

For Immediate Release:

Press Statement

Response to the Press Statement of the Electoral Commission on the Disenfranchisement of SALL

[Accra, 16 May, 2024] Our attention has been drawn to a recent press statement issued by the Electoral Commission through which they sought to decline any legal, moral or factual responsibility for disenfranchising the people of Santrokofi, Akpafu, Lolobi and Likpe (SALL)

We note that the Commission has presented a set of facts that are not only legally incomprehensible but also manifests a worrying lack of appreciation of the independent mandate and functional integrity that the Constitution sought to bestow on the Commission. This was particularly evident in brazen admission that the Electoral Commission considers itself amenable to the direction and control of the President and his appointees rather than to the Constitution.

For the purposes of educating the public, this is the sequence of events that transpired and led to the intentional and deliberate disenfranchisement of the people of SALL:

1. On 12 October 2017, the President appointed the Brobbey Commission to inquire into the need and substantial demand for the creation and alteration of regions.
2. On 26 June 2018, the Commission of Inquiry presented its Report to the President and stated, among others that a new Oti region be created that would “include the four traditional areas in the Hohoe Municipality, namely Lolobi, Akpafu, Santrokofi and Likpe”.
3. On 30 October 2018, the Referendum (Creation of New Regions) Regulations 2018 (C.I. 109) was laid in parliament and matured after 21 sitting days.
4. On 27 December 2018, the Electoral Commission held a referendum in parts of the then Brong Ahafo, Northern Region, Volta Region and Western Region affected by the proposal to create six new regions. More than 80% of the over 50% turnout voted “yes” to creating the new regions.
5. On 2 January 2019, the Electoral Commission gazetted the results of the Referendum.
6. On 1 February 2019, the President executed the constitutional Instrument C.I. 112 creating the Oti Region. By the Schedule to C.I. 112, the traditional areas of Santrokofi, Akpafu, Likpe and Lolobi were formally placed under the new Oti Region.
7. However, the then Representation of People (Parliamentary Constituencies) Instrument 2016 (C.I. 95), which delimited the boundaries of constituencies for purposes of parliamentary election, placed the said traditional areas in the Hohoe Constituency in the Volta Region.
8. This means that by law, as of 1 February 2019, the Electoral Commission was duty bound to execute a new CI which would have amended C.I 95 to place SALL in Oti Region for voting purposes. Yet the Electoral Commission took no steps to ensure that the people of SALL will be placed in their proper region for voting purposes.

9. Following a Constitutional challenge in the Supreme Court, the Court specifically instructed the Electoral Commission to amend the C.I. 95, in these clear terms:

“Accordingly, we order the Electoral Commission to amend CI 95 to bring it in conformity with CI 112. Such amendment shall take effect upon the next dissolution of parliament, that is after midnight of 6th January, 2021.” [Dzatse Vrs Ametefe and Others (J6/01/2020) [2020] GHASC 45 (24 June 2020)]

10. Following the Dzatse decision, the Electoral Commission, in July 2020 took upon itself the direction of the Supreme Court and laid in Parliament the Representation of People (Parliamentary Constituencies) Instrument 2020 (C.I. 128) which came into force on 11 August 2020. In that C.I. 128, the Electoral Commission placed the traditional areas of Santrokofi, Akpafu, Lipke and Lolobi in the Buem Constituency.

11. By the Electoral Commission’s own pronouncements, C.I. 128 was intended to ensure that Ghana is divided into two hundred and seventy-five constituencies for the election of members of Parliament which would hold its first sitting in January 2021 and for subsequent elections.

12. Strangely, in the evening of Sunday December 6, 2020, a day before the parliamentary elections of 7 December 2021⁶, the Electoral Commission then issued a statement, directing that eligible voters in the Guan District could only take part in the presidential election, but not in the parliamentary election. According to the said Statement,

“The Commission wishes to announce for the information of the public, especially voters in the Buem Constituency that the 7th December 2020 Presidential and Parliamentary Elections will take place in the Buem Constituency as scheduled from 7:00 am to 5:00 pm.

However, as a result of the creation of the Guan District Local Government (Guan District Assembly) Instrument, 2020 and pending the creation of the Guan Constituency, eligible voters in the Guan District will vote only in the Presidential Election but not in the Parliamentary Election in the Buem Constituency.

Voters in the Guan District are to take note of this Directive from the Electoral Commission”.

13. The claim by the Electoral Commission that a letter issued to it by the Minister of Local Government, directing the Commission to create a new constituency for SALL, is untenable as a basis for denying the people of SALL the right to vote.

14. It bears emphasizing that the Constitution intentionally gave the EC the sole power and authority to create constituencies to prevent political manipulation of electoral boundaries and to protect the right to vote. It is disturbing that the

EC would prevent the people of SALL from voting at the last minute when their own C.I. 128 required them to.

15. Also, the claim that because a new district had been created they needed to create a new constituency is untenable in law; and unsound in logic. No law requires that we should have a 1 District 1 Constituency policy.
16. The fact is that in Ghana now, we have 275 constituencies and 261 districts. This means that there are districts that overlap different constituencies. This is actually something the Constitution recognizes that situation and allows.
17. In essence, at the time the Electoral Commission issued its Statement of 6 December 2020, it was aware, or its constitutional functions required that it be aware that
 - a. The “eligible voters in the Guan District” were constitutionally entitled to vote as part of the Buem Constituency, as stated in C.I. 128.
 - b. There is no constitutional requirement that districts in this country cannot straddle more than one Constituency. In fact Article 242(b) confirms that the Constitution actually contemplates such a scenario.
 - c. There was no constitutional basis for subjecting the sacrosanct right of “eligible voters in the Guan District” to vote under Article 42 as part of the Buem Constituency to the existence or subsequent creation of new districts.
 - d. There was in fact no Guan Constituency in existence and that the only constituency that existed in which the eligible voters in the Guan District could vote and be represented was the Buem Constituency as stated in C.I. 128 which was made under the hand of the Electoral Commission.
 - e. It was impossible for the Electoral Commission to create such Guan constituency, lay the attendant Constitutional Instrument in accordance with Article 11(7), and hold elections in that Constituency before 7th January 2021. This was more so because
 - i. Under Article 112(4) of the 1992 Constitution, General election of members of Parliament shall be held within thirty days before the expiration of the four-year term of Parliament from the date of its first sitting, which would have been 7 January 2021. And that in accordance with this Article, the latest day the parliamentary election could have been held was 7 December 2020.
 - ii. Parliament had already publicly announced on 6th October 2020 that ahead of the December elections, the Third Meeting of the Fourth Session of the Seventh Parliament will rise on 7 November 2020 and reconvene on 14 December 2020; and that in fact, by the time the Electoral Commission issued its statement on 6th December 2020, Parliament had at its sitting on Saturday, 7 November 2020 adjourned sine die. In this connection, it was impossible for such new Constituency to be created.

[See Closing Remarks of the Speaker of Parliament on 7 November 2020, Parliamentary Hansard, paras 647-652]

Electronic copy available on the official website of Parliament at
[<https://www.parliament.gh/epanel/docs/pb/7%20Nov%202020.pdf#viewer.action=download>]

- f. Following the Supreme Court's decision in the Dzatse case, the Electoral Commission was aware that requiring that such Guan Constituency be created before the eligible voters in the Guan District would be able to exercise their right to vote, meant that they will completely be deprived of representation in the Eighth Parliament of the Fourth Republic.
- g. The decision of the Electoral Commission to deny the eligible voters of the Guan District to vote in the 2020 Parliamentary elections as part of the Buem Constituency was in direct contravention of C.I. 128, which was made by the Electoral Commission itself.

For these reasons, it is without doubt that the Electoral Commission breached the 1992 Constitution, which enjoined it from depriving anyone of their right to vote and in that regard acted in a way that amounted effectively to a suspension, overthrow or abrogation of a crucial part of the Constitution with regard to the eligible voters in SALL. We are convinced that the actions of the Electoral Commission were either intentional or negligent and thus criminal; or that they were a demonstration of ineptitude, both of which are disqualifying.

Despite the calculated efforts that have stifled our attempts to call the Electoral Commission and its principal officers to book. We continue to hold hope that the individuals who were the controlling minds in procuring this grave injustice to our constitutional democracy will one day be called to answer for their crimes against the Republic.



Signed *for* Petitioners for Removal of the Chair and Other Commissioners of the EC

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