



JOINT PRESS BRIEFING

CSOs' TAKE ON THE PRESIDENT'S APPOINTMENT OF THREE NEW MEMBERS TO THE ELECTORAL COMMISSION

Organized by: Coalition of Domestic Election Observers (CODEO), STAR-Ghana Foundation, and Civic Forum Initiative (CFI)

Venue: Ghana International Press Center, Accra

Date: Wednesday, April 5, 2023

Introduction

Good morning, ladies and gentlemen. Thank you for honoring our invitation to this press briefing.

We have invited you here today, as independent, nonpartisan civil society organizations, and as citizens with a long track record of helping to safeguard the peace and integrity of our democratic electoral processes, to express our concern and displeasure about recent appointments to the Electoral Commission of Ghana (EC) made by President Nana Addo Dankwa Akufo-Addo and announced on March 20, 2023. For reasons we shall explain shortly, we would like to register our strong disapproval of and collective opposition to two of the announced appointments.

We wish to note, at the outset, that, public and cross-party trust and confidence in the political neutrality and impartiality of an Election Management Body (EMB) and, for that matter, in the ability of that body to deliver free, fair, and credible elections is a cardinal principle and pillar of an effective democratic election architecture. In Ghana's case,

incremental progress in building public trust and confidence in the EC can be credited for our enviable record of steady democratic progress in the area of elections over the course of the last thirty years.

Our evolving tradition of peaceful acceptance of electoral outcomes as well as peaceful turnover and transfer of power following hotly contested elections would not have been possible if the EC was widely believed or perceived, whether in its conduct or in its composition or leadership, to be partisan or vulnerable to partisan manipulation or bias. There are well-known instances, including in other sister countries in Africa, where a failure to engender credible cross-party trust and confidence in the EMB, has provoked violent and tragic conflict in the wake of disputed and discredited election results. We must do nothing to invite a similar fate in our country.

Some have tried to downplay the concerns associated with these latest problematic appointments by arguing that the appointees in question cannot change any electoral outcome or that it is voters that determine election results, not electoral officials in charge of counting or collating results. This is an unfortunate and rather cavalier response to the grave concerns we raise here. If it did not matter who sat on the Electoral Commission, we could put anybody at all on it and the Appointing Authority would not need the advice of a Council of State in the appointment process. Indeed, the overwhelming evidence, both from our own experience in this Fourth Republic and from other countries in Africa, shows that counting and collation of election results, not just the voting process, are the principal sources of electoral disputes and election-related violence and conflict.

We must emphasize that when it comes to trust and confidence in an Election Management Body, the composition and membership of the EMB matter greatly. Moreover, appearances and perception matter just as much as reality, especially as the reality of one's impartiality or independence is often practically unprovable.

The history of the evolution of our own electoral processes in this 4th Republic, in fact, counsels against any attempt to downplay or trivialize the importance of cross-party and public trust in the EC and in its independence. We recall that the new Republic that was born on January 7, 1993, was born in partisan controversy and social division. Believing that the elections to choose the first President of the 4th Republic had been rigged in favor of the Rawlings regime, the main opposition party proclaimed the outcome of the November 1992 presidential elections a "Stolen Verdict" and boycotted the ensuing parliamentary elections. The EC that emerged in 1993 was, therefore, tainted with suspected complicity in an alleged stolen election. It took a good deal of collective effort and reform to build cross-party, public trust and confidence in the EC, enough to convince the Opposition to return to compete again in 1996.

In recent times, however, Afrobarometer surveys have recorded declining levels of public trust in the EC. Strong trust ratings (trust the EC a lot) for the EC have shown a steady decline since 2008. In 2004, close to half (48%) of Ghanaians trusted the EC. The EC's trust ratings reduced by 8 points to 40% in 2008. In 2012, this dropped drastically to 27%. The Commission's trust rating continued to trend downward in 2014, decreasing that year to 18%. The EC's trust ratings saw a boost in 2017 to 25%, but still significantly lower than in previous years. The slight increase in trust ratings for the EC was, unfortunately, short-lived. In 2019, trust in the Commission dropped to 21%; and in 2022 (the most recent survey), public trust in the EC dropped to an all-time low of 10%. Trust in the EC is too important for our democratic and social peace and stability for it to remain this low or get worse.

Building and sustaining trust and confidence in an EMB is a delicate business. Because the impartiality or independence of an EMB or any of its officials is often difficult to establish or prove, appearances naturally assume great weight in assessing the independence or impartiality of an EMB or its officials. In some jurisdictions, this concern is addressed by ensuring overt cross-party representation and balance on the EMB. The Framers of our Constitution preferred a different approach, one that disavows or rejects open partisan representation in the composition of the EC. Thus, we have opted for a nonpartisan and independent EC, one in which political parties are not allocated seats or slots. Under our model, the power to appoint persons to the EC is given to the President to be exercised on the advice of the Council of State. It is our considered view that, using that appointing power to appoint known partisans or persons with severe partisan conflict of interest relationships onto the EC undermines the spirit of non-partisanship that underpins the model of EMB that the Framers of our Constitution have left us.

Contrary to views expressed in certain quarters, the designation of the President as the Appointing Authority, subject to the advice of the Council of State, does not mean that the President, being a party politician, is free to appoint to the EC persons who are known partisans or whose partisan affiliations create an apparent conflict of interest in the performance of their duties on an independent and nonpartisan EC. It is worthy of note that, under our Constitution, the President, who is both Head of Government and Head of State, is made the Appointing Authority over a wide and diverse range of appointments. In making some of these appointments and nominations, notably appointments to the Cabinet and other Ministerial positions as well as to positions such as District Chief Executive, there is no question, given the party-political nature of those positions, that the President makes such appointments in his political role and capacity as **Head of Government**. After all, these are the appointees with whom the President, as Chief Executive is going to run the country on a day-to-day basis. The occupants of these political executive branch offices serve as agents of the President and at his pleasure.

However, in making certain other appointments, notably the appointments stated under Articles 44 and 70 of the Constitution, which include appointments to the EC, the Framers intended that the President would do so wearing the statesman's hat of a **Head of State**, not the everyday politician's hat of a Head of Government. In this regard, the 1992 Constitution follows the model and practice first established under the 1969 Constitution and followed in subsequent constitutions, where appointments to a host of politically-neutral and independent offices, including the Electoral Commission, are entrusted to the President in his capacity as Head of State, to be exercised on the advice of a nonpartisan Council of State.

It is instructive that in the specific case of the Chairman, Deputy Chairmen and other members of the Electoral Commission, the President's appointing power under Article 70(b) of the 1992 Constitution is to be exercised not merely "in consultation with" but on "the advice of" the Council of State. The spirit of Article 70(b) is unmistakable: Appointments to the EC must be treated with exceptional care, having regard to the extraordinarily sensitive and delicate nature of the role and responsibility entrusted to the EC.

In light of the foregoing, it is our considered and strongly-held view and position that appointment to the independent and nonpartisan EC of persons who are known partisans or who have a partisan cloud over their heads is inconsistent with the spirit of the Constitution. Furthermore, such appointments risk undermining cross-party and public trust and confidence in the EC and, thus, pose a danger to our evolving multi-party democracy.

It is for all of the foregoing reasons that we register our disapproval of and opposition to the appointment of Dr. Peter Appiahene and Hajia Salima Ahmed Tijani as members of the Electoral Commission of Ghana.

Ladies and Gentlemen, we would like to examine briefly the details of the appointed persons.

Background of the New EC Members

The three new members of the Commission sworn-in and announced by the President on March 20, 2023 are Hajia Salima Ahmed Tijani, Dr. Peter Appiahene, and Rev. Akua Ofori Boateng. They fill the vacancies on the Commission created by the earlier retirement of Mrs. Hajia Sa-Adatu Maida, Mr. Ebenezer Aggrey-Fynn and Mrs. Rebecca Kabukie Adjalo.

Unhelpfully, the announcement of the new appointments was not accompanied by detailed biographical and other background information about each of the appointees. We are indeed unsure if the Council of State itself was provided with all the necessary

background information it is expected to have in order to effectively discharge its constitutionally mandated “advice” function in respect of these appointments. Particularly where, as in this instance, an appointment is not subject to vetting and approval by Parliament, we believe it is imperative that sufficient biographical and other background information on each nominee or appointee be provided to the public and any relevant body by the Appointing Authority.

In the absence of adequate official biographical information on the appointees, we too, like the public and media generally, have been compelled to rely on Internet searches, social media, and other unofficial sources to learn more about the appointees. This is what we know so far about each of the new appointees.

Dr. Peter Appiahene

According to his LinkedIn page, Dr. Peter Appiahene is an Assistant Professor/Senior Lecturer at the University of Energy and Natural Resources, Sunyani, where he heads the Department of Computer Science and Informatics¹. From his LinkedIn page, we also learn that Dr. Appiahene holds a Ph.D. in Computer Science, and an Mphil in Information Technology, both from the Kwame Nkrumah University of Science and Technology.

Since the announcement of his appointment as a member of the EC, social media postings have revealed that Dr. Appiahene is an activist of the New Patriotic Party in the Bono Region. In one social media comment from January 2021 headed “DR. APPIAHENE for BONO Region,” Dr. Appiahene is featured on an NPP-labelled flyer as one of six prospects for the position of Bono Regional Minister. The commenter who put up that post states that “The Bono Region and the NPP party need much more energetic and vibrant leadership to help take the Region to the desired goals” and urges all to “rally behind Dr. Peter Appiahene for Bono Regional Minister to achieve more.” In another social media video clip that has gone viral since his appointment, Dr. Appiahene is seen and heard participating in a radio program “Anopa Nimdee Adwasuo” on Nimdee FM 95.1 (Sunyani) as a self-identified NPP partisan and activist in the Bono Region and naming one Kwame Baffoe (popularly known as Abronye DC) as his Chairman.² Predictably, the appointment of Dr. Appiahene has generated a heated public debate in both mainstream and social

¹ Link to LinkedIn Profile: <https://www.linkedin.com/in/peter-appiahene-phd-592452144/?originalSubdomain=gh>

² Links to the videos: <https://www.facebook.com/ghanaone/videos/236385282114473/?mibextid=1YhcI9R> ; <https://web.facebook.com/watch/?v=1271922620074285>

media. The National Democratic Congress (NDC) has denounced the appointment, while NPP has defended it.

Hajia Salima Ahmed Tijani (Nee Salima Sani Mahama)

According to a Graphic Online report, Madam Hajia Salima Tjani is a banker with the Agricultural Development Bank (ADB). She holds a Bachelor of Arts degree in Integrated Development Studies from the University of Development Studies (UDS) and an MBA in Project Management (GIMPA) and is currently an MSc Finance at the Accra Business School.

Internet searches and other social media exchanges since the announcement of her appointment have revealed additional relevant information about Madam Salima Tijani. She is said to be married to one Sheikh T.B Damba, a leading member of the NPP who was formerly the Second National Vice Chairman of the party and served as Ghana's Ambassador to Saudi Arabia from 2017 to 2021. Madam Salima Tijani's mother, Hajia Samata Gifty Bukari, was the first elected woman First Vice Chairperson of the NPP in the Northern Region,³ while her sister Hajia Abibata Shanni Mahama Zakariah, who is currently the CEO of Microfinance and Loans Centre (MASLOC), contested the 2020 NPP primaries for the Yendi constituency and has already publicly announced her intention to contest again for the Yendi seat in 2024. Madam Salima Ahmed Tijani's multiple close familial relationships with leading and active NPP figures raise apparent conflict of interest concerns and, for that matter, a legitimate perception and appearance of a lack of independence.

Rev. Akua Ofori-Boateng

Reverend Akua Buabema Ofori-Boateng is Director of Programs for the Anglican Diocese of Accra. A priest, she holds a Bachelor of Science degree in Engineering Physics from Miami University (Florida, USA), a Master of Science degree in Mechanical Engineering from Virginia Tech (Virginia, USA), and an MBA from Indiana University (Indiana, USA). She also earned a Master of Arts degree in Ministry from the Trinity Theological Seminary in Legon, Ghana. As a priest, Rev. Akua Ofori-Boateng serves at the Holy Trinity Cathedral, Accra. She has hosted a gospel talk show, #995TheWord, on Asaase Radio 99.5 since June 2020. We have found nothing problematic in her background.

Demands

1. We are concerned about the non-transparent and non-inclusive nature of appointments to key independent constitutional bodies like the EC. Although the relevant letter of the Constitution is unhelpfully scanty, the spirit of the Constitution

³ <https://www.facebook.com/salima.sanimahama> (post on November 11, 2022).

that underpins these provisions leaves no doubt that, having regard to the functions assigned the EC as well as the Commission's independent character, nonpartisanship, both actual and perceived, is a non-negotiable principle and consideration that must guide the Appointing Authority in the selection of the Commission's members. While we support calls for a constitutional amendment to make the process of nomination and appointment to the EC explicitly inclusive and transparent, we believe that there is room even in the current constitutional arrangement for the process to be inclusive and transparent. We propose that, in filling a vacancy on the EC (and other independent constitutional bodies), the President, acting in his role as Head of State, propose and make public the names (and biographical information) of candidates to be considered by the Council of State. In keeping with the spirit of his role as Head of State, the President should consult key stakeholders, including political parties represented in Parliament, in coming up with the list of candidates to be submitted to the Council of State. The Council should then invite petitions and other inputs on the proposed individuals from the public as part of a process of vetting and shortlisting the candidates. The Council of State would then shortlist and rank the final candidates and make appropriate recommendation to the President. In an amended constitutional process, the nominee should be required to receive the approval of Parliament prior to their appointment by the President. What we wish to emphasize here is that, nothing about the current constitutional provision and arrangement relating to the EC requires or excuses the appointment of partisans and other unsuitable persons to membership of the EC.

2. We are painfully aware that voluntary or constitutionally-grounded revocation of these unfortunate and democratically problematic EC appointments by the President is extremely unlikely. However, nothing stops the affected appointees, namely Dr. Peter Appiahene and Hajia Salima Ahmed Tijani, from voluntarily and honorably resigning from membership of the EC. This will be in the supreme interest of our country's continued democratic progress, election peace and credibility, and indeed the overall national interest. While both Dr. Appiahene and Madam Salima Ahmed Tijani meet the generic benchmark qualification stipulated under Article 44(1) (that is, the same qualification one must satisfy to be a Member of Parliament), we believe strongly that, having regard to the independent and nonpartisan nature of our Electoral Commission and its mandate, the spirit of the Constitution demands far more in the way of one's suitability to be a member of the EC. We accordingly call on Dr. Peter Appiahene and Hajia Salima Ahmed Tijani to do the honorable thing and resign.

Conclusion

Ladies and Gentlemen, elections are an indispensable anchor of our democracy. Elections run by Election Management Bodies that suffer from a trust or credibility crisis tend to produce not just divisive and potentially destabilizing election results, they also produce governments with low levels of legitimacy and an embittered and polarized politics and society, all of which make the business of governing and building national unity in the post-election period tough and rough. Already, as Afrobarometer data have shown, trust in our EC has been on the decline in recent years. In order for citizens to continue to trust the EC, the credibility and independence of the EC, including, importantly, the appearance of partisan neutrality, are paramount and must be safeguarded. It is against this background that we have over the years consistently advocated for a transparent and inclusive process for appointing persons to fill vacancies on the EC.

The appointment to the EC of individuals known or widely perceived to be partisan or party-biased can only go to deepen public mistrust in the EC. We believe strongly that the resignations of Dr. Peter Appiahene and Salima Ahmed Tijani are a necessary step in efforts to rebuild trust and confidence in the EC and, thereby, guarantee the peace of our elections, and the effectiveness of the Commission in the discharge of its extremely important national mandate.

God Bless Our Homeland Ghana!!!

Long live Ghana.

Signed:

Coalition of Domestic Election Observers (CODEO)

Civic Forum Initiative (CFI)

STAR-Ghana Foundation