

Lessons of the 2008 Elections and suggested reform actions for building a more capable nation state in Ghana

The just ended elections of 2008 in Ghana have revealed useful insights into the core tenets of democracy and governance arrangements in the country. On the one hand, the elections by African standards have revealed a first class lesson in transparency, accountability and responsibility for stewardship by elected public office holders. The Ghanaian electorate has sent out a clear message that substantive credible performance and results matter most in public undertakings, and they are to be taken seriously and respectfully in public discourse and management of state affairs by public officials. The electorate has guaranteed that no longer in the annals of the country's history of existence would elected public officials take them for granted. The electorate has wielded their collective power of the thumb to drive home the point that public office is a trusteeship and public officials hold their positions in trust of the people. Elected officials are expected by the electorate to be transparent in the execution of their public duties, and responsible and accountable for the stewardship of public resources held in trust of the people. Failure by any elected official to adhere to this basic tenet of public office would be perilous at the ballot box.

On the other hand, elections 2008 have exposed major flaws and gaps in the democratic governance arrangements of the country which necessitate that certain critical constitutional measures and steps be taken to solidify the gains and build a more formidable nation state for leading efforts to address the needs and challenges of the country. Based on the problems and challenges revealed by the elections and drawing on global practices of democratic governance the following measures, if considered and undertaken in good faith, would deepen and strengthen democracy and governance arrangements for a more inclusive and prosperous society for all Ghanaians. The suggested actions would revolve around:

- Additional measures to strengthen the electioneering process and selection of winning candidates and parties;
- Guiding measures on the composition and formation of the cabinet in terms of separation of executive and legislative responsibilities, inclusion, diversity and gender balance;
- Certain legal and judicial measures geared at strengthening dispensation of justice, and mechanisms for investigating and prosecuting corrupt practices by public officials;
- Sub-national administration measures to bolster grassroots participation and involvement in the democracy and governance arrangements.

I. Measures to strengthen the electioneering process and selection of winning candidates

- (a) **Introducing and institutionalizing Electoral Region Votes (ERVs):** Current vote winning requirement provides the possibility for a party winning Votes in a few regions to emerge with the mandate as a ruling party of the country. This practice has the tendency to promote dominance and hegemony of the bigger and more populous regions over the smaller regions to the detriment of the unity of the nation, and with significant implication for the effective representation of the smaller regions at the national level. It has become apparent that winning the popular votes is no longer enough. An improved practice and arrangement is to introduce and institutionalize Electoral Region Votes into the voting system in addition to the requirement of winning the popular votes. A simple way to do this is to translate the existing number of constituencies in each region into Electoral Region Votes. For example, Western Region with 22 constituencies will have 22 ERVs; Ashanti will have 39 ERVs, Greater Accra will have 27 ERVs, Volta, 22 ERVs etc. This will mean that aside winning the popular votes, a candidate has to win majority of the ERVs to emerge as the ultimate winner particularly of the presidential elections.
- (b) **Utilizing information and communications technologies for instant recording and posting of results from polling stations when the polls are closed and votes counted:** Available information and communication technologies should be employed better in the recording, posting and announcing of votes at polling centers. As soon as the counting of votes and the return sheets are completed at the polling centers, the responsible election officers and assigned representatives of the contesting parties should have sworn statements and testimonials indicating the number of votes for each contestant recorded by audio (and if possible videotaped using hand-held digital cameras and cell-phones, for example) for instant posting on the website of the Electoral Commission (EC), and sharing with media for streaming and broadcasting to the public. This better practice should improve on current arrangement whereby returning forms are completed and signed by the election official and later faxed to the EC for collation, and minimize the scenario of allegations of “bloated and doctored” votes in the strong room of the EC. It will also provide proof of presence or absence of assigned party agents and representatives during the voting period.
- (c) **Timing / Schedule of Voting and Transition period:** The current practice of organizing elections in the month of December and handing over power in January the following month is too restrictive and do not provide ample room to address contingencies regarding election related problems; and or allow adequate preparation for the formation of cabinet and smooth handing over of power. Elections could be scheduled for the month of October or otherwise the transition and handing over date should be set for early February.
- (d) **Incumbency and Run-off elections:** Resource constraint and poverty-laden societies need to be more creative in minimizing election related costs and burden on the populace. Run-off elections are mainly between two major parties – ruling and opposition. The Ghana election records from 1996 till now support this view point. If a

ruling or incumbent party / government is forced by a major opposition party in a presidential election which could not produce a clear winner with the constitutional mandate of 50 + one votes to necessitate considerations for a run-off, and the statistical difference between them is 0-5 percentage points, and regardless of which of the candidate/party has the slight edge over the other, this scenario should be interpreted as a referendum on the performance of the ruling party and thus its rejection by the electorate. The ruling party and government should concede defeat and give way to the opposition party to avoid run-offs and minimize election-related cost and burden on the electorate. Run-offs should only be necessary when the votes are split proportionately between three or more parties, and none of the parties could cross the constitutionally mandated benchmark. However, a three party or more sharing the votes proportionately scenario in an election seems unlikely as the Ghana election records since 1996 till now demonstrates that the two major parties have always secured 94 percent and more votes combined of the total votes. For example, in the 2000 elections, the application of this suggested reform action would have favored outright the opposition party, NPP as it led the ruling party NDC with a statistical difference of 3.6 percent. At the other end, in the 2008 elections although the opposition party NDC fell behind the ruling party, NPP by 1.56 percent, the suggested reform action would be in the favor of the NDC as the opposition party. Along this line of reasoning and reform action, there would not have been the need for run-offs in 2000 and 2008 since none of the other contestants apart from those of the two major parties won more than 2 percent of the votes.

- (e) **Pragmatic threshold for Political Parties and Individuals on Ballots:** Ghana has emerged out of elections 2008 as an emphatic two-party nation state. While several other smaller parties and independents participated in the presidential and parliamentary elections, none of these could garner more than 2 per cent of the votes. In the 1996 elections, 7 candidates competed and 5 of the candidates combined to win a total of 6.80 percent. In 2004, the third candidate besides those from the two major parties secured 2.91 percent; and in 2008 elections, 6 other candidates managed to secure 2.92 percent of the votes. Given these election performance records, it is undoubtedly clear that the NDC and NPP have emerged as the two major parties with credible support and large following. It is important to consolidate efforts and provide encouraging means by which the aspiring smaller parties and individuals could express and pursue their political ideals and aspirations within the context of the emergent two-party system. The nation should engage in a dialogue on this issue and pragmatic thresholds of 5-10 per cent of the voter population should be set for number of petitioners' signatures as condition for any political party or individual to be allowed on ballots as a way of lessening distraction and focusing the efforts of the electorate. Such a threshold could also be used to determine eligibility of state funding for the dominant parties as advocated also by the former President Kufour in his final State of the Nation address.

II. Guiding measures on the composition and formation of a Cabinet

- (a) **Separating executive and legislative responsibilities of public officials:** There is a need to desist from the current practice of appointing parliamentarians as Cabinet

members while the officials continue to maintain their legislative seats. The current practice undermines the capacity of parliament in the execution of its roles effectively, and allows undue influence of the executive in parliamentary operations. The practice also induces divided attention on the part of the cabinet members with seats in parliament. If a parliamentarian is appointed as a Cabinet member, the parliamentary seat should be vacated and the party of the parliamentarian selects a replacement from the corresponding constituency to serve the term of the elected official. In fact the recently turned former President, John Kufour made a similar suggestion in his final State of the Nation Address to Parliament. The President noted the need for constitutional amendment as the current situation whereby parliamentarians double as ministers “does not augur well for democracy because it contravenes the separation of powers as well as supervision and effective execution of work” According to him, “it is clear that the demands of the two functions require the full time attention, therefore to expect a full time minister to double as a full time parliamentarian only tends to lead to underperformance of the incumbent.” This is a timely suggestion which should be heeded by the new and subsequent administrations. While it is true that in countries like the UK, certain democracies in Europe and Japan, MPs are the ministers and the Prime Ministers, Ghana is not the same as many of these advanced countries. The problems and challenges of both roles in a developing country such as Ghana require full time undivided focus, devotion and attention of public officials to each role. Also an action in this suggested direction would broaden the horizon for more competent people to serve the country in either capacity as Cabinet Ministers or Parliamentarians.

- (b) **Diversity of Cabinet Appointees:** A clear message of elections 2008 is the need to substantively change the way the occupant of the seat of government does business by adopting pragmatic and inclusive governing style. The perception of most Cabinet members hailing from a particular regional bloc or have familial relations with the Chief Executive is abhorred by the electorate. Election talks and promises have to be followed with concrete actions, and ideology and party dogma should not hamper government business from getting on track. The electorate expects the government to give ears to ideas and things which are working regardless of their origin, and support anything which advance the interest of the nation state. It is important therefore for the newly government to ensure that Cabinet appointees reflect the diversity of the nation, and efforts made to choose qualified and competent people from each region to serve in the Cabinet.
- (c) **Gender balance in Cabinet Appointments:** Another innovative way of ensuring inclusion and participation of a broad section of the population in government is to introduce and institutionalize in the choice of ministerial appointees an admirable adapted version of the democratic practice of an ancient African kingdom. If a male official is appointed to a ministerial post, the deputy should be a female; and if a female official is appointed, the corresponding deputy should be male. This will be a creative way of institutionalizing gendered checks and balances and monitoring mechanisms in the governing arrangements for preventing abuse of office and inculcating a consciousness of accountability in public officials.

III. Certain legal and judicial measures for dispensation of justice, investigation and prosecution of corrupt practices

- (a) **Maximum ceiling on membership of the Supreme Court:** The Supreme Court should be a nine- member Supreme Court. The number should not be subject to the whim of a sitting President.
- (b) **Total members of the Supreme Court mandated to hear and adjudicate cases:** The constitution of the Supreme Court for the hearing and adjudication of cases should be the totality of the membership of the court and not by panels of five as is the current practice. The decision of the nine member court should be final and not subject to review.
- (c) **Leap-Frogging of cases:** Provision should be made for leap-frogging appeals - (Constitutional and other matters of significant public importance) from the High Court to the Supreme Court to avoid delays if such appeals have to go through the Court of appeal before finally reaching the Supreme Court.
- (d) **Autonomous Office of the Public Prosecutor:** An independent Director of Public Prosecution assisted by special prosecutors who are not subject to the control of a political Attorney General and therefore of the executive would ensure that corrupt practices of officials of government in power could be dealt with without any interference. The Director in the conduct and prosecution of cases should not be subject to the control of any body.

IV. Sub-National Administration measures to bolster grassroots participation and involvement in the democratic governance arrangements

- (a) **Election of Regional Administration Heads and providing them with some measure of autonomy in the management regional affairs:** The current practice of appointing Regional Ministers and Chief Executives does not augur well for administrative efficiency in terms of the type of responsible leadership needed to administer and manage regional resources effectively in the interest of the people. To a certain extent, the practice breeds sycophancy and incompetence in the management of regional resources. A better practice in this instance is to make provisions for the electorate to elect directly the administrative heads of the regions. Elected Regional heads should have the autonomy to sign performance contracts with the people of the regions based on regional development priorities, challenges and choices; seek investment opportunities and capital; engage in contractual obligations with investors; solicit investment technical assistance, line of credits, loans, grants and guarantees on behalf of the region; and provide the intellectual and operational leadership necessary to unleash the productive capacity and potentials of the regions.
- (b) **Redesign Local Government structures with a blend of traditional and modern leadership principles and arrangements:** The usual popular refrain on reforming current local government systems is about electing the District Chief Executives

(DCEs). The critical issue of local government in Ghana is beyond the election of DCEs. Throughout the African continent, the weakest links of the national states governance arrangements are the sub-national structures particularly the local governing systems (LGS). The existing LGS, unlike democratic governance arrangements elsewhere, are not designed to function as checks on national state structures, or influence and shape behavior and actions of national state office holders. This phenomenon deprives the national states of the foundations upon which cohesive institutions would thrive to inspire and rally citizens around a common sense of purpose, vision of development and transformation of lives. Legitimacy of the national states and the justification of their existence as representative structures are often derived from concepts, constructs and practices which at times alienate majority of the citizens, or from the specter of real, imagined and perceived threat from coercive apparatus rather than persuasion, trust and sense of belonging ingrained in the citizens.

Ghana should lead the way in redesigning LGS to incorporate as sources of fundamental operational strength the principles of leadership, organization and participation the vast majority of citizens utilize to subsist and manage common resources upon which their existence and livelihoods depend. The first tier of administrative leadership in the districts should be local leadership councils comprising of male and female traditional leaders the people themselves have nominated, selected and elected in their localities. This is the leadership structure the masses particularly in the rural areas have ready access to and influence over in terms of participation in decision making; management, distribution and access to common property resources; organization and mobilization to rally around a common cause and purpose. Members of the local leadership council would select among themselves on rotational basis for a determined period, a presiding member as head of the council. The local leadership council would be supported by the existing technical and clerical staff in the administration and management of the district affairs. This arrangement would be based on creative adaptation of the positive elements of the existing traditional governance arrangements which hold the communities intact in most cases and blended with modern principles and systems of administration.

V. Bottom line goal of the suggested reform actions

Essentially the major goals of the above suggested reform actions are to help the country pursue and achieve the basic tenets of better governance as follows:

- Ensure closeness of the national government in power to the people.
- Induce and encourage prevalence and predominance of efficient and effective administrative structures for managing resources to spur development efforts towards results which would translate into positive transformation of lives.
- Institutionalize pervasive nation-wide operational procedures and processes which command the trust, respect and loyalty of the citizens.
- Cultivate pronounced sense of belonging on the part of the citizens towards the overall gamut of national state governance structures.

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ⁱ The Better Governance Initiative is an undertaking by a group of Ghanaian/African Diaspora professionals that provides policy advice and guidance to African countries on strategic measures to strengthen democratic governance arrangements for building more formidable nation states in Africa. Questions related to the initiative and this document can be sent to:

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