

**ELECTORAL COMMISSION AND ELECTION
MANAGEMENT IN GHANA (1993-2008)**

BY

EMMANUEL ASANTE KISSI



**A MASTER OF PHILOSOPHY THESIS SUBMITTED TO THE DEPARTMENT OF
POLITICAL SCIENCE, UNIVERSITY OF GHANA, LEGON IN PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR THE AWARD OF A MASTER OF
PHILOSOPHY (M.PHIL) DEGREE IN POLITICAL SCIENCE**

JUNE, 2012

DECLARATION

I do hereby declare that except for references to the works of other authors duly acknowledged, this work is my own original research study under the supervision of Dr. Isaac Owusu-Mensah. This work has not been presented either in part or in whole to any institution for the award of any degree anywhere. I, therefore, bear full responsibility for any omission or errors in this work.

.....
(EMMANUEL ASANTE KISSI)



.....
(DR. ISAAC OWUSU-MENSAH)
SUPERVISOR

.....
DATE

.....
(DR. EMMANUEL DEBRAH)
SUPERVISOR

.....
DATE

DEDICATION

This work is dedicated to my best friend and wife; Abena Abrafi Asante-Kissi and my dearest mom; Madam Selina Ama Asabea Osafo (Deceased) for their love.



ACKNOWLEDGEMENTS

First and foremost, I give thanks to God, the Most High for bringing me this far.

I wish to express my special and profound gratitude and indebtedness to the supervisors of this thesis which gave it intellectual foundation; Dr. Isaac Owusu-Mensah and Dr. Emmanuel Kwaku Debrah whose meticulousness during the supervision brought a lot of difference to this work.

To Professors Kwami Akon Ninsin, Emmanuel Gyimah-Boadi, Kwame Boafo-Arthur, and Professor Abeiku Essuman-Johnson and Mr. Alex Kaakyire Duku Frempong, all lecturers in the Department of Political Science, University of Ghana, I express my sincere gratitude to them for their insightful lectures in various courses, both undergraduate and graduate levels which exerted a lot of influence in my choice of thesis topic. I further register my appreciation for the support and encouragement that Mr. Kwesi Jonah, then Head of the Department of Political Science gave me for his tireless efforts in getting me readmitted to complete this thesis. His special concern for me to finish the thesis, especially his constant reminders, “Which chapter are you working on?” and “Have you finished the work?” empowered me greatly to work extra harder to complete this thesis. Others include Dr. Franklin Oduro and Mr. Kojo Asante both of Ghana Center for Democratic Development (CDD-Ghana) for their encouragement. I am also indebted to Mr. Emmanuel Appiah Ayetey, a Graduate student at the Centre for Migration Studies for his support during data collection. Emmanuel thank you very much for all your efforts. The interviewees who took time off their tight schedules to grant us interview deserve thongs of gratitude.

I also extend my appreciation to my wife, Mrs. Abena Abrafi Asante-Kissi and our lovely kids; Nhyira, Adoma and Osafo for their patience and understanding that made it possible for me to

spend long hours working on this thesis. I am very grateful to you for the support you gave me. I also extend my warmest gratitude to my beloved parents, Mr. Lawrence Kissi Yeboah and Madam Ama Asabea Osafo dedicated parents who gave me educational foundation, and all my siblings.

My final appreciation is extended to my senior and junior colleagues at the Electoral Commission's Head Office, notably, Mr. Kofi Arhin, Mr. Kofi Asomaning, Mr. Amadu Sulley, Mr. Dan Amanyo, Amos Neequaye, Kofi Kye-Duodoo, Mrs. Gladys Pinkrah and all Elections department and Head Office Staff of the Commission. Lastly, to my M.phil colleagues in the Department of Political Science, Aaron Agbezuge, Abdul-Jalilu Ateku, Rockson Gbande, Patrick Yin, Mohammed Mahamud, Abdul Razak Adam, Elijah and James Obimpeh for their support in diverse ways. Folks thanks very much. May God richly bless you all!



Emmanuel Asante Kissi
Department of Political Science
June 2012

ABSTRACT

This study examined the three levels of electoral governance and the extent to which they have contributed to the elections that Ghana's Electoral Commission has managed under the Fourth Republic. The practical initiatives undertaken by the Electoral Commission in the area of rule making, rule application and rule adjudication in managing elections in Ghana, were the central issues that the study addressed. The study argued that the constitutional leverage granted to the EC to make instruments to regulate the Ghanaian electoral processes has contributed significantly to the improvements in Ghana's electoral governance. The innovations or reforms introduced by the EC which have contributed enormously in the subsequent elections that were conducted after the 1992 elections were made possible due to the potency of regulations enacted by the EC under the Constitutional Instruments.

Nonetheless, the study posits that the Electoral Commission is still faced with a number of challenges such as untimely releases of funds to enable it undertake its election activities timeously. Other challenges include, 'electoral demons' notably, electoral fraud, violence, bloated register, and intimidation of election officials and voters at polling stations which continue to dent the Ghanaian elections. It argued that the most viable option for Ghana to consolidate its democracy require the citizens imbibing and adhering to the dictates of the EC's regulations on electoral laws, and also the capacity of the security services to prosecute criminality irrespective of the political coloration of the persons involved. This, the study noted is the surest way of addressing the problem of 'electoral demons', and non adherence to the dictates of these rules and regulations risked undermining Ghana's democratic gains.

LIST OF ABBREVIATIONS AND ACRONYMS

AFRC	-	Armed Forces Revolutionary Council
CI	-	Constitutional Instrument
CSOs	-	Civil Society Organizations
COG	-	Commonwealth Observer Group
CIDA	-	Canadian International Development Agency
CDD	-	Center for Democratic Development
CPP	-	Convention People's Party
CRED	-	Civil Registration and Electoral Division
DANIDA	-	Danish International Development Agency
DPP	-	Democratic People's Party
DFP	-	Democratic Freedom Party
DRRC	-	District Registration Review Committee
EC	-	Electoral Commission
EGLE	-	Every Ghanaian Living Everywhere
EMB	-	Election Management Body

EU	-	European Union
FBO	-	Faith Based Organization
GA	-	Great Alliance
GCPP	-	Great Consolidated People's Party
GJA	-	Ghana Journalist Association
IDEG	-	Institute for Democratic Governance
IEA	-	Institute of Economic Affairs
IEC	-	Independent Electoral Commission
INEC	-	Interim National Electoral Commission
IPAC	-	Inter Party Advisory Committee
LI	-	Legislative Instrument
MP	-	Member of Parliament
NCD	-	National Commission for Democracy
NDC	-	National Democratic Congress
NIP	-	National Independence Party
NLC	-	National Liberation Council
NLCD	-	National Liberation Commission Decree

NPP	-	New Patriotic Party
NRP	-	National Reform Party
OAU	-	Organization of African Unity
PA	-	Progressive Alliance
PNDC	-	Provisional National Defense Council
RPD	-	Reformed Patriotic Democrats
SMC	-	Supreme Military Council
SMCD	-	Supreme Military Council Decree
UDHR	-	Universal Declaration of Human Rights
UGM	-	United Ghana Movement
UNIGOV	-	Union Government
USAID	-	United States Agency for International Development

TABLE OF CONTENTS**TITLE PAGE**

DECLARATION:.....	i
DEDICATION:.....	ii
ACKNOWLEDGEMENTS:.....	iii
ABSTRACT:.....	v
ACRONYMS:.....	vi
CHAPTER ONE: CONCEPTUAL FRAMEWORK	
1.1 INTRODUCTION:.....	1
1.2: STATEMENT OF THE PROBLEM:.....	4
1.3: OBJECTIVES OF STUDY:.....	7
1.4: HYPOTHESIS	8
1.5: SCOPE OF STUDY:.....	8
1.6: LITERATURE REVIEW.....	8
1.6.1: General Studies on Elections.....	9
1.6.2: Studies of Elections Management In Africa.....	10
1.6.3: General Studies on Elections Management in Ghana.....	14
1.7: THEORITICAL FRAMEWORK.....	19
1.7.1: The Theory of Electoral Governance	19
1.8 METHODOLOGY	21
1.8.1 Study Design	21
1.8.2 Study Population	22
1.8.3 Sample and Sample Procedure	22
1.8.4 Data Collection Instruments and Data Sources	24
1.8.5 Pre-Testing of Instrument	25
1.8.6 Reliability and Validity of Instruments	25
1.8.7 Challenges in the Collection of Data	26
1.8.8 Ethical Issues	27
1.9: SIGNIFICANCE OF STUDY:	27
1.10: LIMITATIONS OF STUDY.....	28

1.11: ORGANIZATION OF WORK.....	28
REFERENCES.....	29
CHAPTER TWO: HISTORICAL OVERVIEW OF ELECTION MANAGEMENT IN GHANA	
2.1: INTRODUCTION:.....	
2.2: ELECTION MANAGEMENT BEFORE INDEPENDENCE (1925-1957):	35
2.3: POST INDEPENDENCE ELECTION MANAGEMENT (1957-1966):.....	36
2.4: DEVELOPMENTS UNDER THE MILITARY REGIMES (1966-1979).....	38
2.5: APPOINTMENT OF COMMISSION OF ENQUIRY INTO ELECTORAL AND LOCAL GOVERNMENT REFORMS (SIRIBOE COMMISSION).....	38
2.6: ELECTION MANAGEMENT UNDER THE PNDC ADMINISTRATION (1982-1992):.....	45
2.7: THE ESTABLISHMENT OF THE NATIONAL COMMISSION FOR DEMOCRACY:.....	46
2.8: RETURN TO CONSTITUTIONAL RULE:.....	48
2.9: ESTABLISHMENT OF INTERIM NATIONAL ELECTORAL COMMISSION.....	48
2.10: CONCLUSION.....	49
REFERENCES.....	51
CHAPTER THREE: ELECTION MANAGEMENT IN GHANA (1993-2008):	
3.1: INTRODUCTION:	54
3.2: TYPES OF ELECTORAL MANAGEMENT BODIES.....	55
3.3: LEGAL FRAMEWORK OF ELECTORAL COMMISSION	55
3.4: STRUCTURE OF THE ELECTORAL COMMISSION.....	56
3.5: COMPOSITION AND TENURE OF COMMISSION MEMBERS AND OTHER OFFICIALS.....	59
3.6: FUNCTIONS OF ELECTORAL COMMISSION.....	60
3.7: MAKING AND IMPLEMENTING BASIC ELECTORAL RULES.....	62
3.8: MANAGING ELECTIONS IN GHANA.....	71
3.9: ELECTORAL REFORMS INTRODUCED BY THE	

ELECTORAL COMMISSION.....	74
3.9.1: Impact of Electoral Reforms on the 1996 Elections.....	76
3.9.2: Impact of Electoral Reforms on the 2000 Elections.....	80
3.9.3: Impact of Electoral Reforms on the 2004 Elections.....	84
3.9.4: Impact of Electoral Reforms on the 2008 Elections.....	87
3.10: Adjudicating Electoral Disputes and Offences	
In Ghana’s Elections.....	92
3.11: Conclusion.....	94
REFERENCES.....	96
CHAPTER FOUR: DEEPENING ELECTORAL GOVERNANCE	
IN GHANA’S FOURTH REPUBLIC: THE EMERGING ISSUES	
4.1: INTRODUCTION.....	100
4.2: RULE MAKING.....	103
4.3: RULE APPLICATION.....	111
4.4: RULE ADJUDICATION.....	125
4.5: CONCLUSION.....	128
REFERENCES.....	129
CHAPTER FIVE: SUMMARY OF FINDINGS, RECOMMENDATIONS	
AND CONCLUSIONS	
5.1: INTRODUCTION.....	132
5.2: SUMMARY OF FINDINGS.....	134
5.3: CONCLUSION.....	136
5.4: RECOMMENDATIONS.....	138
BIBLIOGRAPHY.....	140
APPENDIX.....	148

CHAPTER ONE

CONCEPTUAL FRAMEWORK

1.1 INTRODUCTION

In most parts of the world where liberal democracy is accepted as the most suitable form of government capable of meeting the hopes and aspirations of the people, elections are considered as necessary channels through which the governed elect representatives to act on their behalf as legislators as well as form an administration which governs in their name and also as mechanisms for resolving conflicts arising from power contests.¹ Thus, establishing multi-party systems and well-functioning democracies requires that elections are effectively managed. It has been argued that free elections are a prerequisite for countries that have suffered harsh dictatorship and lack a tradition of free and fair party competition². In the view of Huntington, the central aim of democracy is the selection of leaders through competitive elections by the people they govern.³

The end of the Cold War in late 1980s contributed to the spread of liberal democracy to most parts of the developing world, particularly the African continent.⁴ These shifts in the 1990s saw a multiplicity of competitive elections in Africa which could be described as founding elections because they marked for various countries a transition from an extended period of authoritarian rule to fledging democratic government.⁵

The general acceptance or otherwise of the outcome of these elections depends to a very large extent how these elections are managed by the elections management bodies (EMBs). Thus,

open, free and fair election management is central to the essence of democracy. To this end, an impartial election management body is required to ensure a credible election. It is however important to point out that in post cold war era, effective election management has eluded most countries of the world resulting in not only the rejection of the outcome of these elections but in most cases they have led to violent conflicts.

In most African countries, elections management is the core functions of bodies which are either constitutionally created or are creations of the executive.⁶ These elections management bodies (EMBs) as institutions tend to be weak or unprofessional in their conduct of elections due to lack of experience, capacity in terms of resources, both human and financial, and unfavorable electoral turf among others. EMBs are increasingly developing across the globe as Commissions that are both permanent and independent of the executive control. The general acceptance of elections as a key element in democracy has made management of the electoral event an imperative one.

Since 1990s, elections in Africa have produced mixed results, in most cases, electoral processes are fraught with problems such as impersonation, vote rigging and fraud, juvenile voting, multiple voting, uneven playing field and general acts of manipulation of election results, mudslinging and intimidation of electorates and contesting candidates before, during and after the poll, calling into serious scrutiny the political legitimacy of contesting candidates who are beneficiaries of this fraud. In Cote D'Ivoire, Gabon, Sierra Leone, Nigeria and Zimbabwe, the accuracy of election results has hotly been contested sparking civil strife and wars with the attendant trauma on society.

T.E Smith emphasized that successful management of elections with voters numbering several millions is an administrative undertaking of considerable size, which involves the operation, organization and timing which must be planned carefully and supervised.⁷ In the development of genuine electoral management, what is needed is an administrative machine capable of conducting an election impartially and without confusion. Lopez-Pintor asserts that, effective management of election requires institutions that are inclusive, sustainable, just and independent which includes in particular electoral management bodies that have the legitimacy to enforce rules and ensure fairness with the cooperation of political parties and citizens.⁸ Even in developed democracies, free and fair election process is a necessary condition to maintaining the democratic function of a political system.

The main task of election management is to keep an eye on the entire electoral process and to take appropriate measures against irregularities in the process of transforming voter's preferences into number of votes. If there is no guarantee that the electoral process is managed as transparently and impartially as possible to respect voters' will, then election may not be regarded as legitimate.

In the view of Godwin-Gill, in a free and fair election, an independent and impartially administered electoral process is essential for building confidence and trust in the system.⁹ The role of election management bodies as principal actors in the operation of the electoral process can be regarded as the key element in measuring the overall performance of elections.¹⁰

As a result, the need for credible elections management has engaged the attention of international as well as local elections monitors over the last decade, with particular attention towards elections management bodies.

1.2 STATEMENT OF THE PROBLEM

Since the rebirth of democracy in Africa in the early 1990s, particularly in sub-Saharan Africa, most countries have experienced several electoral paroxysms because elections which are supposed to resolve problem of power struggle between competing interest and parties have themselves become very acrimonious and in some cases resulted in violent conflicts.¹¹ Ninsin attributes the reasons for flawed elections in Ghana, for example, to the interferences in the electoral process which in his view were “often due largely to the fact that the political elite and their followers, or the citizens in general, have either not fully imbibed the norms and attitudes conducive to the proper conduct of elections... or are simply not fully committed to upholding them.”¹² Like Mozaffar and Schedler,¹³ Ninsin nevertheless recognized the significant role that election management bodies (EMBs) play to ensure free and fair elections.¹⁴

The effectiveness of EMBs as linchpins of electoral governance capable of securing for a country free and fair election depends to a very large extent, not solely, on a number of factors put together as international standards for elections.¹⁵ Such standards include political rights and fundamental freedoms as set forth in the Universal Declaration of Human Rights. The standards, for example, requires the creation of an autonomous EMBs which are insulated from political control or influence of governments, security of tenure for members of the EMBs, the EMBs guarding against bribery and fraud, upholding the principle of secret ballot, provision of credible

voters' register, avoidance of manipulation of election results and intimidation of voters, and ensuring transparency in the entire electoral processes to elicit confidence from participating political parties and general acceptance of elections outcomes. These standards see elections as examples of human rights in practice and achieving a democratic electoral process as part of establishing a system of government that can ensure respect for human rights, the rule of law and the development of democratic institutions.¹⁶

Effective electoral management therefore plays a very crucial role in a country's quest to establish or consolidate its democracy. What then makes electoral governance effective to the extent that it is able to deliver credible election? Three key issues underpinned electoral governance,¹⁷ namely rule making which involves designing the basic rules of the electoral competition; rule application involving the implementation of these rules to organize and regulate the electoral process and rule adjudication which involves resolving disputes arising within the process.¹⁸ The major institutions tasked with the responsibility of performing these crucial functions in democratic polity to ensure credible elections are the EMBs.

In Africa, most EMBs have failed to achieve credible elections outcome calling into question the capacities of these bodies. Thus elections results have been challenged severally as a result of poor organization of the electoral process, suspicion of collusion with incumbent governments to cheat or poor management practices. Most democracies have therefore suffered retrogression or stagnation as a result of these failed elections. Zimbabwe, Nigeria and Cote d'ivoire have all suffered serious challenges with their elections, affecting the consolidation of democracy in these countries.

Ghana's Electoral Commission (EC) is one such EMB in Africa tasked with the responsibility of ensuring credible free and fair elections for the country. Since the return to constitutional rule in 1992, the EC has supervised four successive elections and by the close of December, 2012 it would have delivered another historic election because by the beginning of the fifth parliament of the Fourth Republic political power had alternated between the two dominant political parties; the New Patriotic Party (NPP) in 2000 and National Democratic Congress (NDC) in 2008.

The transitional presidential election of November, 1992 which was conducted by an Interim National Electoral Commission (INEC) was highly acrimonious and disputed by the opposition New Patriotic Party (NPP) leading to their boycott of the subsequent parliamentary elections conducted in December that year.¹⁹ A multiplicity of factors contributed to the boycott of the parliamentary elections following the disputed presidential elections. Notable among them was the appointment of INEC members by the ruling military administration; the Provisional National Defense Council (PNDC) which prior to the election had antagonized itself with the opposition members to an extent that most of them went into exile due to some draconian legislation passed by the ruling administration. Apart from this founding election, the EC conducted four general elections in 1996, 2000, 2004 and 2008. Although these subsequent elections were described in some quarters as generally free, fair, and peaceful,²⁰ irregularities such as multiple registrations and voting, registration and voting of minors and foreigners, intimidation of voters and violence at polling centers, among others still persist calling into question the ability of EC to adequately deal with these problems.

The significant role of electoral rules and regulations in managing elections in democracies have however either been ignored or neglected in the studies on election management in Ghana. The

extent to which these three levels of electoral governance namely; rule making, rule application and rule adjudication which are very critical in understanding the successes and challenges of EMBs and how they contributed to the success or otherwise of election management in Ghana still remain inconclusive, therefore requiring deeper interrogation. The central question that underpinned this study is: what have been the contributions of the three levels of electoral governance in managing elections in Ghana's Fourth Republic?

To investigate this research problem, the following empirical questions were addressed by the study:

- What are the functions of the EC as provided for in the 1992 Constitution and the Act that established it?
- What practical initiatives were undertaken in the area of the three levels of electoral governance mentioned above after the flawed 1992 founding election, and how have these improved elections management in Ghana's Fourth Republic?
- What obstacles impeded the successful achievement of credible election management and how were these addressed?
- What lessons can be learnt from the study about election management in Ghana?

1.3 OBJECTIVES OF THE STUDY

Against the backdrop of the research problem, the study sought:

- To examine EC's role in the context of the three levels of electoral governance including rule making, rule application and rule adjudication.

- To investigate the contribution of the rules and regulations of the Electoral Commission to management of elections within the study's period and its impact on the outcome of elections.

1.4 HYPOTHESIS

This study hypothesized:

- That the success of election management depends essentially on the ability of the EMB to implement electoral rules and regulations.
- That the myriad of challenges facing Ghana's elections is the result of the EC's inability to enforce the electoral rules on the electorate and political parties.

1.5 SCOPE OF THE STUDY

The EC since the beginning of Ghana's Fourth Republic in 1993 managed both General and Local Level Elections in the country. Apart from these elections, the EC is also required to supervise some other elections to certain portfolios such as Members of the Council of State who are required by the Constitution to be elected. The presidential and parliamentary elections are the focus of this study. Specifically, the presidential and parliamentary elections that the EC conducted in Ghana's Fourth Republic between 1993 and 2008. Some references were however drawn from the 1992 founding elections to show how the INEC superintendent over those elections which provided basis for the analysis of the subsequent elections that the EC conducted.

1.6 LITERATURE REVIEW

An extensive review of literature is very crucial in every academic enterprise because it provides a robust and sound background for understanding the problem being investigated. The review of literature is therefore divided into three main sections; General Studies on Elections Management, Studies on Elections Management in Africa and Studies on Elections Management in Ghana.

1.6.1 General Studies on Election Management

Writing on electoral governance, Fabrice E. Lehoucq, criticized the classical theory of election management where the executive is entrusted with administration of the election and the legislature's certification of the vote tally. The tally expects the elected officials to generate widely accepted results.²¹ Lehoucq argued that, the theory breaks down when the same party controls the executive and the legislature. He went on to use the presidential system to illustrate his arguments. In his assertion, many presidential systems have had a tough time obtaining this goal especially where the election is close and cited the 2000 United States of America presidential election to buttress his case. Lehoucq, demonstrated extensively how fraud, instability and violence has characterized the use of the classical theory in the United States of America and concluded that the development of the party system in recent times raised the stakes in elections and therefore the administration of election should not be in the hands of the executives but a third party with the responsibility of allocating power. Electoral Commission therefore depoliticizes election governance. It is an entrusted impartial body of officials with the task of adjudicating conflicting claims about elections outcome. It generates consent of outcomes

and thus legitimizes the authority of the elected. Lehoucq raised the importance of Electoral Commissions but limited his work to difficulties of the classical theory of electoral governance.²²

Yonhyok Choe and Staffan Darnolf²³ described the various types of EMBs and explain the structure and functions of these bodies. According to them, the intrinsic purpose of any audit is to measure how well a given enterprise is performing its functions. They proposed three parameters along which electoral actors could be scrutinized, that is, the degree of fairness, degree of transparency and degree of effectiveness.²⁴ The views expressed by Choe and Darnolf are very critical in analyzing the independence of Ghana's EC in making and implementing the country's electoral rules, particularly how effective are the rules governing the elections.

1.6.2 Studies on Elections Management in Africa

EMBs are established throughout the world with the responsibility of administering elections. However, merely creating a body to administer elections does not create public confidence and integrity in the electoral process. The establishment and operation of such a body must meet the key requirements of credible election administration. One such requirement is the need for the EMB to be independent of any party. The independence of EMBs, though not in itself sufficient for free and fair elections, determines to a large extent the overall legitimacy and acceptability of an elected government by the electorate. The independence of EMBs attracts the confidence of all the stakeholders in the electoral process and creates integrity in the process. However, studies on EMBs in Africa have shown numerous challenges that the EMBs faced in some African countries as the major challenges to the credibility of the electoral process on the continent.

Mozaffar in his *Patterns of Electoral Governance in Africa's Emerging Democracies* traced the problems of Africa's quest to establish effective electoral governance to its historical past of authoritarian regimes in francophone as well as in lusophone countries which he noted inherited the centralized institutional legacy inspired by Jacobin statist ideology.²⁵ He argued that while the implementation of this ideology in African colonies required pragmatic accommodation with local realities, the central organizing principle remained the integration of politics and administration through corporatist modes of interest mediation whereby specified social groups and functional interests (labor, students, women, teachers, civil servants) were formally organized into state-sponsored peak associations as representational monopolies closely tied to the ruling parties.²⁶ According to him, the principal responsibility for electoral governance in the numerous elections in francophone Africa during decolonization rested typically with the ministry of the interior or territorial administration.

At the local level, multiparty electoral committees chaired by designated administration officials supervised such routine activities as the revision of electoral lists, distribution of voters' cards, and poll monitoring.²⁷ He argues that virtually all francophone countries in Africa inherited this centralized institutional legacy of non-autonomous EMBs.²⁸ He however explained that variations in rates of political participation and political competition, as reflected in presidential and legislative elections and in the structure of party systems distinguished neo-patrimonial regimes in postcolonial Africa. Arguing further he observed that the competitive single-party regimes, for instance, encouraged moderate rates of political participation in multi-candidate competitive elections. He also argued that the military oligarchies also pursued exclusionary strategies that tended to replace elections with occasional attempts at populist mobilization

through what he termed as tightly regulated “ratification” elections to secure nominal legitimacy for autocratic rule. He pointed out that until countries like Burkina Faso, Ghana, Mali, Nigeria, among others experienced short-lived democratic governments’ settler oligarchies in Namibia and South Africa held competitive elections which were restricted entirely to the small white minority populations.²⁹

Mozaffar was however of the view that the prevailing social cleavages defining the political interests and power relations of authoritarian incumbents and opposition groups are likely to mediate these lingering effects of colonial rule and postcolonial authoritarian regimes on the choice of new democratic institutions.³⁰

From an empirical data of forty-one countries collected in 1998, his study identified that twenty-one EMBs were autonomous, twelve were semi-autonomous and the last eight were non-autonomous. Overall, the data show that African countries reflect the global trend toward autonomous EMBs. Slightly over half (51 percent) of African EMBs were fully autonomous, compared to 29 percent that are semi-autonomous and 20 percent that are non-autonomous.³¹ The data also reflected a broad, but not a uniform, correlation between the countries’ institutional legacies and the degree of autonomy of their EMBs.

From Mozaffar’s study virtually all Anglophone countries (except Seychelles) with decentralized institutional legacies have adopted autonomous EMBs, while countries with the centralist institutional legacies of France, Portugal, or Spain (Equatorial Guinea) have generally but not consistently adopted semi-autonomous or non-autonomous EMBs.³² However, Anglophone Botswana, one of Africa’s longest-standing democracies, from the data did not adopt a fully

autonomous EMB until a constitutional amendment in 1997 established an independent electoral commission with extensive operational and supervisory authority. Before that, the supervisor of elections established in 1987 was responsible for elections. And before that, a permanent secretary in the office of the president had been responsible for elections since independence in 1966.³³ Similarly, from the empirical data Mozaffar pointed out that in Ghana's checkered democratic history, a department in the ministry of local government was responsible for organizing elections between 1950 and 1968.

Between 1968 and 1982, an electoral commissioner held that responsibility, except for 1976–77 when the military transferred the responsibility to the ministry of local government.³⁴ Between 1982 and 1992, he said a 21-member populist National Commission for Democracy organized restricted local elections. In 1992 an 11-member Interim Electoral Commission was established to organize the transitional democratic elections that year. It was replaced a year later by a constitutionally mandated 7-member permanent body.³⁵

Mozaffar and Schedler assert the importance of electoral governance in democratic governance and argued for the need for extensive study on this institution. They argued that electoral governance is a crucial variable in securing the credibility of elections in emerging democracies, but remained largely ignored in the comparative study in democratization. They conceptualized electoral governance as a set of related activities that involves rule making, rule application and rule adjudication. They outlined the structure as well as the processes of electoral governance. This study examined the management of elections by EC in relation to the delineation of election management as espoused by Mozaffar and Schedler.³⁶

In another study, “Can African States Conduct Free and Fair Presidential Elections?” Abuya³⁷ argued that the success of an EMB depends on its free acceptance as legitimate by the people. Basing his argument on a fieldwork conducted in the United Kingdom, Abuya noted that “boosting public confidence” in the electoral process could “increase” voter participation as well as public confidence. He was however of the view that most EMBs in Africa lacked the needed public trust and confidence due to their past records of electoral fraud. He maintained that guarding against election fraud real or perceived, requires a change in the mode of appointing Electoral Commissioners.³⁸

The views of Abuya have been confirmed by several studies which found a direct correlation between the mode of appointing officials and their ability to discharge their role independently. This point is very cardinal in explaining the contribution of Ghana’s Electoral Commissioner and the two Deputies who have scored higher points in terms of their personal contribution to the success of the elections they superintended over.³⁹ Abuya, however, criticized the situation where the power to appoint officials is vested in the ruling government. He argued that the power to appoint officials needed to be redistributed if electoral fraud is to be checked. Although the views of the mode of appointing heads of EMBs have been well articulated by Abuya and its associated problems, there are a number of EMBs whose appointments are vested in the ruling government, yet they have been able to assert their independence and performed credibly to the admiration of their citizens and observers.

1.6.3 General Studies on Elections Management in Ghana

Studies on elections management in Ghana include; Ayee⁴⁰, Debrah,⁴¹ Gyimah-Boadi,⁴² Lavie and Badu 1&2⁴³, VCRAC Crabbe.⁴⁴ All these studies in addition to other relevant works were

reviewed and contributed to enriching this study. Ayee⁴⁵ examined the performance of EC during the 1996 elections. Tracing the history of the EMBs in Ghana, he outlined the basis for the suspicion and mistrust associated with Electoral Commissions. He argued that though early Commissions were part of the Ministry of Interior, subsequent EMBs had all been independent which he described as being good for credible election management. He stressed however that the challenges of doubt by the public and political parties about the integrity, impartiality and independence of EMB was the failure of the government to co-opt the opposition party representatives into elections administration.

Arguing further, the government of the day in his view had hounded and criticized electoral bodies citing the 1978 referendum on Union Government and INEC conduct of 1992 elections. He further demonstrated the lack of trust among political parties in the EC as a result of the composition of the EC which revolved around the appointment of the members.⁴⁶ Indeed, the credibility of EMBs as independent and impartial is very critical in the acceptance or rejection of elections, however, Ayee's argument that the public and political parties mistrust about the integrity, impartiality and independence of EMBs was the failure of the government to co-opt the opposition party representatives into elections administration is questionable. Good EMBs are those whose functions are independent of all other controls whether governmental or opposition. Once appointed the members of EMBs must be seen to be impartial and non-partisan and must succumb to only the dictates of the national Constitution.⁴⁷

Ayee argued further that, in the view of the opposition parties, the EC is nothing more than a government institution created in such a way to assure the ruling government continued hold on

to power. He outlined various changes made to the electoral process to ensure the acceptability of the results of 1996 general elections, coming on the heels of the myriads of complaint from the opposition parties after the 1992 general elections. He evaluated the performance of the EC and concluded that in spite of all the success, some irregularities and malpractices were detected in the process.

Ayee concluded that the need for the process with impeccable character to independently conduct the elections is necessary for democratic consolidation. He emphasized the importance of changes made by the EC and donors to the success of the 1996 elections describing it as critical and crucial.⁴⁸ This works were however limited to elections conducted in the country up to 1992 and did therefore not extend to successive elections which also showed features different from those that he examined and therefore require examination. He also did not examine the contribution of the three levels of electoral governance which are very critical in successful management of elections in democracies.

Lavie and Badu compiled a single source of information about the EC for quick reference. They sought to give commentators the necessary information needed to make familiar with the electoral processes in order to comment meaningful on elections outcomes. Their concentration was on the 1996 elections. They extensively traced the history of elections in Ghana and briefly mentioned bodies responsible for elections in Ghana touching on the various types that were operated. Other issues such as electoral system, nomination process, novel aspect of the electoral process among other issues raised were all relevant that made the literature a good reference document. Their book, however, failed to discuss management issues which are critical in EMBs work.⁴⁹

Debrah identified and analyzed specific measures the EC adopted towards making the 2000 general election free and fair. He reviewed earlier measure adopted by the EC in 1996 to ensure free and fair polls and exposed some of the deficiencies. In his view, the compilation of the new voters register in 1995, formation of IPAC, the use of transparent ballot boxes and cardboard voting screens were strategies adopted to build confidence in the process.⁵⁰ He cited under age voting, alleged using of fake voter ID cards as grounds arousing suspicion among the populace. Outlining confidence building measures towards the 2000 election, he cited the amendment of the political parties' law which was initiated by the EC in an attempt to level the playing field.⁵¹ The EC in collaboration with the Ghana Journalist Association and the National Media Commission designed a framework for fair media coverage.⁵² Drafting of political parties' codes of conduct through the initiative of the EC as measures adopted to enhance the credibility of the process. He stressed the importance of the formation of IPAC and their consultation with the EC as one measure that has ensured transparency of the electoral process. He explained also that IPAC allows the EC to address fundamental issues bordering on the conduct of elections as well as address grievances, concerns and apprehension of the political parties. According to him, the role of the party agents, domestic and international observers in observing the elections added to the transparency of the process. This work like others reviewed, though, discussed the innovations that the EC has introduced in the aftermath of the botched 1992 elections, it failed to recognized the critical role of the three levels of electoral governance in these innovations or reforms; without good electoral laws and the ability to implement these laws, reforms will remain a mirage and will therefore negatively affect the credibility of elections.

Gyimah-Boadi reviewed steps taken to restore a measure of fairness and cleanliness to elections and to institutionalize electoral credibility before the 1996 elections.⁵³ He traced the heritage of

mistrust by the opposition parties to the appointment of the members of the INEC.⁵⁴ The credibility problem of the EC, according to him, emanated from many factors rooted in the preparation and conduct of the 1992 elections.⁵⁵ Gyimah-Boadi, argued that the snap call of the elections did not give INEC enough time to prepare adequately for the elections. Thus the management of logistics proved challenging in the face of time constrains. The electoral mechanism had gone rusty owing to its unused for over a decade, except for staggered local-level elections in 1988-89 citing the voters register as major challenge.⁵⁶ The severe logistical problems experienced on Election Day, the weak capacity of INEC were issues of time and resources constraints. He explained that electoral officials made mistakes or failed to follow proper procedures on elections day, casting doubt on the credibility of the election process.⁵⁷

Gyimah-Boadi outlined measures adopted by the EC to build public confidence in the electoral process upon its inauguration. The compilation of new voters register, training of polling officials and party agents, the accreditation of domestic and international observes, the formation of IPAC among others were measures that has been instituted to build confidence in the electoral process.⁵⁸ Gyimah-Boadi raised some shortcomings with the reforms. According to him, the cost of a second election like that of 1996 was quite expensive, yet there were serious lapses with the voters roll in spite of the heavy spending. In addition, there were genuine doubts about the level playing field.⁵⁹

The persistence of wide gaps in electoral credibility and the limitations in the efforts to institutionalized electoral fairness underscore the suspicions of the opposition. The lingering suspicion over the impartiality of the EC according to him, was derived from the origins of the electoral authority, he argued that the EC was a basically a holdover from the INEC.⁶⁰ He

concluded with the importance of the reforms before the 1996 election and emphasized the need for continuous consultation between the EC and major stakeholders. He suggested the re-composition of the EC on bipartisan consultation, the reform of the judiciary and the institutionalization of IPAC independent of the EC as way forward for the institutionalization of electoral credibility.⁶¹

He also brought to fore the essence of confidence building in the electoral process, and even though he discussed some shortcomings with the reforms which this study also looked at, his work did not examine the significant role that the three levels of electoral governance played in these reforms and in election management as a whole, and in particular how these three levels affected the elections that EC organized since 1993 which this study interrogated. Also, most of the literature reviewed concentrated on the 1996 and 2000 elections rightly so because of the dispute of preceding elections of 1992. This study sought to fill the gap, looking at EC as an institution of governance with powers to make and implement these rules and how the making, implementation as well as adjudication of these functions have affected subsequent elections.

1.7 THEORETICAL FRAMEWORK

The search for most appropriate means of managing credible elections has encouraged the emergence of models in contemporary discourse on election management. The theoretical matrix within which framework the present study on election management is hinged on is the theory of electoral governance. Electoral governance theory was developed by Shaheen Mozaffar and Andreas Schedler.⁶² They identified the provision of procedural certainty to secure the substantive uncertainty of democratic elections as the principal task of electoral governance.

Electoral governance, according to them, has assumed a high degree of importance in emerging democracies due to its central role in legitimizing authority of governments.

1.7.1 The Theory of Electoral Governance

Electoral governance, according to Mozaffar and Schedler is the wider set of activities that creates and maintains the broad institutional framework in which voting and electoral competition take place. It is an important element in securing the credibility of elections in emerging democracies. Mozaffar and Schedler have defined the concept as a set of related activities that involves rule making, rule adjudication, and rule application. Rule making according to them involves designing the basic rules of the electoral game, rule application involves implementing this rules to organize the electoral game while rule adjudication involves resolving disputes arising within the process.⁶³

Electoral governance according to them involves the design of institutions that define the basic framework of democratic elections. Rules of electoral competition and rules of electoral organization configure this framework. Electoral Governance looks at the political origins and covers a wider basket of electoral rules, traditional as well as formal rules that govern the processes, laws establishing the structures and operational framework of the EMBs and dispute settlement authorities⁶⁴.

At the level of Rule application electoral governance coordinates the tasks of diverse personnel and organizes the execution of a complex array of interdependent activities to establish the stable institutional basis for voting and electoral competition. According to Mozaffar and Schedler, electoral governance as a rule application evokes an idealized image of bureaucratic routine and

mechanical execution of coherent sets of known and tested rules, an image erroneously conveyed by the familiar notions of ‘electoral administration’ and ‘management’, yet they noted further that in transitional regimes the complex task of organizing electoral contest is much closer to what they termed as the “diabolic” paradox of politics, than to the tedium of bureaucratic routines. Gould explains further that electoral governance involves pursuing and reconciling three “conflicting imperatives” that is administrative efficiency, political neutrality and public accountability. These three goals are not only “interdependent but contradictory”.⁶⁵ According to Gould, electoral officials cannot neglect anyone of them, nor can they maximize them all together, in the context of material scarcity and political distraction that is common to many emerging democracies, electoral credibility can be obtained when electoral governance succeeds in meeting the three challenges and balancing the trade-offs.⁶⁶

At the third level of Rule adjudication, electoral governance involves the mediating and settling of disputes arising out of the process and the results of voting and electoral competition. Settling disputes over election results is a vital function of electoral governance. Rule adjudication prominently involves the arbitration of disputes that arise from ambiguities in complex election rules and operational problems in their implementation. By providing institutional mechanisms for amelioration of electoral errors resulting from political conflicts, the impartial and expedient adjudication of electoral disputes represents a cornerstone of the procedural legitimacy of democratic election.⁶⁷

This theory is significant because it helps to classify the different aspects and roles in the management of elections which helps to explain the research problem.

1.8 METHODOLOGY

This section discusses the appropriate research design used in the collection, collation and analysis of data for the study. It describes the data and sources, study population, sampling techniques and size, research instruments, fieldwork, data analysis and ethical issues.

1.8.1 Study Design

The study settled on the qualitative research methodology of inquiry which is within the social science tradition for data gathering and analysis. The qualitative approach was used as opposed to other approaches such as quantitative paradigm because the present study sought to interrogate the extent to which the practical initiatives undertaken by Ghana's EC in the area of the three levels of electoral governance affected credible management of elections since 1992, and how these initiatives had helped to improve elections management in Ghana's Fourth Republic. And also it brought to the fore the obstacles that impeded the successful achievement of credible election management and how these were addressed? This research design investigated the relationship between variables that sought to determine changes over time. This design was used based on the objective of the study – to examine the contributions of the three levels of electoral governance namely rule making, rule application and rule implementation in managing elections in Ghana's Fourth Republic?

1.8.2 Study Population

The target population for this study comprised officials of CSOs working in the area of governance and security issues in Ghana notably the Institute for Democratic Governance (IDEG) and Centre for Democratic Governance (CDD-Ghana). Other stakeholders in the area of

managing free and fair elections who also participated in the study included political parties, media, political scientists and officials of the EC.

1.8.3 Sample and Sampling Procedure

Clearly, the present study which examined the contributions of rules and regulations on election management is not a public opinion study such as soliciting the views of respondents on which party they will vote for; therefore floating surveys, for example, among electorates would not have yielded positive results that were needed to answer the empirical research questions and other issues raised.

On qualitative research methodology, Flick (1998:19) asserted that, “the concentration of the subject’s points of view and on the meaning they attribute to the experiences and events as well as towards the meaning of objects, activities, and viewpoints, informs a large part of qualitative research.” In order to address the issue of data gathering under the qualitative properties outlined, I settled on in-depth interviews (See interviewee profiles and dates of the interviews attached as appendix), textual analysis and observation. The data collection instrument was a designed interview guide that assisted in eliciting the desired responses. This was within the perspective articulated by Bryman (2008: 442) that it is “to glean the ways in which research participants view their social world.” As a further proof of its uniqueness in research methodology, Arskey (1999: 10) posited that interviews have the potential to focus on “understanding the thinking and behaviors of individuals and groups in specific situations.”

However, scholars such as Bryman (2008) argued that interviewing remains a strenuous method because it could prove daunting to extract information especially when the interviewee is unwilling to talk no matter how long one stays with the interviewee, holds true. However, the research team handled the interviews by adopting the interactional and conversational strategies which allowed the interviewees to express themselves freely while the interviewers avoided unnecessary interruptions which held the key to unraveling the phenomenon as espoused by Bryman (2008).

The study used purposive sampling technique in the selection of respondents because the objectives of the study required knowledge of experts and practitioners in elections and election management in Ghana. A sample size of fifty (50) elites was used in the study. The interviewees included Commissioners of EC, Directors and Senior Officials of the Electoral Commission, registered but active Political Parties with majority drawn from the New Patriotic Party (NPP) and the National Democratic Congress (NDC), Political Scientists from the Political Science Department of the University of Ghana, officials of policy and research think tanks and media practitioners. These respondents have been selected because of their knowledge about EC and its operations and their participation in election activities in Ghana.

1.8.4 Data Collection Instruments and Data Sources

The study appropriated both primary and secondary data. The primary data were collected using an interview guide from the sampled respondents. The data collection instrument used measured respondents' views on the legal framework within which the EC operates, EC's processes in election administration, role of other stakeholders in the making of rules governing elections in

Ghana, the challenges encountered in the making, implementation and adjudication of these rules and regulations.

The secondary sources involved extensive library research. Books, journals, magazines and both published and unpublished thesis from libraries, both on Legon and outside Legon campus. These libraries included: the Blame, Political Science department and African Studies all on Legon Campus of University of Ghana. The Electoral Commission's library as well as those of Center for Democratic Development (CDD), Institute of Economic Affairs (IEA) and the Institute of Democratic Governance (IDEG) was visited for relevant documents on the area of study. The internet also provided a major source of information that supported the research.

1.8.5 Pre-Testing of Instrument

A field assistant was given detailed orientation on the focus of the study and taken through questions in the interview guide to ensure that the subject matter as well as the questions were well understood for quality data to be collected. To ensure that the questions were asked properly, a piloted interview with a respondent who was a holder of Master of Philosophy Degree in Political Science and who also has in-depth knowledge of the operations of the EC was conducted by the field assistant in the presence of the researcher before the final field work began. The presence of the researcher afforded the opportunity to get rid of irrelevant questions and to fine tune the instruments or re-structure it so as to ensure that right questions were administered to respondents.

1.8.6 Reliability and Validity of Instruments

Accuracy and precision are very cardinal qualities in research measurements. When social science researchers construct and evaluate measurements they are mindful of two things: reliability and validity which are technical considerations that cannot be underestimated. Reliability refers to the degree at which if research is carried out in the same manner it would provide similar results. The goal of reliability is to minimize the errors and biases in a study. Validity, on the other hand, is concerned with whether the findings are really about what they appear to be about. It is the extent to which data collection method or methods accurately measure what they were intended to measure.

This study analyzed the contents of the qualitative data as well as did a thorough content analysis of documentary sources of the subject investigated. To ensure uniformity of measurement, the research team used a check-list of questions provided for in the interview guide which were wholly closed ended questions. These were scrutinized to ensure that they actually measured the contributions of Ghana's electoral rules and regulations on the elections conducted from 1992 to 2008 and the challenges which were encountered in election administration in Ghana. In order that no assumptions or over-generalizations were made, the research team used tape recorders and note pads with which interviewees' responses were recorded in the qualitative interviews. The recorded tapes were transcribed and the data analyzed. The information from note pads also served as important source in the writing of this thesis.

The fieldwork for this study took place between 1st January, 2013 and 28th February, 2013. The administration of interview guide was conducted both on working and weekends between

9.00am and 4.00pm. The offices and residences of the respondents were visited, but most of the interviews were conducted in their offices.

1.8.7 Challenges in the Collection of Data

In spite of the good rapport which the research team established as part of the field entry procedures, some disappointments and frustrations in the collection of data from the respondents were encountered as these respondents had tight work schedules made it very difficult to make time for the interviews. The research team was however very tactful and diplomatic in their engagements with the respondents which contributed significantly in their participation in the study. The data that were collected were utilized also used with circumspection which ensured that the study did not suffer significantly as to negate the objectives that the study sets out to achieve.

1.8.8 Ethical Issues

In social science research, interviewees do not owe researchers any information and their participation in any research must solely be based on their own volition and not compulsorily drafted into it. The best guarantee of participants' protection is if nothing in the study is traced to specific individuals or groups. For this reason, it was important that those who decided to cooperate in the research did not suffer any ill-effects for it. In this regard, the researcher conveyed in writing the purpose of the study to the interviewees. The interview guide specifically included: soliciting participants' consent to participate, the procedures of data gathering and the voluntary nature of research participation.

During the interviewing session, respondents were assured of protection of their confidentiality. In the final report, where statements through quotations were made they were only associated with names of interviewees based on their consent. The study was however presented in such a way that it did not suppress, falsify or invent evidence.

1.9 SIGNIFICANCE OF THE STUDY

Election is a key element in a democracy. Institutional study of this nature will help to show the relevance of election management. The study explored the elections that the Electoral Commission has managed over the years, particularly in the Fourth Republic. It examined how the rules it has made affected the management of elections and some of the challenges it encountered in this enterprise. This work helped to identify forces that have informed the success of the EC as well as provide factual information on the challenges it has encountered in the performance of its functions. This will help in strengthening the institution for democratic consolidation in Ghana.

1.10 LIMITATIONS OF THE STUDY

This study encountered some problems in the course of gathering data. Gathering data from other parts of the country would have enriched the study, but due to limited financial resources the researcher could not travel outside the capital city of the country. Nonetheless, the study utilized the data with circumspection making it not suffer as to negate the objectives that have been set out.

1.11 ORGANIZATION OF WORK

The research is organized into five (5) chapters. Chapter one is made up of the conceptual framework which gave an overview of elections and election management and the significant role of election management. It also contains the research problem, the research objectives as well as the methodology employed in investigating the research problem.

The second chapter gives a historical overview of Ghana's election management body in all elections that the state had conducted. It examined its nature and salient features as basis to draw some useful lessons for the future.

The third chapter analyzed the legal framework that established the EC, its tenure, structure, mandate, and the rules it has designed to ensure credible management of the elections it has conducted in the Fourth Republic.

The fourth chapter analyzed the field data which complemented the secondary data from which the findings of the study were distilled.

Chapter five summarized the findings of the research, drew conclusions and made recommendations to improve the electoral management function of the EC.

REFERENCES

- ¹ Beetham D., *Democracy and Human Rights*, Polity Press, Cambridge, 1999, p.176.
- ² Sartori, G, (1994), *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives, and Outcomes*, New York: Columbia University Press, p. 24. See also Mackenzie, W.J.M, (1958), *Free Elections: An Elementary Textbook*, London: Allen and Unwin, p. 13-4
- ³ Huntington, S, (1991), *The Third Wave: Democratization in the Twentieth Century*, University of Oklahoma Press
- ⁴ Diamond, L. (1999) *Developing Democracy: Toward Consolidation*, Baltimore: John Hopkins University Press.
- ⁵ Diamond, L. (1999) *Developing Democracy: Toward Consolidation*
- ⁶ Hounkpe, M., and Fall, I.M., (2011), *Electoral Commissions in West Africa: A Comparative Study*, 2nd ed., Abuja: Fredrich Ebert Stiftung (FES)
- ⁷ Smith, T.E, (1960), *Elections in Developing Countries: A Study of Electoral Procedures Used in Tropical Africa, Southeast Asia and the British Caribbean*, London: Macmillan.
- ⁸ Lopez-Pintor, R, (2000), “Electoral Management Bodies as Institutions of Governance”, *A UNDP Policy Document*, New York: UNDP.
- ⁹ Goodwill-Gill, G.S, (1994), *Free and Fair Elections: International Law and Practice*, Geneva: Inter-Parliamentary Union. nd
- ¹⁰ Goodwill-Gill, G.S, (1994), *Free and Fair Elections: International Law and Practice*
- ¹¹ Wale Are Olaitan, *Beyond Elections: The Drama of State Conflict in Africa*, Conference Paper on Post-Conflict Elections in West Africa, March 2006, p.19

¹² Ninsin, K.A (2006), “Institutional Development and Democratic Consolidation”, in Boafo-Arthur, K, (ed), *Voting for Democracy in Ghana: The 2004 Elections in Perspective*, vol. 1, Accra: Freedom Publications, p.62-3

¹³ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies” in *International Political Science Review*, vol. 23. No. 1, pp.5

¹⁴ Ninsin, K.A (2006), “Institutional Development and Democratic Consolidation”, p.62

¹⁵ For the tree levels of electoral governance see Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction” in *International Political Science Review*, vol. 23. No. 1 (Jan., 2000), pp. 5-27

¹⁶ Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction”, p.5

¹⁷ Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction”, p.5

¹⁸ Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction”, p.5-27

¹⁹ Frempong, A.K.D, (2008a) “Innovations in Electoral Politics in Ghana’s Fourth Republic: An Analysis”, in Ciska Raventos, ed. *Democratic Innovation in the South: Participation and Representation in Asia, Africa and Latin America*, Buenos Aires: CLACSO Books, pp. 189-210.

²⁰ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana’s Fourth Republic*, Critical Perspectives No. 18, Accra: Ghana Center for Democratic Development, CDD-Ghana.

-
- ²¹ Lehoucq, F.E, (2002), *Stuffing the Ballot Box: Fraud, Electoral Reform and Democratization in Costa Rica*, New York: Cambridge University Press, pp. 29-46
- ²² Lehoucq, F.E, (2002), *Stuffing the Ballot Box: Fraud, Electoral Reform and Democratization in Costa Rica*, pp.29-46
- ²³ Choe, Y, (1997), *How to Manage Free and Fair Elections: A Comparison of Korea, Sweden and the United Kingdom*, Goteborg: Grafikerna.
- ²⁴ Choe, Y, (1997), *How to Manage Free and Fair Elections: A Comparison of Korea, Sweden and the United Kingdom*
- ²⁵ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies” in *International Political Science Review*, vol. 23. No. 1, pp. 85-101
- ²⁶ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ²⁷ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ²⁸ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ²⁹ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ³⁰ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ³¹ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ³² Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ³³ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ³⁴ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ³⁵ Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies”
- ³⁶ Mozaffar and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction”, p.5-27

-
- ³⁷ Abuya, E.O, (2010), “Can African States Conduct Free and Fair Presidential Elections?” in *Journal of International Human Rights*, vol.8. No.2
- ³⁸ Abuya, E.O, (2010), “Can African States Conduct Free and Fair Presidential Elections?”
- ³⁹ Abuya, E.O, (2010), “Can African States Conduct Free and Fair Presidential Elections?”
- ⁴⁰ Ayee, J.R.A (1997) *Ghana’s 1996 General Elections: A Post-mortem*, Harare: AAPS Occasional Paper Series, Vol.1, No.1. see also Ayee, J.R.A.(1998) “The 1996 General Elections: An Overview” in Ayee ed. *The 1996 General Elections and Democratic Consolidation in Ghana*, Accra: Gold Type Ltd, pp. 35-52.
- ⁴¹ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”, in J. R. A. Ayee ed. *Deepening Democracy in Ghana: Politics of the 2000 Elections, Vol. One*, Accra: Freedom Publications, pp. 75-85.
- ⁴² Gyimah-Boadi, E, (1999a) “Ghana’s Elections: The Challenges Ahead” in Larry Diamond and Marc F. Plattner, ed. *Democratization in Africa*, Baltimore/London: The Johns Hopkins University Press, pp. 170-183.
- ⁴³ Badu, K.A, and Larvie, J, (1996), *Elections in Ghana: 1996*, Accra: Friedrich Ebert Stiftung.
- ⁴⁴ Crabbe, V.C.R.A.C, (1975) “The work of the Electoral Commission”, in Dennis Austin & Robin Luckham (eds) *Politicians and Soldiers in Ghana: 1966-1972*, London: Frank Cass.
- ⁴⁵ Ayee, J.R.A (1997) *Ghana’s 1996 General Elections: A Post-mortem*, p. 35-52
- ⁴⁶ Ayee, J.R.A (1997) *Ghana’s 1996 General Elections: A Post-mortem*, p. 35-52
- ⁴⁷ Ayee, J.R.A (1997) *Ghana’s 1996 General Elections: A Post-mortem*, p. 35-52
- ⁴⁸ Ayee, J.R.A (1997) *Ghana’s 1996 General Elections: A Post-mortem*, p. 35-52
- ⁴⁹ Badu, K.A, and Larvie, J, (1996), *Elections in Ghana: 1996*

⁵⁰ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵¹ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵² Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵³ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵⁴ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵⁵ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵⁶ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵⁷ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵⁸ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁵⁹ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁶⁰ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”,
p. 37

⁶¹ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”, p. 37

⁶² Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction”

⁶³ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”, p. 37

⁶⁴ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”, p. 37

⁶⁵ Gould, A.C. (1999), “Conflicting Imperatives and Concept Formation.” *The Review of Politics*, 16 (3): 439-463.

⁶⁶Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”, p. 37

⁶⁷ Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction”, p.10

CHAPTER TWO

HISTORICAL OVERVIEW OF ELECTION MANAGEMENT IN GHANA

2.1 INTRODUCTION

Elections have become *sine quoi non* of democracy in Africa, yet effective management of this event kept eluding most countries on the continent. A review of elections in Ghana shows a high level of transformation in both the EMBs and the electoral processes. This chapter examined the evolution of election management bodies and election management in Ghana, its formation and composition.

2.2 ELECTION MANAGEMENT BEFORE INDEPENDENCE (1925-57)

The Gold Coast did not have an independent and permanent body responsible for the conduct of public elections. Before 1951, all elections which were conducted in the Gold Coast were based on the Electoral College system such as the Provincial Council of Chiefs which elected six chiefs into the Legislative Council as provided for in the 1925 Constitution of the Gold Coast and later the Joint Provincial Council of Chiefs which also performed similar function under the 1946 Constitution. This system allowed only a few selected people to vote and take decisions for the rest of the population.⁶⁷

The Guggisberg Constitution of 1925 introduced the elective principle into the Gold Coast colony. Although the Constitution ensured that chiefs were elected to the Legislative Council,

electoral regulations were made by the governor and laid before the Legislative Council for approval or rejection within fourteen (14) days.⁶⁷

Election management changed with the advent of party politics in the Gold Coast. The 1951, 1954, 1956 elections to the Legislative Assembly were conducted by the colonial government. One major distinguishing characteristic of election management from 1950 was that it was controlled by the central government. However, neither the governor nor any member of the colonial government contested political elections: hence, though it was not independent, election management was impartial. For instance, during the period under consideration, electoral activities such as the registration of electors were carried out mainly by the District Commissioners and their staff. Their duties were coordinated by an election officer in a secretariat in Accra.⁶⁷

During this period, the Electoral Ordinance of 1953 reposed the management of both local and municipal elections in the Ministry of Local Government. This arrangement contributed to the victory of the Convention Peoples Party (CPP) in the 1951 Legislative Assembly Elections through election fraud.⁶⁷ This was the first Legislative Assembly Elections to be conducted in the Gold Coast under Universal Adult Suffrage and on the basis of political parties. Subsequently, the 1951, 1952, 1954 and the 1956 plebiscite and elections were conducted by the colonial administration under the same arrangement.

2.3 POST INDEPENDENCE ELECTION MANAGEMENT (1957-1966)

Election management under the CPP government did not depart from the colonial arrangements; most of the provisions were maintained while new provisions enacted sought to buttress central government control.

Under Part II of section 3 (1) of the Electoral Provisions Ordinance of 1953, the Governor was tasked with the responsibility of setting nomination day for candidates as well as setting the voting date through Gazette notice.⁶⁷ The responsibility of the Governor changed with the new political dispensation. The President was tasked with the responsibilities which were granted to the Governor with the coming into force of Act 291 of 1965. Under this Act, the President, in the case of a General Election for the National Assembly, shall by proclamation, in accordance with section 3 of the National Assembly Act, 1961 (Act 86) appoint the time or times for holding elections.⁶⁷

However, the Minister of Local Government under section 35 (5) of Act 291 of 1965 has the capacity to determine the period of nomination and was also tasked to appoint the time of voting in respect to the Local Assembly Elections. The President under this Act could override the determination of dates for an election by the Minister if in his view the date for such election was short.⁶⁷ The Minister was also given the authority to appoint Returning officers in the existing districts who were obliged to comply with any general or special directions given by the Minister with respect to arrangements to be made by such officers for carrying out their duties under the Act.

Clearly, the Ordinance and Act 291 showed that key election activities such as the appointment of Returning Officers and Assistants, setting of nomination periods and fixing of voting date were all undertaken by the Executive. This arrangement provided grounds for possible collusion aimed at tilting the results in favor of the government.

The 1960, 1964 referenda and the 1965 elections were conducted under the Convention People's Party (CPP) administration using the same voting arrangements.

2.4 DEVELOPMENTS UNDER THE MILITARY REGIMES: 1966-79

During the later part of the 1960s, there was an increase in popular agitation for the creation of an independent electoral body to manage elections in a free and fair manner. The experience during the tenure of office of the CPP Government probably might have prompted this agitation. These agitations led to the formation of a Commission of Enquiry to investigate the allegations.

2.5 APPOINTMENT OF COMMISSION OF ENQUIRY INTO ELECTORAL AND LOCAL GOVERNMENT REFORMS (SERIBOE COMMISSION)

Following the overthrow of the CPP government in 1966 by the National Liberation Council (NLC) and in response to public concerns for free and fair elections, a Commission was set up by the NLC to look into the electoral and local government structure. The Commission was appointed on 22nd December, 1966 by the Electoral Commission instrument, 1966 (E.I 183) issued under section 1 of the Commission of Enquiry Act, 1964 (Act 250) and was inaugurated on the 17th January, 1967.⁶⁷ The sixteen (16) member Commission was chaired by J. B Siriboe which became known as the Siriboe Commission.⁶⁷

The terms of reference of the Siriboe Commission were to look into:

- The electoral system
- Delimitation of boundaries of parliamentary electoral districts
- The re-organization of Local Authorities and its attendant problems.

As part of the Report of the Commission, It was observed that any system of elections, however satisfactory or praiseworthy in theory, was not likely to secure the free and genuine expression of the popular will of the electorates at the poll unless the body charged with the responsibility for the administration of the election was truly and manifestly impartial in the discharge of its duties. For instance, during the Nkrumah's tenure of office, elections were allegedly rigged openly with impunity so as to ensure the victory of the then Convention People's Party (CPP). It was made clear that a system of electoral administration which vests responsibility for the conduct of elections in the government of the day was unsuitable.⁶⁷

It was considered, that clean and fair elections in Ghana can only be assured if a body permanent and independent, and not accountable to a particular Minister, was charged with the responsibility for delimitation of the boundaries of parliamentary constituencies, for the registration of electors and for the conduct of elections.⁶⁷

The Commission recommended to the NLC that an independent and permanent electoral body be appointed to manage the electoral process. The members of the electoral body had the same terms and conditions of service as justices of the court of appeal. The Commission was to be responsible for among others:

-
- The registration of electors and the annual revision of the registers of Electors;
 - The conduct of all elections including referenda and plebiscites;
 - The periodic delimitation of the boundaries of parliamentary Constituencies on the basis of such formula as may be prescribed by the Constitution and the electoral laws;
 - The appointment and dismissal of Registration, Revision and Returning Officers and their supporting staff provided that the Electoral Commission may delegate its powers in this regard to Returning and Registration officers and other suitable body to enable temporary election staff to be recruited locally where necessary;
 - The issue of such procedural rules and regulations under the law to facilitate the registration of electors and the fair conduct of elections (Commission of Enquiry Report: 1967);
 - The proper storage and use of all elections and registration materials;
 - The registration of political parties and their symbols in accordance with rules to be prescribed by the electoral law; and
 - The carrying out of the provision of section 10 of part II of the Electoral Provisions Act, 1965 (Act 291) relating to the division of Electoral Districts into wards. (Act 291: 1965).

Based on the recommendations, the Electoral Department under the Ministry of Local Government was replaced by an Independent Electoral Commission (IEC) established in 1968 under the Interim Electoral Commission Decree (NLCD 221) of 22nd December, 1968, as a new body responsible for the registration of voters and managing all other matters relating to the conduct of all public elections⁶⁷.

It was headed by Justice V.C.R.A.C Crabbe, an Appeal Court Judge as an Interim Electoral Commissioner and a sole Commissioner. The IEC conducted the 1969 legislative elections using the electoral system based on the Siriboe Commission's recommendations. They were mandated to manage the elections by registering electors, annual revision of registers of such electors, the conduct of all elections including referenda and plebiscites, the periodic demarcation of the boundaries of constituencies, the appointment and dismissal of Registration, Revising and Returning Officers and supporting staff among others. An important feature was that, the Decree also mandated the IEC to make procedural rules and regulations for the facilitation of the registration of electors and the fair conduct of elections.⁶⁷

To ensure effective election management, Article 30, section 6 of the 1969 Constitution as approved by the constituent assembly provided for the autonomy of the Electoral Commissioner. It provided that in the performance of any of his functions the Electoral Commissioner shall be subject only to the Constitution and not to the direction or control of any other person or authority. It also provided for the first time under section 7, that, the appointment of officers and other staff of the Electoral Commission should be made by the Commissioner in consultation with the Public Services Commission.⁶⁷

However, the 1969 Constitution under the same Article 30, section 1 also provided that in demarcation of boundaries of constituencies for elections to the National Assembly or Local or District Council, the Commissioner shall be assisted by two ad hoc Commissioners appointed by the President acting in accordance with the advice of the Council of state.⁶⁷

These bodies of laws facilitated the registration and the conduct of the 1969 elections. For instance new procedures were introduced for the registration of voters. Whereas in the Nkrumah regime individuals could send a list of names of friends and relatives to a Registration Officer to be captured, prospective voters were required under the IEC to appear in person to be registered and in addition to complete a registration application form in the presence of the registration official.⁶⁷

A host of procedures such as the design and distribution of ballot papers, collation and declaration of results, role of party agents and verification of voters were introduced to ensure credible poll. It was required that ballot papers should contain the name, symbol or color of a particular candidate and a serial number. Ballot papers were printed under strict security and transported under special arrangements after it has been labeled and boxed. The ballot papers were supplied under armed guards and party agents were allowed to sign their names on the seals of the “strong” rooms where the ballots were kept, all these were done to instill transparency in the process, as maintained by Crabbe, no complaint was made that ballot papers had got into wrong hands before actual day of voting.⁶⁷

A thorough verification of voters was instituted to avoid impersonation before ballot papers were issued at the polling stations, votes were counted and proper ballot accounting conducted at each polling station at the close of the poll. Every candidate had a polling agent to observe the poll, detect fraud and seek the interest of his or her candidate. These and many changes introduced by the IEC brought credibility to the 1969 election⁶⁷

In 1971 the IEC was made a permanent body with a substantive Electoral Commissioner under Article 30 of the 1969 constitution. Justice Crabbe returned to the bench.⁶⁷

Following the coup d'état in 1972, the IEC was dissolved by the Supreme Military Council (SMC 1). It was transferred to the Ministry of Local Government as a division known as Civil Registration and Electoral Division (CRED) headed by a director in 1974.

The SMC 1 re-established the Electoral Commission under SMCD 114 of 2nd August 1977 and appointed Mr. Justice Isaac Kobina Abban as the Electoral Commissioner and Mr Addoquaye McGranky Quaye as the Deputy Electoral Commissioner. It was the first time the Provision for Deputy Commissioner was made under SMCD 132 of 17th September, 1977.

Coming on the heels of the successful 1969 elections, the expectation was to build upon the existing election management system. Unfortunately, the military government was not ready to comply with the electoral regulations in existence.

The new Electoral Commission was mandated to conduct the 1978 referendum on 30th March 1978. The referendum was to determine the suitability of the hybrid system of government dubbed Union Government (UNIGOV) which was advocated by the Acheampong regime as replacement for party politics. In their effort to win the referendum and prolong their political office, threats and intimidation as well as pervasion of the rules were resorted to by the military advisers to the regime.⁶⁷

The government demanded that its own Returning Officers should be used to conduct the referendum on polling day, a suggestion the Electoral Commissioner rejected.⁶⁷ Contrary to the Referendum Regulations, 1977 (L. I. 1133) the SMC government directed that there should be no counting of votes at the polling station but rather all ballot boxes should be sent to regional counting centers under military guard for counting and all poll workers and observers who so desire could accompany the boxes.⁶⁷ This directive was issued without any reason whatsoever aside the fact that they were not mandated to apply the rules for the referendum, it contravene the rules and regulation on counting of votes, defeat the element of transparency in the process and lend itself to manipulation.

Mr. Justice I.K Abban, the Electoral Commissioner, who conducted and supervised the referendum boldly resisted these attempts by the SMC 1 government headed by General I.K Acheampong to manipulate the outcome of the referendum. In response to the directive on the counting of ballot, he made it clear to the government that, it could not be carried out because the procedure was not just an administrative arrangement made by the Electoral Commissioner but a statutory requirement.⁶⁷ He opined that, the law requires each Presiding Officer to count the votes at his or her polling station immediately after the close of poll and announced the results to the general public who may happen to be present.⁶⁷ This function ought to be performed by the Presiding Officer at the polling station before he or she proceeds to convey the ballot boxes and other referendum materials to the counting center.⁶⁷

For refusing to be manipulated, the office of the Electoral Commission was besieged by soldiers in an attempt to kidnap the Commissioner but he managed to escape.⁶⁷ Mr. Justice Abban was

consequently relieved of his post with immediate effect and was replaced by his deputy A. M. Quaye while counting of votes was in progress. Mr. Quaye supervised the counting of the votes at the regional counting centers and declare the final results in favor of ‘Yes’ votes.⁶⁷

Mr. A.M. Quaye was replaced in August 1978 by Mr. Justice Kinsley-Nyinah, a retired Appeal Court Judge as the new Electoral Commissioner by the SMC II administration. In 1979, the Electoral Commission was re-established under Article 37 of the 1979 Constitution which was promulgated as part of the transitional process.⁶⁷

The Electoral Commission, in July 1979 conducted and supervised the general elections which brought Dr. Hilla Limann and People’s National Party (PNP) into office. The first round ballot failed to produce a clear winner since none of the presidential candidates obtained more than 50 percent of the valid votes cast as required by law, a second round ballot was conducted between the two leading candidates who had the highest votes in the first round ballot.⁶⁷

Justice Kingsley-Nyinah’s Electoral Commission (1978-82) that conducted the presidential and parliamentary election in 1979 to usher in the Third Republic was an electoral body that was not accused of partiality. This is because the military government of the Armed Forces Revolutionary Council (AFRC) did not contest the elections nor backed any of the political parties unlike the 1969, 1992 and 1996 elections; all the political parties had a leveled playing field. The Electoral Commission, therefore, did not have any daunting task, but regulated and conducted a free and fair election.⁶⁷

As usual of military regimes, the Electoral Commission was abolished, the 1979 Constitution was suspended and all political parties' activities banned following the overthrow of the Third Republican government led by Dr. Hilla Limann by the Provisional National Defence Council (PNDC) led by Flight Lt. Jerry Rawlings. Mr. Justice Kinsley- Nyinah went on indefinite leave in 1982 and his appointment was later terminated in that same year.⁶⁷

2.6 ELECTION MANAGEMENT UNDER THE PNDC ADMINISTRATION (1982-1992)

The period between 1982 and 1992 saw a reorientation of political governance in the country. The orientation had its impact on the Electoral Commission and Election management on the whole. The PNDC remained in office from 1982 to 1992 and took a number of decisions that gave birth to Ghana's Fourth Republic.

2.7 THE ESTABLISHMENT OF THE NATIONAL COMMISSION FOR DEMOCRACY (NCD).

The PNDC (Establishment) Proclamation, 1981 which stated the PNDC commitment to the establishment of true democracy set up the National Commission of Democracy (NCD) as the institution to achieve its programmes towards the establishment of true democracy.

In 1982, the PNDC (establishment) Proclamation (Supplementary and Consequential Provisions) Law 1982, PNDC Law 42, Section 32, charged the National Commission for Democracy (NCD) with the responsibility of carrying out the functions of the Electoral Commission under the suspended 1979 constitution with additional function. Aside the traditional functions of registration of voters, the conduct of elections and referenda as well as delimitation of boundaries and registration of political parties which Electoral Commission's between 1951 and 1979 had performed, the NCD was required to undertake educational programme to disseminate within the society awareness of the objectives of the revolutionary transformation. It was also involved in identifying and assessing the needs of the people and finding out what structural limitation there are to the achievement to true democracy. In 1988, the structure and functions of the NCD were consolidated under PNDC Law 208. The statutory function of the NCD was thus demarcation and electoral, and formulation of a programme for a more effective realisation of democracy in Ghana.⁶⁷

In 1984, Mr. Justice Daniel Francis Annan, a retired Appeal Court Judge was appointed as the Chairman of the NCD. The PNDC government introduced its brand of Democracy based on participatory decision making, through decentralization.⁶⁷

In pursuit of its functions, the NCD invited the public to submit papers or memoranda on the future form of government of the country. Several papers were submitted to the Commission by a cross section of the citizenry. The NCD again organized seminars, symposia and durbars to discuss the effective realization of a true democracy in Ghana. These efforts culminated in the publication of the "Blue Book" a document on the creation of District Political Authority and

Modalities for District level Elections. This led to the conduct of District Level Election and the establishment of District Assemblies.⁶⁷

Under the electoral and demarcation function, the NCD was;

- To demarcate district boundaries and electoral Areas;
- To undertake the registration of voters;
- To supervise and conduct elections to the District Assemblies and Regional/national house of chiefs.⁶⁷

The NCD undertook its first Election management work by demarcating the country for the purposes of conducting elections to the District Assemblies. Between January and March 1987, the NCD demarcated the country from 65 to 110 administrative Districts (District Assemblies) as part of its electoral functions. About 4,828 electoral areas were also created to elect candidates to the district assemblies. In 1988, Ghana's decentralization process was launched. It was intended to enhance the participation of ordinary people in governance and in making decision that affected their lives.⁶⁷

2.8 RETURN TO CONSTITUTIONAL RULE

The wave of democratization in the late 1980s and early 1990s across Eastern Europe, Latin America and South-East Asia also moved across Africa. In Ghana, the return to Constitutional rule after the abrupt end of the Third Republic on 31st December 1981 could be said to have seriously began during the second half of the 1990s. Between July and November, 1990, the NCD teamed up with the Ministry of Local Government and Ministry of Information to organize

a series of regional seminars to collect the views of individuals and organizations on the nature, scope and content of the future Constitutional order under theme “District Assemblies and Evolving Democratic Process” on the directives of the PNDC government.⁶⁷

On March 25th 1991, the NCD presented its report on the regional seminars entitled “Evolving A True Democracy” to the PNDC government. The report was emphatic that the “Generality of Ghanaians were not against party politics”.⁶⁷

Following the acceptance of the NCD Report by the PNDC government, a Committee of Experts was appointed and inaugurated in May 1991 to draft constitutional proposal. On 26th August 1991, a 258 member consultative Assembly was inaugurated to draft a new Constitution. The consultative assembly submitted a draft Constitution to the PNDC government on 31st March 1992.⁶⁷

2.9 ESTABLISHMENT OF INTERIM NATIONAL ELECTORAL COMMISSION

As part of the PNDC transitional programme to return the country to multi-party democracy, it abolished the NCD and established the Independent National Electoral Commission (INEC) on 28th February, 1992. The INEC was an 11 member body made up of ten (10) men and one (1) woman.

The INEC Law PNDCL 271 provided for an Executive Chairman and two Deputy Chairmen responsible for Finance and Administration and Operations respectively. In addition, the same Law provided for Eight (8) other members at least one of whom shall be a woman.

Mr. Justice Ofori-Boateng, an appeal court judge was appointed as the Chairman with Nana Oduro Numapau II and Dr. Kwadwo Afari Gyan as Deputy Chairmen in charge of Finance and Administration and Operations respectively. As an independent body, it was not subject to the direction or control of any person or authority. The INEC was responsible for the following:

- to conduct and supervise the schedule referendum on the Draft Constitution as well as the 1992 Presidential and Parliamentary Elections;
- to review the boundaries of national or district electoral areas for public elections and referenda in addition to the proper storage and use of electoral materials;
- empowered to make by legislative instrument regulations for the conduct and supervision of public elections and referenda as well as voting by proxy.⁶⁷

2.10 CONCLUSION

Electoral Commissions and election management in Ghana has gone through a series of transformation since independence. These transformations have positioned the current body on a stronger footing reflecting on its splendid performance in subsequent elections. As depicted, election management in Ghana has gone through various types. From centrally controlled body where central government or the executive supervise the conduct of elections to departments under Government ministries where a minister becomes responsible for the conduct of elections and as independent body where the Commission took sole responsibility for rule making and rule application as in the case of the 1969, 1979 and 1993. Electoral Commissions while it has partial adjudicatory function, the courts remain supreme in adjudicating in election related disputes. However, electoral governance as a management concept became murky for EC under military governments or where the executive controlled the process.

Election management under each of these types revealed that the way to go was the creation of an independent body entrusted with the management of elections, it can also be gleaned from the overview that attempts at manipulation of previous Commissions have greatly informed the passage of potent legislations that insulated the current Commission.

Another managerial aspect of the EC was its composition; the Commissioners were either sole Commissioner as in 1968, 1969-74, 1978, 1978-82 or a collective body as in 1982-1992, 1993, and some cases the Commissions so created were interim institutions.

The next chapter discussed how the current EC managed successive elections by interrogating its rule making, rule application and rule adjudication functions. It analyzed how these contributed to the successive elections that the EC has conducted in recent times.

CHAPTER THREE

ELECTION MANAGEMENT IN GHANA (1993-2008)

3.1. INTRODUCTION

Elections are a very important pillar of democracy and have become generally accepted as necessary means of changing and legitimizing governments globally. Although elections are a means of changing regime peacefully, their mismanagement constitute a means of triggering violence and insecurity as witnessed in the West African sub-region which over the years had become a hotbed for intractable armed conflicts.

The management function of elections are ceded to election management bodies which may be either temporarily established in the sense that their mandates span only one specific election or managing some aspects of elections or are permanent creations to handle electoral related matters.⁶⁷ In Ghana, the Electoral Commission of Ghana is the sole institution of state mandated by law to manage elections. This electoral body since the rebirth of democracy in 1992 has managed four presidential and parliamentary elections and acclaimed generally in many quarters as peaceful and credible. This chapter examined the operation of Ghana's election authority in the context of the regulations it has established, how these regulations were enforced and the potency in the use of adjudicatory mechanisms available to it in resolving electoral disputes that arose from non-compliance with these electoral regulations. These are important elements in understanding the country's electoral successes and some of the challenges it had encountered. To achieve this, the chapter looked at the legal framework defining the operations of the EC. It

analyzed the statutes, mandate, appointment, tenure and independence of members of the Commission. It also analyzed some of the rules it had made and how it had implemented these rules of engagements. Lastly, the chapter also examined the challenges the Commission had encountered in the execution of its constitutional mandate and how these challenges were addressed.

3.2 TYPES OF ELECTION MANAGEMENT BODIES

EMBs are classified into various forms. Three of these types are described in this work. The first is the “government approach” where elections are conducted by regular civil servants and usually under the Ministry of Local Government or Interior. This may sometimes be referred to as the “Central Government approach”. The second is the “multi-party approach” which occurs when various party representatives compose the electoral body. The third approach is the permanent and independent body which is now being adopted by most countries.⁶⁷ In this body, the members are appointed by an appointing authority who serves permanently until retirement or with term limit. Their autonomy is enshrined in the Constitution where they derive their power, from, and are not under the control of any governmental authority. However, their actions and inactions are subject to judicial review. Ghana currently provides a typically example of a permanent and independent national election authority.

3.3 LEGAL FRAMEWORK AND MANDATE OF GHANA'S ELECTORAL

COMMISSION

There are two main fundamental laws that relate to the creation of the Electoral Commission of Ghana. The first is Chapter Seven of the 1992 Constitution of the Republic of Ghana. Chapter Seven titled "Representation of the People", includes the composition, structure, mandate, tenure and independence of the Commission. The second is Electoral Commission Act (Act 451 of 1993) which codified and gave meaning to the Constitutional provisions on the composition, tenure, independence and mandate of the Commission. Two of the articles (Articles 43 and 46) relating to the composition and independence of the Commission respectively are entrenched. Article 290 (2) of the 1992 Constitution states unequivocally that "A bill for the amendment of an entrenched provision shall, before Parliament proceeds to consider it, be referred by the Speaker to the Council of State for its advice and the Council of State shall render advice on the bill within thirty days after receiving it." Article 290 (3) continues that "The bill shall be published in the Gazette but shall not be introduced into Parliament until the expiry of six months after the publication in the Gazette under this clause." The most difficult aspect of amending these two articles and others also entrenched is article 290 (4) states *inter alia* "After the bill has been read the first time in Parliament it shall not be proceeded with further unless it has been submitted to a referendum held throughout Ghana and at least forty per cent of persons entitled to vote, voted at the referendum and at least seventy-five per cent of the persons who voted cast their votes in favour of the passing of the bill." Constitutionally, therefore the composition of members of the Commission and the independence of the EC itself enjoy maximum protection from governmental or parliamentary control.

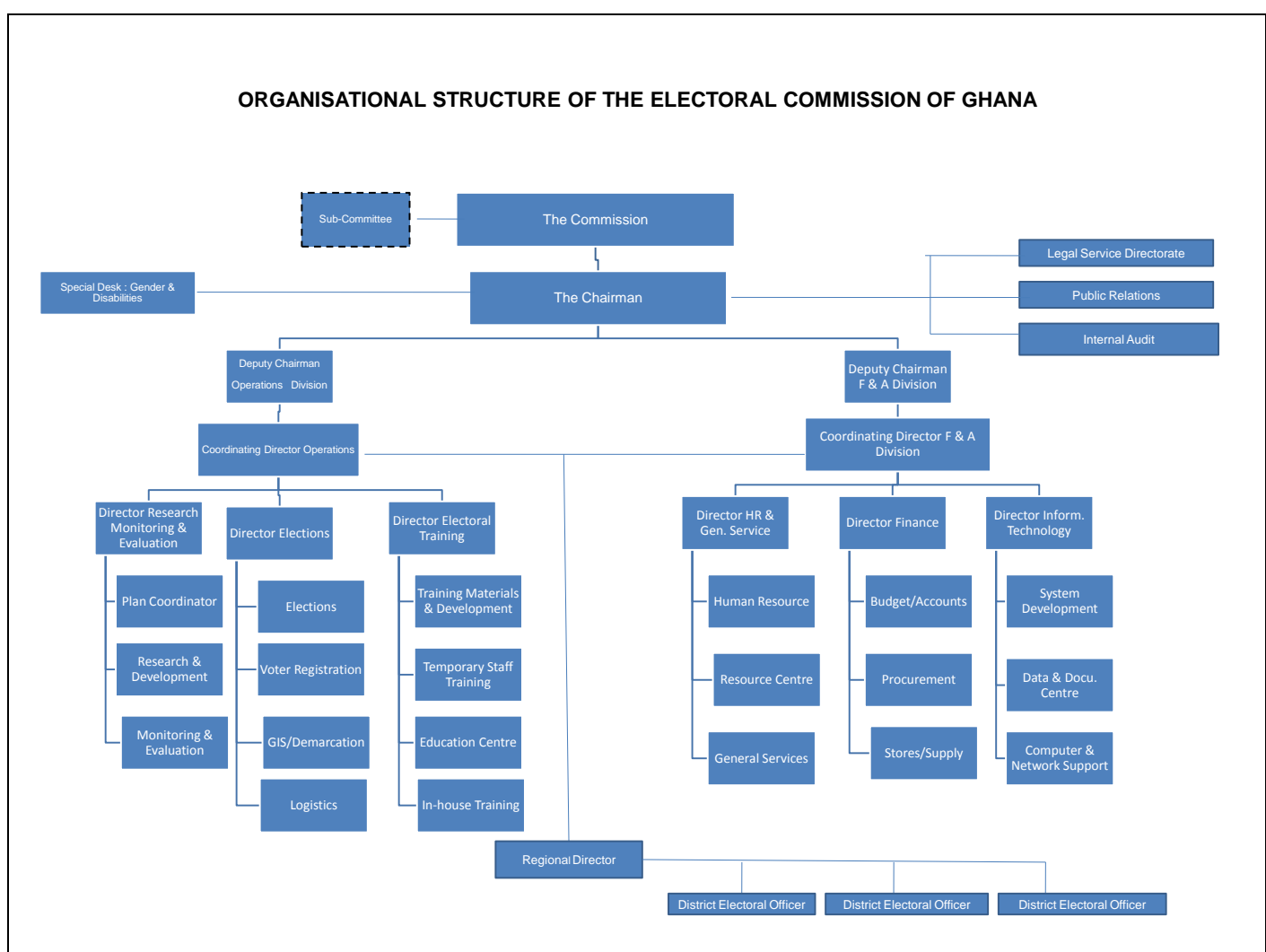
3.4 STRUCTURE OF THE COMMISSION

The Commission has an elaborate three-tier structure consisting of the Head Office, Regional Offices and District Offices. The Commission has two major functional divisions, namely; Operations and Finance and Administration with each headed by a Deputy Chairman. Beneath the two Deputy Chairmen are two Coordinating Directors in charge of Operations and Finance and Administration respectively. The next on the ladder are seven (7) Head Office Directors in charge of Research, Monitoring and Evaluation, Elections, Electoral Training, Human Resource and General Service, Finance and Information Communication Technology as well as ten (10) Regional Directors. The Commission currently has one hundred and seventy (178) District Offices headed by District Electoral Officers who manages all electoral and administrative activities at the district level under the supervision of the Regional Directors and their Deputies. The Commission since 1993 has operated in all the ten administrative regions.

In terms of staffing, the Commission has two main categories of staff; the permanent and temporary staff. The permanent staff consists of Electoral Officers, Administrative Officers, Secretaries, I. T professionals, Drivers among others who undertake the day to day electoral and administrative functions of the Commission. The Electoral Officers are university graduates who are employed as career officers. Currently, one thousand four hundred and thirty-two (1,432) full time employees' work in the Commission's Head Office, Regional Offices and the District Offices.

The temporary staff consists of Returning Officers, Deputy Returning Officers and Polling Officials. The Returning Officer and their Deputies work under the supervision of the Regional

Directors and District Electoral Officers. These officials are usually Head Teachers, Teachers, Retired Civil and Public Servants as well as matured unemployed graduates. Polling officials on the other hand administer the poll at the polling stations. These officials usually work as Registration Officials during voter registration exercises and Presiding Officers and Polling Assistants during general elections. These officials are usually Teachers, University Graduates and Students who the Commission engages from time to time to undertake a particular electoral exercise after which they ceased to be employees of the Commission. The Commission recruits over hundred thousand of these officials for an election. Both the permanent and temporary staff collaborates to ensure the successful execution of an election exercise. Just like the permanent staff, all temporary staffs are required by law to be non-partisan in the discharge of their duties. Below is the organizational structure of the Commission.



Source: Electoral Commission of Ghana (2008)

3.5 COMPOSITION AND TENURE OF COMMISSION MEMBERS AND OTHER OFFICIALS

Article 43 (1) outlined the composition of the Commission, and Article 43 (2) deals with how Members of the Commission should be appointed. Article 43 (1) states that “There shall be an Electoral Commission which shall consist of: (a) a Chairman; (b) two Deputy Chairmen; and (c) four other Members. Article 43 (2) gives the appointive authority of the seven Members to the

President of the Republic who must perform this function as stipulated in article 70 (2) of the Constitution: “The President shall, acting on the advice of the Council of State, appoint the Chairman, Deputy Chairmen, and other members of the Electoral Commission.” On terms and conditions of service, the Constitution equated the position of the Chairman of the Commission to a Justice of the Court of Appeal and the two Deputy Commissioners to that of Justices of the High Courts who enjoy security of tenure of office in the sense that they can only be removed from office for misbehavior or incompetence or on ground of inability to perform their functions arising from infirmity of body or mind. Strict procedures have been outlined in the Constitution regarding the removal of officials of this stature.

Apart from the Members as stated above, the Constitution in its articles 52 and 53 codified not only the creation of Regional and District Offices of the Commission to be responsible for the work of the Commission in those parts of the country, but how other officials of the Commission should be recruited. The Commission was required to establish in each Region and District a representative of the Commission to perform functions assigned by the Commission (Article 52 of the 1992 Constitution). To assist in the performance of its functions, the Commission was required by the Constitution to appoint officers and other employees of the Commission acting in consultation with the Public Services Commission (Article 53 of the 1992 Constitution).

The 1992 Constitution further provided in Article 43 that in the performance of its functions, the Commission ‘shall not be subject to the direction or control of any person or authority’. Additionally, to ensure that the EC asserts its independence of governmental control and work impartially without manipulation, once appointed the three Chairpersons that is the Chairman and the two Deputies have permanent tenure until retirement and removable only through health

grounds and impeachment which is an entrenched clause in the constitution. The Commission's expenses are also charged directly on the country's consolidated fund. The Chairman and the two Deputies oversee the day to day administration of the Commission as required by law. For effective supervision, each Commission Member is also responsible for a particular region. Unlike the other four Members, the Chairman and two Deputies are not to take any other appointment once they remain in their position.

3.6. FUNCTIONS OF THE COMMISSION

The main functions of the Commission as set out in considerable detail in the Constitution and toughened by the Electoral Commission Act, Act 451 of 1993 included:

- (a) To compile the register of voters and revise it at such periods as may be determined by law;
- (b) To determine the electoral boundaries for both national and local government elections;
- (c) To conduct and supervise all public elections and referenda;
- (d) To undertake voter education on the electoral process and its purpose;
- (e) To undertake programmes for the expansion of the registration of voters;
- (f) To register political parties; and
- (g) To perform such other functions as may be prescribed by law.

Apart from these functions outlined above, the Constitution empowers the EC to make their own regulations by Constitutional Instruments for the effective performance of its functions and the statutory function of fixing election date. Article 51 of the 1992 Constitution states that "The

Electoral Commission shall, by Constitutional Instrument, make regulations for the effective performance of its functions under this Constitution or any other law, and in particular, for the registration of voters, the conduct of public elections and referenda, including provision for voting by proxy.”

From the above exposition, it is abundantly clear that not only has the Constitution mandated the Commission to promulgate rules and regulations on electoral processes, but also that the Commission has a secured tenure of office for its members who enjoy a greater amount of independence of governments’ control. In the view of Gyimah-Boadi, the existence of these bodies of laws and explicit rules and regulations relating to its functions provided the Electoral Commission a measure of insulation and put the body in a stronger position lawfully to resist undue external pressures and interferences in its work as well as provide a guide for the defence of its actions.⁶⁷ A number of questions are however vital in analyzing the role of the Commission in terms of rule making, implementation and adjudication. To what extent has the constitutional protective cover and powers granted to the Commission to make, implement and adjudicate rules and regulations affected the management function of the Commission over the years? What factors impeded the successful workings of the Commission in relation to the three levels of governance? To investigate these, the study analyzed some of the rules; notably rules and regulations on the compilation and revision of voters register, voting processes and the delimitation of electoral boundaries that the Commission has made, and also examined some other issues that affected the operation of the Commission. These areas provided a good basis for our analysis because they constituted the major part of the functions of the Commission as defined by the Constitution.

3.7 MAKING AND IMPLEMENTING THE BASIC ELECTORAL RULES AND REGULATIONS IN GHANA

In line with article 51 of the Constitution, the Commission's rules and regulations came in the form of Constitutional Instruments (CIs) designed by or under the authority of the Electoral Commission and enforced by it or by agencies authorized by it. The Commission made a lot of consultations with stakeholders, particularly political parties and traditional authorities where necessary. Dr. Afari-Gyan, the Chairman of the Commission alluded to the fact that following the official release of the 2000 Census, the EC engaged in "extensive consultations," "particularly with district assemblies and traditional authorities", towards the creation of new constituencies.⁶⁷ The CIs give practical meaning to the constitutional provisions. They are drafted to address the various aspects of the electoral processes. It is however important to note that even though the EC has a constitutional power to enact rules and regulations for efficient execution of its functions, the Constitution gives the supreme law making functions to the Parliament of the Republic, as a result, these CIs were required by the Electoral Commission Act, Act 451 to be placed before Parliament for a period of 21 days before they become enforceable. The role of Parliament is restricted to not only ensuring that these Instruments do not contravene any provision/s of the Constitution, but also not to alter any portion/s of the Instrument before it.

This study has examined CI 12 and CI 15; the two main regulations on voter registration process and the EC's management of public elections and referenda. The current CI which regulates

registration process is CI 12. This CI contained regulations on registration of voters, qualification for registration, registration centers and electoral areas, objection to appointment of registration supervisors and registration officers, access to registration centers, authorized persons at registration centers, challenges and complaints on registration processes, district registration review committee (an adjudicatory mechanism), and revision of voters register, exhibition and validation of voters registers. The CI 12, for example, empowered the EC to designate any place it considers appropriate as a registration center for the purpose of registering voters. This CI 12 allows the EC to take into consideration: (a) the suitability of the place for use as a polling station on election day; and (b) the convenience of prospective applicants for registration. This CI required not only the EC to make known to political parties and the general public by publication in the Gazette, the radio, television or other medium of mass communication any place it designates as a registration center at least 7 days before the first day of the period set aside for the registration of voters, but also conferred on the EC powers to either maintain or alter the polling divisions or stations in existence immediately before the coming into force of the C.I 12 which shall constitute registration centers for the registration of voters.

The CI 12 required the establishment in each district a District Registration Review Committee which shall examine challenges related to the registration of voters in the district. The CI shows the membership of these Committees. Each Review Committee, according to this CI must be made up of each registered political party in the district, the district electoral officer of the Commission, who shall be the secretary to the Committee and not more than four other persons as the Commission may determine, and this Committee according to the CI would appoint its

own chairman from among its members and shall regulate the conduct of its procedures. The CI also made provision for the creation of a Chief Registration Officer, a High Court Judge in each region to determine appeals of aggrieved persons by the decision of the District Review Committee.

To assure the public of impartiality, for example, the C.I 12 required the EC to publish in each registration centre the names of the persons it proposes to appoint registration supervisors and registration officers for the center. The Instrument also required that any registered political party or any person qualified to be registered as a voter may make a formal written objection to any person proposed for appointment as a registration supervisor or registration officer within 7 days of the publication of the names of the proposed officers. Related to this, the CI 12 also allows a person appointed to register voters, a person authorized by the Commission to observe the registration of voters such as party agents or any person qualified to be registered as a voter challenge a person applying to be registered as a voter on grounds that the person does not satisfy the requirements provided under the qualification of registrants which was based on article 42 of the 1992 Constitution on eligibility: (a) a citizen of Ghana; (b) 18 years of age or above; (c) of sound mind; (d) a resident or ordinarily resident in an electoral area; (e) and is not prohibited by any law in force from registering as a voter is entitled to have his name included in a register of voters for the electoral area during a period set aside for the registration of voters.

To ensure that registration centers were safe and serene, the CI 12 contains provisions on who can access a registration center. The Instrument restricts people from accessing the centers except people: (a) applying to be registered as voters; (b) submitting a complaint or other official

document to the registration officer; or (c) authorized in writing by the Commission to do so. The Instrument also allows the Commission to authorized agents of registered political parties and other interested bodies or persons such as election observers who could be afforded the opportunity to observe activities at the registration centers during the period set aside for registration.

The Commission, from time to time made similar regulations on public elections and referenda. The main instrument that regulates public elections and referenda is the CI 15 which was enacted in 1996. The CI 15 specify necessary conditions required for nomination of candidates, duration of nomination period, position of candidates on ballot papers, campaigning and all other parameters within which voting takes place.

The CI 15 requires the appointment of returning officers and their deputies to manage a public election such as presidential or parliamentary. Article 1 (1) states that “For the purpose of holding a public election, the Electoral Commission shall appoint a Returning Officer for each constituency in which the election is to be held and such other assistants as the Commission may determine” Clause 3 of this article also requires a person appointed as a Returning Officer or assistant to swear in the presence of a Judge or a judicial officer that he will faithfully and impartially fulfill the duties of his office and shall abide by the laws and regulations governing the conduct of elections. This CI also requires the EC to issue a writ of election to the Returning Officer which gives him the mandate to conduct elections. The Chairman of the Electoral Commission is the Returning Officer in a presidential election, and declares the presidential election results accordingly. The CI 15 requires the Returning Officer on receipt of a writ of an

election, publish notice of an election throughout the constituency in such manner as the EC may direct. This notice shall specify the day, the place and time for the nomination of candidates and the day when the poll is to be taken.

CI 15 also shows how the nomination of candidates for both presidential and parliamentary elections should be done. The nomination papers for each candidate in an election to parliament shall be: (a) witnessed by the signature or mark of two electors as proposer and seconder and supported by eighteen other electors as assenting to the nomination; and (b) endorsed with the candidate's consent to nomination. This CI prohibits the nomination of candidate in the case of a general election to parliament for more than one constituency or in the case of a bye-election to parliament if he or she is a Member of Parliament. It also proscribed the nomination of more candidates by one person. The nomination of candidate for an election as President also requires the candidate's signature and his or her nomination forms must be signed by not less than two persons who were registered voters in the area of authority of each district assembly. The candidate in the presidential contest was required by this CI to designate a person to serve as Vice President. This CI prohibits the nomination of a Presidential candidate by more than one person.

Article 7 (1) states that "Whenever the nomination paper and the statutory declaration of a candidate are delivered and the deposit is paid in accordance with these Regulations, the candidate shall be considered to stand nominated, unless proof is given to the satisfaction of the returning officer of the candidate's death, withdrawal or disqualification." To ensure that elections were conducted as required by law, CI 15 enjoins the Returning Officer to declare a

candidate elected unopposed where at the expiration of the time allowed for delivery of nomination papers and on the day before the election only one candidate stands nominated.

Provision is also made for the notice of poll and adjournment of poll. Article 13 (1) of the CI requires that whenever an election is to be held, the EC shall as soon as practicable after the allocation of symbols or colours, publish notice of the election in the Gazette and in such places in a constituency as it may direct and the notice shall: (a) state the day on which and the time at which the poll is to be taken; and (b) the full names and photographs or symbols or colours of the candidates nominated for the election. On adjournment of poll, this regulation requires the EC to issue a writ and the day specified in the writ as polling day, by notice in the gazette adjourning the taking of the poll not more than thirty days after the day specified earlier.

The CI 15 requires the creation of polling stations, and polling stations so created shall be any convenient buildings, except a dwelling house or a class of buildings exempted by the EC. On the polling day, the Presiding Officer appointed by the EC presides at each polling station and such number of Polling Assistants as the EC considers necessary to assist the Presiding Officer in carrying out his duties. This CI also allows a candidate to appoint a Polling Agent to represent him or her at each polling station in the constituency for which he is seeking election and in the case of a candidate for President, in every polling station nationwide, for the purpose of detecting impersonation and multiple voting and certifying that the poll was conducted in accordance with the laws and regulations governing the conduct of elections.

Immediately after the close of poll, the CI 15 requires the Presiding Officer, in the presence of the candidates or their representatives and counting agents, open each ballot box, take out all the

ballot papers in the box, and proceed to count the ballot papers at the polling station, and record the total number of votes cast in favour of each candidate.

In the performance of its constitutional function of designing and implementing basic rules for election management, the EC encountered some problems leading to some legal suits restraining the EC from implementing its Instruments. One major area where the EC has witnessed a considerable controversy relates to the demarcation of parliamentary constituency boundaries and its related apportionment of parliamentary seats. The EC, under the 1992 Constitution as stated above is tasked with the responsibility of demarcating and apportioning constituencies and parliamentary seats. Article 47 (clauses 1-7) of the 1992 Constitution states:

1. Ghana shall be divided into as many constituencies for the purpose of election of members of Parliament as the Electoral Commission may prescribe, and each constituency shall be represented by one Member of Parliament
2. No constituency shall fall within more than one region
3. The boundaries of each constituency shall be such that the number of inhabitants in the constituency is, as nearly as possible, equal to the population quota
4. For the purposes of clause (3) of this article, the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population and area and boundaries of the regions and other administrative or traditional areas
5. The Electoral Commission shall review the division of Ghana into constituencies at intervals of not less than seven years, or within twelve months after the publication of the

enumeration figures after the holding of a census of the population of Ghana, whichever is earlier, and may, as a result, alter the constituencies

6. Where the boundaries of a constituency established under this article are altered as a result of a review, the alteration shall come into effect upon the next dissolution of Parliament
7. For the purposes of this article, “population quota” means the number obtained by dividing the number of inhabitants of Ghana by the number of constituencies into which Ghana is divided under this article.

What then is the controversy on the EC’s execution of this constitutional duty? Scholars such as Prempeh and Asare⁶⁷ and Smith⁶⁷ argued that the EC has over the years sidelined its constitutionally mandated functions relating to the demarcation of constituency boundaries and seats as required by Article 47 and such acts could lead to gerrymandering. This section, therefore examined the empirical facts available on how the EC has performed its rule making and implementation functions in relation to demarcation of parliamentary constituencies in Ghana. Specifically, after the 2000 population and housing census, the EC re-demarcated constituencies to ensure that at least one constituency is coterminous with each administrative district⁶⁷, a formula created by the Siriboe Committee which the EC has inherited. The Chairman of the Electoral Commission justifying the increase of parliamentary constituencies from 200 to 230 explained that the additional constituencies were created because “the boundaries of constituencies, by law, cannot go beyond the boundaries of a district.”⁶⁷ This therefore means that any increase in the administrative district whose creation constitutionally is the function of the government will compel the EC to create more constituencies to ensure that

constituencies become coterminous with the districts so created. This situation absolutely could lead to gerrymandering of parliamentary seats because a government bent on increasing its seats in Parliament may decide to create more administrative districts in its strongholds that will compel the EC to create more constituencies to meet its “coterminous” requirement. Indeed, from the constitutional provisions relating to the delimitation of constituency boundaries, the constitutional provision that comes close to creating constituencies that will be coterminous with the districts is article 47 (2) which states that “No constituency shall fall within more than one *region*.” Clearly, delineating constituencies to ensure that these constituencies are coterminous with the districts as has been part of the formula of the EC is statutory barred as it contravenes article 47.

Also, another major issue that affects the Commission’s capacity to manage elections relates to its funding. Article 54 says that the administrative expenses of the Electoral Commission include salaries, allowances and pensions payable to, or in respect of persons serving with the Commission, shall be charged on the Consolidated Fund which is a public fund. The funding arrangement is such that the EC presents a budget to the Ministry of Finance which then pays money from the consolidated account to the EC.⁶⁷ This therefore means that the EC can only be given money whenever money was available in the consolidated funds. It also means that the government may intentionally thwart the operations of the EC at any time since the EC can act only when funds were available to it from government. This has been one of the major problems that negatively affected the EC in its management function because it has been unable to carry out some of its electoral functions because money was not readily made available to it.⁶⁷

Governments since 1992 have shown their readiness to make funds available to the EC, but they have not been proactive in the rate at which funds were released to the EC.

One other aspect of EC's financing which proved critical for most of the elections conducted under the period of consideration were international support. The EC's election activities such as compilation of voters register, photo identity cards, and voter education had support from the European Union (EU), Danish International Development Agency (DANID), Canadian International Development Agency (CIDA), and United States Agency for International Development (USAID) among others, while the Friedrich Ebert Foundation (FES) supported the preparation of the political parties' code of conduct in the 2000 elections, for example.⁶⁷

With all these challenges how has the EC fared in managing elections over the years?

3.8 MANAGING ELECTIONS IN GHANA (1993-2008)

In 1992, Ghana had yet another election conducted by an Interim National Electoral Commission (INEC) after eleven years of quasi-military rule (1981-1992). The presidential election which was conducted on the 3 November 1992 had a voter turn-out of 48.3% with Rawlings's NDC winning 58.4% of the total votes cast. His closest contestant, Adu Boahen, a history professor garnered 30.3% of valid votes cast, while the rest shared the remaining 11% as shown in table 3.1 below.

Although some international observers such as the Commonwealth Observer Group (COG), the Carter Center and the Organization of African Unity (OAU) judged Ghana's founding election as

free and fair⁶⁷, the opposition parties and their supporters thought otherwise citing factors such as uneven playing field, the bloated voter's register, a pro-government election authority and a host of irregularities as being responsible for the victory of Rawlings and his NDC.⁶⁷ The declaration of the final results by the EC culminated in violence leading to the burning to death of the NDC Western Regional Chairman. The parliamentary election scheduled to take place in the first week in December was twice postponed and finally held on 29 December. The defeated parties in the presidential election decided to contest the parliamentary election on condition that certain demands were met. Those demands included an interim government to supervise the rest of the transition, a new voters' register and a new electoral commission including representatives of the political parties.⁶⁷ Not even efforts by the National House of Chiefs and the leadership of religious bodies' such as that of the Christian Council of Ghana to broker compromise could compel the opposition parties to rescind their decision. Due to the entrenched posture of both the government which felt that it had won the election credibly and the opposition who felt that the election was flawed, left only the three parties that had formed the Progressive Alliance with Rawlings as the alliance's candidate battling for seats in the 200-member Parliament with two independent candidates winning seats as shown in table 3.2 below.

Table 3.1: Election 1992: Presidential Results (National)

Candidate	Party/Coalition	Vote (%)
Jerry J. Rawlings	National Democratic Congress/Progressive Alliance (NDC/PA)	58.4
A. Adu Boahen	New Patriotic Party (NPP)	30.3
Hilla Limann	People's National Convention (PNC)	6.7
Kwabena Darko	National Independence Party (NIP)	2.8
Emmanuel A. Erskine	People's Heritage Party (PHP)	1.8

Source: Interim National Electoral Commission, 1992

Table 3.2: Election 1992: Regional and National Distribution of Parliamentary Seats

Region	No. of Constituencies	NDC (National Democratic Congress)	NCP (National Convention Party)	EGLE (Every Ghanaian Living Everywhere)	Independent
Ashanti	33	33	0	0	0
Brong Ahafo	21	20	0	0	1
Central	17	16	1	0	0
Eastern	26	22	3	1	0
Greater Accra	22	22	0	0	0
Northern	23	23	0	0	0
Upper East	12	11	0	0	1
Upper West	8	8	0	0	0
Volta	19	18	1	0	0
Western	19	16	3	0	0
National	200	189	8	1	2

Source: Interim National Electoral Commission, 1992

From this acrimonious election, the EC was formed in 1993 and supervised four successive elections which have all been adjudged to be credibly managed in the sub-region. What initiatives did the EC take that contributed to its success in the subsequent elections that it managed? This thesis argued that the success of the EC in the 1996, 2000, 2004 and 2008 were largely the result of the deeper consultations which the EC had with stakeholders in designing and implementing necessary reforms it introduced had contributed significantly to its success. The NPP after the botched 1992 founding elections made certain demands in their famous

“stolen verdict” report some of which were addressed in the subsequent elections which created conditions for the acceptance of the 1996 elections.

3.9 ELECTORAL REFORMS INTRODUCED BY THE ELECTORAL COMMISSION

From the discussions, it is clear that the disputed 1992 transition elections centered on the management of the electoral process which the opposition parties alleged as being fraught with several irregularities. Against this background, the EC’s capacity to credibly manage subsequent elections that would be acceptable to Ghanaians and contesting parties in particular required designing and implementing durable electoral reforms. It is instructive to note that the Chairman of the quasi-military administration; Rawlings contested the founding election and his participation in that election also raised suspicion and mistrust because it failed to listen to the calls of the opposition to ensure that a truly independent election management body was created to manage the election. As we saw in chapter two of this study, its handpicked members of the INEC were largely known loyalists and sympathizers of the PNDC administration. The INEC itself had very limited period to recruit and train election officials and the procurement of electoral materials were all done in a hastily manner. The most challenging of all the problems was the voters’ register which was compiled specifically for the 1988/89 district assemblies’ elections. The voters’ register at the time of the election had not been revised, and in the view of Agyeman-Duah it offered an advantage to the incumbent administration.⁶⁷

The post-election reflections indicated that addressing the weaknesses in the electoral system through best practices in election management was very necessary if the country was to make

any serious progress. The inauguration of the Fourth Republic and in particular that of the Electoral Commission in August 1993 not only ended the tenure of the discredited pro-government INEC, but brought some modicum of relieve to the opposition, at least, democratic avenues were available to be used by aggrieved parties.

Although some amount of trust and confidence was being built among the opposition parties with the coming into force of the democratic order, some suspicion and mistrust of the election authority as an independent and impartial arbiter prevailed because the procedure for appointing its commissioners still allowed for presidential influence, but more importantly INEC's deputy chairman for operations, Dr. Kwadwo Afari-Gyan and one of its Commission members Mr. David Adeenze Kanga were appointed Chairman and Deputy Chairman (operations) respectively of the newly formed EC. Nonetheless, the experience which the Chairman and the Deputy Chairman who were members of INEC brought to bear on the work of the EC cannot be underestimated.

With the inauguration of the EC, it decided to take frontal decisions that will address the heritage of mistrust and suspicion by creating a platform where political parties will achieve some degree of consensus if the Fourth Republic was to be sustained. The most important electoral reform the EC felt was capable of bridging this gap among political parties and managing suspicion and mistrust as far as electoral processes were concerned was the Inter-Party Advisory Committee (IPAC). The IPAC provided a robust platform where representatives of the political parties regularly met with the EC to discuss and build consensus on contested electoral issues.⁶⁷

Through the IPAC, the EC co-opted the parties into the process of election management from March 1994.⁶⁷ The adoption of IPAC by the EC was also in fulfillment of a recommendation of the Commonwealth Observer Group (COG) which observed the 1992 elections. The COG had recommended a practical value of dialogue and consultation as a building block towards democratic consolidation and recommended the need to institutionalize the process of dialogue, even if informally, as a forum at which parties could air their grievances.⁶⁷

In its design of electoral rules, although the IPAC was purely advisory body and its decisions not binding on the EC, the latter gave serious attention to decisions that were practical, legal and cost effective. The EC discussed all aspects of its programmes and activities with the parties, elicit inputs and address problems, protests and disagreements whenever they were aired. Through the platform, the parties were able to express their views freely and openly about EC programmes and activities and to bring their concerns on the table for discussion. The discussions of the EC with IPAC resulted in the design of rules on major issues such as a single day for both parliamentary and presidential elections; preparation of new voters register, use of photo ID cards; use of transparent ballot boxes and voting screens; and the active involvement of the party agents in the registration and polling exercise as poll watchers which have all helped in the current robustness of EC's management functions. The institution of IPAC no doubt contributed significantly in bridging the dialogue gap among opposing political parties.

3.9.1 Impact of the Electoral Reforms on the 1996 Elections

The reforms agreed upon at the IPAC and implemented in the 1996 elections included the compilation of a new voters' register because it was generally agreed that the existing register

was bloated and therefore necessary to be replaced, the introduction of photo ID cards to replace the thumb-printed ones, the plan was that the replacement was to be done in all the regional capitals and one rural constituency, replacement of opaque ballot boxes with translucent ones which also conformed with best practices, the involvement of party agents in the voter registration exercise and on voting day as polls watchers, and a single day for parliamentary and presidential elections which ensured that no party boycotted either the presidential or parliamentary elections as it happened in the founding election where the aggrieved opposition parties boycotted the parliamentary election which took place four more weeks after the initial scheduled date.⁶⁷ These reforms led to the presence of 60,000 party agents at the 20,000 polling stations across the country which proved crucial to the success of the elections.⁶⁷ It streamlined and actively encouraged the presence of party agents at polling stations and was highly accessible to and cooperated with the media and NGOs, particularly those undertaking independent election observations.⁶⁷ According to Lyons (1999:163), these reforms helped political party leadership to devote much time and attention to campaigning and building their political organizations.

In the election, the Progressive Alliance, this time with the Democratic People's Party (DPP) minus the NCP elements had Rawlings as its candidate whose vice president became a vice presidential candidate to the opposition NPP led by John Kufuor who this time round also entered into an alliance with the People's Convention Party (PCP) which was formed out of the defunct NCP, a party that entered into alliance with the NDC in the 1992 election. Dr. Edward Mahama, a medical practitioner contested on the ticket of the People's National Convention (PNC). In the parliamentary election, the NDC despite the alliance contested all the seats thereby

competing against its alliance partners with the EGLE contesting in eight constituencies and DPP in thirteen. The Great Alliance agreed to a formula of 112 seats for the NPP and 86 for PCP.

Unlike the founding election, the 1996 election recorded an impressive 78 per cent voter turnout on polling day. Rawlings once again won decisively with 57.3% of valid votes cast and his closest contender Kufuor had 39.6% and Mahama had 3.1% as shown in table 3.3. The NDC did not only witness a slight reduction in the presidential votes (see table 3.1), its parliamentary seats were reduced from 189 to 133 seats with the opposition seats as follows: NPP-61, PCP-5 and PNC-1.

Table 3.3: Election 1996: Presidential Results (National)

Candidate	Party/Coalition	Vote (%)
Jerry J. Rawlings	National Democratic Congress/Progressive Alliance (NDC/PA)	57.3
John A. Kufuor	New Patriotic Party/Great Alliance (NPP/GA)	39.6
Edward N. Mahama	People's National Convention (PNC)	3.1

Source: Electoral Commission, 1996

Table 3.4: Election 1996: Regional and National Distribution of Parliamentary Seats

Region	No. of Constituencies	NDC	NPP	PCP (People's Convention Party)	PNC
Ashanti	33	5	28	0	0
Brong Ahafo	21	18	3	0	0
Central	17	14	3	0	0
Eastern	26	15	11	0	0
Greater Accra	22	13	9	0	0
Northern	23	18	3	1	1
Upper East	12	12	0	0	0
Upper West	8	8	0	0	0
Volta	19	19	0	0	0
Western	19	12	3	4	0
National	200	133	61	5	1

Source: Electoral Commission, 1996

Clearly, the innovations by the EC in partnership with the political parties indicate that the EC has improved on its management function. Did these reforms impacted on the acceptance of the election result by the political parties? The behavior of the contestants in the post-election declaration of results showed that unlike the founding elections where the opposition parties refused to concede defeat accused the government of “stealing the verdict”, Rawlings’s main contender, Kufuor conceded defeat and congratulated the winner and remarked that there would be no ‘stolen verdict’ on the 1996 election and went further to say that NDC and Rawlings had become a potent ‘third force’ in Ghanaian politics. With this open acknowledgement, the defeated presidential candidates, unlike in 1992 and their party executives participated in the

inaugural ceremony and publicly shook hands with Rawlings who also delivered a reconciliatory speech.⁶⁷

Although these reforms positively impacted on the management of 1996 elections, issues about the credibility of the voters' register, for example, still persisted, particularly where the voters' register contained about 9.2 million out of an estimated population of about 17 million which analyst believed was statistically unrealistic because many of the population was under the voting age, implying that the register was still bloated.⁶⁷ This and other problems such as impersonation, ballot rigging had to be dealt with in the inter-election period by the EC.

3.9.2 Impact of the Electoral Reforms on the 2000 Elections

From the experiences of the past two elections, 1992 and 1996, the EC decided to improve further how it manages the country's elections that will be acceptable to the parties and Ghanaians as a whole. Some of the reforms generated some controversy among the contending parties. For example, prior to the 2000 election, the EC decided to undertake new voters registration exercise. The controversy arose when after the 2000 population and housing census Ghana's population was estimated to be 18.4 million, and out of this figure the newly generated voters' register pegged eligible voters to be 10.7 million thus representing 58% of the population which analyst considered as unrealistic. Dr, Afari-Gyan himself alluded to the fact that the newly created voters' register was 'not in the best of shape', therefore the notion of bloated register continued to beleaguer the elections.⁶⁷ Another issue which generated controversy was the fixing of the voting day. The EC in January 2000 had fixed December 8 as the election date, but this date initially coincided with the birthday of the main opposition candidate. The NPP members

and supporters interpreted this to be good omen indicating that the election was a 'birth day present'. The NDC vehemently opposed the day on legal grounds. After serious considerations based on legal advice, the EC subsequently changed the voting day to December 7⁶⁷ which was accepted by all even though the NPP felt the EC did that to satisfy the ruling party.

There was also some controversy over whether to use both photo voter ID cards and the thumb-printed ones or only the photographic voters' ID cards. The controversy arose when the EC contemplated whether or not to restrict voting to only holders of photo ID cards because it could not guarantee total coverage in the conversion of thumb-printed voters' ID cards. The EC's late decision to accept only photo ID cards therefore, was vigorously challenged by the ruling party, though hailed by the opposition. Using only the photo ID cards meant that people without the photo ID cards were going to be disenfranchised. A Supreme Court decision, days ahead of voting day in favour of the ruling party, that both ID cards could be used nearly provoked opposition violence and election boycott.⁶⁷

The passage of the Political Parties' Bill into the Political Parties' Act 2000 (Act 574) was another milestone in the electoral management of the country. The new law corrected some defects in the existing law which proscribed the use of names, emblems and symbols of previous political parties. This new legislation allowed use of names and symbols of proscribed parties which allowed the PCP to adopt the original CPP name and its symbol. The EC further collaborated with the National Media Commission and the Ghana Journalist Association (GJA) to design a framework for fair coverage and broadcast of parties and programmes and activities. This step according to Debrah yielded positive outcome as the state-owned media carried

messages of all the contesting parties especially during the last month of the election campaigns.⁶⁷

The positive stature of IPAC as it helped in deliberating and mitigating some problems in election administration of the country made it remained the EC's consensus building mechanism with the political parties. Prior to Election 2000, the idea of IPAC was decentralized to regional and district levels to facilitate dialogue among political parties at all levels.

In its quest to address the mud rush by political parties to file the nomination papers of their candidates early enough to secure the first position on the ballot paper because positional placement on the ballot paper was done by first come basis, the EC introduced a balloting method for determining the position of parties and their candidates on the ballot papers.⁶⁷ This method drastically reduced the tension and acrimony that used to surround the Nomination process.

In discussing the reforms, a key issue which has proved critical for the peaceful conduct of the 2000 elections is international support. International development partners such as the EU, DANIDA, CIDA, USAID and others financed aspects of the issuance of photo identity cards, operations of the EC, voter education and monitoring, while the Friedrich Ebert Stiftung (FES) supported the preparation of the political parties' code of conduct.⁶⁷ How did these reforms affect the 2000 elections?

From over 55% outcome in the 1992 and 1996 elections for the incumbent, none of the parties secured the 'more-than-fifty-percent' threshold as required by Article 63 (3) which states that "A

person shall not be elected as President of Ghana unless at the presidential election the number of votes cast in his favour is more than fifty per cent of the total number of valid votes cast at the election.” Since the 7 December first round presidential election did not produce a president, the EC invoked Article 63 (5) which also states that “The candidate for a presidential election held under clause (4) of this article shall be the two candidates who obtained the two highest number of votes at the previous election.” The first round election put the NPP candidate John Kufuor in the lead with 48.2% of valid votes cast, trailed by NDC’s candidate John Mills who polled 44.5% of valid votes cast, leaving an aggregate valid votes of 7.3% to the other parties. Apart from the fact that the NPP polled more votes in the presidential election, it had taken more seats including some previously held by the ruling party. The NPP’s majority seats came from Brong Ahafo, Eastern, Greater Accra, and Western including Mills’ home region (Central). Not even the retention of the four regions by the NDC (Northern, Upper East, Upper West and Volta) could change the tide for Mills who fared worse than Rawlings in the previous elections as shown in table 3.5 below.

Table 3.5: Election 2000: Presidential Election: First Round Presidential Results (National)

Candidate	Party/Coalition	Vote (%)
John A. Kufuor	New Patriotic Party (NPP)	48.17
John E. A. Mills	National Democratic Congress (NDC)	44.54
Edward N. Mahama	People’s National Convention (PNC)	2.90
George Hagan	Convention People’s Party (CPP)	1.80
Goosie Tandoh	National Reform Party (NRP)	1.20
Dan Lartey	Great Consolidated People’s Party (GCPP)	1.00
Charles Wereko-Brobbe	United Ghana Movement (UGM)	0.30

Source: Electoral Commission, 2000

The distribution of seats at the parliamentary level was even more humiliating for the NDC as its seats depreciated from 133 to 92 while the NPP's seats appreciated from 61 to 100. The PNC had three seats; CPP one, and four independents (see evidence in table 3.6 below)

Table 3.6: Election 2000: Regional and National Distribution of Parliamentary Seats

Region	No. of Constituencies	NDC	NPP	PNC	CPP	NRP	GCPP	UGM	Ind
Ashanti	33	2	31	0	0	0	0	0	0
B. Ahafo	21	7	14	0	0	0	0	0	0
Central	17	9	8	0	0	0	0	0	0
Eastern	26	8	18	0	0	0	0	0	0
Gt. Accra	22	6	16	0	0	0	0	0	0
Northern	23	18	3	1	0	0	0	0	1
Upper East	12	8	2	1	0	0	0	0	1
U. West	8	7	0	1	0	0	0	0	0
Volta	19	17	0	0	0	0	0	0	2
Western	19	10	8	0	1	0	0	0	0
National	200	92	100	3	1	0	0	0	4

Source: Electoral Commission, 2000

The defeat of the NDC in the election 2000, and in particular the public concession of defeat by the ruling candidate to his main challenger and the defeated government's superintending of the transition was the result of the trust and confidence in the neutrality and robustness of the election management system. By its defeat in 2000, the NDC became the first party in Ghana's political history to lose power through the ballot box; and its peaceful transition to its arched rival NPP earned Rawlings strong points for advancing the country's democracy.⁶⁷

3.9.3 Impact of the Electoral Reforms on the 2004 Elections

With the NPP also ruling for four years, the 2004 elections provided another opportunity for the electorates to assess its performance by either retaining or removing it from office. The EC which had scored higher points in the conduct of the 2000 elections had to continue to protect the image it has build for itself through the positive reforms that it has introduced. The EC faced three main challenges in late 2003 which called into question not only its capacity to assert its independence, but to successfully manage the election. The first was that the NPP government, contrary to the existing practice where the EC procured its election-related materials, announced the establishment of a national procurement committee for that purpose. This was vehemently opposed by the EC which had support from the civil society organizations, and most significantly all the political parties (including the ruling NPP).⁶⁷ While the opposition parties interpreted the decision of government as a ploy to rig the 2004 elections, the ruling party kicked against it insisting that the ruling party's victory was imminent as such the committee could tarnish it's obvious victory in 2004. Under the circumstance, the government had to rescind its decision and allow the EC to constitute its own procurement committee made up of two Members of Parliament, a representative of the Ministry of Finance, three Directors of the EC and the Chief Accountant of the EC in accordance with the newly enacted Procurement Act 2004, Act 663.⁶⁷

In November of 2003, in line with its constitutional mandate enshrined in article 47 (5) of the 1992 Constitution which states that "The Electoral Commission shall review the division of Ghana into constituencies at intervals of not less than seven years, or within twelve months after

the publication of the enumeration figures after the holding of a census of the population of Ghana, whichever is earlier, and may, as a result, alter the constituencies” decided to re-demarcate existing constituencies and increased the 200 parliamentary constituencies to 230 on the basis of the 2000 population census for the conduct of the 2004 general elections. The opposition NDC thought otherwise accusing the EC of trying to rig the election for the ruling party. Not even the legal tussle of the opposition NDC’s who argued that per article 47 (6) the newly created constituencies could only be used in the 2008 elections coerced the EC whose position was vindicated by a Supreme Court ruling.⁶⁷

The third controversy related to the NDC’s protest over the President’s appointment of three new members of the EC to replace a deceased one (Dr. M.T.K Puni died in February, 2004) and three others (Ms. Elizabeth Solomon, Mrs. Theresa Cole, and Professor Ernest Dumor) who had reached retirement. Article 44 (6) states that “If a member is absent or dies, the Commission shall continue to work until the President, acting on the advice of the Council of State, appoints a qualified person to fill the vacancy.” On the contrary, the NDC had insisted that the two who had reached the retirement age be retained on contract until after the election. The President however kept to his constitutional mandate and appointed Mrs. Pauline Adobea Dadzawa, Mr. Ebenezer Aggrey Fynn and Nana Amba Eyiaba I as Commission members.

Another significant electoral reform which the EC undertook to further remove the ‘electoral demons’ in the 2004 election was the embossment of voters’ photos on the voters’ register. This exercise was made possible due to the new registration which the EC embarked upon, though fraught with problems such as delayed start, shortage of electoral materials which the NDC

alleged was intentionally created to give an undue advantage to the ruling party and therefore alleged that over 70,000 of people in its stronghold (Volta Region) were disenfranchised, raised controversy and bitterness.⁶⁷ Nonetheless, the election which went in favour of the ruling party had its results accepted by the opposition parties, including the NDC. All these successes were based on the consensus built in post-1992 election among the parties and the EC.

Table 3.7: Election 2004: Presidential Results (National)

Candidate	Party /Coalition	Vote (%)
John A. Kufuor	New Patriotic Party (NPP)	52.45
John E. A. Mills	National Democratic Congress (NDC)	44.64
Edward N. Mahama	People's National Convention/Grand Coalition (PNC/GC)	1.92
George O. Aggudey	Convention People's Party	1.00

Source: Electoral Commission, 2004

3.9.4 Impact of the Electoral Reforms on the 2008 Elections

In 2007, which happened to be the country's 50th independence anniversary, the nation's anthem "God bless our homeland Ghana" seems to have been fulfilled when a coterie of oil companies struck oil in commercial quantities. This discovery also further raised the stakes in the December 2008 elections in Ghana. Who was going to be given the mandate to prudently manage the newly found 'black gold'? Was it going to be the NDC which had eight years of rule and tasted another eight years in opposition or was it going to be the NPP which was completing its eight years mandate or were Ghanaians going to experiment with any of the smaller parties? What impact were the reforms going to make on the elections?

For the Ghanaian electorate, 2008 provided a unique opportunity for it to make a fair assessment of the two dominant parties, the NPP and the NDC, after giving each of them two terms of eight years. Having tasted eight years of political power and eight years in opposition each, the electoral terrain appears to be on equal pedestal for the two major parties setting history by capturing power the third time. Election 2008 had fulfilled Huntington's two-turnover test of democratic consolidation⁶⁷ as the country has witnessed a historic two civilian-to-civilian handover of political power. By the December 2008 elections, no significant reforms occurred except that the voters' register was still not credible as the EC's estimated registering close to one million who had turned 18 years and others who for certain reasons could not register previously exceeded by about one million registrants. The EC appealed to stakeholders to help clean the register. With this, the only option left for political parties and other stakeholders was to be very vigilant on the poll's day.

For the first time in the Fourth Republic, eight candidates contested the presidential election the result of which did not prevent the NDC and NPP commandeering in the poll as the two parties had 97.05% of the valid votes cast as shown in table 3.8 below. However, none of the two front runners could secure at least the 50%+1 vote required by the Constitution and therefore had to be separated in a presidential run-off poll. For Mills, his 47.9 per cent was his most outstanding performance in his three presidential contests. He also maintained the four regions previously held by the NDC (Northern, Upper East, Upper West and Volta) and snatched Central and Greater Accra, leaving him in effective control of six regions and narrowly lost the Brong Ahafo and Western regions. On the other side, Akufo-Addo's 49.1 percent was about one percent short

of ‘the more-than-fifty-percent’ constitutional requirement for a first round victory. Nana Addo’s over a hundred and two thousand votes (1.2%) out of over nine million ahead of Mills was the narrowest margin in any presidential election in the Fourth Republic.

Apart from Jerry Rawlings’s first term victory in 1992 election, Nana Akufo-Addo’s 49.1 percent happened to be the best for a first time contestant, but this impressive performance, unlike John Kufuor who led not only in the presidential poll, but also in the parliamentary election (see tables 3.5 and 3.6), the NPP under Nana Akufo-Addo trailed in parliamentary elections. But in the 2008 elections, the opposition NDC led by John Mills though trailed in the presidential election had his party the NDC commanded in the parliamentary election (see tables 3.8 and 3.9). Was Ghana going to have a hung parliament looking at the first round election? The results of the run-off showed that the opposition candidate John Mills overturned the first round results and defeated the ruling party’s candidate Nana Akufo-Addo with 23,055 votes in the second round. In all Mills polled 4, 501,466 representing 50.13% of valid votes cast as against Nana Akufo-Addo’s 4,478,411 representing 49.87% of valid votes cast in the run-off election, a difference of 0.26% was enough to crown the two times defeated Mills as the person to steer the affairs of the country.

At the parliamentary level, the two parties controlled 222 seats; the PNC, two; the CPP, one; and four independents (see table 3.9).

Table 3.8: Election 2008: First Round Presidential Results

Candidate	Party	Vote (%)
Nana A. D. Akufo-Addo	New Patriotic Party (NPP)	49.13
John E. A. Mills	National Democratic Congress (NDC)	47.92
Paa Kwesi Nduom	Convention People's Party (CPP)	1.34
Edward N. Mahama	People's National Convention (PNC)	0.87
Emmanuel Ansah Antwi	Democratic Freedom Party (DFP)	0.33
Kwasi Amofo-Yeboah	Independent	0.23
Thomas N. Ward-Brew	Democratic People's Party (DPP)	0.10
Kwabena Adjei	Reformed Patriotic Democrats (RPD)	0.08

Source: Electoral Commission, 2

Table 3.9: Election 2008: Regional and National Distribution of Parliamentary Seats

Region	No. of Constituencies	NPP	NDC	PNC	CPP	Ind.
Ashanti	39	34	3	0	0	2
Brong Ahafo	24	14	10	0	0	0
Central	19	8	11	0	0	0
Eastern	28	21	7	0	0	1
Greater Accra	27	9	18	0	0	0
Northern	26	4	21	0	0	1
Upper East	13	4	8	1	0	0
Upper West	10	3	6	1	0	0
Volta	22	1	21	0	0	0
Western	22	10	11	0	1	0
National/Total	230	108	115	2	1	4

Source: Electoral Commission, 2008

What contribution did IPAC made to the success of the 2008 elections and what lessons can we learn from this contribution? IPAC continued to perform its role as an important avenue for ironing out differences in the post 2004 election until the conduct of the 2008 election, but the stakes were so high that these parties, particularly the NDC and the NPP refused to abide by the electoral rules as each accused the other for rigging in their strongholds. This situation was further exacerbated by the delay in the announcement of the election results. A group of NDC supporters, incited by Radio Gold (An Accra based FM station sympathetic to the NDC) besieged the premises of the EC as it was in the process of certifying the votes and camped there overnight to demand that Mills be declared the victor. NPP supporters, meanwhile, besieged another local radio station to protest its reporting of the NDC's lead in the vote tally.⁶⁷ Dr. Afrai-Gyan, returning officer for the presidential election could however not declare Mills the victor because Tain Constituency in Brong Ahafo Region which could not vote on 28 December for logistical reasons had a voter population of 53,890 which was more than the remaining votes needed by the Nana Akufo-Addo to win the election, thus with this figure, there was a mathematical possibility that it could make a difference in the final results and so the country had to wait for the Tain 'decider' that was scheduled for 2 January 2009.

Beside accusations of malpractices in certain constituencies in each other's stronghold of Ashanti and Volta, the EC indicated to Ghanaians that Tain elections had to be conducted to determine the winner of the presidential ballot, the EC asked the two parties to provide evidence to support their claims of accusation and promised that the resolution of the complaints will be factored into the final results.⁶⁷ On the complaints on alleged assault of party agents by the two parties, the

Chairman of the EC maintained that they were criminal matters which the EC has no competence to deal with thus should be reported to the police for proper redress.

Clearly, with the exception of some minor problems recorded in some polling centers in this election, the EC which has received commendation for successfully implementing its rules was under serious attack by the same parties who participated in building trust and confidence in the capacity of the EC to credibly manage elections. Despite these accusations, it is the view of this study that despite some few problems, on the whole the EC's ability to implement its rules contributed greatly to the success of this election.

3.10 ADJUDICATING ELECTORAL DISPUTES, OFFENCES AND COMPLAINTS IN GHANA'S ELECTIONS

Electoral disputes and electoral offences in Ghana are dealt with by the courts. The higher courts, particularly the High Court has jurisdiction in matters involving election results. The lower courts under the current adjudicatory system have jurisdiction in matters involving electoral offences including defacing of candidate's posters, obstruction of election officials and voters, impersonation, and all cases involving electoral fraud. Some of the election related disputes arise out of the interpretation or enforcement of the electoral laws. Under the law, the EC has a very minimal role if not limited role in adjudicating in electoral disputes and offences because some of these cases are criminal and therefore within the jurisdiction of the law courts.

The EC also has no jurisdiction in electoral disputes arising out of the interpretation of the constitution. For example, under Article 130 (1) of the 1992 Constitution, all matters relating to

the enforcement or interpretation of the Constitution should be exclusively determined by the Supreme Court. It is important however to point out that in some of these disputes when they occur, the EC is called upon by the aggrieved party or parties to re-look at the issue. For instance, the EC can do a recount of polling station results at the same polling station twice if one party or parties express the need for a recount and after the recount at the polling station if a party is still not satisfied he or she can ask for another recount at the collation center and the ballots would be counted only once after which the results would be declared. If a party or parties are still not satisfied they can then petition the law courts which may order the EC for a recount of the ballots.

In electoral disputes involving presidential elections, Article 64 (1) of the 1992 Constitution allows any citizen of Ghana who is duly registered as a voter to present a petition to the Supreme Court within 21 days of the declaration of the Presidential results, challenging the election of the President. Article 99 (1a) of the 1992 Constitution gives a High Court jurisdiction in election disputes in parliamentary elections.

Apart from the Constitutional provisions, one other important law that has been very useful in terms of dealing with electoral disputes in public elections, particularly presidential and parliamentary elections has been the Representation of the People Amendment Act, 1992 (PNDCL 284). Under section 20 of this Act, the election of a candidate shall be declared void on an election petition if the High Court is satisfied:

-
- that general bribery, general treating, general intimidation or other misconduct or circumstances, whether similar to those specified in the Act or not, have so extensively prevailed that they may reasonably be supposed to have affected the result of the election;
 - that there has been non-compliance with a provision of the Act or of the regulations and that it appears the election was not conducted in accordance with the principles laid down by law and that the non-compliance affected the result of the election;
 - that a corrupt or illegal practice was committed in connection with the election by the candidate or with the knowledge or consent of the candidate or by an agent; or
 - that at the time of the election the candidate was not a qualified person to stand for election.

Notwithstanding these grounds which can lead to the cancellation of the election results, the High Court is proscribed from declaring the results void on proof of two factors:

- where at the hearing of an election petition, the High Court finds that a candidate has been guilty through his agent or representative of corrupt or illegal practice, and the High Court further finds that the candidate has proved to the satisfaction of the High Court:
 - that the corrupt or illegal practice was not committed by the candidate or with the knowledge or consent or approval of the candidate; or
 - that even though there was corrupt or illegal practice at the election, the candidate took reasonable steps to prevent the commission of such events; and
 - that in all other respects, the election was free from a corrupt or an illegal practice on the part of the candidate

-
- where the High Court finds that there has been failure to comply with the provision of the Act or of the regulations, and the court further finds:
 - that election was conducted in accordance with the Act and the regulations, and
 - that the failure did not affect the result of the election.

From the above, it is clear that the EC has jurisdiction in resolving petty election complaints such as disputes on fixing election date brought to it by an aggrieved party. Through IPAC, the EC settles these petty disputes among candidates or parties.

3.11 CONCLUSION

It could be deduced from the empirical facts analyzed that though not a perfect institution, the EC has learnt a lot of lessons from the performance of INEC in 1992, and its own experiences in 1996, 2000, and 2004 elections, and that its ability to design and implement its electoral rules made in consultation with the parties at IPAC contributed significantly to the success of these elections. It could be surmised also that the tensions and threats of violence and public trepidation orchestrated by political parties, especially the NDC and NPP, points to the failure of political parties to adhere to the rules of engagement. This study, therefore argued that while Ghana deserves all the praises in managing its election, at least, in post-1992 election, it is important to appreciate the fact that it nearly joined the club of electorally induced strife-torn countries in the West African sub-region in 2008. Efforts should therefore be made to ensure that competing parties and candidates, and the citizens must be sensitized to imbibe the electoral rules, the absence of which would be violence and war.

REFERENCES

- ⁶⁷ Hounkpe, M., and Fall, I.M., (2011), *Electoral Commissions in West Africa: A Comparative Study*, 2nd ed., Abuja: Fredrich Ebert Stiftung (FES), p.71
- ⁶⁷Garber, L, (1994), “Election Commissions: Responsibilities a Composition” Paper presented at the NDI-sponsored African Election Colloquium, Victoria Falls, Zimbabwe, November; see also Klein, Keith, (1995), “Approaches to Conducting Elections: Why an Electoral Commission?” Paper presented at IFES for presentation to the Constitutional Assembly of the Republic of South Africa, Cape Town
- ⁶⁷ Gyimah-Boadi, E, (2003) “Ghana: The Political Economy of ‘Successful’ Ethno-regional Conflict Management” in Bastain, Sunil and Robin Luckham, eds. *Can Democracy be designed? The Politics of Institutional Choice in Conflict-torn Societies*, London/New York: Zed Books, pp.120-144
- ⁶⁷ Dumor, E. (2003) “Preparations Towards Elections 2004: Issues of Demarcation and Political Representation”, *Briefing Paper*, Accra: Center for Democratic Development (CDD-Ghana), March (5:2)
- ⁶⁷ Prempeh, H.K, and Asare, K, (2003) “Preparations Towards Election 2004: Matters Arising”, *Briefing Paper*. Ghana Center for Democratic Development (CDD-Ghana), April (5:4). P.4
- ⁶⁷Smith, D.A (2011) “The Re-demarcation and Reapportionment of Parliamentary Constituencies in Ghana”, *Briefing Paper*, Ghana Center for Democratic Development (CDD-Ghana), October (10:2), p.6
- ⁶⁷ Afari-Gyan, K. (2003) “Preparations towards Election 2004: Prospects and Challenges”, *Briefing Paper*, Ghana Center for Democratic Development (CDD-Ghana), April (5:4)

⁶⁷ Afari-Gyan, K. (2003) “Preparations towards Election 2004: Prospects and Challenges”, p.4

⁶⁷ Interview with the Director of Research, Monitoring and Evaluation of the Electoral Commission, January, 2012

⁶⁷ Interview with the Director of Research, Monitoring and Evaluation of the Electoral Commission, January, 201

⁶⁷ Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”, in J. R. A. Ayee, ed. *Deepening Democracy in Ghana: Politics of the 2000 Elections, Vol. One, Accra: Freedom Publications*, pp. 75-85.

⁶⁷ Ayee, J.R.A.(1998) “The 1996 General Elections: An Overview” in Ayee ed. *The 1996 General Elections and Democratic Consolidation in Ghana*, Accra: Gold Type Ltd, pp. 35-52.

⁶⁷ Ayee, J.R.A.(1998) “The 1996 General Elections: An Overview”. P.78

⁶⁷ Oquaye, M (1999) “The Political Parties Bill, 1999 – An Analysis (Part 1)”, *Governance*, Vol. 099, No. 8, IEA Publication, August.

⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana’s Fourth Republic*, Critical Perspectives No. 18, Accra: Ghana Center for Democratic Development, CDD-Ghana, p.9

⁶⁷ Frempong, A.K.D, (2008a) “Innovations in Electoral Politics in Ghana’s Fourth Republic: An Analysis”, in Ciska Raventos, ed. *Democratic Innovation in the South: Participation and Representation in Asia, Africa and Latin America*”, Buenos Aires: CLACSO Books, pp. 197

⁶⁷ Ayee, J.R.A (1997) *Ghana’s 1996 General Elections: A Post-mortem*, Harare: AAPS Occasional Paper Series, Vol.1, No.1, p.10

⁶⁷ Ayee ed. *The 1996 General Elections and Democratic Consolidation in Ghana*, p.161

-
- ⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana's Fourth Republic*,
- ⁶⁷ Gyimah-Boadi, E, (1999a) "Ghana's Elections: The Challenges Ahead" in Larry Diamond and Marc F. Plattner, ed. *Democratization in Africa*, Baltimore/London: The Johns Hopkins University Press, pp. 412.
- ⁶⁷ Gyimah-Boadi, E, (2003) "Ghana: The Political Economy of 'Successful' Ethno-regional Conflict Management"
- ⁶⁷ Frempong, A.K.D (2007b), "Political Conflict and Elite Consensus in the Liberal State", in K. Bofo-Arthur, ed. *GHANA: One Decade of the Liberal State*, London/Dakar: ZED/CODESRIA.
- ⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana's Fourth Republic*, p.15-16
- ⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana's Fourth Republic*, p.18
- ⁶⁷ Electoral Commission of Ghana, 2001, p.79
- ⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana's Fourth Republic*, p.19-21
- ⁶⁷ Debrah, E. (2001) "Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana", .p.78-9
- ⁶⁷ Frempong, A.K.D, (2008a) "Innovations in Electoral Politics in Ghana's Fourth Republic: An Analysis", p.198
- ⁶⁷ Debrah, E. (2001) "Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana", p.58
- ⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana's Fourth Republic*, p.29
- ⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana's Fourth Republic*, p.34

⁶⁷ Electoral Commission of Ghana, 2005

⁶⁷ Boafo-Arthur, K. (2008) *Democracy and Stability in West Africa: The Ghanaian Experience*”, Claude Ake Memorial Paper (CAMP) Series No. 4, Uppsala: the Nordic Africa Institute, p.38

⁶⁷ Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana’s Fourth Republic*, p.31

⁶⁷ Frempong, A.K.D, (2008a) “Innovations in Electoral Politics in Ghana’s Fourth Republic: An Analysis”, p.189-210

⁶⁷ Gyimah-Boadi, E, (1999a) “Ghana’s Elections: The Challenges Ahead”, p.143-144

⁶⁷ *The Free Library*, 1 February 2009

CHAPTER FOUR

DEEPENING ELECTORAL GOVERNANCE IN GHANA'S FOURTH REPUBLIC: THE EMERGING ISSUES

4.1 INTRODUCTION

This chapter analyzes the qualitative interviews conducted which serve as valuable seedbed for the study. The collection of primary information on how the participants or respondents perceived the issues of electoral governance in Ghana was the concerns of this chapter. The central object of the interviews was to engage makers and implementers of rules and regulations governing public elections, particularly general elections and those knowledgeable enough on the subject – given the diversity of their richness of skills, knowledge, and attitudes. One other objective was to assess the interlocking challenges that impeded the successful implementation of the electoral rules and regulations in the country since 1992. This is important because a critical analysis of events of Africa's chequered electoral history clearly showed that electoral paroxysms have led most countries into abyss largely because the EMBs have not been able to perform their functions creditably.

The interview section sought to interrogate issues of electoral governance and its contribution to democratic consolidation in Ghana. The ultimate objective was to elicit suggestions and gain insights into how they perceived EC's performance in the area of rule making, rule implementation and rule adjudication functions since 1993.

To attain this goal, a number of questions categorized under the three levels of electoral governance were explored during the interviewing process. Questions relating to rule making function of the EC were posed to mainly EC officials because only the EC has the mandate to make Constitutional Instruments, for example, to regulate the conduct of elections in the country. The questions on rule making included but were not limited to: the extent to which the constitutional mandate of the EC has contributed to make and implement rules and regulations necessary for the conduct of public elections. It interrogated the procedures involved in the making of these rules and regulations, the extent to which stakeholders were involved in taking decisions regarding rule making function, for example. Others included the problems EC faced from government and political parties in making these rules, how fair these rules were, some incidences or problems encountered in the making of these rules and regulations, the challenges EC encountered in the making of these rules and regulations at the national, regional and district levels, the challenges EC faced in the implementation of these rules and regulations, and whether in the view of the respondents some rules and regulations relating to the electoral processes needed to be amended.

On the implementation of electoral regulations, the questions considered included: how the EC implemented these rules and regulations, how successful the EC has been in implementing these rules and regulations, the planning of the EC for the conduct of elections in Ghana, challenges of the EC, its autonomy and independence, whether incumbent governments try by any means to manipulate election management in any way, the extent to which election violence/disputes

impacted on election management, suggestions to deal with election violence, some positive points responsible for the EC's successful conduct of subsequent elections, the contribution of EC's temporal staff to Ghana's election administration (the good and bad practices and how these were dealt or being dealt with), problems encountered by the EC in relation to election fraud and the measures to address this serious problem, recommendations proffered to improve election management in the country. The last of the questions centered on electoral dispute adjudication function of the country which is largely within the jurisdiction of the courts. But the EC to a very minimal extent played a significant role in this direction as through the C.I it could create a District Registration Review Committee (this committee also has the powers of the court), for example, to perform adjudicatory functions.

The EC through IPAC (a consensus building platform of stakeholders on election related issues) could adjudicate to resolve important issues. In this regard, the questions asked centered on the effectiveness of the existing adjudicatory systems including: how respondents perceived the courts performance in connection with rule adjudication, whether the electoral regulations were adequate to ensure free and fair elections, how rule adjudication affected the management of elections, how useful IPAC has been in relation to adjudicating of issues, whether there should be electoral courts to handle election petitions, challenges encountered in adjudicating election petitions, whether political parties were satisfied with the outcomes of electoral petitions, and recommendations for effective rule adjudication in relation to election management in the country.

This section therefore discusses the responses provided by the interviewees from their different persuasions on the questions investigated. The interviewees were respondents who were largely selected due to their vast expertise on the subject investigated. The researcher observed and identified some common strands which permeated the process. For purposes of clarity, the interviews have been thematically discussed under the three broad levels of electoral governance; rule making, rule application and rule adjudication as identified by Mozaffer and Schedler.⁶⁷

Clearly, the three themes had an interdependent relationship with the research questions posed. This was quite significant as it appeared to have confirmed the initial assumptions made. For instance, the researcher's supposition that the EC mindful of the fall out of the botched 1992 presidential and parliamentary elections reorganized itself and built consensus among the major stakeholders, particularly the political parties, and it was this consensus together with the pragmatic innovations it has introduced in the management of elections which have helped greatly in its success in the subsequent elections.

4.2 RULE MAKING

Electoral governance involves the design of institutions that define the basic framework of democratic elections. Rules of electoral competition and rules of electoral organization define this framework. Mozaffar and Schedle⁶⁷ identified the basic framework of democratic elections to include formal rules that govern voter, party, and candidate eligibility and registration; rules regulating election observation, laws and regulation that affect the resource endowments of parties and candidates (their access to money and media); rules prescribing the method of

counting, tabulating, and reporting votes; and laws establishing the structure, jurisdiction, and operational framework of election management bodies and dispute settlement authorities. At the level of electoral rule making in Ghana, both the 1992 Constitution and Act 451 of 1993 which established the EC unambiguously ceded that function to the Electoral Commission which it has performed since 1993. The EC through Constitutional Instruments (C.I) regularly came out with the rules and procedures that regulated elections in the country.

The Director of Research, Monitoring and Evaluation at the EC; Mr. Sulley Amadu in an interview traced the rule making mandate of the EC to Article 45 and 51 of the 1992 Constitution which specifically states that “The Electoral Commission shall, by constitutional instrument, make regulations for the effective performance of its functions under this Constitution or any other law, and in particular, for the registration of voters, the conduct of public elections and referenda, including provision for voting by proxy.”⁶⁷ The EC has performed the task of demarcating the country for electoral purposes, registration of voters and candidates, exhibiting the voters’ register, and supervising elections. Performance of these functions was made possible due to the fact that it has power to make basic electoral rules and regulations. In the view of Hounkpe, once it is the EC that makes these basic laws to regulate electoral processes through CIs, its work does not suffer undue delays. It is able to plan well ahead of time. It does not rely on any institution to determine the procedures and processes of elections management.⁶⁷

He specifically referred to C.I 12 which he said was amended and now under the name C.I 72 as well as C.I 15 which he said would also be amended were all drafted by the EC which regulate

elections in the country. The Constitution scrupulously codified the mandate of the Commission in terms of conducting elections. The procedures for achieving the constitutional mandate was the preserve of the Commission, therefore the C.Is which emanate from the EC outline what should be done in order to peacefully deliver a credible election. The delimitation of the electoral boundaries is a typical example. The Constitution identifies certain conditions for the creation of electoral boundaries, but the power to determine the number of seats that Ghana's parliament should have is the preserved of the EC. Also, in terms of qualification to contest public elections in Ghana such as contesting elections into parliament and to occupy the high office of presidency the Constitution and the Electoral Commission Act, Act 451 of 1993 are unambiguous as they copiously contain provisions as to who qualifies and who does not. But the guidelines such as: where and when to collect the nomination forms; where to file and when to file these forms; when voting will take place, and the general rules and regulations of the entire electoral processes are clearly delineated by guidelines authored by the EC in C.I 15.

Supporting the importance of C.I in the work of the EC, a Member of the EC Mrs. Rebecca Adjalo, in an interview argued that the Constitution gives the power to make CIs that regulate elections to the EC so as to make it easier and also for the EC not to suffer undue delays in the performance of its functions if such power was granted to another institution agreeing with the position of Hounkpe. Although the power to make CIs is the preserve of the EC, the EC is a non-parliamentary or non-legislative body, as a result, the EC was required by Act 451 to lay its instruments before parliament for a period of 21 days by which time they would have been matured, and then gazetted for it to become law to be worked with. However, even though the

EC was required by law to lay these regulations before parliament, unlike the Legislative Instruments (LIs) which emanates from parliament, parliament has no mandate to amend the C.I. This requirement of the law is very crucial in the work of the EC because it reinforces the independence of the Commission. If such power was vested in Parliament that is partisan with a high possibility of being dominated by one party the possibility of such a party's dominance could lead to making rules and regulations that will compel the EC to implement such rules to the party's advantage and to the disadvantage of opposing parties which will affect the EC's independence and the country's democracy in general. "If parliament changes anything in the CI, it becomes null and void and cannot be used because the mandate to make CI on elections was not given to parliament, but to the EC which the constitution expects to be neutral and independent in the performance of its constitutional functions"⁶⁷

Although the power to make rules and regulations for elections is the preserve of the EC, the EC does a lot of consultations and these have positively impacted on the elections conducted by the EC under Ghana's Fourth Republic. This consultations are very crucial because Ghana's electoral trajectory started with a shaky foundation with 29% voter turnout in the 1992 parliamentary election which was acrimonious to the extent that the main opposition party; the NPP boycotted it, but successive elections have received between 60% and 80% voter turnout with all the major parties contesting; an indication of mass participation.⁶⁷ This has further consolidated democracy in Ghana.

The Inter-Party Advisory Committee (IPAC) is a major platform where the EC engage the political parties on issues of mutual benefit to electoral administration of the country. The IPAC served as a major platform for consensus building which had helped in demystifying the perception of the EC being in league with the ruling party to surreptitiously rig elections for the latter. In making these rules, it is fair that the opinions and ideas of the stakeholders, particularly political parties were sought before such regulations were made. Most of the respondents maintained that the Commission alone cannot ensure free, fair and transparent elections. Achieving the indices of free, fair, transparent and credible elections was a collective responsibility of all stakeholders. The significance of candidates, political parties, the media, and civil society groups in an election cannot be underestimated so anything that the EC believes could improve the electoral management in the country should be discussed thoroughly with the stakeholders before it is implemented. Part of the strength of the EC after the botched 1992 election conducted by INEC, was the creation of avenue for stakeholder contribution through dialogue on major issues. The issues raised in the acrimonious 1992 election by the opposition political parties were addressed through the IPAC which was formed in March 1994.⁶⁷

The IPAC became a major platform for building trust, confidence and consensus among competing political parties, in particular on the conduct of elections. Through the IPAC platform, several controversies on what was required to ensure free, transparent and credible elections were amicably resolved. To ensure that all if not majority of the registered political parties contested successive elections, the Commission decided to hold both presidential and parliamentary elections on the same day, unlike the transitional election where both elections

were held on separate days. Through consultations, issues such as impersonation and transparency of the electoral processes were addressed.

The Commission replaced the opaque ballot boxes with translucent ballot boxes, and thumb printed voters' identification cards (IDs) were also replaced with picture identification cards which initially started with the regional capitals and later covered the whole country. Other innovations included the training of party agents together with polling officials to ensure understanding of the electoral procedures by both and the registration of voters by a team rather than one person in the case of the biometric voter registration. Even though IPAC decisions were not legally binding on the Commission, they nevertheless added to the transparency of the electoral process and this built utmost confidence and trust among the competing political parties, and the entire electorates who have shown great interest in how the EC manages the country's elections. The EC must however be very careful in its dealings with political parties because although some of their demands may be genuine they may also nurse some other motives that could be detrimental to the interest of the state. One respondent from the EC indicated that as part of measures to address multiple registrations by candidates the EC decided to introduce the biometric registration of voters capable of addressing some problems relating to the credibility of the voters' register, but some political parties demanded that the Commission procures electoral equipment from some specific vendors and further requested the Commission to contract specific companies who they believed had the expertise to ensure a successful implementation of the biometric registration exercise, but the Commission felt it was well

equipped with the expertise and the Procurement Act (Act 663 of 2004) was also explicit on how the Commission could procure such equipment.⁶⁷

Typical of political parties, the IPAC which was a consensus building platform also became a political terrain for suspicion and mistrust. These parties are very skeptical about each other; as a result, any suggestions coming from opponents were ridiculed and condemned by the other. An interview with a member of the EC indicated that when the idea of biometric registration of voters was accepted, the EC met political parties with the hope of building consensus on how to ensure that only eligible registrants were captured with the new technology. It decided that the Ghanaian birth certificates should be the main evidence of nationality. One side of the political divide argued that birth certificates could not be used because it suspected that birth certificates could be acquired illegally and therefore not credible. The consensus was that there was the need for pictorial evidence as proof of nationality; as a result, official documents such as passports, driving licenses, national ID cards, and the national health insurance cards, among others were accepted and subsequently used. In Ghana, the birth certificates which were rejected by these political parties as lacking integrity constituted the main legal documents for the issuance of passports, driving licenses and so on, so if the birth certificates lacked integrity, these pictorial documentary evidences which were used also lacked integrity. For instance the national health insurance card is issued to both nationals and non-nationals. But once their concern would contribute to the acceptability of the results, and the fact that it will not negatively affect the EC in any way, the EC accepted the concerns raised and adopted it.⁶⁷

Thus, after the botched 1992 election in which very minimal interaction took place between the INEC and the political parties, the EC when it was formed felt consensus was a very necessary condition that would bring the opposing parties to deliberate on issues dispassionately and mutually. Madam Adjalo continued that prior to the amendment of the C.I 12, the EC convened an IPAC meeting and discussed with them areas where it proposed to amend. The parties also made suggestions, and their inputs which EC felt was good were added and that enriched the C.I.⁶⁷ Prior consultations were good because the EC was required by Act 451 to lay the CIs before parliament and once members in parliament, particularly members of the committee responsible for subsidiary legislation are privy to the contents of the CI before being laid, it is expected to encounter minimal problems. Once political parties participate in the deliberation of the proposed amendment of the C.I at the IPAC level, issues of ultra-vires can be raised there and dealt with by the EC so that it becomes very less difficult for it to be gazetted.

Assessing the performance of the EC over the years on the EC's rule making function from respondents outside the EC, two interviewees; Kwesi Jonah, a Political Scientist and governance practitioner and Kojo Asante, a lawyer and also governance practitioner all argued that the EC has done very well in its rule making function which has contributed greatly in its election management success. Whereas Kwesi Jonah assessed the performance of the EC's rule making function to be generally very successful, Mr. Kojo Asante specifically mentioned EC's success in rules on registration, nomination of candidates, ballot counting, and declaration of results.

Majority of the respondents were however apprehensive when it came to the implementation of these rules. The EC in their view was seriously constrained by inadequacy of personnel and poor working environment which affect the EC's function of sensitizing people on these rules that the EC makes.⁶⁷ Apart from the rule making function of the EC, the Constitution also mandated the EC to educate the citizenry on the rules and regulations that governed elections in the country but since the EC lacked personnel and poor working environment in the districts and the municipalities this function has affected its rule implementation function.

A study on Ghana's EC affirms the negative impact of the poor working environment of the EC's staff in the districts on the various aspects of EC's role. Hounkpe in his study argued that the quality of working conditions for the staff of the Ghana's EC appears to be inversely proportional to the distance from the seat of the country's capital city, Accra. Hounkpe's study showed that at the national headquarters, conditions are acceptable, even if they deserve improvement to enable EC to give their best. However, at the regional and district levels, the study showed that a further move away from Accra the less favorable the conditions are. Infrastructure deficiencies, insufficient staff, and lack of resources of all kinds are the daily lot of the members of EC district offices.⁶⁷ Institutionalist theorists such as Douglas North⁶⁷ argue that institutions provide constraints to political action and behavior. Rules cannot achieve results if they are not known to all and are rigidly enforced. Knowing that public is also aware of rules constraints those in authority from abusing their powers and office.⁶⁷ In similar vein imbibing or knowing the electoral rules by the public will positively impact on the management function of the EC as citizens knowing the rules will engage in election activities according to its rules, but

studies such as Ninsin attributes the problems such as violence to the failure of political parties and their supporters to imbibe electoral rules and to participate in elections by these rules.⁶⁷ If you make rules to govern elections and you do not get these rules to be understood by the people, it will negatively affect the outcome of the elections. The problems which the country has faced over the years in terms of election administration such as perception of rigging, multiple voting and violence were partly due to the low level of understanding of the electoral rules, he pointed out.

4.3 RULE APPLICATION

One of the three levels of electoral governance is the implementation of the draft rules of the electoral contest. Apart from implementing traditional electoral rules covering suffrage rights, rules of representation, parliament size, and electoral boundaries, formal rules relating to voters and their registrations, party, candidates eligibility and registrations, election observation and monitoring, party accountability, method of balloting, counting and reporting as well as dispute settlement must all be enforced to ensure the credibility and sustainability of the electoral process. Implementing these basic rules of electoral process requires reconciling three conflicting imperatives which though are interdependent but are contradictory.⁶⁷ Gould identified these conflicting imperatives as administrative efficiency, political neutrality and public accountability. Maley⁶⁷ pointed out that these three conflicting imperatives were so crucial that election managers cannot neglect any one of them, nor can they maximize them all together. He argued further that in emerging democracies such as Ghana (emphasis mine) where material scarcity and political mistrust abound, electoral credibility can be obtained when electoral

governance succeeds in meeting the three imperatives and their associated challenges.⁶⁷ Assessing the performance of the EC in the area of rule application requires that a number of issues including how administratively efficient, politically neutral and publicly accountable the EC has been in applying the rules of electoral processes, particularly in the four successive elections that it has managed after the botched 1992 elections become vital. Finding answers to questions such as: What were some of the challenges the EC encountered in implementing these rules and regulations? What can be done to address these challenges to ensure that EC performs its constitutionally mandated functions successfully? Could help in unraveling how the rule application function contributed to the success of elections that the EC conducted over the years.

Against the backdrop of the potential deleterious implications of the mismanagement of the three imperatives on the credibility of elections, respondents shared their opinions on how the EC has fared over the years. In terms of the extent to which the EC has implemented its rules and regulations, the respondents believed that notwithstanding the fact that the EC has done well, it has been confronted with a number of problems which had affected its electoral management function, and if the Commission is to improve its election management mandate more issues required attention.

Even though the available literature⁶⁷ and the empirical field data in this study perceived the Commission to be independent and impartial based on the elections that it has organized over the years, they believed that perception exist among some Ghanaians that incumbent governments connive with the Commission to alter figures that will consolidate ruling party in power. As a

result of this perception, during the final collation of results of presidential election in the 2008 elections, political party supporters besieged the offices of the head office of the EC demanding that their candidate be declared the winner.⁶⁷ This perception has been created by the same political parties that participated in building consensus with the EC whenever the latter was designing basic rules for the election. A typical example is the besieging of the headquarters of the EC by political party supporters at the instance of some of these parties.⁶⁷ The question then is: why do political parties assume such double standards roles? In one breadth they participate in designing the rules of the electoral game, but end up rejecting the outcome of these rules which they themselves have participated in making. The political parties, especially when in opposition over the years had assumed a bad posture making unfounded allegations of connivance of the ruling party with the EC to rig elections. The E.C has always been firm in its dealings with political parties which has contributed to citizens recording high points for its independence.⁶⁷

This perception is fueled by the fact that EMBs are constituted by humans and therefore susceptible to manipulation by political parties, particularly the ruling party. The observation of one respondent buttresses this perception “Our view is that perhaps there are no 100% free and fair elections anywhere in the world. Because these are human institutions and therefore subject to human failings and given our own level of illiteracy and poverty in this country, we cannot ignore difficulties in the electoral process if manipulation of results comes up.”⁶⁷ Perception is very crucial because it can lead to actions that will negatively affect the credible management of elections. The surest way of dealing with such unfounded allegations is that, the EC maintains its

credibility, the citizens be educated to imbibe the operational procedures of the EMB and mechanisms for candidates or parties to address these problems made available. Once people get to know how elections are managed it will be very difficult for them to be gullible to vile propaganda and spins of political parties.

Issue of financing activities of EMBs is another way of demystifying the perception of governmental control of these EMBs. Majority of the respondents argued that the current arrangement of financing the operations of the EC also contributes to the perception of governmental control of the EC. Even though some studies on the financing of EMBs suggest that EMBs under the Independent Model are more likely to have sole responsibility for electoral functions, and thus have a higher chance of readily identifiable direct costs, and a lower level of diffuse costs than EMBs under the Governmental Model, in the case of Ghana which is typically an Independent Model, the EC's operations like other independent EMBs are financed from the state treasury which is controlled by the Ministry of Finance and Economic Planning. Even though the Electoral Commission Act forbade varying EC's budget to its disadvantage the law does not specifically show when funds for the EC should be paid. As a result, the Ministry of Finance which controls the government's treasury pays funds into EC's account when the Ministry feels money is available. This means that if a government does not support a particular activity that the EC wants to implement it may stifle EC's work by not making funds available to the EC, a situation that will militate against the operations of the EC. A genuine concern may be that the state is experiencing financial crisis that may affect government's capacity to generate

funds, but the sensitive mandate of the EC required measures to be put in place to ensure that EC does not rely on ad hoc financing of its activities.

The current arrangement is that EC's budget is sent to the ministry of finance which is headed by the minister of finance who is a member of the ruling part. Ghana's EC, from the elections it has conducted over the years attest to its independence, but in the performance of its functions it requires financial resources which are made available to it by the Finance Ministry to enable it achieve results. But once it is the government's ministry that controls the purse of the EC, planning and execution of its activities could be in serious jeopardy because the government may delay in the release of money to it. The fact that releases have to some extent gone well under successive governments does not mean that all future governments will follow suit. Basing his views on Article 46 of the 1992 Constitution which entrenched the independence and autonomy of the EC, a senior official of the EC in an interview with this researcher bluntly pointed out the problems that the EC has encountered over the years is the untimely release of funds by the Ministry of Finance. He noted that even though the constitution entrenched its independence on paper, financing of its activities was largely controlled by the government.

On how to deal with the problem of financing of the EC's electoral activities, both experts and media personnel as well as the EC officials interviewed suggested that a special fund be created for the EC with the promulgation of strong legislation to back the disbursement of funds for the financing of EC activities. This special fund was seen as very necessary since it will make the EC totally independent in virtually all spheres of financial control. With assurance of funds, the

EC can plan and execute its functions without many problems. Ghana has a complicated election circle. Every four (4) years there is a parliamentary and presidential election and then almost every four years in between it organizes district level elections as well. This means that two years after conducting presidential and parliamentary elections, the government is required to provide funds for the district level elections which is also capital intensive. This situation puts a lot of burden on the Ghana government. Since the state has no option but to ensure that both elections were conducted, a special fund for the conduct of elections will ensure timely execution of EC's functions while the financial burden on government reduced.

On the contrary, some respondents still maintained that once the EC has not come out to complain, there is no basis to suggest that its activities are stalled by the release of funds. In the view of Kojo Asante, though aware of the perception in some quarters that the current financial arrangement has the potential of affecting the autonomy or independence of the EC, he was of the view that the EC has strong financial and operational independence which has rather contributed to its effective management of elections in the country over the years.

Referring to the past, he pointed out that there has been struggle between the government and the EC over procurement but with the introduction of the procurement law; the EC does its own procurement. On the financial aspect, it is the delays in disbursement; how much government is prepared to pay for is negotiated. However, in his view the EC over the years has iterated that their budget has always been met by government though people contest that is not the case. The EC in its quest to maintain its non-partisan nature would not come out publicly that it is facing

such problems because it could be given varied interpretations. The surest way for the EC to continue to maintain its confidence and independence is by ensuring that its financial arrangement is insulated from excessive governmental control. According to an official of the EC whenever the EC came out with its budget, governments (all governments who had ruled from 1993) often asked the EC to reduce their budget claiming the state lacked funds to finance such budget⁶⁷ He argued that election management is an action packed and time bound activity, therefore, if the electoral administrator was not provided with the required resources to enable him perform its activity, it can lead to chaos in the country. Yet, anytime the election results were not declared early enough the politicians vent their anger on the EC claiming that it is changing figures to support the ruling party.⁶⁷ He said part of EC's challenges in terms of implementing its own rules and regulations is the reliance on temporal staff who cannot be done away with due to the volume of work which require a huge number of people to execute at various phases of the electoral processes. He was however optimistic that the EC will get to a point where this issue would be addressed comprehensively.

The closest in terms of manipulation is the constituency re-demarcation responsibilities, he said. According to him, the government undertakes this function by creating districts for the purpose of implementing government policies; this compels the EC to respond to meet the appropriate legal requirement. Because the EC relies on the recommendation of Justice Siriboes' Commission, a military administration's creation which states that constituencies should be coterminous to a district even though the current constitution does not necessarily bind them to create constituency so much. He said that the danger is that a government in power will

intentionally create more districts in its strongholds that will force the EC to create more constituencies in such areas, a situation that will increase more seats to the government. But that is a tactic that, seem to push the EC to go that way. So necessarily, you are bound to create so many constituencies.

Kwesi Jonah noted that the EC, over the years, has shown competency in the way it planned and managed its activities, but some serious factors largely due to the support that must come from other government sectors such as the Ministry of Local Government and the Parliament of the Republic have worked against it in so many ways. He specifically attributed the poorly managed 2010 District Assembly Elections, for example, to the failure of the Ministry of Local Government to put before Parliament the proposed amendment to the laws relating to Local Government laws on demarcating Electoral Areas. The delay affected the EC's planning because it was very difficult for them to determine the number of electoral areas and the number of people contesting in that election. He continued that even though it is not the function of the EC to create districts, the EC will have to rely on the existing districts to draw electoral boundaries such as constituencies and polling stations, therefore a delay in the creation of districts will definitely affect EC's planning.

Another area of potential political control and challenge Kojo Asante identified related to the appointment of Commission members of the EC and the tenure of office of the three Chairmen; the Chairman and the two Deputies, whether to be given short tenure rather than what currently persisted. He cited a situation during Kufuor's administration when some of the Commission

Members reached retiring age and the president, was required by the constitution to appoint new Commission Members, people said the government was trying to bring in people who will be protective of the party's interests by influencing the EC – and this situation happened under both governments that ruled in Ghana's Fourth Republic. "Though security of tenure is something that people say has protected our democracy, suspicions of government's complicity exist when appointments were being made", he revealed. However, Ben Ephson believes that irrespective of the perception of complicity of the appointment of the Commission's members, the manner in which those heading the Commission had managed the country's elections over the years is a manifestation of how independent the Commission's members have been and this he attributed to the guaranteed nature of their appointment in the Constitution. According to him, "Once the person is aware of that, there is no need for any fear. Nobody can remove him or her unless on grounds of misbehavior or otherwise as directed by the Constitution."⁶⁷

One other area which respondents believed the EC has not fared well is its public education function, particularly what it intends to do, when to do it and how to do it? The views expressed by respondents interviewed suggested that the EC should be more proactive when it comes to interaction with the public. The respondents suggested that the EC's untimely response to some of the issues pre-empt some negative propaganda being perpetrated by the political parties. Improving its communication with the public will make the EC look more accessible and more of a human institution in spite of its flaws and challenges than people perceive. The data indicate that most of the time the EC goes quiet after one election and only resurfaces asking for funds to plan another election. This attitude portrays the EC as an institution that exist to conduct only

elections but the EC's functions also include educating citizens on how to vote so during periods when elections are not conducted the EC can use the period to educate people about the electoral rules.⁶⁷

In the 2008 elections, for example, it was very difficult for people to believe that a candidate could win the presidential election with two or even one region if people in the other regions refused to vote. As a result of this, when the ruling party's candidate, Nana Akufo Addo almost won the election with just two (2) out of the ten (10) administrative regions, people queried how possible it was for a candidate to win an election with just two regions

This issue of ignorance of the electoral rules, respondents noted permeated even among political elites who should have firm understanding of these rules and regulations. At the polling stations ballots can be re-counted twice if a candidate or his representative is not satisfied with the earlier count and only once at the collation center, but because there is very minimal understanding of the process, whenever a political party is trailing in an election, it asks that ballots should be re-counted more than once at constituency collation centers and if this is not allowed they feel cheated or being cheated, they then go and mobilize people to reject the outcome of the election or put undue pressure on the EC to declare results in their favor.⁶⁷ One respondent described as "layback approach" on how the EC in his view interact with the public, describing it as symptoms of authoritarianism especially in the way it gives information to the electorates. He said there were instances where the EC was expected to come out and explain issues that the public want to know, but they would wait until such time that they think best fits, by which time

a lot of miscommunication would have gone on. “So when people are misinformed to that extent, do you think a day or two statement/s can change that much?” he queried.

The researcher’s concern of electoral violence and fraud as undermining the gains made by the EC over the years in terms of successfully managing the country’s elections have been confirmed by the respondents as potential threat to the country’s maturing democracy. A senior official of the EC underscored the magnitude of the impact of electoral fraud and violence on the management of elections. He pointed out that in most cases the EC is compelled not only to use its meager resources to reorganize the elections due to the failure to abide by the rules of the process by competing political groupings, but had to live with unnecessary bastions from some sections of the public. He specifically cited the re-run of the Akwatia election in the 2008 parliamentary election where six(6) ballot boxes were hijacked by some thugs.

Although Ghana has had its share of electoral violence and fraud since 1992, the magnitude of both fraud and violence has not been so serious to have significantly affected the credibility of the entire elections as witnessed in Nigeria and Kenya respectively. There are seemingly certain factors that induce violence which the EC has no control over such as pre-existing chieftaincy disputes which serve as significant hotbed for electoral related violence. To deal with these problems requires that the agencies of state such as the police and the courts in particular mandated to address these problems must be proactive in punishing people involved in these crimes. This is the surest way of deterring people who would want to engage in such nefarious activities. The respondents attributed most of the problems, particularly electoral fraud to the use of temporal staff of the EC.⁶⁷

The evidence of electoral fraud is in the response of a senior official of the EC who succinctly chronicled how electoral fraud in the electoral processes occurred during an interactive session. According to him, most politicians getting the opportunity will cheat to win an election. He cited an example of fraud where a candidate won with a difference of 22000 against the other contestant who garnered about 10000 votes but a Deputy Returning Officer (a temporary staff) manipulated the figures in favor of the candidate who lost. Luck however eluded him as he did not do his calculations accurately.⁶⁷

He again referred to an incident of fraud in the Western Region where a Returning Officer failed in his attempt to alter the results. According to him, the procedures were that ballots were first counted and the results declared at the various polling station and copies of the results given to all agents of candidates and the collation is done at the constituency center for the result of that constituency to be declared by the returning officer and in his absence by his deputy.

In this particular case, these procedures were followed at the polling stations, then at the collation center (a center where all results of polling stations were put together), the Returning Officer realized that his master had lost (the one who bribed him), he told the crowd that he will not declare the results, and when contesting candidates and other stakeholders asked why? The Returning Officer complained of running stomach thus he cannot declare the results, but his attention was drawn to the fact that any of his two Deputy Officers could declare the results under the law. The District Electoral Officer got confused because by law the writ of election

was issued to the Returning Officer which gives him the legal mandate to declare the results not the District Electoral Officer like in other jurisdictions..... Later on the truth came out that his master who was beaten did not take kindly of his defeat.⁶⁷

The inability for these fraudsters to successfully carry out this electoral crime was due to the transparency in the system. The EC's rules and regulations have inbuilt checks and balances that are capable of dealing with electoral fraud, and that once the procedures were followed these problems would not occur. The electoral materials such as registration forms and ballot papers were serially numbered and sent to specific regions and districts and to the polling stations so it was easier to audit when some anomalies occur, but in terms of voting on election day, competing parties and candidates as well as other stakeholders must be very vigilant to avert ballot rigging, for example.⁶⁷

From the exposé of the Electoral Officer, it could be surmised that contesting parties or candidates must recruit trusted agents, but when they recruit agents who pretend to be working in their interests, a possibility exist that temporary staff who also shared in the vision and aspirations of a particular candidate contesting the election or bribed by such party or candidate could be compromised, unless the party's or candidate's agent lives up to his task. One way to deal with this kind of electoral fraud even though it would be very expensive to achieve, is the recruitment and posting of temporary staff to locations other than where they were recruited. The EC must recruit temporary staff, give them training where they would be taught the rules and procedures of elections and then sent to other regions other than their own regions, but the

danger in doing this is that once they are not residing in these places they will not know the voters.

Quite a number of respondents have no problems with the EC using temporary staff to execute its functions, particularly conducting elections except that some of these temporary staff lacked the necessary skills which negatively affect their work. Arguably, the effective conduct of elections depends to large extent on the caliber of temporary staff. The permanent staff of the EC do not manned polling stations on elections days but the temporary staff do, as a result, the temporary staff require effective training on electoral rules and procedures so that they are able to bring these skills and experience to bear. However, due to a number of factors largely delay in release of funds; the EC is unable to equip its temporary staff with the needed skills and knowledge of the electoral rules thereby creating problems at polling stations. Some of the problems that are created when these temporary staff is not given quality training are violence, fraud as well as errors. Once they do not have the knowledge of these rules some political elites could play on their ignorance to manipulate the system and this can create chaos.

Two ways by which electoral violence can be addressed include ensuring that party leadership seriously adheres to the political parties' code of conduct. The first thing the political parties code of conduct seeks to avoid or prevent is violence therefore if political parties accept to abide by the dictates of this code and also ensure that their followers respects and observed this code, it will address this problem. The second is that once evidence existed that political parties violate these codes of conduct, they must be sanctioned as the code stipulates as well as getting civil society organizations and faith based organizations such as the churches to preach to their

members that politics does not mean shedding blood but avenue for building the nation could help address these problems.

Some other challenges that the EC faced according to the respondents included logistical problems, transporting temporary staff to and from registration centers and polling stations and other related electoral problems at these polling stations, finding office and residential accommodation for its permanent staff in the districts, among others. When polls close at 5pm and darkness falls, the absence of electricity at some particular polling stations results in the use of head lamps of vehicles so that counting can be made possible.⁶⁷ Respondents suggested that quality and functional lanterns and rechargeable lamps should be provided to election officials on voting day instead of the usual non-functional once.

Assessing Ghana's performance over the years, a respondent argues that Ghana has a lot to do internally in terms of its election management in order to match with its astute international image. An objective balance of the global report on governance, and the very high ranking that is given to Ghana and the state of affairs on the ground are incongruent due to the problems of enforcing basic electoral rules or electorates adhering to the tenets of these rules. Injection of more technology into Ghana's electoral activities could reduce some of the problems to the barest minimum.

4.4 RULE ADJUDICATION

One of the three main strands of electoral governance which is very crucial in election management is rule adjudication which involves the mediation and settlement of disputes that

emerge out of the process and the results. The concept of free and fair elections required that rules and regulations which are fashioned out to deal with problems of electoral activities must be applied equally and the adjudicatory systems must be robust and capable of mediating and settling disputes arising out of electoral contests. In Ghana, for example, in the December 7, 2000 general elections, when the EC's guidelines on whether the old thumbprint voter ID cards used in previous elections or the new photo ID cards would be valid for the election were not clear to some political section, the Ghana Supreme Court ruled just four days to the election that both cards were valid. The dispute arose because only 80 percent of the old cards had been replaced with new ones by the time elections were to be held.⁶⁷ In Ghana, though the courts are the final arbiter in all matters; both civil and criminal, in the performance of its functions, the EC mediates and settles some disputes that may arise. The EC, for example, under C.I 12 must establish a District Registration Review Committee in each administrative districts of Ghana which will examine challenges related to registration of voters. This Committee, according to the C.I should be made up of each registered political party in the district, the district electoral officer of the Commission, who shall be the secretary to the Committee and not more than four other persons as the Commission may determine, and this Committee according to the law would appoint its own chairman from among its members and shall regulate the conduct of its procedures. The EC also uses some other administrative procedures such as IPAC to resolve some electoral disputes that may arise. This section discusses and analyzes the views of respondents on how effective the adjudicatory function in governing the Ghanaian elections has been.

The interviews conducted on adjudicatory role in the Ghanaian elections have shown that though Ghana has performed well in how it conducted its elections, when it comes to settlement of disputes at the courts, in particular, it has not done well, therefore, more efforts were required to address numerous challenges relating to how electoral disputes are dealt with, particularly those that were settled in the courts. It however found the use of IPAC, though a non-legal creation of the EC, to a very large extent helpful in resolving some of the disputes among competing political parties thereby preventing such cases flooding the regular courts for resolution. From the few electoral disputes that appeared before the courts since the inception of the Fourth Republic, the respondents argued that electoral adjudication has done some damage in the past because how these cases were handled showed that people can win by default, the adjudicatory procedures were so weak that it is impossible to get rid of people who won by default but stuck to their seats in parliament. Two main disputes; Rebecca Addotey v Isaac Amo and Adamu Sakande v Sumaila Bielbiel that were sent to the court for determination were cited by respondents to buttress their claims that the electoral adjudicatory systems were very impotent and incapable of ensuring justice and this system when allowed to continue will create more problems such as people taking the law into their own hands to establish justice.

The second case which is currently in court (the defendant has less than one year to complete his tenure) relates to the Member of Parliament for Bawku Central Adamu Dramani, who its alleged was a British citizen at the time of filing his nomination to contest the parliamentary election in that constituency in 2008. As required by the Representation of the Peoples Law; PNDC Law

284 only Ghanaian citizens are qualified to contest for an election. He will complete his parliamentary term while the case has still not been determined.

In such situations, one respondent remarked that once people get to know that for Ghana even if one uses illegitimate or illegal means to win elections and takes his seat in parliament and he or she is challenged, he or she can go the full four years and the case will not be determined.⁶⁷ A typical case is the infamous case of Rebecca Addotey and George Amo in the Ayawaso West Wougou constituency. For more than four years the case could not be settled by the Courts and by the time the ruling was given the candidate who lost in the suit was the one who represented the constituents. This case epitomizes the weak adjudicatory system Ghana has and such a system can induce violence because once people lose confidence in the capacity of the courts to deliver fair and firm justice they will resort to illegal means to settle dispute. The inability to proactively deal with electoral related disputes serves as a threat of not only derailing peace but increasing electoral fraud. The violence, intimidation and other criminal activities such as fraud and violence recorded in certain places are attributed to the failure of adjudicatory mechanisms because if the laid down procedures cannot protect citizens they will settle their own scores.⁶⁷

4.5 CONCLUSION

From the analysis of empirical data that were presented, it could be deduced that even though the EC has performed well on accounts of the three levels of electoral governance, certain major challenges the study disgorged such as electoral fraud, violence, inefficient electoral adjudicatory system, ineffective training and recruitment of temporary staff, and erratic financial

arrangements, among others needed serious attention, if Ghana hopes to further deepen her democracy. Ignoring these issues the chapter revealed could undermine the gains that the country has made over the years.

.

REFERENCES

- ⁶⁷ Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction” in *International Political Science Review*, vol. 23. No. 1 (Jan., 2000), pp. 5-27
- ⁶⁷ Mozaffer, S., and Schedler, A., (2002), “The Comparative Study of Electoral Governance: Introduction”, p.5-8
- ⁶⁷ Republic of Ghana, The 1992 Constitution
- ⁶⁷ Hounkpe, M., and Fall, I.M., (2011), *Electoral Commissions in West Africa: A Comparative Study*, 2nd ed., Abuja: Fredrich Ebert Stiftung (FES)
- ⁶⁷ Interview with Mrs. Rebecca Adjalo, January, 2012
- ⁶⁷ Frempong, A.K.D, (2008a) “Innovations in Electoral Politics in Ghana’s Fourth Republic: An Analysis”, in Ciska Raventos, ed. *Democratic Innovation in the South: Participation and Representation in Asia, Africa and Latin America*”, Buenos Aires: CLACSO Books, pp. 197
- ⁶⁷ Frempong, A.K.D, (2008a) “Innovations in Electoral Politics in Ghana’s Fourth Republic: An Analysis”, p.189
- ⁶⁷ Interview with Mr. Sulley Amadu, January, 2012
- ⁶⁷ Interview with Rebecca Adjalo, January, 2012
- ⁶⁷ Interview with Rebecca Adjalo, January, 2012
- ⁶⁷ Interviews with respondents, January/ February, 2012
- ⁶⁷ Hounkpe, M., and Fall, I.M., (2011), *Electoral Commissions in West Africa: A Comparative Study*,

-
- ⁶⁷ North, Douglas, (1990), *Institutions, Institutional change and Economic Performance*, (Cambridge: Cambridge University Press)
- ⁶⁷ Gyimah-Boadi, (1998), “Representative Institutions” in *Democratic Consolidation in Africa: Progress and Pitfalls*, Conference Report, Johannesburg: Centre for Policy Studies, p.10)
- ⁶⁷ Ninsin, K.A, (2006), “Institutional Development and Democratic Consolidation”, in Bofo-Arthur, K, (ed), *Voting for Democracy in Ghana: The 2004 Elections in Perspective*, vol. 1, Accra: Freedom Publications, p.62-3.
- ⁶⁷ Gould, A.C. (1999), “Conflicting Imperatives and Concept Formation.” *The Review of Politics*, 16 (3): 439-463.
- ⁶⁷ Maley, M, (2000), “Administration of Elections” in *International Encyclopedia of Elections*, Washington, DC: Congressional Quarterly Press, pp.6-13
- ⁶⁷ Maley, M, (2000), “Administration of Elections”
- ⁶⁷ Hounkpe, M., and Fall, I.M., (2011), *Electoral Commissions in West Africa: A Comparative Study*,
- ⁶⁷ Gyimah-Boadi, E. (2009) “Another Step Forward for Ghana”, *Journal of Democracy*, Vol. 20, No. 2, April, pp. 138-152.
- ⁶⁷ Gyimah-Boadi, E. (2009) “Another Step Forward for Ghana”, p. 138-152
- ⁶⁷ Hounkpe, M., and Fall, I.M., (2011), *Electoral Commissions in West Africa: A Comparative Study*,
- ⁶⁷ Interview with Fred Oware, 1st National Vice Chairman of the NPP, Accra
- ⁶⁷ Interview with Mr. Sulley Amadu, January, 2012
- ⁶⁷ Interview with Mr. Sulley Amadu, January, 2012

⁶⁷ Interview with Ben Ephson, Accra

⁶⁷ Interview conducted with respondents, January/February, 2012

⁶⁷ Gyimah-Boadi, E. (2009) “Another Step Forward for Ghana”, p. 138-152

⁶⁷ Interview conducted with respondents, January/February, 2012

⁶⁷ Interview with Mr. Sulley Amadu, January, 2012

⁶⁷ Interview with Mr. Sulley Amadu, January, 2012

⁶⁷ Interview with Mr. Sulley Amadu, January, 2012

⁶⁷ Interview with Mr. Kwesi Jonah, January/February, 2012

⁶⁷ Temin, J. (2000) “A Compelling National Election Drama in Ghana” *The Sunday Boston Globe*, 24 December.

⁶⁷ Interview with Douglas Quartey, January/ February, 2012

⁶⁷ Interview with Mr. Kwesi Jonah, January/February, 2012

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

This thesis set out to interrogate how the three levels of electoral governance have contributed to the election management function of Ghana's EC over the years, particularly the impact of these three levels of electoral governance on the elections the EC has conducted since 1996. To investigate the research problem, two core objectives were set out. First, it sought to examine EC's role in the context of the three levels of electoral governance including rule making, rule application and rule adjudication. Secondly, it also sought to interrogate the contributions of the rules and regulations of the EC to the management of elections and its implications on the elections that EC has conducted.

The qualitative research methodology was used as the main research approach in investigating the research problem. Both primary sources notably qualitative interviews and secondary sources of data were used in the study. The study was guided by the following hypotheses:

- That the success of election management depends essentially on the potency of the electoral laws and regulations as well as the commitment of the EMBs to implementing these rules and regulations.
- That the myriad of challenges facing Ghana's presidential and parliamentary elections is the result of the failure to abide by the dictates of electoral rules and regulations by some citizens.

In this concluding chapter, a summary of findings have been discussed. On the basis of the analysis of the rules and regulations that the EC has enacted which fell within the scope of the study, conclusions were drawn and recommendations aimed at improving the management function of the EC were made.

In the introductory chapter of this thesis, quite an extensive literature that gave a panoramic perspective of the study was reviewed. These reviewed works made in-depth analysis of not only elections and elections management, but also pointed out what was required to ensure that EMBs' roles in Africa in particular measure up to the international standards. The problem of the study, its objectives and the methodology employed in investigating the research problem were copiously discussed in this chapter.

The second chapter of this thesis gave a historical overview of Ghana's EMB dating back to its pre-independence era. It analyzed the political environment in which this EMB executed the functions given to it.

Chapter Three examined the operation of Ghana's election authority, particularly in the context of the rules it has fashioned out, how these rules were enforced and the potency in the use of adjudicatory mechanisms available to it in resolving disputes that arose from non-compliance with these electoral rules. The study considered these issues important in understanding the country's electoral successes. The chapter looked at the legal framework defining the operations of the Commission. It also analyzed the statutes, mandate, appointment, tenure and independence of members of the Commission. Lastly, the chapter examined the challenges the Commission

had encountered in the execution of its constitutional mandate and how these challenges were addressed.

The fourth chapter analyzed and discussed field data which interrogated issues of electoral governance and its contribution to democratic consolidation in Ghana. In practical terms, the ultimate objective was to elicit suggestions and gain insights into how interviewees perceived EC's performance in the area of rule making, rule implementation and rule adjudication functions since 1993.

5.2 SUMMARY OF FINDINGS

The supposition of this thesis is that although the electoral rules and regulations provided a robust and tough cover that provided the EC's assertiveness of its independence of executive and parliamentary control, the non-compliance to the dictates of these rules and regulations by political parties and their supporters has been the main challenge to the effective management of elections in Ghana.

Even though political parties certify to abide by the codes of conducts for political parties they do not act within the limits of this code. Some supporters of the NPP and the NDC instead of waiting patiently for the final decision of the EC in the 2008 elections, they decided to act contrary to the political parties' code they pledged to uphold by massing up at the headquarters of the EC urging the EC to declare their candidates victors in the election.

Also, leading political parties, particularly when in opposition are more likely to find problems with the EC as being in league to surreptitiously circumvent the electoral process. They do this as a strategy to save their image in the event of defeat. But such attitude could lead to violence.

The study showed that there is evidence of electoral fraud in the elections that the EC has superintended over since 1993. Electoral fraud in the elections that the EC has conducted over the years is the result of the failure to adhere to the tenets of these explicit rules and regulations by political parties' leaders and their supporters.

This study also distilled from the empirical data that while Ghana deserves to be applauded for successfully managing elections under the Fourth Republic, the attack on the EC by some members of the political divide masterminded by some political leaders prior to its declaration of results and acts of vandalism directed at the premises of the EC nearly slipped Ghana into abyss. The electoral successes of the country since 1992 is not sufficient to deduce that Ghana cannot join the club of electorally induced armed conflicts countries in the West African sub-region. These acts of intimidation and threats will affect the psyche of the staff of the EC who the nation under such tensed situation needed most to work assiduously to make the results available to the public.

Also, even though political parties through IPAC were consulted before the EC makes electoral rules, they sometimes ignore or reject the outcome of rules they have contributed in making.

The study disgorged ineffectiveness in the recruitment and training of temporary staff as well as the non-compliance to the dictates of the designed electoral rules by the temporal staff as contributing to some of the major problems encountered at the registration and polling centre's, thereby affecting the EC's performance.

The adjudicatory system, with particular reference to high profile cases relating to challenges to the eligibility of candidates or the credibility of the results of candidates sent to the existing law courts for speedy resolution have proved not to be effective. These cases suffered unnecessary delays calling into serious questions the capacity of the courts to deal with electoral disputes. However, cases relating to infractions of electoral rules such as multiple registrations, minors registrations and voting, and foreigners involvement in the electoral process, among others which involve ordinary people are dealt with alacrity.

Although the EC's independence is constitutionally guaranteed, the current financial arrangement where the EC depends on the Ministry of Finance to determine when funds should be made available to the EC from the consolidated funds to carry out its administrative and election related activities impedes the planning of the EC. Some of the challenges relating to funds for the acquisition of election related materials for voter registrations, voter education, exhibition, voting and other projects that the EC undertakes are attributed to the erratic nature of financing of EC's work.

5.3 CONCLUSION

To conclude, it is important to highlight the following points that the study distilled.

Firstly, Ghana has very clear and potent electoral rules and though on one hand the implementation of these rules has contributed immensely to the success of elections that the EC managed, especially in 1996, 2000, 2004 and 2008, ignorance of voters on some of the electoral laws during voters' registration exercises, for example, has partly been responsible for multiple registrations by prospective voters and disenfranchisement.

Secondly, from a shaky foundation in 1992 elections, EC has learnt a lot of lessons and put in place necessary measures that dealt with electoral ‘demons’ such as bloated voters’ register, electoral fraud, and intimidation of voters on the polling day which have all contributed to the current political stability.

Thirdly, the consensus building platform; IPAC has to a very large extent helped in managing acrimony and bickering among political parties. Through the IPAC, very difficult differences which could have resulted into legal tussles were discussed and resolved peacefully.

Fourthly, the current funding arrangement of the EC if not changed could negatively affect future elections since a ruling party could stifle the work of the EC by making it difficult for the EC to undertake its constitutional mandate.

Fifthly, though political parties often sign to abide by the political parties code of conduct, evidence abounds that they flouted these codes with impunity.

Sixthly, electoral fraud is a reality and could have serious implications in the future if adequate measures are not put in place to address this problem.

Seventh, like electoral fraud, election violence and threats of violence are gradually gaining roots in Ghana and necessary efforts are required to deal with this problem.

Eighth, the courts have not been proactive in adjudicating in disputes involving eligibility of candidates contesting parliamentary seats brought before the courts. However, that cannot be said to cases of electoral offences brought before the courts as evidence exist that the courts have

dealt with election offences with alacrity. The delay in resolving electoral disputes such as challenging the credibility or eligibility of candidates negatively affect the democratic process because defeated candidates end up representing the electorates at the expense of credible ones.

5.4 RECOMMENDATIONS

Firstly, serious attention must be paid to irregularities such as uneven playing field, bloated voters' register and violence by both the EC and other stakeholders such as candidates, political parties as well as interested citizens. There is the need for these stakeholders to learn from the experiences of the 1992 elections. The failure of parties and their supporters to abide by the electoral rules can only derail the gains that the country has made after the botched 1992 elections. Addressing these problems require that the political parties' code of conduct must be passed into law to make it mandatory for the parties to comply with the dictates of the code, so that it becomes an infraction of the law when the provisions of this code were violated by political parties' leaders and their supporters and punitive actions are applied.

Secondly, from the empirical data, it is evidently clear that the current funding arrangement where funds were only voted into the EC's account as and when there is money in the consolidated fund by the Ministry of Finance must be replaced with a better system that will make the EC not so dependent on the Ministry of Finance. A special fund must be established and a percentage of government's revenue compulsorily paid into the fund for the use of the EC and the spending of such funds must be regulated by parliament instead of Ministry of Finance who is perceived to be an appendage of the incumbent government.

Thirdly, the EC must examine recruitment and training of its temporal staff who manage the polls at the polling stations. The complicity of the temporal staff in some of the elections conducted in the country if unchecked has the propensity of derailing the peace that the country is enjoying. The training should take a little longer to enable them acquire the much needed skills and knowledge so that they are able to discharge their functions creditably.

Fifthly, the issue of public suspicion over the independence of Commissioners must be addressed through reviewing the current appointment arrangement. It is therefore suggested that the appointing authority of the Commissioners should be vested in the parliamentary vetting committee.. Citizens interested in these positions must apply to the Public Service Commission and shortlisted candidates must be vetted by the Parliamentary Vetting Committee and approved by a two-thirds majority of Members of Parliament.

Last but not the least, there is the need to set aside some specific courts to handle election related disputes. The history of adjudicatory function in election management portrays a very bad system which must be corrected. Some specific courts should be given special responsibility to adjudicate. The judges who are given such additional responsibility of handling such cases must be given training in election related disputes and offences to enable them dispense justice without fear or favor. A time limit within which all elections petitions must be adjudicated on could be set.

BIBLIOGRAPHY

A BOOKS

Arskey, H. (1999). *Interviewing for Social Scientists*. London: Sage.

Beetham D., *Democracy and Human Rights*, Polity Press, Cambridge, 1999.

Bryman, A. (2008). *Social Research Methods*. New York: Oxford University Press.

Choe, Y, (1997), *How to Manage Free and Fair Elections: A Comparison of Korea, Sweden and the United Kingdom*, Goteborg: Grafikerna.

Diamond, L. (1999) *Developing Democracy: Toward Consolidation*, Baltimore: John Hopkins University Press.

Flick, U. (1998). *An Introduction to Qualitative Research*. London: Sage.

Goodwill-Gill, G.S, (1994), *Free and Fair Elections: International Law and Practice*, Geneva: Inter-Parliamentary Union.

Hounkpe, M., and Fall, I.M., (2011), *Electoral Commissions in West Africa: A Comparative Study*, 2nd ed., Abuja: Fredrich Ebert Stiftung (FES)

Huntington, S, (1991), *The Third Wave: Democratization in the Twentieth Century*, New York: Oklahoma University Press.

Lopez-Pintor, R, (2000), *Electoral Management Bodies as Institutions of Governance*, New York: UNDP.

Mackenzie, W.J.M, (1958), *Free Elections: An Elementary Textbook*, London: Allen and Unwin.

Sartori, G, (1994), *Comparative Constitutional Engineering: An Inquiry into Structures, Incentives, and Outcomes*, New York: Colombia University Press.

B ARTICLES FROM BOOKS

Ayee, J.R.A.(1998) “The 1996 General Elections: An Overview” in Ayee ed. *The 1996 General Elections and Democratic Consolidation in Ghana*, Accra: Gold Type Ltd, pp. 35-52.

Boafo-Arthur, K. (2006a) “Introduction”, in K. Boafo-Arthur, ed. *Voting for Democracy in Ghana: The 2004 Elections in Perspective*, Vol. 1, Accra: Freedom Publications, pp. 1-14.

Crabbe, V.C.R.A.C, (1975) “The work of the Electoral Commission”, in Dennis Austin & Robin Luckham (eds) *Politicians and Soldiers in Ghana: 1966-1972*, London: Frank Cass.

Debrah, E. (2001) “Mechanisms for Ensuring Free and Fair 2000 General Elections in Ghana”, in J. R. A. Ayee ed. *Deepening Democracy in Ghana: Politics of the 2000 Elections, Vol. One*, Accra: Freedom Publications, pp. 75-85.

Frempong, A.K.D, (2008a) “Innovations in Electoral Politics in Ghana’s Fourth Republic: An Analysis”, in Ciska Raventos, ed. *Democratic Innovation in the South: Participation and Representation in Asia, Africa and Latin America*”, Buenos Aires: CLACSO Books, pp. 189-210.

_____ (2007b) “Political Conflict and Elite Consensus in the Liberal State”, in K. Boafo-Arthur, ed. *GHANA: One Decade of the Liberal State*, London/Dakar: ZED/CODESRIA.

Garber, L, (1994), “Election Commissions: Responsibilities a Composition” Paper presented at the NDI-sponsored African Election Colloquium, Victoria Falls, Zimbabwe, November

Gyimah-Boadi, E, (1999a) “Ghana’s Elections: The Challenges Ahead” in Larry Diamond and Marc F. Plattner, ed. *Democratization in Africa*, Baltimore/London: The Johns Hopkins University Press, pp. 170-183.

_____ (2003) “Ghana: The Political Economy of ‘Successful’ Ethno-regional Conflict Management” in Bastain, Sunil and Robin Luckham, eds. *Can Democracy be designed? The Politics of Institutional Choice in Conflict-torn Societies*, London/New York: Zed Books, pp.120-144

_____ (2001b) “A Peaceful Turnover in Ghana”, *Journal of Democracy*, Vol. 12, No. 2, pp. 103-117.

_____ (2003) “Ghana: The Political Economy of ‘Successful’ Ethno-regional Conflict Management” in Bastain, Sunil and Robin Luckham, eds. *Can Democracy be designed? The Politics of Institutional Choice in Conflict-torn Societies*, London/New York: Zed Books, pp.120-144.

Maley, M, (2000), “Administration of Elections” in *International Encyclopedia of Elections*, Washington, DC: Congressional Quarterly Press, pp.6-13

Ninsin, K.A, “Institutional Development and Democratic Consolidation”, in Boafo-Arthur, K, (ed), *Voting for Democracy in Ghana: The 2004 Elections in Perspective*, vol. 1, Accra: Freedom Publications, 2006

Tekle, A, (1997), “Elections and Electoral Systems in Africa: Purposes, Problems and Perspective”, in Joseph Elkilit, (ed), *Electoral systems for Emerging Democracies: Experiences and Suggestions*, Copenhagen; DANIDA, Ministry of Foreign Affairs.

Villalon, L. A. and Von Doepp, P (2005) “Elites, Institutions and the Varied Trajectories in Africa’s Third Wave Democracies”, in Villalon. L.A and Von Doepp, P eds. *The Fate of Africa’s Democratic Experiments: Elites and Institutions*, Bloomington/Indianapolis: Indiana University Press, pp. 1-26.

Wale Are Olaitan, *Beyond Elections: The Drama of State Conflict in Africa*, Conference Paper on Post-Conflict Elections in West Africa, March 2006, p.19

C JOURNALS

Gould, A.C. (1999), “Conflicting Imperatives and Concept Formation.” *The Review of Politics*, 16 (3): 439-463.

Gyimah-Boadi, E, (2001b) “A Peaceful Turnover in Ghana”, *Journal of Democracy*, Vol. 12, No. 2, pp. 103-117.

Mozaffer, S., and Schedler, A., (2008), “The Comparative Study of Electoral Governance: Introduction” in *International Political Science Review*, vol. 23. No. 1 (Jan., 2000), pp. 5-27

Mozaffar, S, (2002), “Patterns of Electoral Governance in Africa’s Emerging Democracies” in *International Political Science Review*, vol. 23. No. 1, pp. 85-101

D OTHER PUBLICATIONS

Afari-Gyan, K. (2003) “Preparations towards Election 2004: Prospects and Challenges”, *Briefing Paper*, Ghana Center for Democratic Development (CDD-Ghana), April (5:4)

Agyeman-Duah, B. (2005) *Elections and Electoral Politics in Ghana's Fourth Republic*, Critical Perspectives No. 18, Accra: Ghana Center for Democratic Development, CDD-Ghana.

Ayee, J.R.A.(1998) "The 1996 General Elections: An Overview" in Ayee ed. *The 1996 General Elections and Democratic Consolidation in Ghana*, Accra: Gold Type Ltd, pp. 35-52.

Ayee, J.R.A (1997) *Ghana's 1996 General Elections: A Post-mortem*, Harare: AAPS Occasional Paper Series, Vol.1, No.1.

Boafo-Arthur, K. (2008) *Democracy and Stability in West Africa: The Ghanaian Experience*", Claude Ake Memorial Paper (CAMP) Series No. 4, Uppsala: the Nordic Africa Institute.

_____ (2006a) "Introduction", in K. Boafo-Arthur, ed. *Voting for Democracy in Ghana: The 2004 Elections in Perspective*, Vol. 1, Accra: Freedom Publications, pp. 1-14.

Choe, Y, and Darnolf, S, (1999), "Evaluating the Structure and Functional Role of Electoral Administration in Contemporary Democracies: Building Free and Fair Election Index (FFEI) and Effective Election Index (EEI)", *Paper delivered at the 95th Annual Meeting of the American Political Science Association*, Atlanta Marriott Marquis and Atlanta Hilton and Towers.

Dumor, E. (2003) "Preparations Towards Elections 2004: Issues of Demarcation and Political Representation", *Briefing Paper*, Accra: Center for Democratic Development (CDD-Ghana), March (5:2)

Garber, L, (1994), "Election Commissions: Responsibilities a Composition" Paper presented at the NDI-sponsored African Election Colloquium, Victoria Falls, Zimbabwe, November

Klein, Keith, (1995), "Approaches to Conducting Elections: Why an Electoral Commission?" Paper presented at IFES for presentation to the Constitutional Assembly of the Republic of South Africa, Cape Town

Maley, M, (2000), “Administration of Elections” in *International Encyclopedia of Elections*, Washington, DC: Congressional Quarterly Press.

Oquaye, M (1999) “The Political Parties Bill, 1999 – An Analysis (Part 1)”, *Governance*, Vol. 099, No. 8, IEA Publication, August.

Prempeh, H.K, and Asare, K, (2003) “Preparations Towards Election 2004: Matters Arising”, *Briefing Paper*. Ghana Center for Democratic Development (CDD-Ghana), April (5:4)

Smith, D.A (2011) “The Re-demarcation and Reapportionment of Parliamentary Constituencies in Ghana”, *Briefing Paper*, Ghana Center for Democratic Development (CDD-Ghana), October (10:2).

Sulley, A. (1995), *The Ghanaian Electoral System and Transparent Elections*, A Post-Graduate Diploma in Public Administration Dissertation, Ghana Institute for Management and Public Administration (GIMPA).

Temin, J. (2000) “A Compelling National Election Drama in Ghana” *The Sunday Boston Globe*, 24 December.

Wale Are Olaitan, *Beyond Elections: The Drama of State Conflict in Africa*, Conference Paper on Post-Conflict Elections in West Africa, March 2006.

E OFFICIAL DOCUMENTS/PAPERS

Electoral Laws, Electoral Commission of Ghana: Accra, 2008.

Ghana Republic, INEC Law, PNDCL 271, Accra, 1992.

Report of the Commission of Enquiry, Part 1&2: Electoral and Local Government Reform. Accra, 1967

EC Publication, Brief History of the Electoral Commission, Accra, 1996.

NCD Publication, Things to Remember: Accra, 1987.

Electoral Laws, Electoral Commission of Ghana: Accra, 2008.

Ghana Republic, INEC Law, PNDCL 271, Accra, 1992.

Report of the Commission of Enquiry, Part 1&2: Electoral and Local Government Reform.

Accra, 1967

EC Publication, Brief History of the Electoral Commission, Accra, 1996.

NCD, “Things to Remember” Accra, 1987.

NCD, “Evolving A True Democracy”, Accra, 1991

Republic of Ghana, “Electoral Provisions Ordinance, 1953”

Republic of Ghana, “Electoral Provisions Act, 1965 (Act 291)”

Republic of Ghana, “1969 Constitution of Ghana”

Republic of Ghana, “1992 Constitution of Ghana”

LISTOF SOME INTERVIEWEES

1. Mr. Kwesi Jonah, former Head, Department of Political Science, University of Ghana, Legon. Also a Senior Research Fellow, Institute for Democratic Governance (IDEG), Accra (Interviewed on January 25, 2012)
2. Fred Oware, 1st Vice Chairman, New Patriotic Party (Interviewed on January 25, 2012)
3. Kwame Sefa Kaye, Morning Show Host Peace FM (Interviewed on January 28, 2012)

-
4. Douglas Quartey, Programs Officer, Electoral Politics, Institute of Democratic Governance (IDEG), Accra (Interviewed on January 28, 2012)
 5. Ben Ephson, Editor, Daily Dispatch Newspaper, Accra (Interviewed on January 26, 2012)
 6. Kojo Asante, Ghana Center for Democratic Development (CDD-Ghana) (Interviewed on February 1, 2012).
 7. Mr. Christian Owusu Parry, Ag. Director, Public Affairs, Electoral Commission (Interviewed on February 23, 2012)
 8. Mr. Sulley Amadu, Director, Research, Monitoring and Evaluation, Electoral Commission of Ghana (Interviewed on February 28, 2012)
 9. Madam Rebecca Adjalo, Commission Member, Electoral Commission of Ghana (Interviewed on February 28, 2012)
 10. Madam Akweley Roberts, former Commission Member, Electoral Commission of Ghana (Interviewed on 28, 2012)

APPENDIX - INTERVIEW GUIDE

Interview Schedule

I am a Master of Philosophy student in the Department of Political Science, University of Ghana working on a thesis titled: **Electoral Commission and Election Management in Ghana: 1993-2008**. Basically, the study seeks to examine electoral governance which is a wider set of activities that creates and maintains the broad institutional framework in which voting and electoral competition take place. Electoral governance is an important element in securing the credibility of elections in emerging democracies and it involves rule making, rule adjudication, and rule application. Rule making involves designing the basic rules of the electoral game, rule application involves implementing this rules to organize the electoral game while rule adjudication involves resolving disputes arising within the game. To effectively perform its statutory functions, Article 51 of the 1992 Constitution, for example, gave Ghana's EC power to make its own regulations in the form of Constitutional Instruments (C.I). Though there have been some protests and disputes arising out of some elections that the EC has conducted since 1992, the EC is acclaimed in many quarters as one of the best election management bodies in Africa. This study seeks to examine Ghana's EC in the context of the three levels of electoral governance, and the implications of these three levels on the elections that the EC has conducted over the years.

You were purposively selected to answer questions on these important issues due to your expertise in this area. This is purely an academic exercise and your answers will be treated in the strictest confidence; therefore do not hesitate to share your candid opinion on the issues raised.

Rule Making

Q1: The 1992 Constitution has empowered the EC to make and implement rules and regulations necessary for the conduct of public elections and referenda. What procedures are involved in the making of these rules and regulations? **(EC officials only)**

Q2: Do you involve some stakeholders in taking decisions regarding rule making function for example and why? **(EC officials only)**

Q3: What are or were some of the problems you face from government and political parties in making rules? **(EC officials only)**

Q4: In your view do you think the rules made are fair?

Q5: Do you recall some incidence or problems you encountered in the making of some of these rules and regulations? **(EC officials only)**

Q6: What challenges do you encounter in the making of these rules and regulations?

(Probe for challenges face at the National, Regional, District and at the Polling station)

Q7: What challenges do you face in the implementation of these rules and regulations?

Q8: Are there some rules you would like to amend or add to the current rules and regulations?

Rule Application

Q9: How do you get these rules and regulations carried out? **(EC officials only)**

Q10: How successful has the EC been in making and implementing these rules and regulations?

Q11: How would you access planning for the conduct of elections by EC in Ghana?

Q12: The EC's budget is based on the consolidated fund; do you see this as militating against the work of EC in any way, particularly their autonomy and independence?

Q13: What are some of the problems you think that the EC encounter dealing with the government?

Q14: In your view do you think incumbent governments manipulated the EC in managing elections? Any evidence?

Q15: To what extent has election violence impacted on election management in Ghana?

Q16: What can be done to deal with election violence?

Q17: Looking back what positive points will you say have been responsible for the EC's successful conduct of elections?

Q18: What will you say were the negatives and how prepared is the EC to avoid these negatives?

Q19: What are your views on the temporal staff (Polling officials) EC uses in the implementation of its mandate? How does their work impact on the outcome of elections?

Q20: Are there areas you think the EC can improve regarding the temporal staff?

Q21: Election fraud is becoming a phenomenon in emerging democracies, what are some of the problems encountered by the EC in relation to election fraud.

Q22: what are some of the measures put in place by the EC to check these canker?

Q23, What problems apart from finance, in view, confronts the electoral commission and election management in Ghana.

Q24: What recommendation do you have to offer the EC to improve election management in Ghana?

Rule Adjudication

Q25: Election Adjudication in Ghana is largely placed in the hands of the judiciary, how have they performed in your view?

Q26: Do you think the electoral regulations are adequate to ensure free and fair elections?

Q27: Has election adjudication affected the management of elections in anyway? Give reasons

Q28: In your view has IPAC performed creditably as an adjudicating platform? Give reasons

Q29: Do you think there should be electoral courts to handle election petitions? Give reasons.

Q30: What are some of the challenges in adjudicating election petitions?

Q31: Would you say Political Parties are satisfied with outcomes of electoral partition? Give reasons

Q32: Do you have any recommendations on rule adjudication in relation to election management?