoral system takes place well in advance of the next election and be based on broad consensus among the stakeholders.

ELECTION ADMINISTRATION

The law does not set a date for regular general elections, with the Constitution specifying only that they must be held within two months after the dissolution of the House of Assembly, but not earlier than 21 days. An introduction of a set date for regular elections would facilitate greater certainty and allow more time for electoral preparations.

The primary responsibility for administering elections lies with the Supervisor of Elections, who is appointed by the Governor.⁷ By all accounts, the Supervisor of Elections is perceived as politically independent and enjoys the confidence of election stakeholders. The election administration appeared to be adequately resourced. The Supervisor of Elections used an open recruitment process to appoint Returning Officers for each electoral district, including for the “at large” constituency, as well as Presiding Officers and polling clerks for each polling station. In line with

⁴ See inter alia Article 25 of the ICCPR and views of the UN Human Rights Committee in *Mátyus v. Slovakia*, Communication No. 923/2000 (CCPR/C/75/D/923/2000).

⁵ The highest deviation from the average district size was 22 per cent.

⁶ Of note, Section 65(1)(a) of the 2007 Constitution Order allows for the election of four members of the House of Assembly through different electoral systems. Further information on electoral system choices can be found in the 2005 [International IDEA Handbook on Electoral System Design](#).

⁷ The office of the Supervisor of Elections is structurally part of the office of the Deputy Governor.

good electoral practice, all election staff received standardised training.⁸ The Supervisor of Elections produced a handbook for candidates and a manual for election officers, both of commendable quality.

Electronic pollbooks and ballot scanners were used to administer the polls for the second time.⁹ These technologies were welcomed by nearly all Mission interlocutors, who especially noted the marked improvement in the efficiency of the ballot count and the tabulation of voting results. The Supervisor of Elections carried out public demonstrations of the voting equipment and prepared educational videos which circulated in social media. Still, on Election Day the Mission observed that voters often required help from polling staff because they were not familiar with marking and casting their machine-readable ballot, which indicates the need for a broader reach of the voter information campaign.

Recommendation 4: Voter information campaigns, particularly covering balloting procedures, should be carried out in a variety of formats, ensuring a broad reach.



Campaign posters across Tortola

⁸ See the Council of Europe's Venice Commission Code of Good Practice in Electoral Matters, Guidelines, paragraph II.3.1.g.

⁹ This equipment was previously purchased from Election Systems & Software, a US company headquartered in Omaha, Nebraska, which was contracted to provide technical support for this election.

THE RIGHT TO VOTE

The right to vote is protected in the Constitution, which provides that persons who “belong to the Virgin Islands” are entitled to vote, subject to having reached the age of 18 and being resident and domiciled in the territory.¹⁰ Residence in the US Virgin Islands, while retaining domicile in the British Virgin Islands, does not disqualify a voter. While precise figures are elusive, a substantial proportion of the population of the British Virgin Islands does not have belongership status, and therefore does not have the right to vote.

The attainment of belongership status is governed by immigration legislation, read together with Section 2(2) of the Constitution. The current law must, therefore, be established through reading together an extensive set of legal instruments, which is a highly complex task. Implementation of the legal regime has lacked clarity as to the duration of residency required to apply for belongership status, with different policies, practices and degrees of discretion having applied over time. In practice, twenty years of residence, followed by a grant of residential status at least one year in advance, have been previously necessary before submitting an application for belongership status. At present, a period of ten years of residence followed by holding residential status for a year are required before someone may apply for belongership status.

The Commission of Inquiry recommended a review of processes for the grant of residency and belongership status. An audit was recently conducted on a limited Fast Track scheme in 2019 for applications of residence and belongership, which raised questions as to the legal validity of the belonger status of 688 individuals. The results of this audit prompted the first ever recall of the House of Assembly in order to consider legislation to regularise the status of the affected individuals ahead of the General Election. This was believed to be necessary to avert any potential invalidity of the election posed by the questionable grants of belongership status.¹¹ The Immigration and Passport (Validation) Act 2023 and the Immigration and Passport (Amendment) Act 2023 were both enacted on 19 April 2023, one day before Advance Polling and five days before Election Day.

Recommendation 5: Clarification of the policies and practices on access to belongership should be published, with subsequent amendments to existing legislation introduced to further legal certainty in the implementation of these policies.

Disqualifications from the right to vote are set out in the Constitution. Persons who have been certified to be insane may not vote, which could be argued to be in contravention of the Convention on the Rights of Persons with Disabilities. Persons convicted of certain electoral offences have their right to vote suspended for five years. Persons serving prison sentences of in excess of twelve months are also disqualified. The European Convention on Human Rights,

¹⁰ Domicile connotes a deeper degree of attachment than mere residence. It is where one resides and intends to continue residing.

¹¹ Grants of residence and belongership status made between 12 June 2019 and 30 June 2020 were retrospectively validated by the two pieces of legislation, in case any subsequent revocation of their status would undermine the lawfulness of the elections. The Mission was informed that there is a substantial backlog of applications (up to 3,000) for belongership status awaiting determination.

which is binding upon the British Virgin Islands, has been interpreted as prohibiting blanket bans on voting by prisoners, regardless of the nature of their offence. It is possible, therefore, that the ban on voting by all persons serving sentences in excess of one year may not be lawful. Prisoners on remand are entitled to vote and commendable efforts were made to realise their rights. Ten among the current cohort of over fifty prisoners on remand exercised their right to vote and were facilitated to do so by being transported to polling stations during Advance Polling Day. No arrangements were made to vindicate the voting rights of the small number of convicted prisoners serving sentences of less than twelve months in prison. Section 21 of the Elections (amendment) Act, 2019, extended the facility to use advance voting to prisoners on remand, but not to those prisoners serving a sentence of less than twelve months, despite them having a constitutional right to vote.

Recommendation 6: Amendment of electoral law and practice, in order to respect the right to vote of prisoners serving prison sentences of less than twelve months, could be considered.

VOTER REGISTRATION

The voter registration system is active, i.e. based on voter application, and continuous. Between elections, voter lists are published and updated on an annual basis. In line with the legal requirements, preliminary voter lists were displayed for public scrutiny in hard copy and published electronically, disaggregated by polling division, four days after the dissolution of the House of Assembly, and voters had four days to request updates and corrections. The revised voter lists used in this election were published on 27 March and comprised records of 16,130 voters, an increase of nearly 1,200 voters compared to 2019. Given that no census has been held since 2010, the Mission is unable to assess the ratio of eligible voters who are registered. It is hoped that the authorities will follow up on the 2019 CPA BIMR recommendation and hold a census in the near future.

Recommendation 7: Efforts should be made to undertake a census in the near future.

No substantial concerns about the accuracy of the voter register were expressed to the Mission. During Advance Polling and on Election Day, voters were requested to provide their current details in polling stations. The Supervisor of Elections office planned to use this information to encourage voters to update their data in the register after the election.

The Mission was informed that the Supervisor of Election's office has recently migrated to a new voter database software to improve reliable performance. The format of the voter database does not yet support disaggregated analysis based on gender, age, etc. It would be advisable to remedy this shortcoming in the future, in order to improve voter participation analysis and enable better-informed voter registration initiatives and information campaigns, for example targeting young voters.

Recommendation 8: Efforts could be made to improve the functionality of the electronic voter database, including data disaggregation by gender and age, and appropriate resources should be allocated to its update and maintenance.

THE RIGHT TO STAND AND CANDIDATE REGISTRATION

While the right to vote is restricted to those with belonging status, the right to stand for election is further restricted to those described in the Constitution as “Virgin Islanders”.¹² This a subset of the overall group of belongers and is determined by blood and descent from those who have historically been Virgin Islanders. Qualifying periods of residence and domicile also apply. The distinction is effectively between citizens who have acquired their status by naturalisation and citizens who have acquired their status through specific generations of descent. While precise figures are elusive, a number of belongers are not recognised as “Virgin Islanders” and therefore do not have the right to stand in elections. Detailed rules are set out in Section 65 (2) of the Constitution.

The distinction between different groups of belongers on historical grounds appears to be in conflict with the protection of equality under the British Virgin Islands Constitution, which guarantees rights without distinction based on descent. It is also in apparent conflict with the international requirements of non-discrimination between citizens in their right to participate in public affairs.¹³ Article 25 (b) of the International Covenant on Civil and Political Rights provides, that all citizens are entitled to vote without distinction, excluding a distinction on the basis of birth. General Comment No. 25 on the International Covenant on Civil and Political Rights interprets the Covenant as follows:

“No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25.”¹⁴

Recommendation 9: A review of Section 65 (1)(b) of the Virgin Islands Constitution Order 2007, which regulates the qualifications for elected membership of the House of Assembly, should be undertaken to consider compatibility with human rights protected under the Constitution and international human rights law.

Prospective candidates are required by law to submit nomination papers supported by at least two eligible voters and pay a deposit of USD 1,000, refundable to candidates who receive at least one eighth of votes in their district (1/32nd in the “at large” constituency). Candidates could stand for election as party representatives or independents. In an inclusive process, the Supervisor of

¹² Those qualified immediately before the implementation of this Constitution are also entitled to stand for election, pursuant to Section 65(1) of the Virgin Islands Constitution Order 2007.

¹³ International Covenant on Civil & Political Rights, Article 25.

¹⁴ General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25): 12/07/96. CCPR/C/21/Rev.1/Add.7, General Comment No. 25. (General Comments)

Elections registered 42 candidates to contest the election, including 17 in the “at large” constituency.¹⁵ All district races were competitive, contested by two to four candidates.

ELECTION CAMPAIGN AND THE MEDIA

The campaign was vibrant and the candidates used a variety of means to reach out to the electorate, including door-to-door visits, rallies, posters, billboards, and musical jingles. Fundamental freedoms of movement, expression, and peaceful assembly were respected in the campaign. Social media played an important role for the distribution of campaign messages as well as critical views. Personal attacks on social media were mentioned to the Mission by some of the candidates, and several complaints on such attacks were made to the police. Candidate debates and rallies were livestreamed on Facebook, expanding their reach. Rather than advancing specific policies, candidates’ messages often emphasised their personal credentials, experience in public office, and the responsiveness to their constituents. Positively, several debates were organised, including between premier candidates, allowing voters to compare their views directly.¹⁶ Rumours of vote-buying surfaced during the campaign but no substantiated allegations were made to the Mission and no complaints were lodged with the police.

The election campaign was covered in private print and online media, as well as on the radio. There are no public broadcasters in the British Virgin Islands. Several media outlets met by the Mission underlined their freedom and stated that they aimed to cover the campaign in a balanced and impartial manner. At the same time, a number of candidates informed the Mission that they were charged for media appearances. The Mission was not in the position to establish whether paid presentations of candidates in the media were clearly labelled as such. It should be emphasised that voters need to be plainly and visibly informed when candidate appearances are paid for.

Recommendation 10: All paid for appearances of candidates in the media should be clearly labelled as such.

CAMPAIGN FINANCE

Despite the extension of several international instruments which contain obligations of fairness and transparency in the conduct of elections, the legal framework does not address the funding of election campaigns. In the absence of any campaign finance regulations, sources of campaign funding are not made public, which is at odds with the internationally encouraged electoral practice.¹⁷ Despite recommendations by previous CPA BIMR Missions, no legal changes were implemented before the election. Most Mission interlocutors spoke in support of transparency

¹⁵ The VIP fielded a full slate of candidates in all electoral districts and for the “at large” constituency. The NDP and the PVIM contested five district races each and all “at large” seats. The PU contested one district seat. Five independent candidates registered for the district races and an equal number competed in the “at large” constituency.

¹⁶ Schedule 3 to the Elections Act contains a code of conduct for political parties and candidates during the campaign.

¹⁷ See [UN Convention against Corruption, Article 7.3](#).

of campaign donations, noting that it was discussed by Cabinet prior to the election, but the introduction of reform was postponed until after the election. Further discussion on this issue is encouraged, and consideration of any disclosure regime should include its monitoring and enforcement.

In line with a constitutional requirement, candidates were obliged to publish newspaper notices setting out their interest in any company providing contractual services to the Government. However, this important measure does not appear to be supported by any verification mechanism of the candidates' declarations, which would be beneficial. A reasonable campaign spending limit could also be considered in order to level the playing field.

Recommendation 11: Consideration should be given to introducing regulations which provide for disclosure and monitoring of campaign donations above a certain threshold.

DIVERSITY AND INCLUSION

Seventeen among the forty-two candidates who stood for election were women, representing 40% of candidates. Three women were among the thirteen people elected to the House of Assembly, two representing the VIP and one from the NDP. Three women were also elected in 2019. This represents approximately 23% of the elected membership of the House. The Convention on the Elimination of All Forms of Discrimination against Women, which has been extended to the British Virgin Islands, allows for positive measures to support the advancement of women in political life. However, no special measures have been introduced in law in order to promote the participation of women in political life. None of the candidates running for election identified themselves as belonging to the LGBTQI+ community, nor was there a representative that publicly identified themselves to be a part of this community in the previous parliament.

Recommendation 12: Authorities could consider the introduction of temporary special measures to strengthen women's participation in elections, as provided for in the 1979 United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

While the Convention on the Rights of Persons with Disabilities has yet to be extended to the British Virgin Islands, laudable efforts were made to promote the participation of persons with disabilities as voters. However, independent voting in secret was not possible for persons with visual impairments, as assistive measures, such as tactile ballot guides, were not provided. Advance polling was made available for those with special needs of assistance. Respect and compassion were displayed by polling staff towards voters, who were facilitated to vote regardless of the time or level of support required. On Election Day, several polling stations were assessed by the Mission as not being independently accessible for persons with reduced mobility.

No specific measures were put in place to facilitate the exercise of the right to vote by Spanish-speaking belongers. Voter education materials and instructions in polling stations, including on electronic ballot scanners, were available exclusively in English.

Recommendation 13: The 2008 United Nations Convention on the Rights of Persons with Disabilities should be extended to the British Virgin Islands. This would promote a human-rights-based approach to the political participation of persons with disabilities.

ADVANCE VOTING

In line with the law, Advance Polling was organised on 20 April in ten polling stations. Voters with disabilities, as well as elderly and illiterate voters who require assistance, are entitled to cast their ballots early without a prior application, while police officers, election officials, remand prisoners, and voters unable to vote on Election Day due to employment or travel could vote early upon prior application and approval by the Supervisor of Elections. Positively, medical practitioners, social care providers, prison officers, election candidates and persons assisting other voters were added to the categories of those eligible for advance voting in the Elections Act in March 2023. The opportunity to vote in advance provides a welcome additional avenue for exercising the right to vote by those unable to come to the polls on Election Day. The Supervisor of Elections' office went through considerable effort to facilitate advance voting, including opening a polling station on Anegada which allowed eight voters to vote in advance. In total, 1,434 voters cast their ballots on Advance Polling Day.

In the seven polling stations visited by the Mission on Advance Polling Day, voting proceeded smoothly. Queues formed outside of some polling stations as voters requiring assistance and the persons providing such assistance had to take oaths, which extended their processing time. The law allows for persons requiring assistance to be assisted by a friend or by the polling station's presiding officer.¹⁸ For persons assisted by the presiding officer, rather than by a friend, the law requires for the assistance to be witnessed by party agents. Even though they take an oath of secrecy, such presence of party agents during the assistance compromises the secrecy of the vote. The Mission also noted that that some voters may have resorted to assistance due to their lack of familiarity with the machine-readable ballot and equipment.

Recommendation 14: Party agents should not be witnesses to voting by persons assisted by Presiding Officers, in order to better safeguard secrecy of the vote.

ELECTION DAY

Election Day was orderly, peaceful, and well-run. The Mission assessed the implementation of opening, voting, and closing procedures by election officials in all polling stations as good or very good.¹⁹ No instances of Election Day campaigning or undue influence on voters was observed. Polling personnel were polite, helpful, knowledgeable, and promptly assisted in case of non-standard situations requiring advice from Returning Officers or the Supervisor of Elections'

¹⁸ Section 45(4) of the Elections Act.

¹⁹ With possible options including Very Poor, Poor, Good, Very Good.

office. The vast majority of polling staff were women. Police officers and agents of candidates were present in all polling stations, as provided by the law.

A few technical issues with the functioning of the electronic pollbooks and ballot scanners were noted by the Mission, but they were resolved without delay and did not impede the voting process. Outdated voter records occasionally caused delays during polling, as voters were required to take an oath if the data in their identification documents did not fully match their information in the voter list. In isolated instances registered voters were not found on voter lists and were allowed to vote only after their eligibility was confirmed by the Supervisor of Elections' office. Legislative amendments adopted ahead of this election re-introduced the practice of announcing the names of voters out loud, enabling candidates' agents to mark the voters who cast their ballots on their voter lists.

The tabulation of voting results was organised in suitably spacious premises and unfolded transparently, with the Returning Officers' successive transfer of the voting results in their districts for the electronic tabulation, and the announcement of all voting results per district and the territorial constituency by the Supervisor of Elections. Candidates accepted election results. Voter turnout was 57.5 per cent, a decline of 7.1 per cent compared to the 2019 elections.

ELECTORAL JUSTICE

Complaints and appeals were not significant in this election, as few complaints were received by the authorities. Anyone may submit a complaint to the Supervisor of Elections' Office, which received 87 claims in relation to voter registration. These communications related principally to the updating of names and of occupations. Just one single objection was submitted against an inclusion in the register, and this was dismissed as having been based on erroneous information.

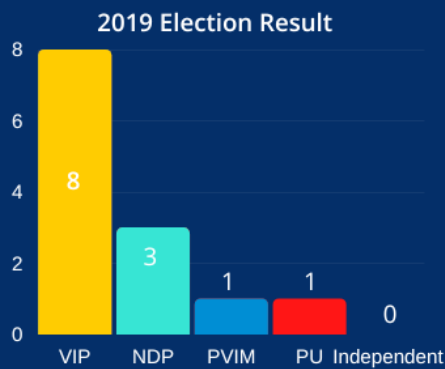
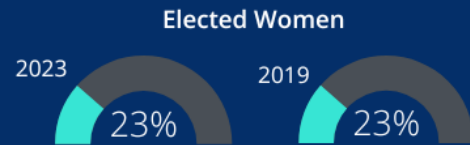
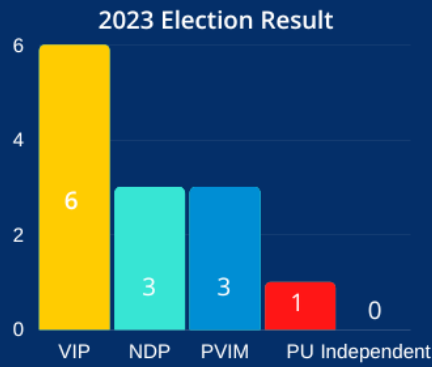
While the Mission was informed of a few instances of defacement of a poster, or unauthorised removal of a poster, no official complaints were submitted to the Elections Office or to the police in this regard. No complaints were made by political parties or by independent candidates in relation to the conduct of the election campaign. There were no challenges to the results of the election.



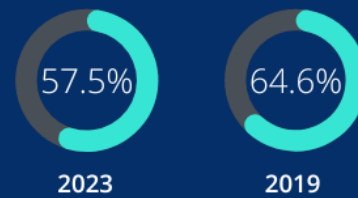
The CPA BIMR Team

ELECTION RESULTS

British Virgin Islands 2023 Election Results



Turnout of registered voters
based on the number of ballots received* per election



RECOMMENDATIONS

1. CONSOLIDATION OF ELECTIONS ACT

Consideration could be given to the preparation of a revised consolidated version of the Elections Act, to facilitate ease of access to the law by electoral stakeholders.

2. FUTURE AMENDMENTS TO ELECTION LAW

Substantive amendments to the election law should be adopted well in advance of the next election and never less than a year before, and should be based on broad consensus among the stakeholders.

3. ACCESS TO INFORMATION

Action could be considered to enhance access to information, with a particular focus on the availability of information on all stages of the legislative process.

4. VOTER INFORMATION CAMPAIGNS

Voter information campaigns, particularly covering balloting procedures, should be carried out in a variety of formats, ensuring a broad reach.

5. BELONGERSHIP STATUS

Clarification of the policies and practices on access to belonging should be published, with subsequent amendments to existing legislation introduced to further legal certainty in the implementation of these policies.

6. PRISONER VOTING RIGHTS

Amendment of electoral law and practice, in order to respect the right to vote of prisoners serving prison sentences of less than twelve months, could be considered.

7. CENSUS

Efforts should be made to undertake a census in the near future.

8. VOTER DATABASE

Efforts could be made to improve the functionality of the electronic voter database, including data disaggregation by gender and age, and appropriate resources should be allocated to its update and maintenance.

9. RIGHT TO STAND

A review of Section 65 (1)(b) of the Virgin Islands Constitution Order 2007, which regulates the qualifications for elected membership of the House of Assembly, should be undertaken to consider compatibility with human rights protected under the Constitution and international human rights law.

10. MEDIA

All paid for appearances of candidates in the media should be clearly labelled as such.

11. CAMPAIGN FINANCE

Consideration should be given to introducing regulations which provide for disclosure and monitoring of campaign donations above a certain threshold.

12. WOMEN'S PARTICIPATION

Authorities could consider the introduction of temporary special measures to strengthen women's participation in elections, as provided for in the 1979 United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

13. PERSONS WITH DISABILITIES

The 2008 United Nations Convention on the Rights of Persons with Disabilities should be extended to the British Virgin Islands. This would promote a human-rights-based approach to the political participation of persons with disabilities.

14. PARTY AGENTS

Party agents should not be witnesses to voting by persons assisted by Presiding Officers, in order to better safeguard secrecy of the vote.

ACKNOWLEDGEMENTS

The CPA BIMR Election Observation Mission wishes to express its gratitude to the authorities of the British Virgin Islands, election officials, candidates and to the people of the British Virgin Islands for their cooperation and assistance during the course of the Mission.

CPA BIMR ELECTION OBSERVATION SERVICES

The first objective of the BIMR Strategy is to strengthen parliaments and the skills of their members. As part of this work, CPA BIMR facilitates election observations when invited to do so.

For more information about these services, please contact the CPA BIMR Secretariat at **cpabimr@parliament.uk**.



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