

**Election Observation Practices and General Elections in Ghana under the Fourth Republic: Enhancing Government Legitimacy**

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The 2008 general elections in Ghana, held on December 7, 2008, constituted a major test of our burgeoning democracy. This is because for the first time in Ghana's political history, the two major political parties, the ruling New Patriotic Party (NPP) and the opposition National Democratic Congress (NDC), having each held presidential office and parliamentary dominance for two terms (eight years), vied seriously for another stint in the Castle and a majority in Parliament. While both parties worked hard to win the elections, in reality, only one party can win and only one party won the general elections.

It was therefore crucial that the outcome of the elections be regarded as legitimate. Electoral outcomes usually depend on the actual process of the elections, which must be seen as free, fair, and transparent, in order to confer any semblance of legitimacy on the winner of the presidential election and winners of a parliamentary majority. This is where election observation practices come in. It is of crucial importance that domestic and international election observation takes place during the electoral period (pre-election, particularly election-day, and post-election) to imbue the process with neutrality, fairness, transparency, and ultimately, legitimacy. This paper therefore contends that particularly in elections where the stakes are high (as in Ghana's 2008 elections), professional observers and their neutral, effective observation practices are highly important tools for election outcome acceptance by citizens and all stakeholders and for imbuing new governments with legitimacy. When election outcomes are rejected

as illegitimate, it is usually because the election processes themselves are regarded as unfair, nontransparent and therefore illegitimate. Ineffective and partial observation practices can just as easily contribute to a rejection of election outcomes or disputed elections.

In Ghana in 2008, it is contended that the phenomenon of domestic and international election observers and their effective activities helped imbue the election process with legitimacy, added a local touch in the case of domestic observers, and prevented widespread fraud and cheating (although there were certain unfortunate instances of fraud and cheating that will be discussed below). An important development in 2008 was the recognition, by political parties, the Electoral Commission (EC), civil society organizations (CSOs), and the donor community, of the importance of the 2008 elections. This recognition was evidenced partly by the EC's publication of a Framework for Domestic Election Observation in December 2007. The purpose of the Framework was and is to "ensure that the way domestic election observers go about their work is consistent with internationally acceptable standards of election observation" and to strengthen the democratization process by, among other things, calming particularly the nerves of the public and opposition politicians distrustful of the government (EC Framework 2007: 7). The Framework was and is to be used to educate domestic observers and the public on what election observation entails, what to observe, how observers are to act, gather facts, and interpret facts through report writing. The above constitute important election observation practices that if carried out well, can enhance the credibility of the upcoming elections. Most importantly, the EC put and continues to put a premium on accreditation of all observers, which has the effect of ensuring that no

dubious or extremely partisan persons (including political party activists) engage in election observation (EC Framework 2007: 15-16).

Election observation practices in the 2000 general elections, for example, depict their importance for the elections process, the outcome of which was largely accepted by the public and stakeholders. This paper will seek to establish whether such diligence persisted in the 2008 election period, and if so, whether election observers were able to verify the extent of freedom and fairness in the general elections and contribute to the acceptance and legitimacy of the election outcome, which was won by John Atta Mills of the NDC, with the NDC also winning a plurality of the 230 parliamentary seats contested. It is important to note that the training of observers and their neutrality and objectivity in 2000 was crucial to the success of their mission and to securing the confidence of the public. At the end of each training session, observers were asked to sign an “Oath of Objectivity and Neutrality” to indicate their willingness to be impartial and neutral in the observation process (CDD-Ghana/CODEO 2001: 7). A significant aspect of election observation is the final observers’ report, which in 2000 showed the importance of domestic observers who were able to ascertain for themselves and for the general public the generally calm and peaceful manner in which the elections were conducted, the non-partisan and professional conduct of electoral officials, the diligence and vigilance of party agents, and the transparent, clean, and free nature of the process. Interestingly, 93.7% of the 5,500 checklists were returned by Coalition of Domestic Election Observers (CODEO), and of this number, 99.6% thought the balloting was free and fair overall, while 99.8% found the process worked satisfactorily (CDD-Ghana/CODEO 2001).

Problems encountered despite the free and peaceful 2000 election environment included the incidence of under-age voters at polling stations, the inability of the EC to supply adequate voting materials on time to a few polling stations, a few reported cases of impersonation, as well as the occurrence of multiple voting at some polling stations (CDD-Ghana/CODEO 2001: 13). Thus, in addition to imbuing confidence in the process by helping to minimize the incidence of fraud and irregularities, another crucial purpose served by observers is the fact that they were also at a vantage point to see and report problems to the EC, which was then able to rectify them before the next elections. The training, experience, and presence at polling stations of non-partisan observers enhanced transparency and contributed to public confidence and involvement in the electoral process (Daily Graphic, December 30, 2000). These civil society election observers were there to make sure that neutrality persisted among the political parties, and that everyone did what they were supposed to do at the polling stations. Despite the presence of political party agents at most of the polling stations, the presence of local observers was necessary to give the public and political parties and their candidates the peace of mind that nothing illegal took place.

The three main purposes of election observation by domestic neutral groups and external observers – expressing solidarity with emerging democracies, strengthening public confidence in the electoral process, and contributing to the free and fair conduct of elections (Hesseling 2000) – were well served in Ghana in 2000, in the process conferring legitimacy on the elected government.

It must be asserted that in 2008, these purposes should have been well served again if the observers trained by the EC and the Ghana Center for Democratic

Development (CDD-Ghana) Election Monitoring Mission complied with all expectations of duty and instructions embedded in the Code of Conduct for Election Monitors. This Code stipulates that “monitors will maintain strict impartiality in the conduct of their duties and will, at no time, publicly express or exhibit any bias or preference in relation to national authorities, parties, candidates, or ...any issues in contention in the election process....monitors will not interfere in the electoral process, and may raise questions with election officials and bring irregularities to their attention, but they must not give instructions or countermand their decisions” (CDD Election Monitoring Mission Document 2008: 15-16). In addition, monitors are to “remain on duty throughout election day, including observation of the vote count, and if instructed, the next stage of tabulation....monitors will comply with all national laws and regulations, and will exhibit the highest levels of personal discretion and professional behavior at all times” (CDD Election Monitoring Mission Document 2008: 16).

In the 2008 pre-election period, monitors were to look out for the flaws in election-related legislation, such as legislation that is vague, subject to varying interpretations, and lacking sufficient guarantees for respect of civil and political rights; the nature of judicial implementation, such as lack of due process in court proceedings; the nature of the electoral management body (the EC), such as whether it is under political pressure or lacks independence from the executive; election logistics and operational management; the conduct of the registration of candidates and political parties, as well as voter registration; flaws in the ballot, such as ballots circulating outside of polling stations on or before election day; the adequacy of voter information and education; the level of freedom and non-violence in the political campaign; and problems

associated with campaign resources and the media, such as unequal use of public resources by incumbents and unequal treatment of parties or candidates by public media.

On election day, monitors were to look out for violence or disturbances; intimidation of voters; confusion or disorganization at polling stations; and the presence of unauthorized persons at polling stations; monitor the vote count, whether it was done by polling-station officials or other persons, etc. and monitor the tabulation of ballots, including any incidence of ballot-box stuffing or switching and disorderly counting procedures. Finally, post-election monitoring would involve noting the nature of the declaration of results, including unreasonably delayed announcement of results, denial of access to observers to this process, and discrepancies between election-day records of results and the final results at any level of the election administration; post-election day complaints and appeals process; and implementation of election results, including disqualification of winning candidates (CDD Election Monitoring Mission Document 2008: 16-22).

This paper concludes that the above stipulations for election observer practices during the pre-election, election-day, and post-election periods were well-thought out, comprehensive, and democracy enhancing rules geared towards the achievement of free, fair, and transparent elections in 2008, the outcome of which it was hoped would be accepted by all and sundry, and an elected government that would be hailed as legitimate both internally and externally. The onus primarily lay with the election observers themselves in their conduct and diligent carrying out of their duties, as well as the political parties and their polling agents, election officials, security agents, and voters. In reality, the 2008 general elections turned out to be a tough hand-wringing fight for the

presidency and parliamentary majority, with extremely close results emerging. The NDC's John Atta Mills ended up as the choice for president, after a second round of voting, with 50.3% of the vote, while his very close opponent, Nana Akufo-Addo of the NPP, fell short with 49.7% of the vote. Both results, when rounded up, give us 50% of the vote each.

In contrast to previous general elections in Ghana's Fourth Republic (1996, 2000, and 2004), half of the electorate was not so ready to accept the results peacefully, and there were talks of and actual recounts in some constituencies, as well as a re-run of the presidential elections in Tain constituency in the Brong-Ahafo region. This very closely fought election and the ensuing hullabaloo about rigging, violence, and possible disenfranchisement of some voters, begs the question of whether the domestic and international election observers performed their duties diligently, and what their experiences actually were on the ground. This paper is a part of research work-in-progress that is presently engaged in examining more closely the experiences and conduct of election observers during and after the 2008 general elections, and comparing these with the experiences and practice of observers in 1992, 1996, 2000, and 2004, in relation to public acceptance of electoral outcomes and the perception of legitimacy conferred on the new government. It is hoped that the APSA Africa Workshop will provide the opportunity to discuss, examine, and revise this work (which should be completed by the time the Workshop begins) for publication.

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