

GHANA PARLIAMENTARY AND PRESIDENTIAL ELECTIONS

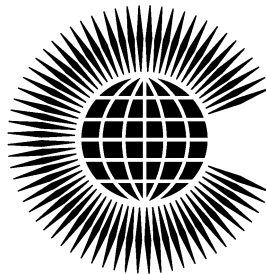
7 December 2008

and

PRESIDENTIAL RUN-OFF ELECTION

28 December 2008

Reports of the Commonwealth Observer Group



COMMONWEALTH SECRETARIAT

GHANA PARLIAMENTARY AND PRESIDENTIAL ELECTIONS

Reports of the Commonwealth Observer Group

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ABBREVIATIONS

Armed Forces Revolutionary Council	AFRC
Coalition of Domestic Election Observers	CODEO
Commonwealth Observer Group	COG
Convention People's Party	CPP
Democratic Freedom Party	DFP
Democratic People's Party	DPP
Electoral Commission	EC
Economic Commission of West African States	ECOWAS
Final Voters Register	FVR
Institute of Economic Affairs	IEA
Inter-Party Advisory Committee	IPAC
Limited Voter Registration Exercise	LVR
National Commission for Democracy	NCD
National Democratic Congress	NDC
National Enforcement Body	NEB
National Elections Security Task Force	NESTF
National Liberation Council	NLC
New Patriotic Party	NPP
National Redemption Council	NRC
Organisation of African Unity	OAU
Organisation of American States	OAS
People's National Convention	PNC
Provisional National Defence Ruling Council	PNDC
Provisional Voters Register	PVR
Reformed Patriotic Democrats Party	RDP
United Nations Development Programme	UNDP



Chapter One

INTRODUCTION

Invitation and Assessment Mission

The Chairman of the Electoral Commission of Ghana, Dr Kwadwo Afari-Gyan, wrote to the Commonwealth Secretary-General, Mr Kamallesh Sharma, on 29 July 2008, inviting him to send Observers for the 2008 Presidential and Parliamentary Elections (see **Annex II**). In line with Commonwealth practice, the Secretary-General sent an Assessment Mission to Ghana from 14 to 18 October 2008. The team's mandate was to establish whether there was broad support for the presence of Commonwealth Observers during the election period and whether the Observers would have full access to all aspects of the electoral process as required by the *Guidelines* adopted by Commonwealth Heads of Government in 1991. The team also assessed the preparedness of the Election Commission for the elections.

The team met with the Electoral Commission (EC), representatives of the main political parties, non-governmental organisations and others. The Assessment Mission subsequently concluded that there was broad support for the presence of a Commonwealth Observer Group (COG) and that the necessary guarantees had been obtained.

Following the Assessment Mission's report, the Secretary-General decided to constitute an Observer Group and on 26 November 2008, wrote to the Chairman of the EC, informing him of his decision (see **Annex III**). The Observer Group consisted of seven eminent persons, led by Baroness Valerie Amos, former Leader of the House of Lords and former Minister for Africa (UK), supported by five Commonwealth Secretariat staff, led by Ambassador Ayodele Oke, Head, Africa Section of the Political Affairs Division. A Press Release setting out the composition of the Group was issued simultaneously in London and Accra on Friday 28 November 2008 (see **Annex IV**).

Terms of Reference

The Terms of Reference of the Observer Group, as set out by the Secretary-General in his formal letter of invitation to the members of the Group, were as follows:

"The Group is established by the Commonwealth Secretary-General at the request of the Chairman of the Electoral Commission of Ghana. It is to observe

relevant aspects of the organisation and conduct of the Parliamentary and Presidential Elections which are scheduled to take place on 7 December 2008, in accordance with the laws of Ghana.

The Group is to consider the various factors impinging on the credibility of the electoral process as a whole. It will determine in its own judgement whether the elections have been conducted according to the standards for democratic elections to which Ghana has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.

The Group is to act impartially and independently and shall conduct itself according to the standards expressed in the International Declaration of Principles to which the Commonwealth is a signatory. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. In its Final Report, the Group is also free to propose to the authorities concerned recommendations for change on institutional, procedural and other matters as would assist the holding of future elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Ghana, the Chairman of the Electoral Commission of Ghana, political and civil society organisations and thereafter to all Commonwealth Governments.”

The Secretary-General invited the members of the Observer Group in their individual capacities. He also made it clear to the Observers, the EC, the Government of Ghana and the media that, within the above Terms of Reference the Observers would form an independent judgment and that the views they expressed regarding the elections would be their own and not those either of their respective Governments or of the Commonwealth Secretariat.

Activities of the Group

The Chairperson of the Observer Group arrived in Ghana on Sunday 30 November, joining other members of the Group who had arrived a few days earlier. The Group was then briefed over the next three days by the Electoral Commission of Ghana (EC), political parties, civil society organisations, domestic and international observers, representatives of the Media, Commonwealth High Commissioners and Ambassadors (see **Annex V**).

On Thursday 4 December the Group deployed across the country in six teams to Greater Accra (two teams), Ashanti Region (Kumasi), Central Region (Cape Coast and Agona), Eastern Region (Koforidua) and Northern Region (Tamale) (see **Annex VI**).

On deployment, members of the Group travelled widely, observing the preparations for the election, media coverage and the campaign, in order to obtain an impression of the electoral environment ahead of polling day.

The teams observed polling¹, counting and compilation processes prior to returning to Accra on Monday 8th and Tuesday 9th December.

The Group issued an interim statement on Tuesday 9 December (see ***Annex VII***) which summarised the initial impressions of the Group on the process. The members of the Group then began to prepare their final report for the Commonwealth Secretary-General.

¹ On deployment, members of the Group observed polling in 89 polling stations in the following constituencies: Adenta, Agona East, Agona West, Akropong, Asikuma/ Odoben/ Brakwa, Ayawaso West, Bimbila, Bosomtwa, Klottey Korley, Kwabre East, Madina Abokobi, Mion, New Juaben North, New Juaben South, Nhyiaeso, Old Tafo, Subin, Suhum, Wulensi.

Chapter Two

HISTORICAL AND POLITICAL BACKGROUND

Independence and the Nkrumah era

On 6th March 1957 the Gold Coast was proclaimed a sovereign independent nation – the first in sub-saharan Africa. The country chose to remain a member of the Commonwealth upon attaining independence. On 1 July 1960 it was proclaimed a republic and Kwame Nkrumah was installed as president. The Gold Coast adopted the name Ghana after the medieval Ghana Empire of West Africa, which was famed for its wealth and trade in gold.

Prior to independence, the British government held a referendum which resulted in the integration of the territory of British Togoland² into the Gold Coast, thus creating a single entity that became the new independent country of Ghana.

Nkrumah spearheaded the movement for African Unity, laying the foundations for the formation of the Organization of African Unity (OAU). Nkrumah was also a firm supporter of the Commonwealth and the Non-Aligned Movement. Nkrumah's popularity in Ghana, however, began to wane. There were accusations that he was moving Ghana towards a one-party state, and concern was expressed about an increase in the President's powers through the passage of such laws as the Preventive Detention Act of 1958. Economic and social challenges were also responsible for general dissatisfaction among the people of Ghana.

Political turbulence from 1966 – 1980

On 24 February 1966, the government of Dr. Nkrumah was overthrown by the Ghana armed forces. A National Liberation Council (NLC), headed by Lt. General Joseph Arthur Ankrah, was formed to administer the country. General Ankrah was removed from office in April 1969 and Lt. General Akwasi Amankwa Afrifa became the Chairman of the NLC. The NLC later gave way to a three-man Presidential Commission with General Afrifa as Chairman. The Commission paved the way for a general election in 1969 which brought the Progress Party government into power, with Dr Busia as Prime Minister, Mr Edward Akufo Addo as President.

The Ghana armed forces again took control of government in January 1972, and Colonel (later General) Acheampong became the Head of State and Chairman of the National Redemption Council (NRC). The name of the NRC was later

² On independence British Togoland was a League of Nations Class B mandate in Africa, formed by the splitting of German protectorate Togoland into French Togoland and British Togoland.

changed to the Supreme Military Council (SMC). General Acheampong was replaced by General F.W.K. Akuffo in a palace coup in July 1978.

The SMC was overthrown in June 1979 in a mass revolt of junior officers and members of the Ghana armed forces, led by Flight Lieutenant Jerry John Rawlings. Following the uprising, an Armed Forces Revolutionary Council (AFRC) was set up under the chairmanship of Rawlings. The AFRC carried out a “house-cleaning exercise” in the armed forces and society at large, with the aim of restoring a sense of moral responsibility and the principle of accountability and probity in public life. The AFRC was in office for only three months and, in pursuance of a programme already set in motion before the uprising, allowed general elections to be held. On 24 September 1979, the AFRC handed over power to the civilian administration of Dr. Hilla Limann, leader of the People’s National Party which had won the elections.

The Limann administration was overthrown on 31 December 1981 in another Rawlings-led coup. Rawlings became the Chairman of a nine-member Provisional National Defence Ruling Council, (PNDC) with Secretaries of State in charge of the various ministries being responsible to the PNDC.

Return to multi-party democracy

Immediately on assumption of office, the PNDC set up a National Commission for Democracy (NCD) charged with the formulation of a programme for “...the more effective realisation of true democracy.” The government of the PNDC also provided for the establishment of elected District Assemblies to bring local government to the grassroots.

In 1990, the NCD, at the prompting of the PNDC, organised forums in all the 10 regions of the country to solicit the views of Ghanaians on their preferred form of government. This exercise eventually led to the promulgation of the 1992 Constitution which was approved by the people of Ghana in a referendum in April 1992. In May 1992 the PNDC lifted the ban on political activity and restored the freedom of the press.

The 1992 and 1996 elections

In the Presidential elections held on November 3, 1992 which the Commonwealth observed, Flt.-Lt- Rawlings stood on the ticket of the National Democratic Congress (NDC), and beat his closest rival Prof. Albert Adu Boahen who represented the New Patriotic Party (NPP). The Progressive Alliance comprising the NDC, the National Convention Party and the Eagle Party won 198 seats out of a total of 200 in the Parliamentary elections held on December 29, 1992,. Four parties, including the NPP, boycotted the Parliamentary elections. In its report, the Commonwealth Observer Group noted that the process of transition to multi-party democracy in Ghana was marked by a number of

contentious issues which engendered an atmosphere of deep-seated suspicion of the motives and actions of the incumbent.

The report also noted that the “...events of the first years of the [Rawlings] revolution cast a long shadow, and memories of traumatic events were still fresh in people’s minds.” According to the report, the ‘culture of silence’ had been lifted and Ghanaians felt able to speak freely of the unpleasant experiences of the past. The report further highlighted that a consequence of this was the acute polarization of society in the lead up to the 1992 elections. Other concerns highlighted by the Group included a lack of dialogue between government and opposition, and an ‘unsatisfactory’ playing field.

On the electoral process itself, the Group expressed concern about the preparation, compilation and publication of the voter’s roll and further highlighted problems with technical aspects of the poll. Nonetheless, the report concluded that the above comments were not ‘to be understood as in any way detracting from the overall freeness and fairness of the process.’

The opposition NPP compiled its complaints in a report entitled *The Stolen Verdict*. In particular, the opposition parties believed that the voters’ register, criticised by the Commonwealth and other observers, was fundamentally flawed.

The Commonwealth observed the 1996 elections which saw Rawlings re-elected for a second term. In its report, the Observer Group pointed out that the 1996 elections took place ‘against the background of the contentious 1992 polls.’ The Group, nonetheless, noted the positive differences this time including the new Constitution which provided the basis for a revamped Electoral Commission and electoral process; steps taken by the Electoral Commission to instil widespread confidence that the electoral procedures would be open and fair; and the fact that in contrast to the 1992 elections, both the 1996 Parliamentary and Presidential polls were held concurrently. Notwithstanding various concerns such as delays in getting the results from some polling stations, lack of a code of conduct for political parties, and the role and attitude of the media, the Group concluded that ‘overall the conditions allowed a free expression of the will of the electors’.

The 2000 and 2004 elections

In the first round of the December 2000 elections, John Kufuor of the NPP, won the Presidential vote with 48.17% of the vote, compared to 44.54.% for the vice-president John Atta Mills and Presidential candidate of the NDC. The NPP also won 100 of the 200 seats in Parliament. The NDC won 92 seats, while independent and small party candidates won eight seats. In the 28 December 2000 run-off election, with pledges of support from the other five opposition parties, John Kufuor defeated Atta Mills winning 56.73% of the vote. Both rounds of the election were observed, and declared free and fair by domestic and international observers. President Kufuor took the oath of office on January 7,

2001, becoming the first elected president in the history of Ghana to succeed another elected president. He was re-elected in December 2004 for a second four-year term, becoming the first civilian president (without a military background) to serve two consecutive terms.

The Commonwealth did not observe either election but was represented by a personal representative of the Commonwealth Secretary-General.

BACKGROUND TO THE 2008 ELECTIONS

These elections were the fifth since Ghana's return to multiparty democracy and the second time power has been handed from one elected leader to another. During our briefings, we were made aware of heightened expectations due to two key factors: firstly, after being in opposition for eight years the NDC was keen to return to the helm of government; secondly, the discovery in Ghana of major deposits of oil meant that substantial revenues would be available to the new government. In this context, the Parliamentary and Presidential races were fiercely contested.

Voter Registration: The bloated register and other issues

The EC holds a "limited registration" exercise every election year. This exercise is intended to capture new voters who have attained the voting age, those who have transferred from one constituency to another and to remove the names of those who have died. There was no registration in 2007 as the Electoral Commission was focused on the procurement of new equipment.

In March 2008, the NDC claimed that the voter's register in the Ashanti region was bloated by 100%. The EC established an inquiry which concluded that the register contained anomalies, and took steps to clean it. By the time the official registration took place, however, the increased tension between the political parties had heightened and there were incidents of violence.

The voter registration exercise, originally scheduled for March, May and July 2008 was delayed, and carried out from July 31 to August 11. A total of 1,835,417 people registered, exceeding the EC's target of between 600,000 and 800,000. All stakeholders, including the Chair of the EC, believed that the voter register was bloated.

The EC stated that the reason for the delay was the difficulty in procurement of new equipment, cameras in particular, for registration. The procurement process challenged the EC logistically and there was some doubt as to the release of government funding for procuring this equipment. The Group was informed in various briefings that by May 2008 only 50% of the cameras had arrived. The

limited registration exercise started late, with fewer cameras than required, and the EC extended the process by two days.

The extended registration process was controversial. There were allegations of a failure to consult stakeholders, the absence of serial numbers on some registration forms, and allegations that certain political parties gained an unfair advantage through this process.

While in Ghana in October 2008, the Commonwealth Assessment Mission reported that it received numerous allegations of strategic “bussing” of voters from one constituency to another, as well as foreigners being brought in to register. It was stated that i) the queues were uncharacteristically long and that as a result of this (ii) some people did not manage to register. There were also unsubstantiated claims by many commentators that the two main political parties were responsible for inflating the register. These allegations were also made during our briefings immediately prior to the December elections.

In its report, the Commonwealth Assessment Mission observed that the combination of the late start of registration, a bloated register and changes in the electoral timetable resulted in the erosion of confidence in the EC.

The EC stated that they encountered difficulties during the registration period and alleged that the majority of the problems were caused by the two main parties who were accusing each other of malpractice. The challenge for the Electoral Commission was that the legal framework stipulates that if someone possesses a valid voter identification card they are entitled to vote. The Group elaborates on this matter in Chapter 3 of this report. In that context, the EC appealed to the people of Ghana to take their civic and democratic responsibilities seriously and help the Commission clean the register.

Other non-political reasons for the bloated register are worthy of note. Ghana does not yet have a fully institutionalised ID system so the voter ID card is often used as proof of identity for transactions such as banking. The procedures for replacing lost voter ID cards are lengthy and cumbersome which encourages voters to register more than once. Minors also registered so that they could use the registration card as a form of identification for purposes other than voting.

The ethnic dimension

The ethnic divisions in Ghana mirror the situation in a number of African countries, which often play out in the political arena. In previous elections, both parties drew significant support from their respective strongholds, and the trend was expected to continue in the 2008 elections. Indeed, the Chairman of the National Enforcement Body of the Political Parties Code of Conduct 2008, Rev. Dr. Fred Deegbe, cautioned that political parties must ‘desist from the use of

ethnicity to score political points and as a basis of support'. However, this proved to not be a notable feature of the 2008 elections.

Campaigning

By September 2008 the NPP and NDC as well as other political parties had launched their campaigns, holding rallies across the country. Campaigning was sometimes marred by clashes between rival political parties. In the lead-up to the elections, there were increasing reports of isolated incidents of violence, particularly in the strongholds of the two major political parties (the NDC and the NPP). Violent incidents were reported in Tamale in the Northern Region, Cape Coast in the Central Region, Old Fadama and Agbogbloshie both in the Greater Accra Region and Sefwi Akontombra in the Western Region. The NPP and NDC accused each other of being responsible for this violence, while other political parties pointed fingers at both main parties. This led to a wide range of stakeholders including civil society, international observers, religious and traditional leaders and the EC to preach the peace message on a significantly large scale.

Under the auspices of the Institute of Economic Affairs, two Presidential and one vice-Presidential debate were held. These were aired on national television and generated much interest among the public. This is a positive feature at this stage in the development and consolidation of democracy in Ghana. Commentators highlighted the fact that for the first time, Ghana was moving towards a policy-based rather than an ethnic-based election.

Chapter Three

PREPARATIONS FOR THE ELECTION

LEGAL FRAMEWORK AND ELECTION ADMINISTRATION

Constitution of Ghana

The 1992 Constitution of the Republic of Ghana that came into effect on January 7, 1993, declares Ghana to be a unitary republic with sovereignty residing in the Ghanaian people. It was approved by the people of Ghana in a referendum on 28 April 1992. The document reflects the lessons drawn from the abrogated constitutions of 1957, 1960, 1969, and 1979, and incorporates provisions and institutions drawn from British and United States constitutional models.

Ghana's legal system is based on the Constitution, Ghanaian common law, statutory enactments of parliament, and assimilated rules of customary (traditional) law.

The laws governing Ghana's electoral systems are contained in the Constitution (as amended) in addition to statutes, decrees, constitutional instruments and legislative instruments. In addition to the Constitution, other laws governing elections, *inter alia*, are as follows:

- The Electoral Commission Act 451 (1993)
- The Political Parties Law Act 574 (2000)
- Citizenship Act 591 (2000)
- The Representation of the People Law, 1992 (As amended)
- Presidential Elections Law 1992 PNDCL, 285

In effect, the Ghanaian electoral process is governed by the Constitution, specific electoral laws, and rules and regulations which the Electoral Commission is empowered to make.

The Electoral System

According to Article 63 of the Constitution, the election of the President is based on universal adult suffrage. Whichever candidate receives more than fifty per cent of the total number of valid votes cast at the election is the winner. Where no candidate obtains the number or percentage of votes specified above, a second election is to be held within 21 days after the previous election. The

candidates for the run-off election shall be the two candidates who obtained the two highest numbers of votes at the previous election.

Ghana is demarcated into ten regions and 230 constituencies. Each constituency elects a member of parliament under the laws of demarcation. Members of Parliament are elected by direct popular vote in single-member constituencies using the first-past-the-post system to serve 4-year terms. Candidates need not represent a political party. Independent candidates are free to contest both Parliamentary and Presidential elections.

The Electoral Commission

One of the major provisions in the 1992 Constitution of Ghana is the establishment of the Electoral Commission. Articles 43, 44 and 45 of the Constitution provides for the membership of the Commission, qualifications and functions, whilst Article 70 of the Constitution vests in the President the power to appoint members of the Commission.

Article 46 of the Constitution gives the Commission its authority:

“Except as provided in this Constitution or in any other Law not inconsistent with the Constitution, in the performance of its functions, the Electoral Commission shall not be subject to the direction or control of any person or authority”.

Article 43 of the Constitution establishes an Electoral Commission which consists of a Chairman, two deputy chairmen and four other members. To qualify for appointment as a member of the Electoral Commission, a person must be qualified to be elected a Member of Parliament. The Chairman of the Electoral Commission has the same terms and conditions of service as a Justice of the Court of Appeal.

The initial seven members of the Electoral Commission were appointed by former President Rawlings. Three of the initial members have since retired and/or vacated the office, and were replaced through appointments by President Kufuor.

The Constitution and the Electoral Commission Act (1993) grants the Electoral Commission the following functions:

- compiling the register of voters and revising it at such periods as may be determined by law;
- demarcating the electoral boundaries for national and local government elections;
- conducting and supervising all public elections and referenda;

- educating the people on the electoral process and its purpose;
- undertaking programmes for the expansion of the registration of voters;
- undertake the preparation of identity cards;
- store properly election material; and
- performing such other functions as may be prescribed by law.

The Political Parties Act

The Political Parties Law Act 574 (2000) echoes the Constitution in guaranteeing all citizens the right and freedom to form or join political parties and to participate in the activities of same. This act prohibits the formation of political parties based on ethnic, gender, religious, regional, professional or other sectional divisions, or which uses words, slogans or symbols which could arouse such divisions. The Act further prohibits canvassing in the name of any organisation unless it is registered as a political party with the EC.

Under the Act, a leader or a member of the executive of a political party must be a citizen of Ghana who is qualified to be elected as a Member of Parliament, or is qualified to hold any public office.

It is also noteworthy that where two or more registered political parties come together and *merge* as one party, the registration of each party existing immediately before the effective date of the merger lapses, and the new party is required to register anew with the Commission. In contrast, where two or more registered political parties *form an alliance* of their parties the following provisions shall apply:

- each party shall remain as a separate registered party for the purposes of the Act;
- each party shall furnish the Commission within such period as the Commission shall direct with a copy of the terms of the agreement of the alliance;
- in any public elections each candidate shall be identified by his portrait and the symbol of his party on the ballot paper;
- where the parties nominate separate candidates to contest an election in the same constituency each candidate shall be identified separately on the ballot paper and in relation to his party only; and
- fees payable under the Act or any regulations made under the Act by or in respect of a candidate for elections shall be paid separately by or for each candidate as standing for the elections in the name of his own party, the alliance notwithstanding.

Finally, under the act only a citizen may contribute in cash or in kind to the funds of a political party. A firm, partnership, or enterprise owned by a citizen or a company registered under the laws of the Republic, at least seventy-five percent of whose capital is owned by a citizen, is for the purposes of this Act a citizen.

Political Parties Code of Conduct

The Political Parties Code of Conduct 2008 is a revision of the 2004 version. A meeting was held in early 2008 by representatives of political parties and other stakeholders, under the aegis of the Inter-Party Advisory Committee (IPAC), to review the Political Parties Code of Conduct 2004 and discuss issues in the lead up to the forthcoming elections. Ghana's Institute of Economic Affairs (IEA) was subsequently authorised to publish the 2008 Code.

The Code focuses on the following elements: democratic imperatives, campaigning procedure, out-of-campaign activities, elections, enforcement and implementation guidelines. It seeks to direct the mode of political activities to ensure decorum before, during and after the December polls.

The Code underscores the right of political parties to present their views to the electorate without hindrance. It entreats all political parties to observe all rules and regulations relating to the conduct of elections and the maintenance of public order.

The Code also prohibits political parties from, among other activities, obstructing the rallies or meetings of other political parties, from carrying arms and offensive weapons, and from using state resources and events to campaign. Notably, the Code further calls on parties to adhere to the Public Order Act, 1994 (Act 491) which requires Party officials to co-ordinate campaign activities in such a way that no two meetings or rallies are held in the same locality on the same day, or held so close together that a possibility of conflict arises.

The Code further calls on political parties to observe all relevant laws and rules outside campaign periods. It calls on parties to ensure that their agents and officials are sufficiently trained for registration and other exercises, and work to safeguard the integrity of the electoral process itself in transactions before, during and after polling day.

An 11-member National Enforcement Body (NEB) headed by the Reverend Fred Deegbe, General Secretary of the Christian Council, was tasked with monitoring and investigating breaches of the code. Regional enforcement bodies operating in each of the ten regions report to the NEB.

The Political Parties

The right to form political parties is guaranteed under the Constitution and the Political Parties Law Act 574 (2000). Under the Constitution and the Act, every citizen of Ghana of voting age has the right to join a political party. Section 1 (3) of the act provides that a political party is also free to "...participate in shaping the political will of the people, disseminate information on political ideas, social and economic programmes of a national character and sponsor candidates for public elections other than to District Assemblies or lower local government unit".

Under the Constitution, every political party shall have a national character, and membership shall not be based on ethnic, religious, regional or other sectional divisions. An organisation shall not operate as a political party unless it is registered as such under the law for the time being in force for the purpose.

The following political parties took part in the first round of the December 2008 presidential and Parliamentary elections:

- New Patriotic Party(NPP)
- National Democratic Congress (NDC)
- Convention People's Party(CPP)
- People's National Convention(PNC)
- Democratic People's Party (DPP)
- Democratic Freedom Party (DFP)
- Reformed Patriotic Democrats Party (RDP)

Administrative divisions

Ghana is divided into ten regions: Volta, Central, Brong Ahafo, Eastern, Western, Northern, Greater Accra, Ashanti, Upper West, and Upper East.

The Executive

The Constitution of Ghana provides that the President is the Head of State and Head of Government, as well as Commander-in Chief of the Armed Forces. The President is elected by universal suffrage for a maximum of two four-year terms. John Agyekum Kufour, the outgoing president, was sworn in on 7 January 2001 for the first time, He secured re-election in December 2004 for his final term. The Vice-President is designated by the Presidential candidate before the Presidential election.

The Cabinet consists of the President, Vice-President and 19 Ministers of State. Additionally, there are 5 non-cabinet ministers, 10 ministers of State and 10 regional ministers.

Under the Constitution a person shall not qualify for election as President of Ghana unless he is:

- a citizen of Ghana by birth;
- has attained the age of forty years; and is
- a person who is otherwise qualified to be elected a Member of Parliament.

The Presidential election

Under the Constitution a person shall not be a candidate in a Presidential election unless he is nominated for election as President by a document which:

- is signed by him;
- is signed by not less than two persons who are registered voters resident in the area of authority of each district assembly;
- is delivered to the Electoral Commission on or before the nomination day; and
- designates a person to serve as Vice-President.

The Presidential nomination is conducted in accordance with the Public Elections Regulations of 1996 (a Constitutional Instrument) which outlines the procedure for this exercise in detail. The filing of Presidential nominations for the 2008 elections was held from 16-18 October. The following Presidential nominees were registered:

- Nana Addo Dankwa Akufo-Addo - New Patriotic Party(NPP)
- John Evans Atta Mills - National Democratic Congress (NDC)
- Papa Kwesi Nduom - Convention People's Party(CPP)
- Edward Mahama - People's National Convention(PNC)
- Thomas Ward-Brew - Democratic People's Party (DPP)
- Emmanuel Ansah-Antwi - Democratic Freedom Party (DFP)
- Kwabena Adjei - Reformed Patriotic Democrats Party (RDP)
- Kwesi Amofo-Yeboah (Independent candidate)

The Legislature

According to the Constitution, the Parliament of Ghana shall consist of not less than 140 elected members. Each constituency is represented by one Member of Parliament. Legislative power is vested in a 230-member unicameral Parliament,

which is elected by direct adult suffrage for a four-year term. Ministers are appointed by the President, subject to approval by the Parliament³.

Under the Constitution, a person shall not be qualified to be a Member of Parliament unless:

- he is a citizen of Ghana;
- has attained the age of twenty-one years and is a registered voter;
- is resident in the constituency for which he stands as a candidate for election to Parliament or has resided there for a total period of not less than five years out of the ten years immediately preceding the election for which he stands, or he hails from that constituency; and
- has paid all his taxes or made arrangements satisfactory to the appropriate authority for the payment of his taxes.

Among the categories of people disqualified from becoming members of parliament are: persons who owe allegiance to another country, persons declared or adjudged bankrupt or of unsound mind, and persons with criminal convictions (unless they have received a pardon). Other groups disallowed from becoming members of parliament include members of the security, judicial and immigration services.

Election Dispute Resolution Mechanism⁴

The legal system is based on the English legal system and customary law. The Superior Court of Judicature comprises a Supreme Court, a Court of Appeal, a High Court and a Regional Tribunal. Inferior Courts include Circuit Courts, Circuit Tribunals, Community Tribunals and such other Courts as may be designated by law. Fast Track Courts have also been established to speed up court trials and overhaul justice delivery in the country.

The Supreme Court consists of the Chief Justice and no fewer than nine other Justices. It is the final court of appeal in Ghana and has original jurisdiction in matters relating to enforcement or interpretation of the Constitution.

In accordance with the Constitution of Ghana there are enshrined legal provisions to deal with electoral disputes. An election petition for Parliamentary elections is made in the first instance to the High Court with a further final right of appeal to the Court of Appeal. An exception to this is a Constitutional interpretation which needs to be made at the Supreme Court.

³ The Constitution also provides for a 25-member Council of State, principally comprising Presidential nominees and regional representatives.

⁴ Manual on Election Adjudication in Ghana, Judicial Service of Ghana, November 2008.

An election petition for the Presidential election is made to the Supreme Court. The sitting Chief Justice, recognising that this process has in the past proven to be a very lengthy procedure, established a mechanism⁵ to expediently deal with any election disputes. A Fast Track process was been adopted and relevant High Court Judges were identified in all regions.

Voter Registration

The EC is responsible for the registration of voters for all public elections and referenda. Full National Registration was undertaken in the first quarter of 2004, with an update of the register in the second quarter of 2006. Thus, in keeping with its previous practice, a limited registration (LVR) exercise or update, was conducted prior to the election (31 July - 11 August, inclusive of a two day extension). The LVR exercise is primarily designed to register newly qualified voters, that it to say anyone who had become 18 since the previous LVR exercise in 2006. It should be noted however, that this exercise is not just limited to newly qualified voters and is open to all eligible citizens that have not previously registered to vote.

The Poll

The EC operates under the principle that “where you register is where you vote.” For the 2008 elections, there were 21,004 polling stations in the country. Under the Public Elections Regulations Act of 1996, votes at the poll are to be given by secret ballot and the result ascertained by counting the votes cast for each candidate.

Under the aforementioned regulation, the poll is to be taken between the hours of seven in the morning and five in the evening. The Presiding Officer has the duty to regulate the number of voters to be admitted to the polling station and keeping order at his or her polling station.

In terms of the voting procedure, a voter desiring to record his vote is to present himself at his or her allotted station. The Presiding Officer or polling assistant delivers the ballot paper to the voter after checking that the voter is registered and has not already voted, and that he or she possesses a valid means of identification.

For the counting of votes, each candidate may appoint one counting agent per assigned polling station. The Returning Officer is to make arrangements for counting the votes at each polling station in his constituency in the presence of the counting agents as soon as practicable after the close of the poll.

Immediately after the close of the poll, in the presence of the candidates or their representatives and counting agents, the Presiding Officer is to observe the

⁵ A “Manual on Election Adjudication in Ghana” was launched by the Chief Justice in November 2008

following procedure under the Public Elections Regulations Act of 1996: open each ballot box and take out all the ballot papers in the box; proceed to count the ballot papers at the polling station; and record the total number of votes cast in favour of each candidate.

Following the above exercise, the Presiding Officer, the candidates, their representatives or their counting agents shall then sign a declaration stating the name of the polling station, the total number of persons entitled to vote at that polling station, and the number of votes cast in favour of each candidate. The Presiding Officer shall there and then announce the results of the voting at that polling station before communicating them to the Returning Officer and shall provide each candidate, his representative or counting agent with a copy of the declaration of results.

Security arrangements

The National Elections Security Task Force (NESTF) was established by the Government to coordinate measures to help maintain peace, law and order in the country before, during and after the elections. Specifically, the NESTF was to:

- provide security at printing houses where the ballot papers were being printed;
- provide security for the transportation of sensitive election materials;
- provide security at the polling centres;
- provide security at the collation centres;
- escort election material on polling day to polling stations; and
- escort material on polling day to collation centres.

KEY ISSUES

VOTER REGISTRATION

Limited Voter Registration (LVR)

The EC initially estimated that the exercise would potentially add between 600,000 – 800,000 additional registrants to the 10,987,057 already on the Voters Register of 2006. This estimate was based in part on their previous experience of the Limited Voters Registration (LVR) in 2006, as well as assumed population growth information derived from the previous 2001 National Census.

Timeline Compression

The LVR exercise in 2008 was undertaken later than the equivalent 2006 exercise. On this occasion the EC utilised digital photographic equipment and associated printers to take pictures of registrants and for the production of the Voter ID card. It appears that the long lead time in procuring this specialist equipment may have been underestimated by the EC and the initially planned commencement of the exercise had to be delayed. This initial delay thus compressed the electoral timetable.

Management of Limited Voter Registration

Significant material shortages were widely reported during the registration exercise including shortages of registration forms and the materials associated with the production of Voter ID cards. The EC extended the registration period by two days; it was reported, however, that the closing stages of the exercise still saw long queues in some registration centres. EC supplies of original scannable registration forms ran out. Non-scannable forms were then utilized which created an extra administrative burden in the production of the LVR. There were also significant shortages in the ink cartridges that were crucial in the production of the Voter ID Card. Registrants had to return to complete the photographic registration step in a final mop-up exercise in early September.

At the end of the LVR, 1.8 million registration forms were completed. All stakeholders including the Chair of the EC publicly agreed that the register was significantly bloated and appealed to all stakeholders to assist the EC in identifying minors in particular, and potential multiple registrants from the register. The EC noted that this voluntary process would not lead to an electoral offence prosecution. This large increase over the planned figures was attributed in part to the following factors:

- In the current absence of a National ID Card in Ghana, the Voter ID card is widely accepted as the only “official” valid means of personal identification. It therefore has a value far greater than just that of voting. An EC procedure exists for replacement of lost or damaged cards but this was reported to be cumbersome and lengthy. The LVR exercise thus becomes a more convenient way of replacing a lost card.
- Historically the removal of the deceased from the voters register has been a challenge to many Commonwealth election management bodies. Ghana is no exception. The official collection of Birth, Death and Marriage information is made available to the EC in a form that is not readily compatible with EC database systems. Voter ID information has then to be gathered directly from relatives of the deceased, an often time-consuming and challenging process.

- Other categories of ineligible voters that were widely reported to have been initially registered in the exercise were minors (under 18 year olds) and non-Ghanaian nationals. Informed commentators suggested that the ruling party and the opposition parties were all guilty of enticing minors to register in large numbers. Other registration malpractices such as the registration of non-Ghanaians from neighbouring countries, the strategic bussing of registrants from one electoral area to other, and attempted multiple or duplicate registration were all identified as adding to the over-inflated LVR figures.
- Citizens who had moved away permanently from the Constituency of registration since 2004 may not have had an opportunity to permanently transfer their electoral registration to their new place of abode. Whilst noting that the EC does have a temporary registration facility available at election time, citizens may have overlooked this process and “re-registered” in the LVR process.

Cleaning of the Voters Register

It should be noted that of the initially reported 1,835,417 additional registrants, 167,533 did not return, for whatever reason, to have their photograph taken and Voter ID issued. Their registration was thus deemed to be incomplete and their details were not displayed as part of the exhibition process.

Registration details	Description and electoral activity
10,987,057	2006 Voters Register
1,835,417	Limited Voter Registration Exercise (not all photographed)
1,677,884	Registrants with both Photos taken and Voter ID Issued
(115,843)	Exhibition and challenge procedure (100k deceased)
12,549,098	Provisional Voters Register (PVR)
(76,234)	Additional minors etc removed from PVR
12,472,864	Final Voters Register (FVR)

(12,472,758 reported by the EC as FVR in Presidential Result declaration on 10 December 2008. The variance from the table is a slight reduction due to further voluntary deletions).

76,234 ineligible voters were voluntary identified and their details removed from the register. In the main these were understood to be minors.

The EC itself has further identified 150,000 duplicate registrations. The details held are largely identical in both entries, thus it is believed that the Voter ID card for non-electoral identification purposes was the main motivation to multiply

register. These non-voluntarily identified “duplicate” registrants are subject to an electoral offence prosecution. If found guilty, the FVR will be further reduced by 300,000.

Exhibition of Voters List (PVR)

The PVR was exhibited in the period 5 to 11 October 2008. It was widely reported that very few citizens attended exhibition centres. 115,843 voters were deleted from the register at this point. Approximately 100,000 names were removed as deceased, the remainder as a result of the challenge process. The exhibition of any provisional voters register is a crucial step in securing its overall veracity. Although the PVR was widely known to be bloated, stakeholders and in particular political parties did not utilise this opportunity to challenge the ineligible registrants. This omission strengthens the informed view that political parties were instrumental in causing large numbers of minors to register.

Stakeholder Confidence and future developments

The issue of the bloated register inevitably leads to an erosion of stakeholder confidence in the competency of the electoral management body. The EC ideally should move towards instituting an annual rather than biennial revision of the Voter Register with a facility for the permanent transfer of voters. A full national registration will again need to be undertaken after the next national census in 2010, the results of which will not be available prior to the need to update the register again ahead of the 2010 Local Government elections. These two future periodic registration exercises provide a convenient opportunity for the EC to consider moving away from a periodic to a permanent continuous Voter Register.

In light of the difficulties associated with the voter registration process, the Group recommends that the EC should streamline the process of replacement Voter ID cards to remove the incentive to “Re-register” rather than seek a replacement Voter ID card. We further recommend that the EC institutes a procedure for the permanent transfer of voters rather than a procedure associated with the periodic conduct of elections.

Ethnic issues

A number of longstanding and periodically violent chieftain disputes exist and remain unresolved. This is most notable in the Northern Region where ethnically polarised traditional ruling house disputes are also politicised and exploited at election period.

Chapter Four

THE CAMPAIGN

The campaign leading to the December 2008 poll was governed by the Electoral Law and guided by the Political Parties Code of Conduct (2008). According to the Electoral Law, “every candidate for election to Parliament has the right to conduct his/her campaign freely⁶.

The Political Parties Code of Conduct (2008) prohibits political parties from, among other activities, obstructing the rallies or meetings of other political parties, carrying arms and other offensive weapons and using state resources and events to campaign. Notably, the Code admonishes parties to adhere to the Public Order Act, 1994 (Act 491) which requires Party officials to co-ordinate campaign activities in such a way that no two meetings or rallies are held in the same locality on the same day, or held in close proximity to each other.

The Code further calls on political parties to observe all relevant laws and rules outside campaign periods. It calls on parties to ensure that their agents and officials are sufficiently well trained for registration and other exercises, and work to safeguard the integrity of the electoral process before, during and after polling day.

The campaign involved a mixture of door-to-door canvassing, mass rallies, extensive use of the print and electronic media as well as posters and billboards. In the Central Region, there was very innovative and effective use of “keep fit” programmes, which combined sports with electioneering. The Group was informed by the local police chief that political parties did not require special permission to hold sporting events. They therefore used the loophole in the law to hold a sports/political event. The two major political parties agreed to host these events on alternating Sundays, to avoid any potential clashes.

The campaign was mostly issue based, with the two main political parties campaigning on the platforms of progress and change. While the NPP’s main campaign slogan was “We are Moving Forward”, the NDC’s main campaign theme was the promise of “Real Change”.

There were no observed breaches of the 24-hour cooling off period prior to polling day.

⁶ Electoral Laws of Ghana, Chapter 6, Part III, Section 14

Gender and the 2008 Elections

In Ghana, women constitute the majority of the population but have been under-represented in the national parliament. Election statistics suggest that women continue to experience discrimination at the political level and experience a number of systemic and other obstacles to their fuller participation. Statistics indicate that illiteracy is still higher among females (59.7%) than males (37.3%) in all regions of Ghana, but worse in the rural savannah (75.3% overall), with 84.2% for women and 66.9% for men. In addition, 38.3% of women have never been to school as compared to 22.3% for men⁷. The Group also noted that, even when women are selected as party candidates, they are generally less financially empowered and experience greater difficulties in raising funds for election purposes.

The question of gender will continue to challenge the democratic development of Ghana. Democracy has often been viewed as the system that best permits the expression and satisfaction of individual preferences. It is assumed that the principles of democracy and the application thereof would guarantee free and equal opportunities to all competitors. In reality, however, women in Ghana face financial, educational, organisational, informational, resources, training and time obstacles.

It is noteworthy that for the 2004 Parliamentary elections, through a collaboration between the United Nations Gender Program, Electoral Commission, National Governance Program and the Ministry of Women and Children Affairs (MOWAC), women candidates were provided with financial support totalling one million five hundred thousand Cedis (¢1,500,000.00) each to enable them to pay stipends to their polling agents on polling day⁸. The objectives were to:

- lighten the financial burden on women candidates;
- make the playing field a little more even for women candidates, and
- encourage female participation in elections.

For the 2008 Parliamentary Elections the EC did not play a facilitation role in the distribution of funds for female candidates, as had occurred for the 2004 elections.

⁷ “Consolidated Concerns of Women for 2008 Elections and Beyond”, Department for International Development (DfID)/ Women in Law and Development in Africa (Ghana chapter)/ Government of the Netherlands, October 2008

⁸ Elections 2004: Ghana’s Parliamentary and Presidential Elections, Report published by the Electoral Commission of Ghana with support of the Friedrich Ebert Stiftung, November 2005

As a signatory to the 2001 Millennium *Declaration* and the *Commonwealth Latimer House Guidelines* Ghana committed itself to not only improve the number of women in parliament, but to also enhance the role of women within political parties. Politically, the Commonwealth's goal is to achieve a minimum of thirty percent female representation in national parliaments.

Ghana has committed itself to achieving gender equality and empowerment of women by 2015. Indeed, the UNDP Country Programme Plan of Action for Ghana 2006-2010 notes that "...the gender issue calls for sustained efforts. The Government has taken a number of policy and institutional measures to promote gender equality and there are strong active civil society organisations addressing the issue.... In terms of representation and as a result of the 2004 elections, a total of 25 women were elected as Members of Parliament out of a total number of 230 seats."⁹

Indeed in the 2004 general elections a total number of 104 women contested the elections, representing 10.9 percent of the total number of candidates. That number, however, reflected a modest increase from the 2000 elections, where 95 women (8.8 percent) contested the elections, with 18 successful women candidates¹⁰. (see ***Annex VIII***).

For the 2008 general elections the Group noted that there was a slight decrease (total of 103) in the number of women who were selected as candidates by the political parties. This was particularly true of the two major political parties, with the minor political parties recruiting and nominating more women to contest the elections. None of the eight Presidential candidates were women while three political parties chose women as vice Presidential candidates. On the eve of the elections one female candidate, Ms Lovea Amponsah (on the ticket of the Democratic People's Party/ DPP)¹¹, withdrew from the election on the grounds that she had not received any significant support, financial or otherwise, from the party on whose platform she was contesting. In the Group's briefings with the political parties we were not convinced that political parties placed sufficient premium on women's political empowerment.

The Group noted that while parties were prepared to appoint more women to decision-making positions, they were not prepared to place them in safe seats and/or consider any form of affirmative action. More encouragingly, the Group noted that civil society groups and the media have made commendable efforts to promote and support the cause of female candidates, with frequent advertisements urging the Ghanaian electorate to vote for more women in parliament.

⁹ UNDP Country Programme Plan of Action for Ghana 2006-2010, p4

¹⁰ Elections 2004: Ghana's Parliamentary and Presidential Elections, Report published by the Electoral Commission of Ghana with support of the Friedrich Ebert Stiftung, November 2005

¹¹ "Female candidate pulls out of race", As reported in the Daily Graphic, Tuesday 2nd December 2008, p13

On polling day the Group observed a high percentage of female electors throughout the country casting their vote and there was no attempt made by polling staff, polling agents or other voters to deter or interfere with their choice. The Group also observed that, while women were recruited to serve as polling staff, Presiding Officers were usually male.

The Group therefore recommends that political parties commit to and make every effort to enhance the participation of women in national politics. It is important that women be given the opportunity to serve in key political and national decision-making and leadership positions at the party level. It further recommends that the state should also make every effort to enhance the participation of women to serve in key political and national decision-making and leadership positions.

Given the concerns raised by many stakeholders on the inadequacy of the training and/or experience of women, it is also recommended that the Commonwealth considers assisting Ghana through support for the establishment of an institute for the training of women in leadership, in collaboration with the relevant stakeholders. Consideration should also be given by political parties to adopting affirmative action to expedite an increase in the number of women in the parliament. Finally, the Group recommends that the Government of Ghana considers a constitutional amendment to make provision for gender equity.

The Young People and the 2008 Elections

In the 2004 elections, there were 13 young Members of parliament elected (ages 29 – 35) out of a total of 230 parliamentarians, suggesting a low the participation of young people in decision-making at the national level. This was brought to the Group's attention during briefings. A lack of a coherent policy aimed at ensuring greater youth participation by, and representation of, young people at all political levels was highlighted.

The Group was informed that young people were used by some political parties for the purpose of intimidation of voters during the campaign period. The Group was also told by various stakeholders that gangs of youth, known as “macho-men”, were being used by the two major political parties to intimidate constituents. On polling day there was very little evidence of the presence of the “macho-men”.

The Group was also informed that minors were registered during the registration process. Though there were fears of minors voting during the elections, the Group did not observe this on polling day.

The Group was informed by various youth organisations that they were constrained by a lack of financing for political purposes which could hinder their ability to contest elections whether at the party, local and national level.

On polling day there was ample evidence of strong youth participation as electors.

The Group strongly recommends that political parties make greater effort to enhance youth participation (both female and male) and effective representation at all levels. This would improve youth participation in decision-making. We further recommend that the Commonwealth Secretariat should improve its support for capacity building among young people focusing on youth participation in political matters. This should also include a focus on youth issues within a broader civic education programme.

Political Party and Elections Financing

Campaign and political party financing has become a strategic issue and a challenge for every democracy. The Group noted that, given the visible electioneering paraphernalia¹² and media advertising, huge sums of money were spent on the 2008 Presidential and Parliamentary elections.

Ghana presently operates quite a liberal a political party and elections financing regulatory framework. Under section 21 of the Political Parties Law Act 574, (2000), political parties are required to file returns with the Electoral Commission within six months from 31st December of each year, and the audited accounts of the party for each year. Section 21 further stipulates that political parties must disclose the state of their accounts, the source of funds, membership dues paid, contributions or donations in cash or kind, the properties of the party and the time of acquisition.

According to information provided by the EC, while there is compliance on the part of the political parties, it is haphazard in practice¹³. Under Section 23 of the Act, non citizens are prohibited from directly or indirectly contributing to political parties. The law does not make any provision for limits on contributions whether by individuals, or companies.

For the 2008 Presidential and Parliamentary Elections, the State provided minimal support for the political parties in the form of vehicles for election purposes. In the absence of formal public financing, political parties are heavily dependent on private contributions for electioneering. The Group notes that the nature of the regulatory framework does not provide the requirement for parity and equity.

The Group recommends that public finance be considered to supplement and support the current system of private financing of political parties, independent

¹² For example, posters, billboards, T-shirts, fans, leaflets, telephone top-up cards,

¹³ It is noted that the EC and the political parties plan to develop a reporting framework to regularise compliance for future elections.

candidates and elections campaigns. In this way, partial public financing will offer more equitable conditions among the various political parties and independent candidates to enhance the degree of transparency. The Group further recommends that the current regulation be strengthened to ensure that political parties and candidates declare their election spending to the relevant authorities in a timely manner.

Incumbency

In our briefings with various stakeholders, the issue of incumbency did not appear to be a major factor. However, the impact of incumbency is addressed in Chapter 5 as it pertains to media coverage accorded to the ruling party.

Chapter Five

MEDIA COVERAGE

Ghana has a vibrant media which consists of more than 30 newspapers and 126 FM radio stations.

Television is largely limited to urban areas, although the state owned Ghana Broadcasting Corporation has a wider national reach. Freedom of speech in the media is largely respected and from the briefings we received, there were no reports of incidents against journalists in relation to the coverage of elections.

During the week prior to polling day, the Group read the newspapers and listen to broadcasts on various FM radio stations and television stations. The Group noted that the media provided wide coverage of the election process, campaigns, and activities by the Election Commission, and disseminated useful information to the electorate on their duties and responsibilities on Polling Day.

Special election editions were aired daily. Some stations, such as Joy FM, Choice FM, Citi FM and Gold FM, as well as Ghana Television and TV3 had reporters around the country, which relayed live updates to listeners on the conduct of the elections. They also set up monitoring centres to coordinate reportage. We noted in particular that the website of one of the main FM stations, www.joyfmonline.com, emerged as one of the main sources of information on provisional results on which other FM stations relied.

Print media

It was clear from the nature of reporting and the language used and framing of the headlines and story content in the newspapers, that each of the newspapers had very strong political leanings. This was to be expected but the Group was alarmed at the degree of sensational political reporting in some sections of the local print media. There were several incidences where “screaming” headlines had no substantiation to back up the claims in the story content. The Group was told that the amount of coverage any political party received in a particular private newspaper depended on “how deep their pockets were.”

The Group was concerned at these developments, despite efforts by the Ghana Journalists Association and the National Media Commission to launch guidelines for responsible political and election coverage and training sessions conducted. In our view, both the reporting guidelines and the codes of professional practices were good. There appeared to be a disconnect, however, between the codes and guidelines and the quality of reporting, suggesting only weak enforcement of the codes.

Electronic media

The same trend which characterised the print media was visible in the manner in which the FM radio stations covered the election. The Group was told by officials from the National Media Commission that some radio stations, especially those that broadcast in local languages, often used language that could easily inflame and provoke tensions. The officials said that a manual on guidelines on responsible reporting in local languages had been produced, but had not been widely circulated.

State-owned media

Ghana Broadcasting Corporation is the state broadcaster. It has the widest reach and exerts enormous influence around the country. The state also owns the biggest circulation newspapers published by Graphic Communications. This includes the Daily Graphic, Ghanaian Times, The Mirror, and Spectator. It also runs the only news agency, the Ghana News Agency.

The state-owned media is required under Section 55 of the 1992 Constitution to provide fair opportunity to all political parties to present their programmes to the public by ensuring equal access. The Constitution also enjoins state owned media to provide all Presidential candidates the same amount of *time* and *space* on the state owned media to present their programmes to the people.

During the last week leading to the elections, however, a disproportionate percentage of the news line up on the state-owned television was heavily biased towards the ruling NPP. Senior officials of the outgoing government embarked upon a series of commissioning of projects and sundry public events which received huge coverage in the print and electronic media. Indeed, it was difficult to distinguish official government programmes from party activities.

Opposition political party officials who briefed the Group complained that their messages and activities were often not covered and that when given coverage they were relegated to the periphery.

The failure of state-owned media to comply with the constitutional requirement of providing equal and balanced coverage to all political parties is a cause for concern. This is more so in the context of the 1993 Ghana Supreme Court ruling that opposition parties should have equal access to state-owned media¹⁴.

Live talk shows

A recent development in Ghana is the “Talk Show” programmes which have become increasingly popular. Representatives of different political parties took

¹⁴ The case of NPP vs GBC: [1993-94], 2GLR

advantage of this development to convey messages about their political programmes. The talk shows also provided opportunities for listeners to phone in live to comment on the topics under discussion.

Blogs and internet coverage

Another important trend during the 2008 elections in Ghana was the creative use of the internet, website and blogs as platforms for dissemination of political messages and mobilisation of supporters. Candidates had websites where they would post press releases, manifestos, and a list of events.

Party members also ran personal blogs commenting on the prospects of their respective parties chances in the election. In addition, there were blogs by people based outside Ghana writing and commenting on political developments in the country. In addition, candidates had accounts with social networking websites where they regularly interacted with and mobilised their supporters.

Although the extent of reach of these multimedia campaign strategies was by and large limited to urban areas, it is a sign of how the political class and citizens in Ghana are beginning to take advantage of the advances in information communication technologies for political purposes.

Depth of coverage

The general content of the media's election coverage demonstrated a rich diversity of opinion. They were vibrant, critical and informative in many aspects of the processes in the lead up to the polling day, notwithstanding a tendency towards sensationalism.

Opinion surveys

The two major political parties commissioned their own polls which were published in newspapers and, in the majority of cases, each political party claimed that they would win the elections. The coverage of the opinion surveys, however, lacked statistical and analytical depth on the processes and methodologies that informed the outcomes of the opinion polls. Only one private newspaper, the Dispatch, carried polls that were generally seen to be credible.

International media coverage

These elections attracted substantial international media coverage. A number of foreign news agencies and media houses sent reporters ahead of the polls to cover the lead up to the elections. The main discourse of global media framed the coverage as a test for Ghana's democracy, and indeed for Africa. There was close attention given to the political and economic context of the election, especially the recent discovery of oil.

Conclusion

It is the view of the Group that the media played an effective role during these elections; the Group believes however that more needs to be done to improve the level of reporting in Ghana in order to make it more responsible, and responsive to the needs of a maturing democracy in Ghana.

The Group believes that live broadcasting of the voting process on polling day was commendable, and is a practice that should be encouraged and shared. We therefore recommend that the National Media Commission should ensure that the guidelines on responsible election reporting be strictly complied with. To this end, training in responsible political and election reporting should be strengthened and widened. It is further recommended that the legal requirement for state-owned media to provide equal coverage for all political contestants during elections should be enforced.

We support the Electoral Commission's ongoing reform efforts and in that context we recommend that the EC should establish a Media Watch Committee to monitor the reporting of all issues that touch on elections to ensure accuracy. Finally, to enhance public confidence in the results management process, we recommend that the EC ensures that its dissemination strategy is widely and effectively articulated in a timely manner.

Chapter Six

VOTING COUNTING AND RESULTS

PREPARATIONS FOR VOTING

Training of Polling Staff

The Group witnessed two training sessions of temporary election officials in Accra. The training was in an instructional manner to a large group of Presiding Officers and Polling Assistants. Although the training did not allow for much interaction between trainee and trainer, the quality of personnel on polling day was generally good.

Assembly of Polling Station Kits

Group members visited Regional and District Election Offices prior to polling day and were able to observe the assembly of the polling station kits. An effective process although in two observed instances it appeared somewhat disorganised.

POLLING

Polling Station Opening and Voting

Almost all of the polling stations that the Group observed were opened on time, except for a few polling stations in Accra in which the late delivery of some materials led to a slight delay. Generally speaking, crowds of voters had arrived well ahead of the official opening of the Poll at 7.00am. The Group observed that the procedures for opening the polling stations were generally followed.

Polling Stations were primarily located outdoors, usually in close proximity to schools or other public buildings. In Accra in particular, a number of polling stations were sited very close to roads and other pedestrian thoroughfares which at times did not facilitate adequate crowd control. During our observations, we saw campaign material in only one polling station we visited.

The Group observed that the Presiding Officers were firmly in control of their polling stations and demonstrated a high degree of professionalism. Only in one instance did we witness a domestic observer undermining the Presiding Officer's authority by issuing instructions to the polling station staff, polling agents and voters.

The Group wishes to commend the EC for providing uniforms and caps for its polling staff, which made them clearly identifiable. The identification of polling agents, however, was not always clear. The Group believes that clearer identification of party agents would assist in the transparency of the process.

Location of polling booths

The layout of the polling stations was generally good. The location of the polling booths and ballot boxes were such that the secrecy of the ballot was assured in most cases. In a few polling stations observed in the Accra, Northern and Central Regions, the positioning of the booths had the potential to compromise the secrecy of the ballot.

The elderly and physically challenged were offered assistance as provided for in the procedures. In addition and to the credit of the EC, the blind community was provided with a Tactile Ballot Reader.

Procedure for issue of ballot papers

According to the guidelines, the Presidential ballot paper should be issued before the Parliamentary ballot. After marking the Presidential ballot, voters should then be issued with the Parliamentary ballot paper. Overall, the Group observed that this stipulation was adhered to, though a Group member did observe the simultaneous issue of both ballots in one polling station in Accra. This led to a degree of voter confusion and could have resulted in the placing of ballot papers in the wrong ballot box. The Group observed the universal application of indelible ink prior to ballot papers being issued to voters as per the regulations.

In some polling stations with large numbers of registered voters, the processing of voters was slow as it was more difficult to locate names. In these polling stations there were large numbers voting at the start and end of the poll. The Group recommends that the EC reviews the number of registered voters assigned to a polling station.

In some cases, where polling stations with large numbers of registered voters had been administratively split without prior notice, voters had difficulty locating the correct queue. The Group therefore recommends appropriate signage and/or polling staff to direct voters in these stations.

Polling agents

Political Party and Independent Candidate Agents (polling agents) were present at all polling stations and the Group observed that the agents were free to witness the voting procedure. The Group observed only three instances¹⁵ where only one party was represented. In all but one polling station, the polling agents raised no serious complaints to the Group, though a polling agent alleged that minors had voted in one polling station in the Northern Region.

¹⁵ Two in the Eastern Region and one in the Ashanti Region

Domestic Observers

The Group noted the presence of the domestic observer groups, largely under the umbrella of the Coalition of Domestic Election Observers (CODEO) who had deployed approximately 4,000 observers through the ten regions of Ghana. Considering the existence of 21,000 polling stations, the Group encourages the Commonwealth and other stakeholders to support the work of CODEO. The Group commends the work of CODEO and other domestic observers.

Security

Security for polling stations was provided by the police, prison, fire and immigration services. In addition, the military was on standby to provide roving and *ad hoc* support as necessary.

The Group observed that the polling stations did have a discreet security presence with the permanent attachment of one officer. The exception to this was in the rural area of Ashanti region where there were instances of mobile security as opposed to the static. In the Northern region where there has been long standing chieftaincy disputes there were roving military patrols.

Voters Registers

The Group observed that the Final Voters' Register, Transferred Voters List and Absent Voters List were available and properly being marked. There were a few observed isolated incidents where names were not found on the list.

The transfer list is to accommodate voters who have taken up temporary residence in another constituency from where they registered. The verification of the entitlement of the names on the transfer list is the responsibility of the Returning Officer. In the majority of transfer lists observed the number of names were very small. In Wulensi Constituency in the Northern Region, however, the Group observed over 50 names on the transfer list in addition to a final voters register of approximately 400. The Group witnessed an individual holding and distributing multiple accepted applications for transfer. This suggests that the Returning Officer may have accepted block applications which is a breach of procedures.

CLOSING OF POLLS

Polling stations observed by the Group closed on time and all voters who were in the queue at 5:00pm were allowed to vote.

The statement of poll (Form EL21A and EL21B) directs that the ballot accounting details for the polling station be reconciled and entered onto the Form after the close of polls and before the commencement of the count of votes. The Group

observed in almost all instances, however, that the Presiding Officer proceeded directly to the opening of the Presidential ballot box and the subsequent count of the votes. The Group further noted that the “Guide to Election Officials” appears to support the observed sequence of actions. The Group noted this apparent contradiction of instructions. The reconciliation of ballot accounting details provides stakeholder confidence in the overall veracity of the polling station result.

The Count

The Group noted that at polling stations with a large turnout of voters, the lighting condition deteriorated as the count progressed, though this was not the case in smaller stations.

In all cases observed the Presiding Officer controlled the count, though in one instance in the Central Region a polling agent was involved in the sorting of ballot papers.

The Group found that the count was conducted efficiently and with a high degree of transparency, in the presence of polling agents, domestic and international observers. Encouragingly, many members of the public also witnessed the process. At the end of the process the counting agents¹⁶ certified the statement of poll.

Collation

The Group observed that the transfer of the results and the election materials from the polling stations to the collation centres was undertaken according to stipulated guidelines.

We observed that where a Presiding Officer failed to reconcile the ballot accounting prior to the count, this led to delays at the collation centres because Returning Officers had to undertake the reconciliation with Presiding Officers. This delayed the completion of the collation.

The Group recommends that the EC prepares an aide memoire to reinforce the importance of following the correct count and collation procedures.

Results Management

Returning Officers declared the results at constituency level for the Parliamentary elections in accordance with procedures. Each Presidential result of voting at constituency level was transmitted by fax to the EC Headquarters together with a copy of the declared Parliamentary results. The Presidential

¹⁶ At the close of polls polling agents assume the role of counting agents

election result was collated and declared by the Chair of the EC, who is the Returning Officer for the Presidential Election.

The EC Media Centre issued results as they were officially certified. Media houses however were able to access and disseminate immediately results from the 230 constituencies. This created the impression that the EC was intentionally delaying the release of results.

The Group suggests that, in order to further enhance public confidence in the results management process in future elections, the EC should ensure that its results management strategy is widely and effectively articulated in a timely manner.

The Group noted that the EC has a practice of producing a comprehensive post election report detailing the results by constituency. The Group suggests that for these elections this report should include results by polling station which will further enhance the transparency of the process.

Special Voting

The Group observed special voting at two polling stations in Accra on 2 December 2008. The procedure stipulates that a Special Voters' List be provided to the Presiding Officer. It was observed that, in one polling station¹⁷, there was no Special Voters' List. In this case, the Special Voters' List was created from the information obtained from voters' ID cards. The Group was informed by the EC that the reason for lack of special voters register in some instances was the inability of respective security agencies to provide the relevant details of Special Voters' List in a timely fashion.

To overcome this problem, it is recommended that, as far as possible, security agencies should provide the details of special voters to the EC in a timely fashion. This will ensure that Special Voters' Lists can be compiled before elections and that the relevant information can be captured in the Absent Voters List.

¹⁷ This was observed at the polling station in Osu.

Chapter Seven

CONCLUSIONS AND RECOMMENDATIONS

In our Arrival Statement of 1 December 2008, the Group affirmed that the Commonwealth, Africa, and indeed the whole world looked forward to a peaceful and orderly election process. We expressed the hope that Ghanaians would continue to make the continent proud by conducting another credible election and progress towards strengthening its multiparty democracy.

Our Interim Statement issued on 9 December 2008 applauded the people of Ghana for their sense of responsibility and dedication in exercising the right to vote in a peaceful and orderly way. We commended the Electoral Commission for its effective organisational machinery in managing the electoral process, and concluded that the voting and counting processes had been conducted in a credible manner. We stated that we would continue to follow the final stages of the results process and hoped that it would conclude in the same manner.

We noted that results of the Parliamentary Elections were declared at constituency level and are pleased that the results collation process concluded successfully with the announcement of the results for the Presidential Election by Dr. Kwadwo Afari-Gyan on Wednesday 10 December 2008. He declared that neither of the leading contenders, Nana Akufo-Addo of the NPP and Professor John Evans Atta Mills of the NDC obtained more than 50% of the votes needed for an outright win in accordance with Article 63 (3)(4)(5) of the 1992 Constitution.

Out of a total valid vote of 8,465,834 cast, Akufo-Addo polled 4,159,439 or 49.13% whilst Atta Mills polled 4,056,634 or 47.92%. Consequently, a Presidential run-off between the two leading contenders was fixed for 28 December 2008.

The Group expressed the hope that the Electoral Commission would discharge its duties with the same level of professionalism for the run-off election as it had done for the 7 December 2008 election.

The Group considers that the conduct of the 7 December 2008 presidential and parliamentary elections has confirmed the widely held view that Ghana's maturing democracy has become a good reference point for the African continent and the Commonwealth as a whole.

These are positive developments and all point to the consolidation of Ghana's democracy. The Group would, however, like to highlight one area of concern that posed challenges to these elections. This relates to problems encountered with the limited voter registration exercise, which resulted in an inflated voters register.

The Group hopes that lessons learnt from these experiences will inform preparations for future elections.

We appeal to the ruling and opposition political parties to work more closely together to deepen the culture of democratic governance, engender greater national cohesion and harmony, and create more opportunities for prosperity in the country. We therefore urge the Commonwealth Secretary General to actively engage the political leadership in this regard.

In our overall judgement, the 2008 presidential and parliamentary elections were conducted in an open, transparent and inclusive manner. We therefore found, through our observations, that these elections were credible.

RECOMMENDATIONS

We wish to make the following recommendations, which are aimed at improving the management and conduct of elections in Ghana, to strengthen the democratic process.

Election Administration

Inter Party Advisory Committee (IPAC)

- The EC should strengthen the IPAC mechanism and maximise its use as a regulatory mechanism to manage inter-party relationships and the behaviour of political parties before, during and after political contests.
- The EC should, in consultation with political parties, develop a more robust schedule of meetings in order to promote greater cooperation and political dialogue among IPAC members.

Election Timelines

- The compression of the election calendar experienced in 2008 should be avoided as this was responsible for some of the tensions generated in the pre-election period. The EC should consider institutionalising voter registration exercises in election years to commence at least six months prior to polling day.

Training of Staff

- The EC should train the temporary recruited staff in smaller numbers and in a participatory manner.

Voter Registration

- The EC should move towards instituting an annual rather than biennial revision of the Voters register.

- The process of replacement of Voter ID cards should be streamlined, to remove the incentive to “re-register” rather than seek a replacement Voter ID card.
- The EC should Institute a procedure for the permanent transfer of voters rather than a procedure associated with the periodic conduct of elections.
- The EC reviews the number of registered voters assigned to a polling station, so as to reduce the current disparity in the numbers of voters at polling stations.

The Campaign

Political party financing

- Public financing of political parties should be considered to supplement and support the current system of private financing of political parties and elections campaigns. Partial public financing would offer more equitable conditions among the various political parties and enhance the degree of transparency.
- The current regulation be strengthened to ensure that political parties and candidates declare their election spending to the relevant authorities in a timely manner.

Young People

- Political parties should make greater effort to enhance youth participation (both female and male) and representation at all levels. This would improve youth participation in decision-making.
- The Commonwealth Secretariat should improve its support for capacity building among young people focusing on youth participation in political matters. This should include a focus on youth matters within a broader civic education programme.

Gender

- Political parties should commit to and make every effort to enhance the participation of women in national politics. It is important that women be given the opportunity to serve in key political and national decision-making and leadership positions at the party level.

- The state should also make every effort to enhance the participation of women to serve in key political and national decision-making and leadership positions.
- Given the concerns raised by many stakeholders on the inadequacy of the training and/or experience of women, the Commonwealth Secretariat should consider assisting Ghana through support for the establishment of an institute for the training of women in leadership, in collaboration with relevant stakeholders.
- Consideration should be given by political parties to adopting affirmative action to expedite an increase in the number of women the national parliament.
- Ghana should introduce relevant legislation to ensure gender equity.

Media

- The National Media Commission should:
 - ensure that the guidelines on responsible election reporting are strictly complied with. To this end, training in responsible political and election reporting should be strengthened and widened,
 - enforce the legal requirement for state-owned media to provide equal coverage for all political contestants during elections.
- In line with the Electoral Commission's ongoing reform efforts, it should establish a Media Watch Committee to monitor the reporting of all issues that touch on elections and the Commission so as to ensure accuracy of information on the electoral process.
- To enhance public confidence in the results management process the EC should ensure that its dissemination strategy is widely and effectively articulated in a timely manner.

Voting, Counting and Results

- Appropriate signage and/or polling staff to direct voters to the correct queue at polling stations should be introduced.
- The EC should prepare an aide memoire for its officials to reinforce the importance of following the correct count and collation procedures.

- Clearer identification of party agents would assist in the organisation of the polling station and enhance the transparency of the process.
- In order to further enhance public confidence in the results management process in future elections, the EC should ensure that its results management strategy is widely and effectively articulated in a timely manner.
- The EC Post-Election Report should include results by polling station, which will further enhance the transparency of the process.
- Security agencies should provide the details of special voters to the EC in a timely fashion, to ensure that Special Voters' Lists can be compiled before elections and that the relevant information can be captured in the Absent Voters List.

SUPPLEMENTARY REPORT ON GHANA 2008

PRESIDENTIAL RUN-OFF ELECTION

Section One

INTRODUCTION

The Commonwealth Observer Group continued to follow developments in Ghana between the two rounds of the election and was reconstituted for the president run-off election. The Group of four persons was led by Baroness Valerie Amos, former Leader of the House of Lords and former Minister for Africa (UK). The other Observers were:

- Mr. O.O. Akeredolu SAN, President, Nigerian Bar Association (Nigeria)
- Mr. Algassimu Sahid Jarr, Commissioner, National Electoral Commission (Sierra Leone)
- Ms Cynthia Barrow-Giles, Lecturer, University of the West Indies & Member of the Constitutional Reform Commission (St Lucia)

They were supported by a three-person staff team comprising Ambassador Ayodele Oke, Ms. Sabhita Raju and Ms. Charlene Lee-Ling of the Political Affairs Division of the Commonwealth Secretariat.

The team met with representatives of the Electoral Commission, political parties and Ghanaian citizens in the days leading to polling day, and deployed in teams for the run-off election across Ghana on 27 December. The teams covered Ashanti, Brong Ahafo, Greater Accra, Eastern and Western regions observing 147 polling stations in 21 constituencies (see **Annex VI**).

The Group co-operated closely with the African Union, Carter Centre, ECOWAS, l'Organisation International de la Francophonie, Pan African Parliamentary Group, European Union and CODEO, the domestic observer coalition, which also observed and assessed the election.

This supplementary report covers the period between the rounds and the conduct of the voting, counting and results processes for the run-off election.

Section Two

POLITICAL ENVIRONMENT AND ELECTORAL CAMPAIGN

The Chairman of the Electoral Commission announced at a press conference on 10 December 2008 that neither of the leading contenders, Nana Akufo-Addo of the NPP and Professor John Evans Atta Mills of the NDC obtained more than 50% of votes cast, as needed for an outright win in accordance with Article 63 (3)(4)(5) of the 1992 Constitution. Out of a total valid vote of 8,465,834 cast, Akufo-Addo polled 4,159,439 or 49.13% whilst Atta Mills polled 4,056,634 or 47.92%. Consequently, a Presidential run-off election between the two leading contenders was fixed for 28 December 2008 in accordance with Article 63 of the 1992 Constitution and Section 4 of the 1992 Presidential Elections Law PNDCL 285.

The elections were hard fought and the results at both the presidential and Parliamentary levels were close. The Group welcomed the spirit of calm and acceptance in which the results were greeted initially by political leaders and Ghanaians generally, which was encouraging and bode well for the campaign ahead of the run-off election.

The Group noted that the campaign intensified as the date for the run-off election drew closer. While the first round campaign had largely been issues based, the Group was disappointed that the tenor of the campaign began to shift in the period between the two rounds to focus more on personality politics and party loyalty. Both parties increasingly began to accuse the other of trying to undermine the electoral process leading to increasing levels of tensions in some areas.

The Group was also disappointed that issues of ethnicity began to feature in the campaign. The level of ethnic rhetoric featured in media reporting even prompted one of the candidates to issue an appeal to radio stations not to promote tribalism in national politics. In addition, this rhetoric was criticized by prominent civil society leaders after the 28 December poll.

The ethnic rhetoric was prevalent in areas perceived to be strongholds of the NPP and NDC such as the Ashanti, Northern and Volta regions. This shift away from issues based politics presented a backward step for the maturing Ghanaian political system. Coupled with what appears to be an ethnic bias as reflected in historical voting patterns in these areas, this shift proved divisive on polling day.

Despite this, the overall conduct of the campaign between the two rounds of the election was generally orderly, but allegations of irregularities in the Ashanti

region relating to the special voting process held on 23 December was of concern. The readiness of crowds of people to gather to protest on the basis of rumours and allegations, rather than rely on institutional mechanisms to address issues of concern, also proved to be a feature on polling day itself.

The Group was concerned at what appeared to be the partisan role displayed by some sections of the media in conveying and producing heavily biased campaign coverage. This was in marked contrast to the positive role the group had commended the media for playing in their reporting of the campaign and poll for the first round of the elections.

During the campaign for the run-off election the Group heard many concerns regarding the alleged use of money and patronage to induce support. These are worrying allegations as such practices can have a harmful effect on the environment in which an election is conducted.

The influence of money was highlighted by both parties, with each alleging the other had distributed funds in an effort to buy votes. As noted in the Group's first round report, the high levels of expenditure as reflected in the abundance and scale of campaign materials warrants further examination. The Group reiterates its view that the nature of the regulatory framework does not provide the requirement for parity and equity, and the current regulation should be strengthened to ensure that political parties and candidates declare their election spending to the relevant authorities in a timely manner.

The Group had commended the role of security personnel in the first round campaign and poll. It noted the higher profile taken by security personnel the day before the run-off election, particularly in the Ho Central constituency. The presence of a larger number of armed personnel around the district election office caused disquiet among election officials and may have intimidated some voters. The presence of armed personnel was however unobtrusive in the polling stations visited in the region.

Section Three

ELECTORAL ADMINISTRATION AND PREPARATION FOR THE RUN-OFF

The Group welcomed the cooperation of the two parties and candidates in engaging in constructive consultations through the Inter-Party Advisory Committee (IPAC), chaired by the Electoral Commission (EC). This mechanism was a useful forum to highlight procedural issues and proposals, including the number and distribution of polling stations and the selection of the finger to be marked with ink in the voting process.

The availability of the IPAC as a forum to raise issues and facilitate dialogue between the parties was an important mechanism in managing potential tensions and issues of concern. Such a mechanism is also useful to ensure all sides agree to changes or improvements in key procedures which can then enjoy the confidence of the parties. Unfortunately, a proposal to facilitate the extension of voting facilities in larger polling stations was not agreed to by the parties.

The right of voters to transfer their location was limited to the student population, who could re-transfer their votes to their home constituencies, and the registrations of those who had registered for special voting and proxy voting remained valid unless actively cancelled by the relevant voter.

The Group welcomed initiatives undertaken by the EC designed to improve the quality of the overall conduct of the run-off election, including:

- The preparation of the voter list in alphabetical order to aid voter identification and expedite the voting process.
- Roll out of a further voter education programme in an effort to reduce the number of rejected ballots from that seen in the first round.
- Further training and instructions given to election officials focusing on:
 - the need to be more proactive in providing information and resolving procedural queries from voters;
 - the proper reconciliation of ballots;
 - the completion of election forms;
 - the replacement of officials who had not followed procedures correctly in the first round; and
 - provision of identification badges for polling agents
- In addition, voters were to have the index finger on the left hand marked with ink, instead of the little finger as in the first round, to safeguard against double voting.

Section Four

VOTING, COUNTING AND RESULTS PROCESSES, 28 December 2008

Voting Process and Environment

The EC maintained the same structure for the run-off election, with 21,004 polling stations. The Group covered a total of 108 polling stations in 20 constituencies in the 28 December poll, and 39 polling stations in Tain (see below) for the 2 January poll in that constituency.

The Group noted the presence of clearly identified party agents in all polling stations visited by the Group, as well as the presence of domestic observers from a coalition of civil society groups in many of the polling stations visited. This served to enhance the transparency of the electoral process.

The Group noted in its interim statement on the first round of the election that delays occurred in a number of areas due to the late arrival of materials. The Group welcomed the improvements made for the run-off election in the provision and management of polling materials which enabled a greater number of stations to open on time. Though the run-off election did not witness the large numbers of voters seen at the opening of the poll in the first round, voters did turn out in similar numbers throughout the day. The final reported figure recorded after the completion of the election in the postponed Tain constituency poll on 2 January 2009 (see below) was 9,094 364, representing 72.9% of the 12,472,758 registered voters. The Group issued its Interim Statement on the Presidential Run-Off on 30 December 2008 (see **Annex VII**).

Some problems did persist with the uneven allocation of voters to polling stations or presence of too few polling booths in some densely populated areas. This did not seem to hamper the efficiency of voting, although it led to long waiting times for some voters.

We noted that polling officials were diligent in their duties and the speed of processing voters was much improved, assisted in part by the simple choice presented in the run-off election as compared to the more complicated ballot for the presidential and parliamentary election in the first round. Coupled with the additional voter education programme launched by the EC and National Commission for Civic Education, this resulted in the reduction of spoilt and rejected ballots recorded. The EC reported that only 92,886 ballots representing only 1% of ballots cast in the run-off election (including the postponed poll in Tain) were rejected.

The Group noted that the reconciliation of ballots was not always conducted after the close of the poll and prior to the counting of ballots, as required by the ECs own procedures, and reiterates its recommendation that the Electoral Commission address this through proper training to ensure full compliance with this procedure.

We commend highly the professionalism and dedication displayed by EC officials across the country. Their conduct enabled voting to take place efficiently in stations observed by the Group, and, working closely with security personnel, they were able to resolve many issues and incidences on the ground when required.

As the processing of voters was more efficient than in the first round it meant that overall the queues at the end of the day were more modest in size, and most polling stations were able to close on time. The location of some polling stations in densely populated urban areas such as Accra was problematic, as some stations were sited just outside residential homes. This led to the flow of household members through and directly beside the voting areas. Though this did not interfere directly in the voting process, such movements of people could sometimes prove disruptive.

The Group observed that security forces maintained a low profile during the day, maintaining a presence as required but in an unobtrusive manner. The Group welcomed the conduct of the security personnel overall, but were concerned that their high profile in some areas of the country the day prior to the run-off election may have been intimidating for some sections of the electorate. Their conduct, working closely with EC officials, was largely seen as supportive and enabled minor incidents to be resolved quickly. The use of mobile patrols was an additional sign of strength and reassurance given the increased tension in the days immediately prior to the poll.

The Group was disappointed that the persistent circulation of rumours of malpractice escalated during the course of the day and could have eroded voters' confidence in the electoral process. The Group was particularly concerned that accusations of malpractice made by individuals, as well as the parties of the two candidates and senior figures within them, were aired repeatedly by some elements of the broadcast media. Many of these allegations eventually proved unfounded or amplified. The rumours did, however, fuel suspicions and unnecessarily heighten tension in some constituencies.

This led to a number of minor incidents resulting from gatherings of hostile crowds or so-called 'macho men'. One illustrative example was the broadcast of a news story alleging ballots were being prepared by one party in the home of a local party chieftain, which prompted large numbers of angry protesters visiting the house only to discover the allegation was false.

Both parties complained of intimidation of its activists by the other, particularly in areas considered as their strongholds. This led to the NDC instructing its polling agents not to sign results sheets in the Ashanti region regardless of the conduct and quality of the poll and count process.

Counting and Collation of Votes

The counting and collation of votes was largely conducted in an orderly and open way, to a high standard and in compliance with the procedures laid down by the EC. Results were transmitted upon completion by fax directly to the EC in Accra. The Group welcomed the transparent manner in which counting took place in the presence of both party agents and the general public.

Upon receipt in Accra, individual polling station results were regularly updated by the EC. In addition, local media outlets regularly broadcast results as they were received from reporters across the country, providing an unofficial and parallel tabulation process. While this did provide some information to citizens, the EC cautioned the media not to distort information that could be misconstrued or misinterpreted by citizens.

While the location of polling stations in the open air facilitated transparency, it also posed some challenges. Fading light and a light breeze did impact on the process in some polling stations as watching crowds objected to ballots being blown off counting tables and not able to clearly see the counting process clearly. Party agents, however, were present and they, with the election officials and security personnel, played a constructive role in many stations in calming the crowds and keeping them informed.

The Group did note with concern that some persons within the counting area in some polling stations held radios which continuously broadcast rolling results from across the country as the media outlets received them. Whilst this was useful in keeping everyone informed of the unfolding national picture, this also proved distracting to persons involved in the count.

The collation of results at the constituency level progressed smoothly in most regions, though some incidents were reported. Earlier and more decisive action on the part of security personnel could have helped to defuse tensions as they began to rise as incidents occurred around the collation process. For example, early action in managing the crowds that gathered at the Nima Collation Centre in Accra could have ensured that more forceful measures and the use of pepper spray on the crowd would not have been required.

Results on 30 December

After a prolonged delay which gave rise to much speculation and concern among citizens, observers and all persons interested in the election, the result of the run-off election for 229 constituencies of the 230 constituencies was announced by the EC on 30 December.

The Group was concerned at the delay in announcing the final aggregate Presidential election result; this was due to protracted discussions between the two parties and the EC on alleged irregularities in some constituencies. The Group noted the increase in tensions fuelled by speculation and accusations made by the two parties. Tensions were further amplified as further rumours emanated about malpractice in some constituencies since the close of the poll and transmittal of results to the EC. The Chair of the EC publicly announced on 29 December, after much speculation, that he would declare the final results at noon on 30 December and urged media houses not to distort or speculate on unofficial results provided by their journalists.

The Group welcomed the Chairman's statement as a means of managing results information and seeking to reassure the public. It recalls and reaffirms its recommendation from its first round report that, in order to further enhance public confidence in the results management process in future elections, the EC should ensure that its results management strategy is widely and effectively articulated in a timely manner.

The Chairman of the EC announced in a press conference held late afternoon of 30 December that the results for 229 constituencies were:

Nana A D Akufo-Addo (NPP)	4,478,411(49.87%)
John E. Atta Mills (NDC)	4,501,466 (50.13%)
Invalid Votes	92,486 (1.02%)

Valid Votes cast totaled 8,979,877, with 92,486 rejected ballots giving a total of ballots cast at 9,072,363. The total registered voters figure was given by the EC as 12,472,758, with a turnout of 72.74%.

Voting in the Tain constituency in the Brong Ahafo Region did not take place on December 28 due to the late arrival of electoral materials in the constituency. The Chairman of the EC announced in his 30 December press conference that the election in Tain would be conducted on 2 January 2009.

In announcing the results of the 229 constituencies excluding Tain, the Chairman of the EC stated that the parties had raised serious concerns and provided some evidence about irregularities in election results from Kumasi and other parts of the Ashanti Region, as well as some constituencies in the Volta Region. He

stated that the outcome of the Tain poll with 53,890 registered voters could affect the overall result given the very slim lead held by NDC at the time.

He went on to state that investigations into alleged irregularities made by NDC about Kumasi and the Ashanti region, which were supported with some evidence, as well as concerns expressed by NPP over some constituencies in the Volta region, for which evidence was yet to be submitted, would be pursued. The final winner would only be declared once the outcome of the Tain poll and the investigations had been completed.

The Group was concerned at the delay in the final declaration of the winner as continued speculation and further campaigning in an atmosphere of heightened tension could have led to further political polarisation and incidents of violence.

Presidential Run-Off Election in Tain Constituency, 2 January 2009

The Tain constituency in Brong Ahafo region was the final constituency in which the run-off Presidential election was conducted. The NDC Parliamentary candidate won the seat in the 7 December election with a margin of 2,917, from a total of 31,238 valid votes cast for all candidates contesting the Parliamentary poll. The NDC Presidential candidate secured a similar margin of victory over his closest competitor (NPP) in the first round of the Presidential election.

There were tensions and clashes between NPP and NDC supporters in the run up to both the first round and run-off elections in Tain. The District Electoral officer was allegedly attacked and beaten on 5 December by the NPP Parliamentary candidate, and complaints of bias were made against local EC staff who in turn complained of harassment and intimidation. The constituency EC office and stored election materials were destroyed by a fire on the night of 11 December, and numerous clashes between supporters of the two main parties took place subsequently. In light of these events, the EC appointed the Returning Officer from the neighbouring constituency to preside over the 2 January 2009 poll.

The national atmosphere leading up to the poll was tense with political rhetoric having increasingly become more aggressive between the two parties. Many stakeholders in Ghana called upon the parties to exercise restraint. Leaders of the minority parties released a statement on 30 December urging acceptance of the authority of the EC and the results it announced, and urging the eventual winner to ensure political inclusiveness.

An ex-parte application seeking an injunction to restrain the EC from declaring the result of the Presidential election after the conclusion of the vote in Tain, was filed by the NPP at the High Court on 31 December 2008. Hearing of the application took place on 1 January 2009. The Judge ordered that parties in the

action be put on notice, fixing hearing of the application on notice for 5 January 2009. The NPP subsequently filed another application on 2 January 2009 seeking *inter alia* for an Order of Court restraining the EC from conducting the election in Tain in its totality. Later on 2 January the NPP filed notice of discontinuance of the two applications. The Group noted that the filing of these applications in court contributed to the heightening of the charged political atmosphere.

Against this backdrop, the number and visibility of security personnel was extremely high, and somewhat overwhelming at the opening of the poll, but proved to be unobtrusive during the day. The poll opened and proceeded in Tain in an orderly and peaceful manner. A large number of both domestic and international observers were also present across the constituency.

Commonwealth observers visited 39 of the 144 polling stations in Tain and observed a largely efficient and calm process in all stations. Voting was more sporadic than the large early morning crowds seen on 7 December, but overall voter turnout proved to be of a similar magnitude. In general, EC staff were professional, efficient and in control of their stations and the process. The Group noted that most stations visited had not received alphabeticised voter lists and EC staff were not in uniform, all of which had apparently been destroyed in the destruction of the local EC office on 11 December.

No incidents of harassment or intimidation were observed by members of the Group throughout the day. The Group was made aware of one minor incident in Banda where NPP supporters wielding sticks had gathered. They were quickly dispersed by the police.

The Group noted that NPP did not field polling agents in any station visited. Members of the Group received numerous reports from persons in Tain that NPP activists had the day before instructed party agents not to observe polling, and had also urged voters to boycott the polls. The Group also heard numerous reports that NDC activists had similarly visited voters and urged them to cast their vote. The Group witnessed at least one occasion on polling day when NPP supporters stated that they did want to vote but expressed confusion as to whether they should cast their vote as no NPP agents were present in the polling station. The Group witnessed a large and active presence of NDC agents within Tain, including mobile patrols that visited stations. It also noted that these patrols did not interfere with the voting process. No voters or EC staff complained to the Group about the presence or activities of these mobile patrols.

The Group welcomed the New Year message issued by President John Kufuor on the morning of 2 January 2009 which called on all parties and Ghanaians to respect the authority of the EC, and urged peace and calm for the remainder of the election. This statement set the tone for the remainder of the day; local voters were seen to continue their daily tasks seemingly unperturbed at the intense

scrutiny and speculation surrounding the run-off election. The Group had seen buses transporting both NPP and NDC supporters within Tain on the morning of the poll, and noted that buses with NPP supporters subsequently left the constituency around midday.

The Group observed the close of the poll and counting of ballots at two polling stations. Though the process was conducted well at one station, the process at the other station was somewhat chaotic with large crowds gathering both within and outside of the counting area. A number of NDC agents and observers were seen controlling the process, with the Presiding Officer seeking guidance on the implementation of procedures from them. Despite this, the process itself was conducted in accordance with procedures laid down by the EC, apart from the reconciliation of ballots which was undertaken after the count had been completed. Police did not effectively control spectators who crowded close to the counting process; despite this, the mood was good natured and onlookers did not interfere in the process itself.

Final Presidential Run-Off Election Results

The EC announced in a press conference held on 3 January 2009 the final result of all 230 constituencies as follows:

Nana A. D. Akufo-Addo (NPP)	4,480,446 (49.77%)
John E. Atta Mills (NDC)	4,521,032 (50.23%)
Valid votes cast	9,094,364 (72.9%)
Invalid votes	92,886 (1%)
Total registered voters	12,472,758

Section 5

CONCLUSIONS AND RECOMMENDATIONS

The Commonwealth Observer Group welcomed the initiatives taken by the EC between 7 and 28 December 2008 to improve the efficiency of electoral procedures. Building on many of the positives from the first round, and addressing some of the negatives, these efforts helped to ensure that the electoral process was robust and credible and met the benchmarks for democratic elections to which Ghana has committed itself.

During the campaign for the run-off election the Commonwealth Observer Group heard many concerns regarding the alleged use of money and patronage to induce support. Such practices can have a harmful effect on the environment in which an election is conducted, though the Group noted that the overall conduct of the campaign between the two rounds of the election was generally orderly. It was concerned, however, at allegations of irregularities in the Ashanti region relating to the special voting process held on 23 December 2008.

Though the run-off election did not witness the large numbers of voters seen at the opening of the poll in the first round, voters did turn out in similar numbers throughout the day demonstrating their determination and interest in enhancing Ghana's democratic credentials through a smooth transfer of power.

The Group noted in its first round interim statement that delays occurred in a number of areas due to the late arrival of materials. The Group welcomes the improvements made for the run-off election in the provision and management of polling materials which enabled a greater number of stations to open on time. The alphabetical arrangement of the voter register, continued provision of information to electors on voting processes by Election Commission officials, the presence and clear identification of party agents were all positive new features for the run-off election.

Some problems did persist with the uneven allocation of voters to polling stations or presence of too few polling booths in some densely populated areas. This did not seem to hamper the efficiency of voting, although it led to long waiting times for some voters.

We commend the professionalism and dedication displayed by Election Commission officials. Their conduct enabled voting to take place efficiently in stations observed by the Group, and, working closely with security personnel, they were able to resolve many issues and incidences on the ground when required.

Issues relating to the increasingly contentious political environment in which the run-off election took place and the conduct of the media in fuelling suspicions, however, urgently need to be addressed.

The Group was disappointed that the persistent circulation of rumours of malpractice escalated during the course of the day and could have eroded voters' confidence in the electoral process. The Group was particularly concerned that unverified accusations of malpractice made by individuals, as well as by representatives of the political parties, were aired repeatedly by some sections of the broadcast media. The rumours fuelled suspicions and unnecessarily heightened tension in some constituencies and led to a number of minor incidents resulting from gatherings of hostile crowds.

The national atmosphere leading up to the Tain poll was tense with political rhetoric having increasingly become more aggressive between the two parties. Many stakeholders in Ghana called upon the parties to exercise restraint, and leaders of the minority parties released a statement on 30 December urging acceptance of the authority of the EC and the results it announced, and urging the eventual winner to ensure political inclusiveness.

The Group welcomed the New Year message issued by President John Kufuor on the morning of 2 January 2009 which called on all parties and Ghanaians to respect the authority of the EC, and urged peace and calm for the remainder of the election

A strong democracy is one in which differences can be resolved through established institutions and systems in which the people have confidence and trust. That is what the people of Ghana wish to see. With such a competitive election, the next President of Ghana will be required to unify the country and represent all citizens of Ghana.

The Commonwealth Observer Group hopes that Ghana's President-elect and future government will consolidate Ghana's democratic gains further and foster political inclusiveness and cooperation.

RECOMMENDATIONS

Many aspects of the run-off electoral process worked very well and were improvements on the first round as indicated in this supplementary report. The Group recalls and reaffirms the recommendations made in its first round report aimed at further strengthening and improving the overall process for the elections.

The Group draws particular attention to recommendations on the following issues:

- Strengthening the IPAC mechanism and maximising its use as a regulatory mechanism to manage inter-party relationships and the behaviour of political parties before, during and after political contests.
- Reviewing the number of registered voters assigned to a polling station, so as to reduce the current disparity in the numbers of voters at polling stations.
- Consideration of public financing to supplement and support the current system of private financing of political parties and elections campaigns and instituting more rigorous measures to control and account for campaign expenditure.
- Ensuring that the guidelines on responsible election reporting are strictly complied with.
- Enhancing public confidence in the Electoral Commission's results management process by disseminating the Commission's information strategy widely and effectively in a timely manner.
- Preparation of an aide-memoire for the Electoral Commission officials to reinforce the importance of following the correct count and collation procedures.
- Inclusion in the Electoral Commission Post-Election Report of results by polling station to further enhance the transparency of the process.