



POSITION PAPER ON ELECTORAL REFORMS IN THE GAMBIA

Country: The Gambia

Organization: Gambia Participates

Topic: Enhancing the Electoral Reform Process in The Gambia

The fall of Yaya Jammeh following the presidential election in December 2016 had raised the hopes of Gambians and the international community in as a departing point to drive The Gambia to a democratic destination. In the early stages, transitioning peacefully towards democracy seemed as the greatest challenge; more difficult than healing the wounds caused by 22 years of authoritarian rule. However, almost Seven years (7) after its first democratic transition, The Gambia still faces many challenges that undermine the democratisation process. Some mechanisms and democratic reforms initiated by the government to enhance the transition process have already been seen as a let-down.

The rejected draft constitution, the security sector reform which is moving at a slow pace, reparations for victims and other important bills, that are expected to improve democracy and the rule of law are still pending legislation at the National Assembly. Electoral reform is one of the pillars of the Gambia's democratization process which when realized will aid The Gambia to have a more transparent, participatory, impartial and accurate electoral process. The Elections Bill 2020 following its drafting went through several review and validation stages between electoral stakeholders before its tabling at the National Assembly.

Since the tabling of the Elections Bill 2020 at the National Assembly, two important elections (2021 Presidential and 2022 Parliamentary) have been conducted in The Gambia under the existing Elections Act, which was legislated in 1996 and amended in 2015. However, the replacement/updating the existing elections act is seen as an urgent need by political stakeholders, thus the introduction of the Elections Bill 2020. During the 2021-2022 elections, political parties and election observation groups all stressed the need for electoral reforms. There is need for the legislation of this bill by the 6th Legislature before the 2026 Presidential elections. The bill when legislated will, is expected to transform the electoral method of The Gambia from the use of Marble stone to ballot papers, a transition that requires years of planning, citizen education on the new electoral system, simulation exercises across the country etc. It is politically risky to introduce new electoral system at the brink of any national elections.

As a result, Gambia Participates with support from the National Endowment for Democracy (NED) on October 26th, 2022 convened electoral stakeholders to discuss electoral reforms at the Sir Dawda Kairaba Jawara Interational Conference Centre. The stakeholder dialogue comprised of representatives from 6 political parties, the Chief Electoral Officer of the Independent Electoral Commission, 11 National Assembly Members and 8 Civil Society Organizations who conversed on the necessary amendments needed in the 2020 Elections Bill and how these stakeholders can work with Parliamentarians to legislate the bill before the 2026 local government elections.

After this stakeholder engagement, stakeholders believe that the following are contentious areas of reform that the National Assembly Select Committee on Regional Government, Lands, Ombudsman and IEC should consider when preparing their select committee report on the 2020 elections bill to be presented to a broad member of parliament.

1. Voter Registration:

The constitution states that any Gambian who is 18 and above is eligible to vote but due to the periodical registration system, citizens who turn 18 after the voter registration cut-off date (normally set for the upcoming election date) are disenfranchised from voting in subsequent elections. For example, after the 2021 general voter registration, citizens who turn 18 after December 4th, 2021 will not be able to vote in the 2022 Parliamentary and 2023 Local Government Elections. Thus, several thousands of youths who turn 18 after December 4th 2021 will be denied the right to vote in subsequent elections until the next voter registration (supplementary or general).

This as part of the electoral reforms should be revisited to ensure that citizens are not deprived from their right to vote and be voted for. Participants suggested for the IEC to have a continuous registration process, whereas anyone who turns 18 can simply go to the Independent Electoral Commission's office and be issued a voter's card. However, this method needs to be carefully looked at as it could be questioned by stakeholders due to party politics and other factors. With a consensus, participants suggested that the IEC should conduct voter registration 6 months prior to Election, which would give them considerable time to be able to register citizens eligible to vote and also be able to publish the list for public scrutiny prior to the elections.

The issue of attestations, which are documents provided to the citizens by village heads to prove that they are citizens of the Gambia and are eligible to acquire voter's card, was raised as a key issue that must be abolished. Participants believe this process is however not credible, village heads provide attestations to random people who are sometimes not citizens of the Gambia or below the voter age.

Participants also suggested that the electoral reform process should be compatible to modern age, thus, the electoral law should provide provision for citizens eligible to acquire voters card to be automatically eligible to vote in any elections. For example:

The IEC can work with the Immigration Department to synchronize their systems so that citizens at the issuance/renewal of their ID Card can be issued their voter card number. The IEC can then pull out the data from the Immigration Department and print voters' card for this citizen and encourage each voter to collect their voter's card at their respective regional offices. The total number of voters card collected will inform the voter roll.

This will be more cost effective as opposed to procuring hundreds of expensive printing machines and deploying hundreds of staff to print voters card, in many cases facing technical issues along the way while citizens in some cases queue between 3-4 hours waiting to be issued their voters card, which is a factor of low turnout for voter registration.

2. Nominations:

On the nomination process, the IEC was commended for doing relatively well during the 2021-2022 elections but there are still loop holes and gaps to be filled. The Elections Act details that

nominations should be done at least 30 days prior to elections. In a case where the nomination of a particular political party is rejected, there is not enough time to file their cases at a court of law and get a court ruling on time. Even when they do and the courts rule in their favour like in the case of Citizens Alliance, political parties do not have enough time to campaign or even get their names on the ballot drums. Participants suggested for the nominations to be conducted at least 3-4 months prior to elections although according to the Gambian laws, the time frame between nominations and elections should not be more than 30 days and less than 10 days hence a need for reforms on the timeframe on the nominations process.

Public scrutiny was introduced as a best practice by the IEC to promote transparency during the nomination process. However, this act does not have any regulations in the laws of the country. In the 2021 nominations, political candidates submitted their documents to the IEC and the public were invited by the IEC scrutinized the submitted documents in no more than 5 minutes. This practice does not give the public enough time to thoroughly review the pile of documents provided by political candidates. A concern was raised on the formation of coalitions during elections. There are no provisions in the law that specifically regulates the formation of coalitions.

The filling of nominations continues to be a huge constraint for political parties, it is particularly impossible for political parties to acquire fresh nominations from individuals that have not already nominated another individual which the IEC should address.

3. Political Campaign:

In political campaigns, most political parties are guilty of violating the elections act. The issue of vote buying, use of state resources continues to be a major problem in the electoral process. Observation groups have reported on how state resources have been misused during the 2021-2022 elections. The constitution mandates the president to meet the people on a tour to engage citizens and discuss their plights but this tour is now politicalized and incumbents use it as a means to campaign for their political parties which is abuse of state resources and it does not create a fair level playing field with other political actors. Participants suggested that the Independent Electoral Commission should consider establishing a Compliance Department; this unit can work with the Anti-corruption commission (when established) to investigate the issue of campaign financing.

4. Publication of Election Results:

Publication of election results are a very sensitive part of elections and as such the Independent Electoral Commission should make sure accurate results are announced. Stakeholders recommends the IEC to find innovative technological tools to post live election results on their websites. The publication of polling stations should be done on time to ensure that observation groups proportionally deploy observers across the polling stations on time.

5. Reforms on Internal Party Structures:

Women and PWD's are mostly left out and are not given equal chances to contest or hold positions in their parties. Decision making processes should be inclusive and this is an essential part of electoral reforms. Most women with huge potentials to occupy positions in public office are often side-lined due to internal party structures which usually removes both women and PWDs in decision making processes This was manifested in the 2022 parliamentary elections

with having a total of 18 contesting and only 3 elected into parliament. Thus stakeholders suggested that political parties should conduct internal party reforms to provide opportunity for youth, women and PWDs to run for elective offices.

CONCLUSION

Gambia Participates hopes that parliamentarians particularly the committee members on Regional Government Lands, Ombudsman and IEC would consider these areas of interest incorporated in the Elections Bill 2020 and expedite the legislation process to give the IEC enough time to test, perfect and implement the reforms before the 2026 elections.