



**UNIVERSITY OF GHANA**

**THE ROLE OF ELECTION PETITIONS IN THE CONSOLIDATION OF  
DEMOCRACY IN AFRICA: THE CASE OF GHANA.**

BY

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**DECLARATION**

I, Theophilus Oteng Pabi, do hereby declare that this dissertation is the result of an original research. All sources referred to in the study have been acknowledged and no part of this study has been submitted anywhere else for any other purpose.



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## DEDICATION

This dissertation work is dedicated to Jehovah God, my beloved wife Mrs. Zipporah Oteng Pabi, Maud Anima Quainoo, Ghana Immigration Service HQ and my parents Mr. & Mrs. Obeng especially my mother for her unflinching support through prayers, encouragement and motivation to make this work successful.



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AKPE.



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## LIST OF ABBREVIATIONS

EMB	Electoral Management Body
CI	Constitutional Instrument
EC	Electoral Commission
ID	Identity Card
IEA	Institute of Economic Affairs
INEC	Interim National Electoral Commission
IFES	International Foundation for Electoral Systems
IPAC	Inter-Party Advisory Committee
NCCE	National Commission for Civic Education
NCD	National Commission for Democracy
NDC	National Democratic Congress
NDI	National Democratic Institute
NPP	National Patriotic Party
NPP	New Patriotic Party
NVNV	No Verification, No Vote
PNDCL	Provisional Defence Council Law
PNDC	Provisional National Defence Council
RRC	Registration Review Committee
STL	Superlock Technologies Limited
US	United States



## ABSTRACT

The purpose of the study is to ascertain the implications of Election Petitions in the consolidation of democracy in Ghana. The study's specific objectives are to identify the issues that necessitated the challenge of the EC results leading to an electoral dispute in the parliamentary and presidential elections; to ascertain the implications of the parliamentary election petitions outcomes in consolidating democracy at the constituency level; to examine the Supreme Court's decisions and how it may have strengthened or weakened Ghana's democracy. The study's foundation is underscored by the Neo-Institutional Approach. The study relied on qualitative methodology using 10 key informants that responded to the interview guide. The study relied on thematic analysis for the data analysis. The issues that necessitated the EC results being challenged, leading to an electoral dispute in the parliamentary and presidential elections are function of anomalies tied to the constitutional or legal framework, operational governance, personnel, resource constraints, and administrative lapses, as well as some transparency challenges. By way of implications of the petitions in consolidating democracy at the constituency level, the study found that it may have helped optimize the legal and constitutional framework around elections to avert parliamentary or constituency political unrest. As a result, grass-roots political governance and the electoral process are subject to legal processes. This strengthened and validated institutional empowerment as a function of the rule of law and separation of powers in the adjudication of disputes rather than resorting to violence. It also strengthened the recourse to evolving electoral legal reforms to mirror the changing dynamics in elections in the country. The supreme court's decisions ultimately strengthened Ghana's democracy, as it has had a significant impact on the EC and the conduct of elections in Ghana. The study recommended that electoral violence management practitioners and policymakers should evaluate the impact of electoral violence on victims and create diverse strategies to prevent severe consequences. The government should allocate resources for policy development and implementation of electoral reforms. The EC should ensure ongoing monitoring and education, including conflict-resolution measures in the voting process. The EC and judiciary should consider the repercussions of the electoral system for violence risk and analyze potential reforms. Punishment for perpetrators of violence and the development of measures to support the institutional structure and legislative framework are also necessary.

## CHAPTER ONE

### INTRODUCTION

#### 1.0 Background

Political elections confirm the people's choices and often with the intended purpose to entrench sovereignty. Citizens elect a government, granting it the legitimacy to rule and oversee the nation's judicial governance and resource distribution (Pettit, 2022). Election winners are consequently in control of the largesse of the state. Elections, according to Andrew Heywood, guarantee the mutual influence of the populace and the powerful as well as elites and the masses (Heywood 2000: 200). Competitive elections determine the legitimacy of democracy. The electoral outcome is unpredictable and solely dependent on voter choice. As a result, citizens determine who and how much authority they will entrust to wield power on their behalf, as well as when a change in authority is necessary. Elections are extremely competitive around the world, and in multiparty democracies, the support and agreement of losing candidates is far from guaranteed. This is due to the quest for political power to govern, to carry out political ideas for development, to exercise control and responsibility over the allocation of resources, and to sell competing political ideas to the populace (Erlich et al., 2021). Sometimes too the competitiveness and adherence to democratic electoral processes results in political disputes.

Given this, the vast majority of electoral processes that have been fraught with controversy have been contested. As required by the democratic system firmly rooted in the law, disgruntled political parties must seek resolution through the legal system. In several instances of election petitions in Africa, the judge has thus far been resistant to being persuaded that electoral law violations had any significant or unfavourable effects on the validity of presidential election results, despite the petitioners almost invariably providing documentation of these violations (Kaaba, 2015). The Raila

Odinga case seems to support the courts' hesitation to void presidential election results. On March 9, 2013, Mr. Uhuru Kenyatta was declared the victor of the 2013 presidential election by the chairperson of Kenya's Electoral Management Body (EMB), the Independent Elections and Boundaries Commission (IEBC). The adoption of biometric voting technology was a first in the history of Kenya. Three different petitions were submitted in response to the announcement challenging the outcomes. Overvoting, mistakes in the manual tally of results, and the announcement of results using erroneous declaration forms were all common occurrences in Kenya's elections. Whether the third and fourth respondents were legitimately elected as President-elect and Deputy-President-elect, respectively, was the primary question that was brought down for trial. The electronic transmission of results is not exclusively necessary in Kenya, according to the Supreme Court, because of flaws in the electronic voting equipment. The IEBC, which relied on manual vote counting when its computerised system failed, was found not to have committed an injustice, according to the Supreme Court. The petitioners were unable to demonstrate how the first and second respondents' voting procedures inflated the votes of the third respondent while deflating the petitioners' (Azu, 2015).

Similarly drawing inference from the Nana Akufo-Addo case's narrow victory for the respondents, however, raises the possibility that the time for failed presidential election petitions may be coming to an end (Sekindi, 2017). Ghanaians went to the elections to choose a new president on December 7, 2013. In Ghana's history, biometric voting had never been used before. John Dramani Mahama, the incumbent, was named the victor in the presidential election by the Electoral Commission chairperson on December 9. In order to have Mr. Mahama's election and inauguration as president annulled, Nana Addo Dankwa Akufo-Addo petitioned the Supreme Court. Whether the first respondent was legitimately elected as President of Ghana was the key issue at trial.

Allegations of excessive voting, voting without biometric verification, and presiding officers' signatures missing from several result declaration forms were all rejected. The Supreme Court determined by a razor-thin five-to-four majority that Mr. Mahama had been elected as President despite a severely split judgement. Votes cast at polling places where biometrics could not be confirmed were asked to be annulled, but the appeal was denied by the Ghanaian Electoral Commission (EC). Dr. Ibrahim Afari-Gyan filed the petition, alleging that voting took place without prior biometric verification and that results were announced using erroneous forms. Akoto-Bamfo JSC ruled that it was unreasonable to subject the electorate to the administrative faults of EC agents, especially because such mistakes might have been fixed by court orders. Additionally, Adinyira JSC ruled that just because there were difficulties with the polls did not necessarily entail that the outcomes had been adversely affected. (Azu, 2015).

In 2019, Atiku Abubakar, running as the candidate for the People's Democratic Party (PDP), filed a petition challenging the victory of President Muhammadu Buhari, who represented the All Progressives Congress (APC). Atiku claimed that the presidential election was marred by irregularities, voter suppression, and other electoral malpractices. He sought to invalidate the election results and urged the court to grant a fresh election or declare him the rightful winner (Oluwadayisi & Olowononi 2019). Nigeria's court system played a crucial role in addressing the electoral petition filed by Atiku Abubakar. The case was presented before the Presidential Election Petition Tribunal, which is specifically established to handle disputes relating to the presidential election. The tribunal comprises judges who meticulously examined the evidence presented by both parties and listened to legal arguments. After a lengthy process, the tribunal delivered its judgment (Onapajo & Babalola, 2020).

The Presidential Election Petition Tribunal eventually ruled in favor of President Muhammadu Buhari, upholding his victory. The court stated that Atiku's claims lacked substantial evidence to

warrant a reversal of the election result. This decision reinforced the electoral mandate of President Buhari's administration and solidified the democratic process in Nigeria. However, it also sparked debates regarding the effectiveness of the court's handling of electoral disputes and the need for electoral reforms (Egbunike-Umegbolu & Bajela, 2022).

Zimbabwe, while having a different political landscape, has also witnessed its fair share of electoral petition cases. Notable examples include the 2018 petition filed by Nelson Chamisa of the Movement for Democratic Change (MDC) challenging the re-election of President Emmerson Mnangagwa. Similarly, Zimbabwe's court system played a critical role in assessing the evidence and delivering its judgment. However, this case resulted in the affirmation of President Mnangagwa's victory, leading to discussions about the overall transparency and fairness of the electoral process in Zimbabwe (Chikwati, 2023).

However, research suggests that some judges have been swayed by extra-legal factors, which some of them have said are required due to public interest or policy (Kaaba, 2015). The court is conscious of the fact that it is the unelected minority arm of government and that, as such, it must proceed cautiously on any course that could easily be seen as a usurpation of the right of the public to choose their political leadership through the ballot (Kaaba, 2015). Furthermore, it should be underlined that the Ivoirian crisis of 1996 shows that a nation's democratic process is critically impacted by how presidential election issues are resolved. Although recognizing that the court's judgement can substantially help the government machinery function more smoothly, it is difficult to seriously challenge the reverse. Therefore, the judiciary, which is the branch of government with the constitutional authority to settle presidential election disputes, is expected to strike a healthy balance between resolving petitioners' complaints effectively and substituting the public's will for its own (Azu, 2015). The judiciary has been presented with a multitude of electoral petition

lawsuits, wherein the court is requested to assess both the constitutionality of the law and the results of the disputed elections.

As a result, contested elections have become the rule rather than the exception. In Ghana, the 1992, elections marked the return to multiparty competitive electoral politics and the commencement of the fourth republic, which began on January 7, 1993, with the proclamation of the 1992 Republican Constitution. Several elections have been conducted since then: in 1996, 2000, 2004, 2008, 2012, 2016, and 2020. In 2000, 2008, and 2016, these elections saw three peaceful transfers of political power from the incumbent to the opposition party (Graham et al., 2017). In a seamless transition in 2016, an incumbent president was ousted by the opposition political party. Election-related disputes have arisen. Even though a formal petition was not produced, the National Democratic Congress (NDC) informed the Electoral Commission and election stakeholders that the results of the 2004 elections were being questioned once more, but this time without using the legal system (Owusu-Mensah and Frempong, 2015).

Despite claims that the Electoral Commission's election process faced some irregularities, the 2016 election results were likewise approved. The fact that there were problems with these elections led to their being deemed invalid, and the losing candidates' refusal to accept the results, even if they admitted loss, was a common theme throughout the elections. On the other hand, Ghana's electoral politics was innovative during the 2012 and 2020 presidential elections. This time, the losing candidates appealed the results at the Supreme Court in accordance with Section 64(1) of the Republican Constitution of 1992 (Akpeko & Desmond 2022). Focusing on Ghana's experience is crucial since the nation is seen as a model for democratic growth and institutional stability in sub-Saharan African (Adams and Asante, 2020:244).

## 1.1 Problem Statement

Though it is clear that Ghana continues to pique interest in Africa due to the modest steps taken to consolidate democracy, her electoral process has been hampered by a variety of institutional and structural issues. For instance, the issue of vote buying, the over-politicalization of all electoral issues, the abuse of incumbency, allegations of a bloated electoral register, and the phenomenon of political vigilantism have all, in one way or another, weakened the legitimacy of elections (Ayee, 2019). Based on these identified challenges, election results that were contested challenged the validity of the results. But the election petitions and their discovered flaws have, regrettably, not gotten enough scholarly attention, particularly the role of presidential and parliamentary election petitions in consolidating democracy.

Again, the literature gap posits that there is just a little research on election petitions in Ghana because the field is still in its infancy. The majority of the research (Owusu-Mensah and Frempong, 2015; Adams and Asante, 2020; Azu, 2015) focused on the judiciary and elections in Ghana. Gyampoh's (2018) research focused on the petition for the 2012 presidential election and electoral reforms. It is important to note that Asante and Asare (2016) talked about how the presidential election petition from 2012 helped Ghana consolidate its democracy. Therefore, by comparing and contrasting the contributions of both the 2012 and 2020 election petitions towards democratic maturity in Ghana, this work supplements the research of Asante and Asare (2016). By revisiting the election petitions topic, this research offers the chance to unearth new empirical data that will support existing findings, help bridge knowledge gaps in the literature, and support the study's theoretical underpinnings.

Election adjudication plays a significant role in promoting the democratisation of Africa and its electoral processes. One way to promote democratisation in Africa is by encouraging dissatisfied parties to pursue election petitions through the appropriate legal channels instead of resorting to

violent retaliation. The aggrieved individuals are selecting the law as their arbiter. This procedure enhances the institutionalisation of succession and reinforces the principles of rule of law and constitutionalism. Concerns have been raised regarding the courts' resolution of certain election issues (Raden, 2021). Election-related challenges often face delays in resolution, and court rulings on these matters may be overturned by subsequent events. Additionally, there may be a perception of judicial bias in different situations. The large number of election petitions places a heavy burden on the judiciary and causes congestion in the courts (Nkansah, 2016). Regrettably, the scholarly community has predominantly focused on analysing the outcomes of presidential petitions and elections, neglecting the importance of documenting research evidence pertaining to parliamentary election petitions. It is imperative to prioritise the documentation of such evidence. This study aims to examine the impact of court decisions on public perceptions of elections and the legitimacy of the judiciary, specifically focusing on petitions related to parliamentary elections. According to Kerr and Wahman (2021),

## 1.2 Research Questions

- What are the issues that necessitate the Electoral Commission results being challenged leading to an electoral dispute in parliamentary and presidential elections?
- What are the implications of the parliamentary election petitions outcomes in consolidating democracy at the constituency level?
- How does the Supreme Court's electoral petition decisions strengthen or weaken Ghana's democracy?



### **1.3 General Objective**

The purpose of the study is to ascertain the implications of electoral petition decisions on consolidation of democracy in Ghana.

### **Specific Objectives of the Study**

The study is guided by the specific objectives as follows:

- To identify the issues that necessitate the Electoral Commission results challenged leading to an electoral dispute in parliamentary and presidential elections.
- To ascertain the implications of the parliamentary election petitions outcomes in consolidating democracy at the constituency level.
- To examine the Supreme Court's decisions and how it may strengthen or weaken Ghana's democracy.

### **1.4 Scope of the Study**

The focus of the study was to examine how election petitions contributed to Ghana's democratic consolidation. The problem statement's emphasised target areas for the study include presidential petitions and, most significantly, how the results of parliamentary election petitions strengthen democracy at the local level. It is regrettable that the election petitions and the problems they have shown have not received enough scholarly attention, especially the importance of presidential and parliamentary election petitions for the consolidation of democracy, which forms the foundation of the study's intended scope. All study parameters will take into account the Supreme Court's rulings and how they may support or undermine Ghana's democracy.

### **1.5 The Rationale of the Study**

This study would add to the body of knowledge on presidential election petitions and provide empirical data. This study will make it easier to comprehend why political actors invest so much time and money in presidential election petitioning. It will also highlight the requirement for the electoral stakeholders to give the election conflicts a democratic approach and legal process to resolve them. It may be important for the country to enable governmental organisations, policy think tanks, and political parties to participate in embracing post-election discontent via judicial process rather than violence in order to prevent civil wars, conflicts, and social unrest that are caused by election political unrests.

Additionally, research by Alemika (2007) found that, particularly in societies that are in transition or fragile democracies, individuals' perceptions of the quality of elections in their nation have a major impact on democratic consolidation. Despite the fact that Ghana's democracy is not fragile and transitioning but evolving, it is crucial to carry out research into the part the EC plays in strengthening democracy in Ghana's Fourth Republic as also done by the advanced democratic nations like US and Europe among others. This would make it possible for the EC and decision-makers to correct flaws that might endanger Ghana's democratic progress. Finally, the study's conclusions and suggestions can assist in improving the electoral process.

### **1.6. Theoretical Framework: Neo-Institutional Approach**

The Neo-Institutional Theory, which serve as the study's theoretical foundation, allowed the researcher to ascertain the implications of election court petition by the judiciary in the consolidation of democracy in Ghana involving democratic institutions like the EC and political parties. Institutions are essentially the different norms that regulate interactional patterns within a clearly defined operational framework (Bentil, 2017). Thus, the institution theory must be included

in order to analyse any aspect of politics, including the judiciary, Electoral Commission, party systems, judiciary, legislature, executive, police, and bureaucracies.

This Neo-Institutional Approach historically is based on the writings of John Meyer and Brian Rowan (1977), Lynne Zucker (1977), and Richard Scott (1983), as well as DiMaggio and Powell (1983). The idea is based on the concept that the formal organisational structure is impacted by institutional influences such as "rational myths, information legitimised via the educational system and by professionals, public opinion, and the law" as well as "technical needs and resource dependencies" (Powell, 2020).

Mirza (2023) emphasize the need to discern whether an organisation conforms out of expediency, out of a sense of moral duty, or because its members are unable to imagine and understand other approaches to their behavior. Similar to this, Sydow & Söderlund (2023) provide a concise conceptualization of institutionalism as a collection of behaviours intended to produce normative and cognitive fixity that is taken for granted. In other words, institutions reveal hidden networks that are typically neglected, in addition to the technicalities of management processes.

The application of the theory to the work posited that networks frequently perform better than representations of compliance or implementation of regulations on the outside. For instance, the Ghanaian Electoral Commission and the Judiciary function within the established legal parameters. While implementing or enforcing electoral rules and programmes by the judiciary, the EC's role in the conduct of elections mandates that they do so within the bounds of the law. The successful performance of its functions, however, is likely to be hampered by the existence of informal networks. Hence, the study utilised this approach to explain how both formal and informal institutions impact the judiciary, EC, and how the outcome of judiciary verdicts on election petitions

consolidates democracy. Institutions, according to Levi (1990), are "the most effective institutional arrangements that incorporate a normative system as well as informal and internalised rules."

The Neo-Institutional Approach as a theoretical framework that focuses on understanding how formal and informal rules shape social, economic, and political behavior. Specifically, it examines how institutions influence individual and collective actions in society. When it comes to electoral petition, the theory emphasizes the importance of institutional structures, such as electoral systems, in shaping political behavior and outcomes. The theory helps analyze the design of electoral institutions, including the rules governing elections, party systems, and campaign financing. By examining these institutional arrangements, we can better understand the factors that promote or hinder electoral competition. The Neo-Institutional Approach recognizes that both formal rules (e.g., laws, regulations) and informal rules (e.g., norms, customs) influence political behavior. By studying these rules, we can identify how they affect the strategies and behavior of political actors in electoral competition. The theory allows us to assess how different institutional configurations shape electoral competition. For example, studying the effects of different electoral systems (e.g., proportional representation vs. plurality) on competition can help determine which systems are more likely to encourage multi-party systems or promote the inclusion of marginalized groups. The Neo-Institutional Approach helps us understand how institutional factors impact electoral outcomes, such as voter turnout, party system fragmentation, and the representation of diverse interests. By analyzing these outcomes, policymakers can identify potential areas for reform and improvement in order to enhance electoral competition.

In support of this claim, North (1990) observed that the informal aspects of institutions are important. That is, the informal aspects of institutions aid in gaining a deeper understanding of how institutions function. Schotter (1981) expands on the simple argument that the concept of an institution should not be skewed to the "rules of the game," but rather to the behaviours that follow

the rules. Furthermore, Helmke and Levisky (2006) demonstrated that interactions between formal and informal rules have a variety of effects on political outcomes based on their tetra approach to institutions, which consists of the following elements: 'complementary, competing, substitutive, and accommodating.' This assumes that both formal and informal institutions cannot be ruled out in the discharge of the Judiciary's and EC's roles, such as adjudicating issues, interpreting the constitution, influential lobbyists, kinship ties, social relations, traditional leaders, religious leaders, financiers, friendship, and other understanding of the factors that shape the judiciary and the Electoral Commission's decisions and likely behavior.

## **1.7 Literature Review**

### **1.7.1 Election Petition**

Electoral petitions are now widely accepted as an essential component of election administration around the world. Matthew de Cranthorn brought the first documented case against Robert Buedyn before King Edward II and his Council in 1318 (Owusu-Mensah and Frempong, 2015). The notion of an election petition derives from British electoral history (Jack and Thomas, 2011). The evolution of elections, the expansion of the franchise, and the development of British electoral democracy in the 19th century was all associated with power struggles, bribery, and inappropriate procedures that jeopardised electoral outcomes (cited in Nyane, 2018).

Nyane (2018) notes that traditionally, the legislature adjudicated election petitions to the marginalisation of the legal system and was non-judicial in nature in Lesotho. However, the legislators' partisanship undermined the legitimacy of their choices on election petitions. As a result of the legitimacy shortfall associated with such decision-making, public trust in elections as a whole depleted. As a result, the judgement of electoral disputes in parliament has shifted to judicial resolution (Nyane, 2018). The judiciary was initially hesitant and averse to carrying out the difficult task of resolving election petitions. However, the transition from the parliamentary electoral dispute

resolution mechanism to a judicial resolution was made easier by the operationalization of the Parliamentary Elections Act of 1968. (Nyane, 2018).

Huefner (2007:265–326) has emphasised three crucial elements that must guide the judgement of election petitions. He implied that, in addition to the need for the entire process to be fair from the viewpoints of the parties involved and the general public, openness and a timely decision on the petition are also essential since they are predicated on the idea that justice delayed is justice denied.

Kaaba (2015) identified five distinct problems that have consistently characterised domestic adjudication of presidential election petitions in Africa, namely:

(i) "All cases are ruled in favour of the incumbent candidate, the candidate backed by the ruling party, or the anticipated victor."

(ii) "Many cases are rejected on minor procedural snags without taking the merits into account."

(iii). There is abuse of the substantial effect rule

(iv) In other nations, "conflict settlement is excessively delayed to the point that the entire procedure is pointless."

(v) By preventing themselves from reaching the proper conclusions, judges merely fail to address the problems that are brought before them.

According to Akpeko and Desmond (2022) as cited in Azu (2015:151), judicial challenges to presidential election results have seldom been successful. Ghana, Uganda, Kenya, Nigeria, Sierra Leone, Zambia, and Zimbabwe are among the African nations where petitions made to challenge the results of presidential elections have been unsuccessful (Azu, 2015:151). Because the Côte d'Ivoire Constitutional Council overturned the results that had been declared, the 2010 Cote d'Ivoire

case was an exception to the rule. Scholars, on the other hand, contended that the effect of this ruling was similar to other decisions that upheld the results of other contested elections. This is due to the fact that the verdict was rendered in favour of the incumbent, President Laurent Gbagbo, who had clearly lost the election (See Verdict of the Constitutional Council of Côte d'Ivoire of 3 December 2010 No. 147) (Kaaba, 2015; Owusu-Mensah and Frempong, 2015; Azu, 2015). In practice, the evidence suggests that, with the exception of Ukraine, where a presidential election petition was successful, judicial challenges to presidential election results have rarely been successful (Azu, 2015). The motivations for politicians contesting election results have been described as reversing election results, maintaining political reputation, using the court battles as pressure to seek a government post, and satisfying psychological demands (Erlich et al., 2021:3). The 2012 and 2020 presidential election petitions and their relative contributions to Ghana's democratic development are covered under the study's scope.

### **1.7.2 Democracy**

Most nations in the world today strive to implement a democratic system of government. Because of this, the idea has undergone a number of operations and investigations by many academics to produce the finest components and aspects that form democracy, even if the fundamental ideas remain the same. In light of this, Buhlmann et al. (2008) have argued that a lack of agreement on how to measure democracy has resulted from the concept's contention and location in an "ongoing lively debate" due to the abundance of literature relating to democratic theory and what constitutes democracy.

Similar to this, Schmitter and Karl (1991: 95) asserted that "the word democracy has been making the rounds as a devalued monetary system in the political marketplace [where] politicians with a wide range of convictions and practices strive to appropriate the label and attach it to their actions...because of the uncertainty that surrounds it" Nevertheless, the research will focus on the

widely held belief that democracy is "government of the people, by the people, and for the people," as articulated by Abraham Lincoln, as well as Robert Dahl's view of democracy in his *Polyarchy* (1971). This is significant because the people are democracy's fundamental building blocks. Therefore, electoral competition is necessary for the wide engagement of voters in choosing their own leaders. For example, Dahl's perspective encompasses the rule of law and the necessity for institutions to carry out their functions; Dahl emphasises competitive elections as the primary route and ticket to manage the affairs of the state, while allowing for greater citizen participation and the guarantee of civil liberties, freedom, and the protection of minority rights as necessary to consolidate democracies, even though the real governance business may be lacking.

### **1.7.3 Democratic Consolidation**

Many academics have highlighted the requirements for the consolidation of a democracy. Democratic consolidation, according to Schmitter (1985), is a situation in which "the rules and resources of basic democratic institutions are sufficiently entrenched—sufficiently protected by their own and other vested interests and sufficiently endowed with symbolic significance and narrative approval—that they can withstand predictable changes in their environments." (Page Number) The basis for accepting this viewpoint is that the minimalists believe that electoral procedures have enhanced Ghana's democracy. Ghana, for example, has surpassed Huntington's two turnover barrier by committing three straight turnovers. You will need to really enhance your literature review. What you have presented above is more of operational definitions rather than a literature review. Where is the link to the works reviewed to the problem statement?

## **1.8 Research Methodology**

### **1.8.1 Methodological Approach**

Because the research project consisted of in-depth interviews and documentary analysis for data gathering using an interview guide, the qualitative technique was chosen as the appropriate research approach to use. Key sources were interrogated in order to have a better understanding of how presidential election petitions contribute to the improvement of democracy in Ghana. Instead of using a questionnaire to try to glean this kind of information, it is very necessary for the key informants to share their wealth of knowledge on the results of election petitions. According to Creswell et al. (2016), qualitative research is appropriate when the primary focus of the study is to get comprehensive knowledge of the underlying factors, circumstances, and influences that contribute to the occurrence of certain phenomena. This includes the exploration of their causes and effects, which underscored the basis of this study. The justification for this comes from the fact that qualitative research is appropriate when the primary focus of the study is to get comprehensive knowledge of the underlying factors, circumstances, and influences that contribute to the

### **1.8.2 Research Plan**

The study took a qualitative approach, specifically following Creswell and Poth's (2016) case study research methodology. The case study conducted in Ghana offers a comprehensive analysis that contributes to a deeper understanding of the subject matter being investigated. One significant benefit of using case studies is their capacity to provide a thorough and complete review. In contrast to research methods that provide a singular perspective, such as surveys, a case study enables a researcher to use a diverse range of instruments to examine a particular subject. This approach provides an opportunity to provide sufficient time and resources for acquiring a comprehensive understanding of the matter at hand, therefore establishing a strong basis for conducting a more extensive analysis of the factors influencing the case study.

### **1.8.3 Target Audience**

Experts and experienced respondents were sought out for this study because of their ability to provide an informed response (commentary) on topics ranging from the past to the present that concerned the Electoral Commission (EC), the election petition, the processes of the judiciary, the parliamentary election, and the presidential election, as well as the role that the EC played in the consolidation of democracy, in particular in Ghana's Fourth Republic.

#### **1.8.4 Sampling Method**

Purposive sampling will be used to focus the study on certain individuals who were deemed to have the necessary skills to facilitate the investigation, as well as to increase the study's representativeness and generality. Purposive sampling is a non-probability sampling approach in which the researcher chooses variables for the sample population at their discretion (Etikan et al 2016). The entire sampling process is dependent on the researcher's judgement and understanding of the context in this case. Purposive sampling is a low-cost method of sample selection. In this case, the researcher relies on their knowledge to select the most appropriate volunteers for the systematic examination. It also assists you in saving time (Rai & Thapa 2015). It enables the researcher to make the most of a limited population of interest and provide meaningful research results. Purposive sampling enables the researcher to collect qualitative replies, resulting in more insightful and precise research results. The results are relevant to the research environment since the researcher obtains information from the best-fit individuals.

#### **1.8.5 Data Sources**

The research will be made use of both primary and secondary data. Primary data will be gathered through interviews with the key informants that have at least 15 years' experience on judicial process, election issues and democratic governance. To collect data, personal interviews with respondents will be conducted using a semi-structured interview guide. As a result, respondents will

be able to give thorough data for the study. The interviews will be concentrated on the study's objectives. Secondary data will be gathered from journal articles, policy documents, newspapers, books, and the Balme Library to augment primary data and broaden the breadth of the data to be studied.

### **1.8.6 Data Gathering and Analysis**

Thematic analysis is a qualitative data analysis approach that involves searching through a data collection to locate, evaluate, and report on repeating patterns (Braun and Clarke 2006). It is a data description approach, but it also requires interpretation in the processes of generating codes and developing themes

To assure validity and reliability convergence of results from many viewpoints, researchers use interviews, observations, and document analysis. The study's validity and reliability are improved by decreasing bias and improving trust in the findings. Researchers examines their biases, assumptions, and research impact. They attempt to be honest and reduce data collecting and analysis distortions by admitting and expressing their viewpoints and possible implications on the research process. Researchers ask participants for data interpretation input to verify correctness and representativeness. Sharing results with participants and requesting their opinion or validation may improve study validity by allowing people to confirm or question the researcher's perceptions.

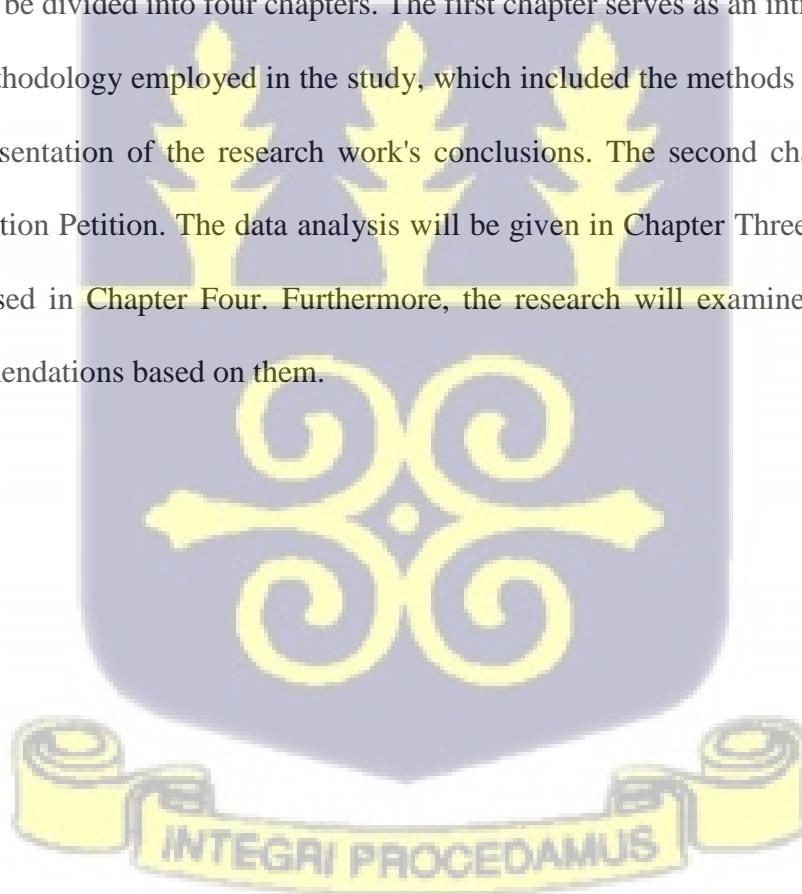
### **1.8.9 Ethical Concerns**

Ethical issues pertain to the multifaceted complexities and obstacles that emerge within the realm of research, with the objective of guaranteeing that researchers refrain from subjecting human beings to any adverse situations. (Barnard et al., 2008). According to Patten and Newhart (2017), the essential ethical considerations that must be considered in any research are voluntary participation, privacy rights, anonymity, and information confidentiality. In view of this, every effort was made to resolve each and every one of these ethical concerns. For example, with

voluntary participation, the researcher sought informed consent from participants, which involved obtaining prior authorisation and explicitly conveying that their participation is optional, granting them the prerogative to withdraw from the research at any time, should they want to do so. Furthermore, potential privacy issues were addressed by allowing respondents to complete the questionnaire on their own, with respondents being asked to leave any difficult questions unanswered so that more information may be offered via their preferred medium. Also, in terms of anonymity, the option for respondents to disclose their names and phone numbers was removed from the questionnaire.

### **1.9 Chapter Structure**

The research will be divided into four chapters. The first chapter serves as an introduction and also described the methodology employed in the study, which included the methods of data collection, analysis, and presentation of the research work's conclusions. The second chapter to present a trajectory of Election Petition. The data analysis will be given in Chapter Three, and the findings will be summarised in Chapter Four. Furthermore, the research will examine the findings and provided recommendations based on them.



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## CHAPTER TWO

### HISTORICAL OVERVIEW AND CONCEPTUALIZATION OF DEMOCRATIC CONSOLIDATION

#### 2.0 Historical Perspective of Elections in Ghana

Elections validate the sovereignty of the people (Lindberg, 2008:10–14). Citizens elect a government, giving it the authority to rule and supervise the state's decision-making authority and resource distribution (Lasswell, 1936). Therefore, the political governance of the ruling party of the state is decided by elections. Elections have become very competitive across the world due to control and accountability for the authoritative allocation of resources, and in multiparty democracies, losing candidates' compliance and agreement are far from assured (Erich et al., 2021:1). Consequently, contested elections are becoming the rule rather than the exception (Lindberg, 2008:10–14).

Ghana reverted to competitive multiparty electoral politics after the 1992 founding election. The publication of the 1992 Republican Constitution on January 7, 1993, consequently signaled the start of the fourth republic. Several elections—in 1996, 2000, 2004, 2008, 2012, 2016, and 2020—have taken place. Three peaceful transfers of political power from the incumbent to the opposition party occurred during these elections in 2000, 2008, and 2016 (Graham et al., 2017). Additionally, the nation lost a President in July 2012, and in accordance with Article 60(6) of the Republican Constitution of 1992 (Republic of Ghana, 1992:52), the incumbent vice president was inaugurated into office without upsetting the peace in the nation. In a peaceful transition in 2016, the incumbent president was deposed by the opposing political party. Electoral conflicts have arisen as a result of these advantages. For instance, the 1992 general elections were contested by the New Patriotic Party (NPP), although there was no official appeal.

The National Democratic Congress (NDC) also contested the 2004 elections, and an official petition was filed, but it was not expanded (Owusu-Mensah and Frimpong, 2015:20). Despite suspicions that the Electoral Commission's system was compromised, the 2016 election results were likewise recognized. There were issues that caused the elections to be deemed faulty, and the results were rejected by the losing candidates, despite their admission of defeat. On the contrary, the 2012 and 2020 presidential elections marked a departure in Ghana's electoral politics. This time, the losing candidates petitioned the Supreme Court under Article 64(1) of the 1992 Republican Constitution (Republic of Ghana, 1992:55). Though it is clear that Ghana remains a source of attraction in Africa due to the modest progress achieved toward democratic consolidation, her electoral process has been marred by a slew of institutional and structural obstacles. Unfortunately, these shortcomings have received insufficient scholarly attention. The persistent challenges of vote-buying, excessive politicization of all electoral matters, misuse of incumbency, a bloated electoral register, and the phenomenon of political vigilantism, for example, have all affected the credibility of consecutive elections in some manner (Afrobarometer, 2017:1–3; Ayee, 2019: xiii–xxii).

Furthermore, there has been limited research into election petitions in Ghana. The majority of research focused on the courts and elections (Owusu-Mensah and Frempong, 2015; Adams and Asante, 2020; Azu, 2015). Gyampoh (2018) conducted research on the presidential election petition and electoral changes in 2012. It is worth mentioning that Asante and Asare (2016) addressed the impact of the 2012 presidential election petition on Ghana's democratic consolidation. By comparing the contributions of presidential election petitions in 2012 and 2020 to Ghana's democratic maturity, this study contributes to the work of Asante and Asare (2016). The research applies Linz and Stepan's (1996) behavioural, attitudinal, and constitutional components of democratic consolidation to the two presidential election petitions to explain Ghana's developing trajectory of democracy. It is necessary to concentrate on Ghana's experiences since the nation is

considered a leading beacon of democratic growth and institutional changes in the sub-Saharan African area (Adams and Asante, 2020:244). The country is one of eight (18%) in Sub-Saharan Africa certified by Freedom House as "free," with the remaining 82% classified as "partially free" or "not free" (Freedom House, 2017). Per the assessment, by the end of 2016, the country had established itself as one of Africa's most stable democracies. The claim was predicated on the peaceful transition of power from defeated incumbent John Mahama to opposition challenger Nana Akufo-Addo during the national elections in December 2016. Additionally, Ghana is a pioneer in the region in meeting Huntington's criterion for democratic governance (Huntington 1991), and for these considerations, the nation is a good test case for the study of African electoral politics.

## **2.1 Theorizing Election Petitions and Democratic Consolidation**

This section is divided into two parts: election petitions and democratic consolidation.

### **2.1.1 Election Petition**

Election petitions are now universally recognised as vital components of election management worldwide. In 1318, Matthew de Cranthorn presented the first known case against Robert Buedyn to King Edward II and his Council. 2015:20 (Owusu-Mensah and Frempong). The notion of an election petition stems from British electoral history (Jack and Thomas, 2011). Political contestation, corruption, and inappropriate practices that jeopardised electoral outcomes were related to the growth of elections, the extension of the franchise, and the development of British electoral democracy in the nineteenth century (O'Leary, 1961, quoted in Nyane, 2018:4). Traditionally, the resolution of election petitions remained the exclusive domain of the legislature rather than regular courts and was non-judicial in nature (Nyane, 2018:4). The partisanship of the parliamentarians, however, harmed the legitimacy of their rulings on election petitions. Public faith in elections has been fully drained as a result of the credibility gap associated with such decisions.

As a result, parliamentary adjudication of election issues has given way to judicial settlement (Nyane, 2018:5).

The passage of the Parliamentary Elections Act of 1868 assisted the transfer from parliamentary electoral dispute settlement to judicial resolution. Even if the legislation looks to be ancient, it is nevertheless highly relevant in comprehending election petitions, which are widely implemented and utilised in many nations today (Nyane, 2018:5). Huefner (2007:265-296) identifies three essential considerations that must guide the election petition adjudication procedure. Aside from the fact that the entire process must be fair from both the standpoints of the litigants and the general public, he stated that openness and timely resolution of the petition are vital, since this is founded on the notion that justice deferred is justice rejected.

In general, suing over presidential election results has seldom been successful. Ghana, Uganda, Kenya, Nigeria, Sierra Leone, Zambia, and Zimbabwe are among the African nations whose presidential election appeals have been denied (Azu, 2015:151). In 2010, the Côte d'Ivoire Constitutional Council rejected the declared results, which was unprecedented. Scholars, on the other hand, maintained that this verdict had the same effect as prior rulings that affirmed the outcomes of other contentious elections. This is because the judgement favoured the incumbent, President Laurent Gbagbo, who had evidently lost the election (see Côte d'Ivoire Constitutional Council Verdict of December 3, 2010 147). Adams and Asante, 2020; Azu, 2015; Kaaba, 2015; Owusu-Mensah and Frempong, 2015; Owusu-Mensah and Frempong, 2015. In fact, with the exception of Ukraine, where a presidential election petition was successful, data shows that court challenges to presidential election results have seldom been successful (Azu, 2015:151). Politicians that challenge election results have been recognised as having objectives such as overturning election results, maintaining their political reputation, using court battles as pressure to get a government post, and satisfying psychological demands (Erlich et al., 2021:3). The presidential

election petitions for 2012 and 2020 are included in the scope of this analysis, as are their distinct contributions to Ghana's democratic maturity.

## 2.2 Democratic cohesiveness and Consolidation

Democracy, as a name and a way of life, originated in ancient Greece (Asante and Asare, 2016). The phrase is derived from two Greek words: "demos" (common people) and "kratein" (to govern) (Sargent, 2008:62). Democracy, according to the Greeks, represents popular rule or governance. people who were illiterate, unsophisticated, and destitute. Abraham Lincoln lauded the merits of democracy in his Gettysburg Address, accurately characterising it as "government of the people, by the people, and for the people" (Asante and Asare, 2016:2). While democracy is an essential notion in comparative politics, it is also elusive and difficult to conceptualise and quantify (Khorram-Manesh, 2013:5), hence researchers have defined it in many ways. Huntington supports democracy (1991:1). "Is a political system in which the most powerful decision-makers are elected in fair, honest, and regular elections in which all adult citizens have the right to vote." He went on to remark that democracy is built on contestation and participation (Huntington, 1991:1). According to Przeworski et al. (2000), electoral contestation is a necessary component of democracy. According to Collier (2009:15), elections are not only key defining elements of democracy, but they are also the most obvious aspect in any democratic setting. Consolidation is based on the Latin term "consolidare," which meaning "to strengthen" (Asante and Asare, 2016). The comment of Pridham (1990:8) that democracy is a "nebulous idea" remains relevant. To yet, "no broad agreement has evolved" on the specific definition of democracy consolidation (Gunther et al. 1996:5). Diamond (1997) defined consolidation as "the way of accomplishing broad and profound authenticity or validity and credibility, such that all substantial political stakeholders, at both the upper echelon and mass levels, genuinely think that the democratic state is perhaps the most prerogative and

suitable for the societal structure, better than just about any other viable solution they can assume."(Page Number)

Linz and Stepan (1996:5) argue that democracy cannot be defined as consolidated unless a variety of prerequisites are satisfied, including the establishment of certain specific attitudes and stereotypes. In underlining the main qualities of a consolidated democracy, they highlighted a limited definition that integrated behavioral, ideological, and legislative components (Linz and Stepan, 1996:5). They maintained that when three fundamental dynamics are in place, democracy is considered to have solidified. First, when no significant global, governmental, economic, societal, or organisational players devote considerable resources in an effort to create a nondemocratic system or split from the government, the behavioural factor is satisfied. The attitudinal dimension is engaged when a substantial "majority of the public feels that democratic methods and institutions are the best way to rule collective life, even in the face of enormous economic challenges and strong unhappiness with incumbents." In this regard, system antagonism must be modest compared to the pro-democratic forces in such a government. The third requirement that must be satisfied is the democratic basis. They emphasised that this condition is achieved when governments and nongovernmental entities equally become exposed to and accustomed to dispute resolution within the boundaries of the precise laws, processes, and organisations authorised by the emerging democratic process (Linz and Stepan, 1996:5).

Furthermore, in addition to the three dimensions outlined above, Linz and Stepan (1996) highlighted five interrelated and mutually supportive characteristics as conditions for democratic consolidation. It is necessary to provide a favourable atmosphere for the growth of a free and vigorous civil society. The presence of a politically independent society is number two. Three, all crucial political players over the full area of the state, notably the state machinery and the administration, should be "subject to the rule of law that safeguards both associational life and

individual liberties." Four, the new democratic government must have a functional state bureaucracy, and five, an institutionalized economic society must emerge. According to Linz and Stepan (1995), a democracy grows sustainable "if it is the only option available and adopted in the system." A recent study assessed representative democracy's level of sophistication in Ghana through the lens of two national election petitions, employing the time-tested measurements of the representative democracy consolidation framework aptly described by Linz and Stepan (1995), a behaviour, attitudinal, and jurisprudential set of guidelines for democracy consolidation. Ghana was chosen since it has actually unceremoniously held several general elections from 1992 to 2020, the most hotly contested and debatable being in 2012 and 2020, yet still they really do not produce violence since the stakeholders abide by the principles of engagement by having to fight their discrepancies in the Supreme Court.

### **2.3 Ghanaian Academic Perspective on Election Petitions**

Election petitions are commonly used to settle election disputes. Since the country's return to multiparty democracy in 1993, election petitions have been a part of Ghana's political experience. Because election petition studies in Ghana are still in their infancy, there is limited empirical research on the issue. Some of these are covered in further detail below. Adams and Asante (2020:249) examined how the Supreme and High Courts contributed to the emergence of democracy in Ghana. They discovered three important factors that caused election unrest during the country's Fourth Republic. These include general wrongdoing on the part of certain EC officials and temporary employees, such as polling agents and security workers, as well as disobedience with electoral regulations on the part of both EC officials and contending candidates and confusion over candidates' eligibility. Adams and Asante (2020: 250–251) explored the function of the judiciary in the adjudication of election petitions, including instances of the responsibilities played

by the judiciary in the interpretation of various electoral laws, the explanation of processes, and the justification for rejecting some petitions. They also emphasized the importance of other parties involved, including lawmakers, attorneys, and members of the Electoral Commission. They specifically emphasised the failure of numerous knowledgeable attorneys to submit election petitions. (Adams and Asante, 2020:151–152), as well as EC staff failing to carry out their duties with the anticipated thoroughness, as reasons for the withdrawal of election petitions.

Adams and Asante (2020:152–153) assert that Ghanaian politicians often use pre-existing legal procedures to resolve electoral issues. They also suggest that Ghanaians started to have trust in democratic institutions, particularly the judiciary, following the 1996 general elections. Other election petitions have since been submitted to the nation's various high courts. Contrary to popular belief, the court dismissed the majority of those petitions due to procedural errors. They also believe that courts have become more creative overall as a result of past experiences. One of the significant improvements in court accessibility as well as the requirement that the election petition process be made transparent through live television broadcasts of proceedings, as seen during the 2012 and 2020 election petitions, were among the key reforms emphasised in their study. They assert that these have strengthened Ghana's push for democracy.

With an emphasis on the burden of proof and the standard of proof that must be met for resolving disputes in presidential elections, Azu (2015) examined the evidentiary requirements. The study examined the factors that Ghanaian courts may use to rule that the results of the presidential election were invalid. He also raised doubts about a number of extra-legal factors that judges seem to take into account when determining presidential election disputes. Petitioners for the 2012 and 2013 presidential elections in Ghana and Kenya, respectively, called attention to alleged violations of important electoral laws. It was also learned that while the Ghanaian Supreme Court was divided in its decision, the majority of its members agreed with their Kenyan counterparts, and that the non-

compliance was insignificant enough to affect the validity of the results as determined by the Kenyan Supreme Court, which did not declare the results invalid. Judges don't always base their decisions on the law. Judges' decisions have occasionally been influenced by extra-legal considerations, including public interest and policy. Justice Atuguba stated that "the court in Ghana, like its counterparts in other countries, does not simply declare a public election illegitimate but frequently attempts to maintain it in the public interest" (Supreme Court Verdict, 2012; Presidential Election Petition Judgement, 2013:33). The appeal for Ghana's 2012 presidential election and its implications for future election organised were examined by Owusu-Mensah and Frempong (2015:32). They contend that the 2012 presidential election petition revealed flaws in the political system, particularly with regard to the independence of the court and voters' confidence in democratic institutions. All political actors received notice from the Supreme Court's ultimate decision that Ghanaian electoral politics had turned into "polling station politics." It demonstrated that it was impossible to trust governmental organisations charged with providing public goods to make wise choices following elections. The outcome sends a clear message to all political parties taking part in future elections to use all legal means at their disposal to ensure that voters' and voters' rights are effectively protected during the elections in order to avoid having to settle election-related disputes in court.

Gyampo (2017) looked into the petition for electoral changes submitted during the 2012 presidential election. According to him, the outcome of the 2012 presidential election revealed a number of flaws in the electoral process that Ghana's efforts to ensure consistently free and fair elections could not ignore. As a result, the Electoral Commission (EC) asked about 38 significant stakeholders for their recommendations on electoral reform, including political parties, civil society organizations, professional associations, and faith-based organizations. Up to twenty-five (25) key concepts for the beginning of electoral reforms were presented by these stakeholders to the Electoral

Commission on November 20, 2013. The EC embraced several of the recommendations with just minimal changes, while others were set up for further debate with political parties before acceptance and implementation (Gyampo, 2017:100). The proposals for continuous voter registration, the use of biometric verification devices for voter registration and exhibition, the extension of the notice period for voter registration, the decrease in the number of voters per polling place, and the move-to-move elections from December to November were sufficiently made public, but little or no information was provided regarding the implementation of the other elements.

Ayee (2017) argues that the peaceful nature of the 2016 general elections cannot be attributed to the implementation of significant electoral reform measures. It is crucial to remember that few reform measures were really put into effect prior to the 2016 presidential election. The 2016 elections were "miraculously successful," according to Gyampo et al. (2017: 16), since "no serious and explicit ideas for electoral reform were attempted." While the general elections appeared to be free, fair, credible, and transparent, they came to the conclusion that the entire electoral process was taking place "on autopilot."

According to Asante and Asare (2016), the presidential election petition in 2012 was a crucial step in Ghana's democratic consolidation in terms of the relationship between the two. They commended the disputing parties for agreeing to let the country's laws fully govern the resolution of their differences. It is critical to keep in mind that, prior to the 2016 presidential election, few reform initiatives had really been implemented. The general elections appeared to be free, fair, credible, and transparent, but Gyampo et al. (2017) concluded that the entire electoral process was occurring "on autopilot" and that the 2016 elections were "miraculously successful" because "no serious and explicit ideas for electoral reform were attempted."

In terms of the link between the two, Asante and Asare (2016) note that the presidential election petition in 2012 was a significant milestone in Ghana's democratic consolidation. They

consequently praised the disputing parties for consenting to fully submit the resolution of their disagreements to the laws of the nation.

#### **2.4 The Progress of Ghana Towards Democratic Consolidation**

Generally speaking, democracy is a system of governance where the will of the people determines who has the ability to make decisions (Adams, 2020). Additionally, it is a kind of governance where institutions control the actions of political elites. In light of this, Ghana's fourth democratic endeavour started by gaining the approval of the population through the efforts of the National Commission for Democracy (NCD) and then creating the conditions for the viability of the pertinent democratic institutions. Additionally, under the suspended 1979 Constitution, the NCD was tasked with performing the duties of the Electoral Commission prior to the formation of the INEC in 1992. (Asante, 2020).

All things considered, the 1992 elections, won by the National Democratic Congress (NDC), a PNDC branch, marked Ghana's fourth attempt at instituting constitutional governance. The conduct and results of the election were the subject of various disputes from opposing political groups, according to Ayee (2017). Because the PNDC administration was seen as having corrupted and influenced INEC's operations, the majority of the populace and opposition political parties lacked confidence in it. The main opposition political party, the NPP, later publicized the "stolen verdict" as a result of the opposition's boycott of the legislative elections. Furthermore, compared to other elections, 1996's were better. This is due to the fact that the Electoral Commission fixed most of the problems that marred the 1992 elections. The EC's noteworthy accomplishment is that it continuously enhanced the pre-elections, elections, and post-elections organisations throughout time, specifically from 1992 to 2012. However, there have been several electoral petitions throughout these campaigning periods, notably in respect to the legislative elections. For instance,

it was claimed that eight (8) complaints were submitted at the High Court by unsatisfied parliamentary candidates by the end of January 2009 following the 2008 elections. The Asuti South and Akwatia seats presented the most problematic situations, where no winner could be announced right away due to considerable differences over the results. The presidential election petition for the 2012 elections is the first of its sort in a nation described as a "beacon of Africa's developing democracy," notwithstanding the aforementioned. In reality, the results and fallout from the election will profoundly affect the course of the nation in the years to come. The conclusion of the petition served as a crucial litmus test for Ghana's judicial system and also revealed the resilience of Ghanaians in the face of setbacks. The stakes in this judicial dispute were undoubtedly quite high. As a consequence, Ghana would have passed the test of democratic consolidation if the measure is continual improvement in the way its elections are conducted. Democratic consolidation should incorporate all of the qualities that would enhance democracy's overall quality to avoid the "fallacy of electoralism," which elevates elections over other facets of democracy. This justifies the adoption of the three fundamental characteristics of a consolidated democracy by Linz and Stepan (1995) in this paper because it is firmly held that their effective implementation will dismantle the components of democratic consolidation in the run-up to the election and its immediate aftermath. Linz and Stepan (1995) also identify five requirements that reinforce one another towards consolidated democracy. There is a case to be made that Ghana has these conditions. For instance, it may be claimed that the first requirement, a free and active civil society, has been met. This is due to the various roles that civil society organisations like the Institute of Economic Affairs (IEA), the Institute for Democratic Governance (IDEG), the Ghana Center for Democratic Development (CDD), and others played prior to, during, and after the elections, particularly the well-known presidential debates that IEA organised. Others came together to create a coalition of election observation organisations to track elections (Gyampo et al., 2017).

The election of eight presidential candidates from seven political parties and more than 1300 parliamentary candidates, exhibiting the freedom of association and competition for public positions, is evidence of a generally independent political society, which is another need. The application of the rule of law then ensures that citizens' liberties and rights to association are protected by the law. This is illustrated by a number of instances, such as when individuals contested the EC's stance on adding 45 new Supreme Court constituencies. There is little doubt that purposeful attempts are being made to establish an effective state bureaucracy that is capable of "commanding, regulating, and extracting" and institutionalising economic societies in which governments no longer enjoy full market sovereignty. Ayee (2019).

Prices for commodities are left to the dynamics of supply and demand. The information presented above clearly demonstrates Ghana's consistent improvement in each of the five interrelated requirements for a consolidated democracy; however, as the election petition and its aftermath are discussed, the focus of this study shifts more toward the three crucial dimensions of behavioural, attitudinal, and constitutional changes.

### **2.5 The Election Petition: The Key Debates**

The literature readily available shows that limited government may be put into practise provided institutional structures or mechanisms like the rule of law, the separation of powers, ingrained clauses in a constitution, and safeguarding individuals' basic human rights, among others, are in place. Obama's claim that Africa needs strong institutions is supported by this line of thinking since those institutions are the main check on the arbitrary use of power (Gyampo, 2017). The majority of political analysts and social critics have claimed that the election petition was a method of evaluating the fortitude and strength of Ghana's legal system within the general framework of Ghana's fourth effort at democracy. Based on Article 64 (1) of the 1992 Constitution, which states

that "the validity of the president's election may be challenged only by a citizen of Ghana who may present a petition for the purpose to the Supreme Court within twenty-one days after the declaration of the result of the election in respect of which the petition is presented," and supported by other constitutional instruments (CIs) such as C.I. 72, 74, and 75 (CI is a constitutional instrument), Nana Akufo-Addo, the presidential candidate of the major opposition party (the NPP) in the 2012 election, his running mate, Dr. Mahamadu Bawumia, and the Party's Chairman, Mr. Jake Obetsebi Lamptey, petitioned the Supreme Court to investigate the 2012 elections due to some electoral irregularities. The first of these problems was that the EC disregarded Regulation 30(2) of CI 75 by allowing voting to take place in numerous polling places around the nation without previous biometric verification by EC personnel.

Second, the EC allegedly used a tactic to tamper with election results by hiring Superlock Technologies Limited (STL) without first consulting the petitioners or IPAC. This practise violates national electoral laws and is against international best practices. Third, the EC's proclamation of results for the presidential election held on December 7 and 8, 2012, improperly took into consideration votes in polling places where voting occurred without previous biometric registration. Fourth, the EC held the presidential and parliamentary elections in December 2012 at polling places, each of which was given a unique code to minimise confusion between polling places and offer a safeguard against potential electoral fraud and anomalies (Asante, 2016). However, there were multiple occasions where oddly different results were reported in regard to polling places with the same polling station numbers on the declaration forms, popularly known as the "pink sheet" or "blue sheet." Additionally, the petitioners asserted that this was unlawful.

Fifth, the declaration forms frequently lacked the presiding officers' or their assistants' signatures, as required by CI 75 Regulation 36 (2). Nevertheless, the Chairman of the EC used the information from these forms to determine the presidential results, which were ruled illegitimate. Sixth, there

were several instances of overvoting in the results as announced and recorded by the EC, a glaring breach of the core constitutional tenet of "one man, one vote."

Seventh, irrespective of the fact that the appropriate and decent procedure founded by the EC considered it necessary that each polling station have such a unique serial number to ensure the authenticity of the polling data and the wishes of the legitimately eligible voters, there have been countless incidents where the same serial numbers emerged on pink sheets with varying voting results. Eighth, the number of eligible electorate that the EC declared suddenly and inexplicably changed to the puzzling figure of 14,158,890 when it revealed the results of the presidential race on December 9, 2012, despite the fact that the number of eligible electorates as compiled by the EC and presented to all political parties and candidates for the presidential and parliamentary elections was 14,031,680. The outcome was an unjustified and unlawful rise of 127,210 in the overall number of registered voters.

In conclusion, the petitioners argued that there were many and egregious breaches of the laws and rules regulating the conduct of the presidential election in December 2012, which had a major and material impact and should be dismissed. Furthermore, the first respondents claimed that the second respondent had not certified inmates as well as other electorate, such as those in foreign embassies and on peacekeeping missions, and had not completed the successive mop-up workout in response to some of the complainants' assertions, particularly the disparity in the total number of registered electorate (Asere, 2016). The petitioners' allegations that there were some covert explanations for the discrepancy between 13,917,366 and the actual number of registered voters are unsubstantiated and appear to be made in bad faith.

The first respondents stated that the second respondents did not use a single register for either the presidential or parliamentary elections, in response to the petitioners' assertion that the second respondents did. Furthermore, the first responder emphasised that there are other legal methods of

verification outside fingerprint identification. The inability (if any) of eligible voters to submit to fingerprint verification due to technological malfunction cannot be used to revoke their right to vote under Article 42 of the 1992 Constitution. The historic presidential election petition's primary concerns were those mentioned above.

### **2.5.1 The Decision and the Results**

After a protracted legal struggle between the attorneys for the petitioners' and respondents' sides, which lasted from April 16 to August 29, 2013, the Supreme Court rendered its ultimate decision. It is appropriate to identify the names of the Justices who participated in this important election petition case before restating the Court's ruling. William Atuguba (presiding), Sophia Adinyira, Jones Victor M. Dotse, Paul Baffoe-Bonnie, N. S. Gbadegbe, Vida Akoto-Bamfo, Julius Ansah, Rose Constance Owusu, and Anin Yeboah Ayee were present (2019). Overvoting, voting without biometric verification, voting without a presiding officer's signature, the occurrence of duplicate polling station codes, polling station numbers, and serial numbers (the same serial number appearing on pink sheets for two different polling stations) were all issues in the petitioners' case. The petitioners' case was summarised before the presiding judge read the decision (occurrence of different results or pink sheets for polling stations that are not part of the 2602 polling stations provided by the second respondent for the election). The Justices unanimously dismissed the claims that voting took place in 22 unnamed sites, that some pink papers had duplicate polling station numbers, and that voting took place in other locations. The charges of excessive voting, the lack of presiding officers' signatures on the pink sheets, and voting without biometric verification were then rejected by five of the nine Justices (Asere, 2016).

Four of the nine judges who dissented agreed with the charges of excessive voting and the lack of presiding officers' signatures on the pink sheets. A re-run of the affected districts was ordered after four of the nine justices upheld the accusations of voting without biometric verification. John

Mahama was ultimately found to have been legitimately elected president, and as a result, the petitioners' lawsuit was rejected (Gyampo et al., 2017). The petitioners, who were the losing parties in the verdict, maintained their word and released a statement right away. The first petitioner declared, "While the author disagrees with the court's ruling, the author accepts it." The author agrees that the election issue is resolved by the court's ruling. "In order for us to collectively proceed in the interests of our nation, we will not seek a reversal of the judgement." This declaration came after the first petitioner's previous demand to congratulate Nyame, the first respondent (2018).

Following the petitioner's remarks, the first respondent delivered a thoughtful response in which both sides agreed that Ghana had prevailed in the historic presidential election petition. The early declaration from the petitioners was crucial because it instantly reduced the tension that permeated the situation and soothed the supporters of the petitioners' worries (Owusu, 2015). The overall attitude of Ghanaians at this time, especially following the judgement, was extraordinary; this was likely due to Ghana's desire to usher in a new age of democracy in Africa, which it promptly accomplished.

## **2.6 Three Dimensions of Democratic Consolidation: Presidential Election Petitions**

According to Linz and Stepan (1996:5–6), the conduct, attitudes, and loyalty of citizens to the constitution may be used to gauge whether a democracy is truly established. They argued that a democracy is strengthened when local political parties refrain from attempting to undermine democratic governance. In the attitudinal dimension, they suggested that the great majority of people feel any political reform must take place within the parameters of the current democracy. Constitutionally, they maintained that any political dispute in such a political setting had to be settled within the confines of the institutions, rules, and practises of the new political order.

The presidential candidates for the NPP and NDC both said immediately after the results of the 2012 and 2020 presidential elections were announced that the elections were invalid owing to electoral irregularities, using the behavioural proposition to assess Ghana's democracy. The Supreme Court received petitions from the two presidential contenders, John Dramani Mahama and Nana Addo Dankwa Akuffo Addo, in December 2012 and December 2020, respectively. There were alternative possibilities, such as employing force and violence, as has happened in other African nations, but as Asante and Asare (2016:5) note, the two petitioners in the two presidential elections preferred to use democratic mechanisms. The NDC in 2012 and the NPP in 2020 were generous in their celebrations as the winners of both elections. Similar to this, the two winners freely submitted themselves, as well as their political parties, to the Supreme Court's judicial and legal procedures for three months in the case of the 2020 petition and eight months in the case of the 2012 petition, rather than abstaining from the proceedings. The conduct of the political parties in the two presidential elections suggests that they were eager to make room for the development of democracy in Ghana, putting their own political interests and happiness over winning a heated election aside.

According to the authors (Linz and Stepan, 1996), the majority of people in a consolidated democracy feel that political reforms must be implemented in conformity with the principles of the current democracy. Ghanaians have recognised elections as the main route to political power since 1992. They are ready to protect its integrity and purity as a result. The fervour with which the population supported the two presidential election petitions serves as evidence of this. The public and private media, who serve as the fourth estate of the realm, were instrumental in this by, among other things, providing places for parties to express their viewpoints following each court hearing and live-broadcasting court proceedings. As a result, the general population was able to keep informed. These interests emphasise that, rather than "reside[ing] in the barrel of the pistol," "the

power to build and unmake governments lies in the hearts of individual voters" (Boafo-Arthur, 2008). According to Armah-Attoh and Robertson (2014:3-5), the majority of Ghanaians strongly oppose authoritarian or non-democratic forms of administration such as one-man rule, one-party control, and military dictatorship and prefer democratic governance to any other type of government. The third dimension is political. A nation's democracy is "consolidated" when all major political actors "become exposed to and accustomed to dispute resolution within the precise laws, procedures, and institutions sanctioned by the new democratic processes," according to Linz and Stepan (1996). The two presidential elections were centred on the dispute over the official election results. In the 2012 election petition, there were two sides to the conflict: John Dramani Mahama and Nana Addo Dankwa Akuffo Addo and the EC on the one hand, and the NPP and John Mahama, the EC, and the NDC on the other.

Although there was initially violence in the two petitions, the contending parties were able to come to an agreement utilising the constitutional provisions in Article 64(1) and Constitutional Instruments (CI) 72, 74, and 75 once the violence calmed. Before the decisions in the 2012 and 2020 cases were announced, the petitioners and respondents in each petition engaged in an eight-month and three-month legal struggle, respectively. As is customary on the African continent, the petitioners lost their petitions (Murison, 2013; Kaaba, 2015; Nyane, 2018; Adams and Asante, 2020). The petitioners accepted the Supreme Court's ruling in each instance, notwithstanding their displeasure with the result. Nana Addo Dankwa Akuffo Addo, who had contacted John Dramani Mahama, the winner, to congratulate him, said in his concession address, "While author disagrees with the court's ruling, author accepts it." The author agrees that the election issue is resolved by the court's ruling. "In order for us to collectively proceed in the interests of our nation, we will not seek a reversal of the judgement" (Akuffo Addo, August 29, 2013). Following the petitioner's remarks, the incumbent president, whose election victory was contested, gave a speech that was

extremely well-balanced, with both parties recognising that Ghana had won the historic presidential election petition (Asante and Asare, 2016:5). According to John Mahama, "much as I am aware that we are legally obligated by the Supreme Court's decision, I disagree with the process of the trial and the court's ruling" (Mahama, 4 March, 2021). Political demagogues in Ghana are prepared to "play by the rules of the game" in order to address their issues within the current legal frameworks, as seen by the petitioners' and respondents' willingness to follow the ruling in the two presidential elections. Another interesting element is that, in contrast to Owusu-Mensah and Frempong (2015), the general public and civil society groups have called for the political players who have been wronged to seek justice in court. This shows Ghanaians' strong faith and trust in the legal system, and last, the two decisions have an impact on Ghana's democratic contest. The seven suggestions given by the judges in their ruling will have significant effects on how Ghana's electoral systems change. Due to the jurists' acts and inactions, who prioritised legal interpretation of the laws above sociological interpretation, the judiciary's ability to support democratic progress in Ghana was hindered during the 2020 presidential election petition. In addition, even though their decision to deny the petitioner's request to question the EC Chairperson in person may have been legitimate, it may be seen as a slight against democracy and accountability given that the EC Chairperson is a public official whose work is supported by tax dollars. It is safe to say that the two presidential election petitions have not only contributed to the nation's long-celebrated democratic stability but have also significantly elevated democratic consolidation in Ghana, despite the petitioner and his supporters' accusations of obvious biases against the panel of judges.

## **2.7 Conceptual Foundation**

The conceptual framework in this study is based on Linz and Stepan's (1995) collaborative consolidation of democracy framework, as well as Asante and Asere's (2016) successful traits. This

conceptual framework aids an understanding of how presidential election petitions play a role in the consolidation of democracy in Ghana and throughout Africa.

The use of presidential election petitions in the consolidation of democracy, the conceptual understanding of presidential petitions to the supreme Court of justice, and the degree to which this procedure is a useful tool for contemporary democracy were all examined through the lens of this framework.

### **2.7.1 Ghana's Election Petition and Future Electoral Reforms**

The Ghanaian Constitution of 1992 allows for the challenge of election results. According to Article 64(1), "the legitimacy of the presidential elections may be contested only by a citizen of Ghana, who may petition the Supreme Court within twenty-one days from the declarations of the results of the elections in relation to which the petition is brought." A declaration by the Supreme Court that the President's election was invalid must not affect anything the President did prior to the announcement, according to Article 64(2). Additionally, according to article 64(3), "the Rules of Court Committee must by constitutional instrument adopt rules of court governing the practise and process for petitions to the Supreme Court contesting the election of a president" (Republic of Ghana 1992, pp. 49–50). The outcomes of Ghana's 2012 and 2020 elections were contested before the country's Supreme Court using the necessary constitutional grounds. The judicial procedures in both cases revealed defects in the electoral process, even if they did not change the election outcome. The Election Commission (EC) was able to start moving toward electoral reforms as a result of the deficiencies in the 2012 electoral procedures being revealed and highlighted in the judges' final ruling. The Supreme Court's final ruling did not mention the 2020 election challenges, despite the fact that they had been made public in court. Many Ghanaians now believe that nothing significant or undesirable occurred throughout the 2020 election proceedings (Mahama 2021). The

hunt for more electoral changes would be challenging, and any subsequent attempt to fine-tune the voting procedures may be rather dismal if this notion is pursued after the 2021 election petition.

Numerous studies have been done on Ghana's voting procedures and improvements. Work by Oquaye (1995), Boahen (1996), Ayee (1998), Ayee (2001), Badu and Larvie (1996), Gyimah-Boadi (2004), Debrah (2011), Oquaye (2014), Debrah (2015), Gyampo and Yobo (2017), and Gyampo (2018). None of the studies mentioned are directly or indirectly related to election petitions and how they might influence electoral reforms in Ghana, with the exception of an earlier study on "The State of Electoral Reforms in Ghana" conducted by Gyampo (2018), which briefly highlights the 2012 election petition process. In particular, no academic research has been done regarding the effects and potential of Ghana's electoral changes in the wake of the country's Supreme Court challenge over the 2020 elections. The purpose of this study is to close the gaps in the literature. This is accomplished by analysing past works and the present level of knowledge on electoral changes in Ghana and drawing the appropriate conclusions and inferences from the materials, information, and data from the available literature and other pertinent paperwork.

### 2.8 Ghana's Electoral Reform Initiatives Through History

Ghana's voting procedures have undergone several modifications and adjustments since 1992. The opposition parties, which boycotted the December 1992 legislative elections after losing the November 1992 presidential election, promised not to take part in any future elections until there was adequate electoral reform in 1994 (Gyampo 2018). The National Democratic Congress was allegedly given advantages by the electoral procedures used to hold the 1992 presidential election, according to the opposition parties (NDC). "The Stolen Verdict," a book compiled by the opposition parties led by the New Patriotic Party (NPP), detailed all the instances of electoral fraud committed by the NDC and interim electoral officials during the 1992 presidential elections (Boahen 1996). The NPP provided a long list of incidents of electoral violence committed against its staff and

candidates. Then, all of the opposition forces outlined certain requirements that had to be fulfilled before they would even consider returning to the political arena. They insisted that the electoral process should be completely overhauled, including the creation of a transitional body to oversee the process, the compilation of a brand-new voter list, the issuance of voter identification cards, and the replacement of the INEC with a new body with representatives from all relevant stakeholders from all parties (Ayee 1998). On the other side, the NDC did not call for electoral change because it believed that the current election systems were effective (Debrah 2015). The NDC asserted that the situation did not jeopardise the legitimacy of the 1992 elections since the international community, led by a team of election monitors from the Commonwealth Secretariat, recognised the results as free and fair (ibid.).

The world community urged the EC for election reform as the sole means of averting turmoil and democratic retreat, with the future of democracy threatened and the existence of the electoral process hanging in the balance (Debrah 2015; Gyampo 2018). Conflicts over the voting processes and election results generated terrible civil wars in nations that upheld the status quo without modifying their electoral procedures, such as Côte d'Ivoire, Mali, Kenya, and the Central African Republic (Lumumba-Kasongo 2005, pp. 1–20). The International Foundation for Electoral Systems (IFES) established a presence in Ghana to provide a technical roadmap for electoral reform, aware of the enormous potential that electoral reform has for democratic advancement (Gyampo 2018). The governments of individual member nations and other international organisations, including the National Democratic Institute (NDI) and the Commonwealth Secretariat, committed material and financial help to alter Ghana's voting procedures (Badu & Larvie 1996; Ayee 1998). The political elite was urged to come to an agreement on the contentious aspects of the election system by supportive international support for change (Gyampo 2018).

The replacement of the voters' registry was a significant modification to the election process brought about by the elite consensus program. The political leaders concurred that the voter list used for the 1992 elections was unreliable, out-of-date, unsatisfactory, and unable to support free and fair elections in the future (Ayee 1998; Commonwealth Secretariat 1992). Voter names were no longer prefixed with titles such as "Nana," "Dr.," "Prof.," and "Mr." if the voter belonged to a religious organisation, academic institution, or traditional authority (Tsebelis 2002). In order to assure the use of thumbprint and photo ID cards in the less contentious areas and contentious border towns, respectively, the operations of the electoral roll and register were also modified (Ayee 1998). Temporary registration officers and political party agents were hired and received in-depth procedural training in order to protect the integrity of the register (ibid.). The registration procedure included party agents as a crucial component. They might contest a potential ineligible candidate who showed up to register at the centres as observers of the procedure for their party (ibid.).

To resolve contested registration cases, a Registration Review Committee (RRC) was assembled with representation from each constituency. People who felt wronged by the RRC's judgement might seek recourse in court. Those who registered their names were then entitled to see a provisional voters' list in order to correct any errors, such as omissions, incorrect inclusions, and the removal of deceased people's names (Ayee 1998; Gyampo 2018). Party representatives were also allowed to sign the daily registration exercise records at the centres (Debrah 2015). Each political party received the final list from the EC to use in their door-to-door campaigning (ibid.). Even though it has carried out its mission more during election years, the EC has consistently tried to add new eligible voters to the lists (Ayee 1998; Gyampo 2018). Every eligible voter had received a picture ID card by the year 2000. Voter photos and their crucial information started to appear on the register in 2004 as a result of procedural adjustments. This move made voter identification easier, allaying concerns about fraud and multiple voting (Debrah 2015; Gyampo 2018). The

replacement of the opaque ballot boxes used in the 1992 elections with transparent ones was a crucial component of the reform (Ayee 1998). Additionally, cardboard screens were placed in open areas designated as polling locations where voters entered to cast their ballots before placing them in the box, which was placed in a prominent location in front of the designated public buildings designated as polling places (Debrah 2011). This was a departure from earlier customs, in which voters marked their choice of candidate in a chamber that was closed off to the public. There were claims made in response to this circumstance that some voters secretly carried extra ballot papers when they entered the voting rooms (Debrah 2015). The installation of polling stations in public areas was done in response to allegations of vote manipulation (ibid.). In cooperation with the political parties, the EC implemented a plan that permitted vote counting and the declaration of results to take place at the polling centres right after voting ended, in order to allay concerns about figures being manipulated during and after vote counting at the polling stations (Electoral Commission 1996, pp. 2–16). The presiding officers tallied the votes for each candidate in front of the voters and the candidates' representatives. They then recorded the results on the Declaration of Result Form, which each party's or candidate's representative countersigned to certify the results. A copy of the completed and signed form for the candidate's independent vote counting was supplied to each agent (Debrah 2015). Candidates' representatives saw the procedure at the EC's regional offices, where the total constituency results for each candidate were faxed to the headquarters (Electoral Commission 2008, pp. 1–16).

The organisation and funding of parties were also major reform priorities. The necessity to level the playing field for political competition was a key component of party reform. By 2000, it was clear that the Political Parties Law (PNDCL 281) was no longer able to support the growth of parties. Indeed, this regulation impeded the advancement of democracy and competitive party politics (Ayee 1998, p. 31). As a result, PNDCL 281 was replaced by the new Political Parties Act

574, which ensures increased engagement of the general public in politics. Only multiethnic parties with internal structures that upheld democratic principles were eligible to get the Certificate of Registration and take part in any election contest. Political parties were required to declare their assets and outlays within 90 days of receiving the final Certificate of Registration and 21 days prior to general elections, respectively, in an effort to deter political corruption. Similarly, a thorough audited statement of finances (showing revenue and spending) shall be submitted to the EC for review within six months of December 31 of each year and following a general election or by-election in which a party participated (Republic of Ghana 2000, pp. 1–13). In Ghana's multiparty politics, party finance has long been a contentious topic. The competitiveness of the elections has allegedly been undermined by incumbents, who are accused of denying the opposition funding while using public resources to win reelection. The PNDCL 281 had banned foreign corporations from supporting political parties and set a \$200 (\$60) cap on member donations (Republic of Ghana 1992, p. 3). Act 574, however, repealed the restriction on contributions and gave party founders full access to funds for the development of their parties. Additionally, Ghanaian-owned businesses were permitted to make political party donations. The only provision of the old legislation that was kept was the prohibition on foreigners funding political parties (Republic of Ghana 2000, pp. 8–10).

There was a political elite consensus that Ghana's electoral systems should include biometric registration and voting (Gyampo 2018; Republic of Ghana, 2012). This was done to address worries about election fraud and anomalies such as double-voting, impersonation, and rigging. According to generally held beliefs about biometric registration and verification, the likelihood of election fraud might be decreased. Therefore, in the run-up to the 2012 general elections, the political elites and their apparatchiks trumpeted the catchphrase "NVNV," or "No Verification, No Vote," in a way that pointed to the end of voting anomalies and fraud (Gyampo 2018).

In order to contest the outcome of the 2012 general elections, an election petition was filed with the Ghanaian Supreme Court. It took eight months for the Supreme Court to issue its decision, which revealed severe faults in the voting procedures and served as a catalyst for electoral reform in Ghana. The petition for the 2012 election and its ensuing suggestions for electoral reform are examined in the next portion of this essay.

### **2.8.1 Election Reform and the 2012 Election Petition**

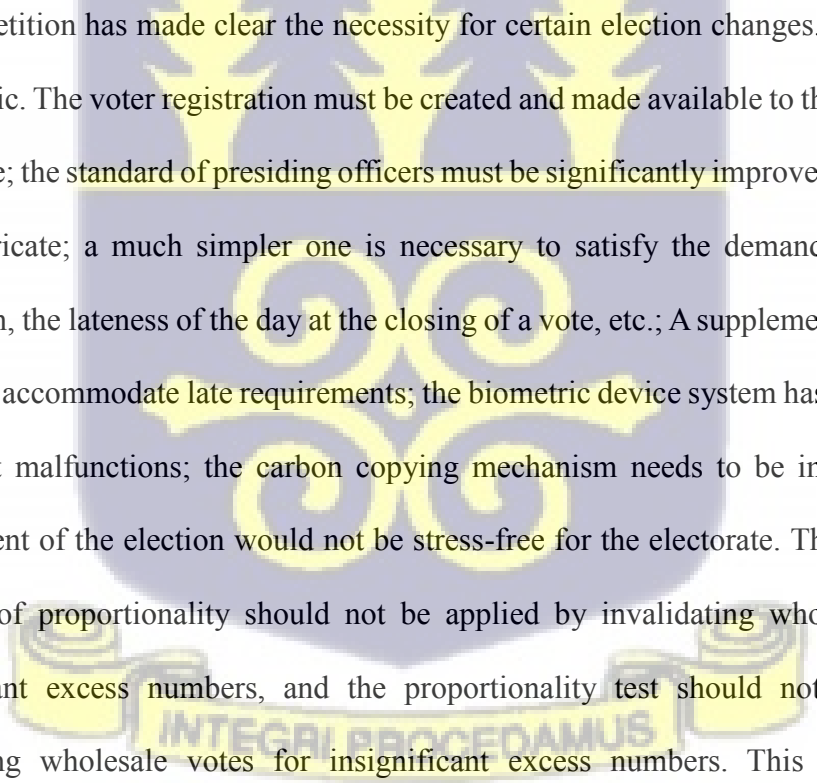
The New Patriotic Party's (NPP) presidential candidate Nana Akufo Addo, Dr. Mahamadu Bawumia, and Mr. Jake Obetsebi Lamptey, the party's chairman, filed the petition for the 2012 election with the Supreme Court of Ghana. They filed a lawsuit with Ghana's highest court, asking it to declare John Mahama, the NDC presidential candidate, not elected president due to anomalies and irregularities in the election (Debrah 2015).

Given that every pink sheet was supposed to have a distinct serial number, the petitioners argued that this was unconstitutional and constituted an electoral fraud. The petitioners also brought out the frequent occurrences of presiding officers violating CI 75 and Regulation 36 by failing to sign the results reported on the pink sheets (2, 3). Additionally, the petitioners said that the EC's oversight of certain persons who engaged in multiple voting constituted a violation of the "one man, one vote" concept. Last but not least, they questioned the increase in the number of registered voters from 14 031 680 prior to the elections to 14 158 890 on December 9, 2012, when the EC announced the results (Alidu 2014, p. 1453).

### **2.8.2 Summary of the Decision**

The Supreme Court of Ghana dismissed the NPP case and ruled that John Dramani Mahama of the NDC was legitimately elected president on December 7, 2012, in a 588-page decision with a majority of 5 to 4. (Baneseh 2013). In the presidential election on December 7 and 8, 2012, four of

the nine judges—Justice William Atuguba, Mrs. Sophia Adinyira, Mr. N. S. Gbadegbe, and Mrs. Vida Akoto-Bamfo—rejected the petitioner's demands for the annulment of a total of 3 931 339 votes because of voting irregularities (Baneseh, 2013). Due to the petitioner's claim of egregious anomalies, three judges—Mr. Justice Julius Ansaah, Ms. Justice Rose Constance Owusu, and Mr. Justice Anin Yeboah—voted for the annulment of the two million votes (Gyampo 2018). They also rejected the petitioner's request that their candidate, Nana Akufo-Addo, be recognised as the duly elected president, but they did endorse the idea that the votes impacted by the petitioner's charges be thrown out and repeated (Debrah 2015). The Supreme Court judges acknowledged the difficulties and grave inadequacies in the voting process in their ruling and provided several recommendations for electoral reform. The chair of the group of judges', Justice William Atugubah, summarised the suggestions for election reform as follows:



But this petition has made clear the necessity for certain election changes. I make some of them public. The voter registration must be created and made available to the parties as soon as possible; the standard of presiding officers must be significantly improved. The pink sheet is too intricate; a much simpler one is necessary to satisfy the demands of the public, exhaustion, the lateness of the day at the closing of a vote, etc.; A supplemental register may be used to accommodate late requirements; the biometric device system has to be simplified to prevent malfunctions; the carbon copying mechanism needs to be improved; and an adjournment of the election would not be stress-free for the electorate. The administrative principle of proportionality should not be applied by invalidating wholesale votes for insignificant excess numbers, and the proportionality test should not be applied by invalidating wholesale votes for insignificant excess numbers. This is not the best application of any of these principles.

### 2.8.3 The 2020 Election Petition

John Dramani Mahama (the petitioner) filed a suit asking the Supreme Court to declare that no contender received the 50% plus one vote necessary for the election of a president in the elections on December 7, 2020. The petitioner claimed before the Supreme Court that Mrs. Jean Mensa, the Chairperson of the EC and the first defendant in the lawsuit, had breached Article 63(3) of the 1992 Constitution by designating Nana Akufo Addo, the nominee of the New Patriotic Party, as president-elect although in his estimation, Nana Akufo-Addo did not obtain the mandatory 50% plus one vote needed for an outright victory. Therefore, the petitioner asked the Supreme Court to declare Nana Akufo Addo's election as president-elect invalid. He further claimed that in announcing the election results, Mrs. Jean Mensa, the first respondent and returning officer for the presidential elections, had disregarded her obligation to be fair, frank, and reasonable under Articles 23 and 296(a) of the 1992 Constitution. The EC's compilation of the results of the presidential election, according to Mr. Mahama, was "unfair, untruthful, and irrational." The petitioner further pointed out that, in violation of Article 296(b) of the 1992 Constitution and in utter disregard of the charges of vote padding, the aforementioned declaration was issued arbitrarily, capriciously, and biasedly in favour of the second respondent. The petitioner further claimed that paragraphs 23 and 296(b) of the 1992 Constitution, which require due process of law, were not followed when the declaration of results was issued (Mahama 2020, p. 2).

As a result, the petitioner asked the Supreme Court to award the following reliefs:

1. a finding that Article 63(30) of the 1992 Constitution was broken by Mrs. Jean Mensa, chairwoman of the first respondent, and the returning officer for the presidential elections held on December 7, 2020.

2. a statement that no candidate met the requirements of Article 63(3) of the 1992 Constitution to be proclaimed president-elect, based on the information in the chairman of the first respondent's declaration.
  3. a determination that Nana Akufo Addo's claimed announcement as president-elect on December 9, 2020, was false and had no legal standing.
  4. Mrs. Jean Mensa, the chairperson of the first respondent and the returning officer for the presidential elections held on December 7, 2020, signed an order dated December 9, 2020, that voids the Declaration of President-Elect Instrument, 2020 (C.I. 135), and it was published on December 10, 2020.
  5. a court order prohibiting Nana Akufo Addo, the second respondent, from presenting himself as the next president.
  6. a court judgement enjoining the first respondent to hold run-off elections for the petitioner and second respondent in accordance with paragraphs 62(4) and (5) of the 1992 Constitution (Mahama 2020, pp. 2–3).
- Respondents' Arguments

***Argument made by the first respondent (EC)***

In its response to the petition, the first respondent, the EC, said that it "complied with all the rules and procedures established by law for the conduct of the 7th December 2020 Presidential Election with fairness to every candidate and without malice, ill intent, or bias against anybody." The whole procedure for compiling the presidential results was fully explained by the EC. They claimed that although representatives of President Akufo Addo, the second respondent, had signed 15 out of the 16 regional results summary sheets, those of Mr. Mahama, the petitioner, had only signed 13 of the 16 sheets. The EC did acknowledge, however, that there were some mistakes made when the presidential results were announced on December 9, 2020, stating that "in reading out the results

on December 9, 2020, its chairperson accidentally read out the figure presenting the total number of votes cast as the figure representing the total number of valid votes, and the percentage of [the president] as 51.59% instead of 51.295%." [First Respondent's Answer to Petition, Paragraph 21]

The EC recognised that the statement of the total number of valid votes contained certain mistakes. In spite of this, the EC said that the mistakes were fixed after the announcement: "The data transformed into percentages revealed that the president had secured more than 50% of the legal votes, which fulfilled the constitutional threshold for presidential election under Article 63(3) of the Constitution" [paragraph 28 of the 1st Respondent's response to the petition (Ghanalawhub 2021)].

#### ***Arguments from the Second Respondent, Nanna Akufo Addo***

President Akufo-Addo, the second respondent, voiced some early concerns in his answer to the appeal. He stated that the court should reject the petition because it is "incompetent, frivolous, and vexatious" and "discloses no plausible cause of action in terms of Article 64(1) of the Constitution." The petition, according to Mr. Anthony Akoto Ampaw, the attorney representing the second respondent, and the group, did not meet the constitutional requirements for contesting the legitimacy of a presidential election. They also cited the alleged factual restrictions in the petition, such as the assertion in paragraph 13 that "According to the percentages revealed by the 1st Respondent (EC) on December 9, 2020, a final result of 100.3% is obtained" (Ghanalawhub 2021).

#### **2.8.4 Summary of the Judgment**

The appeal of former president John Dramani Mahama was unanimously rejected as being without merit by the seven justices of the Supreme Court of Ghana who ruled over the election petition on March 4, 2021. Regarding the alleged vote rigging, the court believes that even if true, it would not be significant enough to change President Akufo-Addo's results. In reality, the information on file demonstrated that the impact of the claimed vote padding, even if proven, would have been very minimal and would not have significantly impacted the results of the elections, as they stated. As a

result, it was not a sufficient reason to invalidate the 2020 presidential elections (Republic of Ghana 2021, p. 54). The Supreme Court concluded that the petitioner failed to show in any manner how the first respondent's purported mistakes and unilateral changes undermined the legitimacy of the declaration made by the chairwoman of the first respondent on December 9, 2020. (Republic of Ghana 2021, p. 57)

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## CHAPTER THREE

### DATA ANALYSIS AND PRESENTATION

#### 3.0 Introduction

The study was conducted to determine the implications of Election Court petitions on the development of Ghana's democracy. The study's specific goals are to identify the problems that required the Electoral Commission's results to be contested, resulting in an electoral dispute in the parliamentary and presidential elections; to determine the effects of the parliamentary election petitions' outcomes on the consolidation of democracy at the constituency level; and to examine how the Supreme Court's rulings may strengthen or weaken Ghana's democracy. The research questions that informed this presentation were targeted at achieving the study objective. In total, 10 people agreed to participate in the researcher's interview. For simpler reference and analysis, the respondents were divided into categories.

#### 3.1. The Issues That Necessitate the Electoral Commission's Results Being Challenged, Leading to an Electoral Dispute

With a focus on the creation of the voter register, restrictions on political party activities, and voter education, this question sought to learn from various experts and electoral officials how the Electoral Commission of Ghana has carried out its duties in managing elections. The effects of these responsibilities or roles have an impact on the development of democracy, where the outcome is sometimes challenged, resulting in a dispute. The EC's responsibilities are divided into three categories: a) compilation of the voter register; b) regulation of political party activities; and c) election administration.

#### Compilation of the voter register.

According to Mr. Kwesi Jonah, a Research Fellow and Head of Advocacy and Institutional Relations for Institute of Democratic Governance, the Electoral Commission has improved in the compilation of the voter register but have performed abysmally in the regulation of political parties due to pressure from some of the two main political parties. Madam Gertrude Aidoo, a phd candidate at the Institute of African Studies posited that due to the recommendations from the political parties and pressure groups as well as civil society organizations the EC has been apt with compilation of voters registration and education regardless of the administrative challenges. However, representatives of the smaller political parties have a different view in relation to the compilation of the voters register by the Electoral Commission. According to Mr Remy Edmondson an official of the Progressive Peoples Party, most at times agents of the two main political parties, thus NPP and NDC, intimidate people suspected to be from the other parties and sometimes prevent them from registering. Dr Alidu Seidu, Head of the Political Science Department of the University of Ghana, Legon however believes that the compilation of the voters register by the EC has been reasonably fair. According to the director of elections at the Electoral Commission of Ghana, Dr. Serebuor Quaicoo,

*..... "The EC is the mandated body by the 1992 constitution to compile the voter register. The EC is constitutionally mandated to compile a comprehensive and inclusive voter's register such that all who qualify to vote are registered to allow them to exercise their franchise. Furthermore, the EC revises the voter's register on a yearly basis and is required by law to create a new register every ten years. The intent is to get dead people off the register and include qualified citizens who may have turned 18 years old."*

Again, another expert, Mrs. Joyce Afutu, Director of Communications at The National Commission for Civic Education posited that:

..... *"The Commission has over the years chalked some successes in improving Ghana's electoral process. Since Ghana's return to multiparty democracy in 1992, the commission has taken many steps to improve the voter register to ensure free and fair elections. This includes the move away from manual registration to biometric registration. Despite the controversies and challenges associated with biometric registration, I think that it has, to a very large extent, helped to limit the situation of double registration"*

Additionally, an expert from the academia ,Samuel Nani an Mphil graduate of the Center for African and International Studies, University of Cape Coast noted that:

*"The EC has simply done its job." "There has been a series of controversies regarding verifying whether or not a person registering is a Ghanaian and the appropriate cards bearing the necessary information."*

According to Effah and Debrah (2018), their study acknowledges that the Electoral Commission Act 451 and the Republic of Ghana's 1992 constitution mandated the electoral commission to execute its mandate, including voter registration, for which biometric registration was undertaken. This earlier study opined that real-time communication between registration centres and an electronic national register, in addition to biometric technology's technical capabilities, is necessary for trustworthy identification to be provided by this technology- essential to prevent electoral disputes and the results challenged in court. This is because previous voters registration exercises were characterised as bloated and marked by fraudulent registration of minors and ghost names in the voters register among others. Effah and Debrah, (2018) further indicated that, there is a need for thorough machine training for the election officials prior to voters' registration by the EC as well as advice on how to handle malfunctions.

### **Regulation of Political Party Activities**

These reforms included but weren't limited to: the addition of political party agents at each stage, the embossing of voters' photos on the voter register, photo ID cards, an increase in the number of polling places, the introduction of biometric verification and registration, manual and electronic collation of results, and the embossing of coloured pictures of competing candidates on the ballot papers against their respective party symbols, as well as transparent ballot boxes. Other innovations carried out by the EC include the use of various inks for thumb printing and finger marking, the number seal on ballot boxes and ballot papers, the counting and compilation of results at the polling places, training sessions for political party agents, and the founding of IPAC. The extensive reforms mentioned above were determined to have preserved Ghana's democracy up to this point.

In an interview with a member of the Civil Society Organization Occupy Ghana, Lawyer Ace Anan Ankoma posited that:

*....."On the regulation of political parties, I think the EC has over the years been unable to fully regulate the activities of the political parties and fully execute its reforms. For example, vote buying continues to be a major challenge in Ghana's electioneering campaigns. However, the EC's recent clampdown on political parties that are unable to establish their offices in all constituencies across the country is an indication that the commission can work to its capacity if it wants to. With regard to voter education, I think the EC has performed averagely. This is because it seems the commission only engages in voter education during "major elections".*

According to the Director of Election at the Electoral Commission of Ghana, Dr. Serebuor Quaicoo, he noted that:

*..... "There are regulatory reforms on the electoral process; there is participation in IPAC meetings, where political parties are supposed to advise the EC on issues." "Moving downward from 1994, the EC has involved graduating from the use of transparency boxes, the use of photo and coloured identity cards, as well as pictures of ID, and the use of voting screens."*

Again, an interview with Hon. Daniel Amartey Mensah, the Director of Elections for the National Democratic Congress, at the NDC Head Quarters in Adabraka indicated that:

..... *"The Electoral Commission failed to strictly enforce the Electoral Commission Laws and Reforms, which state that political parties must have a number of representatives in the district before they can qualify to contest elections." This situation "paved the way for some mushroom political parties to emerge only during general elections."*

Mr. Kojo Afari, protocol officer of the New Patriotic Party was of the view that for the New Patriotic Party the Electoral Commission has always used the laid down proceedings to regulate the activities of the political parties. He made reference to the disqualification of some political parties by the EC prior to the 2012 elections as one of the positive decisions to stream line political parties' activities however the Supreme Court of the Republic of Ghana ruled that they should be given time to correct their errors and participate in the upcoming elections. Lawyer Ace Ankomah who represented one of the parties, namely the Nana Konadu Agyemang Rawlings led National Democratic Party, to contest the disqualification of these smaller parties in the Supreme Court explained that, clerical errors in filling forms cannot be a basis to prevent a political party from participating in political activities, simply because such mistakes can be rectified within a short period of time thus the Supreme Court ruling to protect the political rights of these smaller parties. Mr. Remy Edmund of the PPP said that the Electoral Commission has failed to call the two main political parties to order especially regarding the sharing of monies to voters at the polling centers and the need for the commission to question the source of the wealth of these political parties but Dr Alidu Seidu rebutted that such a claim falls outside the jurisdiction of the EC so perhaps the Financial Intelligence agencies like EOCCO can be invited to treat such anomalies.

The expert opinion above on regulatory activities of the political parties highlighted, consistently, the inability of the EC to thoroughly internalize regulatory reforms. The proclamation of the winner

as the legitimately elected presidential candidate was challenged in a drawn-out election petition procedure at Ghana's Supreme Court after the country's December 2012 elections. Despite the fact that the Supreme Court supported the proclaimed winner, it offered a number of suggestions that opened the door for other interventions targeted at assembling ideas for electoral reform to improve Ghana's election procedures. By the end of 2013, a number of these reform recommendations had been delivered to the Electoral Commission. These, however, were not used to manage the 2016 general elections. As a result, the smooth operation of the 2016 elections has been called "miraculous." Why weren't the reform ideas put into action? What stage are the reform ideas that the Electoral Commission has received at this time? The researcher emphasises the hypothetical concerns (Van Gyampo, 2017).

### **Voter Education**

The National Commission for Civic Education (NCCE) offers civic education, while the Election Commission of Ghana is in charge of informing the public about the electoral process and its goals. After performing a poll, the NCCE expected greater voter participation for the 2012 elections (95%); this forecast was realised, but an impressive 79% was achieved with a low spoiled ballot percentage of 2%. The Electoral Commission of Ghana (ECG) has restricted its voter education efforts to "public service announcements, civic education posters, and some specialist training geared at boosting access for those with physical impairments." The Electoral Commission Act of 1993 does not specify or make provisions for the accreditation of voter education programmes or for the participation of civil society groups in voter education.

Samuel Nani an Academic /MPhil Graduate of the Center for African and International Studies at UCC, indicated that

.... "The EC has used the mass media to educate people on electoral duties. The EC has also trained people to do voter education, use the flyers on social media and educate the people"

Furthermore, Nana Yaa Jantua, the Convention People's Party's general secretary, stated:

*.... "Voter education has for a very long time been poor, as the EC waits until a few weeks before an election before embarking on educating the voters." The EC has used the mass media to educate people on their electoral duties. The EC has also trained people to do voter education and use flyers on social media to educate the people".*

Madam Gertrude Aidoo also supported some claims of Nana Yaa Jantuah that the EC always waits until few weeks to election before embarking on voter education thereby placing too much pressure on the limited staff members of the EC.

On the other hand, some members of Civil Society Organizations like Institute for Democratic Governance scored the Electoral Commission high marks on voter education simply because if not for anything there was posters of voting exercise spread on the streets of Ghana and this alone created some form of political awareness in the country.

### **Disputes and Challenging Results in Parliamentary and Presidential Elections**

Apart from the 1992 and 1996 elections, the 2012 election is said to be one of the most challenging in Ghanaian history as opined Dr. Serebuor Quaicoe. Though abnormalities are unavoidable in every election, it is widely agreed that they should not be repeated or that the disparities should not be so large that they might overturn an electoral victory. This question elicited respondents' perspectives on the indicators or events leading up to the 2012 presidential and parliamentary election petitions, as well as the consequences for democratic consolidation. Because of the nature of the findings, classification of the results was required for an appropriate depiction of the facts.

What causes contributed to the disputed 2012 presidential and parliamentary election results being challenged?

Mr. Kwesi Jonah of the IDEG claimed that most of the representatives of the various political parties who served agents at the polling centers failed to understand the complete cycle of elections and its implications at the various polling centers. For if ones signs at that level it will be very difficult for a political party to distance itself from the records on the pink sheet. Futhermore Dr Alidu Seidu explained that lack of vigilance of these party agents to take their time for example in doing simple basic calculations at the centers really caused the defeat of the opposition party especially in the 2020 election. On the other side too Samuel Nani and Gertrude Aidoo are also of the view that these party agents at the pooling stations were relying on the fact that their political heavy weights in the EC strong room and the regional coalition centers can perform magic to improve their numerical chances at the national level so they woefully failed in supervising the elections at the grassroots level.

Mr. Edmund Remy of the PPP was off the view that the creation of vigilante groups by the two main political parties created doubt in their minds which made them not to trust each other before, during and after the elections both in 2012 and 2020.

The interview with Kwadwo Afari (Head of Protocol) of the New Patriotic Party posited that:

..... *"Political parties don't want to lose any election. Most political parties believe that the EC should assist the incumbent party in winning, which is illegal under the law. The defect is from the political parties themselves. They fail to monitor the elections at the grassroots level. An example is that during the 2020 election petition, the petitioners could not bring their own pink sheet to the court even though every political party had its own"*

An interview with Hon. Daniel Amartey Mensah, the Director of Elections for the National Democratic Congress, indicated that:

..... *"During the tenure of Dr. Afari Gyan, the former EC prior to the 2012 Elections, IPAC Meetings were managed by acknowledging the role of informal institutions; however, Madam Jean Mensah, the current EC, opened the floodgates for civil society organisations to do away with IPAC Meetings at the expense of the political parties prior to the 2020 Elections. Although elections are a crucial part of a healthy democracy, the EC's involvement in Ghana's fourth republic's democratic consolidation means that it has been given the authority to oversee elections there. The election commission must conduct itself in a transparent manner. This will restore normality after the election. This led to disagreements and contested election results in both the legislative and presidential elections".*

The Honourable Daniel Amartey Mensah, the Director of Elections for the National Democratic Congress, further reiterated that:

.... *"the EC cannot stop political gerrymandering since the central government has the ability to create districts and the EC simply serves as a consultative agency." The districts would be constituted since it is a political decision and the government may have a stake in it, notwithstanding the EC's advice to the contrary. This could have affected the EC's independence and, as a result, the growth of democracy"*

It was discovered that the subtle but ongoing and increasing tensions inside the political climate were what actually started the path to the Supreme Court, not the day the election results were declared, but rather due to systematic arithmetic anomalies. According to an interview with Dr. Serebuor Quaicoe, Director of Elections at the Ghana Electoral Commission:

....."the disputed 2012 election was a result of arithmetic challenges that do not have any material effect on the results. The disputants were not contesting the validity of the results but rather errors to nullify the results. Despite these flaws, the European Union rated the election as 95% successful, and both Ellen Johnson Sirleaf and Obasanjo, representing the African Union, and the ECOWAS observing team rated the election as a success"

The researcher posed a question on some of the factors (general and specific) that have impeded the electoral commission's effective and efficient performance. The evidence posited that parliamentary and presidential election results and its associated disputes emanated from the following factors, as collated by the academia of Ghana, Mr. Samuel Nani a MPhil graduate of the Center for African and International Studies of UCC, indicated that

..... "internal factors (the electoral legal and institutional framework, insufficient election legislation, inadequate funding, finance, and budgeting, insufficient electoral security measures, an inappropriate voting system, insufficient electoral administration regulations, and an insufficient framework for resolving electoral disputes) It covers Information and training factors (such as lack of training for political parties and media, lack of training of security sector agencies, A poor voter information campaign). In terms of registration difficulty factors (problematic voter registration, problematic registration of political parties and candidates, problematic accreditation of domestic and international observers) Campaigning for elections (favouritism and unequal access to the media, provocative use of the media by political parties) Provocative political party rallies, violent political party behavior)Regarding further elements like voting operations (inadequacy, loss, and destruction of sensitive and non-sensitive materials, lack of transparency of special and external voting, problematic election day procedures, problematic vote tallying and results totaling)" election results verification (poor administration of the last round of electoral appeals, and election results r ejecting the results of the election) Finally, external factors (poor socioeconomic

conditions, political and social exclusion conflict resulting from shifting power relations, violence and discrimination against women, the presence of armed non-state actors, organised crime, grievances including genocide, crimes against humanity, and war crimes, abuses of human rights, and unethical media reporting) may be linked to problems.

According to Asante and Asare (2017), similar post-election disputes between the main competing parties plagued Ghana's 2012 election, and the results of the above qualitative analysis are consistent with this. The atmosphere made it clear that there were serious tensions and that both sides' fans were ready to blow up at the slightest provocation. The noteworthy circumstance in Ghana's instance, nonetheless, was that the contending parties chose to submit to the legal process by adhering to the provisions of the constitution as they relate to election petitions in the nation. In actuality, all eyes were on Ghana to emerge unscathed from this post-election minefield. The main issue identified was why Ghana's 2012 presidential and parliamentary election petition and its aftermath may be viewed as a huge step in the country's march towards democracy but were stifled as a result of an arithmetic problem, an electoral pink sheet, poor implementation of some electoral reforms, poor voters' education, challenges to voter registration of ghost names or registration of minors, a lack of transparency on the part of the EC, and political gerrymandering, among others.

Again, Van Gyampo et al. (2022) posited that several difficult issues in the run-up to the 2020 elections increased the Electoral Commission's already-existing lack of confidence. It covers the EC's inability to establish the requisite relationship skills in interacting with the opposition to deal with electoral irregularities before declaring results and the challenges encountered during the compilation of results, including a lack of understanding of what Form 13 was and what data it had to contain. It also covers various inaccuracies in the release of election results, as well as revisions made without providing key stakeholders with insights and explanations regarding the reasons for such changes and the rationale for the repairs; and allegations of vote manipulation, among other

things, which were bolstered by the Supreme Court's demeanour and evident unwillingness to examine and provide recommendations on how to address them.

### **3.2 The Implications of The Parliamentary Election Petitions Outcomes in Consolidating Democracy at the Constituency Level.**

Dr Alidu Seidu of the Political Science department of the University of Ghana opened this chapter by saying that the disputed elections in the Republic of Ghana was a new dawn in the fourth republic of Ghana.

Unquestionably, the "third wave" of global democratisation has led more nations to move away from authoritarian leadership and toward some kind of democratic government, and Ghana is no different. This journey for Ghana and other nations has not been easy. It is clear that disputes over elections, which might turn into extremely catastrophic confrontations, can be one of the issues plaguing such countries. When Ghana's parliamentary election results were appealed to the Supreme Court, it was to stop this regrettable occurrence as well as others toward consolidating democracy at the constituency level. As a result, questions were raised about the implications for Ghana's Fourth Republic's Democratic Consolidation, the petition issues in Ghana's general and parliamentary elections in 2012 and 2020, and the outcomes of the democracy consolidation process. Recommendations can help shape the role of Ghana's Electoral Commission to further consolidate democracy at the regional and national levels.

Through the activities of the National Commission for Democracy, the Electoral Commission is a body that seeks the approval of the general public. Election petitions against the electoral process, particularly with reference to the parliamentary elections, have been lodged from 1992 to 2012 by disgruntled parliamentary candidates. If the improvement in the way its elections were conducted served as the benchmark, Ghana would have passed the test of democratic consolidation. However, democratic consolidation should include all of the features that would enhance the overall quality

of democracy in order to avoid the "fallacy of electoralism," which favours elections over other aspects of democracy, of which petitioning through the court process is essential.

### **Preventing violence and ensuring the legitimacy of electoral results**

According to an interview with Nana Yaa Jantuaa, General Secretary of the Convention People's Party, it was indicated that:

*..... "Effective electoral dispute resolution we all know, is key to preventing violence and ensuring the legitimacy of electoral results." You cannot stop anyone from going to court simply because the constitution makes provisions for it. And also, it's a democratic process that consolidates our democracy. There must be an independent source of funding for the electoral commission in order to redeem itself from the influence of the incumbent party. Adequate finding will necessitate more coordination work on the part of the EC for all activities. The EC must adopt the habit of visiting these political parties in their various offices in order to create a good rapport with them even before the conduct of the election. People are still not satisfied with the work, so the EC needs to improve. The petition has helped with the training of the officials, which has really improved the exercise. The results declaration was transparent, the voting process was accountable, the collation centres were evaluated, and the accreditations were available."*

Cheeseman et al. (2019) indicated that Kenya's 2017 general elections reveal how a new constitution may diminish the stakes of political competitiveness and the likelihood of political instability. Three constitutional amendments are particularly significant: the adoption of a 50% plus 1 presidential election threshold, the devolution of power to 47 county governments, and the establishment of a Supreme Court with the authority to consider presidential and parliamentary electoral petitions. The impact of the 2010 Constitution has been varied, according to our findings. The 50% plus one requirement favours coalition building, although this dynamic has been present for some time. Devolution has given a broader range of Kenyans a stake in the system, but it has

also provided new channels through which discontent against the state may be channeled. The Supreme Court established its ability to function autonomously to ensure the prevention of violence and the legitimacy of electoral results, resulting in the consolidation of peace and democratic values in Kenya.

### **Parliamentary Election Petitions and Reform Outcomes in Consolidating Democracy**

An interview with Hon. Danie Amartey Mensah, Director of Elections for the National Democratic Congress, indicated that:

*...."the ruling of the parliamentary result outcome brought about peace rather than violence or destruction of public properties at the constituency level. Again, the outcome of the petition helps implement legal and election regulatory reforms to consolidate the democratic process at the grassroots level. The petition and outcomes of the parliamentary adjudication help address a flawed electoral process and insufficient administrative electoral rules that created the disputes. "The court judgement rather helps to empower the EC to revisit their mandate to address gaps like election-related planning and preparation, the ineffectiveness of the electoral management organisations at the parliamentary level, insufficient operational planning, an insufficient electoral dispute resolution system at the constituency level, and enough voter education against violence at the community level."*

According to Van Gyampo et al. (2022), the judiciary was critical in resolving parliamentary and presidential election petitions, as well as in future Ghanaian reforms. The country's Supreme Court heard arguments about the 2012 and 2020 election results in Ghana. The judicial procedures in both cases revealed serious problems in the electoral systems, even if they did not change the election outcome. The Supreme Court uncovered the shortcomings in the 2012 electoral procedures, and those flaws were mentioned in the court's final verdict in a way that permitted the Electoral Commission to start moving toward electoral reforms. Even though they were raised in court, the

2020 election's concerns were never mentioned in the Supreme Court's ruling. The petition for the 2020 elections and Ghana's potential electoral reforms. It makes the case that the Supreme Court's strict adherence to the wording of the law and its relegation of the contentious electoral disputes in the 2020 elections to the background would make further electoral reforms challenging. This would make it very unlikely that any efforts to improve the election system would succeed.

### **Consolidating peace and democratic values**

Again, the interview guide with Mrs. Joyce Afutu, Director of Communications at the National Commission for Civic Education, indicated that:

*..... "the petition issues really shock the country to its core, opening the democratic eyes of the country to wake up and look for amicable ways of solving issues that can lead to political instability in the country." It is noted that through parliamentary election petitions, outcomes in consolidating peace and democratic values through the court help to ensure that the EC addresses anomalies of insufficient budgeting, finance, and funding of its activities to avert future challenges. It ensures that the parliamentary and constituency-level insufficiencies in election security measures are addressed. The information and instructions on electoral reforms for implementation by the political parties are well executed. It aids in repositioning local media activities so that they can be effectively coordinated with the assistance of security agencies in addressing early violence warning signals challenges and poor voter education efforts, among other things.*

As part of an earlier study, Adams and Asante (2020) posited that most African elections in recent years have been marred by post-election clashes that have had disastrous effects for populations. Kenya, Ivory Coast, and Zimbabwe are only a few examples. As a result, post-election dispute resolution is an extremely essential component of the electoral process that deserves a great deal of attention for consolidating peace and democratic values. Among other things, the research discovered that the courts have been essential in consolidating democracy in Ghana and that

stakeholders are steadfastly acting within the legal framework governing elections, despite logistical, law enforcement, and justice delivery obstacles. Considering the gains achieved over the years, the study indicates that when democratic institutions are solidifying, using unorthodox measures to resolve disagreements is typically not an option.

### **Implementation Reforms for Consolidating Democracy**

Many thought that the Supreme Court's ultimate decision would allow the EC to address some of the flaws raised in the 2012 election petition in the 2020 elections. Unfortunately, the legislation was applied mechanistically in a positivist fashion with little regard for other socio-political concerns (Van Gyampo et al., 2022). This approach differs significantly from Lijphart's (1994, p. 2) explanation of electoral reform as a replacement for a national election system. The Electoral Commission of Ghana (EC) invited the National Democratic Congress (NDC) to an IPAC meeting to assess the 2020 parliamentary and presidential elections. Ghana's Electoral Commission (EC) continues to face a lack of trust not just from the opposition but also from civil society, the general public, and even the ruling party. If the EC attempts to further modify the election procedures, this may have a severe impact on its independence, reputation, and credibility. A heightened confidence gap in the Commission may jeopardise the present head's term and weaken continuity and the drive to construct strong and independent institutions. This resulted in some challenges in accepting the credibility of the results, necessitating some parliamentary petitions, but was nevertheless resolved by court petitioning backed by reforms to help consolidate constituency democratic practises.

Additionally, an interview with Dr. Serebuor Quaicoo, Director of Elections at the Electoral Commission of Ghana, unravels that:

*..... "The EC is the pivot around which multi-party democracy evolves." This is because periodic free and fair elections are a key feature of multi-party democracy. The absence of free and fair periodic elections can result in anarchy and chaos, which can lead to the overthrow of the*

*constitution or the Republic. As a result, the electoral commission has a very important role to play in ensuring a transparent process so that the results of elections will be mostly accepted by all parties. The electoral commission has also encouraged disputing political parties to utilise judicial processes to seek redress. "In addition, the EC has subjected its electoral processes to judicial scrutiny and, in most cases, received and implemented judicial directives on electoral reforms both at parliamentary and presidential elections in order to consolidate democracy."*

Consistent with Bukari (2011), who argues in his paper "Local Level Political Involvement Toward Democratic Consolidation in Ghana: A Case Study of Sissala West Constituency" that political participation at both the national and local levels is the key pillar of democratic consolidation in Ghana, Thus, in his opinion, public engagement in both national and local elections is critical if a country wishes to consolidate its democratic ideals. If Ghana truly wishes to solidify its democracy, its leaders must build the essential platform that will make it simpler and easier for Ghanaians to engage politically in the country's administrative and political processes.

Also, Amedeker (2013) noted that Ghana's democratic transition from 1992 was fairly remarkable, and Ghana has introduced several policies that have gone a long way toward cementing its democracy since that time. The report indicates that Ghana's democratic consolidation metrics include political involvement, media freedom, religious freedom, freedom of expression, and respect for political and civil rights. Thus, Ghana has been involved in numerous actions to consolidate its democracy since the establishment of its fourth republic, according to this study. Among these actions are the respect for human and political rights as well as the implementation of steps to ensure political participation. According to Amedeker (2013), the consolidation of Ghana's democracy has been possible primarily due to respect for political and civil rights, as well as measures instituted to ensure the participation of the Ghanaian populace in the country's political

process. As such, if Ghana intends to continue the consolidation of its democracy, it should deepen such measures at all times.

In his article, "Challenges to Party Development and Democratic Consolidation: Perspectives on Reforming Ghana's Institutional Framework," Fobih (2011) argues that the main challenges to Ghana's democratic consolidation are institutional and the inability of small political parties to organise well and compete effectively in elections with the major political parties. Thus, the paper contends that party growth is critical to democratic consolidation in Ghana and that the government is required to put mechanisms in place to guarantee that all political parties compete on an equitable and fair playing field. It is also critical to provide routes and platforms for small parties to flourish and compete successfully with larger parties in elections. This would help Ghana's democratic consolidation process significantly.

Finally, according to Harriet et al. (2013), Ghana, like many other African countries, has a broad socioeconomic demographic profile, with individuals belonging to many ethnic groups, religions, and political orientations. According to their research, even if the country occasionally faces ethnic conflicts in some places, Ghana has done well in handling these differences, particularly ethnic and political divides, and this has helped to consolidate its democratic systems.

### **3.3 Supreme Court's decisions and how it may strengthen or weaken Ghana's democracy.**

Since 1993, various interventions have been made to fine-tune Ghana's electoral procedures; in fact, the aftermath of each election has revealed unmistakable difficulties that have been embraced and worked on to enhance the electoral processes, spearheaded by the Supreme Court (Van Gyampo et al., 2022). According to Article 129 of the Constitution of 1992, the Supreme Court is the last court of appeal and has exclusive original jurisdiction in all disputes related to the application or interpretation of this Constitution. When it is appropriate, the Supreme Court may deviate from a

prior ruling while still recognizing its own precedent as binding. According to Article 129 of the Constitution from 1992, the Supreme Court has the authority to examine its own judgements. This jurisdiction is seldom used, only being employed in extraordinary situations. For the purpose of enforcing or enforcing the enforcement of its supervisory function, the Supreme Court may issue orders in the form of habeas corpus, certiorari, prohibition, and quo warranto.

The study respondent from the judiciary was asked what the purpose of considering presidential and parliamentary election petition cases in Ghana was, under what circumstances the courts would invalidate presidential and parliamentary election results, what the expected threshold of proof for presidential and parliamentary election disputes is, and what the implications are for strengthening or weakening Ghana's democracy. The study respondent from the judiciary was asked what the purpose was of considering the presidential and parliamentary election petition cases in Ghana, the circumstances under which the courts would invalidate presidential and parliamentary election results and the expected threshold of proof for presidential and parliamentary election disputes, and what are the implications for strengthening or weakening Ghana's democracy

### **Consolidating Democratic Rule of Law**

*.... "The purpose of considering election petition is to give the political disputing parties the opportunity to have redress. Since 2012, we have considered a presidential election petition and several parliamentary electoral disputes. The purpose underscored the need to ensure the right to a fair trial since all people should be treated equally before courts and tribunals as part of their right to a fair trial and fair hearing. The right to an impartial, competent, and independent court or tribunal as well as a public hearing "This has implications for consolidating democracy, establishing and strengthening constitutional rule and/or rule of law, establishing peace to avoid political unrest, and ensuring the country's rule of law."*

Consistent with the empirical research, Adams and Asante (2020:249) examined the judiciary's contribution to consolidating the constitutional role of democracy in Ghana, focusing specifically on the Supreme and High Courts. They were able to identify three critical causes in elections held in the country during the Fourth Republic. These factors include general misconduct on the part of some EC officials and temporary employees, such as polling agents and security personnel, as well as noncompliance with electoral laws on the part of both EC officials and contesting candidates, as well as uncertainty surrounding candidates' eligibility. Adams and Asante (2020: 250–251) discussed the function of the judiciary in the adjudication of election petitions and listed the responsibilities performed by the courts in terms of the interpretation of various electoral laws, explanation of processes, and grounds for rejecting some petitions. The judiciary's role has been prominent in ensuring free and fair adjudication of disputes, with significant positive implications for democratic governance consolidation, fostering peace and development, and playing an important role in averting political disorder in the country.

### **Standard of proof in harmony with electoral procedure**

Though even if there were issues with the electoral procedures during Ghana's 2020 elections, the EC's tacit unwillingness to admit them and its failure to raise them at the Supreme Court make it a matter of ensuring a standard of proof in their electoral dealings. According to Van Gyampo et al. (2022), the EC was hiding behind the mantle of the law, which makes the commission look like a political ostrich and subject to providing or testifying with a standard of proof in harmony with the electoral process. The petitioners in the 2020 election petition were well aware of the difficulties they would encounter in arguing for a re-run of the presidential elections as well as electoral reform at the Supreme Court (Van Gyampo et al., 2022).

According to one of the Supreme Court judges, he noted that

*... "Legal elections depend on the legal correction of any mistake or unlawful electoral action." herefore, the system's aim is to ensure real protection for and effective enforcement of the political rights to elect or censer elected. To do so, the system ensures against the all participants (political parties, and candidates) that the voter's decision will prevail. The system aids in the protection of certain values that support every electoral action, and every electoral procedure must be guided standard of proof principles of: "legality, certainty, objectivity, impartiality, authenticity, clarity, and justice."*

In the literature, Azu (2015) investigated the evidential rules in depth, proof that on the burden of proof and the standard of questioned about should be discharged throughout the resolution procedure in the disagreements in the presidential election. The research looked into the circumstances under which Ghanaian courts would invalidate the results of the presidential election. He is also occurred and a number of extra-legal issues that must be taken into account by the judges during the adjudication of presidential election controversies. The results of the presidential elections in both 2012 and 2013 therein Ghana and Kenya have shown judiciary are clear violations of major electoral regulations. It was also discovered that, while the Kenyan Supreme Court unanimously ruled that the non-compliance was insignificant to affect the validity of the results and thus did not grant a declaration of invalidation, the Ghanaian jurists were divided in their ruling, though the majority of them agreed with their Kenyan counterparts. Judges' decisions are not always founded on the law. Extra-legal considerations such as public policy and public interest have occasionally impacted judges' decisions. When Justice Atuguba stated, "the Judiciary in Ghana, like its counterparts in other jurisdictions, does not readily invalidate a public election but often tries in the public interest to uphold it" (Supreme Court Verdict, 2012; Presidential Election Petition Judgement, 2013:33).

## The implications of the Supreme Court ruling

The literature argues that the mysterious nature of any judicial procedure is diminished if litigants approach the courts knowing what the eventual ruling will be. It should be feasible to test controversial matters in court, and with strong acceptable arguments, the courts should be able to weigh additional elements in rendering verdicts that are not only based on the law (Van Gyampo et al., 2022). Unfortunately, the 2020 election petition was heard, and a judgement was issued based only on technicalities, failing to address the difficulties of the 2020 elections. If all parties acknowledge and confront these problems, the prospects of electoral reform after 2020, the EC itself inuring out its duty, do not look promising (Van Gyampo et al., 2022). As a consequence, the supreme court's decisions may produce mixed results that may strengthen or weaken Ghana's democracy. Nevertheless, the overall implication of the Supreme Court ruling has huge implications for consolidating democracy in Ghana.

*.... "Armed with the requisite constitutional provisions, the results of Ghana's 2012 and 2020 elections were challenged in the nation's Supreme Court." Even though the court processes in both cases did not alter the election results, they nevertheless exposed flaws in the electoral processes. The flaws in the 2012 electoral processes were exposed and featured in the final judgement of the courts in a manner that allowed the Electoral Commission (EC) to initiate moves towards electoral reforms. However, though the challenges of the 2020 elections were exposed in the courts, the judgements of the Supreme Court over the years strengthened rather than weakened Ghana's democracy. Positive implications for electoral reform include strengthening electoral processes or the EC to ensure they are more transparent and accountable, consolidating democratic gains, fostering dispute resolution and electoral justice, strengthening institutional growth and electoral governance, and emphasising the significance of the separation of powers -- the judiciary's ability to adjudicate without being influenced.*

The positive implication of the above role of the judiciary, like fostering electoral reforms to consolidate democratic processes, has been documented in the literature. According to some reforms as directed, the Commission approved a total of 17 proposals that are: the establishment of a national collation centre to take on the role of the strong room; the requirement for qualified election officials to staff the polls; ongoing voter registration efforts; the use of biometric verification devices for voter registration and exhibition exercises; the raising of the minimum educational requirements for various levels of election officials; the definitions of "ordinarily resident" in CI 72 and "hails from" for the requirements to be registered as a voter in an electoral area. The rest include the institutionalization of inter-party advisory committee meetings; election officials swearing an oath before a judge; Elections will be held in November rather than December, and the implementation of electronic voting will be delayed. Making clear provisions regarding processes and procedures to be followed upon the adjournment of the election; reducing the number of rejected ballots; sanctioning election officials who violate electoral laws; Serial numbering all statements of poll and declaration of result sheets; giving vulnerable people preference at all polling places; improving compensation packages for election officials; and giving election officials and the commission better training (Gyampo 2018).

### **Election results petition adjudication judicial challenges**

Several contentious topics before the 2020 elections exacerbated the Electoral Commission's already-existing confidence deficit. These include the EC's inability to develop the necessary relational competence in engaging with the opposition to deal with electoral irregularities prior to declaring results. There are also difficulties encountered during the collation of results, including a lack of clarity on what constitutes Form 13 and the details it must encapsulate. Also, there are claims of vote tampering, among other things, which were supported by the Supreme Court's demeanour and its clear failure to acknowledge them and give advice on how to deal with them.

Further interrogation with the Supreme Court of Ghana posited that:

*... "Their major complaint was that the EC, led by Dr. Kwadwo Afari-Gyan, permitted voting to take place without biometric verification at numerous polling places around the country." They claimed that this was a violation of Constitutional Instrument (C I) 75 Regulations 30. (2). As a result, they petitioned the court to have the election results at certain polling stations annulled. Another source of concern was the EC's use of Superlock Technologies Limited (STL), an information technology firm, without informing the IPAC. They contended that this went against Ghanaian custom, in which such key issues were openly addressed with the IPAC. According to the petitioners, the EC did not discuss the problem with IPAC because it sought to rig the elections in favour of the NDC presidential candidate. In addition, multiple Statement of Poll and Declaration of Results Forms (commonly known as "pink papers") had the same serial number. Because all pink papers were supposed to have unique serial numbers, the petitioners contended that this was unlawful and an electoral fraud. The petitioners also cited concerns about common instances in which presiding officers omitted to sign the results announced on the pink sheets, in violation of CI 75, Regulation 36 (2). Furthermore, the petitioners alleged that the principle of "one man, one vote" was breached since some persons engaged in multiple voting while the EC was watching. Finally, they questioned the shift in the total number of registered voters from 14 031 680 before the polls to 14 158 890 on December 9, 2012, when the EC proclaimed the results.*

Election petition decisions have historically been made by the legislature rather than the regular courts and are non-judicial in character (Nyane, 2018:4). Legislators' partisanship damaged the legitimacy of their judgements regarding petitions for elections. As a result, the lack of credibility brought on by such choices led to a total loss of public faith in elections as a whole. As a result, parliamentary-based electoral dispute adjudication gave way to judicial settlement (Nyane, 2018:5). The judiciary first resisted and was opposed to carrying out this difficult work of adjudicating

election petitions. However, the transition from the parliamentary electoral dispute resolution system to a judicial settlement was made easier by the operationalization of the Parliamentary Elections Act of 1968. As outdated as the law may seem, it is nonetheless essential to comprehending election petitions given how frequently they are used and implemented in many nations today (Nyane, 2018:5). Huefner (2007:265–326) has emphasised three crucial elements that must guide the judgement of election petitions. He implied that, in addition to the need for the entire process to be fair from the viewpoints of the parties involved and the general public, openness and a timely decision on the petition are also essential since they are predicated on the idea that justice delayed is justice denied.

The five different issues listed by Kaaba (2015:334–335) that have frequently plagued domestic adjudication of presidential election petitions in Africa are as follows: (i) "All cases are determined in the incumbent candidate's, the ruling parties, or the presumed victor's favor." (ii) "Many cases are rejected on the basis of insignificant procedural irregularities without taking the merits into account." (iii). There is abuse of the significant effect rule, according to (iv). In other nations, "conflict settlement is excessively delayed to the point that the entire procedure is pointless." By preventing themselves from reaching the proper conclusions, judges merely fail to address the problems that are brought before them.

In general, judicial challenges to presidential election results have rarely been successful. Ghana, Uganda, Kenya, Nigeria, Sierra Leone, Zambia, and Zimbabwe are among the African nations whose election petitions filed challenging the results of their presidential elections have been unsuccessful (Azu, 2015:151). Because the Côte d'Ivoire Constitutional Council overturned the results that had been declared, the 2010 Cote d'Ivoire case was an exception to the rule. However, academics countered that this judgement had a comparable impact to past rulings that had affirmed the outcomes of prior contentious elections. This is due to the fact that President Laurent Gbagbo,

who was in office at the time and had obviously lost the election, was given a favourable ruling (see Verdict of the Constitutional Council of Côte d'Ivoire of December 3, 2010 at 147; Kaaba, 2015; Owusu-Mensah and Frempong, 2015; Adams and Asante, 2020; Azu, 2015).



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## CHAPTER FOUR

### SUMMARY, CONCLUSION, AND RECOMMENDATIONS

#### 4.0 Introduction

The purpose of the study is to ascertain the implications of the Election Court Petition on the consolidation of democracy in Ghana. The study is guided by the specific objectives to identify the issues that necessitate the Electoral Commission's results being challenged, leading to an electoral dispute in parliamentary and presidential elections; to ascertain the implications of the parliamentary election petition outcomes in consolidating democracy at the constituency level; and to examine the Supreme Court's decisions and how they may strengthen or weaken Ghana's democracy. The study used a qualitative research approach; therefore, interviews were conducted to obtain perspectives from 10 important experts in order to accomplish the overarching goal indicated above. This chapter summarises the study's conclusions as derived from the research questions. This chapter also included the study's overall findings and suggestions.

#### 4.1. Summary of Findings

In harmony with objective one, to identify the issues that necessitate the Electoral Commission's results being challenged, leading to an electoral dispute in parliamentary and presidential elections, it was indicated that:

- Internal problems that partially contributed to the electoral dispute included irregularities in the institutional and legal frameworks for elections, an inappropriate voting system, a lack of adequate financial and budgetary controls, inadequate electoral security measures, and an inadequate framework for resolving electoral disputes by the EC itself.
- Information and training challenges attenuated a dispute-free election execution and covered a lack of enough training for political parties and media, a lack of training of

security sector agencies in addressing electoral-related violence at the polling stations, and a poor voter information campaign by NCCE. In terms of the barriers to registration, there are issues with problematic voter registration, problematic registration of eligible voters, and problematic registration of minors and candidates. More as a result of election campaign favoritism, unequal media access, provocative media use by political parties, and provocative and violent political party behavior.

- Regarding other factors, including inadequate voting processes, the misplacement and destruction of sensitive and non-sensitive materials, the lack of transparency of special and external voting, and poor election day procedures, During the most recent round of electoral appeals, the results of the election were rejected due to problems with vote counting and results arithmetic.
- Over the years, there have been concerns raised related to activities that have resulted in votes being disputed or results being disputed by the political parties during an election cycle. It covers issues such as establishing electoral rules, dividing the nation into constituencies, establishing polling places, registering voters, displaying voter rolls, transferring votes, creating special voter lists, educating the public, hiring and training election officials, managing logistics, registering political parties, submitting nominations, and regulating the activities of political parties, such as managing their finances.

In line with objective two, which is to determine the implications of the results of parliamentary election petitions in consolidating democracy at the constituency level,

- There is a major implication for preventing violence and ensuring the legitimacy of electoral results in consolidating democracy at the constituency level. The petition has helped with

the training of the officials, which has really improved the voting exercise. The results declaration was transparent, the voting process was accountable, the collation centres were evaluated, and the accreditations were available.

- Once again, electoral reform implications are a crucial factor in the success of parliamentary election petitions in strengthening democracy at the local level. As a result of the legislative decision, there was no violence or destruction of public property at the constituency level. Once again, the outcome of the petition contributes to the implementation of judicial and electoral reforms to strengthen democracy at the grassroots level. Addressing an unreliable electoral process is made easier by the petition and the decision of the parliamentary adjudication. The court's decision gives the EC more authority to review its mandate in order to resolve issues with election-related planning and preparation and the inefficiency of the organisations in charge of managing elections at the parliamentary level.
- Consolidating peace and democratic values is a function of the court ruling's implications and outcome at the constituency level. The election petition outcome helped to deepen the democratic process, safeguard peace, entrench democratic values, and set the right tone to ameliorate the electoral dispute amicably. The election petition at the parliamentary level helps ensure political instability in the country. Considering the gains achieved over the years, the study indicates that when democratic institutions are solidifying, using unorthodox measures to resolve disagreements is typically not an option.
- The petition helps to ensure that there are implementation reforms, a restructuring or organisation of the electoral processes, and stakeholder engagement in consolidating democracy. It covers the implementation of reforms such as the requirement that no new constituencies be created during an election year. The voter registration period's notice period increased from 14 to 21 days. The Commission has been given the go-ahead to ask a court for permission to remove the names of ineligible voters from the provisional voters'

register. The Commission is mandated by law to give political parties a copy of the final certified voters' register 21 days before elections. All polling places must be gazetted with their codes and locations no later than 42 days before an election, according to a yearly calendar of Commission events.

- Finally, the court ruling has implications for addressing electoral administration and operational gaps. As a result, the court directed that some proposals be implemented, such as all polling places being listed with their codes and locations no later than 42 days before elections, and returning officers providing copies of special, absentee, and proxy voter lists to candidates or their representatives. The list of accredited special voters should be expanded to include accredited media personnel and election observers, as well. It is necessary to revamp and simplify the Statement of Poll and Declaration of Results forms. The rest, including the results of overvoting, should be thrown out; returning officers must provide copies of the collation sheets to agents; A polling station-by-polling station breakdown of the presidential election results is appropriate.

In line with objective three: to examine the Supreme Court's decisions and how they may strengthen or weaken Ghana's democracy,

- The supreme court's ruling consolidates the democratic rule of law rather than undermining it. As a result, the court's decision helps ensure everyone should be treated equally before courts and tribunals as part of their right to a fair electoral trial and fair hearing; the court's ruling highlighted the necessity to safeguard the right to a fair trial. The right to a public hearing as well as an objective, knowledgeable, and independent court or tribunal This has implications for promoting democracy, establishing and enforcing the rule of law and/or the constitution, fostering peace and preventing political instability, and guaranteeing the rule of law in the nation.

- By verifying evidence in accordance with the election process and the legal system, the standard of proof served to assure consistency. To comprehend and prevent further corrections of any error or illegal election conduct, the supreme court's ruling on legal matters is crucial. Therefore, the goal of the judicial system is to ensure that the political right to vote or to be elected is effectively protected. To do this, the system guarantees that the voter's choice will triumph for all players (political parties, citizens, and candidates). Every voting method must adhere to the principles of legality, certainty, objectivity, impartiality, authenticity, clarity, and justice. The system helps defend specific ideals that underpin every electoral action.
- The consequences of the supreme court's decision have mixed effects that could either strengthen or harm Ghana's democracy. However, the overall impact of the Supreme Court's decision will have a significant effect on strengthening Ghana's democracy. Over the years, the Supreme Court has reinforced Ghana's democracy rather than eroding it. These take the form of constructive implications for electoral reforms: strengthening the electoral system or the EC to make sure it is more transparent and accountable, to strengthen and consolidate democratic gains, to promote dispute resolution and electoral justice, to strengthen institutional growth and electoral governance, and to emphasise the implications of the separation of powers and the judiciary's role to adjudicate without being influenced.

#### 4.2 Conclusion

- In line with the objective one, the researcher concludes, premised on the results of a study, that the issues that necessitate the EC results being challenged, leading to an electoral dispute in parliamentary and presidential elections, are the function of anomalies tied to the constitutional or legal framework, operational governance, personnel, resource constraints, and administrative lapses, as well as some transparency challenges.

- In line with objective two, the study concludes that the implications of the parliamentary election petitions outcomes in consolidating democracy at the constituency level have helped optimise the legal and constitutional framework to avert parliamentary or constituency political unrest. As a result, grass-roots political governance and the electoral process are subject to legal process, which has strengthened and validated institutional empowerment as a function of the rule of law and separation of powers in the adjudication of disputes rather than resorting to violence, as well as evolving electoral legal reforms to mirror the changing dynamics.

In line with objective three, which is to examine the supreme court's decisions and how they may strengthen or weaken Ghana's democracy, the study concluded that for the judiciary's decisions to have a significant impact, they must be impartial, transparent, fair, and strictly interpret electoral law without influence from the ruling party. The study again concluded on this note that crucial relevance of the judiciary's independence must be strengthened to make effective bold and unmanipulated bidding decisions. The judiciary legal independence with constitutionally broad, sweeping powers will impact reforms that will be implemented to consolidate democracy that is reflective of the public service.

#### **4.3 Recommendation**

- As consistent with the Neo-Institutional Approach, the theoretical foundation of the study it is recommended that comprehensive and targeted capacity development to facilitate the judiciary's skill growth. Judges must be knowledgeable about election law, international norms, and jurisdictional laws, as well as learn from the experiences of other nations. Furthermore, skill development should target not just judges but also support workers such as registrars, legal scholars, and ICT personnel and staff of the EC, as well as political stakeholders in the election value chain. Training alone is insufficient; the judiciary also

requires conveniently available forms of procedural and substantive advice, such as handbooks and checklists. The judiciary plays an essential role in informing and engaging the public through its public outreach initiatives.

- The EC must be adequately resourced to be independent. The little involvement of academics by the commission in Ghana's electoral process is not healthy. The EC can learn from the Nigerian electoral commission's (Independent National Electoral Commission's) use of university lecturers as collating officials. This will not only instill confidence in the electoral process, but it will also help to avoid some simple arithmetic mistakes during ballot counting, as witnessed during the 2012 election petition.
- Practitioners and policymakers involved in electoral violence management should include in their analysis an evaluation of how electoral violence affects victims and how their various needs (material, physical, and psychological) might be met. The stakeholders must create a diverse strategy to accommodate various target groups in order to prevent severe individual and political consequences of electoral violence, and the government must allocate adequate resources to develop a policy and strategies as well as implement electoral reforms (as specified by the Neo- Institutional Approach) to address the consequences of electoral gaps or violence, as well as to implement and evaluate such a legal or constitutional framework.
- The EC and judiciary must assess electoral system risks and examine changes for practitioners and policymakers to control electoral violence. To prevent impunity, punish violent offenders by limiting their political participation. Electoral stakeholders must also establish measures and resources for efforts that complement the institutional structure and legal framework, such as peace pledges.

- The EC and the judiciary must consider the repercussions of the electoral system for the risk of violence and analyse prospective reforms to electoral systems, codes of conduct, and other laws on the election process for practitioners and policymakers working on electoral violence management. To avoid a culture of impunity, impose punishments on perpetrators of violence, such as restricting repeat perpetrators' ability to participate in politics. Also, there is a need for electoral stakeholders to develop measures and appropriate resources for initiatives that can support the institutional structure and legislative framework, such as the use of peace promises.
- There is a need to find the correct mix of deterrent and confidence-building for security. Practitioners and policymakers involved in electoral violence management should adopt the Neo Institutional Approach to work closely with local players to discover networks of violence producers and find peace-promoting components. Also, there is the need to encourage coordination among national and local security forces, peacekeepers, political parties, and other relevant players. There is a need to educate security forces about electoral laws and norms of behaviour.
- It is also suggested that because elections in Ghana have the potential to spark violence, there is a need for robust and transparent systems to control the electoral process and its final conclusion. The study thus emphasised the importance of the EC in ensuring national consensus as well as public and stakeholder confidence in the election process. As a result, it has been stressed that the legitimacy of the Ghanaian EC is critical to its efficacy. As a result, it is critical to ensure that the personnel in charge of elections are seen as trustworthy and capable by voters and candidates. Indeed, if citizens and political players have trust in the integrity of the persons and institutions in charge of our elections, they are more inclined

to accept the results, increasing participation and representation, and therefore strengthening democratic consolidation.

- In this regard, the commission's directors and other important employees must take over and continue the process of putting the reform recommendations into practice. While the results of the investigations are being anticipated, any modifications that call for legislative revisions must be brought before the proper bodies immediately. Reforms that call for adjustments to administrative procedures or specific acts must be proposed, deliberated among the directors, and then put into effect.
- Reforms beyond the commission's purview must not only be sent to the relevant institutions but also be monitored by the commission to make sure they don't go by the wayside. Following the transmission of the recommendations, the panel cannot take a break. Even if it can be a shared responsibility, the commission should be more concerned about the success of electoral reform than any other stakeholder. The EC must cooperate with the other institutions in this respect to make sure that all recommendations are carried out.
- In addition, the commission—chairs or not—must convey what is being done to improve the election procedures and must make sure that any pertinent recommendations are brought to the attention of both the political parties and other important stakeholders, such as the general public. This would foster greater acceptance of the outcomes of future elections and increase public trust in the commission's ability to conduct fair elections. In order to dispel the notion that time is being wasted, the EC must once again educate the populace about electoral procedures, associated issues, and how these challenges are being addressed in a more useful and quick way.

#### **4.4 Recommendation for Future Research**

The purpose of the study is to ascertain the implications of the Election Court Petition on the consolidation of democracy in Ghana. This means that the study is limited to Ghana; hence, further study can explore the case of parliamentary and presidential election petitions in West Africa or Africa as a whole. In addition, because similar studies have only used quantitative methods, the study must expand its sample size and use mixed methods in order to use quantitative evidence to support a qualitative approach.



**Appendix**



**UNIVERSITY OF GHANA**

**INTERNATIONAL AFFAIRS**

This interview guide is designed to solicit views on the topic: *The Role of Election Petitions in the Consolidation of Democracy in Africa: The Case of Ghana*. I am **Theophilus Oteng Pabi**, a student at the University of Ghana. This interview guide is purposely designed for academic work and in partial fulfilment of the Master of Arts in International Affairs degree.

I would be very grateful if you could volunteer and assist me by providing the relevant information needed to complete this research work. This interview is purely for academic purposes, and thus, confidentiality is strongly upheld. Thank you very much, and I am looking forward to your support to enable me to complete this study successfully.

Contact Information: Tel: **0541681709** Email: **otengpabitheophilus@gmail.com**

**INTERVIEW GUIDE FOR THE ELECTORAL COMMISSION OF GHANA**

1. How well has the EC played its role with respect to election management in Ghana, especially the following:
  - a) compilation of the voter register.
  - b) Regulation of political party activities; and
  - c) Voter education?
2. Can you comment on how the disputed 2012 elections were run? (The events leading to the election petition
3. How did the Commission under your chairmanship deal with the influence of informal institutions, if any?
4. Do you think the EC's role has any implications for the Democratic Consolidation of Ghana's Fourth Republic?
5. Could you comment on the petition issues in Ghana's general and parliamentary elections in 2012 and 2016?
6. What have been some of the factors (general and specific) that have impeded the Electoral Commission's effective and efficient performance?
7. What recommendations can better shape the role of the Electoral Commission of Ghana?

#### **INTERVIEW GUIDE FOR SUPREME COURT KEY INFORMANT**

- What is the purpose of considering the presidential and parliamentary election petition cases?
- What are the circumstances under which the courts would invalidate presidential and parliamentary election results?

- What is the expected threshold of proof for presidential and parliamentary election disputes, and what are the implications for strengthening or weakening Ghana's democracy?
- Can you comment on the burden of proof in general and be concerned with the question of whose duty it is to prove allegations of facts by placing evidence before a court? Is that the implication for strengthening or weakening democracy in the country?
- What is the standard of proof or the weight that a court should place on the material facts that are placed before it in election disputes? What is the implication for strengthening or weakening Ghana's democracy?
- Are there any extra-legal considerations in the resolution of presidential and parliamentary election disputes in Ghana? Is there any implication it has for strengthening or weakening Ghana's democracy?
- What are the judicial challenges to presidential and parliamentary election results petition adjudication, and how do they affect the consolidation of democracy?

### **INTERVIEW GUIDE FOR THE POLITICAL PARTIES**

1. How well has the EC played its role with respect to election management in Ghana, especially the following:
  - a) compilation of the voter register.
  - b) Regulation of political party activities; and
  - c) Voter education?
2. Can you comment on the role of political parties to the disputed 2012 elections? (The events of political parties leading to the election petition

3. How did the of political parties see the chairman of the EC deal with the influence of informal institutions, if any?
4. Do you think the EC's role has any implications for the Democratic Consolidation of Ghana's Fourth Republic?
5. Could you comment on the petition issues in Ghana's general and parliamentary elections in 2012 and 2016?
6. What have been some of the factors (general and specific) that have impeded the Electoral Commission's effective and efficient performance?
7. What recommendations can better shape the role of the Electoral Commission of Ghana?

#### **INTERVIEW GUIDE FOR THE CIVIL SOCEITY ORGANIZATIONS**

1. How well has the EC played its role with respect to election management in Ghana, especially the following:
  - a) compilation of the voter register.
  - b) Regulation of political party activities; and
  - c) Voter education?
2. Can you comment on the role of CSOs to the disputed 2012 elections? (The events of CSOs leading to the election petition
3. How did the CSOs see the chairman of the EC deal with the influence of informal institutions, if any?
4. Do you think the EC's role has any implications for the Democratic Consolidation of Ghana's Fourth Republic?

5. Could you comment on the CSOs views of the petition issues in Ghana's general and parliamentary elections in 2012 and 2016?
6. What have been some of the factors (general and specific) that have impeded the Electoral Commission's effective and efficient performance from the perspectives CSOs in Ghana?
7. What recommendations can better shape the role of the Electoral Commission of Ghana from the views of CSOs?

### **INTERVIEW GUIDE FOR THE ACADEMICS.**

1. How well has the EC played its role with respect to election management in Ghana, especially the following:
  - a) compilation of the voter register.
  - b) Regulation of political party activities; and
  - c) Voter education?
2. Can you comment on any possible role of academics to the disputed 2012 elections? (The events leading and post-petition of the election adjudication.
3. How did the academics community see the chairman of the EC deal with the influence of informal institutions, if any?
4. Do you think the EC's role has any implications for the Democratic Consolidation of Ghana's Fourth Republic?
5. Could you comment on the academic's views of the petition issues in Ghana's general and parliamentary elections in 2012 and 2016?

6. What have been some of the factors (general and specific) that have impeded the Electoral Commission's effective and efficient performance from the perspective's academics in Ghana?
7. What recommendations can better shape the role of the Electoral Commission of Ghana from the views of academic's community?

**THANK YOU FOR YOUR TIME**

