



# Constitutional Commission

Know Your Constitution - Educational Resource

## International Day of Democracy

15 September 2020

Following the passing of a resolution by the United Nations General Assembly in 2007, the 15th of September of each subsequent year has been observed around the world as the International Day of Democracy.

The Constitutional Commission has celebrated the International Day of Democracy in the past, using this event as a platform for highlighting the importance of civic engagement and how, for example, participation in our democracy could be enhanced via the establishment of Advisory District Councils, as envisaged in section 119 of the Constitution.

In observation of the International Day of Democracy 2020, the Constitutional Commission has sought to emphasize and illustrate some of the key historic milestones in the development of democracy in the Cayman Islands and, at the same time, to reflect upon how various inter-related democratic principles inform the construction and operation of our current constitutional arrangements.

# Democratic Landmarks in the Cayman Islands

# 01



The National Historical Site at Pedro St. James is rightly referred to as the "Birthplace of Democracy in the Cayman Islands" because it was the venue for the meeting on 5 December 1831, at which the people of the Cayman Islands resolved to elect representatives for the various districts who, alongside the appointed Magistrates, formed a legislative body responsible for passing local laws for better government. This assembly of Justices and Vestrymen was the first legislative body in the Cayman Islands and it is notable that this assertion of democratic rights in fact predates our first written constitution, albeit that this initiative only encompassed property owning free men and slave holders.

# 02



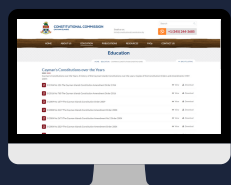
The 8 December 1958 is another important milestone in the development of democracy in the Cayman Islands. It was on this day that the Sex Discrimination (Removal) Act was passed, which enabled women in the Cayman Islands to vote and to be eligible for election. The women's suffrage journey, including the petitions submitted in August 1948 and May 1957, has been memorialized in the "Her Story is Our History" documentary; and the election of Mary Evelyn Wood as the first woman elected to the Legislative Assembly in 1962 is also recognized in the Constitutional Commission's education materials on [voting and standing for election](#).

# 03



When the first written constitution was enacted for the Cayman Islands on 4 July 1959, the body of Justices and Vestrymen was replaced by a new smaller Legislative Assembly, comprised of eighteen members, which included twelve elected members, three nominated members and three official members.

# 04



There have been a series of amendments and revisions to the Cayman Islands Constitution in the years that have followed, which have been assembled by the Constitutional Commission and which are available in the "[Cayman's Constitutions over the Years](#)" page in the Education section of the Constitutional Commission's website. One trend that can be discerned from these amendments and revisions is a progressive move towards enhanced democracy. This trend is evidenced by the removal of nominated members of the Legislative Assembly and, more recently in the new 2009 Constitution, by the replacement of one of the official members, the Financial Secretary, by an elected Minister with responsibility for finance, thereby providing greater democratic accountability for financial affairs.

# 05



The 24 May 2017 is also a landmark date in the democratic evolution of the Cayman Islands. It was on this day that the first election using "one person one vote" and a single-member district electoral system was held. This new system replaced the multi-member constituencies that had previously been used for the larger districts in Grand Cayman and for Cayman Brac and Little Cayman.

# Democratic Principles and the Cayman Islands Constitution

These significant democratic landmarks all highlight the importance of free and fair elections to a legislative assembly, which is composed of the people's representatives and which is thereby empowered to enact laws for the people of the Cayman Islands through a majority of these representatives.

This, however, does not fully encapsulate the concept of democracy or how its various inter-related principles are now reflected in the Cayman Islands Constitution. Modern representative democracies are said to be dependent upon a number of building blocks, including:

- |                                    |                                |
|------------------------------------|--------------------------------|
| 1 Consent of the Governed;         | 7 Economic Freedom;            |
| 2 Free Elections;                  | 8 Rule of Law;                 |
| 3 Constitutional Limits;           | 9 Human Rights;                |
| 4 Majority Rule, Minority Rights;  | 10 Freedom of Expression;      |
| 5 Transparency and Accountability; | 11 Freedom of Association; and |
| 6 Multiparty System;               | 12 Freedom of Religion.        |

All of these democratic principles are reflected to some extent in the constitutional arrangements of the Cayman Islands. At times, however, it is not always immediately apparent how these various principles align. Indeed, as we have experienced recently, sometimes these principles are even called into conflict with one-another.

In this scenario, it is important to understand therefore that the majoritarian principle is not absolute. While democracy was originally conceived to protect against tyranny, constitutional checks are also required to protect against a tyranny of the majority. Hence the inclusion of a Bill of Rights, Freedoms and Responsibilities in the Cayman Islands Constitution and the broad international acceptance that minority rights must be protected no matter how singular or alienated that minority is from the majority society; not least because, otherwise, the majority's rights also lose their meaning and value. Inclusive democratic government similarly requires respect for the rule of law; for without the regulation of state power by a system of laws, procedures, and courts, democracy could not survive.

These are the very issues that have come to the fore in the context of the decisions of the Grand Court and the Court of Appeal in the Day and Bodden Bush litigation; the debate in the Legislative Assembly on the Domestic Partnerships Bill; and the recent enactment of the Civil Partnerships Law in the Cayman Islands by His Excellency, The Governor, utilizing reserve powers contained in section 81 of the Constitution. While it is not possible here to rehearse all of the complex legal arguments that are being asserted on all sides of this debate, it is undeniable that these issues go to the very heart of our constitutional democracy and should therefore be followed closely and studied with interest by all.

To this end, the Constitutional Commission has a wealth of resources available on and through its website - [www.constitutionalcommission.ky](http://www.constitutionalcommission.ky) - including more detailed analysis of the concept of democracy in the context of section 70 of the Constitution and the provision for people-initiated referendums therein; the operation of the Legislative Assembly and the role of the Speaker; and the definition of political parties and their constitutional role in elections and the formation of the government. The general public is encouraged to consult these materials, along with the Constitutional Commission's recent Constitutional Update, published on 2 July 2020 in advance of Constitution Day.

In fulfillment of its mandate to promote understanding and awareness of the Cayman Islands Constitution, the Constitutional Commission encourages engagement and welcomes questions. So, if there are any questions arising from these materials or the themes noted here in connection with the recognition of the International Day of Democracy 2020, these can be directed to [info@constitutionalcommission.ky](mailto:info@constitutionalcommission.ky), where the Constitutional Commission is available to provide additional information and further assistance.

