

Chapter 6

CONCLUSIONS AND RECOMMENDATIONS

The Gambia has a unique and effective voting system that is to be highly commended. In its report on the 2006 presidential elections, the Commonwealth Observer Group noted that 'the quality of performance of the IEC has improved over the years.' The CET affirms this conclusion and further commends the IEC for its role in ensuring equal airtime for all political parties at certain periods of the day on GRTS, and for regularly consulting with all parties through the Inter-Party Committee dialogue mechanism.

Above all, the Team wishes to applaud the people of The Gambia, who impressed us by turning out in large numbers to vote on election day; they exercised their civic duties in a peaceful and collegial manner.

In spite of these positive achievements, the Team would be remiss to ignore the state of democracy in The Gambia and the threat this poses to the flourishing of Commonwealth values to which the country has committed itself.

The Government of The Gambia has been criticised for its human rights record including harassment and arbitrary arrest of government critics. Some of these violations have been brought to the attention of the Commonwealth Secretariat and other Commonwealth organisations, and are also well documented. During its briefing sessions, stakeholders further highlighted a number of them to the Team, which have been detailed in this report. A number of stakeholders informed the Team that they were fearful of criticising the government. Others, who did not, appeared by their actions to be wary.

The impact of these incidents is further exacerbated by the dominance of the executive which has eclipsed the other arms of government, in conflict with the Commonwealth Latimer House Principles on the separation of powers between the executive, legislature and judiciary.

The Team wishes to underscore that all stakeholders in the democratic process of The Gambia must be allowed to play a more active role in deepening democracy as part of their fundamental human rights: the opposition parties must be given the space to develop into a credible and visible alternative (and in this regard they, too, must live up to the people's expectations); civil society and media organisations must be granted the space to empower citizens in a responsible and constructive manner; and the people of The Gambia must continue to engage actively in the

wider democratic process, building on their participation in this election in order to further strengthen governance processes in the country.

Ultimately, political will is required to implement these recommendations, a significant number of which mirror those in the 2006 Commonwealth Observer Group Report.

The results of this election show that the Government of The Gambia has the mandate of its people to embark on the necessary democratic reforms which will guarantee sustainable economic development. The Commonwealth stands ready to assist in such reforms.

Recommendations

Legal and constitutional framework for elections

- The CET is mindful of the fact that The Gambia is not the only country on the continent to have abolished presidential term limits. It is, however, the Team's opinion that term limits can contribute to good governance and further deepen democracy in The Gambia. The Team would urge The Gambia to consider reinstating presidential term limits as well as the requirement for an absolute majority for the successful candidate of any presidential election.
- In the same vein, and as part of future constitutional and legal reforms, the Team would encourage a consideration of the need to reinstate elections for community leaders (Seyfos and Alkalos) some of which play key roles in their localities during elections.
- The political space in The Gambia must be widened: The legal definitions of 'sedition' and 'seditious intention' should be reviewed with this goal in mind. Furthermore, the Public Order Act should be reviewed to (i) establish to clear time-frames for the granting of permits for the use of public address systems and for rallies and processions and (ii) ensure that, unless there is clear evidence that granting the permit will disrupt the peace, the bias should lie in favour of granting such permits.
- The independence of the Independent Electoral Commission should be bolstered. The Team wishes to underscore the recommendation of the 2006 Commonwealth Observer Group Report which urged that the IEC should be financially autonomous and properly resourced for the smooth conduct of future elections. These measures should help to insulate the Commission from potential domestic and international pressures.
- The Team also reiterates the 2006 Report's recommendation that regulations governing the appointment, promotion and dismissal of members of the IEC should be such as to guarantee tenured appointment. "If and when it is

necessary to dismiss an IEC member, due process, as provided by the Constitution, should be followed.”

- There is an urgent need for demarcation of boundaries in The Gambia, ahead of future elections. The CET recommends that the mandate for demarcating constituency boundaries should be returned to the IEC until the Boundaries Commission envisaged under Article 50 of the Constitution is established.

The pre-election environment

- In future elections, all parties must adhere to the letter and spirit of the laid down campaign ethics, which were violated in this case. A stronger effort should be made to improve the enforcement mechanisms under such Codes of Conduct.
- The IEC must assert and prove its independence and authority by actively monitoring and enforcing the Code of Conduct in keeping with its responsibility under Section 92(1) of the Elections Act.
- An extended campaign period would have been preferable, and would have contributed to levelling the playing field in this election; the eleven-day period for campaigning was inadequate, and the requests for extension by the opposition should have been granted. The Team hopes that the IEC will grant more time for campaigns in future elections, taking into consideration the views of both government and opposition parties on this issue.
- Political parties should include women at the organisational level in keeping with the intent of the Women’s Act of 2011. In that regard, the Team further urges The Gambia to adhere to its regional and international commitments on gender participation in government. This includes the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) and the *Commonwealth Plan of Action for Gender Equality (2005-2015)*, which promotes a minimum 30% target for women’s participation and representation in government and decision-making processes.
- Consideration should be given to the ‘training of women in leadership’ programme in line with the newly established (2009) Caribbean Institute for Women in Leadership which is co-sponsored by the Commonwealth. This would go some way in reducing the current marginalisation of women in the highest organs of Government in The Gambia.
- The Team recommends that the Commonwealth Secretariat provide capacity building support to youth in The Gambia. The Team was impressed by the efficiency, socio-political awareness and the level of maturity of the members of the National Youth Parliament whom it met prior to the elections and on Election Day. The Commonwealth Secretariat must capacitate such youth groups in The Gambia.

- Political parties in The Gambia should take every measure to include young people in the decision-making process at the highest levels of the party. This would go some way towards reducing the youth deficit in national politics in the country.
- The Gambia must consider reform to its current regime of political party and campaign financing that would seek to effect transparency and parity in financing and spending. Such legislation should also seek to place limits on private donations for election spending and should include the appropriate penalties for breach of the legislation.
- Non-state news media in The Gambia is barely surviving and is in dire need of capacity building. GRTS, the state media, might also benefit from enhanced production values. In this respect, the Government of The Gambia must build on the positive outcomes of the Media forum and workshop it co-organised with the Commonwealth Secretariat in August 2011 to further open the space for the media to participate freely and actively in democracy and development.
- Although the Gambian Constitution guarantees freedom of expression, several Criminal Code amendments related to the offence of 'seditious publication' make any written or oral statement that is critical of the government an offence that carries stiff penalties in the form of imprisonment and heavy fines (as detailed in Chapter three). These laws must be reviewed with the intention of undertaking reforms that create an enabling environment for press freedoms.

Voting, counting and results

- Although the number of polling stations has been increased to 1302 for the presidential election, some polling stations in urban centres are still large and overcrowded with long queues. We recommend a further increase in polling stations.
- Voters' lists need to be more legible with bigger and clearer photos.
- A more effective way of managing queues must be devised and efforts should be made to post list of voters in their respective polling stations before polling day.
- The current arrangement of transporting ballots drums to counting centres is susceptible to avoidable hazards. It would be much better for the votes to be counted and recorded at polling stations and results displayed accordingly before tallying at collation centres in constituencies.