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## EXECUTIVE SUMMARY

Governance institutions have been integral to post-1990 African democratic reforms. Previous studies that assessed governance institutions in Africa, and Ghana, in particular, reveal poor performance – institutions are weak and lack credibility. Further, the discourse on governance institutions reveal an over-concentration of research and policy attention on non-performing and under-performing institutions which has created a deficit in knowledge about national and regional institutions in West Africa that have been relatively successful against all odds.

The Electoral Commission (EC) has not received any staid attention in the study of governance institutions in Ghana. Yet, prospects for democratic governance in Ghana largely depend on the effectiveness of the EC in managing credible elections.

### THE EVOLUTION OF THE ELECTORAL INSTITUTION IN GHANA

The EC evolved as part of the institutional transfer of the superstructure of British colonial rule. It began as a department under the Ministry of Local Government, with the responsibility to supervise elections organized by the colonial government.

The immediate pre-independence electoral process was perceived to be free from political manipulations and was characterized by relative fairness and agreements on the rules of the game. After independence, successive governments shifted to the independent Sole Electoral Commissioner model. The power to manage election was transferred from the government ministry to an independent election authority headed by a sole commissioner.

Executive controls over the Electoral Commissioner in the 1<sup>st</sup> Republic undermined the attainment of credible elections. Although the Sole Electoral Commissioner in the 2<sup>nd</sup> and 3<sup>rd</sup> Republics enjoyed a great deal of au-

tonomy, and impartially performed their functions, the opposition parties in the 2<sup>nd</sup> Republic were skeptical of the impartiality and neutrality of the sole commissioner.

The transition to usher in the 4<sup>th</sup> Republic suffered many setbacks because of public perception of government manipulations and interferences in the work of the hurriedly appointed Interim National Electoral Commission (INEC).

The political system that emerged post-1992 is widely perceived to be suitable for holding credible elections because the elite have consensus on the democratic system and are supportive of elections and multiparty politics.

The Ghanaian elite have demonstrated their support for the democratic process by actively participating in all the four elections and cooperated with the EC.

Progressive transformation of the election authority from NCD, INEC to EC has significantly enhanced the latter's competence and efficiency.

Civil society, government and donors have done little to negatively influence or manipulate the EC. The EC is widely perceived as an independent and neutral body with the capacity to hold credible elections.

### **INSTITUTIONAL AUTONOMY AND DESIGN**

There is high public confidence in the autonomy of the EC. Most Ghanaians perceive the EC as completely independent and less susceptible to political manipulations and interferences. They are satisfied with the EC's autonomy because:

1. It is guaranteed by law. Sufficient safeguards exist in the law to secure operational, financial and institutional autonomy of the EC.
2. It is insulated from executive or governmental controls. Checks and balances are worked out into the appointment process of members of the EC to ensure that they are completely nonpartisan. Members of the EC enjoy security of tenure and have the same conditions of service as justices of the superior courts.
3. The EC is in firm control of recruitment of both the permanent and temporary election staffs. It controls the drafting of important legislative instruments that regulate the conduct of elections. Its income and expenditure (budget) is charged to the country's consolidated fund.
4. It has exercised its authority over the fixing of election dates and determined the modalities for declaring election results.

5. It possesses a relatively developed infrastructure, including vehicles, office accommodations and communication gadgets, among others, that facilitate its election operations.

### **ORGANIZATIONAL STRUCTURE, CAPACITY AND ADAPTABILITY**

The EC is a well structured institution with hierarchy of powers and functions. The Chairman is positioned at the top of an array of offices and personnel that cascade down to the district level. Its regional and district offices provide the structure for the efficient management and conduct of elections.

It has designed elaborate programs of action which focus on staff recruitment, training, discipline and retention. Capacity building programs are formalized, and the staff undergoes periodic professional training to beef up their skills.

The general opinion is that the EC's staff is professionally competent and is adaptive to changing circumstances. When issues plagued the 1992 electoral process and dented the image of the INEC, the EC reformed itself by taking important initiatives in order to gain legitimacy and public confidence in its activities. Those measures have boosted the credibility of post-1992 elections.

### **LEADERSHIP AND INCLUSIVENESS**

Interviewees are satisfied with the educational and professional backgrounds of members of the EC. The members are skillful in the art of management, organization and administration.

They believe that the EC's competence has come through long experiences of elections management. Experiences from the Sole Electoral Commissioner, NCD and INEC have impacted on EC's efficiency. The quality of elections management has improved over the years.

Most interviewees expressed satisfaction with the multi-professional and regional backgrounds, gender balance as well as the ethnic diversity of the membership of the EC.

The existence and survival of IPAC reflects an institutional philosophy of continuous dialogue with political parties while the consistent high rating of the EC by the public, among governance institutions, is evidence of its improved relationship with the public

Decision-making procedure is formalized, collective in character and outlook and democratic because it reflects stakeholders' perspectives.

### **PUBLIC TRUST AND SOCIAL CAPITAL**

There is extremely high public trust of the EC. In all the four general elections, the EC demonstrated sufficient impartiality in handling the electoral process.

It is a credible election authority that can be depended upon for all future elections because it has shown tenacity in the management of the electoral process. When the 1992 election cleaved society, the EC undertook measures that had far reaching consequence on the credibility of subsequent elections.

The quality of elections has improved election after election. The electioneering has been marked by intensified unity front between the EC and political parties. As a result, the chronic accusations of bias, suspicion and mistrust against the EC have reduced significantly. A large number of interviewees rated the EC as the most trusted governance institution in Ghana.

### **THE ELECTORAL PROCESS: DESIGN AND IMPLEMENTATION**

The EC has always been determined to conduct credible elections. To this end, it undertook radical measures to ensure the integrity of the electoral process.

The formation of the IPAC was a major move toward fostering consensus building in the management of the electoral process. Transparency of the electoral process has been furthered by the acceptance of party representatives (agents) at registration and polling centres. As a safeguard against impersonation, the EC introduced photo identification cards (ID Cards).

Voter education has been grafted onto the electoral process. Trained EC public educators are active in the rural constituencies and peri-urban areas where media penetration is weak to offer extensive election education to the voting population during election years.

The security of the ballot has been a primary concern of the EC. Most interviewees are satisfied with the elaborate security arrangements the EC has put in place to protect the integrity of the ballot.

Disputes resolution mechanisms are an institutionalized aspect of the electoral process. Pre and post-election complaints are dealt with within the framework of the electoral laws. While petty disputes over voter registrations are resolved through the EC's internal structures, post-election results disputes are handled by the law courts.

## PROBLEMS

In spite of these, there is the fear that government could use its powers of approval of EC's budget to undermine its autonomy through deliberate delays in releasing funds and budget-cuts.

Perennial government-EC conflicts over salaries and allowances for its permanent and temporary election staff are a threat to achieving credible elections because such encounters heighten public's anxiety over elections time-table, etc. Over-dependence on donors for election funds could disturb smooth election process in the event of donor supply-cuts.

EC's infrastructure is weak and even weaker outside the head office. Hence, it relies on the government to mobilize logistics on *ad hoc* basis to run elections. Leadership succession in the EC is nebulous. There is no established legal procedure for leadership succession.

Most interviewees raised questions about the cumbersome and slow adjudication processes of election disputes. The undue delays hamper justice. The practice of involving the Attorney-General Department to defend the EC in election cases represents a conflict of interest.

Interviewees feel that the EC lacks the capacity to rigidly enforce the electoral rules. The fragrant disregard of EC's rules by the political parties regarding financial auditing, organizational establishments and maintenance of structures gives an impression that the EC is ineffective.



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### INTRODUCTION

Africa has been the scene of dramatic democratic reforms. The 1990s saw a significant transformation of the political landscape of the entire continent. The collapse of previously autocratic regimes paved way for democratic institutionalization (Gyimah-Boadi 2004; Bratton and Van de Walle 1997). More significant was the return of multiparty politics. In spite of this, there is a growing pessimistic tone among many scholars in their assessment of the progress of democratic consolidation in Africa. Rarely do their accounts reveal any positive contribution of governance institutions to democratic consolidation (Joseph 1999; Monga 1999; Bratton and Van de Walle 1997). Indeed, the abounding literature on democratization indicates that a major challenge facing new democracies in Africa, including Ghana, is institutional decay - lack of credibility. These discourses present a debilitating performance of key governance institutions such as the judiciary, parliament and the executive, among others, without a reference to the electoral institution that is expected to hold credible elections (CDD 2005; Gyimah-Boadi 2004).

Yet, democracy is about popular participation and holding of leaders accountable, and election is one of the legitimate means of achieving these democratic ideals (NDI 1996). Consequently, the role election authority plays in enforcing citizens' accountability of their leaders whenever they needed to replace them becomes critical. Since failure of the election authority to manage credible elections has serious ramifications for democratic legitimacy, assessing the performance of Ghana's Electoral Commission (EC) seems most appropriate and salient because of its multiple implications for other governance institutions in Ghana and elsewhere. The overarching question which the paper seeks to investigate is whether as a governance institution, the EC has operated or functioned on the basis of best practices? Hence, the paper identifies and discusses major factors facilitating success and failures of the EC, and draws lessons for enhancing institutional capacity and improving performance.

### THE EVOLUTION OF THE ELECTORAL INSTITUTION IN GHANA

Like other Commonwealth countries, Ghana's Electoral Commission (EC) evolved as part of the institutional transfer of the superstructure of British colonial rule (Jinadu 1995). Post-World War II political developments triggered constitutional reforms leading to multiparty politics in the Gold Coast (Austin 1964; Apter 1955). Since elections lie at the heart of multiparty politics, the search for an efficient system of election management became a priority. The limited suffrage and the narrow nature of the electoral system were suitable for a less complex election administrative system (Cohen and Laakso 1997:717-710). Initially, the machinery for administering elections was located within the colonial government – a department under the Ministry of Local Government (Ayee 1998:54). To be sure, colonial supervised elections were devoid of political manipulations and state controls (Smith 1960). The relatively congenial electoral environment provided by the colonial government fostered effective competition among the African political parties. The electoral regime was characterized by a relative fairness and agreements on the rules of the game – that were defined and implemented by the colonial government (Debrah 1998). This was at the core of election management efficiency and credibility.

But immediate post-independence political developments present a debilitating picture of the EC. Political controls and manipulations of the EC ensured that its independent power over election management was curtailed. Under the 1960 First Republican Constitution, the Chief Justice whose appointment was determined and controlled by the President of the Republic had oversight responsibility over elections. But the power to determine the finality of an election outcome lay with the President. By 1964 when the single-party rule was inaugurated, the Electoral Commissioner had lost his sense of impartiality, independence and neutrality on electoral matters (Debrah 1998).

The overthrow of the one-party regime of Dr. Kwame Nkrumah on February 24, 1966 opened up a long search for the most viable ways of achieving election authority credibility. To overcome lack of independence of the EC, the Justice Akufo-Addo's Constitutional Commission of 1968 recommended the establishment of an independent sole Electoral Commissioner with legal autonomy to manage the electoral process. Until 1992, the most preferred model of sole Electoral Commissioner had been experimented under the 2<sup>nd</sup> and 3<sup>rd</sup> Republics. Questions have been raised regarding the sole Commissioner framework. For instance, the Constitutional Experts appointed to draft the 1992 Constitution argued that the sole commissioner can be easily manipulated. In 1969, the opposition parties accused V.C.R.A.C.

Crabbe, the Electoral Commissioner for colluding with the Progress Party (PP) to ensure the latter's victory in the 1969 elections. The opposition charged that the Commissioner had been used to procure electioneering equipment for Busia's party, and that most returning officers appointed, were those that had previously worked in the Centre for Civic Education headed by Dr. K. A. Busia (Crabbe 1975:136). In the 1978 referendum on the Union Government (UNIGOV), the Supreme Military Council (SMC) appointed Justice I. K. Abban as the Commissioner to supervise the election. The courage exhibited by the Commissioner halted the SMC's plot to impose UNIGOV on Ghanaians (Chazan and Le Vine 1979:196). Similarly, the 1979 Justice Kingsley-Nyinah's Commission demonstrated complete neutrality and impartiality throughout the conduct of the 1979 general elections (Ayee 1998:57).

The Provisional National Defence Council's (PNDC) intervention on December 31, 1981 truncated multiparty politics and, within a year, a military fiat had ended the legitimacy of elections and the electoral body. But in 1982, the PNDC created the National Commission on Democracy (NCD) chaired by Justice D.F. Annan, with a charge to collate nation-wide views on the type of government that should be adopted. Its report was to have a great influence on the future direction of the country – the return to multiparty rule in 1992 owed much to the report and recommendations of the NCD.

Towards the end of the 1980s, disillusioned civil society groups and individuals emerged on the political arena to challenge the military establishment to implement the NCD's report. Though, small and weak in their number and strength when they appeared, they gradually became a formidable force that the regime could not contain. On May 10, 1991, the regime grudgingly announced the time table for the return of the country to constitutional rule. Interestingly, the political system – executive presidential and multiparty system, etc, that evolved was one based on the elite's consensus. Even some elements in the ruling class had a firm belief in it despite Rawlings' earlier expression of disbelief in its workability. Events since 1992 appear to confirm this assertion – something most respondents in elite interviews overwhelmingly admitted – multiparty politics and elections rather than military coups are regarded by the elite as the only legitimate route to ascending to political power (CDD 2000).

Thus, competition for political power and recruitment into state positions have manifested elite consensus – the impressive holding of relatively free and fair elections is progressively attracting universal acceptance. The fear that the executive could influence the electoral body has virtually waned. Whereas most interviewees recognize that executive manipulation of the

Interim National Electoral Commission (INEC) and political controls over the Consultative Assembly (CA) undermined the attainment of credible elections, the EC has proven to be different from its predecessor. Thus, notwithstanding the pervasive powers of the executive in national affairs, elite interviewees believe that the EC is free from political controls and influence. On several instances, it demonstrated that it could not be influenced by either the executive or its apparatus. For instance, it refused to honour a meeting called by the Bureau of National Investigation (BNI) on grounds that the electoral security task force's meetings could only be held at the Police headquarters. Similarly, neither pressure from financial donors nor civil society could sway the EC from carrying out its legitimate functions. The EC has shown that social forces seeking to engage in the electoral process could only do so under its authority. To this end, civil society and other groupings observing elections had been recognized after the EC had granted accreditation to them. Only a minority thinks that the executive influence is high and could be used to undermine the EC. To them, the wanton media attacks on the EC and behaviour of party activists/agents during elections can dent the EC's image.

Furthermore, most interviewees believe that the chosen political system is suitable for holding credible elections at all times. A large proportion of interviewees also regard the current legal regime (including the electoral laws) as supporting credible elections because it provides favourable environment for the EC to perform its constitutional mandate. However, slow process of administering justice in election disputes – evidenced in the bizarre case involving Isaac Amo, among others, as well as perception of corruption in the judiciary could undermine the EC's credibility.

### **INSTITUTIONAL AUTONOMY AND DESIGN**

The effectiveness of an election authority is largely conditioned by its autonomy. Its ability to make decisions, enforce electoral laws and regulations depends on the amount of autonomy it has. Most elite interviewees agree that there are constitutional provisions, legal and legislative instruments guaranteeing the autonomy of the EC. Both the Constitution and Act 451 set the EC up as an independent entity with power to manage its own affairs. For instance, Article 46 of the Constitution is explicit on EC's autonomy:

Except as provided in this Constitution or in any other law not inconsistent with this Constitution, in the performance of its functions the EC shall not be subject to the direction or control of any person or authority (Republic of Ghana 1992:39).

Another manifestation of the autonomy of the EC which majority of interviewees cited, relates to the appointment process. Members are nominated by the President in consultation with the Council of State which comprises partly elected and partly appointed body of counselors. Apart from ensuring that credible persons are appointed, the process checks against possible attempt to recruit straw men and women. Consequently, the law secures their tenure of office by making their appointment almost irrevocable. Hence, once appointed, members of the EC cannot be dismissed except on grounds of infirmity or insanity after a certification by an independent medical board (Republic of Ghana 1992). Members also enjoy the same terms and conditions of service as are applicable to the superior courts of judicature. For instance, the Chairman of the EC and the two deputies are equal in rank and status and enjoy the same conditions of service as the justices of the Appeal and High Courts respectively. The alignment of the conditions of service of the EC members to the justices of the superior courts is one way of securing their independence.<sup>1</sup> The rationale is to project the EC in the image of the courts that have established tradition of independence and immunity from political controls.

Quite a number of interviewees further noted that there are important constitutional and legal safeguards that guarantee the operational autonomy of the EC. Indeed, Article 51 empowers the EC to make regulations for the effective performance of its functions. In other provisions of the Constitution, the EC has the ultimate authority to create new regions and constituencies, merge existing ones and register political parties and set rules for their operations (Republic of Ghana 1992:39-42).

Undoubtedly, the constitutional provisions that are also entrenched clauses together with other body of laws relating to the EC's functions are geared toward making the EC an autonomous body and insulate it from possible controls and manipulations of the executive or any governmental organ. They also give the EC the power to resist undue pressure and interferences and guide it in the defence of all its actions (Gyimah-Boadi 1999:108).

Arguably, much of EC's effectiveness in managing the electoral process since its inauguration in August 1993 lay with the amount of constitutional and operational autonomy it has enjoyed. Most interviewees think that the EC has demonstrated its complete autonomy through drafting a number of constitutional instruments (CI) that set in motion the machinery for the conduct of credible elections. For instance, when the EC found it expedient to reform the electoral system and process, it drafted the Public Elections (Registration of Voters) Regulation, 1995, CI 12 to define the framework for registering voters for the 1996 elections. Again, it set its own rules for the

conduct of the 1996 general elections through the Public Elections Regulations 1996, CI 15.

Since 1993, the EC has asserted its supremacy over the recruitment of its permanent and temporary election staff.<sup>2</sup> How many permanent and temporary staff that is needed to be employed had been determined and recruited by the EC without external controls. Indeed, the EC has painstakingly weeded out partisan personnel sponsored by some political parties to infiltrate the Commission. Its stringent recruitment process and resistance to political pressure have been at the core of the successful recruitment of non-partisan temporary election staffs in the regions and districts.<sup>3</sup>

One factor, according to a majority of interviewees, that has aided peaceful election and lent legitimacy to the elections is the EC's ability to exercise its authority over the declaration of election results. Even, declaration of election results by its agents at the polling stations/booths after counting of ballots is recognized and accepted by all competing parties and candidates. It has further enforced its own election rules regarding mode of voting identification and certification of accreditation to independent election observation groups. For instance, when the ruling party objected to the presence of Network of Domestic Election Observers (NEDEO) and Ghana Alert's role in the 1996's election watch, the EC ignored the governments bluff and gave accreditation to the two groups to observe the elections.<sup>4</sup> In the controversial challenge by the ruling party in the fixing of election dates, the EC leaned against the law and prevented the government from usurping its constitutional mandate to fix election dates – it went ahead to fix the dates for the 1996 presidential and parliamentary elections to the consternation of the government.<sup>5</sup> It has defended its actions when it has reason to believe that they are legal. When some party executives pressured the EC to withdraw the nominations of some of their candidates for the 1996 parliamentary election, it refused, arguing that the right of withdrawal was a prerogative of the candidate. In 2000, when the EC realized that continued dependence on the state in defence of its actions in court was inappropriate, it hired the services of an independent Attorney.<sup>6</sup>

The Constitution and Statutes also guarantee the financial autonomy of the EC. Its expenditure regarding salaries, allowances, pensions and other emoluments of members of the Commission are charged on the state's Consolidated Fund. This measure ensures that members of the EC do not suffer financial losses or reduction of salaries and allowances of which they are entitled.<sup>7</sup> To be sure, the EC prepares its own budget and defends it before the Executive and the Parliamentary Committee on Special Budgets. Where the Committee is satisfied, it recommends its approval by Parlia-

ment. Although Parliament has the power to reduce allocation to the EC, this is rarely exercised. Rather, both the government and Parliament since 1993 have approved all EC's proposed budgets. As a further measure of securing the autonomy of the EC, it is made accountable to the people of Ghana through the Constitution. Its financial accounts can only be audited by the Auditor-General (an independent state institution with constitutional powers to scrutinize spending of all state institutions) rather than the legislature or executive.

But the question is how much autonomy does the EC enjoy? For instance, the EC is financially autonomous to the extent that it spends its budget according to its determined program of activities. Central government and its agents are still responsible for determining its budget. The Minister of Finance, a central figure of the ruling government, determines how much would be allocated to the EC in the government's annual budget. A minority of interviewees think that government subtle controls may occur in the budgetary process. They cited instances where government refusal or delays in releasing funds to the EC truncated the revision of the voters' roll. Also, the phenomenal conflicts over salaries and allowances of both its permanent and temporary election staff had brought the EC and its staff on a collision, thereby heightening anxiety about the time-table for the conduct of the 2000 elections.

Government financial encumbrance has led to the spate of donor financial support to fill the gap. From its beginning, much of EC's funds needed to implement its election activities have flown from international donors and their Western governments. Some elite critics have raised concern about donor financial support to the EC pointing to the implications of external funding for the EC's autonomy. These critics are suspicious of donors and their Western governments' influence on the EC. Some believe that donors influenced the post-1992 electoral reforms to reflect opposition parties' perspectives. Of this group, very few believe that the external donors were partly responsible for the electoral misfortune of the NDC in 2000 without providing any authentic evidence to buttress their assertion. Yet, external donor support to the EC has been at the core of its election management success. Funding to the EC has transformed the electoral process and enhanced credible election management. Compilation and revision of the voters' roll, training of temporary election staff, the usage of photo identification and transparent ballot boxes that had remained permanent features of the electoral process since 1994 owed much to donor financial support to the EC (see Larvie and Badu 1996). It will not be an overstatement to say that the EC effectiveness will suffer retrogression when donor financial assistance dries up.

### **ORGANIZATIONAL STRUCTURE, CAPACITY AND ADAPTABILITY**

The EC is organized into a three-tier structure consisting of the head, region and district offices. The head office in Accra, the nation's capital, houses the seven members of the EC. It is headed by a Chairman, two Deputy Chairmen and four other members. The Chairman is the general overseer of all activities of the EC and presides over every meeting and public gathering that requires the EC's presence. All public transactions with the EC are in the name of the Chairman. Beneath him are the two deputies who share among themselves the two specialized/functional responsibilities of operation, and finance and administration.

For purposes of effective performance of its functions, the EC has decentralized its functional and administrative machinery by establishing offices in the regions. Thus, the EC is present in all the ten (10) regions. A senior staff designated as Director is in charge of its operational, financial and administrative functions in a region. The permanent subordinate staff consisting of persons with varying professional backgrounds such as drivers, administrators, secretaries and middle level accountants provide professional, technical and administrative buffer to the Director's work.

Administrative decentralization cascades to the district level. The districts connect to the constituencies – the action spots of elections. It is managed by an officer of the EC. Persons with some degree of administrative experience or none at all but have a tertiary educational qualification are considered suitable for the position. Usually, not more than two staff comprising a driver and typist provides support to the Electoral Officer in the discharge of his/her function in the district.

The effective performance of EC's election activities may depend on modern infrastructure. To this end, it has office buildings that house its permanent staff in each of the ten regional capitals. To show its neutrality, the offices are located outside the regional administration blocks. It is at the district level that the EC faces some difficulty in securing a permanent office building. In the meantime, it has had to share office space with other government departments and agencies. Each member of the EC has an official car. Each Regional Director and District Electoral Officer has a duty-post vehicle. The EC may be the only public institution that has maintained its own mechanics to repair and service its vehicles and equipments. Hence, there is to be found at the head office moderately trained mechanics and technicians that fill its transport department to service its vehicles howbeit inefficient they are. Modern communication equipment such as telephones, facsimiles and Motorola are available at the head, regional and district

offices not only for administrative expediency but more importantly to facilitate efficient management of the election process, particularly, a speedy transmission of election results from regions to the headquarters.<sup>8</sup>

In spite of these, EC's infrastructure is weak and even weaker outside the head office. Apart from the senior head-office staff and Regional Directors that have permanent house accommodations, the DEOs live in rented houses. However, living in state apartments extricates the EC staff from undue partisan influence of co-tenants and land-lords.<sup>9</sup> Also, lack of routine maintenance of its communication gadgets has led to their frequent breakdown. A large majority of interviewees observe that managing modern elections with large voter population, poor road infrastructure and networks poses a grave challenge to the EC. Late opening of polls is due to some of these organizational problems – inaccessible roads, breakdown of vehicles conveying election materials, etc.

Quite a few of interviewees think that the EC recognizes the importance of staff development and has designed elaborate programmes of action with a focus on staff recruitment, training, discipline and retention. Its programme for on-the-job training and staff promotion has been continuous and impressive. It regularly sponsors senior and junior secretariat staff to upgrade their knowledge at the GIMPA and Government Secretariat School respectively. The merit system has been the dominant determinant factor for staff recruitment and promotion. Due to international recognition of the competency of its staff in election management, the United Nations (UN) has counted on the EC of Ghana to conduct credible elections in most post-conflict nations in former Eastern European, Asian and other African countries. A moderate number of interviewees believe that the EC staff is relatively motivated through frequent salary upward adjustments and payment of allowances. There is an in-built administrative mechanism for staff replacement. The position of deputy director grooms the assistant for promotion to the Director position when the need arises. Thus, retirees are replaced by equally competent and qualified persons. In addition, there is a continuous filling of vacancies as a result of resignations, deaths, incapacitations at every level of the administration.<sup>10</sup>

Modern election management involves performing several administrative and managerial tasks. This need necessitates the employment of the services of temporary election staff. Some critics point to the lack of impartiality and neutrality of those recruited by the EC even though they undergo rigorous training to understand the rudiments of their assignments. Besides, they swear a judicial oath to comply with all the rules in respect of their new tasks. As Smith (1960) observed:

In the development of a genuine electoral administration what is required is administrative machinery consisting of a small permanent nucleus and large reinforcements who can be seconded for electoral duties from other work at periods of peak activity. What should be stressed is its capability to conduct an election with neutrality, honesty and without confusion (Smith 1960: iv).

Most interviewees think that the administrative and technical competence of the EC is commendable. In their opinion, its staff has demonstrated considerable competence in election management. Indeed, the EC staff exhibited high professional conduct in managing the electoral process, particularly, the 1996 and subsequent elections. As Michael Bratton clearly noted, 'in Ghana, observers uniformly praised the conduct of the December 1996 second elections, singling out the ... professionalism of the national EC ... as positive steps toward strengthening Ghana's democracy and its electoral process' (Bratton 1999:27). From registration of voters to the declaration of election results, the EC staff exhibited superb competencies. In fact, their professional handling of the electoral process has been helpful in creating congenial conditions for relatively competitive elections.

Interviewees think that the EC has been adaptive and taken radical measures to meet future challenges of election management. When the 1992 elections produced a bizarre outcome with the opposition boycotting the December parliamentary polls, the EC adopted proactive measures to assuage the opposition's apprehensions. It convoked fresh voter registration in 1995 and adopted annual revision exercises, produced photo-ID cards, starting with the issuance to voters in the constituencies bordering neighbouring countries. It extended the photo ID cards to every registered voter in 2000. For purposes of enhancing election transparency, it made available to the political parties, hard and soft copies of the voters' register - (CD-ROM) form. And above all, it negotiated for the use of transparent ballot boxes, voting screens and quality indelible inks for the 1996 elections and subsequent elections.

By 2004, it has designed a programme that fixes voters photographs on the voters' roll. It settled perennial conflict over placement of candidates on the ballot paper by establishing a mechanism that allows all competing candidates to ballot for a place on the 'Notice of Nomination'. Overwhelmed by undue delays in releasing the 1992 election results and to allay the opposition's fear of possible manipulations, the EC allowed ballot papers to be counted immediately after voting. The declared results were transmitted by fax from the districts to the headquarters via its regional offices. It is worth

noting that these achievements of the EC span a significant period of Ghana's post-1992 electoral politics. From its turbulent period in 1993 after inheriting a debilitating performance of the election process from its predecessor, the INEC, the EC transformed its image by adopting strategic measures that lent credence to the election process and its outcome.<sup>11</sup>

### LEADERSHIP AND INCLUSIVENESS

Leadership is a process in which a person influences and controls the behaviour of other members of an organization or a group toward some common goal. It is the lifting of people's vision to a higher sight, the raising of their performance to a higher standard and binding of their personality beyond its normal limitation (Bennis 1998:21). Leadership therefore is the ability to inspire others in a vision.

In modern state institutions, educational and professional backgrounds plus skills and competence are important prerequisites of a good leader. Interviewees think that the members of the EC are well qualified for the positions. According to most interviewees, although the chairman does not have a legal background, he has proven that the position is not for lawyers. All the members are well educated and have the skills and competencies to handle the demands of their jobs. The EC's competence has come through long experiences of election management – building on those laid down by the sole commissioner, NCD and INEC. To be sure, the three executive members of the EC have built experience from the NCD and INEC. David Adenzie Kangah was a member of the NCD and INEC. Dr K. Afari-Djan was the deputy chairman of the INEC responsible for operations. Undoubtedly, these persons have benefited tremendously from their experiences as members of the NCD and INEC.<sup>12</sup> A minority of interviewees, however, thinks that ability to perform rather than educational qualification is the most paramount prerequisite for membership of the EC.

Most interviewees expressed satisfaction with the multi-professional, regional and ethnic composition of the EC. The backgrounds of the membership reveal ethnic and professional, etc, diversity – thus reflecting a broad spectrum of society. The EC further reflects gender and socio-cultural balance.

Leadership succession in the EC is, however, nebulous. There is no legal procedure for leadership succession. Laid down procedure for replacing the chairman or any of his deputies is non-existent. The constitution entrusts their appointment and replacement to the President of the Republic of Ghana. The lack of a definite succession format in respect of the members of the Commission, in the opinion of one-third of interviewee, could have a

dire consequence on the activities of the EC. In the event of retirement, resignation or death of the chairman or the two deputies, filling the positions with completely new persons could affect experience and continuity.

Most interviewees have little or no knowledge about the procedure for decision-making in the EC. Unlike the sole electoral commissioner that was empowered by law to initiate all policies, the seven-member EC collectively constitutes the decision-making body. Important electoral and managerial decisions are taken by all members. They are all responsible for the supervision of the activities and staff of the EC. However, the day-to-day management decisions are taken and executed by the three executive members. The corporate nature of the EC implies that it is a collective body/unit with similar mandate and members exercise the same powers. The Chairman is only a *primus inter pares*. The formation of the IPAC has not changed significantly the EC's mode of decision making.

The EC may seek the opinions of the parties on major policy decisions with serious ramifications for the electoral process. For the sake of fostering election credibility, the EC would make decisions to reflect political parties' perspectives.

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## THE ELECTORAL PROCESS

### DESIGN AND IMPLEMENTATION

Elections evoke a remarkable array of organized activities, including the myriad efforts by the election authority to enact laws and regulations, and design comprehensive programmes for registering political parties and voters (Debrah 2001). The EC's determination to conduct an improved election in 1996 saw a new design for the electoral process. Most interviewees think that opposition parties' threat to stay out of the electoral process until electoral reforms were carried out forced the EC to initiate comprehensive reforms in 1994. With international donors' encouragement, particularly, the IFES, the EC designed a new policy instrument that brought representatives of all political parties and donors, acting as observers, to join the EC in regular meetings to fashion consensus on managing critical aspects of the election process. Through the Inter-Party Advisory Committee's (IPAC) platform which was replicated in the regions and districts, the EC dialogued with the parties to mend thorny areas of the electoral process.<sup>13</sup> The IPAC was only an advisory body, and consensus reached at its meetings did not bind the EC. However, the EC recognized that enacting policy decisions to reflect the apprehensions of the parties would promote credibility of the elections. A majority of interviewees think that cooperation secured through IPAC meetings positively changed the relationship between the parties and the EC. Opposition parties rescinded their boycott threat and showed their willingness to participate in the 1996 electoral process and future elections.

The voters' roll that had become inaccurate and unreliable – an observation long admitted by the IFES but was ignored by INEC received EC's attention. Fresh registration of voters began in March 1995 within the spirit of the electoral reform in 1994. From the beginning, it proved a contentious process but the EC dispelled the fears of the parties promising a transparent process.<sup>14</sup> To this end, it accepted representatives of the political parties to

monitor registration at all centres with an added authority to authenticate, at close of each registration day, their consent with procedures and registration processes by signing a registration document. After the registration exercise, the EC distributed copies of the provisional list for the parties' scrutiny. The value of the new registration exercise was that from 1995 on, a very large proportion of the citizenry who possessed the electoral qualification registered to have their names on the roll. As a safeguard against impersonation, the EC introduced a photo identification card (ID Card) to every registered voter. Some interviewees think that the EC has pursued voter education with considerable vigour. Trained EC public educators are active in the rural constituencies and peri-urban areas where media penetration is weak to offer extensive election education to the voting population during election years.

Polling was another area that received EC reform initiative. The security of the ballot had been a primary concern of the EC. In the past, it was thought that the security of election materials and ballot papers could best be guaranteed if the printing was done abroad. INEC had negotiated with some foreign printing firms to undertake the printing of the ballot papers for the 1992 general elections. Few weeks to the polls, it was rumored that ballot papers were in the hands of agents connected to the ruling PNDC. Such allegations potentially charged the already volatile electoral environment that was recovering from mistrust of the impartiality and neutrality of the INEC. The EC did not believe that the security of the ballot was only possible when printing of the ballot papers was done abroad. In 1996, it engaged local printing firms to print important election materials and the ballot papers.<sup>15</sup>

It designed elaborate security arrangements to protect the integrity of the ballot. Apart from posting its staff to the printing houses, agents of all competing political parties were empowered by the EC to monitor the printing process. In fact, since 1996, political party agents have been actively involved in observing the printing of ballot papers and transporting of same to the polling centres. At every stage, they are permitted by the EC to keep their own records of observation of the printing and transportation of election materials. On polling day, state security services – the police, prisons and fire service personnel are posted to keep peace at the polling stations on the authority of the EC.<sup>16</sup> Transparency and integrity of the ballot has been furthered by party agents' and domestic election observation groups' monitoring. They are permitted to make their independent tabulations of election results and publish their observation reports.

The EC has also tackled allegations of ballot rigging, double and under age voting by introducing transparent ballot boxes (TBBs) and endorsing the use of photo ID cards to vote. In contrast to INEC's rule to transport ballot papers to a collation centre in a designated place in the district after voting, the EC's regulation required its officials to count and declare the results in the presence of party agents, voters and other observers immediately voting ended. Thus, the likelihood of the EC doctoring an election result is completely controlled. Copies of the declared polling station results, endorsed by agents of candidates and parties are given out. The faxed results to the EC headquarters are further counterchecked by party agents, authenticated and declared by the Chairman of the EC.

Resolution of disputes arising from declared election results is an essential part of the election process. Most interviewees think that complaints are formalized per the election law. It requires an aggrieved person to notify the Chairman of the EC in writing, outlining the basis of the challenge. A majority of interviewees think that the EC has taken steps to address petty election disputes and, indeed, has handled minor cases through IPAC and its Registration Review Committees (RRCs). Post-election disputes are handled by the law courts. Although the burden of proof lies on the complainant who seeks relief from the court, the EC is the ultimate body to provide evidence to the court regarding the election case in dispute. It is fair to say that the EC has been proactive in electoral disputes matters.<sup>17</sup> Disputes over legibility of persons seeking registration have been handled by its RRCs. In 1995, the EC created the RRC to address disputes over registration of voters. The RRC operated at the national, regional and district levels. The IPAC also serves as a dispute resolution chamber where conflicts over aspects of the election process are resolved through dialogue and consensus.

Most interviewees raised questions about the cumbersome and slow adjudication processes of election disputes. In the past, the EC had followed the tradition where legal suits filed against it by aggrieved persons in respect of election results and other related matters were defended on its behalf by the Attorney-General Department. As a member of the executive and the ruling government, the Attorney-General (A-G) role represents a conflict of interest. To be sure, most cases filed against the EC and defended by the A-G were ruled in favour of the complainants except in the case of Isaac Amoo versus the EC. The Isaac Amoo's case represented election institutional failure, incompetence and inefficiency. A miscalculation in the election results' tabulation process by the EC polling officials led to the wrongful declaration of Rebecca Adotey (NDC) rather than Isaac Amoo (NPP) as

winner in the Ayawaso East Wagoon parliamentary election. Amoo's petition to the EC, and subsequent court battles lasted four years. Finally, when the court ruled in favour of Amoo, the four year tenure of parliament had expired. The delay tactics employed by the A-G denied justice to the complainant who could not represent his constituent in parliament.

One weakness of the EC cited by many interviewees is its inability to rigidly enforce the electoral rules. The fragrant disregard of EC's rules by the parties regarding financial auditing, organizational establishment and maintenance of structures gives an impression that the EC is ineffective. The prevailing inter-party conflicts may owe its consequence to this perceived weakness of the EC. The increasing exploitation of incumbency by the ruling party in every election may have resulted from the non-enforcement of inter-party discipline. As some interviewees argued, in the face of EC inactiveness to enforce the electoral rules to restrain the incumbent, the opposition could conclude that the only surest way to survive in the uneven competition is to act in their own way to halt the incumbent's excessiveness. Had the EC shown proactiveness in enforcing the election rules, the perennial inter-party conflicts would have abated.

### **PUBLIC TRUST AND SOCIAL CAPITAL**

There is extremely high public trust on the EC. In all the four general elections, the EC demonstrated sufficient impartiality in handling the electoral process. It is a credible election authority that can be depended upon for all future elections. It has shown tenacity in the management of the electoral process. When the 1992 election cleaved society, the EC undertook measures that had far-reaching consequence on the subsequent credibility of the elections. EC's strategic initiatives reassured the public and engendered their confidence in the electoral process. When the EC's decision to open fresh registration of voters in March 1995 proved contentious because the opposition distrusted the process, it overcame the suspicion of partiality and partisanship by rendering the registration process transparent. Thus, from 1995 on, a very large proportion of the citizens who possessed the electoral qualification actually registered with the EC. Undoubtedly, the high voter response to all voter registration exercises could be attributed to the growing confidence voters had in the EC and its ability to conduct free and fair elections.

A further boost to the EC's credibility rating is the formation of the IPAC to foster consensus building in the management of the electoral process. Most interviewees think that this new design increased relative trust in the EC and its determination to create a leveled playing field for competitive

elections by parities and candidates. Connected loosely to this was the EC's endorsement of using TBB, Photo ID cards for voting. Working toward a transparent election process helped erased public suspicion and voters' anxiety about EC's trust in managing free and fair elections. Thus, the electoral reforms were significant; the formation of the IPAC, etc, enabled the EC to regain its lost image and trust, accusation of bias, etc. It provided a new platform where the opposition sought hearing to their numerous apprehensions and orchestrated incumbent manipulations.

As the quality of elections improved election after election, the chronic accusation of bias against the EC and the public's interpretation of any least administrative and technical errors, as an attempt by the incumbent to influence or manipulate the EC, gradually faded out. Thus, by 2004, electoral politics and contests steeped in institutional mistrust and suspicion had become a thing of the past.<sup>18</sup> Notably, since 1996, electoral politics has taken a new shape – the electioneering has been marked by intensified unity front between the EC and political parties.

An important dimension of EC's trust is the growing phenomenon where the private and civil society organizations would seek the EC's assistance to conduct elections to select their officials. Since 1993, organizations like the Trades Union Congress (TUC), students, Christian, Muslim and business organizations/associations have relied on the EC to hold their internal election to choose their leaders. Such organizations tend to view the EC as the most credible institution to supervise the choice of their leaders because of their trust in the impartiality, neutrality and fairness of the institution. Hence, leaders selected under EC's supervision are widely accepted to be credible.



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## CHALLENGES OF REFORM

### IDENTIFICATION OF PROBLEMS

The persistent logistical problems have also left the electoral process open to serious abuses and possible manipulations.

Interviewees think that the current method for appointing EC members is fraught with problems because it allows the president to select his favourites. Where members are unable to assert their independence, executive manipulations and influences would undermine the attainment of credible elections. The requirement for the president to consult the Council of State does not enhance efficient checks on the appointment process because the council is an advisory body.

Inadequate funding for elections is one major concern of most interviewees. The practice where much of EC's budget is funded by foreign donors is unsustainable. Donor fatigue would throw election management into serious crisis and the consequences would be disastrous for Ghana's democracy. EC still relies on outmoded practices and means of communication especially in transmitting election results, registration and data keeping.

The judiciary is ineffective in adjudicating electoral disputes. The courts are slow. The recourse to technicalities is a potential threat to efficient election management and credible elections. Delay in justice is a bad omen for consolidating democracy in Ghana.

The practice of involving the Attorney-General Department to defend the EC in cases of election disputes represents a conflict of interest.

Interviewees feel that the EC lacks the capacity to rigidly enforce the electoral rules. The fragrant disregard of EC's rules by the political parties regarding financial auditing, organizational establishments and maintenance of structures gives an impression that the EC is ineffective.

The quality and neutrality of the EC's temporary election staff is still a subject of contention. Opposition parties still believe that they are biased and create most of the problems at the polling and registration centres. Party agents' reaction to the perceived partisan behaviours they exhibit at the centres has caused confusion and in some cases disruption of the polls.

### **POLICY RECOMMENDATIONS**

In a fast growing world, managing elections has become a complex enterprise requiring the use of the most sophisticated equipments to overcome challenges and unforeseen contingencies. This implies an initiative that integrates the EC into the technological system. Procuring modern equipment with installed technological facilities would enhance EC's work in the area of voter registration, ballot printing and election results transmission.

This further means that the EC's staff beyond the headquarters must undergo technological training to acquire the skills, not only in information communication technology (ICT), but also in other specialized fields that enhance their competencies in the application of new scientific ideas in election management.

Interviewees think that there should be an independent commission to be responsible for appointing members of the EC. This approach will enhance public and parties' confidence in the members and their work than the current method that places the responsibility for recruiting members in the hands of the partisan president.

Efficient electoral management is capital intensive – lack or delay in releasing resources can compromise the integrity of the election and democratic process. To overcome perennial inadequate financial resources for elections, stakeholders may agree by consensus to set up an election fund, the prototype of the GETFUND, specifically for managing elections.

Elections evince tension, especially in results declaration. Delays in releasing results can precipitate post-election conflict. This makes it more imperative for the EC to devise the most efficient means of transmitting results to the headquarters to avert confusion, anxiety and speculation of rigging.

Long period of election inactivity may have effect on the efficiency of the EC staff. Holding periodic refresher courses to keep them active will sharpen their skills and raise their professional confidence.

The in-house training of EC staff should be extended to the parties and their agents for them to comprehend the essential dynamics of the electoral process. This will help obviate conflicts arising from ignorance of party officials about the actual conduct and management of elections.

Staff motivation should engage priority attention of both the EC management and government. Labour conflicts relating to salaries and allowances could have a debilitating effect on election credibility and the prospect of institutionalizing democracy in Ghana.

Overcoming the hurdles of undue delays in election disputes resolution demands a radical approach that shifts attention from the regular courts to the creation of special courts. The examples of commercial courts that deal with election-related issues separately would enhance prompt adjudication of post-election conflict resolutions. On the other hand, encouraging the use of the Alternative Dispute Resolution Mechanism will minimize the delays in securing justice.

A more transparent process in the recruitment of the temporary election staff will allay the fears of opposition parties over partisan recruitment. An efficient recruitment process will weed out partisan infiltrators to enhance credibility of elections.

A process toward establishing a legal department in the EC, staffed with competent and experience lawyers will be a positive step toward securing its legal autonomy.



## NOTES

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1. This information was volunteered by some staff of the EC, Accra, October, 2007
2. Interview with a Director of the EC, Accra, 2007.
3. Ibid.
4. Insight into the EC's activities shared by some Regional Directors, Western, Gt. Accra and Ashanti regions, September, 2007.
5. These are some of the instances cited by some interviewees to explain the autonomy of the EC.
6. An instance of the EC's independence cited by some interviewees.
7. Ibid.
8. This information was volunteered by some staff of the EC, Accra, October, 2007
9. Interview with some District Electoral Officers (DEOs) in some of the districts where the elite interviews were carried out, September, 2007.
10. Interview with some officials of the EC, October, Accra, 2007.
11. Ibid.
12. Ibid.
13. Interview with a director at the Kumasi, September, 2007.
14. Ibid.
15. Interview with some officials of the EC in the regions and districts, September, 2007.
16. Interview with a senior security officer, Accra, September, 2007.
17. Interview with the Ashanti-Deputy Regional Director, September, 2007.
18. Ibid.



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