UNIVERSITY OF GHANA
COLLEGE OF HUMANITIES

DISPUTED PRESIDENTIAL ELECTIONS AND POLITICAL STABILITY IN AFRICA: A COMPARATIVE STUDY OF GHANA’S 2012 AND KENYA’S 2007 ELECTIONS

BY

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DECLARATION

I, Baah Anthony, certify that this study apart from the quoted and referenced works is my original study conducted under the supervision of the undersigned towards the award of MASTER OF PHILOSOPHY IN POLITICAL SCIENCE. I am fully responsible for any error or limitation that may be identified in the study.

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Student

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Supervisor

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Supervisor
ABSTRACT

The current challenge to the democratization process of emerging democracies is disputed presidential elections. A number of disputed presidential elections have been experienced in many African countries lately. Disputed presidential elections have led to political instability in many African countries. Owing to electoral violence which arose out of disputed presidential elections, Zimbabwe recorded 86 death in its elections in 2008, 247 deaths in Cote d’Ivoire 2010 and 1300 deaths in Kenya 2007. On the other hand, institutional resolution of disputed presidential elections has led to an amicable settlement of electoral dispute in some African countries. The study contrasts between a situation where disputed presidential elections led to political instability, Kenya 2007, and the other where the political stability was maintained, Ghana 2012, in order to explain how the political stability of a country could be maintained during and after a disputed presidential election.

The study employed the purposive non-probability sampling method due to its qualitative nature. Primary data was collected through personal interviews, and secondary data were retrieved from journal articles, newspapers and reports. The findings of the study postulated that disputing elections in court is more likely to maintain the political stability of the country than protesting on the street. Institutional resolution of disputed elections offers a peaceful alternative to violent post-election response.

Political parties help to maintain the political stability of the country by challenging elections in court, and also by respecting the verdict of the court. An ineffective and inefficient management and resolution of disputed presidential elections can roll back the progress of the democratic process of Ghana and Kenya. Political institutions such as the Electoral Commission, Judiciary and Political Parties need to be strengthened to ensure the prevention, management and resolution of disputed presidential elections. Strong political institutions help maintain the political stability of the country when elections are disputed.
DEDICATION

The study is dedicated to the Faithful Lord for His continuous provision and protection throughout my life and during the duration of the program. Also, I dedicate this to my parents; Mr Anthony Kofi Baah and Madam Theresah Agyei for their continuous support and guidance in my life. Lastly, I dedicate the work to my two families; Baah Family and The Family.
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<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ANC</td>
<td>Africa National Congress</td>
</tr>
<tr>
<td>AYO</td>
<td>Anlo Youth Organisation</td>
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<tr>
<td>CDD</td>
<td>Center for Democratic Development</td>
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<tr>
<td>CEI</td>
<td>Ivorian Election Commission</td>
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<tr>
<td>CPP</td>
<td>Convention People’s Party</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>DFID</td>
<td>Department for International Development</td>
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<tr>
<td>DPP</td>
<td>Democratic People’s Party</td>
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<tr>
<td>EAGLE</td>
<td>Every Ghanaian Living Everywhere</td>
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<tr>
<td>EC</td>
<td>Electoral Commission</td>
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<td>ECG</td>
<td>Electoral Commission of Ghana</td>
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<td>ECK</td>
<td>Electoral Commission of Kenya</td>
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<td>EMB</td>
<td>Electoral Management Body</td>
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<tr>
<td>FORD</td>
<td>Forum for the Restoration of Democracy</td>
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<td>FORD-A</td>
<td>Forum for the Restoration of Democracy- Asili</td>
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<tr>
<td>FORD-K</td>
<td>Forum for the Restoration of Democracy- Kenya</td>
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<tr>
<td>FPI</td>
<td>Ivorian Popular Front</td>
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<td>FYO</td>
<td>Federated Youth Organisation</td>
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<td>GAP</td>
<td>Ghana Action Party</td>
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<td>GCP</td>
<td>Ghana Congress Party</td>
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<tr>
<td>GCPP</td>
<td>Great Consolidated Popular Party</td>
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<td>GNP</td>
<td>Ghana National Party</td>
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<tr>
<td>IDEG</td>
<td>Institute for Democratic Governance</td>
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<tr>
<td>IEA</td>
<td>Institute of Economic Affairs</td>
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<tr>
<td>Acronym</td>
<td>Description</td>
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<tr>
<td>JSC</td>
<td>Justice of the Supreme Court</td>
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<tr>
<td>KADU</td>
<td>Kenya African Democratic Union</td>
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<td>KANU</td>
<td>Kenya African National Union</td>
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<td>KAU</td>
<td>Kenyan African Union</td>
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<td>KENDA</td>
<td>Kenyan National Democratic Alliance</td>
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<td>KPMG</td>
<td>Klynveld Peat Marwick Goerdeler</td>
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<tr>
<td>KPU</td>
<td>Kenya People's Union</td>
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<tr>
<td>Legco</td>
<td>Legislative Council</td>
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<td>LNCS</td>
<td>Local Native Council</td>
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<td>LPD</td>
<td>Labour Party Democracy</td>
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<td>MAP</td>
<td>Moslem Association Party</td>
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<td>MDC</td>
<td>Movement for the Democratic Change</td>
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<td>NARC</td>
<td>National Rainbow Coalition</td>
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<tr>
<td>NCP</td>
<td>National Convention Party</td>
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<td>NDC</td>
<td>National Democratic Congress</td>
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<td>NIP</td>
<td>National Independent Party</td>
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<td>NLM</td>
<td>National Liberation Movement</td>
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<td>NPP</td>
<td>Northern People’s Party</td>
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<td>NPP</td>
<td>New Patriotic Party</td>
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<td>NRP</td>
<td>National Reform Party</td>
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<tr>
<td>ODM</td>
<td>Orange Democratic Movement</td>
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<td>ODM-K</td>
<td>Orange Democratic Movement- Kenya</td>
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<tr>
<td>PCP</td>
<td>People's Convention Party</td>
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<tr>
<td>PHP</td>
<td>People’s Heritage Party</td>
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<tr>
<td>PICK</td>
<td>Party of Independent Candidates of Kenya</td>
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PNC  People’s National Convention
PNDC  Provisional National Defense Council
PNP  People’s
PNU  Party of National Unity
PP  Progress Party
PPU  Presidential Protection Unit
SADC  Southern African Development Countries
TC  Togoland Congress
UGCC  United Gold Coast Convention
UGM  United Ghana Movement
WAY  Wassaw Youth Association
YKA  Young Kikuyu Association
YKA  Young Kavirondo Association
CHAPTER ONE
INTRODUCTION

1.1 BACKGROUND OF THE STUDY

The consolidation of democratic principles in many nations around the world led to much emphasis being placed on elections (Pereira, 2006). According to Santiso (2001), elections serve as a mechanism through which government attains its legitimacy, authority and credibility. The aftermath of the Cold war led to an increased spread of multi-party competition and holding of elections to elect officials into legislative and executive offices worldwide (Van Ham, 2012). As a result, many of the third world regimes including African authoritarian regimes began to hold a multi-party election with universal suffrage for both executive and legislative offices (Abutudu, 2003).

Elections are accepted worldwide as an effective way of choosing state officials or administrators. Elections have emerged as a tool for the stabilization and democratization of African emerging democracies (Kühne, 2010). However, elections have turned out to be the root cause of some nations' relapse in their democratization processes (Asante & Asare, 2016). According to Huerta (2014), elections provide a platform where the stability of a country is tested. Free and fair elections can maintain the political stability of a country (Namibia 2005), while disputed election can erupt political violence in a country (Burundi 2015, Cote d'Ivoire 2010, Kenya 2007) (Penar, Aiko, Bentley, & Han, 2016). Losers of an election have the option of either accepting or rejecting the electoral result and to challenge the validity of the outcome in court, protest on the street or both (Chernykh, 2014). Huerta (2014) stated that the behaviour of losing parties in an election is important in the democratic process of a country. He argued that losing parties' refusal to accept the declared results by the electoral commission could trigger political instability and chaos (Huerta, 2014).
Norman (2012) indicated that there was no record of disputed election during the single-party system in most African countries. During the one-party system era, there was no established institution for addressing electoral grievance and electoral malpractices. Before 1990, there had been no record of a disputed election in Uganda, Kenya, and Tanzania. The induction of multiparty elections in Africa introduced challenges to declared electoral results, partly due to disagreement or suspicion over the declared results. Multiparty democracy is characterized by different political ideologies competing for attention during an election. Multiparty democracy creates suspicion and scepticism among competing political parties (Norman, 2012).

Elections in Ghana and other emerging democracies in Africa promote opportunism because winning power ensures wealth and influence and also fosters patronialism (Agyeman-Duah, 2000). The first-past-the-post system which is practised in most emerging democracies in Africa establishes a winner-takes-all system. The winner-takes-all system sidelines defeated parties from partaking in the administrative role of government (Maisie, 2012). Political parties, therefore, aim at winning elections at all cost which makes election keenly contested (Maisie, 2012). The highly competitive nature of African presidential elections encourages electoral malpractices (Asunka, Brierley, Kramon, & Ofosu, 2015). Competition in these elections are tense and due to lack of trust and suspicion, elections are characterized by disputed outcomes, boycott and violence (Agyeman-Duah, 2000).

Kühne (2010) stated that without an independent Electoral Commission and effective Election Complaint System, the electoral process risks being rigged by incumbents thereby, lacking credibility in the eyes of the people. The mechanism for electoral dispute resolutions is an integral part of the test for free and fair elections in democratic set-up (Musila, Sihanya, Thiankolu, & Ongoya, 2013). In most democratic countries, constitutional provisions exist
for the resolution of electoral grievances; in the case of Ghana, Article 64 of the 1992 Constitution (Nkansah, 2016) and Kenya, Article 163(3)(a) of the Kenyan Constitution (Musila et al., 2013).

The validity of Ghana's 2012 presidential election results was challenged by the New Patriotic Party in the Supreme Court in accordance with Article 64 of the 1992 Constitution. The Petition created a highly tense atmosphere as supporters of the two major political parties, the New Patriotic Party (NPP) and National Democratic Congress (NDC), were on the verge of explosion, waiting for the least trigger. However, in Ghana's situation contesting parties decided to subject themselves institutional arrangement made for the resolution of disputed presidential elections (Asante & Asare, 2016).

1.2 STATEMENT OF THE PROBLEM

Kuhne (2010) stated that even though elections are major contributor to the stabilisation and democratisation of emerging democracies, elections in emerging democracies have the potential to dive a country into chaos and political unrest, to weaken the processes of stabilisation and bring democracy into disrepute. Often, elections in Africa are poorly organized by ruling government resulting in disputed outcomes as in the cases of Ghana's 2012 elections and Kenya's 2007 elections which resulted in violence and bloodshed (Burchard, 2015; Maisie, 2012). Elections in Africa hold a spectre of violence as defeated parties often protest against the credibility of the declared results (Maisie, 2012). Disputed presidential election is not unusual in presidential democracies (Norman, 2012).

According to Huerta (2014), almost a quarter of the democratic presidential elections worldwide from 1974 to 2012 were challenged by losers of the elections. There have been numerous occurrences of disputed presidential elections in Africa, examples are Uganda 2001 and 2006, Cote d'Ivoire 2010, Zimbabwe 2008, Ghana 2012, and Kenya 2007, 2013 and 2017
disputed elections (Nkansah, 2016). Boafo-Arthur (2001), Abutudu (2003), Chernykh (2014) and Huerta (2014) have stated that disputed elections have been a major cause of political instability and chaos in Africa. Numerous occurrences of post-election violence, conflicts and civil wars in Africa are as a result of contested election outcomes or rigged election results (Boafo-Arthur, 2001).

Burchard (2015: 13) has stated that "incidental electoral violence occurs as a product of protest around electoral results, either before or after the election." For example, 1300 people died, several lost their homes, and countless were injured after Kenya's 2007 general elections (Burchard, 2015). The violence occurred as a result of disagreement over the presidential election results (Atuobi, 2008; Norman, 2012). Likewise, disputed presidential election outcomes have resulted in 86 deaths in Zimbabwe's 2008 election (Vollan, 2008) and 247 deaths in Cote d'Ivoire 2010 (Cook, 2011). Controversy over election result was the root cause of post-electoral violence in Kenya (2007) and Zimbabwe (2008) (Matlosa, Shale, & Motsamai, 2009).

The fact that disputing electoral results have the potential to cause political instability means that studying the causes of electoral protest in Africa's elections becomes relevant (Huerta, 2014)). In Ghana 2012, election results dispute have seemed to contribute to political stability and calm political parties and their supporters as everyone waits patiently for the verdict in court. So the challenges to election results at the Supreme Court, contrary to what happened in some other African countries have rather deterred political chaos and violence in Ghana. The reason for such a phenomenon this study want to solve— could it be leaders of political parties curbing their supporters' propensity to violence after the election or the fact that Ghanaians have confidence in their judicial system and therefore wait and accept results of election petitions rather than kill each other? What makes the difference for Ghana, as opposed to Kenya or Zimbabwe, for example? The study seeks to identify the mechanisms through which
the political stability of a country could be maintained after a disputed presidential election and to compare the management of disputed elections in Ghana (2012) and Kenya (2007) with a view to explain political stability in Ghana in contrast to Kenya. The study focuses on disputed presidential elections.

1.3 OBJECTIVES OF THE STUDY

The study aims to achieve the following objectives, to;

- Explore why electoral results were challenged in Kenya and Ghana, and whether the mechanism adopted contributed to maintaining political stability.
- The role played by political parties and the judiciary in maintaining political stability during an election petition.
- Explore what can be done to improve Ghana's and Kenya's electoral process in order to deter or reduce disputed presidential elections in Ghana's and Kenya's elections.

1.4 SIGNIFICANCE OF THE STUDY

- The study unearths some weakness associated with Kenya and Ghana's electoral politics, which influences political parties to challenge election results.
- The study seeks to contribute to an understanding of the democratization process and political stability in Kenya and Ghana.
- It recommends mechanisms that can be put in place to reduce political parties' dispute of election results in Kenya and Ghana.
- The study recommends an appropriate way of addressing grievances over electoral results.
1.5 RATIONALE AND JUSTIFICATION OF THE STUDY

With the propagation, promotion and consolidation of democracy globally, Ghana and Kenya have performed fairly well in various aspects of good governance particularly the protection of fundamental human rights, and the peaceful transition of power from one political party to the other through elections. In spite of being depicted as the "bastion of democracy" in Africa (Danso & Lartey, 2012), Ghana's electoral process is characterized by elements or pockets of violence, therefore, it is important to research into these areas. Lack of confidence in the Electoral Commission and electoral irregularities have cause political parties to allege fraud at various stages of the electoral process.

Even though elections are viewed as mechanisms for strengthening democracy and stability of a country, elections in Africa have turned out to be a trigger of political instability (Kühne, 2010). The recent trend of elections in multiparty democracies in Africa has seen most of the losers complaining that the election was not free and fair (Norman, 2012). Defeated candidates often challenge the outcome of elections; this action opens the door to political instability and chaos. This study will, therefore, come out with findings and recommendations that will help address grievances over electoral results, which will help maintain the political stability that existed before an election.

1.6 LIMITATION OF THE STUDY

In conducting this research, the researcher anticipates the following challenges;

1. Access to some important information hinder the smooth conduction of the research

2. Another challenge anticipated is financial constraints, since the research was not financed, the researcher encountered some difficulties in executing the research especially the field work

3. Access to some relevant books and documents was difficult in the University libraries.
1.7 THE SCOPE OF THE STUDY

The study is placed within the scope of elections and why political parties challenge election results in court in Kenya and Ghana, as well as the impact of these challenges or disputes on political stability.

1.8 ORGANIZATION OF THE STUDY

The study comprises of seven chapters:

Chapter One: comprises the introduction of the study, statement of the problem, the objective of the study, the significance of the study, the rationale of the study, the justification of the study, the limitation of the study, the scope of the study and the organization of the chapters.

Chapter Two: present literature review, it comprises the introduction, thematic areas such as the conceptual definition of terms, an overview of elections and political parties in Africa, general notion and causes of disputed presidential elections, judiciary adjudication of disputed presidential elections in Africa, and cases of disputed presidential elections.

Chapter Three: The chapter begins with an introduction to the chapter and then proceed with the theoretical framework; the theoretical framework captures the concept of democracy and elections and new institutional theory to explain the study. The chapter includes the research questions.

Chapter Four: This chapter includes the introduction of the chapter, research strategy, data collection, data analysis and interpretation, limitation and problems.

Chapter Five: This chapter presents the data analysis of the study. It begins with an introduction and group data under appropriate headings in view of achieving the research of objectives.

Chapter Six: Chapter six starts with an introduction of the chapter and then proceed with data interpretation and discussion, and summary of chapter
Chapter Seven: This chapter includes the introduction of the chapter, a summary of major findings, recommendations and conclusion.

1.9 CONCLUSION

The first chapter of the study covered the background, the statement of the problem, objectives, significance, rational, limitation, scope, and the organisation of the study. The study aims at identifying the mechanisms through which the political stability of a country could be maintained after a disputed presidential election. The study is placed within the scope of elections. The study is presented in seven chapters; the next chapter will present the conceptual definition and the literature review of the study.
CHAPTER TWO
LITERATURE REVIEW

2.1 INTRODUCTION

This chapter starts with the definition of key terms related to the study. The chapter, however, focuses on reviewing literature on the quality of elections in Africa, the overview of elections in Africa, general notion on disputed elections, causes of disputed elections, judicial adjudication of disputed presidential elections, non-institutional mechanism for resolving electoral disputes, cases of disputed presidential elections and the comparative cases of Kenya's 2007 and Ghana's 2012 elections.

2.2 CONCEPTUAL DEFINITIONS

2.2.1 Disputed Elections

Disputes suggest disagreement and confrontational claims that will need an arbitrator for settlement (Vickery, 2011). A disputed election refers to an election where the losers of the election refuse to comply with the declared results of the elections (Chernykh, 2014; Huerta, 2014; Nkansah, 2016; Norman, 2012). Disputes of this nature form part of election-related grievance (Vickery, 2011). Political parties comply with the declared results when they openly announce their acceptance of the results and/or refrain from indulging in actions which will turn to question the validity of the result.

Often, losers of an election fail to accept the declared results and resort to legal or extra-legal mechanisms to dispute election results. Defeated parties of an election have numerous options when responding to electoral defeat (Chernykh, 2014). Defeated parties can choose to accept the election outcome, congratulate the winner of the election, and let the winner assume office and wait to contest in the subsequent elections (Norman, 2012). Accepting election outcomes is very important (Norman, 2012) because the behaviour of losers in
elections is crucial in the democratic process of a country (Huerta, 2014). The acceptance of elections outcomes by political parties in a peaceful and open manner accords legitimacy of the elections (Lindberg, 2004). Alternatively, losing parties in an election can choose to reject the election results and challenge the validity of results in the Courts, on the street, or both (Chernykh, 2014).

In most elections held across the globe, losers' rejection of the validity of the declared results is common. Particularly in Africa, elections have ended with differing stand on who has actually won the election. A recent trend of competitive elections in African democracies have seen most elections' results been disputed by losers (Norman, 2012). Refusal of election results has been observed in several ways ranging from protest, outrage and demonstrations like the naked-breast women's demonstration by elderly women of Nigeria and a sex strike in Kenya (Kunle Ajayi, 2010), to the escalation of electoral chaos which leads to civil conflicts (Nkansah, 2016).

The initial stage of challenging an electoral result takes the form of runner-up of elections declaring their refusal to accept the electoral outcome, or announcing themselves as winners, or declaring their intention to petition the appropriate institution over the declared result or to protest to challenge the outcome of the polls (Huerta, 2014). The loser elections may adopt two mechanisms to address their grievances over the electoral results. First is the institutional mechanism, where losers in an election petition the court seeking for a recount, to cancel, or to annul electoral outcome (Chernykh, 2014). The other mechanism is the non-institutional mechanism. Losing parties in an election may stage a post-electoral mass protest; refuse to recognize the newly elected legislature by not taking their seats or boycotting the second round of the election. The two mechanisms are not mutually exclusive as losers often adopt both mechanisms (Chernykh, 2014; Nkansah, 2016).
The study defines disputed election not as only a verbal denunciation of the electoral result, rather as those instances where aggrieved parties take legal action to address their grievances or/and take non-institutional actions such as staging mass protests, failing to acknowledge the newly elected official as such, or refusing to take their seats in the legislature (Chernykh, 2014; Huerta, 2014).

### 2.2.2 Political Stability

Hurwitz (1973) defined political stability in four broad terms. First, political stability is regarded as "the absence of domestic civil conflict and violent behaviour" (Hurwitz, 1973: 449). A country is seen as politically stable "when no systematic attacks on persons or property takes place within its boundaries" (Sottilotta, 2013: 3). This definition has been criticised by Margolis (2010) because it limits stability to violence. Second, political stability is defined as regime longevity (Hurwitz, 1973). A country is therefore regarded as stable when there is no abrupt end in the existing regime. This definition narrowly defines political stability, for it regards countries which experience frequent change of government as unstable (Sottilotta, 2013). Third, Hurwitz (1973) equates stability to legitimacy. Political stability is seen as the degree to which the people regard political system or government as appropriate. Lastly, political stability is viewed as the absence of structural change (Hurwitz, 1973). That is the lack of internal or external change in the basic structure of a country's polity (Sottilotta, 2013). Political stability does not necessarily mean a lack of change (Ake, 1975).

Ake (1975: 280) defined "political stability as the regularity of the flow of political exchange." According to Ake (1975), the political stability of a country is intact as long as political actors conform to established customs or laws. A deviation from appropriate and acceptable laws is an instance of political instability. There is the need to establish legalities or regularities and illegalities or irregularities in order to ascertain political stability.
Legalities are those political actions that conform with established laws, while illegalities are those that violate them. Political stability is, therefore, not an absolute construct but a relative construct (Ake, 1975). According to Margolis (2010), it may be easy to identify law-breakers; on the other hand, finding custom-breakers is almost impossible. Therefore, measuring political stability par Ake (1975)'s definition becomes difficult.

Sotilotta (2013: 4) operationalized the definition of political stability as a phenomenon that takes into consideration the concepts and indicators such as human development, inequality, political legitimacy, constraints on regime responsiveness, and regional or international integration. Useem & Useem (1979) argued that government legitimacy is a precondition for political stability. Legitimacy refers to citizens' trust in government officials and the belief that public institutions are fair, responsive and accountable. Lack of confidence in the government affects its performance and increases the potential for political unrest (Useem & Useem, 1979).

Stability is needful for an election to fulfil its anticipated purpose (Margolis, 2010). It is often argued that elections play an essential role in either stabilising or destabilising the political system of a country (Matlosa et al., 2009). Political stability is a multidimensional concept (Sotilotta, 2013) therefore, to ascertain a specific definition becomes difficult. A sum of the indicators used in the aforementioned studies will be used. In the context of this work, political stability is conceptualised as:

I. The absence of post-election violence as a result of disputed election outcome: The study adopted Hurwitz (1973)'s definition of political stability, which suggest that a country is seen as stable when decision making and politico-societal change are the result of institutionalized and eufunctional procedures and not the outcome of anomic process which resolve issues through conflict and aggression.”
II. Absence of governmental structure change as a result of election dispute,

III. Legitimacy of government

IV. Conformity to institutional arrangement that governs elections.

2.2.3 Political Instability

The argument that political instability is single dimension phenomenon has been refuted by numerous studies in political science (Jong-A-Pin, 2009). Jong-A-Ping (2009) used multidimensional indicators to measure political instability. The multidimensional indicators are political induced violence, mass protest, instability within and of the political regime. Butkiewicz and Yanikkaya (2005) identified three categories for the measurement of political instability: government stability indices (coup, revolution, cabinet change, demonstrations and government crisis), social stability indices (internal conflict, civil war risk, political terrorism, racial and national tensions), and political violence indicators (political protest, assassination, deaths from political violence, riots, general strikes, war casualties) (Butkiewicz & Yanikkaya, 2005).

The major indicators of political instability are non-democratic rule, violent conflict, war, ethnic factions, religious divisions, weak security both internally and externally, and intimidation of the opposition group (Gebremedhin & Mavisakalyan, 2013). Political instability may manifest itself through ethnic, religious, ideological and economic differences (Carmignani, 1999). Political instability may result in forceful overthrow or subjecting existing authorities to a relatively high possibility of involuntary removal. This may emanate from coups d’état (Fosu, 1992).

Political instability is caused by strikes, demonstrations, violence and coup d’état. The concept of political instability is ambiguous. It covers both legal changes of heads of state
and government and violent take-overs. Instability hinders effective performance of state institutions. Political instability is a combination of events that results in social and political discontent. Among those factors, the political behaviour of the government plays a leading role. Very often, discontent is spurred by government decisions against political freedom (Berthélemy, Kauffmann, Renard, & Wegner, 2002).

The study adopts a multidimensional measurement of political instability based on the aforementioned study on political instability. With a multidimensional operationalization of political instability, the study would be able to conceptualise various indicators of political instability. Political instability is conceptualised in the study as:

I. Widespread post-electoral violence after election dispute: A nationwide spread of looting, rioting, protesting and killing of people as results of disputed election outcome.

II. Structural change of political system as a result of disputed election: Thus, disputed election resulting in the change of the political structure of the country which does not align with the constitutional provision.

III. Non-conformity to institutional provisions on disputed elections. Ake (1975) suggested that non-conformity to establish laws constitute political instability.

2.2.4 Election Quality in Democracies.

The quality of an election is either described using a positive expression or negative expression (Omenma, Ibeanu, & Onyishi, 2017). Terms like free and fair elections (Anglin, 1998; Elklit & Svensson, 1997; Lindberg, 2006), credible election (Omenma et al., 2017) and democratic elections (Munck, 2009; O'Donnell, 2001) have been used to depict positive expression of election quality. Negative expression of elections can be defined as "any
purposeful action taken to tamper with electoral activities and election-related materials in order to affect the results of an election, which may interfere with or thwart the will of the voters" (Lopez-Pintor, 2010 as cited in Omenma, Ibeanu, & Onyishi, 2017: 33). Electoral fraud, electoral malpractices or irregularities, and flawed elections are terms used to denote negatively expressed elections (Omenma et al., 2017).

A democratic election is a representation of the will of the people and it ensures the attainment of the basic human rights entrenched in the Universal Declaration of Human Rights. The definition of democratic election differs from one author to the another (Golder & Wantchekon, 2004). The characteristics of a democratic election include freedom of expression, freedom of association and assembly, and the right to contest in an election to form part of a government. There is no definite scale on which elections are measured (Omenma et al., 2017).

The quality of elections may be measured based on universal standards or expectations, which is mostly influenced by democratic theory and/or international law (Omenma et al., 2017). Such a scale of measurement is mostly used by international election observation missions. Scholars like Geisler (1993), Anglin (1998) and Carothers (1997) have challenged the reliability of international election observers' assessment of elections on the ground that they only surface during the day of elections; again, their assessment may differ from the perspectives of the citizens (Omenma et al., 2017). On the other hand, Van Ham (2012) proposed that assessment of the election should be done at the various stages of the electoral process. Thus, assessment should be done to indicate various irregularities which took place during the pre-election, polling and post-election phases (Omenma et al., 2017). Gyekye-Jandoh (2017) claimed that domestic elections observers' assessments tend to be more reliable since they are present at every stage of the electoral process.
Democratic consolidation does not only stress on periodic and competitive elections but also holding credible elections. A credible election is "that which must have been conducted substantially in accordance with the principles of the electoral act and do not contradict the freely expressed will of the electorate" (Omenma et al., 2017): 49). Elections are measured by the yardstick of its degree of freeness and fairness (Gyekye-Jandoh, 2017). There exist no international standard for what constitutes free and fair election. The degree of freeness and fairness of an election is subjected to the understanding of the organization or the observer mission (Pereira, 2006).

Free and fair elections are a requirement for according international legitimacy to a government. The determination of a free and fair election is a prime challenge to election observers. Dahl identified numerous 'institutional' requirements for democracy. Free and fair elections have been identified by Dahl as a prerequisite for democracy (Dahl, 2005). Critics of Dahl's work argued that Dahl failed to explain what free and fair elections mean (Elklit & Svensson, 1997): Elklit and Svensson (1997) argue that an election cannot be fair when the build-up to the election was not free.

Bishop and Hoeffler (2006) defined 'freeness' as the right of all adult citizens, for example in Ghana 18yrs and above, to register and vote and to associate with a political party and to campaign freely within the state. "Fairness" refers to treating all parties in the election equally. They adopted the degree of freeness and fairness in these areas; legal framework, electoral management bodies, voting rights, electorate register, ballot access, campaign process, unrestricted media work, voting process, role of personnel, and counting votes; as a measurement for free and fair elections (Bishop & Hoeffler, 2016). The study adopts Bishop and Hoeffler (2016) measurement for free and fair elections.
The concept of free and fair election in this study refers to electoral practice that complies with most basic requirements of a national electoral code. Thus, the electoral practice that projects democratic indicators and the national political system. These practices involve an autonomous and impartial electoral commission, an even access to national resources by both incumbent and opposition parties, unrestricted access of electorate to electoral polls, freedom granted to opposition to campaign, universal voter registration, and strict regulations and consequences for electoral malpractices.

2.3 LITERATURE REVIEW

2.3.1 Overview of Elections in Africa

Elections have played a key role in African politics during both autocratic regimes and democratic rule (Golder & Wantchekon, 2004). Golder and Wantchekon (2004) in their study "Africa: Dictatorial and Democratic Electoral System since 1946" stated that "there have been 321 legislative and 167 presidential elections in Africa between 1946 and 1996." Since independence, Africa has gone through various stages in trying to constitute and consolidate multiparty democracy (Kaaba, 2015). These cycles are classified under these themes;

a) Colonial Era
b) Second Colonisation
c) The second transition in the 1980s and 1990s
d) Elections from 2001 and beyond

2.3.1a Colonial Era

Prior to colonisation, Africa was characterised by numerous forms of polities, with great difference in the forms of government. The various forms included the monarchy or empire and the stateless societies which were common in Central and Western Africa (Ellis, 2000). According to Ellis (2000), a common way of selecting or choosing governmental authority
was through religious means. The institution which coordinated and regulated the selection of an authority was "the Shrine" which was officiated by a priest, diviner or cleric. The priests were instrumental in the selection of kings in monarchies like Dahomey and Ashanti (Ellis, 2000).

Only Liberia and Ethiopia remained independent during the period of colonialism and subjugation of the African continent. The remaining African countries were subjected to colonial rule by European countries, thus Britain, France, Germany, Portugal, and Belgium. The Berlin Conference, in late 1884 and early 1885, strengthened colonialism in Africa (Khapoya, 2015). The current political boundaries of most African countries resulted from the conference (Healey & Robinson, 1994). The demarcation of Africa did not take into consideration the existing states and kingdoms, thereby grouping ethnic group states and societies together that may have had different values and culture and that sometimes were hostile to each other (Ake, 1993). The colonial demarcation of the African continent has been argued to be illegal; due to the absence of Africans during the partitioning (Ayittey, 2006).

The recent challenges of ethnic clashes and conflicts in the modern state have been traced by Claude Ake (1993) to the poor demarcation of the African continent by past colonial states. The grouping of different ethnic groups into the colonial state formed the basis for inter-ethnic clashes within the state because ethnic groups with the same culture and values were found in the different states. One attribute of colonialism is its distortion of indigenous governance system and the introduction of a centralised system of governance (Ellis, 2000). The colonial system of governance lacked even representation, accountability, respect for human rights and equity. As a result of colonialism, African independent leaders inherited a state which was underdeveloped and lacked democracy and accountability (Kaaba, 2015).
There was some form of representation during colonization. Two kinds of elections were held in the British colonies. The first is the election of the unofficial members of the Legislative Council (Legco). Again, elections were held to elect members of the Local Native Councils (LNCs), and their successor local governing bodies based on a universal franchise (Ellis, 2000). For instance, in 1920, elections were held in Kenya to elect unofficial members of the Legco. Elections were again held in Kenya in 1923 to elect members of the LNCs within the then African reserves. According to Cowen and Laakso (1997), elections in the British colonies differed from those which were held in the French colonies. They stated that "in the Francophone colonies a few 'assimilated' Africans were able to vote for a député to the French 'assembléé nationalé' as in the communes of Senegal after 1848" (Cowen & Laakso, 1997: 720).

Elections in South Africa were different from those which were held in other British and French colonies. In South Africa, there was a higher rate of exclusion from the voter roll. All males, irrespective of their races, were qualified to vote in the Cape Colony, whereas, in the Orange River and Transvaal Colony, the franchise was limited to the whites (Cowen & Laakso, 1997). However, Ellis (2000) stated that Africans were qualified to vote in the Cape Colony based on their property qualification. The electoral process during the colonial era was characterised by a restricted franchise of Africans. Most Africans were excluded from legislative power, this, in turn, incited Africans to demand majority rule, 'one man, one vote' (Ellis, 2000).

The latter years of colonisation saw a greater electoral participation of Africans, as departing colonials sought to mollify nationalist leaders (Golder & Wantchekon, 2004). Before the end of colonialism, liberal constitutions were enacted to facilitate the transfer of power from colonial authorities to nationalist. For instance, in Ghana and Nigeria, constitutional reforms introduced local-government system and competitive elections in the early 1950s (Healey &
Robinson, 1994). Three general elections were held in Ghana during the six years to independence, thus 1951, 1954 and 1956 (Frempong, 2017b). The British established fledgling parliamentary systems in their colonies, which would serve as the decision making body after independence (Golder & Wantchekon, 2004). Colonizer introduced democracy in Africa at the time they were relinquishing their grip over Africa (Adejumobi, 2000). According to Lindberg (2004), African elections in the colonial era were often peaceful, free and fair and its results were not disputed.

2.3.1b The Second Colonization of Africa

The first post-colonial leaders in Africa, who captured power after independence, ascended to power through elections which were supervised by the departing colonial authorities. Most of these leaders retained power until their demise or until they were overthrown by the military (Ellis, 2000). During the earlier period of self-governance, many individuals were hopeful of the institutionalisation of democratic rule in Africa. This view stemmed from the expectation aroused by the allure of self-governance and the argument of 'state-fathers' who had used democratic arguments to press for the abolishment of colonialism (Healey & Robinson, 1994). The new birth, hopes and expectation of independence were short-lived as new indigenous governments formed elitist and authoritarian regimes across Africa (Cowen & Laakso, 1997; Ellis, 2000; Healey & Robinson, 1994).

The new governments saw themselves as the only people capable of administering the affairs of the country (Zolberg, 1968). There was no change in the poorly designed system of governance inherited from colonial powers as indigenes ascended into power. The elitist and authoritarian lines of government were not cut off, rather they were strengthened. Nationalist leaders of the new African states established a centralised and one-party system, as their tenure was tainted with corruption and wastefulness. Elimination or assassination of main opposition and critics were ramparts on the African continent (Kaaba, 2015). The nationalist
leaders argued that single party state fostered nationalism (Adejumobi, 2000), and economic
development (Golder & Wantchekon, 2004). Multiparty elections were regarded as alien to
African culture. In 1964, Ghana officially voted the one-party system as a governance system
to be practised in the country, through a referendum (Frempong, 2017b). Other African
countries followed the example of Ghana as one-party system became the norm for African regimes.

In other countries, due to the curtailed activities of opposition parties and the sole political
control by incumbent Head of State, elections lost their meaning (Ellis, 2000). Elections were
used as a tool to solidify the regimes of the incumbent government (Golder & Wantchekon,
2004) since there was no possible way of removing them through elections. Elections became
the tool for legitimizing incumbent governments and political choices (Ellis, 2000). Incumbent leaders received about 99% or more votes in the elections that were held. The
former Ugandan leader, Milton Obote, explicitly stated that elections serve as a tool whereby
the government is able to control the people, not vice versa (Cohen 1983 cited in Golder and
Wantchekon, 2004).

There were some African countries which did not descend into one-party system (Ellis,
2000). Countries like Mauritius, Botswana and Senegal as well as South Africa have
maintained a stable, multi-party democracy since independence and the end of apartheid respectively (Cowen & Laakso, 1997; Healey & Robinson, 1994). The one-party system
destroyed mechanism that ensured checks and balances, accountability and transparency. The
one-party system which promoted patrimonialism and opportunism encouraged mass
corruption across post-colonial African states (Kaaba, 2015).

The single-party system contributed to the development of African politics. First, there were
no or few alternations in power during the authoritarian era (Golder & Wantchekon, 2004).
Second, the lack of an alternative party to form the next government resulted in low electoral participation and low electoral turnout (Adejumobi, 2000). Finally, the single-party system justified the proliferation of military coups d'état in Africa in the 1960s to 1980s. It was argued that the only possible way to have removed the entrenched dictators in Africa was through the use of force (Golder & Wantchekon, 2004).

### 2.3.1c Military Takeover

The post-colonial leaders consolidated power through the single party system, corruption and elimination of critics and opposition. Elections were manipulated and in other instances, elections were abolished in order to solidify and maintain the ruling autocratic regimes. Democratic and peaceful mechanisms for changing government were eliminated during the single-party era (Kaaba, 2015). The only way to bring change was through force or coercion. Military interventions in the 1970s and 1980s were justifiable due to the entrenched autocratic powers that existed in those times. The need and the call for change resulted in the various military coups d'état and interventions. Kaaba (2015:39) rightly stated; "military intervention came to be seen as an answer to acute social and political problems and as an answer to national progress and stability."

Johnson, Slater, & McGowan (1983) indicated that 25 countries out of 45 countries in Africa from 1960 to 1982 witnessed fifty-two (52) successful coups d'état. They again stated that "there were 56 attempted coups and 102 reported coup plots" (Johnson, Slater, & McGowan, 1983). Even though military coups became the possible way of seeking regime change, military regimes are authoritarian in nature which impedes representation and accountability of government, since power is assumed by force. Immediately, the military assumed office, it settled down to be worse than the civilian regimes it had substituted (Johnson et al., 1983).
According to Cowen and Laasko (1997), the consolidation of power through one-party regimes and military regimes waned down the interest of scholars in the study of elections in Africa. However, the dominant behavioralist theory was challenged by emerging theories like the dependency and Neo-Marxist theories which aimed at explaining the phenomena that existed in Africa (Cowen & Laakso, 1997). In the late 1980s and the early 1990s, there was a demand for electoral democracy in Africa, hence, a rekindled interest in the study of elections.

2.3.1d The Second Liberalisation of Africa

The era after the Cold War has been described as the 'second liberation' (Gyekye-Jandoh, 2014), 'second transition' (Cowen & Laakso, 1997), 'third wave of democratization' (Huntington, 1993) of Africa. According to Ninsin (2006), the recent wave of democratization may be referred to as the 'second wave of democratisation' in Africa. The first took place during the transition from colonialism to independence, while the second birthed the recent democratization process. There was a general demand for a second independence through elections (Ninsin, 2006a) from the authoritarian leaders who had economically and politically mismanaged African economies, hence making survival impossible (Ake, 1993).

From the 1990s, Africa has experienced a gradual and a mass transition from authoritarian rule to an electoral democratic rule (Gyekye-Jandoh, 2014). The 1980s witnessed a mass call by civil society groups, citizens and the external world for multi-party electoral democracy and democratization in Africa (Adejumobi, 2000). The period of the autocratic rule; single-party rule and 'uniform man' regimes were marked with wastage and corruption (Kaaba, 2015). The autocratic rule of these regimes resulted in political instability and a poor economic growth and development in Africa, which led to the impoverishment of many Africans; high illiteracy rate; and the numerous spread of diseases (Adejumobi, 2000). Ake
(1993: 240) stated that the 1990s democratic movement in Africa was "a powerful, objective, historical force in that it expresses the desire of the ordinary people to gain power and material improvement". The 1990s movement of democracy understood democracy in light of multi-party electoral competition (Ake, 1993). Ninsin (2006) stated that the demand for elections meant the struggle for the citizens' birthright.

Gyekye-Jandoh (2014: 186) asserted that "this second liberation holds out more promise for democratization and stable democracy, because it is tinged with, and shaped by, past experiences of the pitfall and in-competencies of military and authoritarian civilian rule". The 1991 multiparty elections in Benin where the incumbent president lost to Nicephore Soglo initiated this movement (Gyekye-Jandoh, 2014). From 1985 to 1991, about twenty-eight non-democratic regimes were forced to establish multiparty democracies; eight countries held multiparty elections. By 1997, more than half of African countries were under "democratic rule," yielding to the conduction of periodic elections, albeit mostly with questionable content (Adejumobi, 2000).

A substantial number of countries like Cape Verde, Benin, Zambia, Mali, Madagascar, Namibia and South Africa experienced a change in regime through elections. However, there were cases (Côte d'Ivoire, Gabon, Cameroon, Kenya, Togo, Ghana and others) where incumbent authoritarian leaders legitimized their regime through the holding of multiparty elections. In two cases- Benin and Madagascar- incumbent authoritarian leaders were voted out of office in a multiparty election but later regained power through subsequent elections (Ellis, 2000).

Since 1991, the quality of multiparty elections in Africa has improved, with the exception of Kenya's 2007 and Zimbabwe's 2008 elections (Gyekye-Jandoh, 2014). Again, domestic and international election observers have played a major role in the African electoral process
(Barkan, 2003). Moreover, there has been a record of a higher voter turnout during African elections (Bratton 1998). Lastly, there is a general support for elections and democracy in Africa (Gyekye-Jandoh, 2014). Ellis (2000: 47) concluded that "the history of Africa over the past half-century suggests that elections are firmly established as a means by which rulers try to establish or demonstrate their claims to legitimacy." However, it has been argued that the transitional elections in the 1990s were of low quality (Abutudu, 2003; Agyeman-Duah, 2000).

2.3.1e Elections Beyond 2001

By the end of 2000, almost all the forty-eight African countries had held multiparty elections with the exception of Comoros, Congo-Kinshasa, Equatorial Guinea, Rwanda, Somalia (Barkan, 2003). By 2003, thirty three (33) African countries had held their second consecutive elections, twenty (20) had held third elections, and seven (7) countries had held at least four successive elections (Lindberg 2006:16). Gyekye-Jandoh (2014) stated that the 21st-century elections in Africa hold a great promise that elections are here to stay. Long-standing autocratic countries like DR Congo and Nigeria have come to view elections as the legitimate means through which government are selected.

Even though multiparty elections have been accepted as a norm in Africa, it is imperative to distinguish between the form and content of Africa elections (Schedler, 2002). Elections in Africa are seen as a means to earn legitimacy from the people and the external world (Adejumobi, 2000). The fallacy of identifying democracy with elections has bred electoral authoritarian regimes in Africa (Schedler, 2002). According to Schedler (2002), electoral authoritarianism can neither be classified as a democratic rule or an autocratic rule. These regimes hold a periodic election to obtain democratic legitimacy from the international setting, as well as the people. Schedler (2002) claimed that elections can result in the formation of a democratic or authoritarian regime. Election has given birth to a new form of
authoritarianism that seems somewhat different from one-party, military or personal dictatorship.

The 1990s movement for democracy has produced regimes that conduct elections and foster multiparty competition, "but at the same time violate minimal democratic norms so severely and systematically that it makes no sense to classify them as democracies, however, qualified" (Schedler, 2002): 38). Even though some regimes came to power through a competitive election, they had descended into autocratic rule. The common practice is that most incumbents organize an electoral "coup d'état" which ensures they are elected after an election. The strategy adopted include intimidating oppositions or curtailing their activities, uneven access of the media, administrative irregularities on the part of EMB (Adejumobi, 2000). The current trend in African multiparty elections shows that one-party or military authoritarian leaders are being replaced by elected dictators (Ellis, 2000).

The challenge, however, is that in African elections there have been various allegations of fraud and irregularities which undermine the credibility of the electoral outcome (Norman, 2012). Losers of elections often complain of over-voting, gerrymandering, rigging, and bloated voter registers in these elections. There have been instances where losers have contested the outcome of elections due to various irregularities that took place at the various stages of the electoral process. Non-acceptance of election result has been witnessed in various forms in Africa, ranging from protests, upheavals, and demonstrations like the naked-breast women's demonstration by elderly women of Nigeria and a sex strike in Kenya (Ajayi 2010) to the perpetration of violence which sometimes leads to civil conflicts. On the other hand, others resort to the court to address their grievances over the electoral results (Nkansah, 2016).
2.3.2 Political Parties in Africa

In Africa, political associations were formed as a result of the fight against colonialism, which excluded the indigenous Africans from political affairs (Gyimah-Boadi, 2007). Political parties were therefore formed as nationalist groups whose prime aim was to attain self-government. Political parties started as small groups, which sought to include indigenous Africans in the political system of their countries and to resist certain policies of the colonizer termed to be racial and exploitative. These groups were able to solicit for the support of the general public and eventually becoming fully-fledged political parties. Africa's earlier political parties were focused on strong personalities who led the fight for independence (Gyimah-Boadi, 2007; Keverenge, 2007), like Jomo Kenyatta's KANU, Nkrumah's CPP, and Mandela's ANC.

According to Gyimah-Boadi (2007), modern political parties in Africa can be categorised into two groups. The first is the earlier political parties who led the struggle for independence of their countries. These are parties which dominated the era of the second colonization of Africa. Most of these political parties became de facto or de jure one-party in the 1960s-70s. The second group is made up of new political parties which emerged as opposition parties during Africa’s second transition to democratic rule. Many of these parties were formed in the early 1990s, which contested the incumbent authoritarian parties in the initial elections. In some situations, these opposition parties were able to rip power off from the incumbent authoritarian rule (Gyimah-Boadi, 2007).

Current African political parties have been identified as having a weak bureaucratic and organisational structure (Gyimah-Boadi, 2007). Political parties in Africa are dominated by personalities and their top hierarchy is dominated by elite personalities (Carothers, 2012). Political parties in Africa are rarely established on ideological stands, rather they seek for support through ethnic, religious and other social differences (Elischer, 2013). There is also
the lack of equitable funding of political parties in Africa. Electoral competition among African political parties is characterised by exploitation of incumbency (Falguera, Jones, & Ohman, 2014). Elections are mostly marred with irregularities (Abutudu, 2003). Incumbent parties are bent on rigging elections in their favour to the extent that they go scot-free with it. The political systems in Africa foster patronage which enables incumbents to manipulate electoral institutions, legislations, and electoral process, and to siphon off national resources and deploy them for personal or partisan uses during elections (Gyimah-Boadi, 2007).

The relevance and role of political parties in modern democracies are specified in the various constitutions of democratic states (Van Biezen, 2003). Even though there cannot be a democracy without party system, party system can also be found in authoritarian systems (Matlosa & Shale, 2008). According to Khabele Matlosa and Shale (2008), without political parties, contemporary democratic states will be ungovernable. Political parties serve as the political institution through which the interest of society is articulated and aggregated. Again, during elections, political parties provide individuals who have been recruited and trained for governmental office. It provides the stage on which the electorate participates in the political system. Thus, they provide the link between citizens and the political system (Hofmeister & Grabow, 2011). Parties are channels through which societal or national goals are set and provide the platform on which these goals are achieved. Political parties are important agents for political education, socialisation and mobilisation (Matlosa & Shale, 2008).

2.3.2a Political Parties in Kenya: An Overview

Like other African countries, the formation of political parties emerged in Kenya during the struggle against the oppressive rule of the colonizers. The initial political mobilisation did not take the form of political parties, rather a traditional form. It then developed into trade unions which aimed at safeguarding and increasing the rights of Kenyan workers. The trade unions became the bases for political mobilisation in Kenya. The earlier political movements were
formed on ethnic lines (Keverenge, 2007). Examples are the Young Kikuyu Association formed in 1921, the Young Kavirondo Association (YKA) and Central Association in Murang’a (Keverenge, 2007; Stiftung, 2010). These associations advocated for African ownership of land, African representation in the Legco and greater educational and economic opportunities (Keverenge, 2007).

In 1944, the first cross-ethnic political association, Kenyan African Union (Berthélemy et al.), was formed. The prime goal of the earlier political movements was to replace colonialism and exclusionist policies with self-rule. These nationalist groups were not granted legal status. The emergence of the Mau Mau consolidated the struggle for independence. The colonialist (Littleton) Constitution increased the number of African representatives in the Legco in 1954. By 1958, the African representatives in the Legco had been equalled to the number of the European representatives by the Lennox Boyd Constitution. The operation of political parties, however, remained prohibited and their leaders were constantly intimidated (Elischer, 2008b; Keverenge, 2007).

In March 1960, the Kenya Africa National Union (KANU) was formed. The KANU favoured a unitary state after independence. This, in turn, caused nationalists who were skewed toward a federal state to establish the Kenya African Democratic Union (KADU). The Lancaster House Constitution lifted the ban on African political parties in 1961. The KANU and KADU obtained a legal status and contested in the first general elections in 1961. The KANU won the majority of the vote with 61% and 19 seats in the Legco compared to KADU’s 16% and 11 seats. Even though other political parties existed during independence, Kenya was organised on a two-party system. Members of KADU joined the KANU after their defeat in the first general elections (Elischer, 2008b).
Muliparty system in Kenya during the post-independent era portrayed ethnic politicization, patronage, and a deviation for national unity (Kunle Ajayi, 2010). In 1966, a fraction of KANU left the ruling government to form the Kenya People's Union (KPU). Prior to the election in 1969, KPU was censored and its leading members were detained (Keverenge, 2007). As a result, Kenya became a de jure one-party state. Kenya became a de facto one-party state under Arap Moi, the new leader of KANU from 1982 to 1992 (Dercon & Gutiérrez-Romero, 2012).

The second liberation of Africa restored multipartyism in Kenya in 1992. The ambition to rip power off from KANU led to numerous splits in the main opposition party- Forum for the Restoration of Democracy (FORD) coalition - into FORD-Asili (FORD-A), led by Matiba, and FORD-Kenya (FORD-K) led by Oginga Odinga. Later, Raila Odinga left FORD-K to lead the National Development Party, and Kenneth Matiba left FORD-Asili to form Saba Saba Asili. The split in a multi-ethnic FORD led to the formation of four ethnic based political parties. In contrast, the KANU retained an image of a multi-ethnic political party. Other political parties that emerged are Kenyan National Democratic Alliance (KENDA); Labour Party Democracy (LPD), Party of Independent Candidates of Kenya (PICK), and the Social Democratic Party of Kenya (Elischer, 2008b; Keverenge, 2007).

The divided opposition political parties lost two consecutive elections- 1992 and 1997 elections- after the reintroduction of multipartyism in 1991. KANU maintained power after winning the two elections amid violence and electoral flaws. The government described the violence as ethnically motivated clashes caused by ethnic politicization (Dercon & Gutiérrez). According to Dercon & Gutiérrez (2012), political parties incited the violence as a means to win elections. About 4000 people were killed and 600,000 people were displaced from 1991 to 2001 (Kenyan Human Rights Commission as cited by Dercon & Gutiérrez, 2012).
In the 2002 general election, opposition parties formed an alliance party - National Rainbow Coalition (NARC) - to wrestle power from the KANU. The presidential candidate of NARC-Mwai Kibaki- defeated KANU candidate Uhuru Kenyatta (Dercon & Gutiérrez-Romero, 2012). The ruling party KANU lost the election to an alliance party which comprised of members from all the ethnic groups in Kenya (Roberts, 2009). Due to the failure of Mwai Kibaki to honour his promises, members from his alliance party broke away to form Orange Democratic Movement (ODM). Kibaki formed another alliance with former ruling party KANU to contest the 2007 elections. The controversies over the selection of a presidential candidate for the ODM led to the split of the party into two fractions- ODM-K led by Stephen Kalonzo Musyoka and ODM Party led by Raila Odinga (Dercon & Gutiérrez-Romero, 2012; Keverenge, 2007). Political parties are formed along ethnic lines in Kenya (Elischer, 2008a).

2.3.2b Political Parties in Ghana: An Overview

Political parties became relevant in Ghana's politics in the early 1950s when the country was transiting from colonial rule to self-rule (Ninsin, 2006b). The first political party- United Gold Coast Convention- was formed in August 1947. Prominent members who led the formation of the UGCC included Paa George Grant, J. B. Danquah, William Ofori Atta, Ako Adjei and Edward Akufo-Addo. Kwame Nkrumah was invited to join the party as its secretary in December 1947. An internal conflict that ensued between Nkrumah and the other UGCC leadership, led to Nkrumah breaking away from the UGCC with some members to form the Convention People's Party (CPP) in June 1949 (Frempong, 2017b).

Three general elections were held in 1951, 1954 and 1956 prior to independence, in all of which CPP was victorious. The 1951 Parliamentary election was contested by two main political parties, UGCC and CPP. The 1954 Parliamentary election was contested by the CPP, Ghana Congress Party (GCP), Northern People's Party (NPP), Anlo Youth Organisation.
(AYO), Togoland Congress (TC), Moslem Association Party (MAP), Ghana Action Party (GAP) and Ghana National Party (GNP). The 1956 election was contested by the CPP, NPP, TC, MAP, Federated Youth Organization (FYO), Wassaw Youth Association (WYA), and National Liberation Movement (NLM) (Frempong, 2017b). According to Frempong (2017), the opposing parties were not nationally composed rather they were ethnic, religious and regional-based.

By 1960, the Nkrumah-led administration had detained most of the opposition's members. The United Party led by J. B. Danquah challenged Nkrumah in the 1960 Republic Presidential elections. In 1964, Ghana became a de facto one-party with the CPP the only recognised political party in the country (Frempong, 2017b). The country declined into a military rule which led to the ban of political parties' activities in 1966. The country experienced five military takeovers from 1966-1992, interposed with two comparatively short civilian governments. Multiparty elections were held in 1969 and 1979 with the Progress Party winning the 1969 elections. The 1979 election was won by the People's National Party led by Dr Hilla Limann. The country experienced its longest military usurped power from 1981 to 1992 under the Provisional National Defense Council led by Mr J. J. Rawlings. Under the PNDC, political parties' operations were banned (Ninsin, 2006b).

The 1992 elections which marked the second liberation election saw the emergence of political parties in Ghana of which the National Democratic Congress (NDC) and New Patriotic Party (NPP) were the most prominent. Other parties that emerged included: People's National Convention (PNC), National Convention Party (NCP), Every Ghanaian Living Everywhere (EAGLE), People's Heritage Party (PHP) and National Independent Party (NIP). The 1996 elections saw an increase in the number of political parties contesting for national office (Debrah, 2006). Six political parties contested the presidential election, but they
contested on three presidential tickets (Frempong, 2017b). The parties that emerged were Progressive Alliance made up of the NDC, EAGLE and Democratic People's Party (DPP), the Great Alliance composed of the NPP and the People's Convention Party (PCP), and the PNC (Debrah, 2006; Frempong, 2017b).

The 2000 elections witnessed the emergence of a small number of political parties like the Great Consolidated Popular Party (GCPP), National Reform Party (NRP) and United Ghana Movement (UGM) to strengthen Ghana's multiparty democracy (Debrah, 2006). By 2004, Ghana's political system had matured, allowing only the well organised political parties to sustain their participation in Ghanaian politics (Ninsin, 2006b). Ghana has a stable two-party system represented by the NDC and NPP (Asunka et al., 2015). The two parties have won more than 95% of the presidential elections vote since 2000 to date (Frempong, 2017b). The NDC and NPP have multi-ethnic and multi-regional composition (Whitfield, 2009), notwithstanding, each part has its own regional stronghold (Asunka et al., 2015). The NPP is regarded as a liberal party while the NDC is seen as a social democratic party (Ninsin, 2006b).

2.3.3 General Notion on Disputed Presidential Election

According to Norman (2012), 'disputed elections' is a phenomenon which is peculiar to electoral democracies. Even though, scholars have argued that emerging democracies conduct low-quality elections (Abutudu, 2003; Adejumobi, 2000; Ellis, 2000; Genyi & Ortom, 2017), hence makes them susceptible to dispute (Genyi & Ortom, 2017; Norman, 2012; Omenma et al., 2017), disputed election is not a phenomenon that is peculiar to emerging democracies; it can also be identified with advance democracies (Pushaw Jr, 2001). There has been a witness of disputed presidential election even in an advanced democracy like the United States (Huerta, 2014).
Democratization requires the state not to only hold periodic elections, but also to conduct credible elections (Omenma et al., 2017). Elections are considered to be credible when all parties accept the electoral results to be legitimate. The problem with African elections is that there are various allegations and suspicions of flaws and malpractices which undermine the credibility of the outcome (Nkansah, 2016). According to Huerta (2014: 8) "it is when the incumbent and opposition fail to reach an agreement on the rules of the game and the "appropriate" magnitude of electoral manipulation, because of information or credibility problems, or when there is uncertainty brought on by changes in election-related institutions prior to the election that electoral protest occur."

Norman (2012) argues that the decision to accept or reject electoral result solely depends on the whims, feeling and speculations of loser of elections. According to Norman (2012), there have been instances in Africa where an incumbent who appointed the chair of the electoral management body has lost elections. This, therefore, tends to refute the allegation of impartiality of the Electoral Commission, which they often cite as the basis for rejecting election results. Norman (2012) recommended a third-party assessment upon which elections may be disputed. He argued that competing parties in elections may fail to assess the electoral process properly. Scholars often depend on the score of election observers to measure the quality of elections. However, observers' assessments are mostly contentious, since their definition of a 'free and fair election' may differ from that of the citizens (Chernykh, 2014). Election observers have been criticised for only paying attention to the election-day activities (Carother, 1997; Chernykh, 2014; Elklit & Svensson, 1997). Norman (2012) did not attribute the causes of disputed elections in Africa, however, other studies (Murison, 2013; Nkansah, 2016; Twinomugisha, 2009) have shown that elections are disputed in African primarily because of electoral fraud and irregularities.
Chernykh (2014) argues that electoral manipulation or irregularities have been shifted away from the voting-day violation to a less observed phase of the electoral process such as the pre-electoral stage. A shift in the manipulation strategies has not gone unnoticed by opposition parties (Chernykh, 2014). Chernykh (2014), unlike Norman (2012), argues that opposition parties pay rapt attention to all stages of the electoral process; hence, they are in the best position to judge the 'freeness' and 'fairness' of the electoral process. Chernykh (2014) suggested that in order to understand why political parties reject electoral results, we need to examine the pre-electoral process. Chernykh (2014) argued that election is disputed due to pre-electoral stage fraud and malpractices. Chernykh's (2014) study overlooks the electoral irregularities that take place at the polling stage which have resulted in disputed elections, as in the case of Ghana 2012 (Kwarteng, 2014).

Huerta (2014) argued that losers of an election might rightfully dispute an election result in authoritarian regimes due to an allegation of widespread irregularities and fraud which may affect the electoral result substantially, however, such instances may be questionable in democratic regimes. He further argued that narrower margin of victory between the victor and the runner-up of the election may adduce the runner-up to challenge electoral results. He claimed that holding a free and fair election does not necessarily prevent dispute of election results (Huerta, 2014). Huerta (2014) concludes that in democracies, losers of elections do not dispute elections to publicize fraud and malpractices, rather disputed elections serve as a "strategy to strengthen losers' own capacity for negotiation with the newly elected government" (Huerta, 2014; 34). On the contrary, scholars like Murison (2013), Nkansah (2016), Twinomugisha (2009), and Omenma, Ibeanu and Onyishi (2017) observed that through the adjudicatory process of disputed elections in most African countries defeated parties have been able to publicize various forms of electoral flaws and irregularities which took place during the electoral process.
2.3.4 Causes of Disputed Elections in Africa

There are several conditions that may lead to disputed elections in the courts. First is where the electoral management body is manifestly weak, lacks operational autonomy and easily compromised in the process of discharging its responsibility (Kawanaka & Asaba, 2011; Van Aaken, 2009). Losers of elections often dispute election results due to what is perceived as biases of the electoral management body in favour of the incumbent government (Norman, 2012). Electoral management bodies are human beings subject, presumably, to the same biases affecting other individuals (Kopko, Bryner, Budziak, Devine, & Nawara, 2011). Abutudu (2003) and Boafo-Arthur (2001) attributed disputed presidential elections in Africa to the mode of appointment of EMB chair. In most African countries the chairperson of the EMB is appointed by the President (Abutudu, 2003; Boafo-Arthur, 2001). Therefore, their verdicts mostly become contentious.

The second is when an election outcome is marred by widespread and systematic irregularities, fraud, and manipulations. Losing parties or candidates may resort to legal actions or mobilize against stolen mandate in order to publicize fraud. Chernykh (2014) argued that disputed elections are caused by pre-electoral stage fraud and irregularities. Ugandan 2001 and 2006, and Kenyan 2012 elections were all contested on the bases of electoral irregularities.

Some people point out the bias caused through the manipulation of the media on the results and information regarding the trend of elections hence disagreement. In other instances, the partiality of the security service has been cited as a cause of disputed elections in Africa (Norman, 2012). Besigye cited the involvement of the military and other government officials as one of the bases for contesting the Ugandan 2001 presidential elections (Murison, 2013; Twinomugisha, 2009). Again, in 2003 Zambian elections, Mazoka accused the Zambia EC and the Police service of biased involvement in the electoral process (Norman, 2012).
The likelihood to dispute election results is significantly high if ethnic and religious division increases (Hausken & Ncube, 2013). Disputed elections may trigger post-electoral violence especially in states where there is the tension of ethnic clashes (Huerta, 2014). Political parties usually take advantage of the established ethnic, religious and regional divisions to appeal to the electorate for their votes. Primordial identities serve as a tool through which political parties manipulate voters to enhance their electoral fortunes (Ninsin, 2006a). Thus, the electorate mobilises to vote for presidential candidates who can be identified with their ethnic group. The 2010 disputed presidential election of Cote d'Ivoire crisis illustrates the worst case of electoral politics that feeds on the manipulation of ethnic solidarity (Ninsin, 2006a).

Mozaffar and Schedler (2002) argued that political parties are to be blamed for disputed presidential election, rather than ethnic divisions. The most influential political actors in elections are political parties. The activities of political parties at the various stages of the electoral process can incite dispute, hence their roles need to be studied. Some actions and inactions of political parties can mar the quality of the elections. Political parties, especially incumbent parties, activities such as fraud, intimidation of opposition and unequal playing field for competitive parties in an election may cause losers of an election to dispute the outcome (Mozaffar & Schedler, 2002).

2.3.5 Judicial Adjudication of Disputed Presidential Election in Africa

Presidential election disputes are not alien to the constitutions of African countries (Azu, 2015). Most African countries’ constitutions make provision for addressing grievances over the declared outcome of an election (Nkansah, 2016). Exceptions are made to countries like Tanzania, where the judiciary do not have the jurisdiction to adjudicate disputed presidential elections (Kaaba, 2015; Nkansah, 2016), however, the parliamentary election can be challenged (Nkansah, 2016). Article 41(7) of the "Constitution of the United Republic of
"Tanzania" states that the declared presidential results by the Electoral Commission cannot be challenged in a law court. Such provision assumes that elections are always conducted in a free and fair manner, which is contrary to the African election experience. This provision denies aggrieved parties the opportunity to seek judicial redress in case of grievances (Kaaba, 2015).

The prime function of the court is to serve as an administrator of justice in matters of dispute. Post-election political stability depends on the fairness of judicial verdict on the electoral dispute (Genyi & Ortom, 2017). Judicial adjudication is viewed as an important tool for resolving electoral grievances. Judicial adjudication means "the legal process of resolving disputes" (Nkansah, 2016: 99). An election petition is defined as a "complaint about election or the conduct of election" (Obasanya v. Obafemi, 2000 cited in Nkansah, 2016). In countries like Ghana (Nkansah, 2016), Kenya (Musila et al., 2013), Uganda (Twinomugisha, 2009) and Nigeria (Omenma et al., 2017), disputed presidential election petitions are filed with the Supreme Court, while in Southern African Development Countries (SADC) like Botswana, Namibia, Zambia, Angola, Lesotho and Madagascar, the High Court is solely responsible for judicial presidential election adjudication (Nkansah, 2016).

The role of the Court is essential in safeguarding the democratisation process in Africa by ensuring credibility in the adjudication of electoral disputes. There have been some expressed mistrust about the final verdicts of the Court on disputed presidential election petition in Africa, which has resulted in lack of trust in judicial electoral adjudication (Abuya, 2015). In the contexts of Africa, literature on judicial adjudication is scarce (Nkansah, 2016). Most studies on disputed elections focus on the causes of disputed presidential (Chernykh, 2014; Huerta, 2014; Nkansah, 2016; Norman, 2012); others focus on the role of the court (Kaaba, 2015; Murison, 2013; Omenma et al., 2017; Otthogile, 1994; Twinomugisha, 2009), whilst the rest focus on how the role of the Court helps to promote democratisation in Africa.
(Omenma et al., 2017; Twinomugisha, 2009). This study differs from existing literature by focusing on the repercussions of the judicial verdict on the political stability of Ghana and Kenya, and the role played by other political institutions like political parties during election petition.

Electoral adjudication occurs when the judiciary of a given country is invoked to decide on an issue involving the elections of that country as opposed to formal or informal alternative dispute resolution mechanisms (Nkansah, 2016). For the judiciary to be deemed fit for determining the ultimate outcome of an election; it must be competent, honest, learned and independent. The judiciary mostly plays a transformative role in democracy as an impartial referee in the democratic game (Kaaba, 2015). The credibility and legitimacy of an electoral outcome are relevant in a democratic setting (Genyi & Ortom, 2017). A failure to make provision for an effective electoral dispute mechanism "can seriously undermine the legitimacy of an entire electoral process." Therefore, any challenge to the credibility and legitimacy of an electoral outcome needs to be addressed (Nkansah, 2016).

The Supreme Court plays a key role in the resolution of disputed presidential elections in Africa. For instance, Article 140(1) of Kenya's 2010 Constitution (Musila et al., 2013) and Article 64 of Ghana's 1992 Constitution (Judicial Service, 2016) provide that a national may petition the Supreme Court to challenge the election of the president-elect. The petition is to be filed within seven days after the day of the declaration of the outcome of the polls in Kenya and twenty-one days after the elections in Ghana. According to the Manual on Election Adjudication in Ghana, the validity of the election result can be contested in Court solely by the losing Presidential Candidate. The Manual on Election Adjudication in Ghana recommends that provisions on Presidential-election petition be amended to reflect that losers in elections are the sole petitioners of elections (Judicial Service, 2016). In the same manner, the Constitution (Article 163(3)(a) of Kenyan and Article 64(3) of Ghanaian constitutions)
gives the Supreme Court the exclusive jurisdiction to hear and determine disputes relating to the elections to the office of president (Judicial Service, 2016; Musila et al., 2013).

According to Ongoya (2013), the Article 140(1) of the Kenyan Constitution is inadequate, since it requires a presidential election petition to be filed after the declaration of the results. The constitution provides for electoral dispute settlement at last stages of the electoral process, not at the initial or mid-stages (Ongoya, 2013). Hence, irregularities that take place at the initial and/or mid-stages cannot be brought to light. However, the constitution makes provisions for who is qualified or unqualified to be elected as a president. The institutional arrangement in the constitution goes a long way to shape political parties activities, who are directly involved in the initial stages of the presidential election. Constitutional provisions also specify the code of conduct of Electoral Management Bodies. This constitutional arrangement ensures fairness at the various stages of the electoral process (Musila et al., 2013).

Nkansah (2016) concluded that the mechanism of petitioning the court for electoral redress as oppose to 'hitting the street' is a positive sign in Africa's democratisation process (Nkansah, 2016). Addressing electoral dispute in court facilitate democratization and institutionalism. She indicated that the record on judicial adjudication of disputed presidential elections shows that election petitions are not expeditiously dispensed in Africa. Nkansah (2016) stated that in Ghana, Kenya and Senegal, opposition parties have lost confidence in the Court to fairly adjudicate disputed presidential election, due to the perceived unfairness of previous judicial adjudication. Nkansah was of the view that election petition is bound to fail in Africa, however, the annulment of Kenya's 2017 election have falsified this proposition. The recent increase in electoral petition cases in Kenya is a demonstration of an increase in the confidence and trust in the court as an independent arbiter (Musiga, 2016).
Omenma, Ibeanu, and Onyishi (2017) observed that the Courts in Nigeria are failing to adequately address disputed presidential elections, due to the legal burden of proof required by petitioners. According to them, the court is not effectively playing its role as an unbiased umpire in electoral disputes. The Court is failing to play its role in promoting democratic consolidation. Hence, the Nigerian Supreme Court has failed to play its role in promoting democratic consolidation. Likewise, Twinomugisha (2009) and Murison (2013) concluded that the Supreme Court in Uganda has failed to promote democracy in relation to resolution of presidential election disputes. Twinomugisha (2009) alleged that through electoral adjudication the Court has endorsed fraudulent presidential elections.

On the other hand, scholars like Kwarteng (2014), and Asante and Asare (2016) have argued that the judicial adjudication of Ghana's 2012 disputed election was a positive step towards democratic consolidation. Kwarteng (2014) stated that even though critics of Ghana's 2012 election petition assert that the Court failed to address the two issues presented before them, the petition showcase a growth in Ghana's democratic process. He attributed the peaceful resolution of the disputed elections to institutional arrangement (Kwarteng, 2014). Asante and Asare (2016) concluded that the judicial adjudication of Ghana's 2012 disputed presidential elections satisfied three key elements for the consolidation of democracy as postulated by Linz and Stepan. Thus, the judicial adjudication ensured that the democratic system was not overthrown; government was established through a democratic means (elections) and disputes are resolved base on institutional structures. These studies failed to categorise political stability as an element of democracy.

Kaaba (2015) argued for a supranational adjudication of disputed presidential elections in Africa. According to Kaaba (2015), national courts in Africa have failed to effectively and efficiently adjudicate disputed presidential elections, due to the influence of state actors, especially incumbent parties. The court has consistently upheld flawed elections. A
supranational court will serve as an independent body for the adjudication of disputed presidential elections in Africa (Kaaba, 2015). Kaaba's (2015) study overlook the major challenges of African integration which include, political instability, sovereignty and nationalism, weak infrastructures, weak institutions, and weak implementation of protocols (Olaniyan, 2008).

A major criticism levied against African Courts is their failure to annual election result amidst electoral irregularities (Murison, 2013; Nkansah, 2016; Twinomugisha, 2009). Elections are not to be annulled based on errors made by the EMB or any inappropriate action by election related official who failed to perform their duties if the election process complied with the election rules (Halsbury's Law of England quoted by Azu, 2015). The decision not to annul election outcomes depends on the magnitude of electoral fraud or irregularities that took place. The general notion is that the will of the electorate should not be cancelled based on administrative mistakes by the EMB, so far as the electorate voted in accordance with the election rules. Thus, if the disputed election results are annulled based on administrative irregularities, the electorate would be "irreparably disenfranchised." However, if the petitioner proves beyond reasonable doubt that the electoral irregularities substantively affected the outcome, the election must be annulled by the court (Azu, 2015). Azu (2015) observed that the court is most reluctant to overturn a disputed presidential election outcome in Africa.

The judiciary can either positively or negatively contribute to the democratic process of a country during electoral adjudication (Azu, 2013). When the judiciary is perceived to be firm and independent, its involvement in disputed presidential election resolution help strengthens and ensure rule of law and democratic stability. According to Azu (2013), the Ghana 2012 and Kenya's 2013 Election Petition Cases affirmed that disputed presidential elections are bound to fail in Africa. She recommended that legal and administrative sanction be meted to
EMB officials who contributed to the perpetuation of electoral flaws. Lack of timelines on electoral adjudication has helped prolong Court proceedings on disputed election petition case. She argued that a time-bound judiciary adjudication of disputed elections ensures democratic stability (Azu, 2013).

The final verdict of the Court on disputed election which does not represent the decision of the electorate may trigger violent activities. An instance is the Cote d'Iviore 2010 elections, where the judicial resolution of a disputed election resulted in political instability (Azu, 2015). Defeated parties may resort to violent activities, as in the instances of Kenya and Zimbabwe, where President Kibaki and President Robert Mugabe were fraudulently announced as victors (Twinomugisha, 2009).

3.3.6 Non-Institutional Mechanism

A critical question that Chernykh's (2014) study, “When Do Political Parties Protest Election Results?” asks is "why do political parties decide to address their grievance on the electoral result on the street rather than in court?” A political party may take extra-legal actions or non-institutional mechanism, such as mass protest, failing to acknowledge the elected officials, or refusing to take their seats in the legislature, in order to seek for redress of their grievances (Chernykh, 2014).

Chernykh (2014) argued that in a situation where the incumbent amends the electoral legislation prior to elections, losers of the elections will likely resort to non-institutional means to dispute the outcome of the election. Genyi and Ortom (2017) argued that, in African, the people's confidence in the court had waned in the past twenty years particularly in relation to judiciary electoral adjudication (Genyi & Ortom, 2017). Lack of trust in the court to fairly adjudicate disputed presidential elections can affect the political stability of a
country. The absence of trust in the judiciary will adduce aggrieved parties to seek for redress through extra-legal mechanisms (Kaaba, 2015).

Omenma et. al (2017) identified some reasons why the courts have consistently failed to reverse disputed presidential elections results. The first reason is, "the legal burden of proof of evidence placed substantially on the petitioner(s)" (Omenma et al., 2017). They argued that proof of evidence required to support petitioners' claims is mostly in the custody of the EMB. Therefore, when the EMB failed to release these materials it becomes difficult to prove the claims of the petitioner. Ironically, the Constitutions of Kenya and Ghana are silent on the extent of proof petitioner(s) are required to provide (Azu, 2015).

The second reason is the court's assertion that electoral petitions are not filed in accordance with established laws; and the verdict of the court that irregularities did not substantively affect the outcome of the election. For instance, Huerta (2014) stated that, according to Justice Nabarese of Ghana, 70% of the electoral dispute petitions were dismissed because they were not filed in accordance with the provision of law. In various instances like that of Ghana 2012, Uganda 2001 and 2006, and Kenya 2012, the court held that irregularities did occur but did not affect the result substantively. The third is the influence of the executive over the judiciary. Most constitutions in Africa empower the President to appoint high profile judges, especially the judges of the Supreme Court (Omenma et al., 2017).

Murison (2013) stated that after Besigye's defeat in the Ugandan 2011 presidential election, he failed to petition the Supreme Court about his grievance over the electoral outcome, after failing in two previous electoral petitions. He adopted non-institutional mechanism to address his grievance, having lost confidence in the Court to give an impartial and fair verdict. He adopted a direct action and played a major role in the 'Walk to Work' protests in Uganda which intensified into widespread violence (Murison, 2013).
There have been numerous instances of post-electoral violence and conflict in Africa. About three Hundred (300) lives were lost in Nigeria after the 2011 re-election of President Jonathan (Okolo & Onunkwo, 2011). The post-electoral period witnessed mass protest, particular in the Northern part of the country. Not less than 193 lives were lost in Ethiopia after the military opened fire on people who were protesting against the 2010 election outcome. The most serious cases of post-electoral violence caused by disputed presidential election are that of the Kenyan 2007 elections and the 2010 Ivorian election. Kenya’s 2007 disputed elections resulted in massive violence across the country which claimed more than 1000 lives, while over 350000 people were displaced (Dercon & Gutiérrez-Romero, 2012). The Constitutional Council decision to overturn its previous verdict which ruled in favour of Gbagbo, resulted in political upheaval in Ivory Coast in which 274 lives were lost (Cook, 2011).

2.3.7 Cases of Disputed Presidential Elections In Africa

2.3.7a Uganda 2001 and 2006

Election petitions were filed after the Ugandan 2001 and 2006 Presidential elections (Murison, 2013). The 2001 and 2006 Ugandan presidential elections were keenly contested by incumbent President Museveni and his former personal physician, Rtd Dr Kiiza Besigye (Murison, 2013; Twinomugisha, 2009). The elections were marred by various forms of controversies. The elections were characterised by intimidation and harassment of opposition party candidates and supporters; confiscation of property; and high involvement of military and other government officials in the electoral process (Twinomugisha, 2009). Murison (2013) stated that both the 2001 and 2006 Ugandan elections were marred by allegations of vote rigging, ballot stuffing, and bribery. The incumbent President Museveni was declared the winner in both presidential elections by the EC. The loser of the election, Besigye,
challenged the validity of the result in the Supreme Court in accordance with the Electoral Commission Act and the Presidential Election Act (Murison, 2013; Nkansah, 2016; Twinomugisha, 2009).

The Presidential Election Act makes provision for aggrieved parties in an election to petition the Supreme Court to challenge the validity of a presidential election result (Nkansah, 2016; Twinomugisha, 2009). *In Col (Rtd) Dr Besigye Kiiza v Museveni Yoweri Kaguta and the Electoral Commission*, the petition filed alleged that some regulation pertaining to the registration of the electorate was not adhered to. In the 2001 elections, the petitioner argued that the EC failed to either display the register of electorate within 21 days or publish the number of polling stations in various constituencies for at least 10 days before the nomination of candidates. Again, the EC failed to supply him with the register of voters when he requested for it. The petitioner also alleged issue of ballot stuffing. The petitioner alleged that the under-aged people were allowed to cast their vote during the election. The petitioner accused the military and the Presidential Protection Unit (PPU) of disrupting his campaigns. The incumbent President was accused of various illegal practices "personally or with his knowledge and consent or approval" (Twinomugisha, 2009). In summary, the petitioner alleged that Museveni was not validly elected; he pleaded with the court to authorise a recount of the vote or re-run (Nkansah, 2016; Twinomugisha, 2009).

The judges that heard the case admitted that there was some form of intimidation by the military and other government officials. Three out of the five judges that heard the case found that the incumbent president was guilty of illegal practices and law-breaking acts carried out by the military and his supporters (Twinomugisha, 2009). By majority decision, the court ruled that even though there was a high level of electoral irregularities, these irregularities did not influence the outcome of the election in a substantial manner. Therefore, the court held that the outcome of the election could not be nullified. The judicial adjudication process
revealed a high level of administrative irregularities in Uganda. The Court adjudged that the Electoral Commission did not conduct a free and fair election (Murison, 2013; Twinomugisha, 2009).

Likewise in Supreme Court Verdict on the 2006 Election Petition, *Rtd Col Kiiza Besigye v The Electoral Commission and Yoweri Kaguta Museveni*, the Court unanimously acknowledged that constitutional and electoral laws were not adhered to by the Electoral Commission. The Court ruled that the election was not held in a free and fair manner. However, by a majority ruling, the Court annulled the allegation of illegal practices against the incumbent President (Murison, 2013; Nkansah, 2016; Twinomugisha, 2009). The Court condemned the involvement of the military in the electoral process. In spite of these illegalities, by a majority decision, "the Court held that it had not been proved to the satisfaction of the Court that the failure to comply with the relevant provisions and principles of the law affected the results of the presidential election in a substantial manner" (Twinomugisha, 2009).

**2.3.7b Zimbabwe 2008**

In *Movement for Democratic change v. The Chairperson of the Zimbabwe Electoral Commission (2008)*, the Movement for the Democratic Change (MDC) challenged the validity of the Zimbabwean 2008 Presidential election outcome in Court. The MDC accused the EC of delay in the release of the presidential election results. The MDC prayed the High Court to order the EC to release the election results.

The Court admitted that the EC had inordinately delayed in releasing the results, but that the Court did not have jurisdiction in the matter because the decision of the EC 'shall not be subjected to appeal' by virtue of Section 67A (7) of the Electoral Act. Consequently, the decision of the EC was final. This decision was criticised because the case was not about the
decision of the EMB, an administrative body, to compel it by mandamus to do its work. This is possible under the High Court Act which gave power to the High Court to review the 'proceeding and decisions of 'administrative bodies' (Nkansah, 2016).

2.3.7c Côte d'Ivoire 2010

Laurent Gbagbo whose tenure elapsed in 2005 delayed Cote d'Ivoire's elections until 31st October 2010. On 28th November 2010, second-run of presidential elections were held between Laurent Gbagbo and Alassane Ouattara, as each failed to win required votes to be declared as the winner in the main election. The two competitors declared themselves as winners of the election (Cook, 2011). The Presidential election was challenged before the Constitutional Council. Four days after the declaration of the result by the Ivorian Election Commission (CEI). Gbagbo's party, Ivorian Popular Front (FPI) alleged fraud in some areas and demanded that nine regions' results be annulled. The CEI declared Alassane Ouattara as the winner of the polls with 54.1% of the total polls. The claims of FPI were challenged by the CEI and international election observers. However, based on Article 94 of the Ivorian Constitution, the Constitutional Council annulled the result declared by the CEI on the grounds of alleged voting irregularities and excluded votes from nine northern areas. Subtraction of these votes from the nine stronghold regions of Ouattara meant that Gbagbo won 51% of the remaining vote (Nkansah, 2016).

The constitutional limit of a President, which is 10 years, was not addressed by the Constitutional Council. A great number of the votes which were annulled were from areas where Ouattara had the higher number of votes. Gbagbo, therefore, claimed to have been validly elected and refused to abdicate power to Ouattara. The contested presidential election plunged Ivory Coast into political instability. The contested election result triggered political violence which resulted in 247 deaths (Cook, 2011). In 2011, the Constitutional Council President, Paul Yao N'Dre, overturned its previous decision which ruled in favor of Gbagbo
and proclaimed Alassane Ouattara as President. The Constitutional Council annulled its previous decision of cancelling nine regions' votes. Alassane Ouattara was then invited to be sworn in as the President (Nkansah, 2016).

2.3.7d Kenya 2013

On 9th March 2013, Mr Uhuru Kenyatta was declared as the President-elect by the Chairperson of Kenya's EMB. Mr Kenyatta won 50.07% of the total vote, while Raila Odinga, the major opposition candidate, polled 43.31%. The Supreme Court was petitioned with three different petitions after the declaration of the election by the EMB (Azu, 2015). The first petition case (*Moses Kiarie Kuria & Two Others v. Ahmed Issack Hassan & Another*) alleged that the addition of rejected ballots in the final tallying of the outcome had a substantial effect of increasing the percentage votes of Mr Kenyatta and decreasing that of Mr. Odinga. The petitioners alleged that this irregularity contravened Article s 36(b) and 138(c) of the 2010 Constitution and rule 77(1) of the Election (General) Regulations, 2012 (Azu, 2015; Nkansah, 2016).

The second petition case (*Gladwell Wathoni Otieno & Ahmed Issack Hassan & Three Others*) prayed the Supreme Court to annul the results based on inaccurate voter register, administrative irregularities, and the exclusion of party agents from the national collation of results. The third petition which was filed by Mr Odinga against the EMB, the President-elect and the Vice President elect alleged over-voting, lack of an electronic device to transmit provisional result (Nkansah, 2016), the absence of signatures by relevant EMB agents on electoral forms (Azu, 2015). The petitioners alleged that the election was tainted with flawed and was not conducted in accordance with the constitution (Nkansah, 2016).

The three cases were merged by the Supreme Court on 25th March 2013. Mr Odinga, the first petitioners and the second petitioners were made the first, second and third petitioners of the
case respectively. The case had four respondents; the first respondent, the EMB; the second, EMB's Chairperson; third; the Presidential-elect; and fourth, the Vice President-elect. The whole case was hinged on whether Mr Kenyatta and Mr Ruto were validly elected as President and Vice President of Kenya. The Supreme Court sub-divided the cases into two issues; one, whether the conduction of the election met free, fair, transparent and credible criteria in relation to the laws of Kenya; two, whether the chairperson erred in including the rejected ballots in the final collation of votes in favor of each presidential candidate (Azu, 2015; Nkansah, 2016).

By a unanimous decision, the Court adjudged that the elections were held in accordance with the Constitution and the law; hence the third and fourth respondents were validly elected. Again the Court held that the EMB was right in resorting to manual collation of polls when the electronic system broke down. The Court further adjudged that the petitioners failed to prove that the manual collation system adopted helped increase the total votes of Mr Kenyatta, or reduced that of Mr Odinga. The voter register was adjudged to be transparent, accurate and verifiable, hence making it credible. Lastly, the Court adjudged that the rejected ballot sought not to have been included in the total collation of the polls (Azu, 2015; Nkansah, 2016).

2.3.7e Kenya 2017

The second election under Kenyan 2010 Constitutions was held on 8th August 2017. The constitution provides that general elections be conducted every five years after elections and on the second Tuesday in August. Polling occurred at 40,883 polling stations across Kenya. The final result of the election was declared on 11th August 2017. The ECK declared Uhuru Kenyatta as the winner of the Kenyan 2017 presidential elections with 54.3% of the total votes, while the runner-up, Raila Odinga obtained 44.7%. Raila Odinga challenged the outcome of the election on various grounds by petitioning the Supreme Court. The Court
annulled the result on the ground of irregularities and illegalities, basically during the
collation and declaration of the electoral results (Mebane Jr, 2017). By a majority of four, the
court adjudged that:

I. "A declaration is hereby issued that the Presidential Election held on 8th August 2017 was not conducted in accordance with the constitution and the applicable law rending the declared result.

II. A declaration is hereby issued that the irregularities and illegalities in the Presidential election of 8th August 2017 were substantial and significant that they affected the integrity of the elections, the result notwithstanding

III. A declaration is hereby issued that the third respondents were not validly declared as the President-elect and that the declaration is invalid, null and void

IV. An order is hereby issued directing the first respondent to organize and conduct a fresh presidential Election in strict conformity with the law 60 days of the determination of 1st September 2017, under Article 140(3) of the Constitution

V. Regarding costs, each party shall bear its own cost" (Kaaba, 2018).

The Kenyan Supreme Court verdict marked the first time in Africa where the Court has annulled a re-election of an incumbent president. The Count defied "the regularities did not affect the election's result in a substantial manner" mantra; rather it correctly applied the "substantial effect" rule. The Kenyan 2017 election petition verdict shown that the irregularities which take place at the various stages of the electoral process can mar the quality of elections (Kaaba, 2018). The Court verdict falsified the arguments that election petitions are bound to fail in Africa.
2.3.8 Analysis of Cases

It can be observed that the incumbent parties or their affiliates are mostly the respondents of the cases with the exception of Cote d'Ivoire where the ruling party petitioned the court. In most cases, the verdicts of the court have declared the incumbent parties or their affiliates as victors, whether they be the petitioners or respondents (Kaaba, 2015; Nkansah, 2016) as in the cases of Uganda 2001 and 2006, Zimbabwe 2008, Cote d'Ivoire 2010, Ghana 2012, Kenya 2013 with the exceptions of Malawi 2014 and Kenya 2017. In the case of Cote D'Ivoire 2010, the electoral results were reversed to declare the incumbent Gbagbo as the winner.

In almost all the cases, the Court upheld the results even though it acknowledged that the electoral process was marred with electoral irregularities. The phenomena of maintaining political stability have compelled the Court to uphold the declared results of the disputed presidential election (Kaaba, 2015). In the cases of Uganda 2001 and 2006, the Court blamed the EMB for the irregularities and the rigging that took place. The Court acknowledged that there was lack of transparency, and the principle of free and fair election was breeched. However, the Court adjudged that the extent of the electoral irregularities did not affect the results in a substantial manner (Murison, 2013; Twinomugisha, 2009). Nkansah (2016) stated that the Court has upheld the EMB's declared results of all presidential election petitions in Nigeria's Fourth Republic. In the case of Kenya 2017, for the first time ever, the Court annulled the results and ordered for a re-run of the elections.

Expeditious electoral adjudication is critical in presidential election petition because the electoral cycle is time-bound (Nkansah, 2016). It has been observed that presidential election adjudication has often been delayed in some cases in Africa. The Zambian 1996 and 2001 Presidential Petitions took one and a half years, and three years and one month respectively to be dispensed (Bwalya, 2011). Ghana's 2012 Presidential Petition took eight months before a
judgment was given. Kaaba (2015: 109) stated; "in Nigeria, it is estimated that a presidential election petition takes about two years to complete, which is actually half of the presidential tenure." Some African countries permit the swearing-in of the elected-president while the presidential election petition is still in court (Kaaba, 2015). However, countries like Kenya, Zimbabwe and Uganda make provision for expeditious adjudication of presidential election petitions (Kaaba, 2015; Nkansah, 2016). In cases like Uganda 2001 and 2006 and Kenya 2013 and 2017, the Court dispensed with the case within 30 days after the commencement of the Court proceedings.

The court has addressed issues of presidential election petition without providing solution (Nkansah, 2016). In situations where the court has found malpractices in the electoral process, the perpetrators of these malpractices have not been sanctioned. In situations where the court provided a solution, it has not been carried out. The reforms proposed by the Supreme Court of Ghana during Ghana's 2012 Presidential Petition verdict have not been implemented (Alidu, 2014). Again, the injunction by the Court restraining the swearing in of the president-elect of Nigeria in the 2003 election due to the pending electoral petition was violated by Obasanjo and his vice (Kaaba, 2015).

The cases [Uganda 2001 and 2006, Zimbabwe 2008, Cote d'Ivoire 2010 and Kenya 2013 and 2017] present situations where institutional arrangement was followed for the resolution of disputed presidential elections. Cases like the Uganda 2001 and 2006, and Kenya 2013 and 2017 present situations where judicial adjudication helped contribute to political stability. On the other hand, in the Zimbabwe 2008 and Cote d'Ivoire 2010 cases judicial adjudication could not help to maintain the political stability. As the aftermath of the court verdict was marked with political instability which resulted in 247 deaths in Cote d'Ivoire and 86 deaths in Zimbabwe.
2.3.9 The Cases of Kenya's 2007 and Ghana 2012 Disputed Presidential Elections

2.3.9a Kenya 2007

Kenya conducted its fourth election after its return to multiparty system on 27th December 2007. The first two elections had been classified as flawed elections since they did not meet international standards. On the other hand, the 2002 elections were praised for meeting democratic election standard (Harneit-Sievers & Peters, 2008). The 2002 election saw the coalition of different parties, National Rainbow Coalition (NARC) (Roberts, 2009), kicking away the Kenya African National Union (KANU) which had held on to power since independence, 1963 to 2002 (Dercon & Gutiérrez-Romero, 2012; Harneit-Sievers & Peters, 2008). The coalition resulted in the cooperation between Mwai Kibaki and Raila Odinga, with the former becoming the presidential candidate of the NARC (Yamano, Tanaka, & Gitau, 2010). The 2002 election experience bolstered the confidence of Kenyan in multiparty elections.

The confidence in the ECK and the integrity of the 2007 national elections were weakened by Kibaki's appointment of eighteen out of the twenty-one commissioners of the ECK without conferring with the opposition, and the refusal of the ECK to make some reforms recommended by international observers (DFID, 2008). The two former allies in the 2002 elections were the main contestants in the 2007 elections. The coalition was split after Kibaki failed to honor the agreement for the coalition NARC (Yamano et al., 2010). President Kibaki contested on the ticket of Party of National Unity (PNU), while his main opponent, Odinga, contested as the presidential candidate of the Orange Democratic Movement (ODM) (Dercon & Gutiérrez-Romero, 2012).

On 30th December, 2007, the ECK announced the incumbent President as the winner of the presidential elections; the election was however viewed by domestic and international
observers as flawed (Ismail & Deane, 2008). After the declaration of the result, aggrieved parties resorted to violence to publicize their grievances (Yamano et al., 2010). Weeks after the declaration of the result, one of the most stable democracies in Africa witnessed a mass spread of violence and chaos. More than one thousand lives were lost and over 350,000 people were displaced as a result of the chaos (Dercon & Gutiérrez-Romero, 2012).

According to Ismail and Deane (2008), the local language media is somehow to be blamed for the cause of the conflict. Dercon and Gutiérrez-Romero (2012), on the other hand, attributed the cause of the conflict to the formation of political parties on ethnic lines and the allegation of election fraud and irregularities. The Department for International Development (DFID) accorded the cause of the violence to weak institutional arrangement. The long period of authoritarian rule in Kenya rendered the court ineffective since it failed in protecting lives and the right of the minority and ensuring credible elections. The court was then not trusted during the post-election crisis in Kenya (DFID, 2008). The conflict was resolved when a power sharing agreement was brokered between Mr. Kibaki and Mr Odinga, making the former the President and the latter the Prime Minister (Juma, 2009).

2.3.7b Ghana 2012

On 7th December 2012, elections were held in Ghana to elect its President. The election marked the maiden elections where biometric voting technology was adopted. Again, it marked the first time in the Fourth Republic where polling took place in more than a day. The EC Chairperson based on its collated results declared Mr John Dramani Mahama, the incumbent by default, as the winner winning 50.7% of the total votes, while the runner-up, Nana Addo Dankwa Akufo-Addo, polled 47.74%. After the declaration of the outcome, supporters of the NPP gathered at 'Obra Spot' in Accra, protesting against the electoral outcome. Akuffo-Addo calmed the political nerves of aggrieved supporters by telling them, the party would resort to constitutional means to resolve their grievances (Kwarteng, 2014).
Mr Akufo-Addo, Dr Bawumia and the Chairperson of the NPP, Mr Obetsebi-Lamptey (subsequently becoming the first, second and third petitioners of the case) petitioned the Supreme Court over the declared results of the EC. The validity of Ghana's 2012 Presidential election result was challenged in the Supreme Court, in the case *Nana Addo Dankwa Akuffo Addo & 2 Others v John Dramani and Other*. The first, second and third respondents of the case were John Dramani Mahama, The Electoral Commission, and the National Democratic Congress (NDC) (Atuguba et al., 2013). However, Mr John Mahama was sworn in as President on 7th January 2013, while the petition was still pending before the Court (Azu, 2015).

The petitioners alleged that the elections were marred by irregularities; therefore the declared results by the EC were invalid. The Case was heard by nine Supreme Court Justices, which was presided over by Justice Atuguba. The petitioners of the case sought from the Supreme Court:

I) "A declaration that John Dramani Mahama, the 1st Respondent herein, was not validly elected president of the Republic of Ghana;

II) A declaration that Nana Addo Dankwa Akufo-Addo, the 1st Petitioner herein, rather was validly elected president of the Republic of Ghana;

III) Consequential orders as to the Court may seem to meet" (Atuguba et al., 2013).

The petitioner alleged that the election had been marred by six forms of irregularities which were not in accordance with Ghana's electoral laws (Azu, 2015). The core grounds of the Election Petition Case of the December 2012 elections were: allegation of over-voting; persons who were not verified by a biometric machine were permitted to vote; presiding officers did not sign some pink sheets; different pink sheets had the same serial number;
different polling stations had the same codes; and there were recorded results of unknown polling stations (Atuguba et al., 2013).

According to Azu (2015), for the Supreme Court to determine whether Mr Mahama was validly elected president or not, the Court sub-divided the issues into two: "first, whether there had been violation of the electoral laws in the conduct of the presidential elections; and second, if there were such violations, whether they affected the election result" (155). The Court unanimously annulled the allegation pertaining to different pink sheets having the same serial number; different polling stations having the same codes; and the recorded results of the unknown polling station (Azu, 2015; Nkansah, 2016). On allegations of over-voting, voting without biometric verification and the absence of a presiding officer's signature, the Supreme Court in a majority dismissed the case (Azu, 2015).

In a narrow margin of five to four majority, the Court adjudged that first respondent had been validly elected as President. Four judges adjudged that the alleged cases of non-compliance, thus "over-voting, voting without biometric verification and the absence of the signature of the presiding officers on some of the declaration forms" (Azu, 2015), affected the result, hence the non-validity of the President-elect. On the other hand, five judges were of a different opinion.

It should be noted that the decision of the four minority judges was not unanimous, due to the diverse conclusions of the judges. The minority judges were satisfied that the petitioners had been able to prove the allegation of over-voting, voting without prior biometric verification and the declaration of results using inappropriate documents. Three of them adjudged that elections should be rerun at affected polling stations, while the remaining judges held that the entire presidential elections be rerun. According to Azu (2015), the minority judges agreed with the view that "the electoral laws in question are mandatory in nature; infractions against
them were 'monumental irregularities' that could not be mitigated by any lenient considerations" (157).

The other five judges held that it would be imprudent to nullify electorate decisions based on administrative irregularities. Therefore, they refused to annul votes based on the allegation of unverified biometric votes and declaration of outcomes using inappropriate forms. The majority adjudged that the EC was right to allow the electorate to exercise their franchise, which is their basic right, without a biometric verification. The five judges adjudged that the petitioners failed to show the allegation of over-voting. Again, the majority held that the number of irregular declaration forms was not significant to distort the outcome of the election (Azu, 2015). To buttress this, Akoto-Bamfo JSC held:

> Elections cannot be perfect so when we are faced with the consideration of irregularities that are alleged to have occurred in an election, we should exercise a reluctance in striking down every single vote just by reference to a provision of the law (Atuguba et al., 2013) (515).

### 2.4 CONCLUSION

The chapter covered the definition of some key terms like disputed election and political stability, in the study and the review of relevant terms. The chapter looked at how elections have been conducted in Africa over the years from colonisation to date. The chapter continued to probe some debates on various aspect of disputed presidential elections in Africa. The literature review revealed the manipulation of the incumbent government in the electoral process; the partialities and problems of the EMB; fraud and irregularities; and involvement of army officers in the electoral process as the major causes of disputed election. The chapter also examined at the role of judiciary in the resolution of disputed elections in Africa.
The literature review has revealed that disputed presidential election is a current phenomenon witnessed in many African countries. The literature review showed the role played by the judiciary during presidential election petition. Although, political parties play a crucial role in disputed presidential elections and its resolution, existing literature is silent on the role played by political parties during and after disputed election. Disputed presidential elections have resulted in the death of many and loss of property, however, literature on disputed presidential elections focuses on the causes of disputed presidential elections, and judicial adjudication of disputed presidential elections. The study seeks to fill the gap in the literature by identifying the roles played by the judiciary and political parties in ensuring political stability after a disputed presidential election.
CHAPTER THREE
THEORETICAL FRAMEWORK

3.1 INTRODUCTION
This chapter looks at the theoretical framework upon which the study is built. This chapter expounds the concept of election and the new institutional theory. Scholars and theorists have developed theories at different times and periods to understand and explain why certain events take place in the world.

Theory is defined as "the embodiment of statements of knowledge that has been developed by humanity in a form that has both use in the practical world where human beings act based on their knowledge and in the theoretical world where researchers validate or refute old knowledge and build new knowledge in the form of theories" (Venable, 2006). The theory is relevant in both social and natural science study. The social science has advanced through the development and testing of theory. Theory forms the basis on which a researcher situates his work in an area of study. The theoretical framework helps the researcher to classify the variables under study. Again, it helps the researcher to make a prediction on the relationship between variables. Finally, the theory serves as a guideline for the study (Venable, 2006)

3.2 THE CONCEPT OF DEMOCRACY AND ELECTIONS
The study is guided by the liberal democracy theory and its various assumptions rightly capture the aims of the study. The relevance of the liberal democracy theory to this study is underpinned by the fact that it is practiced in most democratic countries. Additionally, the aftermath of the Cold War has seen other forms of democracies declining (such as Direct, Presidential, Authoritarian and Islamic democracies). Schumpeter defined liberal democracy as "that institutional arrangement for arriving at a political decision in which individuals acquire the power to decide by means of a competitive struggle for the people's vote"
Schumpeter as cited in Van Ham, 2012). Huntington has defined democracy "as a political system in which the most powerful collective decision makers are selected through fair, honest, and periodic elections in which candidates freely compete for votes in and which virtually all the adult population is eligible to vote" (Huntington 1991: 7). Liberal democracy is premised on four main elements; citizens' participation, democratic rule, civil rights and liberties, and rule of law.

Citizens' participation is based on the inclusion of citizens in the creation and administration of government, and responsiveness of the government to the needs of the people. The right of citizens' participation is established by elections. Dahl identified numerous institutional requirements for democracy. Free and fair election was identified by Dahl as a basic prerequisite for democracy (Dahl, 2005), even though he failed to define what free and fair election meant (Elklit & Svensson, 1997). According to democracy theorists, 'majority' or people rule is the founding caveat of democracy. Robert Dahl claimed that a core element of democracy is its continuous responsiveness of representatives to the choices of its people. In his book, 'On Democracy', Dahl defined democracy as the system that offers opportunities for participation, equality, knowledge acquisition and the involvement of adults in the governing system. Scholars have identified the global expansion of democracy as the mechanism that introduced elections (Pereira, 2006).

Elections are core feature of democratic rule. As Bratton rightly put it, there cannot be democracy without elections. Ayee (1998: 2) stated that "elections are central to democracy because they offer the chance for the people to support or reject the performance of a ruling government." According to Ayee (1998), a hallmark of representative democracy is the opportunity it offers to be able to choose government officials through periodic elections.
The different definitions of the liberal democracy has led to the global accepted requirement of liberal democracy. The minimalist requirements for democratic consolidation include;

1. competitive or multiparty political system;
2. all adult citizens should have the right to vote in elections (with exceptions to those the constitution of the country place sanctions on)
3. periodic and competitive elections held under the atmosphere of ballot secrecy, reasonable ballot security and refrain from electoral malpractices, and that which report the actual will of the people;
4. unrestricted public access of political parties to the electorate through the media, and an even grounds for the electoral campaign (Van Ham, 2012).

Elections provide the ground on which the state establishes its authority or government to cater for its needs and to solve its problems. This authority is needed for the survival, equilibrium, and the stability of the state (Kaaba, 2015). Theorists have given various explanations of the need for such authority. According to Kaaba (2015: 26), "theorists like Hobbes, Spinoza, Rousseau, and Bentham, with variations, argue on the basis of a mythical construct of the 'state of nature' where human beings left to their own devices without a compelling authority, life would be chaotic and violent." The lack of a consensus authority in the society means the society would be in a perpetual warfare, where every man would be seeking for his own good at the expense of the general good. In such situations, living in the society would be likened to that of the jungle where the strongest survive; life in the society, then, becomes "solitary, poor, nasty, brutish and short." To ensure the protection of individuals' lives and properties and to maintain peace and order, there is a need for individuals to contract or agree to form a common authority to control public affairs (Kaaba, 2015).
Other theorists like Thomas Paine and John Locke argued that governmental authority of the state is instituted based on the will of the people. According to Paine, governments are created based on the will of the people. To him, governmental authority is needful for curbing crime in order for prosperity and stability to prevail in the society (Paine, 2004). Likewise, Locke regards the will of the people as the basis for the creation of government. The people collectively institute government to cater for their common good. Government is, therefore, answerable or accountable to its subjects since it derives its authority from them. Theoretically, there is the general consensus on the need for government in the state or society. Governmental authority can be assumed through these ways; conquest, monarchy, military revolution or intervention, and elections. Democracy advocates for government based on the consent of the citizens. Elections, therefore, are generally regarded as the appropriate mechanism through which authority or government is instituted (Kaaba, 2015).

The shortcomings of liberal democracy in African societies are found in the narrow and myopic definition of democracy which confines itself to party systems and the periodic holding of elections, administered and monitored by bizarre constitutions which claim to be upholding the rule of law. The current assessment of liberal democracy in Africa is the presence of multi-parties and the periodic elections. Most incumbent governments in Africa organise uneven competitive elections. Traditionally, most of the opposition parties in Africa end up being compelled to challenge the outcomes of the elections, and this eventually leads to further development of deadly political differences which ultimately culminate in armed conflict. Solomon and Lindenberg (2000) maintain that liberal democracy in Africa has resulted in corruption and misappropriation of national resources, tyranny, dictatorship, civil war and conflict.

Ayee (1998) highlighted that elections are justified on five grounds. First, elections give citizens the opportunity to participate in decision making, even though they may not partake
in decision making directly, elections offer the opportunity to indirectly participate in governance, through the elections of representatives. Second, through elections, public officials are put in check. Periodic elections go a long way to shape the actions and decisions of political leaders since they normally aim at winning the next election. Thirdly, elections have promoted equality in the distribution of national resources since it has compensated for private inequalities in the distribution of state resources. Fourthly, elections empower political leaders (representatives) to make decisions on behalf of the citizens and the state as a whole. Lastly, elections play an integral role in the democratic consolidation process of a country (Ayee, 1998).

The concept is relevant to the study because it informs us of the elements or features of a democratic election. It informs us about the processes and structures that govern democratic elections, in a way to choose legitimate political leaders. The critics of the concept argue that the numerous elections that are organised in Africa and some emerging democracies do not conform to the electoral theory. They opine that these elections in emerging democracies are characterised by violence and various form of electoral malpractices.

3.3 NEW INSTITUTIONAL THEORY

Political Science as a discipline generally focuses on the study of two things, power and institutions (Bell, 2002). Institutional theory has been used as a conceptual framework in Social Science since the mid-19th century. Scott (2013) attributed political institutional theory to the early works of Tocqueville (1856), Woodrow Wilson (1889) and W.W. Willoughby (1896). The approach dominated studies in the Social Science in the 1850s into the 1920s (Scott, 2013). Earlier institutionalists placed much emphasis on formal structures and legal structures.
Institutions are commonly referred to as rules or laws (Scott, 2001). According to Douglass North (2002: 4), "institutions are humanly devised constraints that structure political, economic, and social interactions." These constraints may be an informal constraint, thus traditions, norms, customs, and culture, or formal constraint; legislation or established organisation (North, 2002). Clemens and Cook (1999) claim that institutions are often regarded as constitutional laws and state organisation. North (1993), however, distinguished between institutions and state organisations. Institutions are the rules that govern an entity while organisations are the rule implementers (North, 1993). Institutions are created to serve the common good of the society. Institutions are established to ensure the protection of the human environment (Selznick, 1996).

Scott (2001: 6) defines "institutions as being composed of cultural-cognitive, normative and regulative elements that together with associated activities and resources provide stability and meaning to social life." According to Scott, institutions are synonymous with stability (Scott, 2001). The institutionalists assume that public institutions are created to serve the common interest of the society by providing "stability and meaning to social behaviour". Institutions tend to be regulative, normative, and cognitive in order to provide stability and meaning to social behaviour. Institutional theory has been used to account for stability and similarity in the behaviour of individuals or organisations (Palthe, 2014).

The regulative system involves the power to enact laws, inspect conformity to these laws, and impose sanctions or punishment on non-conformant behaviours as a means to influence actors' behaviour (Bührman, 2011). Rules and laws are effective if they have the power to sanction or punish non-conformant (Scott, 2001). According to Scott (2001: 4), "normative system defines goals and objectives, but also designates appropriate ways to pursue them." They define the appropriate standards by which institutions are to conform. These standards serve as a guideline for individual actions and behaviour. Institutions constrain behaviour by
defining legal, moral and cultural boundaries and clarifying activities which are legitimate or illegitimate (Scott, 2001). The cognitive system is concerned with socially enacted laws. Political actors act in accordance with how things are done in the society (Bührman, 2011).

The aftermath of the World War II saw the emergence of behaviourism. Behaviourists placed less emphasis on institutions, they rather emphasized political behaviour. Behaviourists argued that "political behaviour and the sources of political power were derived primarily through informal relationships within and beyond the institutions of government" (Bell, 2002). The behaviourists argue that behaviour of political actors can best be understood and explained through observation of individuals interactions rather than studying rules (Bell, 2002).

According to Bell (2002: 4), "new institutionalism amounts to 'bringing institutions back in". The 'old' and 'new' institutionalism cannot be described as being the same, rather the 'new' blends elements of the 'old' into the new-institutionalist styles of recent theories of politics (March & Olsen, 1983). The old institutionalism emphasized description rather than explanation or theory building (Bell, 2002). The new institutionalists expanded 'institutionalism' to include informal systems. Again, the 'new' does not only describe how institutions ought to operate, as the 'old' does, but it also studies how things are done. The recent interest in the study of institutions was necessitated by the continuous expansion and complexity of social, political and economic institutions, which were influential in societal life. Also, other schools of thought like 'Marxism' and 'Statism' placed emphasis on the relevance of the state in the political world (Bell, 2002). The new institutionalism stresses the greater autonomous role of political institutions. New institutionalism constitutes a diverse body of thoughts (Hall & Taylor, 1996).
The new institutionalism is associated with three main schools of thought; thus historical institutionalism, rational choice institutionalism, and sociological institutionalism (Hall & Taylor, 1996; Koelble, 1995). However, new institutionalism in Political Science has been categorized into two quite distinct schools of thought; the historical institutionalism and the rational choice institutionalism (Bell, 2002; Scott, 2001). It is worth noting that, each of these approaches presents a different picture of the political world (Hall & Taylor, 1996).

3.3.1 Rational Choice Institutionalism

According to Scott (2001: 34), rational choice institutionalists view "institutions as governance or rule systems, arguing that they represent rationally constructed edifices established by individuals seeking to promote or protect their interest". Rational choice institutionalists view humans as self-seeking individuals who aimed at maximizing their interest (Asah-Asante & Brako, 2015). They, however, argue that human preferences are shaped and influenced in the context of institutional framework (Bell, 2002). New institutionalism adopts the rational choice assumptions about human behaviour, by emphasizing how institutional systems influence purposive behaviour. New institutionalists assume that individuals choices are not solely influenced by collective expression of individual preferences or the result of structural characteristics of institutions, but rather as a complex interaction of values and structure (Brace & Hall, 1990). Rational institutionalism insists that individual and their strategic calculations should be placed at the heart of social science. Institutions are created by individuals who seek to maximize their interest with clear intentions (Koelble, 1995).

3.3.2 Historical Institutional

According to Scott (2001), historical institutionalism can be traced to institutional studies which focus on analysing regimes and governance systems. Historical institutionalists define "institutions as the formal or informal procedures, routines, norms, and conventions
employed in the organisational structure of the polity or political economy" (Hall & Taylor, 1996: 6). Institutions are assumed to comprise of formal and informal structures which shape and influence human behaviour (Scott, 2001). Historical Institutionalists stress that political actors' behaviour is influenced by the legacy of past actions. They assume that political actors' behaviour cannot be understood and explained save we study institutional systems that shape humans' behaviour (Scott, 2001). However, a critical assumption of the historical institutionalist is that even though political actors' actions and behaviours are constrained by rules and norms, they are "interpretative and choice making subjects" (Bell, 2002). Historical institutionalism helps to explain political actors' choice on a particular subject based on the institutional setting.

3.3.3 Assumption of New Institutional Theory

The new institutionalism is underpinned by various assumptions. First, the new institutionalist assumes that institutions establish element of stability and predictability (March & Olsen, 2010). Institutions influence and shape political actors' behaviour in order to act within an appropriate and acceptable standard (March & Olsen, 2006). The second assumption of the new institutionalism is that "the translation of structures into political action and action into institutional continuity and change are produced by comprehensible and routine processes" (March & Olsen, 2006: 5). Third, the new institutionalists assume that the interplay of institutions activities harmonises the creation of political order. Political actors adopt rules and procedures which are socially established, accepted and well-known. Institutions regulate the behaviour of political actors by establishing the rights and duties of political actors. Institutions create the authority to settle issues and resolves conflict (Weber, 1978). Fourth, institutions influence political actors' behaviour towards the attainment of social interest rather than individual interest. The last assumption is that political institutions are dynamic and irreversible (Olsen, 2009).
3.4 Deployment of the New Institutional Theory

Institutional theory has been deployed to explain political institutions such as the judiciary, political parties and elections (Asah-Asante & Brako, 2015). Institutions reduce disorderliness in the society by providing a structure for social life. The key role of rules, laws, and regulations in society is to reduce uncertainty by creating a stable system for social interaction (North, 2002). According to North (2002), stability is achieved through a complex set of constraints either formal, informal or both. Institutions serve as the ground on which individuals throughout history have created order and attempted to reduce uncertainty in their interactions (North, 2002). Institutions are necessary because they greatly influence and constrain political actors' behaviour and decision making and even the perception and powers of political actors.

New institutionalists stress on relative autonomy and independent effects of political institutions for effective performance (March & Olsen, 2006). According to the Handbook on Election Dispute in Kenya, "Kenya's experience of political violence is attributed to the lack of independent, well-resourced institutions mandated to resolve and effectively mediate disputed presidential elections" (Musila et al., 2013): 20). In relation to this study, the new institutionalisms predict that independent and well-resourced judiciary and political parties will result in an effective and amicable disputed election resolution.

Institutional scholars stress on the capacity of the institutional structure to impose an element of stability on a potential disordered society (March & Olsen, 2006). Institutions provide the basic structure by which individuals throughout history have established and maintained stability and attempted to reduce uncertainty in their interactions (North, 2002). The Constitutions of Ghana and Kenya (Article 64(2) and Article 140(2) of Ghana's and Kenya's Constitutions respectively) establish the Supreme Court as the authority for the settlement of
disputed presidential elections. The efficacy of disputed presidential elections resolution is dependent on the established institutional structures. Institutions play a key role in the resolution of disputed presidential elections. Dotse JSC asserted that the main function of the Supreme Court in the adjudication of disputed presidential election is to maintain political stability (Atuguba et al., 2013). In the context of this study, the theory predicts that judiciary adjudication of disputed presidential elections will maintain the political stability of the country.

The basic assumption of the new institutional theory is that political actor's act in accordance with established laws and rules. The new institutionalism enhances our understanding of the Judiciary and Political Parties, and how they operate within established laws and regulations. Institutional structures like the Constitution and other Legislative Acts define political institutions such as the Judicial and political parties, and how they operate. In addition, the constitution defines the appropriate procedure through which disputed election is resolved. The normative system posits that institutions define the appropriate standards by which political actors are to conform. The Constitutions of Ghana and Kenya require aggrieved parties in elections to petition the Supreme Court; this provision renders other mechanisms inappropriate and unacceptable. Mozaffar and Schedler asserted that political parties' participation in the electoral process means their acceptance of the rules, regulation and acts that govern the elections. The theory, therefore posits that aggrieved parties in disputed presidential elections will resort to the Supreme Court for redress. In the same vein, the theory predicts that political parties will honor the court's verdict on disputed presidential elections.

3.5 RESEARCH QUESTION

The central question the study sought to answer is whether institutional resolution of disputed presidential elections helps maintain the political stability of a country.
In the quest to answer this question, the study answers the following questions.

1. What has been the conduct of elections in Ghana and Kenya since 1992?
2. What accounted for the disputed presidential elections in Kenya 2007 and Ghana 2012?
3. Does judiciary adjudication of disputed presidential elections help maintain the political stability of a country?
4. What roles do political parties play in order to ensure political stability during and after the election petition?
5. What accounted for the political stability in Ghana to that of the contrast political instability in Kenya after elections were disputed?

3.6 CONCLUSION

The chapter expounds on the theoretical framework upon which the study is built, and how the concept of election and the new institutional theory helps in understanding and explaining the phenomenon under study. The basic assumption of the institutional theory is that autonomous political institutions help to establish stability in the society. It is, therefore deductive that judiciary adjudication of the disputed presidential election would help maintain the stability of a country. The chapter four of the study looks at the research methodology which lays out the procedure followed to solve the research questions.
CHAPTER FOUR

RESEARCH METHODOLOGY

4.1 INTRODUCTION

This chapter discusses the research methodology used in the study. The research methodology lays down the steps required for answering the research problem. In the view of Kothari (2004: 8) "research methodology may be understood as a science of studying how research is done scientifically." The research methodology stage provides the platform to explore the several methods employed by the researcher in answering his study problem and the rationale for adopting those methods. The methodology of a study helps to identify the research methods/techniques that are applicable to the study and those which are inapplicable (Kothari, 2004). The research method involves all the tools and technique that are relevant for carrying out the study (Walliman, 2017). The research methodology stage explains the various research methods employed, the reason why those methods are adopted, and the relevance of the adopted methods to the study (Kothari, 2004). It serves as the road-map for the research to identify, locate and sort out the various issues that encompass the theoretical underpinnings of the study that the researcher seeks to explain and establish.

A researcher needs to be abreast with the assumption underlying various methods, and also needs to be informed about the situation in which a method and procedure will be applicable to solving the problem. Thus, research methodology differs from one study to another. The methodology helps the scientist to plainly define the areas of interests and adopt the appropriate mechanism to achieve results. The research methodology arms the researcher with the necessary skills for gathering materials and for its arrangement, the conduction of the fieldwork, and data collection appropriate to the specific study (Kothari, 2004).
Creswell (2009) named three kinds of research design; qualitative, quantitative and the combination of the two-the mixed method. In his view, "the distinction between qualitative and quantitative research is framed in terms of using words (qualitative) rather than numbers (quantitative) or using closed-ended question (quantitative hypotheses) rather than open-ended questions (qualitative interview question)" (Creswell 2009: 3). The quantitative study is employed to answer the "how questions" while qualitative research deals with "why questions" (Biggam, 2015). The mixed method calls for the aggregation and integration of the qualitative and quantitative methods in a single study (Morgan, 2013). The quantitative study is concerned with the measurement of quantities or numbers (Creswell, 2009; Kothari, 2004). Quantitative research is applicable to studies in which variables can be quantified into numerical values (Kothari, 2004).

Qualitative research is exploratory in nature (Biggam, 2015). Qualitative research deals with qualitative phenomena such as issues pertaining to or involving quality or kind. A qualitative approach is employed when a study is conducted to investigate the motives for human behaviour, that is, why people think the way they do or why they do certain things (Creswell, 2009; Kothari, 2004). The qualitative research aims at exploring motives and desires which motivate human behaviour, by employing in-depth interviews for the purpose (Kothari, 2004). According to Kothari (2004), qualitative research is employed if a study seeks to find out how people feel or think about a certain issue or institution. Qualitative research helps to analyse the diverse factors which influence individuals to act in a particular way or which makes individuals like or dislike a specific thing (Kothari, 2004). Subjective assessment of attitudes, opinions, and behaviours are done using qualitative research.

This chapter outlines and explains the procedures and methods used in the study. The chapter comprises the research strategy, data collection, sampling techniques, sampling size, research
instrument, the rationale for the comparative study, ethics, and the framework for data analysis, limitation and challenges as well as fieldwork.

4.2 RESEARCH DESIGN

According to Creswell (2009:3), "research designs are plans and the procedures for research that span the decisions from broad assumptions to detailed methods of data collection and analysis." The research strategy deals with how the researcher seeks to conduct his research, by either employing a qualitative or quantitative or mixed method (Bryman, 2015). In brief, the research strategy is where the researcher describes how he plans to implement his research study. That is, the methods the researcher will employ to complete his empirical study (Biggam, 2015). The research strategy helps the researcher to make decisions regarding the aim, location, time, cost, and the sources of data pertaining to the study (Kothari, 2004). The research design plans for the sources and types of data which will be relevant to the study. Again, it clarifies the approach which will be useful for gathering and analysing the data. Finally, it budgets time and cost required for carrying out the study since these are the major constraints to a study (Kothari, 2004).

The study employs the Case Study Research Design. This approach will enable the researcher to conduct an in-depth investigation of a single or multi-problem and to understand the behaviour patterns of a unit (Kothari, 2004; Nayak & Singh, 2015). The approach will also enlighten the researcher's perception and give him a clearer insight into the phenomenon under study. The case study approach facilitates a detailed study of social units (Kothari, 2004). To Goodrick (2014:3), comparative case study involves "the analysis and synthesis of the similarities, differences and patterns across two or more cases that share a common focus or goal." Comparative case studies deal with two or more cases in a manner that produces more generalizable knowledge about causal questions (Goodrick, 2014). Case study enables the researcher to understand thoroughly the behaviour patterns of individuals (Kothari, 2004).
In the words of Kothari (2004:115), "through a case study, a researcher can obtain a real and enlightened record of personal experiences which would reveal man's inner striving, tensions and motivation that drive him to action along with the force that directs him to adopt a certain pattern of behaviour."

The study employed the qualitative interview method approach in the collection and analysing of data. The rationale for adopting this approach is that it provides the basis for making sound explanation, clarification and interpretation of research data. The use of interviews was consistent with the overriding research aim of finding the factors that account for disputed presidential elections in Kenya and Ghana. This gave the researcher the privilege to have a detailed discussion with interviewees who were privy to the issues. Corbin and Strauss (2008) stressed that qualitative research helps the researcher to obtain in-depth experience of the respondents and assist in determining how meanings are formed. One major setback of the qualitative method is that it consumes more time and requires huge funds (Kothari, 2004). However, according to Creswell (2009), the prolonged time spent on the field enables the researcher to acquire an in-depth understanding of the case under study and can report in detail on the cases. This lends credibility to the study (Creswell, 2009).

4.2.1 Collection of Data

Collection of data is an important stage in the research process. Collection of data starts after the study problem has been identified and defined and the research design drawn (Biggam, 2015; Kothari, 2004). According to Biggam (2015), a researcher may use more than a single technique to collect data. Kothari (2004) highlighted two major sources of data, the primary source and the secondary source. The study made use of these two major sources of data.
4.2.2 Primary and Secondary Data

Primary data are "those which are collected afresh and for the first time, and thus happen to be original in character" (Kothari, 2004). The nature of the study required that the researcher identified certain individuals with in-depth knowledge of the phenomenon under study. The primary data were collected based on the qualitative approach, through field interviews using interview guides designed and conducted by the researcher. Primary data were collected from political parties' officials, civil society organizations, academics and journalist.

According to Walliman (2017: 70), secondary data are "data that have been interpreted and recorded." The secondary data facilitated the literature review and the theoretical underpinning of the study area. Data were collected from books, journal articles, and constitutional document such as Ghana's 1992 Constitution. Official documents such as "Manual on Election Adjudication in Ghana" and the "Handbook on Election Disputes in Kenya" were useful to the study. The primary and secondary data helped provide a better understanding of the empirical study.

4.2.3 Population and Sampling Technique

According to Walliman (2017: 94) "population is a collective term used to describe the total quantity of things (or cases) of the type which are the subject of the study." Kothari (2004: 14) defined the population of a study "to consist of all the items under consideration in any field of inquiry." Thus, a population of a study can consist of particular kinds of objects, institutions, individuals or events (Walliman, 2017).

A sample design is a definite plan for acquiring a sample from a given population. The sample design specifies the number of objects to be selected as the sample. The adoption of an appropriate sampling technique is crucial in ensuring the efficiency of the research. Probability and non-probability sampling are the two main types of sampling methods.
Walliman (2017: 96) distinguished between the two by stating that probability sampling is "based on using random methods to select the sample" while the non-probability sampling is "based on selection by non-random means."

The nature of the study required that a purposive sampling of the non-probability sampling be employed. Nayak and Singh (2015: 84) defined purposive sampling as "selecting a sample on the researcher's own knowledge of the population, its elements and the nature of aims of the research". In purposive sampling, items of the sample are chosen by the scientist, based on his own preferences and discretion (Kothari, 2004). Thus, purposive sampling accorded the researcher the opportunity to select respondents who have in-depth knowledge of the case under study.

**4.3.4 Sample Size**

According to Nayak and Singh (2015), choosing a sample size for a qualitative study can be more difficult than doing so for a quantitative study, because of the lack of laid down rules to be followed. Therefore, deciding on the sample size for a qualitative study is dependent on what the researcher wants to find out, the purpose of the study, what data will be relevant for the study, the credibility of data collected, and what could be done with the available time and resources (Kothari, 2004). The qualitative study focuses on a smaller unit of the whole population so as to be able to study a particular phenomenon in great detail (Borrego, Douglas, & Amelink, 2009). Fourteen (14) respondents were selected for the study; these included four (4) political parties' officials (NPP, NDC and ODM), three (3) legal practitioners, two (2) academics, three (3) Civil Society Organisations (CSOs), and two (2) journalists. This sample size is justifiable by the information power concept of qualitative studies. The information power concept requires a small number of respondents who have vest knowledge on the study (Malterud, Siersma, & Guassora, 2016).
In the selection of the sample, some factors were taken into consideration, including the nature of the study, availability of funds, elements of the population, knowledge of the population and the objective of the study (Kothari, 2004). The selection of the respondents was based on their expertise and knowledge in Africa elections, particularly in Ghana and Kenya. These individuals do not only have a fair idea of the factors that account for disputed election but also about what accounts for political stability and instability after elections results are disputed.

4.2.5 Research Instrument

In-depth interview was the technique used in collecting the primary data for the study. The interviews were either documented or recorded on a voice recorder or both. Kothari (2004: 97) notes that the interview method of collecting data involves "presentation of oral-verbal stimuli and reply in terms of oral-verbal responses." An interview is a verbal conversation between two people with the aim of gathering important information for the purpose of the study. The method allowed the researcher to focus on the interview topics during the conversations. Again, the researcher was able to listen to respondents' interpretations and perspectives on the topic. Finally, the approach helped to collect in-depth information and details on a range of factors related to the topic understudied (Morgan, 2013). This method can be employed through personal interviews and telephone interviews, the study adopted both methods (Kothari, 2004). Twelve respondents who were sampled in Ghana were interviewed through a face-to-face interview. The remaining two respondents from Kenya were interviewed through a telephone interview.

Structured, semi-structured and unstructured interviews have been identified by scholars as the major types of interviews. In a structured interview, the interviewer has a predetermined list of questions, which he asks his interviewees in the same order and the same manner in order to maintain focus and little flexibility (Biggam, 2015; Edwards & Holland, 2013;
Nayak & Singh, 2015). The semi-structured interview allows for some form of flexibility in how and when questions are asked (Edwards & Holland, 2013; Nayak & Singh, 2015). In a semi-structured interview, the interviewer has an interview guide which points out key topics relevant to the study (Biggam, 2015; Edwards & Holland, 2013). Lastly, in unstructured interviews, the researcher introduces a topic and allows the interviewees to talk from their own perspective (Edwards & Holland, 2013; Nayak & Singh, 2015).

The semi-structured interview was employed for the collection of primary data. Edwards and Holland (2013: 30) assert that "semi-structured interviews are qualitative methods in use across the social science." It allowed the researcher to ask key questions and also allowed the interview process to take unexpected twists and turns (Biggam, 2015). Through this type of interview, the interviewees were given the opportunity to develop their ideas and speak in depth on topics raised by the interviewer (Nayak & Singh, 2015). The opportunity to ask further questions made room for clarification and a better understanding of topics.

### 4.3 RATIONALE FOR COMPARATIVE STUDY

Most governance systems practised in African countries were initiated by past colonizers. Ghana and Kenya were selected based on the assumption that in these two countries elections are driven by many factors such as ethnicity, leadership composition, intra-party factions, and party goals (Elischer, 2008a). Again, both countries have never experienced a civil war, and none of them is regarded as a failed or failing state. Ghana and Kenya have occasionally been described by Freedom House as electoral democracies (Elischer, 2013).

Both Ghana and Kenya initiated their current multipartyism in 1992 (Wahman, 2009). Ghana and Kenya have held seven (7) and six (6) successive elections respectively after the return to multiparty rule. These countries witnessed turnover of government in their third successive elections after the inception of electoral democracy, Ghana in 2000 and Kenya in 2002. The
constitutions of both countries establish the President as both the Head of State and Government (Article 57(1) of Ghana's 1992 Constitution and Article 131(a) of the Kenyan Constitution). Moreover, Article 63(3) of Ghana's Constitution and Article 138(4)(a) state that a person can only be declared as President when he/she receives more than half of the total votes cast.

Finally, the constitutions of both countries make provision for judicial adjudication of the presidential election petition in Article 64(1) of Ghana's constitution and Article 140(1) of the Kenyan constitution. In both countries, the Supreme Court is solely responsible for the adjudication of presidential election petition [Article 64(2) and Article 140(2) of Ghana's and Kenya's constitutions respectively]. There have been instances of disputed presidential elections in both countries- in Ghana during the 2012 elections and in Kenya, 2007, 2013 and 2017 elections were disputed. The cases present instances where two different mechanisms for resolving disputed elections were adopted by aggrieved parties. The political stability of Ghana (2012) was maintained amidst disputed presidential elections, while in Kenya (2007) disputed election erupted violence.

4.4 ETHICS

The researcher explained to respondents the relevance of the study and also assured them of total confidentiality of their responses to the questions posed as required by the ethics and standards of the academic profession. In addition, all respondents partook in the study at their own free will. None was forced or coerced to answer any question or make any contribution to the research. Those who refused to participate in the research exercise were never coaxed or persuaded to take part in the exercise by the researcher.
4.5 DATA ANALYSIS AND INTERPRETATION

After data has been collected, the researcher needs to make plans for analysis of the data (Biggam, 2015; Creswell, 2009). According to Creswell (2009: 184), "data analysis involves preparing the data for analysis, conducting different analyses, moving deeper and deeper into understanding the data, representing the data, and making an interpretation of the larger meaning of the data." The aim of data analysis is to make sense out of the information or data gathered (Creswell, 2009). The data analysis stage summarises and organises the collected data in a manner that answers the study question(s) (Kothari, 2004). The study employed the qualitative content analysis method.

Hsieh and Shannon (2005) asserted that content analysis is a commonly used qualitative study technique. According to them, the qualitative content analysis is defined as a research method for the subjective interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns" (Hsieh and Shannon, 2005: 1278). In qualitative research, the researcher gathers qualitative data and then analyse and reports on them in themes (Creswell, 2009). The aim is to categorize qualitative data into themes in order to provide an in-depth description of the social phenomenon under those themes as to how they are carried out in a particular setting (Zhang & Wildemuth, 2016). The qualitative content analysis is a research method used to analyse text data (Hsieh & Shannon, 2005).

Zhang and Wildemuth (2016) proposed eight steps to be followed when employing qualitative content analysis method. These steps include: preparing the data, defining the unit of analysis, developing categories and a coding scheme, testing the coding scheme on a sample of text, coding all the text, assessing coding consistency, drawing conclusions from the coded data, and reporting on methods and findings. According to them, "through a careful data preparation, coding and interpretation, the results of the qualitative content analysis can
support the development of new theories and models as well as validate existing theories and provide a thick description of particular settings or phenomena" (Zhang & Wildemuth 2006: 11).

The method helped the researcher to report on social phenomena in a subjective but scientific manner (Zhang & Wildemuth, 2016). A common setback of qualitative content analysis is that relevant and interesting information may be overlooked when data are being categorized. Data collected were categorized into themes that reflect the aim of the study.

4.6 LIMITATIONS AND CHALLENGES

A major challenge that the researcher encountered was getting access to respondents to participate in the study. Even though the study is a comparative study between Ghana and Kenya, due to lack of access to respondents in Kenya most of the respondents came from Ghana. The study had twelve respondents from Ghana and two respondents from Kenya. This hindered the researcher from ascertaining a greater number of Kenyans' perspectives on the topic. However, the researcher relied on secondary data to suffice for the respondents that could not be reached.

Another challenge of a qualitative study is time constraint. Like any other qualitative study, the researcher faced the challenge of time-constraint. The employment of a qualitative interview method as the prime method for collecting primary data was time-consuming. In some instances, interview schedules of some respondents were rescheduled due to their tight time schedules.

4.7 CONCLUSION

This chapter expounded on the research methods adopted and their relevance to the study. The chapter further explained how data will be collected; the tools and media through which the data collected will be analysed and interpreted; and the rationale of the comparative
study. Moreover, the chapter specified the moral ethics that govern the study. The chapter clarified how data was analysed and interpreted. The chapter ended with the major hindrance encountered during the study. The next chapter will present the data collected by the researcher through qualitative interviews. The data collected will be presented in various themes.
CHAPTER FIVE
DATA ANALYSIS

5.1 INTRODUCTION

This chapter presents the analysis of the data gathered by the researcher through qualitative interviews, in the attempt to find answers to the research questions raised and to achieve the objectives of the study through valid interpretations. The analysis of the data ultimately addresses the arduous task of the study which seeks to identify the mechanisms through which the political stability of a country could be maintained after a disputed presidential election, and to compare the management of disputed elections in Ghana and Kenya with a view to explaining political stability in Ghana in contrast to Kenya. Data were collected through a personal interview conducted on fourteen (14) respondents; these included four (4) political parties' officials (NPP, NDC and ODM), three (3) legal practitioners, two (2) academics, three (3) Civil Society Organisations (CSOs), and two (2) journalist. The study required that Purposive Sampling was used to identify participants for the study.

After transcribing the interviews collected purposively from the field, the researcher was able to identify the following themes; The Conduct of Elections in Kenya and Ghana since the Inception of Multiparty Democracy; The Challenges to Free and Fair Acceptable Elections in Kenya and Ghana; The Causes of Disputed Presidential Elections in Kenya and Ghana; Disputed Presidential Elections and Political Stability in Kenya and Ghana; The Role of the Supreme Court in the Resolution of Disputed Presidential Elections; The Role of Political Parties in the Resolution of Disputed Presidential Elections; The Contrast between Kenya's 2007 and Ghana's 2012 Disputed Presidential Elections.
5.2 The Conduct of Elections in Kenya and Ghana since the Inception of Multiparty

**Elections in 1992**

A respondent from a political party in Ghana asserted that, for elections to be regarded as credible, all the stages of the electoral process should be accepted as fair and transparent. In the pre-election stage, all stakeholders should agree on who qualifies to vote and who does not. There is also the need to publicize the number of registered voters in the electoral register. The electoral rules and regulations should be known to all stakeholders and must be accepted in advance before the election commences. Again, the rules should be fair to all parties without any impartiality. There should be an unrestricted access to appropriate media and other government facilities to enhance political parties' campaigns. The electoral arena should be an atmosphere free from intimidation from either army officers or other government officials. On the polling day, electoral materials and logistics should be distributed timorously across all polling stations throughout the country. The respondent from the NDC indicated that the distribution of electoral materials and logistics can greatly affect the quality of the election.

Based on the interviews conducted the respondents asserted that there has been an improvement in the conduct of elections in both countries over the years. One respondent noted that:

In 1992, both countries returned to multiparty rule after Kenya had been under one-party rule for more than a decade, while Ghana had been under a military rule for more than a decade. The founding elections, thus the 1992 general elections, in both countries were disputed. Thus, both countries started at the same level. Ghana moved on to have the 1996 elections which were quite acceptable but it was not so in Kenya’s 1997 election. Ghana went on to the 2000 elections where they had the alternation of power. In the first round of Ghana's 2000 elections, no party had the
minimum threshold of 50%+1 vote. In the 2000 alternation elections, the opposition NPP fought it only in the first round. It was in the run-off that the other opposition parties formed an alliance with the main opposition party, the NPP.

In the case of Kenya in 2002, it was an alliance of opposition forces which led to opposition victory. In Ghana in 2004, the incumbent party was elected; Kenya's elections results in 2007 were contested. The point is that they had a previous successful election and yet slipped into dispute. I have always given the advice that the fact that we have been conducting a successful election does not mean that we cannot slip into conflict. That is what happened in 2008, Ghana’s 2008 elections ended successfully but there was a potential for conflict particularly during the run-off. But in Kenya, they had problems in 2007 which resulted in violence. In the case of Ghana, the 2012 elections had contested issues yet it did not result in violence (Fieldwork, 2018).

The narrative from the respondents suggested that the quality of the conduct of elections in Ghana is comparatively better than that of Kenya. Respondents indicated that the quality of an election of a country can be measured based on the country’s adherence to electoral laws and regulations of the particular country. Therefore, there is no aggregate standard on which the quality of different countries’ elections can be measured and compared. This is due to the different electoral rules and regulations that govern various countries' elections. The respondents claimed that the electoral legislation and regulation serve as the yardstick for measuring the quality of the country’s election. For instance, two respondents pointed out that:

Quality of election refers to whether the electoral rules of the country are being followed to ensure that the mandate of the people is what is declared as the final result. So the
higher the mandate of the people is reported the higher the quality. If the mandate of the people is trampled upon or if there is difficulty in reporting the mandate of the people then the quality of the elections is compromised. Comparing Kenya to Ghana, the quality of election in Ghana is quite higher than that of Kenya (Fieldwork, 2018).

You can only compare the quality of your elections to what has happened in another country or compare the current quality of your election to what has happened in the past. so you can be comparing your own elections to where you have come from and then you can conclude whether you are making progress or you are retrogressing (Fieldwork, 2018).

Ten (10) respondents indicated that there cannot be a perfect election devoid of irregularities. According to the respondents, what is important in an election is that the final outcome represents the decision of the electorate. Respondents indicated that in Ghana and Kenya there is no barrier to citizens' electoral rights, thus, qualified members of the electorate are not prevented from registering. Likewise, the registered electorate are not prevented from voting on polling day. Again, there is a relatively fair access of the media by political parties, even though; some media houses are somehow political affiliated to a particular political party. They urged that electoral irregularities need to be minimized in order for election results to depict the decision of the electorate. Respondents agreed that Ghana's election is of a higher quality because it often reports on the decisions of the electorate. Two (2) respondents noted:

On the African continent, Ghana's elections are perceived to be of higher quality than most African countries. And again comparing the quality of Ghana's elections now as against its previous performance I think that Ghana has come a long way so in both directions either comparing with our own situation or comparing Ghana with other
countries I think that our elections stand out as one of the best even though we still have room for improvement (Fieldwork, 2018).

Generally, my impression about elections in Ghana during the Fourth Republic is that elections tend to reflect the will of the people. This means that even though we may have reservation about many aspects of the election, in the end, the kind of outcome we get tends to be more or less what the majority of the people really wanted in the election (Fieldwork, 2018).

5.3 Challenges to Free and Fair Acceptable elections in Kenya and Ghana

The conduction of elections in Africa, particularly in Kenya and Ghana, is not a new phenomenon. The colonial leaders of both countries introduced elections in these countries during the colonial era. While Kenya fell into decades of one-party rule, Ghana was subjected to decades of military rule. The inception of the current multiparty competitive elections was introduced in both countries in 1992. Since the inception of multiparty democracy in Kenya and Ghana since 1992, there has been a gradual progress in the quality of elections in these countries. Elections in Kenya and Ghana are characterized by various forms of violence; the apex is that of the 2007 Kenyan elections. Violent-threat issues still linger in the electoral processes of these two countries.

Elections are a core element of democracy. Ensuring freeness and fairness in the conduction of an election is imperative. Credible elections devoid of electoral irregularities heighten the acceptance of electoral results. Even though elections are seen as a mechanism for establishing democratic stability in a country, the conducts of elections have tended to destabilize many African countries. In Kenya and Ghana, the electoral process is characterized by various challenges. The United Nations Development Programme (UNDP) observed that challenges to African elections include failure of the incumbent government to
organize an evenly competitive election. Another challenge to African elections is electoral violence, specially, among ethnic divisions. There is the challenge of lack of autonomy of the Electoral Commission and inadequate resources allocated for the conduct of elections. The electoral process in Africa also faces the challenges of limited opportunities for full participation by women and other marginalized groups (Fieldwork, 2018).

Respondents agreed that the major setback of Ghana's elections is the high illiteracy rate of the electorate. An editor of a newspaper in Ghana who was interviewed said that; "I think the main challenge of elections in Ghana is increased illiteracy." According to a Lecturer in the Department of Political Science, University of Ghana, the electorate tend to accept the assertions, promises and allegations of the party officials they support hook, line and sinker. Data collected indicated that most voters do not know the implications of democracy- for example, the fact that they should cooperate with each other even when they hold divergent views or support different political parties; the need to agree to disagree; or accept each other's view. The Lecturer opined that:

...the majority of the people are uninformed hence they tend to accept any "nonsense" thrown to them by their political party officials. Therefore, they are ready to harm or kill each other for their parties if they are asked to do so (Fieldwork, 2018).

One other challenge identified by eight respondents as a challenge of Kenyan and Ghanaian elections is the winner-take-all system. The winner-take-all system has rendered elections to be a matter of life and death. Losing an election is, therefore, seen as losing everything. An official of Orange Democratic Movement stated, "when you win an election in Kenya, it means you are really in (thus, the administration of the state); on the other hand when you lose it means you are out."
Respondents agreed that various forms of irregularities marred Ghana and Kenya's elections at the various stages: thus; pre-election, election and post-election stage. Four respondents raised issues on the current Voter Register of Ghana. They argued that even though the biometric system has been able, to some extent, to check multiple registration and impersonation, the biometric system cannot detect whether a person is underage or non-Ghanaian. Again, the current register is bloated with the names of underage and dead names. Two respondents named emigrant voting as one set-back to Ghana's electoral system. Personnel from IDEG and Lecturer from University of Ghana stated:

Ghana is found in-between three other countries, francophone countries, and unfortunately, people living in Togo, Burkina Faso and Ivory Coast are able to cross the border to come and register to vote in Ghana (Fieldwork, 2018).

...there are times where emigrants are allowed or influence to vote for a certain candidate with the threat of forcing them out of the country if they do not comply (Fieldwork, 2018).

5.4 The Causes of Disputed Presidential Elections in Kenya and Ghana

Twelve (12) respondents interviewed attributed the cause of disputed elections to electoral flaws. According to personnel from IDEG, political parties do not deliberately aim at causing conflict or confusion after an election. It is when the rules of the game are not scrupulously adhered to, that, they tend to dispute elections results. It was indicated by the respondents that some of these electoral irregularities are purposive actions of incumbent governments tailored to direct the electoral process in their favour. An ODM official and a Kenyan legal practitioner also attributed the cause of the 2007 Kenyan disputed elections to widespread electoral irregularities. The lack of autonomy of ECK was revealed as the reason why the 2007 Kenyan elections were disputed. The ODM official stressed that the president had a
greater influence on the ECK which led to the rigging of the electoral results. Again, respondents identified widespread electoral irregularities as the cause of Ghana's 2012 dispute elections.

Nine respondents pointed to the 'winner-take-all syndrome' as another cause of disputed elections. A research personnel at IEA Ghana indicated that in Africa when you lose elections it means you have been relegated from the administration of the country. A political science lecturer at the University of Ghana likewise argued that the 'winner-takes-all' system makes elections to be seen as 'a win at all cost'. Political parties are, therefore, unwilling to accept election results when they are defeated. A representative for CDD Ghana noted that "in all Ghana's elections defeated political parties have initially rejected the electoral outcome".

Other factors indicated as causes of disputed elections include; lack of or inadequate knowledge about the laws, rules or regulations; suspicions that the elections might have been rigged by an opponent, especially the ruling party; suspicions officials of the EC will be biased against a party/parties and act in favor of one especially the ruling party or main opposition party; intimidation, including by the presence of party-hired machomen (strongly built men) at polling stations coupled with unfair or perceived unfair handling of party followers by security officials; deliberate acts of party officials/followers including raising false alarms of irregularities regarding printing or distribution of ballots; refusal to accept election results either collated by party or officially declared.

A representative of ODM retorted that the 2007 Kenyan election was rejected based on the unfairness of the Electoral Commission. According to the representative, the president had control over the Electoral Commission, hence the EC was not able to independently coordinate and manage the elections. He indicated that the then incumbent president of the country was able to influence the EC to declare him as the winner of the elections. Other
respondents also pointed to the unfairness and dubious actions of the Kenyan EC as the cause of the 2007 Kenyan disputed elections. For instance, two respondents asserted that:

With the Kenyan 2007 elections, there was every indication that the opposition had won, but the numbers were dealt with. If you look at the pattern of the result as they are coming, normally you can project who is in the lead and all of the sudden you see a shift to the other direction without any significant evidence. It heightens the suspicion that there has been a foul play (Fieldwork, 2018).

... They thought that they (ODM) were unfairly treated. I think given the way the elections went, I believe Raila Odinga won the elections and the fact that they were really exploited influenced them to dispute the election (Fieldwork, 2018).

According to the Kreigler and Waki Reports (2009), the President did not need to consult any other institutions when appointing the commissioners of the Kenyan Electoral Commission. Electoral Commissioners' office tenure was a period of five years; subjected to renewal. Prior to the 2007 Kenya elections, ten (10) commissioners were appointed in January 2007 to coordinate and manage the general elections scheduled for December 2007. The appointment of the new commissioners contributed to pre-election tension, and hence subverted the credibility of the Kenyan Electoral Commission as an independent body capable of holding free and fair elections.

Again, respondents pointed to the inauguration ceremony of the president after the elections as raising suspicion that the election had been rigged. One respondent asked, "If the election was free and fair why was the president in a hurry to swear himself in as the President?" The inauguration ceremony of the President was held a few hours after the declaration of the elections.
Even though an ODM official was of the view that the appointment of Electoral Commissioners tend to taint the election process with irregularities tailored in favour of the incumbent, an official of the NDC was of a different view when it comes to Ghana's elections. The NDC official noted;

...empirical evidence does not seem to support the idea that whoever appointed the electoral commissioners will win the next election. I do not think that view can be substantiated by evidence. The first electoral commission that was established, the commissioners were appointed by the (P) NDC government. It was on that basis that NPP boycotted the parliamentary elections in 1992...

But none of the members was changed, and they were the same seven (7) commissioners that held the 2000 elections and declared the NPP as winners. Even though all the commissioners were NDC appointees they went on and declared the NPP winners, it did not push them to rig and declare the NDC as winners.

Then when NPP came to power, one of the commissioners was enticed to resign and take another better-paid job so they had the opportunity to fill his position and then three others also retired during their time. So, in the end, the NPP had four commissioners appointed by President Kufour out of the seven. In a sense, they had the majority on the commission but the same commission declared the result in favour of the NDC in 2008 and 2012. And when we (NDC) came to power, NDC government appointed Charlotte Osei to replace the retired Afari Gyan. The NPP was complaining Charlotte Osei will rig elections, yet they did not reject the election outcome when she declared them as winners. These things show that the appointment of the Electoral
Commissioner is not a factor. The person who appoints the commissioners does not necessarily win elections.

Almost all respondents who reported on Ghana's elections did not attribute the causes of disputed elections to the impartiality of the EC. Rather they were of the opinion that Ghana's EC had proven itself to be credible in the coordination and management of elections in Ghana. With regard to the cause of Ghana's 2012 disputed elections, respondents were of two diverse views. The majority was of the view that the opposition party, the NPP, had evidence of irregularities hence it petitioned the EC to delay the declaration of electoral results. The EC refusal to hearken to the request of the NPP and the statement of the Chairman which suggested that the NPP could go to court if it had any grievance over the declared result influenced the NPP to petition the Supreme Court. An IEA official indicated that the NPP was able to show the prevalence of electoral irregularities at places where the EC granted them the permission of recount. This meant they could have shown irregularities that have taken place in some areas or polling station if the EC had delayed a bit before declaring the election. When respondents were asked, "what was the cause of the 2012 elections?" an IEA and NPP representatives retorted;

…While the EC was saying that no biometric verification no vote, the president was giving the instruction that without the verification of a biometric machine one could vote. There were challenges with the biometric system and where the ballot boxes were to be kept for the second-day election proved that there was something wrong. Another issue was the gap between the presidential vote and parliamentary vote. The biometric system in Ghana was a major issue, in some areas the machines were not working well. There were conflicting directives (Fieldwork, 2018).
The NPP disputed because we had evidence to prove that the result was questionable. Second, we thought that the EC should have given us enough opportunity to bring up all our issues and the EC did not do that but rather recommended that we go to court (Fieldwork, 2018).

Four respondents were of the view that the opposition, NPP, went into the 2012 election with the attitude of "a win at all cost". Therefore, a loss in the elections was too hard for them to accept. An official from a political party in Ghana stated that, the NPP refusal to accept the election results and its eventual petitioning the court was a political strategy aimed at keeping the momentum of the political parties. It seems the strategy did work because two academic respondents asserted that the 2012 election petition case changed the international perception about the opposition leader, Nana Addo, as a violent man and he started winning the 2016 elections from that time.

5.5.1 Disputed Presidential Elections and Political Stability in Kenya and Ghana

Most respondents claimed that all countries that have electoral democracies are prone to disputed elections. An editor of a Ghanaian newspaper indicated that even an advanced country like the USA has fell prey to disputed elections, therefore, the recent phenomenon of disputed elections in emerging democracies, especially Africa, come as no surprise. Respondents agreed that disputed elections are a major source of political instability in Africa. An official from IDEG stated that wherever there has been post-election violence it has been because of disputed elections.

In 2007, Kenyans killed themselves because of disputed elections. In another country like Burundi, and Cote d'Ivoire disputed elections have erupted violence. Respondents highlighted the need to minimize the causes of disputed elections in order to maintain the existing political stability. One respondent stressed that, twenty-five years ago when African countries
were under authoritarian regimes the political system was less stable compared to the recent practice of the democratic political system. However, disputed presidential elections associated with the recent political phenomenon can roll the progress back.

5.5.2 Mechanisms for Resolving Disputed Presidential Elections

Defeated parties may either resort to court to address their grievance or go to the street to publicize their grievances or adopt both. According to respondents, in both countries, Kenya and Ghana, defeated parties have adopted different mechanisms at different times. In their initial elections, thus the 1992 election, opposition parties of both countries contested the elections. In both cases, elections were not contested in court. In Ghana, the opposition boycotted the parliamentary elections. In the case of Kenya, the 1997 and 2007 elections were disputed outside the court, the 2013 and 2017 elections, on the other hand, were disputed in Court. In the 2017 elections petition case, the court gave a remarkable judgment by annulling the Electoral result and ordering for a re-run of the elections. In Ghana, the NDC went to court over few constituencies during the 2004 elections. In 2012, the petition was about the entire presidential election.

Ten respondents indicated that when the Judiciary is perceived to be independent and impartial there is a higher likelihood of political parties resorting to the court rather than resorting to non-institutional mechanisms. Respondents pointed to the perceived independent and impartial nature of Ghana's Judicial/Supreme Court as the main reason which influenced the NPP to petition the Supreme Court over its grievances over the electoral result. On the other hand, political parties will resort to street protest when the Judiciary/Supreme Court is viewed to be partial or there is a great extent of influence of the executive on the Judiciary. Again, political parties will resort to street protest when the avenues for going to court are either blocked or the means to access them are delayed unnecessarily. An ODM official argued:
...the ODM did not resort to the court because the Judiciary was controlled by the President. The President had the power to sack and appoint Supreme Court judges at any moment in time. Therefore, petitioning the Supreme Court over electoral irregularities which involved the incumbent government, was synonymous with petitioning the government to preside over its own case in court as a defendant.

Also, when a Kenyan lawyer was asked: "why did the defeated parties fail to petition the Supreme Court during the 2007 elections?" She retorted:

...lack of trust in the judiciary then. Also, previous presidential petitions had dragged in court and never dispensed with. The law then did not have clear timelines for dispensing with presidential election petitions.

Moreover, when four respondents from political parties-NDC, NPP, and ODM- were asked: "which mechanism is your political party likely to resort to when there is a future disputed election?" They stated that they will go to the Court. Again, the remaining ten respondents who responded to a similar question indicated that relying on the past experiences of how disputed elections have been managed in both countries, there is a higher likelihood of political parties resorting to the Court for redress than going to the street to protest.

5.6.1 The Role of the Supreme Court in the Resolution of Disputed Presidential Election

Other studies have recorded that the ODM failed to petition the court because of lack of confidence in Kenya's judiciary (De Smedt, 2009; Harneit-Sievers & Peters, 2008; Long & Gibson, 2015; Roberts, 2009). According to Thiankolu (2013), in the "Handbook of Election Disputes in Kenya";

"due to the perception that the court could not honestly arbitrate political dispute, the aggrieved side refused to refer the disputed 2007 presidential election to the court-
leading to an unprecedented loss of life and property in the violence that ensued following the declaration of the result” (Thiankolu, 2013)

Twelve respondents who reported on Ghana's Judiciary indicated that the Judiciary in Ghana is highly independent. A member of the Ghana Bar Association stated that he cannot identify a major activity of the other organs of government which serves as an encroachment on the independence of the Judiciary. What he could point to is the deliberate delay on the part of the executive to release the consolidated fund from which they are paid. Another legal practitioner also cited the control of the consolidated fund by the Executive arm of government as an impediment on the activities of the Judiciary. A respondent from IDEG opined that in Ghana, the Judiciary to a large extent is independent especially at the higher levels of the court, thus the Higher Court, Appeal Court and Supreme Court. He continued that the Judiciary in Ghana is independent at these levels and therefore they are qualified to handle the post-election dispute. The General Secretary of a political party in Ghana stressed that even though the appointment of a Supreme Court Judge is done by the President in consultation with the Judiciary Council, it is subjected to the approval of the legislature.

A journalist mentioned that the independence of Ghana's Judiciary is ensured because they are guaranteed their job, thus, they have the security of tenure. He further said that a government may appoint Supreme Court Justice but it does not necessarily mean the executive will have control over them. He stated that;

The Supreme Court values its dignity, therefore, you can appoint all the nine judges, if there are flaws, given Ghana's experience, it will be difficult for them to rule in your favour if elections have blatantly been flawed. The security of tenure makes sure that they are independent of the other organs of government.
Again, respondents assured that the appointment of the Chief Justice and other Justice of the Supreme Court does not mar the independence of the Judiciary. As one respondent stated, ―I do not think there are any other means of getting Supreme Court Judges appointed."

An editor of a private newspaper in Ghana stated that there is a general perception that a judge appointed by a President to the Supreme Court is politically affiliated to the political party of the government. In his view, this perception is incorrect. He cited the case of United State, where the Supreme Court Judges' affiliation to a political party is publicly known. This system does not affect the operation of the Judiciary since it acts as an independent body.

When the respondents were asked whether they view the Supreme Court as the appropriate institution for the adjudication of disputed presidential elections, twelve of the total respondents responded that "the Supreme Court is the appropriate institution for resolving disputed presidential election." During disputed presidential elections, the Judiciary exercises its judicial review powers; hence the Highest Court of the land is the appropriate institution to do this. A member of Ghana Bar Association who was interviewed remarked that the Supreme Court is seen as a representation of the people; therefore, every decision of the court falls in tandem with the interest of the people. He argued that an election will be annulled by the Court if there is a clear evidence of widespread irregularities in the electoral process.

However, a respondent showed a setback in the judicial process of the Supreme Court. He indicated that the constitution does not establish an upper limit of the number of Supreme Court Judges sitting on a case. He noted:

    So we (Ghana) have witnessed the situation where the Supreme Court has sat on a case and the decision had been four against five against the government. The then President Kufuor proceeded to appoint two more judges and swore them in before an application for review of the decision. The earlier decision of the Court was then
overturned in a six to five ruling in favour of the government. This is a depiction of how the government can use the Supreme Court in a capricious manner to advance their agenda.

On the contrary, a minority of the respondents were of the view that there is a need for a special court specialized in election-related issues to adjudicate election disputes. According to one respondent:

I would have wished they set up a special court with enough knowledge on elections so that they will not fall on a different institution (KPMG) for the audit of the electoral results. Such a court would know the parameters of elections.

5.6.2 The Role of the Supreme Court in Ensuring Political Stability during the 2012 Elections Petition Case

Nine respondents said that the Supreme Court contributed to the peace of Ghana when it served as an independent arbiter of the election dispute. The respondents were of the view that the Court dispensed the case base on the evidence of proof provided. The Court’s effort to allow the proceeding to be telecast live on television and radio for everybody to watch and listen helped to calm nerves during and after the election petition case. The open and transparent manner in which the court proceedings were organized calmed nerves of citizens since they felt part of the court proceedings. The live telecast of the Court proceeding made it difficult for anybody to rely on hearsay. One respondent stated:

...there was no hearsay; everybody saw everything, what they will say in Ghanaian terms 'everybody saw it feeling feeling'.”

Eight respondents indicated that the sanction of political parties’ officials with contempt charges helped to sensitize the media wave. Data collected identified the media to be a
propagator of conflict if it is checked. The media and the general public were put to check when officials from the NPP, NDC and some media houses were arraigned before Court for the derogatory statement made during the Court proceedings. A lawyer said the swift ruling on these people who were charged with the contempt charges proved to the general public the Judicial Power of the court. According to respondents, this act of the court helped to keep political parties' commentators from making derogatory statements which could have generated violent activities during the Court proceedings.

Three respondents were of the view that the Supreme Court did not play any role in ensuring the political stability of Ghana during and after the elections. To them, the Supreme Court only gave its verdict and did not do anything to ensure the political stability of the country. They contended that the Court Verdict itself was contentious, which could have led to political instability had political parties responded to the verdict in a different way.

Eight respondents cautioned that disputing electoral result in the Court does not necessarily maintain the political stability of the country. Interviewees indicated that it is possible for defeated parties to resort to violence after the Judiciary adjudication on a disputed election. A respondent stated that when the verdict of the Court is viewed to be skewed in favour of the other, there is the likelihood of loser disputing the judiciary verdict on the street. Defeated parties are likely to resort to street violence when the verdict of the court does not meet the expectation of the people.

5.6.3 Shortcomings of the 2012 Election Petition Court Proceeding

Data from the fieldwork indicated areas where the 2012 election adjudication falls short. In terms of the election result, the Court conceded that there was some form of electoral irregularities, yet no one was punished for the perpetuation of these electoral irregularities. A legal practitioner in Kenya noted;
The Supreme Court of Kenya has the jurisdiction to hear and determine a presidential petition. It will only determine the legality of an election and either uphold it or nullify it. Sanctioning would be another matter to be determined by another independent court (Fieldwork, 2018)

An NDC official also stated:

If I can rig election and go scots free, what prevents me from indulging in electoral malpractices in the next election (Fieldwork, 2018).

Another setback seven respondents identified with the 2012 Election Petition Adjudication was time spent on the adjudication of the case. Respondents raised the concern that eight months spent on the adjudication was too much a time for the court to come to a decision. According to the seven respondents, the duration of the Court proceedings was long, which in turn heightened tension in the country. Respondents also pointed to the Ayawaso West Wuogon Constituency Case (Republic v. Electoral Commission and Another; Ex Parte Amoo [1997-98] which took the Court more than three years to decide on. The adjudication process started immediately after the December 1996 presidential and parliamentary elections. However, it was decided three months to the next elections. Consequently, NPP's George Isaac Amoo who won the case never got to taste a day in parliament as the life of that parliament had come to an end.

5.7 The Role of Political Parties in the Resolution of Disputed Presidential Elections

Respondents pointed that political parties play a major role in ensuring political stability or contributing to political instability during elections or disputed elections. Data collected from the fieldwork indicated that political parties contributed to the political instability that erupted in Kenya after the 2007 disputed presidential election. Again, the data collected identified the
role played by political parties in maintaining the political stability of Ghana after the 2012 disputed presidential election.

All respondents attributed the peaceful atmosphere in Ghana after the 2012 disputed election to the actions of political parties, especially the NPP and the NDC. Data collected indicated that the leaders of the NPP played a phenomenal role in maintaining political stability after the Court verdict on the 2012 Presidential Election Petition. The first step of the opposition party to resort to the Court rather than to hit the street to protest the 2012 electoral result was a great leap to ensuring political stability after the election was disputed. Four respondents said the verdict of the Supreme Court was not a true representation of the court proceedings. These respondents stated that the Supreme Court verdict was questionable which meant it could have easily triggered political instability. For instance, two respondents stated:

If you look at all the evidence, the final verdict was not the result that was expected. So it could have led to instability had Nana Akufo-Addo rejected the Court verdict (Fieldwork, 2018).

...given the way the 2012 election petition went, it raised concerns about whether the Judiciary is actually independent in taking their decisions. And it is surprising to hear a Supreme Court Judge say that 'signatures do not matter' (Fieldwork, 2018)

Twelve respondents maintained that the political stability of Ghana which was maintained after the election was disputed was due to the actions and inactions of political parties' officials and its supporters. All the respondents which reported on Ghana's 2012 disputed election praise the opposition party, NPP, for playing a significant role in maintaining the political stability of the country. Five respondents noted that:
The leaders of the political parties ensured that after the election nobody went to the street to demonstrate against the court verdict. And this for me was one of the very important things political parties did to calm nerves (Fieldwork, 2018).

The political parties played a major role in ensuring political stability after the disputed election by preventing their supporters from taking to the street or engaging in violent activities. Give credit to Nana Akufo-Addo; he could have refused the verdict of the Supreme Court and the country would have been in flames (Fieldwork, 2018).

The behaviour of the then president presidential candidate of the NPP- who said that he disagrees with the ruling but he accepts the ruling," and that he was not going to ask for a review- played an important role. I believe Nana Addo did not come to his own decision, rather the party, in general, came to that conclusion (Fieldwork, 2018).

It is because of the way political parties managed their supporters. The parties took charge of their supporters and assured them they should be patient and let the party follow the due process. That is what amounted to the political stability we enjoyed after the election was disputed (Fieldwork, 2018).

It takes two to tango, so if one political party did not want to fight, the other will not be provoked to respond. There was no provocation to respond to, that is, why there was no conflict (Fieldwork, 2018).

Again, ten respondents who reported on Ghana's 2012 disputed elections also praised the action of the then incumbent political party, NDC, for contributing to ensuring the political stability of the country after the result of the election was challenged and court verdict. Two interviewees said;
The NDC ensured that after the election verdict its supporters did not go to the street to celebrate (Fieldwork, 2018).

After the election verdict the NDC could have so teased the opposition to infuriate them to do something else; had this happened it could have incited the opposition supporters to defy the decision of their leader (Fieldwork, 2018).

In Kenya, on the other hand, respondents indicated that political parties were among those who incited the violence. One respondent asserted it was quite clear that the leaders of the political parties were part of the people who incited the violence. The resolution process, which was led by the former UN Secretary General- Kofi Annan, revealed that the leaders of the political parties were behind the political instability that ensued in Kenya after the 2007 elections. That is why two politicians, Ruto and Kenyatta, were indicted before the International Criminal Court. The Kreigler and Waki Reports (2009: 54) stated that;

"...the pattern of violence showed planning and organization by politicians, businessmen and others who enlisted criminal gangs to execute the violence...Some responsibility for the violence remains with the country's politicians who precipitated the violence by among other actions and omission: Conducting election campaigns in a strident and confrontational manner, thereby creating an atmosphere of tension; failing to create confidence among voters around the electoral processes and institutions."

5.8 Contrasting Kenya’s 2007 and Ghana’s 2012 Disputed Presidential Elections

Data from the fieldwork indicated that the political instability experienced in Kenya after the 2007 disputed elections as against the political stability that was maintained in Ghana after the 2012 disputed election can be explained based on the ethnic setting in both countries. In unison, respondents pointed to the ethnic politicization in Kenya as the major cause of
political instability in Kenya after the disputed election. Respondents averred that Kenya's elections are deeply rooted along ethnic lines. A lecturer opined that,

In Kenya, few ethnic groups have dominated the political system. Jomo Kenyatta was a Kikuyu and he was succeeded by Moi, a Kalejin. Again, Mwai Kibaki and Uhuru Kenyatta are also Kikuyu; hence the other ethnic groups have been left out (Fieldwork, 2018).

A Kenyan respondent of Kaaba's (2015:74) study indicated that;

"In Kenya, we have a culture that says to help someone who is closer to you and someone of your tribe is closer to you. So if I vote my tribe he'll develop my rural area, bring infrastructure there. If I'm looking for employment it is easier for me if my own is at the top."

In Kenya, two ethnic groups have occupied the president's office since independence without any prospect for the others. Elections are, therefore, organized on ethnic lines or differences, and these ethnic groups have their traditional and historical rivalries. So whenever there are such elections those traditional and historical enmities are rehashed. According to an official from IDEG, prior to the 2007 Kenyan elections, there had been so much ethnic tension. Therefore the moment it was announced that the coalition led by Odinga had been defeated, the supporters could not even wait for the other side to strike. According to Long (2012: 2), Kibaki polled 94% of Kikuyu's votes during Kenya's 2007 general elections, while Odinga received 99% of his Luo tribe votes and Musyoka garnered 82% of his fellow Kamba's votes. Kenyan voters may vote for co-ethnic or allied ethnic leaders (Long, 2012).

Six respondents drew a distinction between Ghana's situation from that of Kenya. In their view, the two hostile ethnic groups in Ghana, thus the Asante and Ewe, do not decide who
wins elections. As one respondent stated, "Ghana has its own ethnic problem, but in Ghana, they have an ethnic fortune." This is rooted in the fact that the Akans who form the majority are not cohesive. So the alternation in power, Ghana has been achieving is because the Akan regions keep changing the groups that they vote for. Although the two ethnic groups support the two main political parties, in Ghana, the Western, Central, and Greater Accra Regions are swing regions. One cannot win an election without winning the swing regions. Therefore, it makes it difficult to go to the street through ethnic lines to dispute elections.

Ghana's 2012 disputed election did not result to violence, because Ghana has learnt a lot from the post-electoral violence that has taken place in various countries, especially, its three immediate neighbouring countries- Togo, Burkina Faso and Cote d'Ivoire. Ghana has also participated in a lot of peace conflict.

Another reason given by ten respondents in explaining the instability that erupted in Kenya as against the stability that was maintained in Ghana, after the disputed presidential elections in both countries was the mechanism used by aggrieved parties in resolving their grievances. As one lecturer indicated "in the case of Ghana, the issue was taken to court while in Kenya, they chose to protest on the street."

A respondent of ODM stated that after the 2007 Kenyan election there was a clear indication of electoral fraud on the part of the Electoral Commission which was due to the influence of the then government of the PNU. He indicated that the ODM did not petition the court because the President had a greater control over the Judiciary. A political science lecturer also noted that given the extent of electoral irregularities that took place and the influence of the government over public institutions, the ODM had no option than to go to the street in protest. All respondents claimed that resolving the electoral dispute in court has a greater tendency of maintaining the peace of the country than protesting on the street. Respondents
also cited the 2013 and 2017 disputed elections in Kenya that were disputed in the court to buttress their claim. The 2013 and 2017 Kenyan elections, when disputed in Court, did not result in political instability or chaos.

5.9 Conclusion

The chapter presented the data collected in themes in view of answering the research questions. Data collected showed how elections have been conducted in Kenya and Ghana since 1992. The chapter also explores the challenges of democratic election in both countries. The major cause of disputed presidential elections in Ghana and Kenya as captioned in this chapter is electoral irregularities. The judiciary was identified by respondents as a significant political institution for an amicable settlement of disputed presidential elections. The roles played by political parties in ensuring political stability during and after presidential election petition was also analysed. The chapter concluded by presenting data gathered on explaining the contrast between Kenya's 2007 and Ghana's 2012 disputed presidential elections. The subsequent chapter focuses on relating the findings of the study presenting in this chapter to other findings or studies.
CHAPTER SIX
DISCUSSION OF FINDINGS

6.1 Introduction

This chapter discusses the findings of the study. A number of conclusions can be deduced from the data presented in the previous chapter which relate to the objectives of the study. Although the sample size of the study is small, the researcher is of the view that the result still provides meaningful findings and insights that could contribute to explaining the relationship between the disputed presidential elections and political stability. The in-depth interviews revealed that disputed presidential election is a usual phenomenon in electoral democracy.

The discussion is presented under six themes, the findings on the conduct of elections in Kenya and Ghana; disputed elections and political stability; causes of disputed presidential elections in Ghana and Kenya; the role of the Supreme Court in disputed elections resolution; the role of political parties in disputed elections resolution; and Kenya's political instability versus Ghana's political stability.

6.2.1 Conduct of Elections in Kenya and Ghana

Respondents during the in-depth interviews disclosed that there has been a major improvement in the conduct of elections in Kenya and Ghana since the return to multiparty democracy in 1992. However, data collected indicated that there are some lingering challenges in the electoral process. Data collected echoes Adejumobi’s (2000) study "Africa and the Challenges of Democracy and Good Governance in the 21st Century" which observed that "in spite of the positive leap, the democratic project in Africa remain wobbly and qualitatively stunted." Oreoluwa (2014) asserted that African states' electoral processes are tainted with challenges. The findings of the study resonate with that of the challenges
identified by Oreoluwa (2014). These shortcomings include- the deliberate effort of the incumbent to rig elections and post-electoral violence among various divisions in the society. Again, there are issues about the independence of the electoral management bodies and the lack of availability of resources for the conduction of elections. Women and other disadvantaged groups are marginalized in the electoral process in Africa (Oreoluwa, 2014).

Respondents' scale for the assessment of elections in Kenya and Ghana resonate with that of Van Ham (2012) and Omenma et al. (2017). Van Ham (2012) and Omenma et al. (2017) proposed that assessment of an election be carried out at the various stages of the electoral process. Dahl identified free and fair election as a prerequisite of democratic elections (Dahl in Elklit & Svensson, 1997). Based on Bishop and Hoeffler's (2006) definition of the freeness of elections- the right of all adult citizens to register and vote and to associate with a political party and to campaign freely within the state-, it can be stated that there is freeness in the conduct of elections in Kenya and Ghana. However, the response of respondents shows that elections in Kenya and Ghana fall short of Bishop and Hoeffler's (2006) definition of 'fairness of an election'- treating all parties in the election equally-. The views of respondents on the quality of elections in Africa differ from that Omenma et. al (2017). While respondents indicated that the quality of elections in Kenya and Ghana is improving, Omenma et. al (2017) concluded that the quality of elections in Africa is declining. According to Omenma et. al (2017), most elections in Africa has not been conducted on a free and fair manner, and the Court has also failed to make significant impact during the adjudication of electoral disputes.

Respondents' perceptions of the quality of Ghana's elections confirm Jockers, Kohnert, and Nugent's (2010) conclusion that Ghana's democratic process is more advanced than other African countries. Ghana's democratic process has been described as 'the bastion of democracy' in Africa (Danso & Larney, 2012; Ichino & Schündeln, 2012). Again, the finding
is consistent with the observation of Afrobarometer survey which asked about 1200 and 2400 respondents to rate the freeness and fairness of Ghana's 2004 and 2008 elections. The Afrobarometer study revealed that most of the respondents rated Ghana's elections to be either "free and fair" or "free and fair with minor problems" (Parku, 2014).

Even though Omenma et al. (2017) stated that democratic consolidation requires periodic and competitive elections, and the holding of credible elections, thus elections that will be accepted by all parties as legitimate, respondents of the study were of the view that there have been various forms of rejection of Kenya and Ghana's elections. Asunka et al. (2014) stated that almost all elections held in Ghana have been challenged by political parties either at the pre-election, polling, or post-election stage. For instance, Ghana's 2004 presidential election was challenged by three members of the NDC in court, by filing a case against the EC. Again, in Kenya, almost all the elections held in the current multiparty elections have been rejected by defeated parties, with the exception of the 2002 elections (Elischer).

6.2.2 Disputed Elections and Political Stability

Respondents' views on disputed elections confirm Norman's (2012) assertion that disputed election is a recent phenomenon peculiar to electoral democracies. Data collected showed that disputed presidential elections can roll back the democratic progress in Africa. Again, data gathered validated the claims of Boafo-Arthur (2001), Abutudu (2003), Chernykh (2012) and Huerta (2014) that disputed elections have been a major trigger of political instability in emerging democracies; and holds the spectre for political instability in Kenya and Ghana. Disputed presidential elections have led to post-electoral violence in Kenya in 2007 (Dercon & Gutiérrez-Romero, 2012), Zimbabwe in 2008 (Nkansah, 2016) and Côte d'Ivoire in 2011 (Cook, 2011). Brenya (2014: 66) stated that "post-election disputes can lead to instabilities and destruction of the democratic processes of many countries."
Data gathered from the fieldwork when respondents were asked- "what mechanism will political parties in Ghana or Kenya likely resort to when elections are disputed?"- showed that political parties in Ghana and Kenya are likely to petition the court when they dispute elections. The response of all the respondents is consistent with Nkansah's (2016) study, where she observed that the possibility of disputants challenging the electoral result in court in Africa is higher than protesting on the street. Nkansah (2016) indicated that there is an increase in the number of petitions received by the court after elections in Africa. She, however, cautioned that if the trend is not curbed so that genuine cases go through adjudication, the whole idea of election adjudication would become so notorious that it would clog up and slow down the court processes and lose its purpose. The findings revealed that political parties in Kenya and Ghana are more likely to resort to the Court when there is a dispute over electoral results than protest on the street.

6.2.3 Causes of Disputed Presidential Election in Kenya and Ghana

The interviews conducted revealed that disputed elections are caused by electoral irregularities on the part of the Electoral Commission, and the deliberate effort of incumbent governments to rig elections in their favour. A prominent cause of disputed election is the perceived failure of the EMBs in their operations. Mostly, opposition parties are suspicious of incumbent government interference or manipulation of the electoral process using the EMB. The finding affirms Nkansah's (2016) assertion that defeated parties in Africa protest elections when there is a genuine concern about the conduct of the elections due to irregularities, fraud, breaches of electoral regulations and the governmental interference in the electoral process. Dercon & Gutiérrez-Romero's (2012) study, "Triggers and Characteristics of the 2007 Kenyan Electoral Violence," attributed the cause of the post-electoral dispute to electoral flaws and weak Electoral Commission. Reports on Kenya's elections revealed that
during the 2007 elections the ECK lacked the confidence to conduct free and fair elections. This was attributed to the lack of autonomy of the ECK.

Again, the data presented in the previous chapter indicated that a significant number of respondents attributed the cause of disputed presidential elections to the "winner-take-all syndrome" associated with the kind of political system practice in Ghana and Kenya. Adolfo, Söderberg Kovacs, Nyström, and Utas, (2012) concluded that the winner-takes-all system risks turning elections into a do-or-die affair. They observed that the winner-takes-all system can easily trigger violent behaviours during elections (Adolfo, Söderberg Kovacs, Nyström, & Utas, 2012). The winner-takes-all system is likely to breed political instability after elections. Politicians in Africa channel valuable wealth and resources to attain public office with the view of recouping their investment after capturing power. Therefore, a defeat becomes difficult for political parties to accept.

Four respondents of the study revealed that the attitude of the defeated party before the election can cause them to dispute the election. Again, data collected showed that elections are disputed as a strategy to maintain control over political party's supporters till the next election. This minority view agrees with Norman's (2012) argument that defeated party retains the decision to accept or reject electoral results. In light of the minority's view, Norman (2012) stated that there have been instances in Africa where an incumbent who appointed the Electoral Commissioners has been defeated in elections. Norman, therefore, concluded that electoral malpractices are not necessarily the reason why defeated parties dispute elections in Africa. The minority assertion affirms Huerta's (2014) argument that elections are not disputed primarily because of electoral irregularities or fraud; rather elections are disputed as a strategic mechanism.
6.2.4 Role of the Supreme Court in the Resolution of Disputed Elections

A significant revelation of the data gathered is that the Kenyan Judiciary was regarded to be heteronomous when elections were disputed in 2007. On the other hand, Ghana's Judiciary was perceived to be autonomous, which influenced the defeated party to resort to the court when the elections were disputed. It has been extensively been documented that the ODM failed to petition the court because of lack of confidence in Kenya's judiciary (De Smedt, 2009; Harneit-Sievers & Peters, 2008; Long & Gibson, 2015; Roberts, 2009).

Kludze (2010) has argued that the President or the other organs of government do not interfere with the activities of Ghana's Supreme Court. The study found that political parties in Ghana and Kenya are currently confident in the Judiciary to be able to adjudicate presidential election dispute. According to Musiga (2016), the recent increase in election petition cases in Kenya is attributable to an increase in confidence and trust in the Court as an independent arbiter. The study, however, contradicts that of Nkansah's (2016), which found that political parties in Ghana, Senegal and Kenya have lost confidence in the Judiciary. The study affirms previous works (Omenma et al., 2017; Kaaba, 2015, Murison, 2013), which argue that the lack of confidence and trust in the Court will influence political parties to adopt non-institutional mechanism to address its grievances.

Nine respondents were of the view that the Supreme Court adjudicated the 2102 Ghanaian Election Petition Case based on the evidence of proof provided in the Court. The finding is consistent with the classical legal theory. The classical legal theory argues that judges are independent arbiters of the law, who decide cases based on the evidence of proof provided in conformity to the established laws (Herman, 2013). In their view, the autonomous and transparent arbitration process of the Court helped maintain the political stability of Ghana after the disputed elections. Even though three respondents requested for a special court to adjudicate disputed presidential elections, eleven respondents were of the view that the
Supreme Court is the appropriate institution for the adjudication of disputed presidential elections in Ghana and Kenya.

Disputing elections in court does not necessarily maintain the political stability of the country. Partial adjudication of disputed presidential elections triggers political instability as in the case of Cote d'Ivoire in 2010 (Cook, 2011). Huefner (2007) identified three features of the judicial disputed election adjudication process. First, the judicial adjudication process ought to be fair and perceived by the petitioners and the general public as fair. The judicial process must treat all parties to the dispute equally and should provide all the disputants equal chance to present their cases. The verdict must not be perceived as impartial and meritorious. Again, the process must be transparent. Lastly, the process must be swift and determine cases with finality (Huefner, 2007). A violation of these principles will result in political parties' refusal of the Court verdict, which in turn might incite conflict. The live telecast of the Supreme Court proceedings on radio and television stations in Ghana caused the general public to view the verdict as fair, transparent, and impartial.

Data presented in the previous chapter revealed that the judicial sanction of some political parties' officials and journalists helped to maintain the political stability of the country. The post-verdict political stability of Ghana has been attributed to the exercise of judicial power through the contempt charges (Brenya, 2014). Alidu (2014: 1458) stated: "what actually threatened the peace of the country were the intransigent and genocidal statements made by partisan media commentators as well as prominent citizens in the country." The contempt charges that preceded the verdict quietened media, political commentators and party activists who could have instigated violence and instability (Brenya, 2014).

According to Kludze (2010), whenever there is contestation about the absence of a limit on the number of Ghana's Supreme Court Justices, the case that involved the appointment of Mr
Justice Dixon Kwame Afreh is cited. A respondent cited this instance as a major limitation of the Supreme Court. However, Kludze (2010) argues the absence of a limit on the number of Supreme Court Justices does not result in 'packing' of the Supreme Court by the President. He argues that based on the Constitutional provision on the appointment of Supreme Court Justice, the appointment, in essence, is made by the Judicial Council. Kludze (2010) indicated that the appointee is recommended by the Judicial Council to the President. The role of the Judicial Council in the appointment of a Supreme Court is not a consultative role rather a sine qua non. The 1992 Constitution requires the President to consult the Council of State after the recommendation of the Judicial Council; however, the role of Council of State is a consultative one. Finally, the process of appointment requires the approval of the legislature.

Judicial adjudication of disputed presidential elections is a formal and institutionalised mechanism for rational resolution of conflict (Kaaba, 2015). Institutionalism requires the power to enact laws, inspect conformity to these laws, and impose sanctions or punishment on non-conformant behaviours as a means to influence actors' behaviour (Bührman, 2011). Rules and laws are effective if they have the power to sanction or punish non-conformant (Scott, 2001). However, in the context of this work the findings indicated the failure of the Court to sanction perpetrators of electoral irregularities. Nkansah (2016), Murison (2013) and Twinomugisha (2009) observed that the court has often acknowledged fraud in the electoral process; however, the court has failed to sanction perpetrators of these electoral irregularities to prevent others from engaging in such acts.

The views of the four respondents who were sceptic about Ghana's 2012 Elections verdict resonate the works of Murison (2013), Twinomugisha (2009) and Omenma et. al (2017). The two dissenting stances of the Supreme Court Justices on the 2012 Election Petition Case shows that the election was marred with electoral irregularities (Omotola, 2013). Murison (2013), Twinomugisha (2009) and Omenma et. al (2017) argued that even though the
Ugandan and Nigerian Courts have unravelled various electoral irregularities that took place during the electoral process, the Court has failed to annul or reverse an electoral outcome. The Court has therefore endorsed fraudulent electoral results through their verdict on a disputed election. According to Kaaba (2015), even though the majority of Ghana's Supreme Court Justices upheld the result of the 2012 elections, the anomalies that marred the election was contrary to the Constitution and other electoral legislation in Ghana.

Respondents raised similar concerns highlighted by Nkansah (2016), thus, the issue of timeliness in the judicial electoral adjudication. African countries need to make provision for timelines on the judicial adjudication of electoral disputes. Available data reveal that some judicial electoral adjudication processes have been adjudged by the Court expeditiously whereas others have been unduly delayed and have been overtaken by events rendering the exercise fruitless (Nkansah, 2016). Judicial adjudication of disputed elections must be timely and efficient (Huefner, 2007). However, some African countries permit the inauguration of the declared winner of the election while the Court proceeding of election petition follows later (Kaaba, 2015). It becomes difficult to over-turn election results or seek for a re-run of elections when the declared winner of the election has been sworn in. Promptness of time is an embedded quality of fair adjudication. In countries like Uganda and Kenya, the constitutional provision requires that the judicial adjudication process on a disputed presidential election be heard and determined within 30 days of presentation of the petition (Kaaba, 2015).

6.2.5 The Role of Political Parties in the Resolution of Disputed Presidential Elections.

The first step of the opposition party to resort to the Court rather than to hit the street to protest the 2012 electoral result was a great leap to ensuring political stability after the elections were disputed. Evidence shows that electoral results are often challenged by political parties (Judicial Service, 2016). Political parties can choose to either challenge
electoral results in court or on the street or adopt both (Chernykh, 2014; Norman, 2012). In relation to Kenya's 2007 and Ghana's 2012 disputed presidential elections, political parties disputed election result on the street in the latter and in court in the former. Political parties' decisions to have their followers on the street contributed to the political instability in Kenya (De Smedt, 2009; Harneit-Sievers & Peters, 2008). On the other hand, the opposition party's decision to resort to the Court to address its grievances helped maintain the political stability of Ghana (Asante & Asare, 2016; Kwarteng, 2014).

Data collected affirms Akuamoah's (2017) observation that political parties in Ghana have led the peaceful crusade before, during and after elections by way of advising their members to desist from acts that can mar the peace and stability of the country. He stated that leaders of the major political parties showed dedication to the peaceful course by accepting the results of elections as well as respecting the verdict of the law courts in the case of electoral disputes (Akuamoah, 2017). According to Kwarteng (2014), the two political parties which were involved in Ghana's presidential petition saw the political stability of the country as important. Evidence from the study showed that the NPP's decision to accept the Court Verdict was crucial to maintaining the political stability of Ghana. Asante and Asare (2016: 5) stated that "the very early statement from the quarters of the Petitioners was very crucial since it immediately eroded the tension that had saturated the atmosphere and calmed the nerves of the supporters of the petitioners." Again, the step of the NDC not to over-celebrate their victory also helped to maintain the political stability of Ghana.

From the results presented in the previous chapter, political parties contributed to the political instability that ensued in Kenya when the 2007 elections were disputed. For instance, Harneit-Sievers and Peters (2008) noted that the extent to which ODM helped perpetuate the violent activities has not been ascertained, however, William Ruto, a prominent member of the ODM could have stopped the upheaval at an earlier stage. De Smedt (2009) also indicated
the rumour that Raila Odinga had been arrested incited street protest. However, the leaders of the ODM failed to refute that baseless rumour, rather they rode on this misinformation to keep their followers on the streets and thereby contributed to the political instability (De Smedt, 2009).

6.2.6 Kenya's Political Instability versus Ghana's Political Stability.

All fourteen respondents claimed that resolving the electoral dispute in court has a greater tendency of maintaining the political stability of the country than protesting on the street. A fair and transparent resolution process of disputed presidential elections commands the respect of the people, lends legitimacy and credibility to the election, and serves as a peaceful alternative to violent post-election response (Vickery, 2011). On the contrary, lack of institutional resolution mechanisms can undermine the credibility of the electoral process (Kaaba, 2015). This disposition is captured in the words of Thiankolu (2013) in the "Handbook of Election Disputes in Kenya";

"due to the perception that the court could not honestly arbitrate political dispute, the aggrieved side refused to refer the disputed 2007 presidential election to the court-leading to an unprecedented loss of life and property in the violence that ensued following the declaration of the result" (Thiankolu, 2013)

Institutional arrangements are made in various African constitutions for amicable settlement of disputed presidential elections (Nkansah, 2016). The findings indicate that the mechanism adopted by political parties for addressing their electoral grievances can either help trigger political violence or maintain the political stability of the country. The phenomenon of political parties adhering to institutional arrangements for the settlement of disputed elections in Ghana helped maintain the political stability. However, the failure of the aggrieved party to
petition the Court over its grievance helped perpetuate violence and political instability in Kenya.

The findings of the study are inconsistent with Butcher and Goldsmith's (2017) study "Elections, Ethnicity and Political Instability." They observed that ethnic divisions reduce the likelihood of political instability during elections. To them, "elections should be considered to reduce the short-term risk of major instability in ethnically fractionalized societies, and thus potentially contribute to ethnic accommodation, which can foster sustainable political development" (Butcher & Goldsmith, 2017). Rather, the findings of this study show that the political instability that ensued in Kenya is greatly due to the formation of political parties on ethnic lines. Likewise, De Smedt (2009), Harneit-Sievers and Peters (2008), Long and Gibson (2015), and Roberts (2007) attributed the cause of the Kenyan 2007 post-electoral violence to ethnic divisions. The disputants of Kenyan 2007 post-electoral conflict have been extensively documented as the various ethnic groups (De Smedt, 2009; Harneit-Sievers & Peters, 2008; Long & Gibson, 2015; Roberts, 2009), and not necessarily political party followers.

Disputed presidential elections can easily trigger political instability in ethnically divided society. The findings postulated that the two main political parties receive their strong support from the "two hostile ethnic groups" in Ghana, the Ewe and the Asante (Bossuroy, 2011). The Akans who formed the majority ethnic group are not cohesive to mobilise along ethnic lines. Similar to the views of respondents, Jockers et. al (2010) observed that the swing regions in Ghana, thus Greater Accra, Central and Western Regions, rather determines who wins an election. Elischer (2008) indicated that in Ghana, the interest of voters is centres on the personality of the candidate rather than ethnicity. While in Kenyan elections, ethnicity and individual leadership go hand in hand. He concluded that all parties in Kenya are ethnic parties, while those in Ghana exhibit ideological stance (Elischer, 2008a). Other studies have
shown that Ghanaian voters do not cast their vote along ethnic lines (Lindberg & Morrison, 2008; Youde, 2005). For instance, Youde (2005: 13) concluded, "(Ghanaian) voters appear to take economic factors into consideration when determining their support for the government and the political parties." Likewise, Lindberg and Morrison (2008) reported that Ghanaian voters are more particular about performance than ethnicity. The political instability that ensued in Kenya (2007) after the presidential election disputed was due to the ethnic politicization in Kenya.

Political parties in Ghana were inclined to maintain political stability in Ghana unlike that of Kenya, which helped perpetuate the violence that ensued when the presidential elections were disputed in 2007. Political parties in Ghana helped to maintain political stability by accepting the verdict of the Supreme Court and restraining their followers from protesting against the verdict (Akuamoah, 2017). The findings postulate that judicial adjudication of disputed elections per se might not necessarily maintain the peace of the country. Political parties' attitude towards the Court verdict is critical in the maintenance of the political stability of the country. Political parties' refusal to accept the court verdict can easily trigger instability.

According to Ismail and Deane (2008), international reports identified local language radio station in Kenya for inciting the 2007 post-electoral conflict. Most media houses in Africa are politically biased or affiliated to a particular political party (Ismail & Deane, 2008). It is important not to sideline the role and influence of the media in accounting for political instability in Africa. For example, Radio Télévision Libre des Milles Collines in Rwanda was instrumental and inciter of the genocide (Blondel, 2004). The media provides a platform where various political actors, political activists, journalists and decision-makers, in the society to communicate with the general public. The media posed a great threat to Ghana's political instability during and after the 2012 Election Petition Case (Alidu, 2014). The
judicial power exercised by the court, by charging political activists and journalists with contempt charges, helped to quieten the media in Ghana.

Prior to Kenya's 2007 elections and Ghana's 2012 elections, political institutions responsible for management and coordination of elections, and resolution of electoral grievances were perceived to be weak in Kenya, but strong in Ghana. The DFID accorded the cause of the post-electoral instability to weak institutional arrangements (DFID, 2008). In addition, lack of trust and confidence in the Kenyan Judiciary prevented defeated parties from petitioning the Supreme Court when the election results were disputed (De Smedt, 2009; Harneit-Sievers & Peters, 2008; Long & Gibson, 2015). On the other hand, the ECG was largely perceived to be an independent, fair and credible institution (Jockers, Kohnert, & Nugent, 2010). The autonomy of the ECG is assured by the security of tenure of the Commissioners (Fall & Hounkpe, 2012). The ECG had been regarded to be autonomous, which engendered a degree of general trust and confidence in the institution (Omotola, 2013). The credibility of the ECG is attributable to its transparency in the electoral process, and its autonomy in the conduct of its responsibilities (Debrah, 2011). The findings of the study showed that the Supreme Court of Ghana is regarded as an autonomous institution (Kludze, 2010).

6.3 Conclusion

The chapter focused on the assessment of the conduct of election in Kenya and Ghana since the return to multiparty rule. It also explores the causes of disputed presidential elections in both countries. The chapter draws a relationship between the mechanism for the resolution of disputed presidential elections and political stability. Disputed presidential elections can trigger political instability if it is not properly managed or resolved. An effective institutional resolution of disputed presidential elections can help maintain the political stability of the country. On the contrary, a bias adjudication of disputed presidential election can trigger political instability as experience in Cote d'Ivoire and Zimbabwe. Moreover, it explores the
role played by political institutions, thus the Judiciary and Political parties, in the resolution of disputed presidential elections. The chapter ended with the explanation of why political instability ensued in Kenya as against the political stability that was maintained in Ghana after disputed presidential elections. The next chapter will summarise the findings of the study, to draw conclusions on the findings in order to provide recommendations for future studies.
CHAPTER SEVEN
SUMMARY OF FINDINGS, CONCLUSION, AND RECOMMENDATIONS

7.1 Introduction
Disputed presidential elections have become a common phenomenon in the recent African democratization process. Even though various constitutions make provisions for the resolution of disputed presidential elections, in some cases, like Kenya's 2007 election, these provisions have been violated. Disputed elections have caused political instability in various African countries, whereas, in other countries, the resolution process of disputed presidential elections has helped maintain and strengthen democracy and political stability of the country. In view of this, the study sought to identify the mechanisms through which the political stability of a country could be maintained after a disputed presidential election, and to compare the management of disputed elections in Kenya (2007) and Ghana (2012) with a view to explain political stability in Ghana in contrast to Kenya. In view of this the study had the following objectives to achieve;

I. To explore why electoral results are challenged in Kenya and Ghana, and how the mechanism adopted contribute to political stability.

II. The role played by political parties and the judiciary in maintaining political stability during an election petition.

III. To explore what can be done to improve Kenya's and Ghana's electoral processes in order to deter or reduce electoral result challenges in Kenya and Ghana's elections.

To be able to achieve the stated objectives, personal interviews were conducted with four (4) representatives of political parties (NDC, NPP and ODM), two (2) academics, 2 journalists, three (3) CSOs officials, three (3) legal practitioners adopting the purposive sampling method in the selection of the participants.
This chapter presents the summary of the study findings and draws a conclusion based on the findings. Recommendations are made and discussed for improving Kenya's and Ghana's electoral process in order to deter or reduce disputed presidential elections. Recommendations are also made on how to effectively manage disputed presidential elections in Africa.

7.2 Summary of Findings

The findings of the study are summarized under the stated research question

7.2.1 What has been the conduct of elections in Kenya and Ghana since 1992?

The study found out that the conducts of elections in both countries have improved; however, there are still some challenges that marred election process. The study observed that the quality of the conduct of elections in Ghana is comparatively better than that of Kenya. Election results in Ghana, generally, report on the decisions of electorate. The study affirmed Afrobarometer observation that Ghana's elections are largely perceived to be "free and fair" or "free and fair with minor problems" (Parku, 2014). There are no restrictions on the registration of qualified citizens; citizens casting their vote during polling; and qualified citizens filing the nomination to contest for electoral positions. The study confirmed Adejumobi's (2002) study, "Africa and the challenges of Democracy and Good Governance in the 21st Century" which concluded that there has been a significant improvement in the conduct of elections in Africa; nevertheless, African electoral processes face various challenges. The findings contradict the study of Omenma. et. al (2017) which argued that the quality of elections in Africa is declining. The various reforms and the introduction of biometric verification system in both countries have helped increase trust and confidence in the electoral process. Electoral challenges like bloated register which needs a cleansing of the name of non-citizens, minor and dead people were cited. Challenges like delay in the
distribution of electoral materials, the high illiteracy rate of the electorate, and the winner-
take-all system taint the quality of elections in Ghana and Kenya.

The major electoral challenge that mars the quality of elections in Kenya is the formation of political parties on ethnic lines (De Smedt, 2009; Dercon & Gutiérrez-Romero, 2012; Harneit-Sievers & Peters, 2008). Ethnic division in Kenya is so deeply entrenched that it makes political mobilization through ethnic lines easy. Even though Ghana has its ethnic problems, the ethnic setting in Ghana makes it difficult to incite conflict. Ghana has swing regions which determine who wins an election (Frempong, 2017a; Jockers et al., 2010). This phenomenon makes Ghana enjoy an ethnic fortune, thus, the unlikelihood of conflict to ensue based on ethnic fractions. Again, there was some sort of scepticism of the Kenyan Electoral Commission. Findings of the study indicated that the ECK was regarded as non-autonomous during the Kenyan 2007 elections. By and large, there has been a substantive improvement in the conduct of elections in Kenya and Ghana.

7.2.2 What accounted for the disputed presidential elections in Kenya 2007 and Ghana 2012?

The electoral challenges have affected the conduct of elections in Kenya and Ghana, and have resulted in defeated political parties refusing to accept electoral results. The study observed that disputed presidential elections in Kenya and Ghana are caused by various reasons. This includes ethnic grievances. The exclusion of some particular ethnic group from the electoral process might cause them to refuse electoral results, especially, when political party mobilization is based on ethnic factions. The finding disclosed that the Luo in Kenya, who mostly support the ODM, felt marginalised in Kenyan politics. Their grievances translated into the electoral protest after the 2007 elections and post-electoral instability (De Smedt, 2009).
A well-documented cause of disputed presidential election is electoral flaw on the part of the EMB or the deliberate effort of incumbent government to organise non-genuine elections (Murison, 2013; Nkansah, 2016; Omenma et al., 2017; Twinomugisha, 2009). A revelation of the study is that presidential elections were disputed in Kenya (2007) and Ghana (2012) as a result of widespread electoral irregularities. The politicization of the appointment of electoral commissioners can influence political parties to reject the declared outcome by the EC. Boafo-Arthur (2001) and Abutudu (2003) stated that electoral results are often rejected in Africa due to the appointment of electoral commissioners by the President. The finding is consistent with Chernykh's (2014) study, which observed that defeated parties are likely to reject the electoral results if incumbent political parties amend electoral regulations prior to elections. Mostly, there is the deliberate effort of the incumbent party not to organise evenly competitive elections.

Other causes of disputed presidential elections are the winner-takes-all system; the lack or inadequate knowledge about electoral laws and regulation; and the suspicion of partiality of the EC to act in favor of the incumbent party or main opposition party. The study established that even though the conduct of elections have been improved in Ghana and Kenya, the challenges that mutilate the quality of elections should be alleviated or minimised to ensure credibility and legitimacy in the electoral process. Credible and transparent electoral processes ensure acceptance of electoral results by defeated political parties. Democracy requires that political parties accept electoral results when declared (Huerta, 2014; Nkansah, 2016; Norman, 2012).

7.2.3 Does judicial adjudication of disputed presidential elections help maintain the political stability of the country?

The study ascertained that disputed presidential elections hold the spectre of violence in both Kenya and Ghana. Disputed presidential election has been a major cause of political
instability in emerging democracies (Abutudu, 2003; Boafo-Arthur, 2001; Huerta, 2014), like Kenya (De Smedt, 2009), Cote d'Ivoire (Cook, 2011) and Zimbabwe (Nkansah, 2016). The study revealed that disputing elections in court is more likely to maintain the political stability of the country than protesting on the street. A fair and transparent disputed presidential elections resolution process bids the respect of the citizens lends legitimacy and credibility to the election and offers a peaceful option to violent post-election response (Vickery, 2011). On the other hand, lack of institutional resolution mechanisms can undermine the credibility of the electoral process (Kaaba, 2015). In instances where presidential elections have been disputed in court; Ghana (2012), Kenya (2013), Malawi (2014) and Kenya (2017), they have resulted in amicable settlements. On the other hand, in cases where presidential elections have been disputed on the street; Kenya (2007) and Uganda (2011), lives were lost.

Lack of trust and confidence in the Judiciary will prevent political parties from petitioning the Supreme Court over their grievances on the electoral results, like the case of Kenyan 2007 elections (De Smedt, 2009; DFID, 2008; Harneit-Sievers & Peters, 2008). Political parties may resort to street protest when the avenues for going to court are either blocked or the means to access them is delaying unduly. Defeated parties will petition the court when the judiciary is perceived to be autonomous, fair and firm. According to the study, the Court contributed to the maintenance of the political stability of Ghana when it served as an independent arbiter of the dispute. An effective disputed presidential election requires that all parties to the dispute have equal opportunity to present their cases (Vickery, 2011). Majority of respondents of the study indicated that the Court ruling was based on the assumption of the classical legal theory which states that 'judges are independent arbiters of the law, who decide cases based on the evidence of proof provided in conformity to the established laws' (Herman, 2013).
The Court helped to maintain the political stability of Ghana during the Court proceedings. The judicial adjudication of disputed presidential elections needs to be perceived as fair by all stakeholders (Vickery, 2011). The live telecast of the Supreme Court proceedings on radio and television stations accorded fairness, transparency and impartiality to the verdict (Asante & Asare, 2016). Again, the judicial sanction of some political parties' officials and journalists with contempt charges helped maintain the political stability of Ghana. The contempt charges quietened the media, political commentators and party activist who could have instigated political instability (Brenya, 2014). On the other hand, the Court did not play any role in the maintenance of the political stability of Ghana after its verdict; however, it gave some recommendation for reforms which helped better the quality of the next election. Judicial adjudication of disputed elections does not necessarily maintain the political stability of the country. The subsequent rejection of the Court verdict by political parties could incite political instability.

7.2.4 What roles do political parties play in order to ensure political stability during and after election petition?

The actions and inactions of political parties during and after elections or disputed presidential elections can help maintain the political stability of the country. The study found out that political parties greatly contributed to the maintenance of the political stability of Ghana. As Kenyan political parties contributed to the political instability that ensued in Kenya (De Smedt, 2009; Harneit-Sievers & Peters, 2008), so did those in Ghana help maintain political stability. The premiere decision of defeated political parties to resort to the court rather than to protest on the street was a great leap to ensure political stability.

Political parties contributed to the maintenance of the political stability of Ghana when they advised their members to desist from activities that could mar the peace and stability of the country after the electoral results were challenged. The petitioners' party, NPP, helped to
maintain peace when it accepted the Judicial Verdict (Akuamoah, 2017). The NPP's decision not to seek redress of the court verdict and also its advice to its members not to protest against the electoral verdict contributed to the maintenance of the political stability of the country. The decision of the NDC not to celebrate or over-celebrate its victory also helped to maintain the political stability of Ghana. The study affirmed Kwarteng's (2014) conclusion that the disputant political parties which were involved in Ghana's presidential petition saw the political stability of Ghana to be paramount.

7.2.5 What accounted for the political stability in Ghana in contrast to political instability in Kenya after presidential elections results were disputed?

The political stability of Ghana was maintained because political parties decided to adhere to institutional arrangement for the resolution of disputed presidential election. Vickery (2011) observed that institutional resolution of disputed elections offers a peaceful alternative to violent post-election response. In the case of Kenya, the institutional arrangement was not adhered to. This helped perpetuate violence in Kenya when the presidential elections were disputed. The Supreme Court in Ghana was able to quieten media through the contempt charges meted to political commentators, activists, and journalists. There was no restraint on the media during the 2007 Kenyan disputed presidential election. The media, therefore, contributed to the post-electoral conflict (De Smedt, 2009; Ismail & Deane, 2008).

The study found that the political instability that ensued in Kenya (2007) was greatly due to the mobilization of political parties along ethnic line. The belligerents of Kenyan 2007 post-electoral conflict have been identified as ethnic fractions (De Smedt, 2009; Harneit-Sievers & Peters, 2008; Long & Gibson, 2015; Roberts, 2009), and not necessarily political parties' supporters. The political instability was not induced by ethnic fractions per se, but by its politicization (De Smedt, 2009).
In the Ghana case, political parties were inclined to ensure political stability in Ghana (Kwarteng, 2014), as against that of Kenya where political parties were adamant in stopping the upheaval (De Smedt, 2009; Harneit-Sievers & Peters, 2008). Political parties in Ghana helped to maintain the political stability of Ghana by accepting the verdict of the Supreme Court and refraining its followers from protesting against the verdict (Akuamoah, 2017).

The study ascertained that weak institutional arrangement in Kenya helped perpetuate the post-electoral instability. The lack of trust and confidence in the ECK and Kenyan Judiciary contributed to the political instability that ensued (De Smedt, 2009; Harneit-Sievers & Peters, 2008; Long & Gibson, 2015). In addition, political parties in Kenya had been formed based on ethnic division (De Smedt, 2009; Harneit-Sievers & Peters, 2008; Long & Gibson, 2015), which makes them weak as a political institution. Political parties bring together people from various ethnic, religious, regional and professional background (Asah-Asante & Brako, 2015). In the case of Ghana, institutional arrangements were core in the resolution of the disputed elections. The judiciary and political parties in Ghana played significant roles in ensuring the political stability of the country.

7.3 Conclusion of the Study
There is no doubt that Kenya and Ghana have made significant improvements in their democratization process. The prevailing challenges in the electoral process pose a threat to the credibility and legitimacy of their elections. Disputed presidential elections can mar the democratization process and political stability of Kenya and Ghana. Disputed presidential elections are a usual phenomenon in electoral democracies. Disputing elections or refusing to accept the electoral result in itself is not problematic. However, without the appropriate institutional arrangement for the resolution of disputed presidential elections, the phenomenon can leave a scar on the political stability of the country. An ineffective and
inefficient management and resolution of disputed presidential elections can roll back the progress of the democratic process of Kenya and Ghana.

The study affirmed the new institutional theory assumption that an independent judicial resolution of disputed presidential election may help maintain the political stability of the country. However, a rejection of the verdict of the court on a disputed presidential election by a political party may trigger political instability. The theory assumed that political actors will conform to institutional arrangement; however, the study found that political parties may not resort to the court if the court is perceived to be heteronymous. The study affirmed that independent political institutions or institutional structures offer a good alternative for the resolution of disputed presidential elections.

Institutional arrangement for the resolution of disputed presidential elections serves as the effective and efficient mechanism for resolving disputed elections. Strong institutions serve as an incentive for political parties to resort to an institutional arrangement for the resolution of their grievances over the electoral results. African countries must strengthen their democratic institutions, particularly, the Judiciary, the Electoral Commission and Political Parties. Institutional autonomy of the Electoral Commission induces political parties to accept electoral results. An independent judiciary will help resolve disputed elections effectively and efficiently. Political parties have a great role to play in ensuring the political stability of African countries during and after elections or disputed presidential elections. It is incumbent on political parties to adhere to an institutional arrangement for the settlement of disputed presidential elections and to accept.

7.4 Recommendations

The electoral challenges that marred elections in Kenya and Ghana need to be minimised or alleviated to ensure acceptance of the electoral results by all stakeholders. A credible means
of voter identification must be put in place. For instance, there must be a national ID card to identify Ghanaians qualified to register.

The study identified high illiteracy rate of the electorate as a challenge to elections in Ghana and Kenya. Therefore, the electorate should be educated about the electoral process and other caveats of democracy. The media should be more informed in order to educate the electorate. Institutions like the NCCE should assume the role of educating electorate about the dos and don'ts of the electoral process.

The electoral processes must be open and transparent. This means election observers both domestic and international should be involved in observing. Party representative or party's agents must be allowed to observe every stage of the electoral process. There is the need to pay particular attention to polling stations since the 2012 Ghana Election Petition revealed elections are won at polling stations.

Incumbent political parties need to organise equally competitive elections. Incumbent parties should not use their office to exploit state resources during electoral campaigns. Political parties competing in elections should have equal opportunity to access social facilities, government resources and the media during elections.

The autonomy of the Judiciary needs to be guaranteed by constitutional provision. The appointment of electoral commissioners should not be politicized since it mars the credibility of the Electoral Commission. The electoral management bodies should conduct their activities in a fair and transparent manner. The Executive should not influence or manipulate the activities of the electoral commission in their favour.

There should be no restriction to aggrieved parties petitioning the Supreme Court over their grievances. There should not be an undue delay in petitioning the Court after a disputed
election. All parties should be given equal opportunities to litigation of electoral disputes. All the disputants to the presidential petition case should be given equal opportunities to present their cases.

The Judiciary should demonstrate a very clear sense that they are in control and the fact that they are not in favour of a particular political party. The Judiciary should dispense judgment on the basis of evidence tabled before it. The Court should dispense justice in such a way that it will be perceived as fair to all parties because nobody wants to be rigged out of a process. It is important the court proceeding and verdict are perceived or seen to be impartial, unbiased and credible.

The political parties should not mobilize support on ethnic, regional, and religious lines. Political parties must be willing to ensure free and fair elections. Political parties should adhere to institutional arrangement for disputed presidential election resolution when electoral results are challenged. The parties, once they decide to use the legal mechanism, must respect the process and the outcome of the process; there is no need to go contrary to the decision of the Court.

Political institutions like the Electoral Commission, Judiciary and Political Parties need to be strengthened to ensure the prevention, management and resolution of disputed presidential elections. Strong political institutions help maintain the political stability of the country when elections are disputed.
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APPENDICES

APPENDIX A: INTERVIEW GUIDE FOR POLITICAL PARTIES IN GHANA (NPP AND NDC)

Introduction

The study seeks to identify the mechanisms through which the political stability of a country could be maintained after a disputed presidential election and to compare the management of disputed elections in Ghana and Kenya with a view to explain political stability in Ghana in contrast to Kenya.

QUESTIONS

1. What are your general impressions about the quality of elections in Ghana?

2. What do you consider to be the main challenges to free and fair acceptable elections in Ghana?

3. What accounted for the disputed presidential elections in the 2012 general elections?

4. Why did the aggrieved party, NPP, resorted to the court rather than street protest for redress?

5. Is the constitution right to give the Supreme Court the jurisdiction to adjudicate disputed presidential elections? If not, which institution should have this jurisdiction or function?

6. Do your party trust the Supreme Court is better positioned to impartially adjudicate disputed presidential election in Ghana?

7. Which of these options will help maintain political stability in the country after a party refuses to comply with the declared results; going to court or hitting the street?

8. Did the Supreme Court Proceeding and Verdict on the 2012 Presidential Election Petition help in maintaining political stability in Ghana?
9. Did the leaders, especially, of the ruling political party, NDC, and the opposition political party, NPP, contribute to the political stability?

10. What are the reasons why violence and political unrest did not ensue in Ghana after the 2012 elections?

11. What will be your (party's) decision in case there are grievances over a declared Presidential election result: will your (party) go to court or hit the street? What will inform your decision?

12. Can you give any three (3) recommendations on how to prevent disputed elections in Africa and also how to maintain or foster political stability after elections or disputed elections?

APPENDIX B: INTERVIEW GUIDE FOR CSOs, JOURNALISTS AND ACADEMICS

Introduction

The study seeks to identify the mechanisms through which the political stability of a country could be maintained after a disputed presidential election and to compare the management of disputed elections in Ghana and Kenya with a view to explain political stability in Ghana in contrast to Kenya.

QUESTIONS

1. What is your general impression of the quality of elections in Africa (Ghana and Kenya)?

2. What do you consider to be the main challenges to free and fair acceptable elections in both Ghana and Kenya?

3. Why did the defeated political parties dispute Kenya's 2007 and Ghana's 2012 elections outcome?
4. Do you consider the Judiciary in Ghana and Kenya independent of the other organs of government to be able to adjudicate disputed presidential elections?

5. Does the appointment of the Chief Justice and other Supreme Court Judges by the President have an adverse influence on Judiciary adjudication of disputed presidential elections in Kenya and Ghana?

6. What accounted for the political instability in Kenya after the 2007 disputed presidential elections?

7. What accounted for the political stability in Ghana after the 2012 disputed presidential elections?

8. What lessons can be learnt from Kenya's 2007 and Ghana's 2012 disputed presidential elections?

9. What role did the Supreme Court play in ensuring political stability of Ghana after the 2012 disputed presidential elections?

10. What role did political parties play in ensuring political stability of Ghana after the 2012 disputed presidential elections?

11. Is there any likelihood of political parties resorting to violent acts after a Judiciary verdict on a disputed election?

12. Which of these two mechanisms will political parties in Kenya and Ghana likely resort to when elections are disputed;
   a. Institutional Mechanism (Court Petition)
   b. Non-Institutional Mechanism (Street protest, boycott, demonstration)

13. Give any recommendations as to how to maintain political stability after elections or disputed elections.
APPENDIX C: INTERVIEW GUIDE FOR POLITICAL PARTIES IN KENYA

Introduction

The study seeks to identify the mechanisms through which the political stability of a country could be maintained after a disputed presidential election and to compare the management of disputed elections in Ghana and Kenya with a view to explain political stability in Ghana in contrast to Kenya.

QUESTIONS

1. What are your general impressions about the quality of elections in Kenya since 1992?

2. What do you consider to be the main challenges to quality of elections in Kenya?

3. Is the constitution right to give the Supreme Court the jurisdiction to adjudicate disputed presidential elections? If not, which institution should have this jurisdiction or function?

4. Do you (party) trust the Supreme Court is better positioned to impartially adjudicate disputed presidential election in your country?

5. Why did the opposition ODM refused to accept the presidential election results of the 2007 elections?

6. Why was the Supreme Court not petitioned in the 2007 Kenyan Presidential elections?

7. What accounted for the political instability in Kenya when the Presidential elections result was disputed in 2007?

8. Did the leaders, especially, of the ruling party PNU (NARC) and the opposition party, ODM, contribute to the 2007 post-electoral violence after the disputed elections?
9. In your view, if the Supreme Court had been petitioned over the 2007 would it have resulted in political instability?

10. What lessons did your party learn from the 2012 disputed elections and the Presidential Election Petition and Supreme Court Verdict?

11. What will be your (party's) decision in case there are grievances over a declared Presidential election result: will you (party) go to court or hit the street? What will inform your decision?

12. Can you give any recommendations as to how to maintain political stability after elections or disputed elections in Kenya?