

AFRICAN UNION COMMISSION



REPORT OF AFRICAN UNION ELECTIONS OBSERVATION MISSION TO THE 7 DECEMBER 2012 GENERAL ELECTIONS IN THE REPUBLIC OF GHANA

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List of Abbreviations

AU:	African Union
AUC:	African Union Commission
AUEOM:	African Union Elections Observation Mission
BVM:	Biometric Verification Machines
BVR:	Biometric Voter Registration
CODEO:	Coalition of Domestic Election Observers
CSOs:	Civil Society Organisations
EC:	Electoral Commission
ECOWAS:	Economic Community of West African States
EISA:	Electoral Institute for Sustainable Democracy in Africa
EMB:	Election Management Bodies
FPTP:	First-Past-the-Post Electoral system
GAF:	Ghana Armed Forces
GJA:	Ghana Journalist Association
GCB:	Ghana Broadcasting Cooperation
IEA:	Institute of Economic Affairs
IPAC:	Inter-Party Advisory Committee
NCCE:	National Commission for Civic Education
NDC:	National Democratic Congress
NDP:	National Democratic Party
NMC:	National Media Commission
NPP:	New Patriotic Party
OAU:	Organisation of African Union
PAP:	Pan-African Parliament
PRC:	Permanent Representative Committee

I. INTRODUCTION

1. In response to the invitation of the Government of the Republic of Ghana, and the Electoral Commission of Ghana (EC), H.E. Dr. Nkosazana Dlamini-Zuma, the Chairperson of the African Union Commission (AUC), deployed an African Union Elections Observations Mission (AUEOM) to the Ghana to observe the Presidential and Parliamentary Elections held on 7 December 2012. The Mission took place from 30 November to 13 December 2012.
2. The AUEOM was led by H.E. Olusegun Obasanjo, former President of the Republic of Nigeria and comprised of 40 observers drawn from the Pan-African Parliament, Members of the Permanent Representative Committee of the African Union, Election Management Bodies (EMBs) and African Civil Society Organisations (CSOs) from the following countries: Benin, Cameroon, Côte D'Ivoire, Ethiopia, Kenya, Mauritania, Mozambique, Niger, Nigeria, Sierra Leone, South Africa, Tanzania, The Gambia, Togo, Uganda and Zambia.
3. The Mission was supported by a team of technical staff from the AUC, the Pan-African Parliament (PAP) and the Electoral Institute for Sustainable Democracy in Africa (EISA).

II. OBJECTIVES AND METHODOLOGY

Objective

4. The objective of the AUEOM was to make an independent, objective and impartial assessment of the 7 December 2013 General Elections in Ghana. In pursuance of this objective, the AUEOM observed the elections within the spirit and letter of the Durban Declaration on the Principles Governing Democratic Elections in Africa (AHG/Decl.1 (XXXVIII)), as adopted by the Assembly of Heads of State and Government of the African Union in July 2002; the African Charter on Democracy, Elections and Governance, which came into force on 15 February 2012; the Guidelines of the AUEOM, as well as the legal framework for the conduct of elections in the Republic of Ghana.
5. The Mission was specifically required to:
 - a. Determine whether the elections were conducted in compliance with the country's constitutional and legal framework, other relevant laws and the guidelines governing the conduct of elections in Ghana;
 - b. Assess whether the elections were conducted in accordance with the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa and the Africa Union Charter on Democracy, Elections and Governance;

- c. Determine whether the election environment was conducive for voters to freely exercise their fundamental rights and express their will;
- d. Establish whether the contending political parties, agencies and groups were satisfied with the preparations for and conduct of the elections;
- e. Assess the level of voters' awareness and whether voters' right to choose freely and in secrecy was guaranteed, upheld and protected;
- f. Determine the completeness, accuracy and inclusivity of the voters' roll, and whether some citizens were unduly disenfranchised;
- g. Assess the level of fair and equitable access to media systems by political parties;
- h. Evaluate the transparency and adequacy of the voting, counting and collation processes; as well as the announcement of the results; and
- i. Establish whether the results of the elections were a true reflection of the democratic will of the people of Ghana.

Methodology

6. In order to achieve the aforementioned objectives, the Mission undertook the following activities in conformity with the above mentioned instruments:
 - Prior to establishing the AUEOM to Ghana, a Mission of the Panel of the Wise/Pre election assessment mission was deployed in October 2012;
 - The Mission held series of consultation with key electoral stakeholders including the EC of Ghana, the two former presidents, leaders of the governing party and opposition parties, representatives of Civil Society Organisations, security agencies, leaders of International Election Observer Groups and representatives of Citizen Observer Groups;
 - The Mission leader held key meetings with the two major parties presidential candidates and other electoral stakeholders;
 - In preparation for deployment of its observers to the various regions, the Mission held briefing and orientation sessions in Accra on 3 and 4 December 2012;
 - On 5 December 2012, the AUEOM deployed twelve (12) teams of observer to ten regions, namely Greater Accra, Central, Ashanti, Eastern, Brong-Ahafo, Western, Northern, Upper East, Upper West and Volta. The AUEOM had three (3) in the Greater Accra Region;
 - Some members of the AUEOM observed the last day of election campaign;
 - In order to familiarise themselves with the political environment within which they would observe, observer teams consulted with relevant stakeholders at district and regional levels;

- The Mission requested and obtained information on activities related to the electoral process from the EC;
- On Election Day, the Mission visited a total of 246 polling stations in the ten regions of deployment and observed all aspects of the electoral process in the respective areas of deployment;
- On 8 December 2012, observer teams returned to the AUEOM's headquarters in Accra for a debriefing session; and
- The AUEOM presented its assessment of the elections at a press conference in Accra on 8 December 2012.

III. BACKGROUND TO THE 7 DECEMBER 2012 ELECTIONS

7. The history of African Nationalism and Pan Africanism is inextricably linked to the political history of Ghana. After being the first African country, sub of the Sahara to attain independence in 1957 under the leadership of Dr. Kwame Nkrumah, Ghana also supported independence struggles in various parts of the continent. Several continental conferences were convened in Accra, where the idea of Pan Africanism and a united Africa was conceived. The independence of Ghana was a major catalyst to similar independence struggles in other parts of Africa.
8. A decade after attaining independence, Ghana experienced a series of internal political and governance challenges that threatened to derail the fruits and progress of internal self-governance. In 1964 for example, a constitutional amendment abolished multi-party politics and made Ghana a de-jure one party state. The effect of this move was the curtailment of fundamental rights and freedoms especially the right to form political parties and to contest political offices. Following the rising upheavals, the first military coup was staged in 1966 that resulted in the overthrow of President Kwame Nkrumah.
9. In 1969 Ghana adopted a new constitution that transferred power to the civilian government under the leadership of Dr. Kofi Busia. This development was short-lived as another coup by the military ended the civilian administration in 1972. There was another short-lived civilian government after the 1979 'revolution' led by Flight Lieutenant Jerry John Rawlings. In December 1981, Flight Lieutenant Rawlings staged a second coup which ended the civilian government led by elected Dr. Hilla Limann and ruled the country until 1992. Following the reintroduction of multi-party democracy in Ghana in 1992, President Rawlings was elected as civilian president and was re-elected in 1996 under the leadership of the National Democratic Congress (NDC), and ruled until 2000 but was barred from from contesting again due to constitutional term limit.

10. Ghana experienced a successful transfer of power from one political party to another following the victory of President John Agyekum Kufuor in the 2000 presidential elections and his re-election in 2004 under the leadership of the New Patriotic Party (NPP).
11. The 2008 election demonstrated Ghana's maturity and stable democracy in Africa. The election was hotly contested by the NPP candidate, Nana Akufo Addo, and the NDC candidate, John Atta Mills. Six other presidential candidates also contested the election. In the first round presidential elections, none of the candidates won the constitutional requirement of 50% +1 necessitating a second round. The opposition candidate, John Atta Mills won with 50.23% of the valid votes cast. The successful transition of power, despite the narrow election margin, further enhanced Ghana's democratic credentials in the African continent. In 2012, John Atta Mills died in office and was succeeded by his deputy John Mahama, who was his Vice President and running mate in 2008 elections.
12. The smooth political transition after the death of President Mills to his vice president John Dramani Mahama and the country's compliance with constitutional and institutional arrangements was regarded as another case of peaceful transition in a fragile West African region.
13. The 2012 elections constituted an important step in democracy consolidation in Ghana. The stakes in the 2012 election were considerably high in light of growing popular demands for better living standards; the creation of national mechanisms for fair distribution of oil revenues and the stiff competition between the NDC and NPP. The elections afforded Ghanaians an opportunity to assess the strength of their democracy and to confirm that the country is gradually developing a culture of political transition.

IV. CONSTITUTIONAL, LEGAL AND INSTITUTIONAL FRAMEWORK

14. The Constitutional and legal framework for elections in Ghana is contained primarily in the Constitution of Ghana (1992) and relevant statutory frameworks, among them the Elections Act (and the relevant legal instruments thereunder¹) Electoral Commissions Act, the Presidential and Parliamentary Elections laws and the Political Parties Act and attendant regulations.

¹ Laws on registration, Presidential/Parliamentary Election Laws, Constituency Demarcation Laws.

15. The Constitution is the most important law that governs elections in Ghana and its supremacy vis-à-vis other laws is anchored in Article 2². As the basis for citizen participation in the political and electoral process, the constitution makes detailed provision and safeguards for fundamental human rights and freedoms and the protection of such rights by the courts. The Constitution encapsulates representation of the people and affirms the right to vote as a fundamental right.
16. The Constitution also establishes the elective offices and provides the eligibility criteria for contesting the office of the President and Parliament. Key institutions that play critical role in the electoral process such as the EC and the political parties also have their foundation in the Constitution. Finally, the Constitution of Ghana lays the basis for the local government and the structure for the decentralised government.
17. The detailed procedure for elections in Ghana is contained in the Elections Act and the relevant statutory instruments. Specifically, the instruments deal with the salient aspects of elections including voter registration, delimitation of constituency and procedure for elections to the office of the president and parliament. Incidental matters such as qualification of voters, definition of polling stations, voting procedures among others are also explicit in the Elections Act and other statutory instruments.
18. The Political Parties Act (2000) is the main law that deals with political parties in Ghana. In particular, the Political party law makes provisions for pertinent issues that concern the operations of political parties. They include founding and registration of political parties, membership, mergers and alliances, financial returns of political parties, and funding of political parties. It is important to note that the political party law in Ghana does not allow for state funding of political parties. However, parties are allowed to seek funding from companies registered in Ghana provided that evidence regarding local ownership is demonstrated.
19. The doctrine of separation of powers is enshrined in the constitution of Ghana through the establishment of three arms of government namely the Executive, the Judiciary and the Legislature.
20. The Executive power is vested in the President of the Republic, Head of State and Government and Commander-in Chief of the Ghana Armed Forces of Ghana. The Constitution in Article 60 (2) confers powers upon the President of the Republic to nominate

² Any law that is inconsistent with the constitution is rendered invalid to the extent of that inconsistency (Article 2).

a Vice President whose executive functions are determined by the Constitution and the President. The Cabinet comprised of the President, the Vice-President and not less than ten and not more than nineteen Ministers of State appointed by the President to assist him/her in determining general policy of the Government in conformity with Article 76 (2) of the Constitution.

21. Judicial authority is vested in the Judiciary³. The Constitution establishes the hierarchical structure of the Judiciary with the Supreme Court at its apex. Other courts include the Court of Appeal, The High Court and the Tribunals. Composition, jurisdiction, terms of office and independence of the Judiciary are enshrined in the constitution. The Judiciary also exercises jurisdiction on election dispute resolution both at the pre-election and at the post-election stage. Post-election dispute resolutions take the form of election petitions that are determined by a special division of the High Court. While the legal process contemplates expeditious resolution of such disputes, there is no specific timeframe for resolving parliamentary petitions. Stakeholders pointed out that in the past, cases have dragged on longer than expected, making speedy resolution of the objections difficult.
22. The legislative power is vested in a unicameral parliament which is composed of 275 members. The number of Parliamentarians increased from 230 in the last sitting House of Representatives following the delimitation exercise that saw 45 additional constituencies created.
23. While on the whole the legal framework for elections in Ghana is generally regarded as credible both nationally and internationally, voter registration, delimitation of constituencies, and nomination of candidates were all subjected to the litigation process that ended up in The Supreme Court. The supremacy of the Judiciary and its independence and confidence by the Ghanaian people prevailed in all cases.

V. ELECTORAL SYSTEM AND ELECTION ADMINISTRATION IN GHANA

24. The electoral system in Ghana is Plurality Majority System (First Past the Post) characterised by a two round system for the election of the President. A winning presidential candidate must secure 50% + 1 vote, failure to which a presidential runoff is held within 21 days after the first round. Ghana has a history of runoff elections since 2000⁴. Members of Parliament are elected through the First-Past-The-Post constituency based electoral system. The election of members of Parliament is conducted simultaneously with the election of the President.

³. Article 125 of the constitution.

⁴. Presidential runoff held in 2000 and 2008.

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25. The body charged with the responsibility of managing and supervising elections in Ghana is the Electoral Commission of Ghana (EC) established under Article 43 of the Constitution. The Commission consists of seven (7) members headed by a Chairman, two deputy chair and four (4) other Commissioners. They are all appointed by the President.
26. Essentially, the responsibilities of the EC extend to managing crucial aspects of elections. In this regard, the Commission is responsible for the registration of voters and the maintenance of voter register, demarcation of electoral boundaries, voter education on the electoral process, and to conduct and supervise all public elections and referenda. In discharging its duties, the Constitution guarantees, functional, administrative and financial autonomy to the commission by insulating it from external interference and providing that its finances is charged in the consolidated funds⁵.
27. The EC has been in existence since 1992. Most of the stakeholders pointed out that the credibility enjoyed by the EC, is in part due to its long existence and experience acquired over time. The reputation of the Chairman of the Commission and the courage demonstrated in applying the law impartially has also contributed to the confidence the Ghanaians have in the ability of the EC to discharge its function. The EC is widely seen as an impartial institution in dealing with electoral matters especially in the handling of complains and propaganda emanating from political oppositions.
28. In decentralising its electoral work to the regions, the EC staffs consist of regional coordinators and constituency coordinators. The EC however employs temporary staff during elections to work in the polling stations. In the past the Commission recruits staff from the civil service, but due to the reforms in this sector, the EC now recruits competitively from all qualified Ghanaians. By and large, the stakeholders expressed confidence in the manner in which the EC recruits its staff. It was however pointed out that in 2008 election allegations of bias were noted especially in the strongholds of various parties given the level of comfort that had been established between the EC staff and political parties. To avoid a similar situation in future, it may be prudent for the Commission to rotate their regional coordinators in election years to stem such allegations.

⁵.Section 10, Electoral Commissions Act of 1993.

VI. FINDINGS OF THE MISSION

29. The Mission's assessment of the pre-election context was based on the findings of the African Union Panel of the Wise Pre Election Assessment Mission that visited Ghana in October 2012, and the consultations held with various stakeholders in Ghana.

A. PRE-ELECTION PERIOD

Voter Registration

30. The EC is charged with the responsibility of registering voters and maintenance of the voters' register. Article 42 of the Constitution explicitly provides for the right to vote and the right to be registered as a voter. Registration of voter is therefore a constitutional right. The Constitution also deals with issues of citizenship, which is a major requirement for voter registration in Ghana. The detailed procedure for registration of voters is further contained in the Registration of Voters Regulations (1995)⁶. The regulations detail the eligibility criteria for voters, registration centres, registration officials, complaints, claims and objections, and offences related to the registration exercise.

31. As part of the electoral reforms, Ghana introduced Biometric Voter Registration (BVR), for the 2012 general election. The exercise was carried out from 24th of March to the 5th of May 2012. The conclusion of the registration exercise was followed by the voters' list inspection period for claims and objections. The inspection period lasted for ten days starting on 1 and ending on 10 September 2012. The BVR system ensured that essential data of voters was captured in the biometric system, which in turn minimised problems that were noted with the manual registration that had characterised voter registration since 1992. The introduction of the BVR system essentially ensured that a new voter registration exercise was conducted and a new voters' list compiled. The various stakeholders applauded the EC in regard to the participatory and inclusive manner with which the BVR registration was conducted.

32. The process of procuring the BVR machine was initiated early and conducted in a manner that conformed to the procurement rules. The procurement process was subjected to bidding process in which different companies submitted proposal to procure the BRV machines. Companies were scored on the basis of their performance on the various examinable areas. As a further demonstration of transparency and accountability, the results were submitted to the Procurement Board that affirmed the EC decision. Political parties not only participated in testing the various samples provided for by the suppliers, but also monitored the entire

⁶ Registration of Voters Public Elections, Registration Regulations, 1995.

registration exercise. Other stakeholders, particularly the CSOs, were also involved in the various phases of voter registration. At the commencement of the process, the EC ensured that its personnel were trained and conversant with the functioning of the BVR machines. Adequate time was also allocated for the verification of the voters' list and addressing claims and objections that ensued as a result. At the conclusion of the exercise, slightly over 14 million voters were registered to participate in the 2012 elections.

33. The advantages of the BVR notwithstanding, a number of challenges were noted on Election Day with regard to the efficient functioning of the Biometric Voter Verification machines. Some polling stations, some machines were malfunctioning resulting to closure of some polling stations and the extension of voting to the next day.

Delimitation of Constituencies

34. In countries that use the First-Past-the-Post Electoral system (FPTP), such as Ghana, delimitation of constituencies is one of the most emotive issues given its impact on the outcome of the election. Following the promulgation of the Constitution in 1992, Ghana was divided into 200 electoral constituencies. When the New Patriotic Party (NPP) came into power in 2000, the constituencies were increased to 230⁷. With the coming into power of the National Democratic Congress (NDC) in 2008, 45 additional constituencies were created bringing the number of constituencies to be contested in the 2012 elections to 275⁸.
35. The legal basis for constituency delimitation in Ghana is contained in Article 47 of the Constitution. The Constitution mandates the EC to prescribe both the number of constituencies as well as revision of the constituency boundaries. In establishing the constituency boundaries, the principal criteria that the EC must adhere to is the population quota intended to safeguard the principle of "one man one vote". The Constitution, however, allows the Commission to depart from these criteria and consider other factors such as means of communication, geographical features and infrastructure⁹. The prescribed period for the review of the constituencies is not less than an interval of seven years or within 12 months following the publication of the census result.
36. While the constitutional criteria for delimiting constituencies in Ghana is clear, confusion emerged with regard to the precise timing of such review and the powers of the Electoral Commission to independently discharge its mandate with regard to boundaries review.

⁷. Review effected in 2004 before the election.

⁸. Review Conducted in 2012, 6 months before the elections.

⁹. Constitution of Ghana, Article 47 (4).

Article 47 (2) of the Constitution provides that “no constituency shall fall within more than one region”. The consequence of this provision is that the demarcation of administrative districts in Ghana reflects the elective units; in other words one district one constituency. The responsibility of creating and reviewing administrative district is vested in the Minister for Local Government who is an appointee of the President. When new districts are created, the EC must inevitably review the constituency boundaries to conform to the new district.

37. In light of the foregoing, the independence of the EC is not absolute especially with regard to matters of constituency delimitation. It is imperative to point out that in the past, creation of new districts were done by the two leading parties when they were in power, a move that forced the Commission to increase the constituencies. This brought to focus the independence of the EC with regard to constituency delimitation given the overlapping responsibilities between the Commission and the Ministry of Local Government. The creation of the 45 new constituencies, for example, raised question of timing and allegation of gerrymandering by the various stakeholders. The legality of the new constituencies was contested in the Ghana apex judiciary system, the Supreme Court.

Political Parties and Candidate Nomination

38. Following the reintroduction of multi-party political dispensation in Ghana in the early 90s and the promulgation of the 1992 Constitution, Ghana was declared a multi-party state. The right to form political parties and participate in the political process is anchored in Article 55 of the 1992 Constitution. The entrenchment of political parties in the Constitution has ensured an important safeguard to the protection of multi-party democracy in Ghana. The operationalisation of the constitutional guarantees for political parties is further secured through the Political Parties Act of 2000¹⁰ that provides, inter alia, for the founding and registration of political parties, criteria and requirements for registration, membership, and appeal mechanisms. Operational issues covered in the Act include: declaration of assets and expenditure, mergers and alliances, returns and accounts of political parties. The Act does not contemplate state funding of political parties but allows citizens and certain companies¹¹ to make donations to political parties.

39. Since the first multi-party election in Ghana in 1992, the evolution and development of the political party system has assumed a two-party dimension. Indeed, the last two decades has witnessed an alternation of power between the NPP and the NDC. Twenty three (23) Political

¹⁰ .Political Parties Laws Act, 574 of 2000.

¹¹ .Companies with over 75% local ownership.

parties registered in Ghana and participated in this year's elections. Comparatively, parties in Ghana are fairly well developed with sound institutional frameworks and national outreach.

40. Nomination within political parties in Ghana is fairly democratic. Most political parties conduct their party primaries through the delegates system and the annual delegates' congress nominates the presidential candidates. For the purposes of the 2012 elections, seven (7) political parties and an independent were nominated and contested the presidential elections. The EC has been credited with applying the law with regard to party nominations effectively. During the nomination process for example, political parties had two weeks to ensure their nomination papers were in order and two days to submit the same before the Commission. During the EC nomination process, a controversy arose when the Electoral Commission disqualified the NDP candidate for failure to comply with nomination requirements. While the action by the EC aggrieved the candidate and the party faithful, most of the stakeholders agreed that the disqualification was as a result of a fair application of the law by the EC.
41. As a strategy for promoting party harmony and cohesion, political parties in Ghana have established a platform for dialogue called the Inter Party Advisory Committee (IPAC). The membership of IPAC extends to all the registered political parties in Ghana, and supported by the Institute for Economic Affairs (IEA). Since its establishment, IPAC has provided a conducive platform for mediating and resolving inter party dispute and for articulating possible future electoral reforms. All the stakeholders were unanimous that as a mediation platform, IPAC forums have generated consensus that were crucial to securing lasting resolution and reforms, while enhancing interaction among political parties.
42. Through the IPAC, political parties in Ghana developed a Code of Conduct, which majority of parties have signed. The Political Parties Code of Conduct is not a legal document but is intended to invoke best practices and behaviour within political parties. While the non-legal nature of the Code has served political parties well, some observers pointed out that lack of legal sanctions have contributed to breaches of the Code, particularly in an election year since it was only intended to invoke moral and not legal obligations. Another important milestone that was negotiated by political parties under IPAC framework was the Kumasi Accord (27 November 2012), meant to commit all the stakeholders to holding peaceful elections in Ghana. Enforcement of the Code vests in multiple agencies, both at the national and regional level. Among the organisation constituting enforcement bodies are the Electoral Commission, the Police, department of civic education, Political Parties and the IEA. At the national level, the Chairman of IPAC is the Presiding Bishop of the Methodist Church.

Electoral Campaign Process

43. The election campaign began after political parties' nomination and ended on 5th December 2012 in compliance with the legal provision of 48 hours before the elections. Political campaigns in Ghana are a "high stake affair" given the fact that the two leading political parties command almost equal voting blocks. Despite the competitive nature of Ghana election especially between the two leading political parties, electoral campaign in the 7 December 2012 election did not witness any major incidents of electoral violence. The mode of campaign assumed multiple strategies ranging from meet-the-people tours, campaign rallies, political debates, town hall meetings among others. Political parties and their supporter conducted their campaigns peacefully.

The Role of the Media

44. Ghana has vibrant media organisations and sufficient laws to guarantee press freedom. The Ghana Broadcasting Corporation (GBC), the state owned media, has national geographical coverage and has been in existence since July 31st, 1935. Apart from the state owned media, there are other private media organisations with widespread coverage and geographical reach. Two umbrella organisations, the National Media Commission (National Media Commission) and the Ghana Journalists Association (GJA) regulate the operation of the media houses. Within the context of elections, the Constitution stipulates that the state owned media should provide equitable time for political parties to propagate their policies and manifestoes. While political parties conceded that the GBC had made attempts to provide coverage for opposition parties, the incumbent party still enjoyed more coverage than all the parties combined. The precise distinction of party affairs and government activities was yet to be determined and conclusively dealt with in any law.
45. Currently there is no law that regulates the media organisations in Ghana, except the Code of Ethics promulgated by the journalists' association. Most stakeholders did not see the question of media coverage as having a substantial effect on the outcome of elections since the perceived bias of the state corporation was counterbalanced by the existence of many private media organisations that provide a useful alternative to the state owned media.
46. During the 2012 elections, the media played a crucial role in election coverage, especially the announcement of results. The media exercised their role credibly. The manner in which the media covered the elections substantially contributed to the peaceful nature and calm witnessed on Election Day and the immediate post-election period.

Civic and Voter Education

47. The constitutional basis for civic education in Ghana is premised in Article 231 of the Constitution that establishes the National Commission for Civic Education (NCCE). The function of the Commission is to create and sustain awareness on the principles and objectives as provided in the Constitution while at the same time sensitising the citizens on their civic responsibilities, rights and obligations under the Constitution¹². The work of the NCCE is complimented by the EC that also exercises jurisdiction on voter education. Many NGOs, women's organisations and other CSOs were also involved in voter/civic education.
48. While the establishment of the NCCE signifies progress in Ghana democratic stability, opinions are divided on the extent and the adequacy of civic/voter education conducted. Stakeholders pointed out that the NCCE was financially starved due to its dependent on the government for funding. Improvement made in the electoral process, like the BVR system and delimitation of constituencies also resulted to a longer period of civic/voter education. In 2008 elections 205,000 ballots were declared spoilt and the number rose to 250,000 during the 2012 elections.

Women's Participation and Representation

49. Women continue to be marginalised in political and elective positions in Ghana. Despite significant progress that the country has made as a vibrant democracy in Africa, the level of women participation in politics still trail that of men. Comparatively, the participation of women between the 2004 and 2008 showed a declining trend. In 2004 for example 25 women were elected to Parliament and the number fell to 19 in the 2008 elections. At the same time, there were only four (4) women in the cabinet out of 19 cabinet ministers which was well below one third representations. In the 2012 elections no woman candidate was nominated to contest the presidency following the disqualification of Mrs. Rawlings of the National Democratic Party (NDP).
50. The declining trend of women's participation in elective position can be attributed to many factors. Two most prominent factors include the lack of a legislative framework in form of affirmative action to enhance women's participation in politics and secondly the inability of political parties to provide space for women interest within their structures. Most stakeholders pointed out that the entrenched patriarchal culture permeates Ghanaian society and accord male candidates' undue advantage over their female counterparts. Despite the overall decline, the number of women represented in Parliament increased in 2012 elections

¹². Constitution of Ghana at Article 233.

following the election of 28 women in parliament. Nevertheless, Ghana is still below the 30% threshold of women's representation in public affairs and decision-making.

Participation of Physically Challenged Persons

51. The physically challenged are also not adequately represented in elective positions. There is no law focusing specifically on the physically challenged and Political parties are yet to embraced favourable policies and framework to enhance the participation of people with disabilities within their ranks.

B. ELECTION DAY OBSERVATIONS

52. The Mission's assessment of the Election Day was based on the actual findings and reports by the AUEOM teams deployed across various regions and constituencies in Ghana. Findings and recommendations of the Mission are based on its consultations and observations up to the close of polling and counting on 8th December 2012 as extended following the malfunctioning of the Biometric Verification Machine (BVM).

Opening of polls

53. The Mission was satisfied that most of the polling stations opened within the stipulated time of 7a.m. However, due to logistical and operational issues, some polling stations did not open on time and voters had to wait in the queue for a long time. In some polling stations voting was extended to 8th December following malfunctioning of the BVM.

Voter turnout

54. In most of the polling stations visited, the Mission noted impressive voter turnout particularly in the morning when polls opened and at the closing of the poll. According to the EC report, out of 14,158,890 registered voters, 11,246,982 voters participated in the poll, representing 79.43% voter turnout.

Voting process

55. The voting process was generally orderly and well understood by the voters. Voters that requires clarity on the procedure and process where assisted by polling staffs. In most of the polling stations visited, priority was given to the aged, pregnant women, voters with infants and physically challenged persons. In accordance with election regulations, voters who required assistance were also allowed to vote with assistance from a person of their choice.

Accessibility of polling stations

56. Most of the polling stations were conveniently located with easy access by the voters. For the most part, the polling stations were located in public places and voting conducted in the open. The number of registered voters in each polling station was manageable as most stations had less than 1000 registered voters.
57. The Mission was satisfied that the layout of the polling stations was sufficient to guarantee vote secrecy and the open voting enhanced transparency in the process. In all the polling stations visited, the Mission noted the adequacy of election materials and there was no incident reported of insufficient materials at the polling station. The Mission further noted that adequate safeguard was made for the aged and physically challenged voters to exercise their voting rights.

Voting machines and verification process

58. The voter verification process was slow and cumbersome in some polling stations. This was complicated by the BVR data and the verification machine. The AUEOM noted three problems with regard to the functioning of the machines. In some polling stations, the machines could not read the finger prints of some voters and there were also cases of incompatibility between the BVR data and the data contained in the verification machine. As such, some voters' names appeared in the BVR but were missing from the verification machine. The Mission equally noted that some EC personnel did not follow instructions given to them with regard to the handling of the machines which caused undue delay in some polling stations. As a consequence, the machines faced technical hitches that led to the malfunction in some polling stations.
59. While these complications were not widespread across the country, the delay caused interrupted voting in some polling stations that lasted for up to four hours, necessitating the extension of voting to 8 December, 2012 to avoid disenfranchising voters in the affected areas. While on the whole, voting and counting was concluded in most parts of the country on time, the Mission noted that these challenges, while not deliberate, could have had the potential of heightening tension especially in a competitive election.

Polling Personnel

60. The Mission noted that the EC personnel were in all the polling stations on time and generally conducted the election well. Election officials were easily identifiable in polling stations visited by AU observers.

61. In some polling stations, however, the polling staff had challenges with the election machines and did not quite follow instructions given on their operation. The Mission also noted that some of the election officials demonstrated different understanding and interpretation of election procedures.

Women's Participation on Election Day

62. The Mission noted the impressive participation of women in the process on Election Day as polling officials, security officials and voters. In all the polling stations visited, remarkable attempt was made to satisfy gender balance in the composition of the EC officials. The Mission noted that women presided over a few polling stations notwithstanding their visible absence as party agents and limited number as citizen observers.

Security, observers and political party/candidate agents

63. The Mission noted with satisfaction that the Election Day was generally calm and peaceful. In all the polling stations visited, the team observed the presence of security personnel in the polling precinct and was satisfied with their role in maintaining order within the polling centres. This was particularly observed in areas that had witnessed delays in voting and in polling stations where the machines malfunctioned. The Mission commends the security personnel for coordinated and structured manner in which election security was provided. The Mission is hopeful that the roles of security in Ghana democracy will be strengthened further to continuously ensure peace and tranquillity during election period.

64. The Mission observed the presence of both domestic and international observers in the majority of polling stations visited. Specifically, AU observers noted the presence of the following groups: Economic Community of West African States (ECOWAS), Commonwealth, EISA and diplomatic missions represented in Ghana. The Mission also noted a strong presence of domestic observers under the umbrella Coalition of Domestic Election Observers of (CODEO). The relationship between the polling staff, observers and party agents in the polling stations was cordial and the polling staff made efforts to address the concerns raised by the agents and observers.

65. The presence of party agents representing the two leading parties (NDC and NPP) was also noted in all the polling stations.

Closing of the polls and the counting process

66. While most of the polling stations across the country closed on time, some polling stations did not close as planned due to late start of voting operations, breakdown and technical malfunction of the verification machines in certain regions which led to a slowdown and backlog of the voting process.
67. Voting was extended to the following day (8 December) as a result of long delays observed in the Greater Accra Region, Upper East and Central Regions. The counting process was transparent, open and in compliance with the electoral procedures and regulations. The transmission of the results was slow owing to the manual transmission which is the practice in Ghana.

Immediate Post-election Period

68. On 8 December 2012, voting continued in some polling stations in regions that were affected by the breakdown of the verification machines, the fingerprint system and the backlog of the voting process. Although voting was completed in the majority of polling stations countrywide on 7 December 2012, voting was extended in polling stations where voting was not completed to 8 December 2012. Following the vote count at polling station level, and tabulation of results at the collation centre, the results were transmitted manually to the national office of the EC of Ghana from 7 to 9 December 2012. The results were broadcast on national television as they were transmitted to the EC office in Accra. The tallying process was conducted within the context of mounting political tensions and protest by NPP supporters as allegations of fraud and manipulation of the results were directed at the EC.
69. Ahead of the EC announcement of the results, the AUEOM and other observer groups re-stated the need for peace and respect for the law. They urged political parties and their supporters to await the outcome of the election peacefully. The EC announced the results of the presidential election on 9 December 2012. On the basis of tallied results from 275 constituencies, John Dramani Mahama of the NDC was declared the winner of the 2012 presidential race with 5,574, 761 (50, 70%). He was followed by NPP presidential candidate, Nana Addo Dankwa Akufo-Addo who secured 5,248, 898 (47, 74%) of the total votes cast. The other presidential candidates garnered less than 2% of the total votes cast. NDC also won majority of seats in parliament and was closely followed by the NPP.

VII. RECOMMENDATIONS

Based on its observations and consultations, the Mission offers the following recommendations:

70. The National Electoral Commission should:

- Provide adequate training of the polling staff especially on the verification machine;
- Improve on civic and voter education to minimise the number of spoilt ballots;
- Extended the period of voter education as a possible solution to inadequate civic/voter education;
- Conduct an audit on the functioning of the voting machines and address the problems and challenges experienced;
- Publicly display the voters' list in the polling stations on Election Day;
- Provide and make provision for back up and rapid response to expeditiously address incidences of malfunction of voting machines;
- Improve on the result transmission system;
- Develop a logistical plan for rapid delivery of election materials; and
- Provide supplementary lighting facilities for purposes of the vote count.

71. The State should:

- Outline plans and develop strategies of enhancing and improving the participation of women and other marginalised groupings in elective offices including but not limited to affirmative declaration backed up by law;
- Timely allocation of resources for the NCCE, and an extended period of voter education by the EC is recommended as a possible solution to inadequate civic/voter education;
- Enhance credibility and transparency in the constituency delimitation process by harmonisation the laws and ensuring that responsibility for constituency delimitation is properly streamlined; and
- Work with Political Parties to encourage participation of women within the internal party structure and ensure internal affirmative declaration for women within the party.

72. Women's organisations should:

- Work with political parties to entrench the culture of women participation and encourage and support women who are running for elective position;
- Mobilise and lobby the Legislative enactment in support of women participation in politics and specifically in elective position;

73. Political parties should:

- Undertake affirmative action to enhance the participation of women in leadership position; and
- Improve the training of party agents to enable them understand their role in the process.

74. Legal reforms:

- Harmonise the laws on constituency delimitation and the establishment of district boundaries;
- Legislation on Affirmative Action to enhance women participation in leadership position;
- Consider State funding of political parties; and
- Media legislations to regulate the operations of the media in a way that would ensure equal access by political parties as well media freedom.