

## **Governance in the UK Overseas Territories: The Case of the Turks and Caicos Islands**

### **Abstract**

The Turks and Caicos Islands (TCI) is one of 14 Overseas Territories still overseen by the United Kingdom (UK). Underpinned by tourism, property development and financial services, the TCI experienced economic growth amongst the highest in the world. However, it now appears that this economic success was built on a political, economic and social system that was rotten to the core, and which created “a national emergency” that potentially threatened the very future of the country. The paper considers the report of the recent UK government-appointed Commission of Inquiry into alleged corruption in the TCI, the British decision to impose direct rule, and Caribbean reactions to the affair. More generally, the paper analyses the UK government’s approach to all of its Caribbean Overseas Territories in light of the Commission’s report, and whether UK government policy since the 1999 White Paper “Partnership for Progress and Prosperity”, has therefore failed in terms of instilling and encouraging good governance in the territories.

### **Introduction**

The Turks and Caicos Islands (TCI) is one of 14 Overseas Territories still overseen by the United Kingdom (UK). Situated to the south of the Bahamas chain and 90 miles north of Haiti and the Dominican Republic, the TCI has had its own constitutional relationship with the UK since 1976. Under the Constitution there is an allocation of responsibilities between the British Crown, acting through the Governor, and the locally elected TCI government. However, ultimate responsibility lies with the UK, including the power of the Queen to legislate for the TCI by Order in Council. Under this constitutional arrangement the TCI in recent years, underpinned by tourism, property development and financial services, experienced “economic growth amongst the highest in the world” (NAO 2007: 58). However, it now appears that this economic success was built on a political, economic and social system that was rotten to the core, and which created “a national emergency” that potentially threatened the very future of the country (TCI Commission of Inquiry 2009: 8). The UK government has been forced to intervene, and this in turn has provoked accusations in some quarters of “modern day colonialism”.

### **The Commission of Inquiry**

A detailed picture of the situation in the TCI was revealed by a Commission of Inquiry led by the Right Honourable Sir Robin Auld, a former British High Court Judge. The Commission was appointed on 10 July 2008; an interim report was completed in late February 2009; and the full report was released on 18 July. The full report runs to over 250 pages, and is a carefully argued and well evidenced piece of work that shines a bright light on the broken system of governance in the territory. Sir Robin’s criticisms

are serious and numerous, but fundamentally he argued that “There is a high probability of systemic corruption in government and the legislature and among public officers in the TCI ...” (TCI Commission of Inquiry 2009: 11).

Particular areas of concern included the “... bribery by overseas developers and other investors of Ministers and/or public officers, so as to secure Crown (public) land on favourable terms, coupled with government approval for its commercial development”; the “... serious deterioration ... in the Territory’s systems of governance and public financial management and control”; the “... concealment of conflicts of interest at all levels of public life, and consequent venality”; the manipulation and abuse of Belongships (a status which confers rights normally associated with citizenship, including the right to vote and to whom Crown land may be disposed); and the misuse of wide discretionary powers given to Ministers in the 2006 Constitution (TCI Commission of Inquiry 2009: 11-12).

At the centre of the corruption allegations was former Premier Michael Misick. Allegations included that US\$900,000 was funnelled through the governing Progressive National Party for personal spending including hundreds of thousands of dollars going out to the hairstylist of Misick’s wife; confidential personal and political donations given directly to Misick, and via his brother the attorney Chal Misick; the provision of a Gulf stream III jet costing US\$165,000 per month which the premier treated as his own that was rented through an acquaintance who then gained believer status (prior to this Misick used a privately leased aircraft, the total cost of which amounted to between US\$4 million and US\$6 million); his wife received contracts for the promotion of the TCI which resulted in payments to her of hundreds of thousands of dollars; Misick was the beneficiary of a number of crown land grants, for which he did not pay, although others did; he received a number of payments whilst in office representing finder’s fees or commissions from developers seeking land; he received millions of dollars of so-called loans, many at times when Cabinet discussed particular development projects or when prospective Crown land purchases were being considered; and no disclosure of these interests were made whilst in government, and there was great resistance to reveal any details to the Commission of Inquiry (TCI Commission of Inquiry 2009)

Stemming from these and many other criticisms Sir Robin recommended the institution of criminal investigations in relation to former Premier Misick (who resigned in March 2009 after the Commission’s interim report was published) and three of his former cabinet ministers. All, however, deny any wrongdoing.

The criticisms and recommendations against high profile members of the government were of course highly damaging, but what was perhaps even more significant was the Commission’s emphasis on the systemic nature of the corruption. Throughout the Commission’s report fundamental weaknesses in the system of governance in the TCI

were highlighted. For example, the report makes reference to the “...lack of effective constitutional checks and balances in the system of governance to protect the public purse, the inefficient from scrutiny, the dishonest from discovery and the vulnerable from abuse”; “... systemic weaknesses in legislation, regulation and public administration”; and “... clear signs of political amorality and immaturity and of general administrative incompetence...” (TCI Commission of Inquiry 2009: 11-12 & 15). The report notes that there were several examples of proper oversight such as by the Government Chief Auditors (TCI Commission of Inquiry 2009: 27 & 69), but they were too few in number to force those in power to change their behaviour. The outcome was that the TCI’s “... democratic traditions and structures [were] tested almost to beyond breaking point” (TCI Commission of Inquiry 2009: 215). Because of these broader concerns Sir Robin called for “...urgent and wide-ranging systemic change” (TCI Commission of Inquiry 2009: 218), and in particular the partial suspension of the 2006 Constitution and interim direct rule from Westminster, and reforms to the Constitution and other aspects of the system of governance in the TCI to help prevent future abuses of power (TCI Commission of Inquiry 2009).

### **The UK government’s reaction**

After such wide ranging criticisms the UK government had little choice but to act. As former FCO minister, Gillian Merron, stated after the Commission’s interim report was published, “These are some of the worst allegations that I have ever seen about sitting politicians ...” and “... when things go badly wrong ... we need to act” (Hansard 2009). An Order in Council, the Turks and Caicos Islands Constitution (Interim Amendment) Order 2009, S.I. 2009/701, was implemented on 14 August 2009, although it had been published in March. The Order was not applied immediately for two reasons: (1) the need to wait for the Commission’s full report and (2) to allow for an unsuccessful legal challenge against the Order by Misick in the UK courts. Once executed, the Order suspended ministerial government and the House of Assembly for a period of up to two years. In their place the Governor was given the power to take charge of government matters, subject to instruction from the Foreign and Commonwealth Office (FCO), supported by a range of other British officials and guided by an Advisory Council and Consultative Forum, both of which are composed entirely of Belongers (FCO 2009). Soon after an anti-corruption team was dispatched to the TCI to investigate and prosecute criminal cases arising out of the Commission’s report (*Financial Times* 2009).

### **Response to the Constitutional Order**

The decision of the UK government to implement direct rule over the TCI was and remains highly controversial. In the TCI and across the Caribbean the move has been condemned. Misick stated that the action was “tantamount to being recolonised”, was a “military coup”, and called on local people to “unite and fight against the occupation of the foreign invaders” (*The Times* 2009 and *Caribbean Insight* 2009), while his short-lived successor as Premier, Galmo Williams, said that the TCI was being “invaded”

with a “dictatorship” like “the old red China” (BBC Caribbean.com 2009). Further, the *Turks and Caicos Sun* newspaper made a disingenuous comparison between the UK’s tough stance in relation to the TCI with the MPs expenses scandal at Westminster (Caribbean Net News 2009). It is perhaps not surprising that Misick and Williams (who was also criticised in the Commission of Inquiry report) should be critical of the UK’s decision and use such intemperate language. Similarly, the *TCI Sun*, which is edited by the husband of Lillian Boyce. Boyce was a minister in Misick’s government and the Commission of Inquiry recommended that a criminal investigation be opened against her in relation to alleged corruption.

The strong criticism made by some in the TCI was mirrored elsewhere in the Caribbean, and this is unfortunate as it shows a failure to understand the seriousness of the allegations in the Commission’s report, as well as the nature of the relationship between the TCI and the UK. For example, the Caribbean Community (CARICOM) rebuked the British action as a “backwards step” and “counterproductive”, arguing that change should have been made through the TCI’s elected representatives (CARICOM 2009). While an editorial in *The Jamaica Gleaner* stated “... this action represents the most regressive constitutional action by the British in the Caribbean since their 1968 intervention in Anguilla ...” (*The Gleaner* 2009). These and other contributions fail to do justice to the systemic nature of the alleged corruption in the TCI, and that reform from within would have been difficult, if not impossible. Further, the critics do not recognise that the UK has a constitutional right and indeed obligation to intercede if serious problems develop. Under the TCI’s 2006 constitution, which had the support of most islanders, including Misick and his ministerial colleagues, the provision for Orders in Council was clearly stated (Turks and Caicos Constitution Order 2006).

### **TCI: back to the future**

One other aspect of the Commission of Inquiry’s report which has not yet been touched upon is the parallels it draws with the Inquiry undertaken by Louis Blom-Cooper in 1986 into allegations of arson, corruption and related matters in the TCI (Report of the Commissioner 1986). Blom-Cooper’s findings are disturbingly similar to those of the 2009 Inquiry, when he talks about “persistent unconstitutional behaviour” and “maladministration by both Ministers and civil servants at every level of government”, leading to “constant blights upon a ... society which is already displaying signs of political instability”, and to an economy that “at present is precariously poised”. Blom-Cooper states further “... I am driven to the conclusion that the time has come to disperse the cloud that hangs like a brooding omnipresence in a Grand Turkan Sky” (Report of the Commissioner 1986: 98-9). Commenting on these observations, the report of the 2009 Inquiry states that “[Blom-Cooper’s] general conclusions ... suggest that little has changed over the last 20 or so years leading to this Inquiry, except as to the possible range and scale of venality in public life” (TCI Commission of Inquiry 2009: 23). This remark is deeply troubling, and is perhaps the most significant aspect of

the entire report as it strikes right at the heart of UK government policy in relation to all of its Overseas Territories, not just the TCI, over the last two decades.

### **UK government policy in context**

Since the Blom-Cooper report the UK government under both Conservative and Labour administrations has attempted to reform and improve upon the relationship between London and the Overseas Territories. Important reviews were undertaken in 1987, 1992, and 1999; all of which were precipitated by problems in the OTs. In order to provide some context with regard to the breakdown of governance in the TCI it is worth looking at the situation leading up to 1999.

One crisis in Montserrat and one UK National Audit Office (NAO) report highlighted Britain's inadequate organisational and regulatory framework in relation to the Dependent Territories. The crisis in Montserrat began in July 1995 (towards the end of the British Conservative Party's term in office) when the Soufrière Hills Volcano erupted precipitating a period of great uncertainty and insecurity for the island. The eruption of the volcano devastated the country, and by December 1997 almost 90 per cent of the resident population of over 10,000 had been relocated at least once and over two-thirds had left the island. Much of the infrastructure of the island had been destroyed or put out of use, while the private sector had collapsed and the economy had become largely dependent on British aid (DFID, 1999). Although a report commissioned by the Department for International Development (DFID) argued the "disaster response by HMG ... has been a success in comparison with many other recent natural disasters elsewhere in the developing world", it went on to highlight the less satisfactory aspects of the UK's performance (DFID, 1999, 1). Indeed the Montserrat crisis placed into stark relief the responsibilities Britain should have had towards the inhabitants of the Dependent Territories (Skelton, 2000).

The failures of British governments, both Conservative and Labour (after May 1997), were highlighted in a series of reports produced by the House of Commons International Development Committee (1997 and 1998) and the Overseas Development Institute for DFID (1999). The investigations were important in highlighting deficiencies in the UK-Montserrat relationship, including a confused division of responsibility for Montserrat between DFID and the Foreign and Commonwealth Office (FCO), the overly complex UK government management systems for Montserrat, and the absence of contingency planning in terms of how the FCO and DFID would manage an emergency in a Dependent Territory.

At about the time the Montserrat crisis was at its height and the first official reports on the situation were being published, the NAO investigated the action taken by the FCO to minimise the risk of potential contingent liabilities falling on the UK resulting from the actions of the Territories. As the report stated, "Given the Foreign Office's

responsibilities, there exists a continuing exposure to potential liabilities ... Under English and Dependent Territory law, the governments of the Territories are answerable for their own actions. However, if the Territories' resources are insufficient, the UK government may come under pressure to provide assistance. Legal liability may fall on the UK if Territories fail to comply with international law, especially treaty obligations" (NAO, 1997, 1). The report centred on three broad areas: governance, law and order, and financial issues.

The report found that despite the FCO having undertaken a number of past initiatives to identify and minimise the risk of contingent liabilities in the Territories, the UK remained exposed. In particular the NAO noted that the UK was vulnerable from "financial sector failures, corruption, drug trafficking, money laundering, migrant pressure and natural disasters" (1997, 7). The NAO worryingly described the UK government as having "extensive responsibilities but limited power" (1997, 17). In a follow up report by the House of Commons Committee of Public Accounts its concern over the situation was starkly highlighted. The Committee wrote "We are worried by the mismatch between the extent of these responsibilities [for the Dependent Territories] and the inadequacy of the FCO's powers, strong in theory but limited in practice, to manage them". The Committee further stated, "As a result of this mismatch, the UK taxpayer continues to be exposed to very significant liabilities in the Territories and, from time to time, these materialise. More generally, we are concerned at the Foreign Office's admission that everything is not wholly under control and that all risks are not weighed and properly covered" (Committee of Public Accounts, 1998, v). Both the NAO and the Committee of Public Accounts recommended a number of reforms to reduce Britain's potential contingent liabilities, and encouraged the UK government to strengthen its control over the territories.

The combination of the Montserrat volcano disaster and the UK government's response to it, as well as the examination of Britain's contingent liabilities in the Dependent Territories opened up a Pandora's box, and led to a wide-ranging debate about good governance and the political, constitutional and economic future of the British Dependent Territories in a way that nothing had before. The timing of events was also congruent with the election of a Labour government that had modernisation and reform at its heart. The government made clear from the outset that Britain's relationship with the territories would come under the microscope. As early as October 1997 FCO minister Baroness Symons suggested that the entire relationship between Britain and the Dependent Territories was "a piece of machinery that we have inherited which I think is not working in the way that a reasonable person would expect it to work" (International Development Committee, 1997, 162). These examples of the Labour government's approach and attitude were only the beginning of a much more extensive review of Britain's relationship with its Dependent Territories. In short, the Labour government

was aiming to strengthen and deepen the application of metropolitan control over its dependencies in the Caribbean.

***Partnership for Progress and Prosperity: the relationship revisited***

The arrival of the 'New' Labour government, the ongoing crisis in Montserrat, and the NAO and Committee of Public Accounts reports, led to the initiation of a review of the UK's relationship with its OTs in August 1997. The purpose of the review was "to ensure that the relationship reflected the needs of the Territories and Britain alike and to give the Territories confidence in our commitment to their future" (FCO, 1999, 8). It was based on the principle that "Britain's links to the Dependent Territories should be based on a partnership, with obligations and responsibilities for both sides" (FCO 1999, 8). In particular, it was noted, "the relationship ... needs to be effective and efficient, free and fair. It needs to be based on decency and democracy" (FCO, 1999, 7). During the review the UK government consulted with a range of interested parties, however it was clearly a British led initiative.

Despite such uncertainty the review process was undertaken relatively quickly and by February 1998 interim findings of the investigation were announced. Then in March 1999 the completed review was published as a White Paper entitled *Partnership for Progress and Prosperity* (FCO, 1999). The White Paper set out a number of recommendations on issues such as the constitutional link, citizenship, the environment, financial standards, good governance and human rights. The latter issues highlighted Britain's desire that the territories should meet certain standards set by the UK government and the wider international community. On the constitutional issue, the White Paper reported that there was a clear wish on the part of the territories to retain their connection with Britain, and not move towards independence.

Further, the White Paper documented the changes that had been introduced to improve the administrative links between the UK and the territories. The Montserrat crisis and the associated parliamentary reports had highlighted the inadequacies of existing mechanisms, and precipitated action on the part of the British government to reconfigure its bureaucratic ties with the Dependent Territories. For example, the UK for the first time appointed a dedicated minister for the territories and established a new department within the FCO (the Overseas Territories Department) to replace the previously fragmented structure across six separate departments. It was also decided that a parallel department for the territories in DFID should be created, together with a ministerial joint liaison committee to coordinate DFID/FCO activities. Further, a new political forum, the Overseas Territories Consultative Council was established to bring together British ministers and territory representatives to discuss matters of concern. Previously, Ministers and officials in London used the governors to convey information. The first meeting of the council took place in October 1999, and gatherings have since been held annually. The changes made to the organisational structure of the relationship

between Britain and its territories, and the wide-ranging policy commitments laid out in the White Paper were a clear indication that the new UK government was prepared to engage more fully with the territories and to correct the perceived deficiencies in the application of metropolitan control.

The review of the COTs undertaken by the British Labour government was certainly the most wide-ranging since the West Indies Act of 1962. The desire of a new administration to assert its influence over problematic policy areas, as the Overseas Territories were deemed to be, was an important factor underpinning the FCO led examination. In addition, the fact that the Labour Party had been out of power for 18 years heightened the expectations of new thinking and new approaches. In many ways the outcome of the *Partnership for Progress and Prosperity* White Paper indicated that the Labour government was serious in attempting to overcome long-standing problems in the UK-Overseas Territories relationship. The recommendations of the White Paper focused on issues including good governance that had been areas of contention through the 1980s and into the 1990s. In its general language, the Labour government also made plain its desire for a relationship that secured the interests of both parties based on sound political, economic and social principles. In many ways the White Paper laid down a positive framework for maintaining UK-OT relations. Amongst other things the importance given to the promotion of transparent, accountable government seemed to indicate that the Overseas Territories were now better placed to play a full, active and mature role in an increasingly globalised world.

In 2003 the UK government once again stressed the importance of mutual obligations and responsibilities, while also noting its own role in overseeing the proper functioning of the OTs. In a memorandum submitted on 27 October 2003 by the FCO Minister Bill Rammell to the House of Commons Foreign Affairs Committee strict limits were placed on territories' constitutional room for manoeuvre. The minister argued that the idea of free association, for example, which would allow the territories to determine the nature of their constitutional relationship with the UK without reference to UK interests or responsibilities, "does not sit easily with our over-riding responsibility to ensure the good governance of the territories and compliance with applicable international obligations". Rammell went onto suggest

The complexity of Government business, particularly following the terrorist attacks of 11 September, is tending increasingly to blur the distinction between domestic and foreign policy, requiring greater UK involvement in some areas which hitherto Territory governments may have considered to be their own preserve. Moreover, whilst standards in governance in some Territories are high, in others there is room for improvement – and some of the smaller Territories lack the institutional capacity and experience to cope well with the increasing demands on

Government. Equally, the lack of a developed civil society, strong legislature, and vibrant media in some Territories also means that many of the usual checks on the Executive can be weaker than normal (Foreign Affairs Committee, 2004, 7).

The memorandum suggested therefore that the UK-appointed governors may need to play a more proactive role in areas such as contingency planning, aviation and maritime safety/security, financial regulation, management of the economy, the environment and human rights (Foreign Affairs Committee, 2004). Also it described the British 'as acting as the transmission mechanism by which an ever-growing corpus of global regulation is applied to the Territories' (Foreign Affairs Committee, 2004, 9). The memorandum claimed that the potential extension of UK involvement was not a change in policy and that governors would not be given more powers, but it was clear that the British government was sending a strong message in regard to the limits of any constitutional reform. The final sentence of the memorandum emphasised again the attitude of the UK government: 'OT governments should not expect that in the Constitutional Reviews ... the UK will agree to changes in the UK Government's reserved powers, or which would have implications for the independence of the judiciary and the impartiality of the civil service' (Foreign Affairs Committee, 2004, 9). New constitutions were then agreed with the TCI (2006), British Virgin Islands (2007) and Cayman Islands (2009).

The importance the UK gives to the Overseas Territories was illustrated in December 2003, when the FCO published a comprehensive strategy setting out the UK's international priorities over the next ten years and the ways in which it intended to deliver its objectives. One priority was 'Security and good governance of the UK's Overseas Territories' (FCO, 2003, 42-3). In a follow-up document presented by the FCO in March 2006 their position at the heart of UK foreign policy was reiterated (FCO, 2006). The commitment was important because it seemingly prioritised the territories in UK foreign policy, committing the government as a whole to safeguarding them, and re-stating for all to see the specific aims of the FCO in regards the territories, focusing on such issues as good governance, law and order, and observing international commitments.

### **The White Paper blackened?**

One question has to be asked of UK government policy in relation to the recent scandal in the TCI – have the good intentions of the 1999 White Paper come to nothing. As has already been argued the British government had little choice but to act in the way it did, and that it was the correct decision under the circumstances. But the UK government can be blamed for not doing enough to pre-empt the collapse in governance in the TCI in the first place. There had been strong indications for several years that there were deep rooted problems in the TCI. Numerous studies were undertaken that highlighted issues of concern. For example, the Fuller Report in 2004 highlighted problems with the

administration and allocation of Crown Land, and similar issues were raised in the 2005 Barthel Report, and the 2008 Robinson special report. After the last report the Governor of the TCI expressed serious concerns about what was happening and even suggested a Commission of Inquiry into Crown Land deals should be established (TCI Commission of Inquiry 2009: 94-95). There were other investigations, including the 2006 Bradfield Report which was highly critical of the Public Works Department, and the 2007 UK NAO report which highlighted the TCI's widespread departure from competitive tendering. However, despite these reports only limited action was seemingly taken by the UK authorities. The FCO was certainly aware of some of the problems in the TCI, and it did upgrade the post of the governor, but largely it took a softly, softly approach to enacting change. And the FCO was not proactive in investigating the allegations of more systemic corruption that were coming to the fore. Indeed, until very late in the day the FCO argued there was insufficient evidence to justify either prosecutions or a Commission of Inquiry regarding developments in the TCI (Foreign Affairs Committee 2008, 67). And the UK government's position may have remained the same except for a Foreign Affairs Committee (FAC) investigation on the OTs.

The largest number of submissions received by the FAC had come from the TCI, and many of the authors had taken the unusual step of asking for confidentiality. During the course of the investigation the committee said that many of these submissions suggested 'a substantial measure of financial impropriety [is] taking place', including it was claimed at government level (*Caribbean Insight*, 2008, 1). The subsequent report also criticised the "climate of fear" in the territory, with some citizens too afraid to discuss their concerns about the standards of governance in the TCI. Most significantly the committee stated

We are very concerned by the serious allegations of corruption we have received from the Turks and Caicos Islands (TCI)...The onus has been placed on local people to substantiate allegations. This approach is entirely inappropriate given the palpable climate of fear on TCI. In such an environment, people will be afraid to publicly come forward with evidence. We conclude that the UK Government must find a way to assure people that a formal process with safeguards is underway and therefore recommends that it announces a Commission of Inquiry, with full protection for witnesses (Foreign Affairs Committee, 2008, 7).

While recognising that it is sometimes difficult to assess whether an issue is serious enough to merit intervention, the FAC report stated quite clearly that in regards to the TCI "its approach has been too hands off". As a consequence, the Committee argued, 'The Government must take its oversight responsibility for the Overseas Territories more seriously – consulting across all Overseas Territories more on the one hand while

demonstrating a greater willingness to step in and use reserve powers when necessary on the other' (2008, 131). The call for a Commission of Inquiry indicated how seriously the committee viewed the situation in the TCI, and a few days later the UK government announced that one would be established. As the 2009 Commission of Inquiry report argued "... [criticisms] have been identified time and again in official and independent reports in different contexts ... but to little result" (TCI Commission of Inquiry 2009: 102). This is a very damaging allegation against the UK government, and suggests that rather than being too interventionist as some of its critics would suggest, the government has been far too hands-off in its dealings with the OTs and thus many of the original objectives of the 1999 White Paper have fallen by the wayside.

### **TCI corruption in context**

The breakdown of good governance in the TCI clearly shows that the UK government failed to meet its own objectives as defined by the White Paper. However, was the TCI an exceptional case or is there a more general problem with UK engagement and thus should we be concerned about standards of governance in the other OTs? The following section provides a few ideas, but there is no definitive conclusion on this issue at this time. Perhaps the truth lies somewhere in between. In relation to the TCI it is clearly the case that Misick and his government pushed the system of governance to breaking point and behaved in an unacceptable manner. There have been allegations of corruption in many of the other OTs, but these have seemingly been more isolated. It is also noteworthy that the largest number of submissions received by the FAC came from the TCI. Further, the TCI has a somewhat shorter history of constitutional development than some of the other OTs, as the TCI shared a constitutional link with Jamaica and the Bahamas for many years, and did not gain its own constitution until 1976. In addition, some of the issues facing small states seem particularly acute in the TCI, for example the small number of influential families dominating the political, economic and social scene, the inadequate mechanisms for proper political and financial oversight, both within parliament and in society more generally, and the limited supply of land for development unless via the release of Crown Land. Finally, there is a particularly small electorate in the TCI – about 7,000 out of a total population of 36,000, and these 7,000 are spread across 15 constituencies, the smallest has 190 voters. So it would be possible for a party to gain the support of just one tenth of the population to secure an election victory. There is evidence to suggest that the PNP took advantage of the limited franchise to win power via cash handouts prior to the election (there were no controls over campaign financing); the procurement of ghost jobs; and the rigging of electoral roles. An Electoral Reform International Service report on the 2007 TCI general election found "significant shortcomings" and the election "did not meet international standards" (TCI Commission of Inquiry 2009: 79).

So it is clear that there were some particular issues which might have put extra strain on the system of governance in the TCI. However, there are several problems in the UK's relationship with its OTs that might indicate that its failings are more deep-

seated than just in relation to the TCI. For example, the UK, via its governors, is reluctant to use its full powers, even in areas where the Governor has responsibility – rather consensus and persuasion is preferred. The UK is aware of the importance of maintaining relations with democratically elected governments. This is particularly true when OTs are no longer in receipt of UK government funding. A further constraint in advancing the good government agenda is the limited power the governor has in certain circumstances. There remains a problem with issues that are in the mid-spectrum. Of course, the governor can use his constitutional powers, including Commission of Inquiries, but there is a reluctance to do this because of the controversy it causes. As a consequence concerns that are serious but not extremely so are sometimes left unattended and allowed to fester. Further, there is a high-turnover of UK ministers and officials dealing with the OTs; their knowledge of the OTs is in many cases limited; and for ministers the OTs are only part of their portfolio. Other concerns relate to the fact that governors often lack the experience and skills to carry-out a very difficult job and that only limited funding is available to promote good governance and build capability in the OTs. Thus a case could be made that there are systemic problems in the way in which the UK engages with the OTs, and a more pro-active approach is required.

## **Conclusion**

It can be argued that despite the criticisms and controversy the Commission of Inquiry did a commendable job in shining a light on the broken system of governance in the TCI. Many of the players – the local political class, the UK government, Caribbean politicians and commentators – have been damaged by the investigation and/or their reaction to it. Hopefully now, long-lasting improvements to governance in the TCI can now be achieved. More generally, however, there is the nagging suspicion that despite the changes enacted under the White Paper problems of oversight and engagement continue. Institutional inertia in Whitehall, exacerbated by a loss of institutional memory through the high-turnover of ministers and civil servants, and the restricted powers of governors can and do have a serious detrimental impact on policy. This is of course important as proper UK oversight is vital in Territories where institutional capacity, developed civil society, strong legislatures, and vibrant media are lacking.

One can argue that after the recent TCI Commission of Inquiry there is a sense of *déjà-vu*. A crisis in the mid-1990s (Montserrat) precipitated a fundamental review of the relationship leading to the White Paper. Almost a decade earlier the first Commission of Inquiry in the TCI caused a similar process of reassessment. Now roughly ten years after Montserrat, questions are being asked again about the effectiveness of UK policy. The following observation is of course an over simplification, but it has some merit. That the UK authorities under both Labour and Conservative administrations re-engage with the Territories and show particular interest in them after a grave crisis, and then after a while that interest wanes, and it is not until another crisis that interest is returned to optimum levels. So the UK must break the cycle, and maintain a more proactive

engagement with the Territories in the future, which of course is absolutely vital for the maintenance of good governance and the smooth running of the relationship overall.

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