

## **ON BELIZE'S ELECTORAL MANAGEMENT BODIES**

### **Excerpts from "Electoral Politics BELIZE: the Naked Truth"**

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#### **The What Is**

The term Election Management Body (EMB) refers to the body or bodies responsible for managing the essential elements of electoral management. Three broad types or models of EMBs are practiced throughout The Commonwealth: Independent, Government and Mixed Models. Each Model has advantages and disadvantages based on various aspects of the Model, such as powers, institutional arrangement, staffing, composition, budget, implementation and term of office. The first two, Independent and Government Models, are structures presently found in the Commonwealth Caribbean, with the latter being more prevalent.

The Government Model exists in countries where elections are organized and managed by a department of government through a Ministry, and is answerable to a Cabinet Minister, who is a politically elected or appointed person. In the Independent Model, elections are organized and managed by an EMB which is institutionally independent and autonomous from the Executive Branch of Government. It manages its own budget and is accountable to the Legislature, the Judiciary, or Head of State. In some countries practicing this model, two Bodies are formed—one with responsibility for policy decisions relating to the electoral process, and the other, accountable for conducting and implementing the electoral process. Requirements may exist to insulate the implementation EMB from interference by the policy EMB. Jamaica, Suriname and possibly Antigua and Barbuda in the CARICOM region practice some aspects of the Independent Model (Electoral Management Design: The International IDEA Handbook, 2006). Most CARICOM countries practice the Government Model. However, no matter the model or type of EMB, it still needs to transact business with the Executive Branch and the Legislature on issues pertaining to budgets and electoral law.

#### **Legal Framework**

Enacted in 1978, the Representation of the People Ordinance established an electoral management body called the Elections and Boundaries Commission (Commission) in Belize (Section 9 (2)). Under this Ordinance, the Commission was an independent body of five Board Members called Commissioners, inclusive of a Chairman; and reported to the National Assembly. All Commissioners were appointed by the Governor, after consultation with the Premier. The Governor appointed the Chief Elections Officer (Chief), who had responsibility to manage the organization, while the Commissioners appointed Registering Officers and other support staff. All staff persons were answerable to the Commission (Section 10).

The Commission's purposes under the Ordinance were: for electoral administration in Section 9 ((9) (10), and boundary delimitation in Section 18. The powers of the Commission under

electoral administration included the direction and supervision of the registration of voters, and the administrative conduct of Elections. Also the Commission was empowered to enforce fairness, impartiality and compliance within the provisions of the Ordinance, on the part of all election officers (Palacio, 2005). The Ordinance was implemented for one parliamentary election in 1979, and the Commission continued to operate with the registration of voters among other functions under this Ordinance for two more years, until Belize attained political independence in September 1981.

At Belize's independence in 1981, the Commission was enshrined in the Belize Constitution under Section 88. By so doing "**...Belize demonstrated a major step in recognizing the importance and independence of the Commission as the body responsible for the administrative structures to support the democratic process of elections**" (Palacio, 2005). The method of appointment of the Commissioners remained the same, except that the appointments were made by the Governor General (Sec. 88 (2)). The independence of the Commission was further highlighted in Section 88 (14) of the Constitution, which stated, "**...the Commission shall not be subject to the direction or control of any other person or authority...**". The two functions remained, namely Boundary Delimitation as stipulated in Sec 90 of the Constitution of Belize, and Electoral Administration as determined by (Section 88 (13)). However, Section 88 (13) was and still is subject to what became the Representation of the People Act (ROPA) as stipulated by Section 88 (14) of the Constitution, which states:

***"In the exercise of its functions, the Commission shall not be subject to the direction or control of any other person or authority and shall, subject to the provisions of this Constitution, act in accordance with the Representation of the People Act or any other law, rule or regulation relating to elections."***

The ROPA replaced the Ordinance of 1978 after the country became independent. Omitted from the responsibility for Electoral Administration was the Commission's power to reinforce "**fairness, impartiality and compliance**" on the part of all Election Officers, as was supported by the 1978 Ordinance. Election Officers are tasked with the administration of all elections. They are public service employees who perform various roles as described by the ROPA in the conduct of election; and all three values of conduct abovementioned when implemented, facilitate the effective and efficient staff coordination and management of election. In removing this legal and management clout, a vacuum was created in the management of election supervision. The Chief and staff continued to report directly to the Commission who in turn reported to the National Assembly. The appointment of the Chief also remained the same, except this was not included in the Belize Constitution, but in the Administrative Provisions of the ROPA.

The first Parliamentary Election after independence in 1984 saw the first change of a ruling political party in government. The People's United Party (PUP) lost its first election in thirty years, to the United Democratic Party (UDP), with the UDP garnering 75% of the seats. In 1988, the UDP government executed a first amendment to the Belize Constitution including a change to Section 88, which represented the Commission. The new method of appointment in Section 88 (2) is still in effect and reads as follows:

***“The Chairman and two other members of the Elections and Boundaries Commission shall be appointed by the Governor-General, acting in accordance with the Prime Minister given after consultation with the Leader of the Opposition, and the remaining two members shall be appointed by the Governor-General, acting in accordance with the advice of the Prime Minister given with the concurrence of the Leader of the Opposition.”***

Later, this approach to the appointment of Commissioners invariably impacted on the perception of a bi-partisan Commission, with some members seeing this as an opportunity to serve the political party’s interest first (www.channel5belize.com; June 17, 2003). One challenge with this perception is that it can be accessed as discrimination against incoming

new Third Parties and independent candidates. With election competition broadening with time, there has been an increase in multiple-party participation at the polls. Appendix i shows that the February 2008 Parliamentary Election had the largest participation by the number (approximately 5) of new political parties. A second challenge is that the intense election competition invariably brings the political party dynamic directly into the Commission, and indirectly to the Staff.

The functions of the Commission remained the same as at 1981 which are, Boundary Delimitation empowered by Sec 90, and Electoral Administration as per Section 88 (13). In terms of electoral administration, Section 88 (13) was still subject to what had become the second part of Section 88 (14) that the Commission, ***“...shall act in accordance with the Representation of the People Act.”*** The expression ***“shall”*** determines the condition or qualifies the extent of the Commission’s responsibilities. Subsequent to the amendment of the Constitution in 1988, the ROPA was revised in 1989, with amendments to the Administrative Provisions and other Sections. As a result, the powers of the Commission were drastically altered, as follows:

- Jurisdiction over staff was transferred to the Public Services Commission
- A second election management body, the Elections and Boundaries Department (Department) was formed

The Department was still managed by the Chief Elections Officer (Chief), but now under the supervision of a Government Ministry, headed by a Cabinet Minister. The position of Chief was now appointed by the Governor-General, acting in accordance with the Prime Minister. Later in 2001, the appointment and jurisdiction of the Chief was also transferred to the Public Services Commission along with the other staff members of the Department (Palacio, 2005). In addition, the ROPA empowered the Department through the Chief with responsibility for electoral administration and the adjustment of electoral records after boundary delimitation. Electoral administration includes voter registration which became continuous since 1998. Implemented immediately after the General Elections of 1998, continuous voter registration allowed for the transaction of business such as, voter registration on a daily basis, and not only at the call of elections (SI 11 of 1997 and SI 57 of 1998).

## **Institutional Framework**

For ten years, 1978 to 1988, there was one election management body in Belize. This body, the Elections and Boundaries Commission was relatively independent as sanctioned firstly by the Ordinance, and later the Constitution, with the Chief and staff reporting to the Commission who reported to the National Assembly. Subsequent to the new legal framework introduced in 1988/1989 by the UDP Government, the Department became the primary structure to manage the essential elements of elections, as empowered by the ROPA and authorized by Sec 88 (14) of the Belize Constitution where it stated that,

***“In the exercise of its functions, the Commission..... shall, subject to the provisions of this Constitution, act in accordance with the Representation of the People Act or any other law, rule or regulation relating to elections.”***

The Department became fully responsible for election administration, including voter registration and the conduct of elections. After the establishment of Continuous Registration in 1998, voter registration became an additional, daily assignment for the Department. With Boundary delimitation, the Department’s function was limited to the adjustment of records after electoral boundary delimitations have been approved, passed and signed into law. Recommendations on boundary delimitation are made by the Commission to the National Assembly. Only three major and one minor boundary delimitation exercises have been conducted since the first General Election in 1954. In 1961 the number of seats in the National Assembly doubled to eighteen, in 1984 the seats increased to twenty-eight, a minor move in 1998 added one more seat, and in 2005 some seven years later, the total increased to thirty-one seats.

Therefore, since the legal amendment to the ROPA in 1989, Belize like most CARICOM countries operates an election management structure that is a Government Model, under a Government Department, with oversight of a government Ministry, and which reports to a Cabinet Minister. In the case of Belize, the EMB moved from an Independent management structure to a Government oversight structure. In other words, instead of more autonomy for the election management body, its relative independence was literally snuffed. At the same time, continuous registration created more activities and added responsibilities to the Department. Relative to other CARICOM countries, Belize enjoys a high percentage in voter registration, and this is primarily attributed to the direct involvement of politicians and their agents in the registration of eligible persons. The downside of this is that the politicians and their agents (the present and future bosses of the Department), invariably are the clients of the Department, instead of the Elector as per the ROPA referenced above.

The Elections and Boundaries Department has functioned under various Ministries of Government, and has been under the purview of the Ministry of the Public Service from 1999 to present. From 1999 to 2005, Annual Reports were not only presented to Cabinet through the Ministry, but tabled in the House of Representatives by the Minister; shared with all partners and posted on the Department’s website. All Election Reports from 1999 to 2003 were also shared

with Partners and posted on the Department's website, after presentation to the Ministry. These were still available on the website [www.elections.gov.bz](http://www.elections.gov.bz) as at May 3, 2010.

In terms of boundary delimitation, the Commission still maintains full responsibility under Sec. 90 of the Constitution. However, the Commission's role with respect to electoral administration as empowered by the ROPA was limited to **"...approving the appointment of election workers..."** (Administrative Provisions, Sections 13 and 14 (2)). Therefore, the Commission's power in relation to electoral administration was reduced considerably, by the 1988 amendments. One other reference to the Commission also in the ROPA under the Administrative Provisions stated that the Commission may, **"...confer its powers on the Chief Elections Officer..."** (Section 11 (2)). However, this Section is seen as purely redundant, since Section 88 (14) of the Constitution has spoken, and all other actions pertaining to electoral administration in the ROPA rest in the hands of the Department; which now reports to a Ministry, as per the new structure implemented by the UDP Government in 1989. Also, the Commission has no oversight on the second election management body, which is the Department. The above findings demonstrate that as an operational election management body, the Commission became a skeleton structure in relation to electoral administration, as the Commission no longer had:

- Jurisdiction overstaff
- Oversight powers of the Department
- Legal authority to enforce discipline on Election Workers
- Legal authority to conduct electoral administration

While the Commission lost legal authority for electoral administration to the Department as established above, the Commission hardly operates as a boundary commission because boundary delimitation exercises were conducted infrequently. As was ascertained earlier, boundary delimitation exercises were executed on extremely rare occasions; and there have only been four occurrences since the 1954 post-adult suffrage elections, namely in 1961, 1984, 1998, and 2005. Notwithstanding, the Commission continued to exist under this arrangement from 1989 to present; and although the Commission as a body is mandated by law to report on its stewardship to the National Assembly, this has not been forthcoming in recent years. Also, the 1988 Constitutional amendment in relation to the appointment of Commissioners invariably gave the perception<sup>2</sup> that it is a bi-partisan Body with members representing a political party as appointed; despite Section 88 (14). In the Oath of Allegiance to the Office, each Commission member in 1999 and 2003 publicly swore to **"bear true faith and allegiance to Belize"**, **"to uphold the Constitution and Law"** and to discharge duties **"conscientiously, impartially and to the best of [one's] ability"** (Annual Report 2003). In addition, the Code of Conduct under Section 121(1) of the Constitution as it pertains to all members of Commissions, including the Elections and Boundaries Commission, is very clear that Commissioners ought not to place themselves in positions in which they have or could have a conflict of interest, two of which state:

- "a) To place themselves in positions in which they have or could have a conflict of Interest;***
- b) To endanger or diminish respect for, or confidence in, the Integrity of the government"***

Notwithstanding the Oath of Office and Sec. 121 of the Constitution, some of the Commissioners appointed by the then Leader of the Opposition (UDP), invariably interpreted their role as that of opposing the Department's efforts (Election Report 2003). They also openly dabbled in partisan politics, with one Commissioner being the Editor of *The Guardian*, a newspaper sponsored by the Opposition (Election Report 2003; Palacio, 2005). In so doing, the oath of allegiance and the dictates of the Constitution (Sections 88 (14) and 121 (1)), were not always adhered to, as individuals continued to flout the law.

2008 saw a change in government to the UDP, garnering approximately 80% of the seats. Over 60% into the term of this administration, the legal and institutional frameworks of the EMBs outlined above still remain; and the EMBs now appear to be wholly politicized. One Commissioner, who is now the Chair continues to be openly active politically and while on a Talk Show, appeared to have hands-on involvement in the work of the Department (Love FM Talk Show, April 14, 2010). Another Commission member has been the Secretary General of the UDP, the political party in power, from approximately 1999 to present. Some three years and two local elections later, the Commission nor the Department has reported on its stewardship—at least not publicly. The last Annual Report produced by the Department as per the website is dated 2005 and the last Election Report was for the 2003 Municipal and Parliamentary Elections ([www.elections.gov.bz](http://www.elections.gov.bz), May 3, 2010). The Commission continues not to report on its stewardship to the National Assembly as is required by law.