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**COMMUNIQUÉ FROM A HIGH-LEVEL POST-ELECTION STAKEHOLDERS REVIEW WORKSHOP ON GHANA'S 2020 PRESIDENTIAL AND GENERAL ELECTIONS HELD AT THE AQUA SAFARI RESORT IN ADA, GREATER ACCRA REGION ON APRIL 26-28, 2021**

The Coalition of Domestic Election Observers (CODEO) held a High-Level Post-Elections Stakeholders Review Workshop to assess the conduct of Ghana's 2020 presidential and parliamentary elections. The workshop, which followed similar ones by CODEO in the past took place on April 26 to 28, 2021 at the Aqua Safari Resort in Ada in the Greater Accra Region. Participants at the workshop included leaders and representatives from key election-related institutions including the Electoral Commission of Ghana (EC), the National Commission for Civic Education (NCCE), the National Peace Council (NPC), the National Media Commission (NMC), the Ghana Police Service, the Judiciary, some political parties - i.e. the National Democratic Congress (NDC), the New Patriotic Party (NPP), the Convention People's Party (CPP) and the Peoples' National Convention (PNC)), representatives from the media, Civil Society Organizations (CSOs) and academia.

In the course of the three-day workshop, participants deliberated on the 2020 electoral process and shared critical perspectives on key issues including;

- The challenges and opportunities for addressing the medium-to-long-term challenges of the voter register;
- How to improve the election results management chain, from counting to results declaration;
- The key lessons on election security, electoral violence and vigilantism;
- The key lessons from the media's coverage of the 2020 elections;
- The rising cost of politics and electoral corruption and the related issues of campaign financing and electoral regulations;
- Female under-representation in elective office;
- Issues around the candidate nomination process, filing fees and candidate screening; and
- The key lessons from the 2020 election litigation and judicial procedures.

The discussions on these issues focussed on what worked well, what didn't work well and key recommendations for improving future conduct of elections. As such, the following views generally reflected what worked well with the elections:

**SUCCESS AREAS**

1. The voting processes on Election-Day were generally smooth particularly with the EC's increment of the number of polling stations across the country by about 10,000;
2. The intense civic, voter and peace education, and other peace intervention activities undertaken by the National Peace Council, CSOs, the NCCE, the EC and other groups as

well as the passage of the Vigilantism and Related Offences Act, 2019 (Act 999) helped to mitigate electoral violence;

3. The media improved its coverage of the elections, with a lot more focus on analyses of manifestoes and policy issues, campaign promises and governmental performance. The media enhanced collaboration and tapped into the expertise of relevant actors such as CSOs, experts, academia and some state institutions; and
4. Domestic and international observation groups, despite the logistical challenges created by the COVID-19 pandemic contributed to the transparency of the electoral process.

## **GAPS AND CHALLENGES**

Participants also identified the following gaps and challenges in the course of the electoral process. Many of these challenges are recurrent issues which had also been raised in previous post-election review exercises by CODEO. The main challenges identified by participants include:

- A. The periodic exercise of conducting new or limited voter registration is a costly venture to the state and is often accompanied by violence, stakeholder mistrust, suspicion, acrimony, and tension. Other challenges associated with the periodic registration of voters include the registration by unqualified persons (minors and foreigners), the bussing of people from one part of the country to register at different locations as well as the abuse of the guarantor system;
- B. Challenges associated with the election results management process including problems and errors associated with the completion of results forms (Pink Sheets) by election officials, problems with the set-up of constituency collation centers which presented difficulties for the transparency of the collation process, crowding at collation centers partly due to the increase in the number of poll officials submitting polling station results following the increase in the number of polling stations, and concerns around the role of Regional Collation Centers in the collation process. Other challenges related to the announcement process for the presidential results from constituency through regional to the national level were also highlighted;
- C. The worrying incidence of violence and the serious fatalities recorded during the elections, particularly during the voter registration exercise and in the collation and immediate post-election period;
- D. Challenges associated with election security and law enforcement including the perceived/seeming lack of independence of the security agencies, particularly the Ghana Police Service, the deployment of the military particularly to parts of the country during electoral activities, and the perceived lack of political will to end electoral violence;
- E. The high level of mistrust and suspicion between and among key actors in the electoral process;
- F. The high and increasing cost of contesting for political office, the worrying incidence of vote-buying/selling, and abuse of incumbency which are detrimental to the country's

- democracy. Other related challenges include the laxity in the regulation of political parties' finances, the weak campaign financing regimes and expensive filing/nomination fees;
- G. The lacuna in Ghana's laws about who wields political power between the time an incumbent president's tenure of office ends and the time a new one is sworn into office which can possibly lead to a constitutional crisis;
  - H. The lack of enforcement of media/journalistic standards, and appropriate authority to empower regulatory bodies to sanction the breach of standards as well as the incidence of abusive language in the media, the threat of fake news and misinformation, media bias (particularly by politically-aligned media houses and the overall impact on the media's role in elections; and
  - I. The continuing under-representation of females in elective office due to a combination of factors including the absence of an Affirmative Action Law, the use of physical and psychological violence and indecent language against women, dismissive societal attitudes towards women in politics and the seeming lack of interest by political parties in promoting women's access to political power.

### **KEY RECOMMENDATIONS**

Following participants' deliberations on the above issues in relation to the electoral processes, a number of key recommendations were made. The key issues and the set of recommendations identified by participants include the following;

#### **A. Addressing the Medium-to-Long Term Challenges of the Voter Register**

The newly-compiled 2020 voters register should be the last register to be compiled from scratch. Going forward, the EC should collaborate with the National Identification Authority (NIA) to create an integrated system for identifying current voters and also for registering qualified individuals who turn 18 years. To achieve this objective, stakeholders agreed on the following actions:

1. Link the NIA's database with that of the EC to create a harmonized system capable of replacing the process of compiling a new or limited voters' register from time to time;
2. To help build stakeholder trust, the EC should engage political parties and other key stakeholders including CSOs every step of the way towards the harmonization of the EC and NIA systems;
3. The EC should initiate the necessary legal processes to amend the regulations on the registration of voters to back the processes for the integration of the EC's database with the NIA's in adherence to Article 45 of the 1992 Constitution; and
4. As an interim measure, the EC should undertake continuous registration of voters who turn 18 years. In doing so, the EC should work with political parties to ensure transparency and accountability.

## **B. Improving Election Results Collation, Transmission, Announcement and Declaration**

1. The EC should revisit the proposal to move the time for close of polls from 5pm to 4pm to allow for early counting of ballots and some collation of results to be done under natural light.
2. The EC should engage stakeholders to consider the proposal to create collation centers at the electoral area level to reduce the workload and overcrowding at the constituency collation centers.
3. The EC should prioritize the training of presiding officers and political party agents in the completion of election results forms or pink sheets.
4. The EC should digitalize election results forms (pink sheets) by using hand-held scanners with inbuilt chips to allow for instant transmission of election results and subsequent upload unto the EC's website. This should promote easy access to official copies of the polling station results for the political parties, including relatively smaller parties who may not have agents at all polling stations but also for the media and the general public.
5. The EC should review its protocols for publishing presidential election results. Instead of the EC waiting to get results from all constituencies before publishing on its website or announcing through a press conference, it should adopt a process to release certified collation center results as and when they are received. This will help diffuse anxiety experienced by citizens while waiting for election results and also build confidence in the electoral process.
6. The EC should review Constitutional Instrument (C.I.) 127 to elaborate on the procedures for correcting results declared at the Constituency, Regional and National Collation Centers and results summary sheets after announcement or declaration by officials.
7. The EC must assess and re-strategize the set-up, and operations of the Constituency Collation Centers. The current set-up is characterized by overcrowding and makes computation of the results in such conditions more difficult for election officials. To promote transparency the EC should return to its 2012 plan to set up viewing screens at all constituency collation centers as well as at the regional (if at all necessary) and the national collation centers.
8. The EC should also re-assess the operation of the newly-added Regional Collation Centers as a layer in the results collation chain and the value it adds to the results management process. If this layer is to be kept, the rules around the powers of the collation officers must clearly elaborated.

### **C. Reducing the Cost of Elections and Regulating Campaign Financing in Ghana**

1. The EC, political parties and other stakeholders must work together to address the increasing cost of contesting to be elected as a Member of Parliament (MP) or President. It is believed that a presidential election can cost as much as \$100m while that of MPs is around GHS 3-4 million. While this is not sustainable, it can in some instances protect and promote illicit activities.
2. The EC, working with the Inter-Party Advisory Committee (IPAC) and other major stakeholders should work towards setting a time period for campaign activities to 40 or 90 days, by legislation. This is already being done in many African countries.
3. The EC, together with election stakeholders should undertake a comprehensive review of existing laws on campaign financing including the Political Parties Act (2000), PNDCL 284, and other existing electoral regulations, and work towards the development and passage of a comprehensive law on campaign financing and all political party financing.
4. The EC, political parties and other stakeholders should work towards building consensus on what constitutes incumbency abuse and vote buying violations and to properly regulate such conduct.
5. The EC should work on standardizing its schedule of fees for nomination of candidates. In setting fees, the Commission, as a public institution, should aim to primarily cover its administrative cost for providing the service in accordance with the exercise of discretion under Article 296 (a-b) of the 1992 Constitution.
6. The EC should communicate nomination fees to aspirants early enough to allow for mobilization of needed resources by aspirants. In addition, the EC should consider reducing the fees for females and persons with disabilities to help promote their participation in elections.
7. The EC should set a target for reducing the cost of elections per voter to \$5 per head or lower.
8. The EC should take on-board and implement CODEO's 2017 Post-Election Review Workshop recommendation on the establishment of an enforcement unit, which should include a legal advisory support, to enforce laws regarding the conditions for maintaining a registered political party and accounting for political party campaign finances. If setting up this unit may impose undue financial burden, the EC should consider delegating some of these responsibilities, particularly the auditing of political party expenditures, to the Auditor-General or collaborate with the Auditor-General to fulfill its mandate. To address the challenges of curbing the proliferation of inactive political parties, the Commission should enforce the provisions of Article 55 (7) of the 1992 Constitution requiring registered parties to be organized in at least two-thirds of constituencies. This

recommendation was also contained in the 2017 Post-Election Review Workshop recommendations.

#### **D. Strengthening Election Security and Promoting Election Peace**

1. The Ghana Police Service (GPS) should work with the EC to move the time for close of polls from 5pm to 4pm in order to reduce the threats to security during the collation period.
2. The GPS should review the security arrangements at collation centers for future elections and communicate same to stakeholders.
3. The National Election Security Task Force (NESTF)/GPS should strictly implement the Standing Operating Procedures (SOPs) in the deployment of the military during the election year and particularly on election day. Largely, the military must remain as a stand-by force and deployed as a last resort. The deployment of the military in some circumstances during the 2020 elections, including the deployment to Parliament at dawn of January 7 2021 should not be repeated.
4. The NESTF/Ghana Police Service should take proactive steps to inform the public about the steps that they are taking in investigating and prosecuting election-related crimes and provide periodic updates on all such cases.
5. The National Peace Council should work with the leading political parties to resolve the disagreement on whether government should be a signatory to the Code of Conduct to Disband politically-affiliated vigilante groups. Meanwhile the disagreement should not delay the implementation of the Road Map to end political vigilantism.
6. The Minister for Justice and Attorney General should as a matter of urgency develop a Legislative Instrument (LI) to guide the implementation of the Vigilantism and Related Offences Act, 2019 (Act 999).
5. The National Peace Council, the NCCE and CSOs must intensify education on the Vigilantism and Related Offences Act, 2019 (Act 999) and publicize the provisions and sanctions in the Act.
6. In the medium to long-term, there should be a concerted effort amongst key election stakeholders to make the Inspector-General of Police (IGP) independent by insulating him/her from political interference by securing his/her tenure across regimes and ensuring such appointments are transparent and consultative.

#### **E. Ensuring Media Freedom, Security and Accountability**

1. Government should equip the National Media Commission (NMC) to monitor the media landscape and produce regular reports on journalistic standards in the media.

2. Government should enact a broadcasting bill and establish a Media Development Fund to help improve the quality and standards of media practice.
3. The National Communication Authority (NCA) and the NMC must review the processes for allocating frequencies to ensure more transparency and public trust.
4. The EC should deepen its media partnership and engagement through the establishment of a media advisory committee to enhance its core messaging, that will also formalize the EC's relationship with the media.
5. The NCA and NMC should pay serious attention to the emerging forms of content delivery platforms (Over the Top- OTT Services) that are outside regular broadcasting regime and requires urgent oversight and regulation.
6. Media owners and associations should consider in- house training for media practitioners

#### **F. Addressing Women's Under-representation in Elective Office**

1. Conscious efforts should be made by all stakeholders towards changing the negative narratives and gender stereotyping as measures to encourage more women's participation and representation.
2. CSOs should have a strategy and intensify advocacy for the passage of the Affirmative Action Bill. CSOs must also highlight other aspects of the Affirmative Action Bill such as those touching on persons with disabilities (PwDs and minority groups) in order to galvanise support for the passage of the Bill. The media should ensure women's visibility in campaigns by providing additional media exposure and also information on gender sensitive issues for necessary redress (using the right language).
3. Government must pass the Affirmative Action Bill to help ensure increased participation of women at all levels of governance in Ghana.
4. Political parties should play a unique role both internally and externally to facilitate women's participation in the political arena.

#### **G. Election Litigation and Judicial Reforms: Key Lessons for the Future**

1. The passage of a Constitutional Instrument to regulate presidential election petitions and limit the time period for dealing with such petitions to 42-days is commendable. However, there is still the need to review the provisions to meet the high threshold required for challenging an election petition.
2. The judiciary, in collaboration with relevant stakeholders should work towards, a time frame for also adjudicating parliamentary elections petitions, just as has been done for presidential election petition.

3. The Judiciary should codify the grounds on which a presidential election may be determined to be invalid following the adoption of *Morgan v Simpson* [1975] QB 151 as a test for determining the validity of an election. This will be similar to the test set out in s.20 for Parliamentary Elections in the Representation of the Peoples Law, 1992 (PNDCL 284).
4. Government and all election stakeholders should as a matter of urgency review the operation of Article 66 of the 1992 Constitution setting out a 4-year fixed-term period for a President beginning when he is sworn in. The delays in swearing in a Speaker and subsequently a President as experienced on January 7, 2021 meant that the country was operating without a President, Vice President or Speaker, with no constitutional mandate for any other official to fill the vacuum. Secondly, the COVID-19 pandemic nearly distorted the EC's election timetable with the real possibility of delaying the polling day while the President's mandate under Article 66 expired. To fix this problem, a review must consider amending the 1992 Constitution to allow the term of the President to run coterminous with the incoming President. Thus, the President's term ends, a minute before the new President is sworn in. In emergency circumstances where the President's term passes the 4-year term, he/she can continue to act up to 60 days until a new President is sworn in but may not be able to make certain new decisions such as contractual agreements.

## **CONCLUSION**

CODEO commends all stakeholders who took part in the critical discussions at the workshop and looks forward to collaborating with all relevant actors to further improve on electoral credibility, transparency and peace. It is the expectation of the Coalition that the key recommendations raised in this communiqué will inform advocacy for electoral reforms to help improve the conduct of subsequent elections in the country. To ensure that the various issues raised are addressed ahead of the 2024 elections, stakeholders agreed to set up a monitoring group to follow-up on these recommendations with the appropriate agencies. CODEO's post-election stakeholders review workshop was made possible with the generous support of the American people through USAID.

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