



# MONTSERRAT GENERAL ELECTION

NOVEMBER 2019

## CPA BIMR ELECTION OBSERVATION MISSION

## PRELIMINARY REPORT



## **EXECUTIVE SUMMARY**

- The Election Observation Mission (EOM) to Montserrat took place between 11 and 20 November 2019 and comprised seven members of five different nationalities. The EOM assessed the framework for elections and the conduct of election day for compliance with domestic law and international standards for elections.
- Voting and counting took place in an orderly, well organised and transparent manner. The observers found that voting was good and very good in all polling stations observed across the island and assessed the counting and results process in extremely positive terms. The transparency of the count went far beyond legal requirements. This instilled great confidence in the accuracy of the reported results.
- The number of voters registered for the election was 3,858. Turnout was 62.5 percent, indicating that Montserratians went to the polls in significant number, giving a strong mandate to their new Legislative Assembly and Government.
- The Electoral Commission (EC) enjoyed the trust of both the public and the political parties, with confidence expressed both in its impartiality and ability to conduct the elections correctly.
- Voters could cast up to nine votes on a single ballot paper in a single constituency. The members of the Legislative Assembly represent all of the people, without responsibilities linked to specific areas. Elections are conducted under a first-past-the-post system, by means of a simple majority of the votes cast.
- The legal framework provides a basis for the conduct of elections in line with applicable human rights standards. There is explicit protection for the right to form, or to belong to, a political party. The right to vote is of generous application, extending to Commonwealth citizens who satisfy residence requirements, as well as to Montserratian citizens.
- The protection of the right to stand for election is not in full compliance with international law. A distinction is made between Montserratians by birth and those who have acquired nationality by naturalisation. This amounts to discrimination, which appears unreasonable.
- The Elections Act provides for the printing of a serial number on both the ballot paper and the counterfoil. The voter's registration number is also written on the counterfoil by the presiding officer, making each ballot paper potentially traceable. This violates the secrecy of voting.
- Candidate registration was inclusive and offered Montserratian voters a genuine choice among political alternatives. The election was contested by a record high number of 35 candidates, including eight women. Political parties could take more measures to foster greater participation of women; only three of the 24 party nominated candidates were women. Regrettably, just one woman was elected, representing eleven per cent of the Legislative Assembly.

- The campaign was vibrant, orderly and highly competitive. Fundamental freedoms were respected. Contestants used a broad variety of campaign means including traditional and online media to pass messages to voters. Women were visible and active both as candidates and voters in campaign events.
  - Public Radio Montserrat allocated editorial coverage to all contestants and offered paid airtime. The Youth Parliament of Montserrat organised public debates on substantive political issues. These efforts contributed to a level playing field, despite the lack of legal guidelines for the media campaign.
  - The absence of political finance and disclosure legislation limited the information available to voters about the donations and campaign expenditure.
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The CPA BIMR Election Observation Mission:

(From top left clockwise) Martyn Perkins MHK, Isle of Man, Short Term Observer; Harald Jepsen, Denmark, Political/Campaign Analyst; Hon Julian Robinson MP, Jamaica, Head of Mission; Anne Marlborough, Ireland, Election/Legal Analyst; Aurjul Wilson, Anguilla, Short Term Observer; Mariam El-Azm, France, Senior EOM Coordinator; Felicity Newall, UK, EOM Administrator.

## **POLITICAL BACKGROUND**

The Island of Montserrat is a British Overseas Territory. It is an internally self-governing Territory with executive power vested in the British Crown through an appointed Governor, who chairs the Cabinet. The Cabinet has four ministers who are members of the Legislative Assembly of nine elected members.

The 2019 general election is a continuing step towards a more stable development in Montserrat following the 1995 Hurricane Hugo and the devastating Soufrière Hill volcanic eruptions between 1996 and 2010 which forced the rehousing of most of the population and altered the demographic and societal cohesion of the remaining communities. The current population of Montserrat numbers 4,649 persons (2018). The island has in recent years experienced significant immigration, mainly from Guyana, Jamaica, and neighbouring isles. Montserrat continues to receive budgetary aid from the UK Department for International Development (DFID) and other agencies.

Elections are held every five years. The 2014 elections were contested by 31 candidates. A new party, the new People's Democratic Movement (PDM) won seven seats and the former ruling party, the Movement for Change and Prosperity (MCAP), won two seats, by a 71.3 percent voter turnout. Both parties had fielded a full slate of nine candidates. The Alliance of Independent Candidates fielded three candidates, with ten other independents also running. The 2014 general elections in Montserrat was the first observed by CPA BIMR and was assessed as vibrant, peaceful and participatory, despite remaining challenges in the legal framework.

Donaldson Romeo (PDM) became Premier after the 2014 elections. Leader of the Opposition Reuben T. Meade resigned from public office in October 2016. He was replaced by Hon. Easton Taylor Farrell as leader of MCAP. Dr Samuel Joseph retained the seat for MCAP in the 30 January 2017 by-election. Two members of the Assembly left the PDM; one of them co-founded the Montserrat National Congress (MNC) party in 2019. The Premier was voted out as leader of PDM in October 2019 and was replaced by Cabinet Minister Paul Lewis.

## **LEGAL FRAMEWORK**

The legal framework for the conduct of elections is to be found in the Constitution of Montserrat, 2010, the Elections Act, 1952 (as amended up to 2013), and the Electoral Commission Act, 2012. Further elaboration is to be found in the Election Registration Regulations, 1970, the Election (Continuous Registration) Regulations, 1996, and the Legislative Assembly (Election Petition) Rules, 2014.

The legal framework provides a basis for the conduct of elections which is broadly in line with applicable international human rights standards. Fundamental rights and freedoms are set out in the Constitution, including freedoms of expression, assembly and association, with explicit protection for the right to form, or to belong to, a political party. The right to vote is of generous application, extending to Commonwealth citizens who satisfy residence requirements, as well as to Montserratian citizens. No complaints were made regarding voter registration.

The International Covenant on Civil and Political Rights (ICCPR) requires that elections should be conducted by secret ballot, but this is not, technically, the case in Montserrat. The Elections Act provides for the printing of a serial number on both the ballot paper and the counterfoil. In

addition, voters are listed in the poll book in the order in which they voted, including with their number from the list of voters. This number is also written on the counterfoil by the presiding officer, making each ballot paper potentially traceable. This violates the secrecy of voting.

Persons who are serving prison sentences in excess of twelve months are deprived of the right to vote. Prisoners on remand, or those serving sentences of less than twelve months, retain their right to vote. This is set out in the Elections Act. Prisoners did not vote in the elections in 2014, the by-election in 2017, or in these elections. There is a prison population of twenty-three, including five prisoners on remand.

## **ELECTORAL SYSTEM**

The Legislature for Montserrat consists of Her Majesty and the Legislative Assembly. The Legislative Assembly consists of eleven members, nine of whom are directly elected. The Attorney General and the Financial Secretary serve *ex officio* as members of the Legislative Assembly.

There is a single island-wide constituency, which is administratively divided into six electoral divisions. Voters may cast up to nine votes on a single ballot paper. The members of the Legislative Assembly are therefore “at large” representing all of the people, without responsibilities linked to specific areas. Elections are conducted under a modified “first-past-the-post” system, by means of a simple majority of the votes cast.

The continued existence of a single constituency is a matter of much discussion in Montserrat. Views of interlocutors were varied, with many indicating a preference for a reversion to a system which would have smaller constituencies, allowing for a more direct geographic link between the voters and their elected representatives. Many among the politicians commented upon the heavy burden of office when all communities on the island must be served. A cabinet decision was made around two years ago to establish an Election Reform Commission. This decision has yet to result in the creation of a functioning entity to lead the national consultative process which would be necessary to address reform of the legal and administrative framework for elections in Montserrat.

## **ELECTION ADMINISTRATION**

The elections in Montserrat are conducted by the Electoral Commission (EC), which is a constitutional commission first embodied in the constitution in 2010. The Electoral Commission Act, 2012, and the Elections Act, 1952, set out further detail on the operation of the EC.

The EC enjoyed the trust of both the public and the political parties, with confidence expressed both in its impartiality and ability to conduct the elections correctly.

The EC is comprised of a chairman (in the language of the law) and three other members. The incumbent EC members took up office in early 2018. All four appointments are made by the Governor. The Premier, the Leader of the Opposition and civil society are to provide advice in the appointment of the three ordinary members. Civil society does not appear to have had any role in their selection. The Elections Act provides that the EC chairman shall perform the duties of the supervisor of elections. These legal rules have the potential to circumscribe the independence of the EC, so interlinked are the appointments with the executive. The dual role of EC chairman and supervisor of elections removes the separation between the board and the staff, thereby diminishing the oversight function of the commissioners.

The EC has the responsibility for voter education. Some of this work began as early as six months before the election, while a calendar of events across all electoral divisions of the island was conducted in the six weeks prior to polling day. The voter education efforts included town hall meetings and focus group meetings, as well as radio broadcasts.

## **THE RIGHT TO VOTE AND VOTER REGISTRATION**

The Preamble to the Constitution of Montserrat recognises that the people are entitled to a free and democratic society, and establishes *"the concept of true democracy with free and fair elections"*. Beyond this, there is no explicit recognition of the right to vote in the Constitution.

The Elections Act sets out the qualifications for voting, which are quite generous in that voting is extended beyond Montserratian nationals to Commonwealth citizens who satisfy residence or domicile requirements on the island. Residence in Montserrat for a period of thirty-six months immediately preceding the date of registration is required. Alternatively, domicile in Montserrat and residence upon registration create an entitlement to register.

Students who are overseas pursuing certain courses of study will not lose their domicile for voter registration purposes. Domicile can sometimes be an elusive legal concept to define, which can present difficulties for the EC in ascertaining entitlement to register. No complaints were made regarding the preparation of the voter register for this election. Voters must be eighteen years of age to register to vote, and registration is a precondition to voting.

Prisoners serving sentences in excess of twelve months are deprived of the right to vote. The Elections Act also disqualifies persons of *"unsound mind"* from voting. There is a requirement that there should be a determination to this effect under any law in force in Montserrat. This is positive in that it allows for an individual assessment of voting rights, rather than treating persons as a homogenous group.

The Elections Act, the Election Regulations and the Election (Continuous Voter) Regulations, govern the conduct of voter registration. These laws provide for active and continuous registration, for the publication of a preliminary list of voters, and for the making of objections or proposal of adjustments after publication. The number of voters registered for the election was 3,858.

## **REGISTRATION OF CANDIDATES**

The qualifications to stand for election are set out in Articles 51 and 52 of the Constitution. Candidates must be 21 years of age; must have been resident in Montserrat for at least twelve months during the preceding five years; and must be a Montserratian national. Only Montserradians by birth are eligible to stand for election, with naturalised individuals disqualified. Candidates must also be registered voters.

The protection of the right to stand for election is not in full compliance with international law. A distinction is made between Montserradians by birth and those who have acquired nationality by naturalisation. This amounts to discrimination, which appears unreasonable. Dual citizenship is also a disqualification from standing for election. This appears somewhat harsh in the context of the particular geopolitical realities of emigration from Montserrat following the series of natural disasters which has befallen the island.

Holders of public office are disqualified from becoming candidates for the Legislative Assembly. On 6 November 2019 the High Court of the Eastern Caribbean Supreme Court ruled, in *Stephenson v. AG*, that this disqualification was lawful. It was found necessary to protect the neutrality of the public service. It was noted however, that, of a total labour force of 2,703, per the inter-census count of September 2018, 726 are employed by the Montserrat Public Service. The judge said that “*in a voting population of about 3,500, around 21 per cent of voters are public officers*”. As there are no entitlements to seek reinstatement in office after an unsuccessful election bid, few of these people are likely to risk their job security. This excludes a substantial proportion of the population from running for election.

Montserratians who are “*under any acknowledgement of allegiance, obedience or adherence to a foreign power or state*”, effectively dual citizens, are disqualified from standing for election, unless the second citizenship has been renounced within ten days after nomination. Convictions for certain electoral offences also disqualify, as does undischarged bankruptcy.

The writ of election was issued on 7 October 2019 following the expiry of the term in office of the members of the Legislative Assembly, and the election date was set for 18 November, in line with legal and constitutional provisions.

Nomination was held on 7 November and resulted in the registration of a record-high number of 35 candidates, of which 24 competed on the candidate lists of four political parties and 11 as independents. The MCAP presented a full slate of nine candidates; the PDM fielded seven candidates; MULP – five; and NMC – three. There were eight women candidates, three ran on a party list and five as independent candidates; the MULP party did not nominate any women candidates, and no party was female-led. All members of the outgoing Assembly, as well as the non-elected Speaker, contested the 2019 election.

Candidate registration was inclusive, offering voters a genuine choice among political alternatives. All candidates paid an EC\$500 deposit that is refundable to candidates who obtain more than one-eighth of the valid votes (ballots). Some political parties opined that the deposit is set too low and, among others, ascribed the high number of candidates to this fact. However, the deposit should not be set too high and act as a barrier to candidature.

The lack of legal provisions for political parties meant that political affiliation or membership were not recorded in the candidates’ nomination papers, and thus were not reflected on the ballot paper. The choice of party or candidate colour as background for their ballot paper photo is not regulated in law, which may lead to inconsistent practices, disputes and voter confusion.

## CAMPAIGN AND CAMPAIGN FINANCE

The campaign was highly competitive, colourful and vibrant, with most candidates using rallies, motorcades, posters and canvassing of voters in their outreach to the electorate. The main parties and some independent candidates appeared on talk shows and purchased paid campaign slots in print media and on public Radio Montserrat. The Youth Parliament organised four well attended public debates that were streamed online. Social and Internet-based media have become important platforms for passing campaign messages to voters. Some 90 percent of the population use mobile phones; the Internet penetration rate is 68 percent. Instances of negative campaigning were noted, and the MCAP reportedly filed a defamation lawsuit against an off-shore media house.

The campaign focused on greater financial independence, rebooting the tourist industry and infrastructure, job creation and improved social and health care services. Three competing parties and two independent candidates made their manifestos for the 2019 elections public.<sup>1</sup>

The fundamental freedoms of expression, association and assembly were respected in the campaign; however, political parties lack legal regulation for the functioning which undermines the freedom of association and voters' access to make a well-informed choice.

The Commissioner of the Police, under public order rules, received and coordinated requests from parties and contestants for outdoor campaign events, such as rallies, use of vehicles with loudspeakers and motorcades on a first come, first served basis. Police officers were present at all campaign rallies and recorded all public campaign meetings on tape to keep on file.

## **MEDIA**

The conduct of campaigning in traditional and online media remains under-regulated. Public Radio Montserrat, that has a high listenership rate throughout the island as well as among Montserratians abroad, made commendable efforts to provide contestants with equal access to paid airtime and editorial coverage. Several candidates and all parties purchased paid political advertisements. Print media include the Montserrat Reporter and Alligouana Express which run a circulation of a few hundred copies per week. The latter outlet offered paid political advertisement to contestants.

The lack of legal provisions undermines media freedom and may have affected new emerging parties and candidates negatively in their campaign. For instance, issues such as participation of minors in the campaign are currently not prohibited in Montserrat.

There are no provisions regulating political finance. The law is silent about donations and expenditures of political parties and contestants for their campaigns, and there are no disclosure requirements. This undermines voters' right to an informed choice. Potentially contentious issues such as foreign (diaspora) donations and participation of non-nationals in the election campaign are not regulated.

## **PARTICIPATION OF WOMEN AND OTHER MARGINALISED GROUPS**

There is poor participation of women in elected office. In 2014 there was much to celebrate in the fact that there were two women elected to the Legislative Assembly. This represented just over twenty-two per cent of the membership. On this occasion, regrettably, just one woman has been elected, representing just eleven per cent of those elected.

Women featured in greater numbers among electoral candidates. Of the thirty-five people seeking election to the Legislative Assembly, eight were women. However just three amongst these were nominated by political parties. A by-election was held in 2017. There were no women among the seven candidates who contested this.

Women are, however, present in many powerful positions in society, including the Attorney General, the Chairman and two of the other members of the EC, and the out-going Speaker of the Legislative Assembly and the Deputy-Governor.

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<sup>1</sup> 2019 Manifestos are available at [http://www.caribbeanelections.com/elections/ms\\_elections.asp](http://www.caribbeanelections.com/elections/ms_elections.asp)

The Constitution of Montserrat contains some limited provisions on gender equality. There is a prohibition of discrimination in respect of fundamental rights in the public sphere on, among other grounds, sex or sexual orientation. There is no guarantee of equality in the law. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) has not yet been extended to Montserrat. The application of this instrument would allow for the introduction of special temporary measures to address the poor participation of women in elected office. Affirmative action to promote improved inclusion of women in political life could be introduced accordingly.

The Convention on the Rights of Persons with Disabilities has not yet been extended to Montserrat. The non-discrimination clause in the Constitution does not make any specific mention of disability as a prohibited ground for difference in treatment. There is at present no specific legislation on disability rights.

Voting is difficult for persons with disabilities. The CPA BIMR assessed that few of the twelve polling stations were independently accessible for persons with physical disabilities. Only the most-recently constructed buildings provided wheel-chair access. There are no measures of advance voting, mobile voting or postal voting provided for in the law.

## **VOTING**

The seven CPA-BIMR EOM members observed election day procedures in all 12 polling stations across Montserrat and rated the overall conduct of the voting process as good or very good. This signifies that procedures were generally followed, with only tiny technical procedural flaws noted intermittently. All polling stations opened on time, and election day commenced in a smooth, orderly and peaceful atmosphere throughout the island. All campaign posters had been removed before election day. Police were present at every polling station and in the counting centre and fulfilled their election day roles in full compliance with law. Just two of the thirty six polling staff were men.

Polling staff members were comprised of a presiding officer and two polling clerks per polling station. They were highly conversant with the procedures in the law and followed them accordingly. Guidance of voters in completing their ballot paper is set out in the Elections Act. This information was displayed in polling stations and communicated orally by presiding officers to voters. Not a single instance of a ballot being spoiled was observed by the mission during observation. Also, it appeared that less than one per cent of ballot papers were rejected during counting.

While the strict letter of the law was followed in the provision of guidance to voters, the legal instructions are lacking in that there is no specific guidance given to voters that they may vote for any number between one and nine candidates. Addition of this information might be helpful in future.

The procedures in place that allow a voter without a photo-ID to vote were not always consistently applied, indicating a need for poll staff to receive more training on this issue. Alternatively, the law could be amended to make presentation of valid photo-ID mandatory. On a positive note, the election supervisor went on radio Montserrat in the early hours on election day to remind voters to bring their ID when going to the polls. This happened after presiding officers had notified her that it was becoming an issue. Voters requesting assistance were

generally accommodated in a proper manner. No voters were turned away for improper reasons. A few eligible citizens did not find their name on the voter list; although such citizens were reminded to go and register before the next election, poll staff could have facilitated this by providing them with a copy of the corresponding application form.

As previously noted by CPA BIMR observers, the lack of a legal provision for the ballot paper to give political party identification compromises the right of voters to information. The established practice of parties and independent candidates to choose a colour background according to their status for the photo on their ballot is not a legal obligation.

The legal requirement of numbering that allows a marked ballot to be traced back to the voter undermines the secrecy of the vote that is provided for in the law. This should be reconsidered, as was previously recommended by the CPA BIMR. Interlocutors again reported concerns that traceability due to the unique number on the back of the ballot could put voters off participating. Also, the handling of marked (folded) ballots by the presiding officer is contrary to what is generally accepted good practice as it opens a potential for allegations against the election administration for violating ballot secrecy and mishandling marked ballots.

Half of the polling station premises were assessed as not accessible for independent access of persons with a physical disability. While the process in general was transparent for all persons present, the set-up of two polling stations did not allow poll staff and agents full view of all polling booths. Adding to the transparency of election day, agents of three competing parties and of several independent candidates were present in all polling stations. Independent observation of elections is not provided for in the law, contrary to authoritative interpretation of ICCPR commitments. Also, the role of media in covering the voting process on election day as well as use of mobile phones inside polling stations lacks legal regulation.

## **COUNTING AND RESULTS PROCESS**

Counting was extremely professional and allowed all stakeholders and the public full real-time access to the results of the election. Counting was conducted in the Cultural Centre in Little Bay and was fully open to all stakeholders, the public and media. It was conducted for each polling division by an Assisting Returning Officer assisted by two tally clerks and an electronic tally clerk. Each ballot was shown to agents. The content was recorded by the two tally clerks and reconciled after the results data for each ten ballots counted had been summarised. The electronic data entered passed to a central server and were summarised and displayed in near real time on a projector screen outside the Cultural Centre. The transparency of the process went far beyond what is legally required and instilled a high sense of confidence in the correctness of the reported results. A brief blackout of the computer information was quickly dealt with and did not cause any disruption of the results process.

Disputed ballots were decided by the Returning Officer in a consistent but not necessarily reasonable manner. He meticulously followed the letter of the law, which sets too rigid rules for ballot validation. In his interpretation of the law, a disputed ballot is rejected if the voter has marked the ballot with anything else than two crossing lines (a "x" or a "+"), or if the mark is placed outside the designated box next to a candidate regardless if voter intention is otherwise clear. The legal criteria for ballot validation and their current interpretation are excessively exclusive and confusing, as was evident during an EC information session for parties and candidates attended by CPA BIMR EOM prior to election day.

The number of rejected and spoiled ballots, however, was extremely low, less than one percent. It signifies that voters generally have a clear understanding of the correct voting method. Presiding officers are under a legal obligation to instruct every voter how to correctly mark and handle their ballot when they issue the ballot to the voter in the polling station. However, the CPA BIMR noted that only in half of the observed 12 polling stations did the presiding officer mention in his/her instruction to voters, that they had a choice of marking the ballot with from one up to nine choices. Also, the written guidelines to voters inside the ballot booth were silent on this point. Given the observation of these inconsistent practices on election day, it is the more remarkable that it did not result in significantly more ballots being rejected or spoiled.

The turnout was reported at 62.5 percent, indicating that Montserratians went to the polls in significant numbers and thereby gave a strong mandate to the formation of their new Legislative Assembly and Government.

As a result of the vote, MCAP won five of the nine seats in the Legislative Assembly and will form the next cabinet. PDM won three seats, and one seat was taken by an independent candidate. There will be only one woman, elected on the list of MCAP, in the new Legislative Assembly.



(From left to right)

The observers at a political rally; A training session for tally clerks; The opening of a polling station on election day.

## ACKNOWLEDGMENTS

The CPA BIMR Election Observation Mission wishes to express its gratitude to the authorities of Montserrat, to the election officials, candidates and to the people of Montserrat for their cooperation, hospitality, warm welcome and assistance during the course of the Mission.

For further information about this Mission, please contact [montserratelectionobservers@gmail.com](mailto:montserratelectionobservers@gmail.com) or [cpauk@parliament.uk](mailto:cpauk@parliament.uk).



## 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.

If you would like to find out more about these services, please contact the CPA BIMR Secretariat at [cpauk@parliament.uk](mailto:cpauk@parliament.uk).

Opening CPA BIMR  
Election Observation  
Mission Press Conference  
Montserrat | Nov 2019

(From left to right)  
Harald Jepsen, Political/  
Campaign Analyst, Hon  
Julian Robinson MP,  
Jamaica, Head of Mission,  
and Anne Marlborough,  
Election/Legal Analyst



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