

GHANA CENTER FOR DEMOCRATIC DEVELOPMENT (CDD-GHANA)
ABUSE OF INCUMBENCY AND STATE ADMINISTRATIVE RESOURCES IN
ELECTION 2004

REPORT FOR THE PERIOD: *October 2004*

Introduction

The Center for Democratic Development (CDD) was pleased with the massive amounts of feedback, both positive and negative, received in response to the first *Report on Abuse of Incumbency* released on 4 November 2004. Print, radio, and television outlets all gave the information contained in that report ample coverage thus stimulating some heated public discussion on the matter. That report covered only two weeks of time and a period when the campaigns had not, at least officially, begun. This report covers the entire month of October and, as several monitors duly noted, a period when the campaigns began to rapidly pick up momentum across the country. As the methodology of this study is covered in some detail in our previous press release, we do not include it here. Instead we wish to share with you some concerns raised by and lessons learned from the complements and criticisms of the September report.

Lesson 1 - *Abuse of Incumbency is a Delicate Subject.* The abuse of incumbency project is designed to help deter abuse of incumbency and corruption on the part of public office holders and aspirants to elected public position and to stimulate public interest in institutional reforms that will address the problem of incumbency abuse in the medium to long term. We ask that the press and the public recognize that the reports on incumbency abuse are not comparative in nature. *The information contained therein does not provide a basis for judging whether or not abuse of incumbency is more widespread today than in previous elections and under previous administrations.*

There is also the issue of gray areas in the law. Many, if not most, of the potential abuses reported by the Center are not explicitly discouraged by Ghanaian elections law. These abuses are mentioned not to push for criminal investigations, but to encourage lawmakers, both present and future, to enact legislation and create enforcement mechanisms for existing legislation that will ensure that political competition in future elections is conducted on a more level playing field. This will help all parties bearing in mind that in a multi-party democracy incumbency is not guaranteed from election to election.

Lesson 2 - *Verifying Monitor Reports of Incumbency Abuse is Complex and Hard Work.* With forty-eight monitors each submitting several reports a month, the Center staff capture dozens of potential abusive events each week. Before appearing in a monthly press release, these events are passed through two filters. The first filter is meant to remove improperly coded events. For example, if a rural electrification project is completed as budgeted, an abuse of incumbency has not occurred. Though the local parliamentarian receives electoral benefit from the completion of the project, he/she should not be accused of over-exploitation of incumbency, nor punished for

doing his/her job properly. Therefore, a report of this nature would be excluded from the monthly press release.

The second filter is meant to remove reports, which are based on little more than hearsay and rumor. The Center is not in the business of disseminating unsubstantiated allegations against one party or another. In order for a potential abuse of incumbency to be made public, it must be deemed “credible enough” by the Center’s internal review committee and a committee of external experts and advisory group. But what exactly does “credible enough” mean? For the purposes of incumbency abuse press releases, “credible enough” means that a report has at least two, and in most cases three, generally reliable sources to back it up. Where we can only verify part of a report, we note that in our report. For instance, if a minister gives out gifts to a group of students we may note the gifts but not have enough substantiated information to suggest who paid for these gifts. We have chosen to publish such information with caveats so that the media and interested individuals may follow up on these reports themselves and fill in the information gaps for the public. We hope also that the publication of such information puts potential perpetrators of incumbency abuse on notice that their acts may not be acceptable.

Lesson 3 - Identity of Monitors must be Protected. The field monitors are undertaking a crucial assignment to advance Ghanaian democracy. With their help, politicians, government officials, the media, and most importantly civil society are learning how and where incumbency is being abused. The collection of this information is an important first step towards the creation of an institutional framework for preventing incumbent candidates from abusing their office for electoral gain.

Our anonymous monitors deserve commendation. But some of them have expressed legitimate concerns that the specificity of our previous report will reveal their identities to interested parties and invite reprisals and other unfortunate consequences. The Center does not want to expose its monitors to unwarranted harassment or make the collection of data on incumbency abuse more difficult than it already is. Therefore, in this and future reports only the region where incumbency abuse event/incident occurred will be exposed. While this method of reporting events will make it a bit more difficult for the media and public to do follow-up investigations, it is a necessary step.

October Findings

The first full month of incumbency abuse monitoring brought with it several dozen reported cases of incumbency abuse. Several of these events deserve reporting. They are placed into four topical categories as follows:

1. *Blatant Partisanship Amongst the “Non-Partisans”* – Reminiscent of a similar event that occurred in the Northern Region in September, a District Information Officer in the Volta Region took it upon himself to campaign for the NPP. In his capacity as a bureaucratic representative of the state, the Information Officer in question, while showing a film in remote villages, provided his own partisan subtext. The Information Officer is reported to have gone so far as to tell his audience that they should return the NPP to parliament and the presidency because of what they have done for the country.

Abuse of incumbency is not, however, confined to low level bureaucrats who may, or may not, know better. Just as in the September, DCE partisanship was a major theme in October monitors' reports. In Eastern Region a monitor reports that the DCE used his political clout to attempt to remove an NDC parliamentary aspirant from his position as tutor in a public school. After the DCE had a talk with the headmaster, the NDC aspirant was told to immediately write a letter to request leave of absence without pay, in spite of the fact that there is no explicit requirement that teachers resign their posts before running for public office. In Brong Ahafo a DCE invited the NPP parliamentary aspirant to the launching of the District Health Insurance Scheme, but informed opposition party candidates that they could not attend because the event was by "invitation only." When an NPP campaign vehicle was damaged in Ashanti Region, The DCE lent them his official vehicle for campaigning on at least two different occasions.

The non-partisan status of the DCE is rightfully called into question when he/she joins the campaign of one party or another. This applies whether or not the DCE is on official or nonofficial time. Take for instance the appearance of a DCE at a festival in the Central Region. As an invited speaker at the event, the DCE urged the crowd to return the incumbent NPP parliamentarian to power in December. Would the same action have been tolerated of a judge who is defined similarly as nonpartisan by the law? *This example underscores the need to clarify the nature of DCE non-partisanship. It also calls into question the practicality of a non-partisan administrative position appointed by the incumbent President. One possible solution to this ambiguous state of affairs is the explicit recognition of DCEs as politically partisan figures.*

2. *Politicization of Access to Public Facilities* – The September report on incumbency abuse revealed that NPP billboards had been placed at some of the major roundabouts in Kumasi despite an explicit KMA by-law forbidding such actions. The NPP continued to scoff at this KMA by-law well into October with apparent impunity. Taking their cues from the NPP, representatives of the NDC erected billboards in Kumasi roundabouts in the middle of October. Now, because KMA by-laws did not apply in practice to the incumbent party, drivers in Kumasi have their view obstructed by the billboards of several parties. What is important to note here is that the incumbent party was bold enough to openly flout the law and gain for itself several weeks of unmitigated advertisement in a high traffic area. We are aware of official assertions on radio (Peace and Joy) that all the parties have agreed to put billboards in the previously forbidden areas. But in our view, such collusion on the part of the parties is a race to the bottom. It is simply unacceptable for any groups or individuals including political parties and candidates to come to an agreement to break the law. It also implies that that the KMA was finding it difficult to enforce what is a very reasonable by-law.

A monitor reports that the incumbent party is breaking the law with regard to "Post No Bill" notices in Kumasi with similar impunity. Outside of Kumasi, but still in the Ashanti Region, a monitor has noted the removal of opposition party paraphernalia from electricity poles and public walls. This paraphernalia was replaced by NPP flags and posters depicting the incumbent party parliamentary candidate. No one has been arrested for this vandalism. The Center will monitor these events to determine the response of local authorities and opposition parties to these criminal acts.

In Kumasi two instances of NPP candidates and representatives being allowed to use public facilities, but opposition candidates being denied similar use, were reported. Concerns have also been raised over Metro buses bearing the likeness of the NPP Presidential candidate in Greater Accra. The Center's position on the use of public facilities for party events and/or advertisements is as follows: If all parties are allowed to use public facilities and can pay an identical price for their use, there is no abuse of incumbency. If, however, the incumbent party has greater access to a facility and/or pays less for the use of said facility, incumbency is being abused.

3. Turning Official Events into Campaign Rallies – When the President, Vice President, or Ministers entered a monitored constituency on official business, red flags of incumbency abuse went up for monitors throughout the country. The sitting President and Vice President certainly have every right to tour Ghana at taxpayer expense. They do not, however, have the right to campaign at taxpayer expense. The Center recommends a simple litmus test for distinguishing between campaign events and official tours. If an incumbent candidate canvasses for votes at an event, it should be properly considered a campaign rally. If an incumbent candidate introduces the parliamentary candidate of his/her party only, this event too should be considered a campaign rally. When the President, Vice President, or Ministers canvass for votes and/or introduce only their party's candidate to the gathered crowd, they should have to pay for the event's costs, including transportation, out of campaign funds. This is because the incumbent party gets to use the state apparatus to set up a platform, which is then used to benefit that party's candidates. (In other words, to introduce their candidates, opposition parties have to go to the expense of organizing a rally, pay for chairs, electricity, etc etc, but the incumbent party uses the captive audience that a Presidential or other state visit creates, together with the platform for the official visit (all items laid out for the President are paid for by the State), and then uses these to perform an act that benefits the party solely. The party's administrative costs are thus subsidized by the State, and that is unfair to the other parties. And that is why the incumbent party if it does so must reimburse the state for that. Security costs could be exempted from this requirement as this is an inherent cost associated with the official's position and not the collection of votes.

Particularly egregious examples of turning official events into campaign rallies occurred in Central Region and Greater Accra. At the commissioning of a school project in Central Region, an incumbent MP spoke as if the school was paid for by the NPP when in fact HIPC was clearly marked on the side of the building. In Greater Accra, in an event reminiscent of one reported in September, a sitting MP held a party rally and commissioned streetlights simultaneously. In blurring the lines between campaign and governance functions, these incumbents are not only giving voters false impressions of who paid for these development projects, but they are giving their constituents a lesson in bad civics by rhetorically deinstitutionalizing politics.

4. Privatizing Public Goods for Partisan Purposes – In the Northern region a Self Help Electrification Project was denied one village in favor of another. This denial is in spite of the fact that the denied village was the only village of the two slated for electrification. When challenged on this point, a local administrator said he approved of the change because the slated village did not support the NPP. In Ashanti Region a large sum of money was given to NPP party executives by the DCE from the District Assembly coffers to convey party members to the durbar grounds to see the President. In Upper West pocket money and petrol was given out of District Assembly coffers to NPP youth so that they could escort the President to one of his official visits on

motorbikes. In addition several teachers in the area were let out of their classroom duties to campaign for the incumbent party without using vacation time or forgoing pay.

Two statements, one made by an NPP constituency secretary and the other by an incumbent Member of Parliament offer peaks into the mindset of those who engage in this type of abuse. When staffing the local National Health Insurance Scheme office, the constituency secretary said that since the NPP was in power, he did not see why party members should be denied these positions. Upon finding out that a party member had lost a contract to deliver meat to a local school, for reasons of inadequate service, the incumbent MP said the NPP “cannot be in power and see their party member thrown out of a job.” Public property is the property of every Ghanaian and not only those who speak for or support the incumbent government. It should be treated as such.

Conclusions

The incidents reported here underscore the need for a credible code of conduct to deal with potential abuses of incumbency. They also highlight the need for substantial improvements in Ghanaian electioneering and administrative law. The information contained in this report makes it possible to make three types of policy recommendations:

1. *Strengthened Enforcement*; where incumbency abuse occurs because enforcement of the laws regulating Ghanaian elections are weak;
2. *Introduction of New Codes*; to supplement existing ones where incumbency abuse occurs because Ghanaian election law is silent on that particular form of perceived abusive behaviour. .
3. *Development of Credible and Equitable Conventions*; judging from the abundance of events where the line between state and party is blurred, we recommend strongly that the nation develops credible and equitable conventions to regulate state/official visits and events to distinguish them from partisan campaigns, especially in the election “season.”

We hope that this report, along with the preceding and subsequent reports provide some empirical basis for government together with Parliament, the Electoral Commission and other relevant public agencies as well as the political parties and civil society to take measures to correct abuse of incumbency so that the electoral playing field is further levelled. If democracy is to be sustained in Ghana then we must have free and fair elections; and free and fair elections require that incumbency is not abused.

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