

NDI GHANA PRE-ELECTION ASSESSMENT STATEMENT

Accra, November 19, 1996

I. THE DELEGATION AND ITS WORK

A six-member international pre-election assessment delegation organized by the National Democratic Institute for International Affairs (NDI) visited Ghana from November 11 through November 19, 1996. The purposes of the delegation were to demonstrate the interest of the international community in the democratic process underway in Ghana and to examine conditions prior to December 7 presidential and parliamentary elections.

The delegation's work was part of NDI's election-related activities in Ghana, which will also include an international observer delegation for the December 7 elections and the presidential run-off election, if a second round of voting is necessary. NDI's international observer delegation for the December 7 election will arrive in Accra on November 30, to continue monitoring the election process. NDI is also assisting non-partisan election monitoring efforts by Ghanaian nonpartisan organizations. NDI staff will remain in Ghana to analyze developments until the final results of the elections are determined. Additional statements will be released by the NDI election observer delegation, and NDI will release a final report after the definitive election results are announced.

This international pre-election assessment delegation was led by United States Congressman Harry Johnston, former chairman and current member of the Subcommittee for Africa. The delegation comprised election and regional experts, and political and civic leaders from Africa and North America. Other members of the delegation included: Patrick Merloe, NDI's Senior Associate for Electoral Processes; Henry Berger, an attorney and partner with the New York law firm of Fisher, Fisher & Berger; Professor Deborah Pellow of Syracuse University; Djoussou Faustin Semodji, Secretary-General of GERDES - Togo; and Almami Cyllah, member of the Electoral Commission of Sierra Leone. Delegation members have participated in numerous international electoral assessments and election observer delegations around the world. The delegation was assisted by NDI program staff.

The delegation was charged with several tasks: (1) to assess the legal framework for the elections and the election campaign environment in light of international standards for fair electoral competition and Ghanaian law; (2) to review the state of preparedness of the electoral administration; (3) to gauge the degree to which prospective voters are being notified about the electoral process and about the candidates so that they may make an informed choice; and (4) to gauge the degree to which voters feel free to exercise their choice and have confidence in the electoral process to determine accurately and respect the will of the electorate.

The pre-election delegation conducted meetings in Accra with government officials, political party leaders, representatives of the Electoral Commission, National Media Commission, news media, leaders of nongovernmental organizations (NGOS) working on fair election processes, including the Network of Domestic Election

with the December 7 elections. The delegation divided into three teams, which traveled respectively to the Ashanti, Central and Volta regions. The teams also met with local election and government officials, political party leaders, candidates and their representatives, local civic leaders, Ghanaian nonpartisan election monitors, journalists and others involved with the upcoming elections. In addition, the team received information from NDI representatives who traveled to other places in the country, while providing assistance to national, nonpartisan election monitoring efforts, including the cities of Bolgatanga, Cape Coast, Ho, Kumasi, Tamale and Wa.

II. FINDINGS AND OBSERVATIONS

A. Legal Framework for the Elections

In addition to its meetings noted above, the delegation reviewed the Constitution of the Republic of Ghana and laws, regulations and publications relating to the 1996 presidential and parliamentary elections. The delegation observed that, in general, the legal framework for the elections compares favorably with international standards. In particular, the delegation noted the following points.

1. The Constitution of the Republic of Ghana recognizes and protects the right of citizens to participate in political activity intended to influence the composition and policies of the government (Articles 3 and 55), to form or join political parties (Article 55) and for political parties to seek to shape the political will of the people and sponsor candidates for public office, who shall have the right to campaign freely in accordance with the law (Article 55).
2. The Constitution provides that: elections are to be conducted by secret ballot; such ballots are to be counted at the polling place immediately after the close of the poll, in the presence of agents for the political contestants; and that the results are to be announced there and then, with signed copies of the tally sheets given to the agents for the contestants (Article 49).
3. Several constitutional provisions concerning the Electoral Commission help to reinforce its role as an independent body, which is crucial for developing public confidence in the election process. These include provisions stating that: the Electoral Commission shall not be subject to the directions or control of any person or authority, unless within the bounds of the Constitution (Article 46); the administrative expenses of the Electoral Commission shall be paid out of the government's Consolidated Fund, rather than through a ministry (Article 54); and the Chairman and two Deputy Chairmen of the Commission shall have the terms and conditions of Justices of the Court of Appeal and the High Court, respectively (Article 44). At the same time, it must be noted that the members of the Election Commission are appointed by the President of the Republic without parliamentary approval or other explicit checks and balances (Article 43). This process has led some to question the Commission's independence.
4. The Constitution provides that every citizen with the right to vote is entitled to be registered as a voter (Article 42). In the face of allegations of irregularities and manipulation concerning the voter register in the 1992 presidential election and the opposition boycott of 1992 parliamentary elections, an entirely new voter registry was compiled for the December 7 elections. Approximately 80,000 political party agents received the same training as electoral officials and monitored the voter

register, request additions where omissions occurred and challenge inappropriate registrations. Copies of the final voter register were provided to the parties for review in advance of the election. Identification cards were issued to those entered on the new voter registry. While suspicions linger from the 1992 election experience and a significant number of registration challenges were entered, the transparency of the registration process and the involvement of the political parties helped to raise public confidence in the voter registry.

B. Electoral Organization

The delegation noted that a serious and diligent approach is being taken in preparing for the elections. This was apparent from the delegation's meetings at the national, regional and local levels with electoral officials, political party activists and leaders of nongovernmental organizations engaged in the elections. This was also reaffirmed by the delegation's observations in the capital and in the regions where its members traveled.

The decision to hold both the presidential and parliamentary elections on the same date was cited by many with whom the delegation met as an important improvement from the 1992 elections. The Electoral Commission and its subsidiary bodies have worked out detailed election plans, which they are working hard to implement. Confidence-building measures such as using plastic, transparent ballot boxes with protective, numbered seals are being employed.

Two areas of difficulty concerning electoral preparations were reported by election officials and some political party leaders: lack of sufficient vehicles and lack of sufficient communication equipment. Election officials and party leaders are calling on governmental agencies and the international community to assist in solving these problems.

The formation of the Inter-Party Advisory Committee (IPAC) in March 1994 is an important innovation in improving Ghana's electoral organization. The IPAC is a non-statutory advisory body to the Electoral Commission. It has met monthly and recently moved to more frequent meetings, where the Electoral Commission can disseminate information uniformly to the parties and solicit advice concerning electoral administration. The meetings also allow the political parties to raise concerns and express views on electoral administration issues and the election campaign environment. IPACs were set up at the regional and district levels as well. This interaction adds transparency and allows problems to be addressed early among the parties and election officials.

Political parties are planning to field candidate agents in each of Ghana's polling stations on December 7. This mobilization of supporters is being facilitated by assistance from the international donor community, although opposition parties report difficulty in garnering sufficient resources to train and deploy all of their polling agents. Strengthening the parties' participation in the election process, including through monitoring voter registration, the IPACs and candidate agent activities on election day, should help to ensure the integrity of the process and heighten confidence in the outcome of the elections. With candidate agents in each polling station to monitor the voting and counting processes and collecting copies of the vote counts on official tally sheets, the parties should be well situated to evaluate election-day events.

religious and civic groups. These efforts have addressed where and how to vote, secrecy of the ballot, why it is important to vote as well as the parties' appeal for voter support. There is evidence of voter education in towns and villages around the country where the delegation and NDI representatives visited.

In addition to voter education efforts, a number of significant Ghanaian religious and civic groups joined to form a coalition to conduct nonpartisan election monitoring. The coalition, known as the Network of Domestic Election Observers (NEDEO), is training volunteers throughout the country in order to deploy several thousand nonpartisan Ghanaian monitors in the polling stations on election day. Knowing that respected organizations are mobilizing neutral monitors also should help build public confidence in the elections.

Besides these positive developments, the delegation observed several important factors that cause concern when considering electoral organization. The following are among these factors.

1. The legal framework for the elections allows registered voters, who are resident for two months or more in a constituency other than where they are registered to vote, to apply for their name to be placed on a "transferred voters list" (Article 20, Public Elections Regulations, 1996). Such voters are allowed to vote in their newly resident constituency. A large number of these applications were received by the Electoral Commission. This caused the political parties to be concerned that an organized effort could be underway to shift votes to hotly contested constituencies in order to influence the outcome of certain parliamentary contests. Certain news media also raised concern about this development.
2. The Electoral Commission announced that voting transfer applications would be void if the transfer was to be within the same urban area, because the intent of the rule was to facilitate voting for those persons who could not easily go to their originally assigned polling station on election day. The Electoral Commission reported to the delegation that it would further examine the vote transfer applications upon the close of the application process (21 days before election day), to determine if attempts are being made to manipulate the vote in hotly contested races and that it would take appropriate remedial measures to address such attempts. The delegation noted that to avoid potential problems with the "proxy list," a careful examination may also be advisable concerning applications for voting by proxy (due no later than 14 days before election day), which are available to registered voters, who because of ill-health or absence from their constituencies, cannot go to the polling station on election day (Article 23, Public Elections Regulations, 1996).
3. The delegation also received allegations that political parties are paying fees to registered voters in exchange for either their voter identification cards or for the information on the cards. The steps noted above concerning the "transferred voters lists" and the "proxy lists" would help to prevent irregularities stemming from identity card purchases. Purchasing of voter identity cards could also be used to disenfranchise those who part with their cards. Effective investigations concerning such activities and voter education to prevent such activities could help to curtail election offenses and rumors of attempted electoral manipulation.

their election-day duties. The delegation also noted concerns raised by opposition political party leaders that their parties do not have adequate logistics capabilities to provide transportation and communications for their candidate agents on election day. The delegation was informed of a request by the Electoral Commission for assistance from the government and the international donor community to provide transport and communications systems for electoral officials to carry out their tasks. It may also be appropriate for the Inter-Party Advisory Committee to consider ways of providing logistical support to candidate agents on election day.

5. The delegation noted significant and effective steps taken to ensure the independence of the Electoral Commission. The delegation also noted concerns expressed by leaders of some political parties and others that legal counsel to the Electoral Commission is provided by the Attorney General's Office, which is presently headed by a leader of the incumbent President's political party. The delegation hopes that effective steps will be taken to ensure that legal opinions given to the Election Commission can be insulated from partisan political considerations, just as independence of the judiciary is crucial in ruling on electoral controversies.

C. Election Campaign Environment

The delegation was impressed that the election campaign environment is generally peaceful and that nearly everyone with whom it spoke was preparing enthusiastically for the elections. The delegation noted that the candidates are traveling to all parts of the country and, for the most part, are campaigning openly without disturbances.

At the same time, the delegation noted several reasons for concern regarding the campaign environment. Election related violence took place in Tamale on October 25 and 26, in which several people were wounded. The events grew out of attempts to disrupt an opposition campaign rally. Other incidents of disrupting campaign rallies have taken place, although the consequences have not been as serious.

In addition, the delegation received numerous credible reports that certain health fitness groups associated with political parties are carrying out public activities, such as marching through residential areas in a manner that causes some prospective voters to feel pressure concerning how to vote on election day. The delegation received credible reports of actions taken by persons believed to be members of the Commandos (a special security force) reportedly sent to all regions in advance of campaign rallies attended by the President that caused apprehension among some prospective voters. The delegation also learned of examples of persons being beaten for alleged political reasons in Ashanti and Central Regions. Activities like those just described appeared to the delegation to provide a basis for reports it received of fear and suspicion on the part of some prospective voters concerning the elections.

In an election campaign environment, tensions can easily heighten. Even smaller incidents that came to the delegation's attention, such as tearing down signs and flags of candidates, can prompt more serious confrontations. The delegation noted that the political contestants, electoral officials and other authorities could play an important role in preventing campaign violence and intimidation in the closing days of the campaign.

candidates representing the incumbent President's political party. Examples provided to the delegation included government officials who are also candidates for parliament using resources of their offices for campaign purposes, the use of dedication ceremonies for facilities provided by State funding to build support for the governing party and government contracts being used to secure support for the governing party.

D. Media Access And News Coverage

The Constitution provides that the State must provide a fair opportunity to all political parties to present their programs to the public by ensuring equal access to the state-owned media, and all presidential candidates must be given the same amount of time and space on state-owned media to present their programs to the public (Article 55). The National Media Commission (NMC) is constitutionally mandated with ensuring press freedom and independence, and it promulgated guidelines on political reporting and "equal access" requirements for the candidates.

The Ghana Journalist Association (GJA) estimates that there are approximately 40 private newspapers in the country and seven private radio stations. Two daily newspapers are state-owned as is the Ghana Broadcasting Corporation's (GBC's) nationwide network of radio stations. Ghana's only television station, GTV, is state-owned as well. Newspapers cover a wide political spectrum and are vigorously reporting on electoral matters, often with a slant towards particular political contestants. Only state-owned media, however, are allowed access to the Castle, where official State business transpires.

GTV provides 10 minutes of air time per week, which began approximately two months before election day, to each presidential candidate and 10 minutes per week to each political party contesting the parliamentary elections. Each party is to be granted two appearances on GTV's 45-minute "News Conference" program and on its 45-minute "Talking Points" discussion program. GBC provided 10 minutes of air time per week for the parties, and the presidential candidates each are to receive 10 minutes for statements to close the election campaign. Broadcasts are at popular times, and the order of appearance was set by lot. In all, these "equal access" provisions would appear to allow the electorate to learn about the political contestants and inform their choice on election day.

The exposure provided by the "equal access" provisions, however, are not paralleled in news coverage of the political contestants. The disparity in coverage favoring incumbents in the state-owned media, both in the amount and tone of coverage, cannot be explained solely by the advantages of incumbency. From the delegation's observations and from credible reports by numerous sources, including members of the news media itself, state-owned media give largely disproportionate coverage to the incumbent president and to the governing political party. In addition, it is reported that news coverage of incumbent political contestants is overwhelmingly positive, while coverage of other political contestants often is not presented in a positive tone, or not presented at all. The delegation hoped that in the closing days of the election campaign, the NMC and the management of the GTV and GBC will take steps to provide accurate and balanced news coverage of all political contestants, in both quantity and quality of coverage.

III. RECOMMENDATIONS

the openness and serious attitude of election officials, political party and candidate representatives, journalists and religious and civic leaders with whom it met. In the spirit of international cooperation and in light of these positive factors, the delegation offers the following recommendations, which could promote confidence and participation in the election process.

1. Campaign Environment: Incidents relating to disrupting campaign rallies, actions that could intimidate or unduly influence some prospective voters and even smaller incidents that came to the delegation's attention, such as tearing down signs and flags of parties, could negatively affect the integrity of the election process. The delegation, therefore, encourages the political parties to take extra steps in the final days of the campaign to restrain over zealous actions by their supporters. The delegation urges electoral officials, the police and other governmental authorities to act quickly and effectively to the protect electoral rights of candidates and voters and to vigorously prosecute election offenses. The presidential candidates and the political parties could greatly reduce suspicion and promote confidence by making public assurances that they will take steps to ensure a peaceful election and that they pledge to respect the will of the electorate.
2. Electoral Lists: Careful scrutiny should be conducted by the Election Commission, the political parties and the news media to ensure that irregularities are avoided in the transferred voters lists and the proxy lists. The delegation recommends that the transferred voters list and the proxy list be published in order to provide the opportunity for examination. The delegation also recommends that effective steps continue to be taken to deter the purchasing of voter identity cards.
3. Transport and Communications Support: The government and the international donor community should continue to make every effort to provide transport and communications systems to electoral officials so that they may effectively carry out their election tasks. While there may be no requirement for the government to provide logistics or material support to political parties, as was the case in the 1992 elections, it is sometimes necessary and advisable to go beyond the letter of the law in order to build public confidence in the election process and the resulting government. It would not be inappropriate for the Inter-Party Advisory Committee to take up this issue or for the Election Commission to encourage the government to provide logistics support for candidate agents of the political parties on election day.
4. Media Coverage: In the closing days of the election campaign, the NMC and the management of the GTV and GBC should take rapid and effective action to provide accurate and balanced news coverage of all political contestants, concerning both quantity and quality of coverage. The Electoral Commission could play an instrumental role by bringing attention to this serious problem and encouraging immediate remedial actions.
5. Avoidance of Conflicts of Interest: Given the potential for conflicts of interest and the perception of conflicts of interest, should the present Attorney General be called upon to issue legal opinions on sensitive electoral issues or to vigorously pursue election offenses and election challenges, the

matters to the extent permitted by the Constitution.

6. Civic and Voter Education: The delegation noted a variety of civic and voter education programs being carried out in Ghana. All political party representatives, religious and civic leaders and others concerned with the election process stressed the value of such activities. The delegation recommends continued and heightened education efforts through election day, concerning the importance of voting, voting procedures and the need for peaceful electoral competition.
7. Election Observers: The delegation noted the high degree of enthusiasm among citizens of Ghana to participate in the election process as nonpartisan election observers and that the Electoral Commission has set a policy to encourage such activities. The delegation recommends that the Electoral Commission continue to pursue a flexible policy to facilitate accreditation of Ghanaian and international election observers.

The delegation greatly appreciates the hospitality extended to it by representatives of the Electoral Commission, the National Media Commission, governmental officials at various levels, political party leaders, journalists, religious and civic leaders and others. The delegation could not have accomplished its tasks without the generous cooperation of those with whom it met. NDI remains committed to assisting those who are working to advance the democratic process in Ghana. NDI will continue its activities in Ghana through the work of its international election observer delegations and staff presence throughout the election and immediate post-election periods. Further reports will be issued as part of these efforts.

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