

TOGO PRESIDENTIAL ELECTIONS

WACSOE ELECTIONS OBSERVATION REPORT

REPORT OF THE WEST AFRICAN CIVIL SOCIETY FORUM (WACSOFF) OBSERVATION MISSION TO THE TOGO PRESIDENTIAL ELECTIONS HELD ON 24TH APRIL 2005

Introduction

The West African Civil Society Forum (WACSOFF) is a network of civil society organisations from the 15 member states of the Economic Community of West African States (ECOWAS). Membership is drawn from organisations of diverse backgrounds and experience in human security, education, trade, health, democracy, good governance, human rights, gender equality, conflict transformation, etc. While the Peoples' Forum meets annually prior to the yearly Summit of the Heads of State of the Economic Community of West African States (ECOWAS), the Executive Committee meets regularly to deliberate on issues and provide policy guidance for the operations of WACSOFF.

WACSOFF derives its legitimacy from various international and regional Human rights instruments and ECOWAS Provisions including, Regulation C/REG/5/11/96 establishing a Forum of Associations Recognised by ECOWAS (FARE); Recommendation A/REC.1/5/11/96 on the mobilisation of the various sections of the population; Article 41 (1a) of the December 1999 ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution and Peacekeeping in which ECOWAS committed itself to cooperate with national and regional NGOs and religious organizations; December 2001 Supplementary Protocol on Democracy and Good Governance (Article 8) in which ECOWAS calls on member states to use the services of Civil Society Organisations involved in electoral matters to educate and enlighten the public on the need for peaceful elections devoid of all acts of violence; and Articles 117 and 118 of the Final Report of the 53rd Session of the Council of Ministers on the Presentation of the West African Civil Society Forum (WACSOFF) in which they expressed support for WACSOFF and directed the Executive Secretariat to support its set up. In their Final Communiqué at the end of the 28th Summit held in Accra, Ghana in January 2005, the ECOWAS Heads of State and Governments expressed support for the creation of WACSOFF and directed the Executive Secretariat to continue its working relations with WACSOFF and to take all necessary measures to ensure that Civil Society Organisations and NGOs serve as a positive force for the development and integration of West Africa.

The aims and objectives of WACSOFF include broadly, the pursuit and promotion of continuous dialogue and engagement between civil society organizations in the sub region, ECOWAS and national authorities on vital issues that affect the citizenry, and to support the process of political and socio-economic development and integration of the sub region. In doing so, WACSOFF seeks to promote and improve human security, peace, unity and stability in the sub region. WACSOFF has as a cardinal objective the pursuit of democratic principles and institutions, popular participation and empowerment of the people, good governance, human rights, freedom, and social justice in all the member countries of ECOWAS. WACSOFF is also actively engaged in popularising ECOWAS, its various Protocols and activities in the consciousness of West African people and ensuring that ECOWAS activities effectively meet the aspirations of the West African peoples particularly women, youth, children, farmers, workers, the Diaspora and the private sector. WACSOFF will also be contributing to building and sustaining the institutional, human and operational capacities of West African civil society.

In order to effectively pursue the promotion of democracy and good governance in member states, WACSOFF advocates for the conduct of free, fair, transparent and democratic elections

in all member states. For WACSOF, the regular and appropriate conduct of elections is a major requirement for true and participatory democracy. In promoting this ideal, WACSOF has decidedly engaged in Elections Monitoring and Observation beginning with the Ghana Parliamentary and Presidential elections of December 2004. In 2005, WACSOF has undertaken Pre-elections Assessment Missions to Liberia, Guinea Bissau, Cote D'Ivoire and Togo. These missions were aimed at assessing the level of preparedness for elections in such countries and to recommend an accompanying role for WACSOF in these countries which are scheduled to hold elections during the year. Another Pre-elections Assessment Mission is planned for Burkina Faso later in the year. WACSOF intends to accompany the electoral processes in these countries by mobilizing civil society in their respective countries to embark on civic education and awareness creation, violence free elections, sustainable democracy and good governance and by observing the elections.

Mission Terms of Reference

This Mission was mandated by WACSOF to observe the prevailing political situation in Togo and the mood and expectations of the Togolese people in the build up to the election. In doing so, the mission was expected to consider the adequacy or otherwise of the political structures, processes and procedures in place especially in relation to the electoral process. Specifically, the Mission was tasked to:

- Ascertain the level of preparedness for the election.
- Review the voter registration exercise.
- Consider the present electoral legislation with a view to determining its constitutionality and level of acceptance or otherwise among all stakeholders.
- Ascertain whether or not there is a level playing field for all stakeholders, especially the political parties and candidature, access to the media especially state owned, the use and abuse of the power of incumbency, use and abuse of security forces amongst other issues.
- Observe the Presidential elections on 24th April 2005.
- Produce a report on their findings.

In order to adequately achieve these, the mission was expected to meet with and hold consultations with the following stakeholders:

1. Relevant Government Ministries.
2. The Electoral Commission.
3. The Opposition Coalition.
4. Togo civil society, including the media.
5. The ECOWAS Mission to Togo
6. The French, German, US, and EU Embassies/Mission in Togo.
7. ECOWAS Ambassadors in Togo.

Methodology

The findings of the team are arrived at from an analysis of data collected during the mission. The team employed the use of both primary and secondary sources of data. These include participant observation with team members carefully observing and analysing activities prevalent during our stay in the country. The team also carried out several interviews, both formal and informal and with key informants. A pre-elections assessment mission was deployed in Togo from 12th – 17th April 2004 for a rapid assessment of the situation and to make preparations for the arrival of the core team of observers/monitors. The mission also held several consultations with the media and civil society networks in Togo including WACSOF Togo chapter and the Coalition of Civil Society Organizations Network. The mission also held a series of revealing consultations with certain contacts that for security concerns would prefer to remain anonymous.

Even though WACSOF team of observers could not deploy at polling stations on polling day because accreditation was denied us, the team was in constant communication with civil society activists deployed with other observers across the country.

This report presents the findings of the team based on an analysis of the crisis and the prevalent situation during the period of the team's stay in Togo. The report considers the legal and institutional framework of the electoral process in Togo, the role and participation of key stakeholders like the political parties, the Togolese electorate, civil society including the media, and sub regional and international actors like ECOWAS, Ghana, the United States, France, Germany and the EU. The report concludes with the recommendations of the team for a meaningful resolution of the crisis in order to move the process forward.

Duration of the Mission

An advance party of three arrived in Togo on the 12th April 2005. The rest of the team arrived between 17th and 21st April 2005. A number of other team members were refused entry at the border due to its closure. They however took advantage of this to interview people at the border and obtained vital information in the process. The team departed Togo on the 26th April 2005 for Accra from where this report was compiled.

The Togo Crisis

On 5th February 2005, the Togolese government announced the death of its leader for 38 years, Gnassingbe Eyadema. Most viewed this development as a window of opportunity for the enthronement of democracy and freedom for the Togolese. Unfortunately, this opportunity and the expectations were cut short by the military in Togo. On 5th February the military nominated Faure Gnassingbe, the son of the late president as the president for the next 3 years. After the reaction of the international community, the Parliament amended the constitutional provision which would have had the Speaker sworn in as Interim President. This paved the way for the military to swear in on 7th February, Faure Gnassingbe as President to replace his late father.

A string of reactions from within and without Togo followed this action by the military. The international community including the AU, ECOWAS, WACSOF and pro democracy organizations condemned Faure's appointment describing it as a coup and therefore, unacceptable. Togolese authorities were asked to allow the exiled Speaker, Fambare Ouattara Natchaba, to return to the country to take up the position of Interim President and conduct elections within sixty days as stipulated in the constitution. After failed attempts at

meaningful dialogue, ECOWAS decided to sanction Togo, suspending her membership and imposed a travel ban and an arms embargo. Civil society organizations and pro democracy groups organized and staged protest rallies in the capital, Lome.

WACSOF on its part issued a statement condemning the action of the Togolese military and demanded a return to constitutionality.¹ WACSOF threatened to seek redress from the ECOWAS Court of Justice if the Faure Gnassingbe did not step down. WACSOF also sanctioned simultaneous demonstrations at all Togolese Embassies/Missions across the sub region. WACSOF thereafter dispatched a mission to consult with civil society in Togo in order to evolve an effective strategy with local input. A delegation from the coalition of civil society organizations in Togo was also hosted and consulted with in Abuja.

Bowing to pressure, the Togolese Parliament on 22 February 2005 reversed the constitutional changes and Faure announced his decision to step down. He handed power to Abass Bonffoh as Interim President rather than Natchaba as required by law. Bonffoh as Interim President was thus mandated to conduct the Presidential elections. Faure announced his decision to contest the elections on the ticket of the ruling RPT. Although the opposition coalition nominated Emmanuel Bob Akitani to run against Faure, they continued to maintain that the election timetable culminating with elections on 24th April 2005 was not realistic. They requested more time to enable them organize better and contact the electorate.

On the 12th April 2005, WACSOF sent an advance team to Togo to assess the situation and determine the best possible response from WACSOF. The mission met with and held consultations with civil society, political parties, government functionaries, the electoral commission, the ECOWAS mission and selected bilateral institutions and diplomatic missions in Togo. Following the report and recommendations of the Mission, WACSOF decided to send a team of twenty six civil society activists from across the sub region to observe the 24th April 2005 Presidential elections.²

The team started arriving in Lome on Sunday 17th April 2005. WACSOF immediately submitted to the Ministry of Foreign Affairs and Integration a formal application for accreditation to observe the elections. This application was endorsed by ECOWAS with a covering letter from the Special Representative of the Executive Secretary of ECOWAS. Upon receipt of the application and the supporting documents, the ministry further requested the team members to submit their passports in order to facilitate issuance of their ID cards. WACSOF complied. On 20th April 2005, WACSOF received a letter from the Foreign Ministry communicating the decision of the “competent Togolese authorities” denying the WACSOF team accreditation to observe the elections. Following several enquiries it was revealed, and as events during the following days attested to, that WACSOF was refused accreditation because the government felt WACSOF was “anti government.” All efforts to get the decision of the government reversed failed. From then on, it became apparent to all members of the team that WACSOF was not a welcomed guest. The team was followed around by security personnel in plain clothes while two were permanently stationed in our hotel. Our telephones were also tapped. However, based on conviction and commitment to the cause of democracy and good governance, the team resolved to remain in Togo and passively observe the elections.

On the 17th April 2005, WACSOF met with selected civil society leaders and a cross section of the executive members of the coalition of civil society organizations in Togo. The meeting resolved to forge a united and objective role for civil society in the elections. On the 18th the

¹ Appendix 1, WACSOF Statement of February 2005.

² Appendix 2, List of WACSOF Observers to Togo Presidential Elections, 2005.

team met with a cross section of the media who were fully briefed on WACSOF, WACSOF engagement in Togo from the start of the crisis and the purpose of this mission. The place of the media in the political arena in Togo and the electoral process in particular was also discussed. WACSOF was surprised to learn that the Independent Media was not allowed to cover the elections. The implication of this was that there was very limited, if any independent coverage of the processes and procedures adopted in the run-up to the elections. The international community was therefore kept in total darkness as to the realities on the ground. This maybe explains why many were surprised at some of the footages on CNN and other international media. The stage had been set for such.

It was further, observed, much to the surprise of everyone, that the borders were closed on the 21st April 2005 and all communication lines blocked. It was therefore not possible for people to communicate with each other and with the international community.

On 22nd April 2005, the Interior Minister, called a press conference at about 2 a.m. As the minister constitutionally responsible for the conduct of elections, he said that after reviewing the electoral process, he had come to the conclusion that it was “suicidal” to go on with the elections. He said it was necessary to suspend the April 24th Presidential elections because there were irregularities and problems that bogged the voter registration exercise in particular. He further called for the setting up of a transition government in which the opposition will fill the post of Prime Minister under the Interim President. During the transition period, he also recommended the setting up of a constitution review commission, a reconciliation commission, and security sector reform including a review of their terms and conditions of service of the military and granting of general amnesty to all exiled Togolese. This announcement was considered by WACSOF as very crucial and demonstrated the need to immediately suspend the elections which have been described by the chief organizer as not being credible. It was evident to WACSOF that the atmosphere was not conducive for a free, fair, transparent and peaceful election.

The Interim President reacted by stating that the declaration of the Interior Minister was not a government decision as it was never discussed and agreed in government. He fired the minister and replaced him with the Justice Minister in acting capacity. He declared that the elections will hold as scheduled. On their part, LAWSON Nicolas withdrew his candidacy hinging his decision on the former Interior Minister’s declaration. The opposition coalition candidate, Bob Akitani, in his response said that the former minister’s declaration was not only “good” but also “courageous” and needed to be considered very seriously particularly as he was directly responsible for the conduct of the elections.

The action of the former Interior Minister further heated the already tense atmosphere all over Togo, especially in the capital Lome. ECOWAS issued a statement against any suspension of the elections and summoned all the candidates to a meeting with the Chairman of ECOWAS, and President of the Republic of Niger, H. E Mahmoud Tandja. At the meeting, the candidates agreed to go on with the elections and refrain from any violence. The opposition coalition did not attend the meeting. They don’t see the necessity of this meeting as it will not discuss the request for the postponement. The tension continued to build up to the election day as supporters of both the ruling party and the opposition coalition continued to threaten a showdown if their respective candidates were not declared winner at the end of the day. In response, the government closed the nation’s borders, and cut communication links within and outside the country. A dusk to dawn curfew was also imposed.

After a thorough assessment of the situation on ground, the pronouncements of the former Interior Minister, and mounting tension in the capital, Lome, it became obvious to the WACSOF team that whatever the outcome of the April 24 elections might be, there was going

to be a serious risk of conflict and confrontation between members of the ruling party and the opposition. It was also quite apparent that the structures and institutions for a credible election were lacking. Fearing that this may prejudice peace and stability in Togo and the West African region as a whole and in a bid to avoid a further degeneration of the already fragile security situation in the country, WACSOF made a press release³ in which it recommended that:

1. The Elections scheduled for Sunday 24th April 2005 be suspended.
2. A transition government be put in place following consultations among all political parties, ECOWAS and the international community.
3. The transition government be given 30 months to come up with a new constitution that will be put to the Togolese Electorate for their vote in a referendum, review the voters register, issue new voter ID cards.
4. The transition government conducts fresh presidential and parliamentary elections.

Mission Findings

1. The Legal/Institutional Framework of the Togo Electoral Process

In this section, the different legal and institutional structures put in place for the administration and management of the electoral process in Togo are mentioned and analyzed to determine their adequacy or otherwise for the conduct of free, fair, transparent and democratic elections.

A. The Ministry of Interior, Security and Decentralization

In Togo, the responsibility for the conduct of elections is vested in the Interior Ministry and not in the Electoral Commission, known as “Commission Electorale Nationale Independante (CENI)”. The ministry is also responsible for the police and gendarme. It is also the President who appoints the interior minister. Even though there is an electoral commission in place, most electoral processes and procedures are handled by the Interior Ministry, beginning with the voter registration and culminating in result collation. Owing to the “sensitivity” of this ministry, it has often been headed by ex-officers from any of the security agencies as was the case of the sacked minister. Reports from unconfirmed sources indicate that the sacked minister had consulted the security chiefs and informed them of his planned pronouncements. He is also believed to have consulted with some religious leaders, prominent personalities and diplomats. The minister’s press conference was well attended by the media and representatives of the EU, ECOWAS, France and Germany were present. The minister’s whereabouts remains unknown.

³ Appendix 3, WACSOF Press Release of 23rd April 2005

B. The Togo National Electoral Commission

The Electoral Commission, known as Commission Electorale Nationale Indépendante (CENI) derives its legitimacy from the Electoral Code. This code was promulgated into law in 2000. It has been amended four times, the last as recently as 21 January 2005, about two weeks before the death of Eyadema. Article 3 of the code stipulates that the electoral commission will be under the direct supervision of the Interior Minister. Article 6 of the Electoral Code gives the Electoral Commission supervisory authority in the conduct of elections and referendum in Togo.

The code does not vest in the electoral commission any real powers. This was very evident to WACSOFF when the team visited the offices of the electoral commission 48 hours to the election. There was very little activity going on. This is in clear contradiction to what obtains in countries where the electoral commission is given its rightful place in the conduct and supervision of the country's electoral process, technically and professionally. The commission is therefore controlled and funded by the Interior Ministry. Its independence is thus compromised.

Article 15 of the code also prescribes a composition of 13 persons as members of CENI. This is expected to be made up of one member from the Judiciary, five from the majority party in parliament, five representing the opposition and two from civil society. A careful analysis of CENI as presently composed for the election reveal that the ruling party has an undue advantage in the sense that it has the majority in parliament and so is represented by five persons on the board whereas all the opposition parties put together are represented by five persons only. In addition, the member from the judiciary is nominated by the government and whether this can be done judiciously is a matter open to debate. Civil society has two representations. Both are women. One represents an association of former female ministers and deputies in Parliament. She is a former Minister, and also chairs the commission. This calls into question the neutrality or lack of partisanship on her part. It somewhat reduces the voice and impact of civil society on the commission.

C. Political Parties

Although there are over ten political parties in Togo, only three presented candidates for the election while the fourth was a candidate of the opposition coalition of six parties. The political parties and their candidates are:

1. RPT (Ruling Party) – Faure Gnassingbe
2. RSDD – Harry Olympio
3. PRR – Nicolas Lawson
4. Opposition Coalition – Bob Akitani
(ADDI, CAR, CDPA, PSR, UDS-Togo, UFC)

A critical look at the role and contributions of political parties in the electoral process is revealing. Their role can better be understood from a background of the political environment obtained in Togo over the last thirty years. Even though a semblance of multiparty democracy was painted, that has not been the case. This is because over time, the ruling RPT under the firm grip of the late President Gnassingbe Eyadema continued to dominate and retain itself in power with the active support of the military and other security forces. This dominance and the use of the military to emasculate the

political space effectively turned Togo into some sort of a one party police state. Although there was some opposition, the leadership of the opposition was mostly hounded into exile, leaving the teeming flock without a shepherd. This lack of effective leadership physically present in Lome affected the opposition in terms of organization and mobilization. They often had to consult the long time opposition figure, Gilchrist Olympio leaving in exile in Accra, Ghana before taking any vital decisions. It is unfortunately to note that while so many expected a united, organized and effective opposition to the ruling party, it was not to be as only six political parties could produce a compromise candidate in Bob Akitani. This division considerably affected the opposition.

D. Voter Registration, Civic Education and Enlightenment

The electoral code in section 2, Articles 39–40 vests the responsibility for voter registration, revision of the voters register, compilation of the voter register and final display of the register in the Interior Ministry. The electoral commission is only given the compiled register.

WACSOF investigations revealed that there were various irregularities in the voter registration/verification exercise conducted by the Interior Ministry. This much was confirmed by the former Interior Minister in his 22nd April 2005 early morning press conference. There were instances of whole families excluded from the voters register either because of perceived anti government tendencies or a history of opposition to the ruling party or even to the Eyadema dynasty. In other instances, registration officials demanded for all sorts of documentation outside the national ID card as required. The opposition also claimed that there were deliberate manipulations in the distribution of registration materials. They claim that while a surplus of registration materials and sufficient manpower and security was made available for the exercise to the ruling party regions in the north, the opposition strong holds in the south were neglected. Registration figures as released by the Interior Ministry indicated between 80–100% registrations in the ruling party regions and between 20–30% in the opposition strongholds. These figures were strongly disputed by the opposition accusing the government of manipulating the voters register in favour of the ruling party, RPT. On their part, the ruling party blamed the opposition for a low turnout of their supporters saying that rather than mobilize their supporters for the registration, they were rather working towards the postponement of the elections. What ever the view, WACSOF believes that this contributed to the low turn out of voters which government sources put at 52%.

Given the position of the Electoral Commission, it was difficult for any aggrieved stakeholder like the opposition and civil society including the media to seek redress. The universally acceptable practice is the establishment of a framework that will adequately address any real or perceived fears by any stakeholders. In Togo, there is no established mechanism that brings all stakeholders together to address problems arising from the management of the electoral process. There is therefore no space for dialogue between the different stakeholders and this is critical in a situation as Togo's where there is no trust or faith in the objectivity, neutrality and competence of the authority. This gap leaves room for violent reaction from aggrieved stakeholders. The Togolese authorities may like to learn from the experience of the Electoral Commission of Ghana. The Ghanaian electoral commission has in place an Inter Party Advisory Committee (IPAC) composed of representatives of all political parties and

the electoral commission. This committee meets regularly, providing an avenue for dialogue between these stakeholders.

On civic and voter education, it was evident to WACSOF that not very much was done. A media content analysis by the WACSOF team and a simple sample opinion of members of the public revealed that there was no planned programme for civic education and voter enlightenment. Inadequate effort was made to educate the voters. Civil society and the media in particular were restrained from doing so. This was a huge set back for the entire electoral process especially for a nation just coming out of almost four decades of undemocratic rule. The Togolese population therefore went to the polls without sufficient understanding of their roles and responsibilities in the entire process. True and participatory democracy does not begin and end with the Election Day itself but involves the aggregation of all factors that shape and inform the decision and choice of the electorate at the polling station. It is the availability of informed choice for the electorate that contributes to a free, fair and transparent election. WACSOF believes that given the electoral history of Togo and the level of voter apathy a lot more needed to have been done to prepare the Togolese electorate for this crucial election in their nation's history.

2. The Role of Civil Society

The role of civil society in the electoral process in West Africa is agreed to in the ECOWAS Supplementary Protocol on Democracy and Good Governance to which Togo is a signatory. Article 8 of the Supplementary Protocol calls upon ECOWAS member states to engage civil society in electoral matters.

Section 3, Article 15 of the Togolese Electoral Code makes provision for civil society representation and involvement in the electoral commission. However, the Togolese government in fact prevents national civil society from monitoring and observing the electoral process.

This prohibition of national civil society and the denial of accreditation to WACSOF is both a contravention of internationally acceptable norms and standards in the conduct of free, fair and transparent elections and cast doubts on the sincerity and neutrality of the Togolese authorities.

Both the WACSF pre-election and observation missions held consultations with civil society, including the media, in Togo. These consultations were aimed at getting first hand knowledge of the situation on ground and seeking the best possible roles for civil society in the resolution of the crisis. Sadly, these consultations revealed a tendency to categorise civil society along political lines – making a distinction between pro-government and opposition civil society groups. A lot of work needs to be done in terms of mobilizing and uniting civil society in Togo. It is also necessary to build up their capacity in democracy and good governance issues, especially electoral matters so that they could better understand and appreciate their role in an evolving and fragile democracy like the one in Togo.

3. The Media

Although the media is a part of civil society, we have decided to treat them separately because of the unique role they could play in the democratic experience especially during electoral processes. Their role is not limited to information gathering and dissemination but includes among others;

- a. Civic and voter education, including details about the dates and times of the different phases and activities in the electoral process.
- b. Providing coverage of political parties, candidates and their policies and programmes as a means of public education and enlightenment on the various options provided for by the different parties and candidates.
- c. Monitoring and observation of the electoral process and updating the population on proceedings, including the conduct and the results of elections.

The role of the media is fundamentally important in building a viable and well informed electorate. To accomplish their role effectively, therefore, the media must not only be allowed to function without harassment and intimidation, but also given free access to information.

In Togo, there are over sixty FM radio stations operating all over the country. Twenty broadcast only in Lome, out of which just five relay news and current affairs. The rest are restricted to entertainment and religious broadcasts. There are five TV stations. Four are private owned while one is state run. One of the private TV stations (TV2) is owned by the Information and Communications Minister, who is a member of the ruling RPT. There are many newspapers and news magazines, but only a few are regular, either as dailies or weeklies.

WACSOF held consultations with the media. WACSOF consultations revealed that the independent media in Togo is not free. For example, on 15th April 2005, the government through the High Authority for Audio Visual and Communication (HAAC) which is the media regulatory agency in Togo issued a statement preventing all private owned media from covering and transmitting or reporting any news on the electoral process. Separately, they were also warned against carrying out any analysis of political party opinions on national and topical issues. They were also forbidden from conducting any debates between the candidates as is fast becoming the norm all over the world. This action by HAAC is a clear violation of several international laws on the freedom of the press and the individual human rights of the Togolese electorate to be duly informed. It is also in contravention of Article 8 of the ECOWAS Supplementary Protocol on Democracy and Good Governance. This censorship of the independent media contributed immensely to the disadvantaged position of the electorate.

4. Election Observation

Following the government's total disregard for reasonable calls for the suspension of the elections from WACSOF, the former Interior Minister and others, the election was conducted amidst tension and uncertainty.

Even though WACSOF was denied accreditation to observe the election, the team resolved to do so through a daily and constant monitoring of the news media, especially buying newspapers daily and following developments on the Net. The team was also in constant communication with other civil society activists deployed across the country. The

team also monitored closely the limited TV coverage of the elections, campaigns and observations on polling day. From these contacts and media footages, it was gathered that there were several irregularities at the polling stations, including violent disruptions of the voting process. For example, many voters with valid voter cards whose names were missing in the voters register tended to behave disorderly, threatening in some cases to stop the voting process. In other reports, soldiers were seen carting away ballot boxes even before the close of voting. There was a lack of orderliness in some polling stations due largely to the clustered location of polling stations, sometimes with as many as six located in a school compound. There were also delayed opening of voting in some locations because of late arrival of voting materials. Most of these incidences were corroborated by the reports in the 8pm news broadcast on state run television TVT, RFI, CNN and the BBC Network Africa and Focus on Africa programmes.

More than 24 hours after the close of voting, there was no pronouncement on its outcome. There was complete media blackout on the results because of the clampdown on the independent media in the country. This is contrary to the common universal practice where results are collated by journalists, observers and other stakeholders at both polling stations and regional collation centres as votes are counted in the view of party and candidates' agents. This was not the case in Togo as vote count and result collation was not carried out in open. Ballot boxes were carted away and counting was done in secret.

5. The Post Election Period

Given the mounting tension and uncertainty under which the election was conducted with both the ruling party and opposition gearing up for a showdown if the result was not announced in their favour, it was no surprise therefore when opposition supporters took to the streets making bonfires from used car tyres and barricading major streets in the capital, Lome. Their action was based on rumours that the ruling party was withholding the results in order to rig it in their favour having lost at the polls. Just as WACSOF had warned in its 23rd April 2005 Press Statement, the situation deteriorated when the chair of the electoral commission actually declared Faure Gnassingbe of the ruling RPT winner on a margin of 60 % for Faure Gnassingbe and 38% for Bob Akitani. Even though this result was provisional, with the final result expected on the 3rd May 2005, it is widely expected that the final result will confirm what was previously announced.

Following the elections, and even before the provisional results were announced, the President of Nigeria, summoned the two leaders of the leading parties in Togo to a meeting with him in Abuja. Mr. Faure Gnassingbe represented the RPT and Gilchrist Olympio represented the opposition. It was reported that agreement was reached on some power sharing arrangement to be put in place regardless of who wins the elections. Following the announcement meeting, Olympio was quick to clarify that there had been no formal agreement and registered his party's reservations about such an arrangement.

There has been widespread violence reported across the country since the announcement of the provisional results with at least 20 reported dead and scores injured. Thousands have fled across the border into Benin and Ghana as refugees and ECOWAS has called on the United Nations High Commission for Refugees and the international community to intervene. More recently, the German Cultural centre was attacked and parts of it destroyed and vandalised. Meanwhile, the opposition candidate, Bob Akitani has declared himself the elected president of Togo claiming victory at the 24th April 2005 Presidential election. This has further compounded the situation.

ECOWAS sent in a high powered delegation that included the Executive Secretary, The Foreign Minister of Niger and the Minister of Integration of Nigeria. They held meetings with the government and leaders of political parties all in a bid to seek an amicable resolution of the conflict and to re-affirm their appeal for a government of national unity to be put in place.

6. The Role of ECOWAS

ECOWAS has been actively engaged in a mediatory role from the beginning of the crisis. It has employed the use of diplomacy, dialogue and punitive sanctions during the course of its intervention to resolve the crisis. It was in fact the sanctions, which included a travel ban and an arms embargo slammed on the Togolese government that finally drove home ECOWAS insistence that Togo's constitution be adhered to in getting a successor to the late President Eyadema. ECOWAS also appointed a Special Envoy to Togo, as Special Representative of the Executive Secretary. Three election experts from ECOWAS were also deployed to work with the Togolese Electoral Commission in preparations for the elections. A number of other mediation efforts and missions involving Heads of States, ministers and other ECOWAS dignitaries were carried out in support of the electoral process, peace and stability of Togo. ECOWAS also deployed about one hundred and thirty observers around the country to monitor the elections on 24th April 2005. ECOWAS thus played a leading and commendable role in efforts aimed at resolving the crisis and preventing another unnecessary war in the sub region.

Since it was apparent to the Togolese people that the elections cannot be free and fair, they expected ECOWAS as the moral guarantor to suspend the elections to allow more time for better preparations. The insistence by ECOWAS on strict compliance with the constitution was viewed by many as an indirect support for Faure Gnassingbe. This created resentment against ECOWAS in many people interviewed before and after the elections. It must be acknowledged, though, that ECOWAS was in a 'catch 22' situation. It could have been difficult for ECOWAS to call for a suspension of the elections considering the strong stance they held on the need to fully comply with the provisions of the constitution.

This notwithstanding, the reaction of ECOWAS following the press conference of the former minister of interior in charge of election preparation, and the announcement of the results in quickly authenticating it regardless of all the irregularities and anomalies in the conduct of the election leaves many to wonder the level of objectivity with which the ECOWAS pronouncement was made. Given the pedigree and the role ECOWAS has played in the prevention and resolution of conflicts in other countries in the sub region, notably Liberia and Sierra Leone, the people of Togo were looking up to ECOWAS to help reverse 38 years of dictatorship by facilitating an electoral process that is free and transparent meeting the aspirations of the Togolese population.

If there is credence to the accusation of connivance on the part of ECOWAS, this would have far reaching negative implications for ECOWAS involvement in other fledging democracies in the sub region.

7. Conclusions and Recommendations

WACSOF is of the opinion that the post Eyadema era in Togo offered an opportunity for a rebirth of democracy and good governance in Togo. The elections of the 24th April 2005 therefore offered an opportunity for the Togolese people to exercise their universal suffrage and franchise. Unfortunately, the processes, procedures and conduct of the elections in Togo leave much to be desired. WACSOF is of the opinion that the elections were neither free nor fair. The anomalies observed in the electoral process, if not adequately addressed, could constitute a threat to peace and stability in Togo and the sub-region.

The statement of the then Minister of Interior, and thus the person responsible for organising the elections, drawing attention to the malpractices and potentials for fraud in the elections should not have been dismissed in the way it was done. Those pronouncements should have offered another window of opportunity to re-open dialogue among the stakeholders with a bid to averting the current situation in Togo. It was apparent that the elections of 24th April 2005 could not have resolved the political struggles in Togo and usher in a new dispensation that would give back to the Togolese a new lease in life in terms of democracy and good governance. It was for this that WACSOF held the view that suspension of the elections could have been a viable option at the time.

Now that the elections have been conducted, the results announced and a new President sworn in, WACSOF still believes a lot needs to be done to sustain peace and security in Togo. It is in this spirit that WACSOF joins ECOWAS and the international community in calling for, among other things, a government of National Unity in Togo. WACSOF further makes the following specific conclusions and recommendations:

1. The universally required and accepted legal and institutional frameworks to ensure a free, fair, transparent and democratic electoral process are absent in Togo. The electoral commission for example has a very nominal role in the entire electoral process. There is therefore an urgent need for a complete overhaul of the entire electoral legislation and the institutional framework and capacity to meet with the requirements of a true democracy. The revision of the legal and institutional frameworks must necessarily include a more democratic role for civil society including the media. The need for an independent electoral commission need not be over emphasized.
2. There is a risk of dependency, non objectivity and partisanship of civil society in Togo. This is a set back because it limits civil society from presenting a united and constructive input and role in peace building and the political process in Togo. This therefore calls for continued engagement by WACSOF in Togo in a bid to assist the organization and mobilization of civil society and build up their capacity to play their rightful role.
3. The Togolese society is largely polarized along the north and south geo-political divide of the country. This has been exploited by the ruling class and politicians for political and selfish reasons. The future of Togo will therefore call for a programme of national reconciliation and peaceful coexistence. WACSOF working with its members within the region should immediately embark on a post election, peace and reconciliation programme in Togo. There is the need to summon an emergency summit on Togo that would determine the appropriate civil society response to the developments there.

4. The women of Togo, Ghana and Benin must be linked to those of Cote D'Ivoire, Sierra Leone and Guinea so that they could learn from their experiences in order to mobilize them for peace and reconciliation in Togo.
5. The position held by ECOWAS created the impression that it was not firm and assertive enough. WACSOF is of the opinion that ECOWAS needs to be more assertive and firm in using its authority in Togo. ECOWAS should explore lasting and sustainable solutions to the problems plaguing Togo rather than adhoc and crisis driven temporary solutions. ECOWAS should also avoid taking a position that could be misconstrued as partial.
6. The conflicting positions held by the international community on the developments in Togo do not augur well for sustainable peace and security in Togo. This was evident in our meetings with some bilateral and multilateral missions in Togo. The international community should therefore ensure only objective and meaningful contributions in order to help resolve the crisis and return Togo to the path of peace, development and democracy.
7. The composition and structure of the military and security forces in Togo does not seem to reflect the geographical and ethnic divides of the country. It is reported that between 70 and 80% of the army for example come from Eyadema's Kabye's ethnic group in the north, the strong hold of the ruling party. A reform programme aimed at ensuring the professionalisation of the sector and de-politicization of the military is therefore necessary and this can be achieved through a security sector transformation process, which should include a focus on achieving balance in the recruitment programme of the security forces.
8. Given the confusion created by the various confusing and contradictory laws in the country, an overarching constitutional reform process is still urgently required as a way out of the current problems in Togo and the international community must lead the calls for this.
9. WACSOF acknowledges that the challenge we all face is to convince our development partners that the issue in Togo is not about replacing one former President's son with another since Togo is not a monarchy. Rather, it should be about the management of diversity and difference on a sustainable basis. WACSOF therefore insists that any form of development assistance to Togo should be tied to some key democratic milestones – Security Sector Governance, Constitutional reform, equitable membership from all groups in a national unity Government, and not a government handpicked by Mr. Faure Gnassingbe and his sponsors.
10. Finally, while WACSOF accepts, in principle, the idea of a Unity Government as championed by ECOWAS and the international community as a likely way out of the current impasse, we are of the opinion that a Unity Government can only be useful when it is held accountable to clearly defined benchmarks that can be and must be monitored around institutional and political reforms that will ensure that the people of Togo can choose their leaders in true freedom. These reforms should be time bound and the mandate of any Unity Government should include the measures and sanctions ECOWAS should lead in deploying should the leaders attempt to falter in actualizing the needed reforms during the transition process.

Thanks and appreciation

This mission would not have been possible without the financial support of the Danish Foreign Ministry. We therefore register our thanks and appreciation to them through the Department for International Development Assistance (DANIDA). WACSOF also appreciates the words of encouragement and support received from several individuals and institutions, including the ECOWAS Secretariat.

List of Appendixes

1. WACSOF Statement of 9th February 2005.
2. List of WACSOF Election Observers to Togo Presidential Elections 2005.
3. WACSOF Press Release of 23rd April 2005.

Appendix 1

Abuja, 9th February 2005

WACSOFF CONDEMNS THE UNCONSTITUTIONAL USURPATION OF POWER IN TOGO AND CALLS FOR PEACEFUL CIVIL DISOBEDIENCE

The West African Civil Society Forum (WACSOFF) acknowledges and continues to monitor, with grave concern, the rapidly evolving political and military situation in the Republic of Togo after the sudden death of President Gnassingbe Eyadema.

In line with the positions expressed by the current Chairman of the African Union and President of the Federal Republic of Nigeria, Chief Olusegun Obasanjo; the President of the African Union Commission, Mr. Alpha Oumar Konare and the current Chairman of ECOWAS and President of the Republic of Niger, Mr. Mamadou Tandja, WACSOFF vehemently condemns the state of affairs that has culminated in unconstitutional usurpation of power in Togo and calls for an immediate and unconditional return to legality and constitutional order in that impoverished nation. The provisions of the constitution regarding succession must be respected and strictly adhered to. In consonance with the appeal by ECOWAS, WACSOFF is of the view that immediate transition to power through constitutional means is the surest way to preserving the integrity of the nation.

The unfortunate and unravelling events that have led to the swearing in of the son of the late president as the new head of state and manipulation of sections of the Togolese constitution to reinforce illegality constitute a flagrant abuse of the dignity and integrity of the Togolese people and cannot and should not be tolerated. These acts are also in contravention of the ECOWAS Declaration of Political Principles of 1991, the 2001 Supplementary Protocol on Democracy and Good Governance, the Algiers Declaration of 1999 and Articles 4 (p) and 30 of the Constitutive Act of the African Union of 2002. As we continue our struggle to spread democracy and civil liberties, and promote peace and security in the ECOWAS sub-region, it is incumbent upon the entire membership of WACSOFF to fight for the immediate restoration of democratic freedom and constitutionality in the Republic of Togo.

Accordingly, WACSOFF demands the following:

1. Categorical condemnation of the current state of political affairs in Togo during the Extraordinary Summit of ECOWAS Heads of State and Government scheduled for Wednesday 9th February 2005, and reaffirmation of use of political, diplomatic and, if necessary, sanctions to restore constitutional rule and order in Togo, and to avert a situation that could constitute a threat to regional peace and security in West Africa.
2. The Extraordinary ECOWAS Summit must claim the nullification of all steps undertaken since the death of Eyadema to legalise illegality and to demand the immediate return to the constitutional rule.
3. Non-violent civil action throughout the sub-region aimed at restoring the rule of law, human rights, constitutionality, democratic freedom and governance in Togo.
4. Staging of non-violent civil demonstrations in front of all Togolese diplomatic and consular offices throughout the sub-region on Monday 14th February 2005 at 10.00 am prompt. A press conference should be summoned after each of these demonstrations.

WACSOFF shall continue to monitor developments in Togo closely, and as the situation unfolds, we shall be communicating with you accordingly.

Appendix 2

**TOGO PRESIDENTIAL ELECTION
WACSOE ELECTIONS OBSERVATION/MONITORING TEAM**

| | | | |
|-----------------------------------|---|---------------|-------------|
| 1. Mrs. Zainab Bangura | - | Sierra Leone | Team Leader |
| 2. Dr. Richard Konteh | - | Sierra Leone | |
| 3. Mr. Joseph Amara | - | Sierra Leone | |
| 4. Ms. Nathalie Kone | - | Cote d'Ivoire | |
| 5. Mr. Roger Yomba | - | Cote d'Ivoire | |
| 6. Mr. James Gadin | - | Nigeria | |
| 7. Mr. Oluwaseun Odewale | - | Nigeria | |
| 8. Ms. Joke Ojikutu | - | Nigeria | |
| 9. Mr. Chukuemeka Eze | - | Nigeria | |
| 10. Dr. Kayode Fayemi | - | Nigeria | |
| 11. Mr. Femi Falana | - | Nigeria | |
| 12. Ms. Lindora Howard | - | Liberia | |
| 13. Mr. Malcolm Joseph | - | Liberia | |
| 14. Mr. Souleyman Sagna | - | Senegal | |
| 15. Mr. Siaka Coulibaly | - | Burkina Faso | |
| 16. Mme. Clarisse Merindol | - | Burkina Faso | |
| 17. Mr. Issaka Mousa | - | Niger | |
| 18. Mr. Laoual Sayabou | - | Niger | |
| 19. Mr. Orden Oladatin | - | Benin | |
| 20. Mr. Da Silva A. Jean-Claude | - | Benin | |
| 21. Mme. Natabou-Lea | - | Benin | |
| 22. Mme. Nadjo Genivieve | - | Benin | |
| 23. Mr. Divine Selasie Sekanku | - | Ghana | |
| 24. Yves Hanson-Nortey | - | Ghana | |
| 25. Mr. Kenneth Abotsi | - | Ghana | |
| 26. Ms. Carlotta Agyeman-Banerman | - | Ghana | |

Appendix 3

FOSCAO
Forum des Organisations de la Société Civil de l'Afrique de l'Ouest

WACSOF
West African Civil Society Forum

PRESS STATEMENT

WACSOF CALLS FOR POSTPONEMENT OF ELECTIONS AND A TRANSITIONAL GOVERNMENT IN TOGO

The West African Civil Society Forum (WACSOF) is one of several local and international institutions and civil society organisations that condemned the unconstitutional change of Government in Togo after the death of the late president on 5th February 2005. WACSOF demanded the unconditional return to constitutional order in Togo. They threatened to seek redress with the ECOWAS Court of Justice and civil disobedience across the region if this was not adhered to.

The regime finally succumbed to pressure and stepped down. WACSOF has since sent two different delegations to Togo to meet with civil society, political parties, government functionaries and selected bilateral institutions and missions to assess the situation and determine the best possible response of the regional civil society body. A delegation from the coalition of civil society groups in Togo was also invited to Abuja, Nigeria for consultations. Following a series of consultations and the recommendations from the pre-elections assessment mission, a decision was taken that WACSOF will send a team of civil society activists to monitor the Presidential elections.

WACSOF had earlier submitted a formal application for accreditation that was endorsed by ECOWAS with a covering letter from the Special Representative of the Executive Secretary. The Ministry of Foreign Affairs received the application and all the supporting documents and asked the team members to submit their passports so that the accreditation can be processed and the identity cards issued. WACSOF complied with this demand. It therefore came as a total surprise to WACSOF, when on 20th April 2005; we received a letter from the Foreign Ministry communicating the decision of the “competent Togolese authorities” refusing the WACSOF team accreditation under the pretext that WACSOF was anti-government.

Tensions have since mounted, with the Interior Minister being sacked following his April 22 press conference in which he called for, among other things, a postponement of the elections, a transitional government headed by the current interim President but with a member of the opposition serving as Prime Minister that would rule for two years, granting a general amnesty to all Togolese that have been forced into exile, a commission being set up to review the constitution, including a new code of conduct for elections, political parties and security sector reform.

On the 22nd April 2005, it was evident in the streets of Lome that supporters of the opposition were out expecting and ready for the worst. The security forces could also be seen parked around street corners and guarding the governing party headquarters.

WACSOF views these developments with seriousness and grave concern. After a thorough assessment of the situation, it seems that whatever the outcome of the April 24 elections will

be, there will still be a serious risk of conflict and confrontation between members of the ruling party and the opposition. It is also quite apparent that the structures and institutions for a credible democratic process are non-existent. This may prejudice peace and stability in Togo and the West African region as a whole. In a bid to avoid a further degeneration of the already fragile security situation in the country, WACSOF recommends the following:

1. That the Elections scheduled for Sunday 24th April 2005 be suspended and a transition government be put in place following consultations among all political parties, ECOWAS and the international community.
2. That the transition government be given 30 months to come up with a new constitution that will be put to the Togolese Electorate for their vote in a referendum, review the voters register, issue new voter ID cards and conduct fresh presidential and parliamentary elections.
3. That the international community complements the efforts of ECOWAS and the African Union to carryout a comprehensive review of the security sector and the code of conduct and ethics of political parties.
4. That the international community and development partners put in place a comprehensive programme of capacity building, awareness creation and civic education for the Togolese population.
5. That a comprehensive programme of reconciliation and nation building be put in place with the active involvement of civil society.

WACSOF remains committed to one of its overarching objectives of promoting democracy and good governance in West Africa which has eluded the people of Togo for decades and calls on the international community and partners to support us in this process.

WACSOF stands ready to work closely with ECOWAS, the African Union, the International Community, government authorities and civil Society in Togo to ensure the actualisation of the above.

Done in Accra, this 23rd Day of April 2005