

## **Annex 2: Interim Statement by Professor A Bolaji Akinyemi**



### **COMMONWEALTH EXPERT TEAM THE 2011 GAMBIA PRESIDENTIAL ELECTION**

#### **PRELIMINARY STATEMENT**

**By**

**Professor A. Bolaji Akinyemi  
Chairperson of the Commonwealth Expert Team**

**Despite peaceful and technically sound elections democratic reforms are needed**

The Commonwealth was invited by the Independent Electoral Commission (IEC) of The Gambia to observe the 24 November Presidential Election. In response to this invitation, the Commonwealth Secretary-General, Mr Kamalesh Sharma constituted a five person Commonwealth Expert Team (CET) supported by a professional staff team from the Commonwealth Secretariat. I am honoured to have been invited to Chair the Team which has been present in the country since 18 November 2011, following a pre-election assessment mission led by the Commonwealth Deputy Secretary-General in October 2011.

During four days of briefings, the Team met a number of stakeholders including the Chairman of the IEC, political party representatives, civil society groups, media, Commonwealth High Commissioners, the United Nations Development Programme, and international, regional and domestic observer groups.

This statement is our preliminary assessment of the presidential elections which was held on 24 November 2011. It reflects largely our observations on the pre-election environment, the polling day itself and the post election phase. Members of the Team were able to cover four of the five regions in the country on Election Day. We exchanged our findings with a number of other international and domestic observers, as well as members of the diplomatic community. These exchanges corroborated most of the impressions which we formed during the course of our observations.

We will issue a Final Report containing our conclusions and recommendations on the entire process at a later stage and submit same to the Commonwealth Secretary-General, who will then transmit it to all the candidates and stakeholders. The Report will subsequently be released to all Commonwealth governments and to the public on the Commonwealth Secretariat website in the coming weeks.

## **KEY FINDINGS**

### **The Pre-Election Environment**

The official campaign period was from 12 to 22 November. The Team arrived in Banjul on 18 November and had the opportunity to observe some campaign activities. The Team observed rallies of the ruling party, the Alliance for Patriotic Reorientation and Construction (APRC), and that of a leading opposition party, the United Democratic Party (UDP).

We commend political parties and the people of The Gambia for the peaceful manner in which the campaigns were generally held. We also commend the role of the Independent Electoral Commission (IEC) for regulating the campaign under the Code on Election Campaign Ethics Order (made under section 92(1) of the Elections Act), and ensuring airtime on state media for all parties. A number of interlocutors indicated to the Team that this had raised the visibility of the opposition during the brief campaign period.

We do, however, have concerns on the following significant developments, which we felt resulted in an uneven playing field:

#### *The short campaign period*

All opposition parties we met complained that the 11 day official campaign period was too short. We raised this issue with the IEC which explained that this matter had been discussed during meetings of the Inter-Party Committee (IPC), a dialogue mechanism for political parties. According to the IEC, it had assured political parties that they could engage with voters even before the official start of campaign, and that it had informed and obtained the cooperation of the Inspector General of Police for political parties who wished to commence campaigns before the official start of 12 November.

We note that all political parties commended the IEC for its increased openness and accessibility during this election and appreciate the good faith in which this assurance was given. We are however of the view that an extended campaign period would have been preferable, and would have contributed to levelling the playing field in this election.

### *Campaign Environment*

During our briefing sessions, some stakeholders complained that the President's 'Meet the People' tour which took place in July 2011 amounted to campaigning and gave him an undue advantage in the lead up to the presidential election. In this regard we wish to reiterate the conclusion of the report of the Commonwealth Observer Group after the 2006 presidential election which said: "the timing of the President's 'Dialogue with the People' tour was unhelpful, because it had the effect of interfering with the election campaign and providing an undue advantage to the incumbent." We urge that this concern be accorded the seriousness it deserves in order to create a best possible competitive political environment.

We note, however, that almost all interlocutors, including some members of the opposition parties, commented on the following improvements during the campaign period:

- A conciliatory tone in the rhetoric of the ruling party's candidate in advocating for peaceful elections and refraining from speaking ill of the opposition. We note that the opposition reciprocated this gesture.
- The improving role of the IEC and the state media in ensuring that, "for the first time", provisions were made for all political parties to have equal airtime on state television, thereby ensuring the visibility of all parties during the brief campaign period.

### *Advantage of incumbency and use of public resources*

While we acknowledge the advantages that normally accrue to all incumbents, we observed that the ruling party's use of the state machinery during the campaign period amounted to a serious abuse of incumbency. In this regard, the Team is able to confirm that it witnessed:

- The uniformed military personnel participating in the APRC rally held in Banjul on Saturday 19 November 2011. Also, it saw three military trucks transporting youths wearing the party colour and emblem of the APRC in Churchill's Town on 23 November 2011.
- The private newspaper, the Observer, carried reports of public institutions, such as the Ministry of Petroleum, donating campaign T-shirts to the APRC.<sup>1</sup>
- We received similar reports of public officials openly campaigning for the ruling party; in particular, we found the involvement of governors and their offices in APRC campaigns worrisome

We therefore urge all parties to adhere to the letter and spirit of the Code on Election Campaign Ethics Order, which was violated in this case. A stronger effort should be made in future elections to improve the enforcement of the Code of Conduct, by

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<sup>1</sup> Daily Observer, Monday 21 November 2011: *Another Boost for APRC Campaign Trail*

having clearer enforcement procedures. This would help the IEC to assert its independence and authority.

We note that unequal access to funding was evident throughout the campaign period and that there was not a level playing field for the campaign with the advantage of incumbency exploited by the APRC. Indeed, the APRC spent far greater sums of money than that of the two other political rivals put together and, in the absence of campaign spending provisions, the level of competitiveness expected was compromised. We note also that the IEC failed to enforce the Code of Conduct which provides sanctions for such abuses.

Ultimately, political will is required to implement these recommendations, which mirror those in the 2006 Commonwealth Observer Group Report. The ruling party's increased victory would suggest that it has nothing to lose in levelling the playing field and in curbing the abuse of incumbency.

### **Polling day**

The Election Day was peaceful and managed in accordance with the Constitution and Electoral Act 2009.

The Team was impressed by the high turnout of voters on Election Day, especially the large numbers of women and young people. The enthusiasm shown by Gambians for the election demonstrated their desire to contribute to the development of democracy in the country.

Most polling stations opened on time on or just after 7.00 am. Polling stations were generally well-laid out, and polling officials and party agents present appeared to discharge their duties effectively in areas where Team members observed. We noticed the active role of young people and women as polling officials and party agents. Team members also noted the discreet security presence in a large number of polling stations. There were no overt acts of intimidation during voting.

The Gambia has a unique voting system – the use of metallic ballot drums fitted with internal bells which ring once a ballot token, a marble, is dropped into the drum. Voters appeared familiar with this system, and polling officials were often seen listening for the sound of the bell to ascertain that the voter had indeed voted, and to identify any incidents of multiple voting.

The secrecy of the vote was guaranteed as ballot drums were placed behind dark screens away from voters, polling staff, party agents and observers. Transparent and broken windows of school classrooms where ballot boxes had been placed were covered with improvised opaque materials.

The new voter register appeared robust and we came across few instances where voters with valid voter cards could not find their names on the register. We commend the IEC on its success in this regard.

## **Closing, counting and the results process**

At 4.00pm when polls closed, Team members witnessed polling officials observing the closing procedures, such as the sealing of the mouth of the ballot drums, with diligence. The ballot drums were then transported to the designated counting centres across the country with adequate security and within view of polling agents and observers.

The rules of counting were closely followed; presiding officers publicly announced ballot tokens supplied, those remaining as well as any invalid votes. The seals of the ballot drums were broken in full view of those present, emptied into a sieve, and the marbles arranged into special counting trays holding 200 to 500 marbles at a time.

Each candidate's result was publicly announced and the trays holding their tokens shown around before the result was certified. After this, the results were collated and declared by the Assistant Returning Officer before being transmitted to the regional IEC office, and then to the IEC headquarters.

The Team was impressed by the general atmosphere of transparency and in some cases, collegiality, within which the closing and counting processes were conducted. The Team also commends the swift announcement of results by the IEC on 25 November, the day after the election.

In any electoral process, there will always be room for improvement. We make the following technical recommendations in this spirit:

- 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.

## **Conclusion**

During the Team's briefing sessions with a range of stakeholders involved in the political process, some interlocutors highlighted the ruling APRC's achievements in economic development, particularly in the provision of infrastructure and social amenities.

In spite of these achievements, the Government of The Gambia has been appropriately criticised for its human rights record including harassment and arbitrary arrests 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 will be addressed in our Final Report. A number of stakeholders informed us 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 also wishes to underscore that all other 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 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.

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.

***Banjul, 28 November 2011***

***For further media enquiries, please contact: In The Gambia: Amb. Ayo Oke, Head of Africa, +220 7671277 or email: [a.oke@commonwealth.int](mailto:a.oke@commonwealth.int)***

***In London: Mr Julius Mucunguzi, Communications Officer and Assistant Spokesperson for Africa, tel: +44 7894 593 517 or email: [j.mucunguzi@commonwealth.int](mailto:j.mucunguzi@commonwealth.int)***