

The Judiciary and Ghana's 2012 Elections: Analysis of 2012 Presidential Elections Petition and its Ramifications for Democratic Development in Ghana

Isaac Owusu-Mensah A. K.D. Frempong
Department of Political Science, University of Ghana, Legon

Abstract

The conduct of the 2012 presidential elections provided another opportunity to gauge the extent of Ghana's democratic development with the election petition. By Judicial majority decision of 5-4, the panel of nine Supreme Court judges did not sustain the first presidential elections petition in the country. Three cardinal issues: "no signature of presiding officer", "No biometric verification of voters", and over-voting determined the judgment. These core irregularities, infractions and statutory violations constituted the primary basis of determining the substance of the petition presented by the petitioners. The paper seeks to assess the Judiciary, a body entrusted with the responsibility of upholding and defending the Constitution and Acts of Parliament on impartiality, independence in the democratization process of the country. The significance of the study is to test whether the Judiciary is capable of upholding to these democratic principles entrusted to it. It is the conclusion of the paper after a thorough analysis of the judgment of the Supreme Court that the option of seeking post-electoral adjudication in court by stakeholders is shut. Consequently, parties to future electoral disputes ought to resolve such challenges at the respective polling stations.

Keywords: Ghana, Democracy, Judiciary, Elections and Petition

Introduction

Ghana embarked on competitive politics in 1992 after eleven years of military rule led by Jerry John Rawlings and the Provisional National Defense Council (PNDC). The re-introduction of the competitive electoral system terminated military intrusion in national politics (Asamoah, 2014). The 1992 elections ushered the country into the Fourth Republic with the promulgation of the Constitution of Fourth Republic (1992 Constitution) on January 7th 1993. The Constitution has benefited from relative stability as compared to previous constitutions. The stability has fostered the strengthening of state institutions as well as decision-making that regulates political competition and exchanges within the Ghanaian political system. Democratic development from 1992 to 2012 has been relatively smooth, with the alternation of political power between the National Democratic Congress (NDC) and the New Patriotic Party (NPP) in 2001 and 2009. Ghanaians have voted in five presidential elections in 1996, 2000, 2004, 2008 and 2012 during the transition and in the Fourth Republic. The 1992 elections were disputed but without a formal petition. The 2004 elections were also disputed, this time with a formal petition, but of a lesser scale. All these elections were conducted within the principles of free and fair elections. The unsuccessful political parties in each election accepted the outcome. However, the 2012 presidential elections received a different response from the New Patriotic Party. The Party challenged the results of the elections in the Supreme Court over statutory infractions, irregularities and violations¹. This paper seeks to examine the electoral petition presented by the NPP to the Supreme Court, the process of adjudication, the verdict of the judges as well as the ramifications for democratic development in Ghana. The main objective of this paper is to assess the repercussions of the 2012 presidential elections petition on future elections and electoral disputes in the country. The paper also seeks to examine the prognosis of future electoral processes and issues requiring political attention.

Hypothesis

This paper is based on the hypothesis that the judiciary in Ghana is an impartial electoral arbiter which seeks to uphold the constitution, electoral laws and democratic principles in the country.

Methodology

The study used a case type of qualitative research methodology. The 2012 presidential elections petition was a test case for the judiciary. The study adopted a secondary source of data by subjecting the judgment by the panel of Supreme Court to critical analysis. Content analysis technique was the main tool adopted because it is systematic and objective mechanism of making inference. Confirmatory data analysis was employed to assess the judgment because explanatory and exploratory analytical approaches are incapable of rigorously testing a hypothesis. Conceptual categories such as: "no signature of presiding officer", "No biometric verification of voters", and over-voting were pre-determined before the reviewing of the judgment commenced. The study adopted noting patterns and themes, seeing plausibility and clustering as strategies to generate meanings as well

as minimizing bias to ensure the arrival of quality conclusions.

Analysis of Ghana Electoral Petition within the International Legal Framework

Electoral petitions are globally accepted to be part of the elements of election administration. Matthew de Cranthorn brought the first recorded case in 1318 against Robert Buedyn before King Edward II and his Council. As part of the Third Wave Democratic development, African countries have resorted to petitions to address election irregularities as alternatives to the civil wars recorded in the early 1980s and 1990s. The cases of the 2001 and 2006 presidential and parliamentary elections petitions in Uganda (Morrison, 2013), the 2007 Nigerian presidential election petition, (Kerr, 2013) and the 2012 election petition in Kenya (Githinj and Holmquist, 2012) provides credible evidence that Africans are adopting new methods of conflict resolution mechanism. The International Institute for Democracy and Electoral Assistance (International IDEA) has developed comparative appropriate electoral laws based on worldwide good practices. The component on electoral petitions is as follows:

- a. The legal framework should provide that every voter, candidate and political party has the right to lodge a complaint with the competent electoral body or court when an infringement of the electoral rights is alleged to have occurred.
- b. The law must require that the appropriate electoral body or court render a prompt decision to avoid the aggrieved party losing his or her electoral right.
- c. The law must provide a right of appeal to an appropriate higher level of electoral body or court with authority to review and exercise final jurisdiction in the matter. The decision of the court of the last resort must be issued promptly.
- d. The legal framework should provide for timely deadlines for the consideration and determination of the complaint and the communication of the decision to the complainant².

Ghana is a member of the International IDEA; consequently it will be appropriate to subject the Ghanaian legal framework of election petition within the international structure.

The framers of the Ghana 1992 Constitution anticipated the possibility and plausibility of electoral disputes in future elections because of the embryonic status as well as the imperfections of democratic institutions in a political system. Consequently, Article 64 (1) of the Constitution and other electoral laws stipulate as follows:

(1) "The validity of the elections of the President may be challenged only by a citizen of Ghana who may present a petition for the purpose to the Supreme Court within twenty-one days after the declaration of the result of the elections in respect of which the petition is presented"

(2) A declaration by the Supreme Court that the election of the President is not valid shall be without prejudice to anything done by the President before the declaration³.

The Ghanaian legal framework meets the requirement of international election petition standards, although the benchmarks stipulating the timely deadlines and communications of the decisions are missing in the country's jurisprudence.

Analysis of Institutions Associated With the Election Petition

Democratic principles such as accountability, transparency, popular participation and respect for the rights of the minority are very important building blocks but these ideals must function within the proper and appropriate institutional linkages. A growing literature on democratic development has emphasized the need for appropriate institutional arrangements. These institutions should qualitatively shape the trajectory of democracy in any jurisdictions charting the path of democracy as a form of political governance. Democratic institutions such as the Parliament, the Commission on Human Rights and Administrative Justice, the Commission for Civic Education and the security agencies has progressively contributed in building political governance in the country. However, the Electoral Commission and the Judiciary played a special role in leading the country to determine the outcome of the 2012 election petition. It is consequently significant to provide basic analysis of the two critical institutions. Misher and Rose (2001) observe that citizens' trust in democratic institutions is significant for endurance and consolidation of democracy.

The Electoral Commission

A key institution in any democratic development is the Electoral Commission because of its function as the arbiter in the conduct of elections in democracies. Pastor (1999) identified three key elements for the success of democratic transitions and consolidation: the incumbent's refusal to hand over political power, an opposition party boycotting elections for fear of losing and the Election Commission considered or perceived to be biased, mostly towards the incumbent party (Pastor, 1999). The perception of the parties to the Election Management Body (EMB) is critical to the successful democratic consolidation, especially if the opposition accepts that the EMB provide the same platform for all. However, if the opposition party feels aggrieved that genuine concerns are ignored, the EMB has become essentially an appendage of the ruling regime by the manipulation of election

processes and results. When this happens, every legitimate means of political alternation is blocked and violence becomes the sole option available to the aggrieved party. Justifying the Nicaraguan revolution, Fonseca Amador of the Nicaraguan Sandinista National Liberation Front argued that peaceful changes that have occurred in other Latin American countries between various factions of the ruling class are absent in Nicaragua (Pastor, 1988). In 2011 the activities of the pro-Ouattara rebel movement, Republic Forces of La Cote d'Ivoire following the failure of the Commission Electorale Independante de Cote d'Ivoire to declare Alassane Ouattara the President Elect corroborates Pastor's (1999) observation that failure on the part of the EMB to conduct elections that are considered by all to be fair preempts democratic transition, leading to chronic instability.

In Ghana, the Electoral Commission is established by article 43, 44 and 45 of the Constitution and Act 451, 1993. The institution is made up of an Executive Chairman who leads the seven-member Commission with two Deputies in charge of operations and administration and finance. The Commission is responsible and manages the electoral system of the country. The Commission has thrived during the Fourth Republic by conducting elections leading to the alternation of political power between the two major political parties in the country. The Commission has also managed several elections from 1993 to 2012. These include parliamentary general and by-elections, District Assemblies' elections, intra-party elections, institutional elections as well as professional bodies' elections. The Commission has offices and staff across the country that is responsible for elections administration. These officials are not enough to meet the human resource requirement of a typical day, nor the demands of a presidential and parliamentary general election day. Consequently, several thousands of temporary elections staff are recruited to augment the number.

The Commission seeks to improve on the elections administration based on the difficulties and problems encountered in the previous elections (Owusu-Mensah, 1997). The Commission introduces measures with the objective of improving transparency and fairness in election administration in the country as a mechanism to improve electoral integrity. Some of these measures include the introduction of transparent ballot boxes, voter photo identification cards, introduction of photo electoral registers as well as an Inter-Party Advisory Committee (IPAC) (Owusu-Mensah, 1997). These electoral innovations have evolved with time since the commencement of the Fourth Republic. Ghanaians expected these improvements to accelerate in the 2012 Presidential and Parliamentary Elections when the Commission announced the introduction of biometric registration process to eliminate double registration by fraudulent voters.

Any analysis of the work of the Commission in the twenty-one year history ought to be done in conjunction with public perceptions of the work of the Commission because of its performance in the touches on the membrane of the Ghanaian people. Afrobarometer surveys⁴ provide a high-quality platform for scientific assessment of the public perception of various building blocks of democracy. Three main studies were conducted in the past ten-year period under the theme, Round 3, 4 and 5. A verbatim question posed to the sampled cumulative population of 5,579 during the three Rounds was:

Qs. How much do you trust each of the following, or haven't you heard enough about them to say⁵:

Electoral Commission

Responses	Round 3 (March 2005-February 2006)	Round 4 (March 2-March 21, 2008)	Round 5 (May 8-May 27, 2012)
Not at all	9%	11%	14%
Just a little	12%	18%	26%
Somewhat	27%	26%	32%
A lot	48%	40%	27%
Don't Know	5%	5%	1%

Source: www.Afrobarometer.org

Table 1: Public Perception of the Electoral Commission in Ghana

These results indicate the dwindling public confidence in the work of the Commission. For example, the response concerning the level of trust of the Commission, which was "not at all", grew by 5 percentile points from 2006 to 2012, that is, from 9% to 14% of the population. Conversely, citizens who trusted it "a lot" also fell from 48% in 2005 to 27% in 2012. Consequently, the expectation of the public for the EC to deliver appropriate electoral service in the 2012 elections had fallen and worsened due to the abysmal performance of the EC in the 2010 District Level elections as well as the conduct of the biometric registration in the early part of 2012. Norris (2013) maintains that public confidence in electoral institutions and satisfaction with performance shapes electoral integrity as well as democratic legitimacy. Browler (2014) argues that public confidence affects the legitimacy of the electoral staff and voters accept that their votes are counted fairly. Thus, Kerr (2013) argues that popular confidence in the conduct of elections is significant for the consolidation of democracy.

The public's perception of the work of the EC was confirmed with the conduct of the 2012 Presidential and Parliamentary elections. These elections can be considered as the most problematic ones conducted in the Fourth Republic. For the first time in the history of the Fourth Republic, the elections were extended to a second

day from the 7th to 8th December to create the opportunity for voters who could not cast their vote to exercise their franchise. The extension raised several questions about the electoral integrity of the votes cast on the 7th December. First, it is in contradiction with the Regulation 27 of Public Election Regulation, 2012, that compels the Presiding Officer to declare the results of the polling station at the close of poll⁶. Second, some eligible voters who were present at their polling stations with their names in the voter register were denied the opportunity to cast their votes because the biometric machines could not biometrically verify their identity.

The Judiciary and Elections in the Fourth Republic

Article 125 of the 1992 Constitution vests all judicial power in the Judiciary. The Constitution further guarantees the independence of the Judiciary by explicitly stipulating “Justice emanates from the people and shall be administered in the name of the Republic by the Judiciary which shall be independent and subject only to this Constitution”⁷ These entrenched provisions empower and provide a verdant turf for the Judiciary to administer justice within the principles of the rule of law which is imperative for democratic development in spite of the history of Judges who stood up against the military dictatorship in the 1970s to administer justice impartially and paid the ultimate price with their life. The Judiciary in the Fourth Republic has demonstrated and asserted its independence by passing judgments contrary to the interest of the executive and the legislature.⁸

Public perception of the judiciary helps to gauge the extent to which the Ghanaian public trusts the Judiciary to adjudicate in conflicts as well as to protect their fundamental human rights. The Afrobarometer question below was put to a sampled cumulative population of 5,579 during the three Rounds:

Qs. How much do you trust each of the following, or haven’t you heard enough about them to say?

The Courts of Law

Responses	Round 3 (March 2005-February 2006)	Round 4 (March 2-March 21, 2008)	Round 5 (May 8-May 27, 2012)
Not at all	12%	15%	15%
Just a little	18%	23%	26%
Somewhat	28%	28%	32%
A lot	35%	30%	24%
Don’t Know	8%	4%	2%

Source: www.afrobarometer.org

Table 2: Public Perception of the Judiciary in Ghana

Table 2 demonstrates public trust and confidence in the Judiciary has declined over the years. For example, the response “Just a little” has progressively increased from 18% to 25% to 26% in 2005, in 2008, and in 2012 respectively. Conversely, the response “a lot” of trust has retrogressively declined from 35% to 30% to 24% in 2005, in 2008 and in 2012 respectively. These statistics project a very gloomy image of the judiciary to deliver justice in years to come. The deteriorating public confidence in the judiciary cast a doubt in the minds of a segment of public about the ability of the judiciary to deliver justice in the elections petition in spite of the live broadcast and telecast of proceedings of the court on various media platforms.

Buscaglia and Domingo (1997) argue that the activities of several institutions are critical in promoting the rule of law and subsequently democratic consolidation; however, the role of the judiciary is extremely paramount in this regard. Levasseur (2002) further maintains that public perception of and support for the judiciary support in building a reservoir of legitimacy and consolidation of the rule of law. Supporting Easton’s (1965) postulation on individual attitude towards institutions, Salzman and Ramsey (2013) argue that institutional performance is the principal driver of individual attitude towards the institutions. Salzman and Ramsey (2013) further maintain after ten years of studies of the Judiciary in Latin America that the quality of the judicial systems influences public confidence in the Judiciary. Furthermore, perceived corruption affects the Judiciary negatively (Salzman and Ramsey, 2013).

Interpretation of Legal Documents

There are nine approaches at the disposal of the judiciary to be used for the purposes of interpretation. These are Originalism, Textualism, Intentionalism, Purposive, Literalism, Pragmatism, Living Constructionalism, Political Process Theory and Modern Approach (Adjei, 2014). In spite of these numerous approaches at the disposal of the judges to interpret the Constitution and laws, Section 10 (4) of the Interpretation Act, Act 2009, instructs the Judiciary to use the Purposive Approach for interpretation. It stipulates that,

“Without prejudice to any other provision of this section, a court shall construe or interpret a provision of the Constitution or any other law in a manner

- (a) that promotes the rule of law and the values of good governance
- (b) that advances human rights and fundamental freedom
- (c) that permits the creative development of the provisions of the Constitution and laws of Ghana, and

- (d) that avoids technicalities and niceties of form and language which defeats the purpose and spirit of the Constitution and laws of Ghana.”⁹

Section 42 of the Interpretation Act further explains that “in an enactment the expression *may* is construed as permissive and empowering, and the expression *shall* as imperative and mandatory.”¹⁰

The Judiciary, as the arbiter of democratic disputes between and amongst citizens and between citizens and democratic institutions, has contributed to the electoral process in the Fourth Republic. A number of parliamentary electoral disputes has been dismissed on grounds of burden of proof. However, in a landmark parliamentary case that spanned four years, Isaac Amoo versus the Electoral Commission, the court ruled that Isaac Amoo won in the Ayawaso West Wagon Constituency but the Commission wrongfully declared Rebecca Adotey as the winner.

Parties to the Election Petition

The petitioners were Nana Addo-Dankwa Akufo-Addo, the presidential candidate of the New Patriotic Party, Dr. Mahamudu Bawumia, the running mate of the New Patriotic Party and Jake Otanka Obetsebi-Lamprey, the Chairman of the New Patriotic Party. The three petitioners met the appropriate locus standi requirement of legitimate interest in the elections. The petition filed required a response from two parties: the first Respondent – President John Mahama to stop holding himself as the legitimate President of the Republic of Ghana and the Second Respondent, the Electoral Commission, herein acting through its chairman who also acted as the Returning Officer throughout the process leading to the conducting, supervision, collating and declaration of the election results of the 2012 Presidential election.

Contrary to the belief and propagandist approach adopted by the incumbent party, the National Democratic Congress (NDC) that the petition was grounded in lies and deception, the party filed a joinder motion to be a party to the case. The party argued that the President was their candidate and they ought to be part of the judicial process to provide other evidence which the two respondents may not be privy to at the time. The petitioners opposed the joinder motion on the basis that the supposed evidence could be tendered by the first respondent, secondly the case is not for political parties but an individual and state agency as respondents; however, the court granted the joinder motion through a vote of 6 to 3 majority decision. Consequently, the NDC became a third Respondent to the election petition.

The Contesting Issues in the Election Petition

The Electoral Commission declared the elections on 9th December in favour of the National Democratic Congress (NDC) candidate, John Dramani Mahama, in spite of the New Patriotic Party’s (NPP) request to the Commission to ratify several anomalies detected in the collation of the results from across polling stations in the country. The Commission directed the NPP to seek redress in court because from the perspective of the Commission and the National Peace Council, the country had become susceptible to insecurity with pockets of tensions and anxiety from various electoral stakeholders. Consequently, the swifter the elections results are the declared, the easier the tensions will be deescalated¹¹.

The soul of the petition as filed is grounded in six constitutional violations, electoral malpractices and commissions. These are:

1. Over-voting defined by the petitioners as

(a) votes cast exceeded the total number of registered voters or

(b) votes exceeded the total number of ballot papers issued to voters on voting day contrary to Article 42 of the Constitution and Regulation (1) of C.I.75¹².

2. Absence of signatures of presiding officers- widespread instances of polling stations without the signatures of the presiding officers or legitimate assistants, contrary to Article 49(3) of the Constitution and Regulation 36 (2) of C.I.75¹³.

3. Voting without biometric verification- there were widespread instances of polling stations where voting took place without prior biometric verification, in breach of Regulation 30(2) of C.I.75.

4. Duplicate serial numbers on statement of poll with different poll results, that is, the occurrence of the same serial numbers on statements of polls with two different polling stations, contrary to established procedure by the Electoral Commission where every polling station has a unique serial number to protect the integrity of the votes¹⁴.

5. Duplicate polling station codes, that is, the occurrence of different results recorded on the statement of poll bearing the same polling station code. This is contrary to the Electoral Commission assigning each polling station with an exclusive serial number to avoid conflicting results¹⁵.

6. Unrecognized polling stations- Twenty-three (23) locations where polling took place which were not part of the twenty-six thousand and two (26,002) polling stations created and established by the Electoral Commission as the recognized polling station for the purposes of the 2012 Presidential elections¹⁶.

The Contested Votes of Petitioners

A unique aspect of the 2012 presidential elections petition was the scale of the votes involved in the petition as well as the ramification on the total outcome of the elections declared. The three most contested central issues are hereby demonstrated for assessment of impact. The votes also indicate the potency of the petition and the extent to which public interest was invested in the case.

IMPACT OF OVER VOTING (1,722 POLLING STATIONS)

CANDIDATE	EC RESULTS	VOTES AFFECTED BY OVER VOTING	VALID VOTERS	% OF VALID VOTES
John Dramani Mahama	5,574,761	504,014	5,070,747	49.47%
Henry Lartey	38,223	3,179	35,044	0.34%
Nana Akufo-Addo	5,248,898	226,198	5,022,700	49.00%
Paa Kwesi Nduom	64,362	4,623	59,739	0.58%
Akwasi Addai Odike	8,877	866	8,011	0.08%
Hassan Ayariga	24,617	3,109	21,508	0.21%
Abu Sakara	20,323	1,738	18,585	0.18%
Jacob Osei Yeboah	15,201	1,842	13,359	0.13%
TOTAL	10,995,262	745,569	10,249,693	100%

Table 3: The number of votes affected by the over-voting

Table 3 shows the extent of irregularity as well as the impact of the over voting in the respective polling station on the overall results declared by the Electoral Commission. John Dramani Mahama won the election with 49.47 and Nana Akofo-Addo won 49% of the valid votes cast.

IMPACT OF ANNULMENT OF VOTES DUE TO THE ABSENCE OF PRESIDING OFFICERS' SIGNATURERS (1,638 polling station)

CANDIDTE	EC RESULTS	VOTES AFFECTED	VALID VOTERS	% OF VALID VOTES
John Dramani Mahama	5,574,761	448,153	5,126,608	49.60%
Henry Lartey	38,223	2,66	35,563	0.34%
Nana Akufo-Addo	5,248,898	197,89	5,051,008	48.87%
Paa Kwesi Nduom	64,362	4,754	59,608	0.58%
Akwasi Addai Odike	8,877	735	8,142	0.08%
Hassan Ayariga	24,617	2,773	21,844	0.21%
Abu Sakara	20,323	1,385	18,938	0.18%
Jacob Osei Yeboah	15,201	1,464	13,737	0.13%
TOTAL	10,995,262	659,814	10,335,448	100%

Table 4: Number of votes affected by unsigned Pink Sheets.

Table 4 depicts the impact of unsigned signatures on the presidential election results, especially the votes of John Mahama and Nana Akufo-Addo. The granting of the relief means that the elections had to be re-run by the Electoral Commission because no candidate attained more than 50% of the valid votes cast by the electorate as required by the Constitution although candidate John Mahama won the elections declared.

IMPACT OF ANNULMENT OF VOTES DUE TO OVER-VOTING, VOTING WITHOUT BIOMETRIC VERIFICATION & ABSENCE OF PRESIDING OFFICERS SIGNATURE (4,487 Polling Stations)

CANDIDATE	EC RESULT	VOTES AFFECTED	VALID VOTES	% VALID VOTES
John Dramani Mahama	5,574,761	1,229,966	4,344,795	47.26%
Henry Lartey	38,223	7,776	30,447	0.33%
Nana Akufo-Addo	5,248,898	534,999	4,713,899	51.28%
Paa Kwesi Nduom	64,362	11,87	52,492	0.57%
Akwasi Addai Odiike	8,877	2,11	6,767	0.07%
Hassan Ayariga	24,617	7,118	17,499	0.19%
Abu Sakara	20,323	4,108	16,215	0.18%
Jacob Osei Yeboah	15,201	4,274	10,927	0.12%
TOTAL	10,995,262	1,802,221	9,193,041	100.00%

IMPACT OF ANNULMENT OF VOTES DUE TO VOTING WITHOUT BIOMETRIC VERIFICATION (2,020 Polling Stations)

CANDIDATE	EC RESULTS	VOTES AFFECTED	VALID VOTES	% OF VALID VOTES
John Dramani Mahama	5,574,761	560,399	5,014,362	49.25%
Henry Lartey	38,223	3,959	34,264	0.34%
Nana Akufo-Addo	5,248,898	234,97	5,013,928	49.25%
Paa Kwesi Nduom	64,362	5,222	59,14	0.58%
Akwasi Addai Odiike	8,877	1,145	7,732	0.08%
Hussan Ayariga	24,617	3,908	20,709	0.20%
Abu Sakara	20,323	1,946	18,377	0.18%
Jacob Osei Yeboah	15,201	2,317	12,884	0.13%
TOTAL	10,995,262	813,866	10,181,396	100%

Table 5: Number of votes affected by voting without biometric verification

The picture depicted by table 5 means that John Dramani Mahama and Nana Akufo-Addo both obtained 49.25% of the valid votes cast in the presidential elections. The two candidates consequently qualify to re-run the presidential elections. The implications of granting the relief meant the President ought to hand-over the administration of the state to the Speaker of Parliament and contest the presidential elections in the re-run to be conducted.

Granting of the three reliefs of the petitioner implied that Nana Akufo-Addo won the presidential elections with 51.28% whereas John Dramani Mahama won 47.26% of the votes cast.

The petitioners consequently sought a relief from the Supreme Court:

- “(1) That John Dramani Mahama, the 1st respondent herein, was not validly elected President of Ghana;
- (2) That Nana Addo Dankwa Akufo-Addo, the 1st petitioner herein, rather was validly elected President of the Republic of Ghana;
- (3) Consequential orders as to this Court may seem meet”¹⁷

The Judicial Process

The Judicial process of the election petition commenced on 9th December 2012, when the Chairman of the Electoral Commission, Dr. Kwadwo Afari-Gyan, challenged the New Patriotic Party (NPP) to proceed to court if the party cogitates any form of electoral violations, malpractice or irregularities regarding the presidential elections. The New Patriotic Party respected the perspective of the Chairman, did not raise objections nor antagonize the Commission, but developed appropriate documentation to begin the legal process of proceeding to court. Twenty-one (21) days after the declaration of the results, in consonance with article 64 (1) as stated above, the NPP filed the petition on 28th December 2012. The Chief Justice empanelled a Nine-Member Panel of Judges with Justice William Atuguba¹⁸ as its Presiding Judge.

The Court ordered the Petitioners and Respondents to agree on the issues to be tried. After several attempts, the two parties failed to reach a consensus. Subsequently, the Court ordered that the determination of petition would be as follows:

- “1. Whether or not there are statutory violations in the nature of omissions, irregularities and malpractices in the conduct of the Presidential Elections held on December 7th and 8th 2012.
- 2. Whether or not the said statutory violations, if any, affected the results of the elections”

The NPP filed 11, 138 Statements of Poll, known in the electoral parlance as the “pink sheets” (the primary record of the election result at the polling station). The definite number of pink sheets filed as well as the polling

stations that they represented was a major source of controversy between the Petitioners and Respondents. An independent accounting firm, KPMG was contracted by the court to undertake an independent audit of the pink sheets. KPMG reported that a total of 10,119 independent pink sheets were available to the court. Petitioners as well as Respondents accepted and endorsed the KPMG report. The report subsequently became a working document of the court.

The court proceedings commenced smoothly. Dr. Mahamadu Bawumia, the second petitioner served as a witness for the petitioners. Mr. Johnson Aseidu Nketia, the General-Secretary of the NDC represented the NDC, with the President as a witness. Dr. Kwadwo Afari-Gyan, the Chairman of the Commission as well as the Returning Officer of the 2012 Presidential elections further served as a witness for the Electoral Commission.

The proceedings of the election petition were broadcast live on national television and radio stations across the nation as well as on various social media platforms. This is contrary to traditions of the court where proceedings are reported by the media after court sittings of the day. The judicial process followed the orthodox traditions of objections and counter objections. The court recorded 56 objections with 33 in favour of petitioners and 23 in favour of respondents. At the meeting of the court on 14th August 2013, petitioners and respondents answered their final questions from the bench in the writing and determination of the judgment. The court set 29th August as the final date to pronounce judgment.

The Supreme Court enforced Article 12 (12) of the Constitution that empowers the Superior Court to punish a person for judicial contempt. After several and persistent warnings to political party communication teams and commentators to halt derogatory and contemptuous pronouncements about the Supreme Court, Messrs Ken Kuranchi of NPP and Stephen Atubiga of NDC were dragged to the court and subsequently incarcerated for ten days and three days respectively for their disruptive comments about the proceedings of the court as well as for posing a threat to the security of the state. The General Secretary of the NPP, Mr. Kwadwo Owusu-Afriyie and Adorye Hopeson of the NPP were fined five thousand Ghana Cedis (Gh 5,000) and Two Thousand Ghana Cedis (Gh 2,000), or in default six months in prison and three months in prison respectively for similar offences.

The entire country had a very strong anticipation of the outcome of the judgment. Eminent citizens of Ghana urged all parties to accept the verdict of the Supreme Court through broadcasting peace messages, and several peace conferences and sporting activities were held across the country.

The Final Verdict

The 588-page judgment is the longest in the history of the Judiciary in Ghana¹⁹. It is the sole judgment that kindled the attention of the entire Ghanaian public because of the public interest and the ramifications of the verdict. It is also a singular judgment that elicited extensive public education through prayers by various religious groups, series of public advocacy programmes involving various civil society leaders in a form of conferences, workshops and discussions on various media platforms across the country.

The Supreme Court panel, by a unanimous decision, dismissed three constitutional violations, that is: items 4 to 6 listed above relating to duplication of serial numbers, unrecognized polling stations and duplication of polling station codes. Consequently three key issues of over-voting, voting without biometric verification and unsigned statements of poll (pink sheets) by the Presiding Officer emerged as the critical contesting issues for the bench to decide the fate of the petitioners as well as the final outcome of the 2012 presidential elections.

In spite of the high public expectation for the Judiciary to bestow justice in accordance with the evidence provided by the petitioners and respondents as well as to secure the deepening of democratic development in the country, the judiciary had a different perspective. According to Justice Atuguba “ the Judiciary in Ghana, like its counterparts in other jurisdictions, does not readily invalidate a public election but often strives in the public interest, to sustain it”²⁰. For the judiciary to “often strive” to sustain public election erodes its functions as the impartial arbiter of public elections entrusted by the Constitution and marks it as an interested party in the name of public interest. The preamble proffered by Atuguba limits the fairness, objective and independence of the Judiciary in dispensing in the justice electoral petition. We examine below the verdict on each of the three contested issues on which the panel was divided.

Over-Voting and Contested Votes

The definition of the concept of over-voting cannot be traced to any legal instrument or statues regulating the conduct of public elections in Ghana, the People’s Representative Law PNDCL 284 of 1992, CI 75, hence, the court had to rely on the perspective of petitioners and respondents.

Two contesting definitions appeared in the court.

- (1) Where the number of those who voted at the polling station exceeds the number of voters contained in the relevant polling station register. The petitioners and respondents accepted this definition.

The contention of Petitioners and Respondents as well as the Bench was the different definitions provided by the Petitioners but rejected by the Respondents that is:

- (1) Where the number of ballots in the box exceeds the number of ballot papers issued to the relevant

polling station.

- (2) Where the ballot issued exceeds the number of registered voters.

The majority of Judges made up of Atuguba, Adinyira, Baffoe-Bonnie Gbadegbe and Akoto-Bamfo dismissed the infraction and irregularity of over-voting on the perspective that the entries on the pink sheets are tainted with omissions and repetitions, therefore they ought to be analyzed alongside the polling station register and the database of the biometric verification machines. Consequently the pink sheet does not offer enough evidence for the acceptance of the claim of the petitioners.

The judges argued that the petitioners did not demonstrate in any polling station where any individual voted more than once, contrary to the principle of universal adult suffrage, one-man one vote as enshrined in the 1992 Constitution. Furthermore, polling agents of the petitioners signed the pink sheets without registering a complaint, and by that conduct, with their signatures they have authenticated the results conducted without multiple voting and impersonation, hence the argument of over voting is flawed. The pink sheet cannot therefore be used to annul results witnessed by stakeholders. "The pink sheet is extremely unreliable for establishment of the phenomena of over voting" Finally they concluded that even if the infractions and irregularities are upheld, the results ought not to be annulled because the infractions are traceable to administration lapses but not the millions of Ghanaians who will be disenfranchised. Therefore according to the judges, the administrative lapses in the elections must be ignored. This perspective contradicts the assessment by Warf (2006) that accurate accounting for ballot is indispensable for functional democracy. Corroborating this view, Stalin (1975) maintains that "it is not who vote that counts, it's who counts the votes." Stalin's view provides a pictorial description of the 2012 presidential elections.

In spite of the interpretation of the majority on the concept of over-voting, Justice Ansah, Owusu and Annin Yeboah accepted the arguments adduced by the petitioners. The Justices argued that, based on the requirement of the Evidence Act, the petitioners did produce enough basis on the face of pink sheet to establish over voting. Furthermore, the Chairman of the Electoral Commission, Dr. Afari-Gyan, recognized the importance of pink sheets by informing the court that before annulling results as emanating from over voting he must consult the pink sheet to ascertain the credibility of the irregularity. The Justices contend that voters may have their names on the register but may not turnout to vote on the Election Day as a result of several unexplained factors. Furthermore, a 100% voter turnout is a rare occurrence in elections; hence determination of over vote based on the register is a utopian and unrealistic expectation.

To conclude on the irregularity, the Universal Adult Suffrage enshrined in the preamble of the Constitution and the C.I 75 also grant statutory injunction against any established abuse of electoral process when a voter casts more than one vote. Thus over voting is anathema to the principle of one man, one vote and a blatant infringement on the Constitution and C.I 75 because it defeats the principles of Universal Adult Suffrage. Justice Ansah cites the case of *Belivior Fianance Co. Ltd v Harold G. Cole & Co* (1969) where the court established that "illegality, once brought to the attention of the court, overrides all questions of pleadings including any admissions made therein." Citing from *Date Bah*, Ansah argued that "No judge has authority to grant immunity to a party from consequences of breach of an Act of Parliament."

Voting without Biometric Verification and Contesting Votes

As Ghana strives to improve its electoral integrity various electoral processes and systems are adopted after every Presidential and Parliamentary election since 1992. In 2011, the Commission introduced a system that will enhance the electoral integrity through a sacrosanct and credible voter register. The improved process is expected to reduce multiple voting, eliminate impersonation as well as fulfill the constitutional provision of one-man one vote within the context of Universal Adult Suffrage. One of such systems is the introduction of the biometric voter registration system, a mechanism to eliminate double registration of electorate through the collection and auditing of the biometrics of every qualified voter.

The legal foundation and the basis of the biometric voting requirement before a voter has the opportunity to cast the vote is enshrined in Regulation 30 of Public Elections Regulation, 2012, C.I 75, which states:

- (1) "A presiding Officer may, before delivering a ballot paper to a person who is to vote at the elections, require the person to produce (a) a voter identification card, or (b) any other evidence determined by the Commission, in order to establish by fingerprint or facial recognition that the person is the registered voter whose name and voter identification number and particulars appear in the register
- (2) The voter shall go through a biometric verification process."²¹

The power to promulgate the C.I 75 emanates from Article 51 of the 1992 Constitution which states:

" The Electoral Commission, by constitutional instrument, shall make regulations, for the effective performance of its functions, under the Constitution or any other law, and in particular, for the registration of voters, the conduct of public elections and referenda, including provisions for voting by proxy."

As part of the public education on the 2012 elections, a mantra was established by the Electoral

Commission to enforce section 2: 'No Verification No Vote (NVNV)'. According to the EC, in any polling station where the ballot cast exceeded the verified voters according to the biometric machine, the entire results of the polling station must be annulled. Consequently four polling stations in Nalerigu-Gambaga Constituency and Kutre (No.1) Polling Station Code number G 124201 were annulled²².

The court decided through majority of Justices: Atuguba, Adinyira, Akoto-Bamfo, Dotse and Gbadegbe to dismiss the irregularity. The Justices argued that the petitioners were represented in the 26,002 polling stations across the country but failed to produce a single affidavit evidence to support their allegation of voters voting without biometric verification. Justices further accepted the position of Dr. Afari-Gyan that because the elections were postponed to the next day meant that all voters went through the biometric verification, logic based on their personal interpretation. Finally the Justices questioned the capability of the pink sheet to provide the requisite information for determination of a presidential election petition. For example, Justice Atuguba maintained that the pink sheet "is judicially regarded as the primary record of elections; it has not been given conclusive effect, neither by the Constitution or any substantive or subsidiary legislation."²³ Also, Gbadegbe argued, "I am unable to fall upon information from the pink sheet that are based on other primary source as evidence of irregularity."²⁴

A minority of the Judges made up of Baffoe-Bonnie, Ansah and Annim-Yeboah disagreed on the issues for determination of the case by the majority. According to the Judges, the pink sheet is the primary record of the polling station, which determines as well as provides a vivid account of the proceedings of the polling station. Consequently the information on the pink sheet is important evidence for the court. Column "C 3" recorded voters who voted without biometric verification, therefore the decision of the court must be based on the evidence so provided. The petitioners relied on the pink sheets to enhance their argument with the phrase that "You and I were not there". In view of that the respondents had a duty to challenge the evidence so provided but they failed to undertake the arduous and tortuous responsibility to challenge it.

The minority held the perspective that it will be discriminatory, unfair to dismiss the claim of the petitioners because some voters were disenfranchised due to their inability to go through the biometric process. Therefore, accepting the votes of voters who did not go through biometric verification compromises the integrity of the votes cast. Citing examples of cases from other jurisdictions to support the judgment maintained that in the performance of public duty, where there is an Act and express Rules made thereunder, a Commission or public officer cannot pass orders that supplant the law but must support and implement the law to assist in the performance of appropriate duty. It is unfortunate the EC sought to introduce elements of discretion into No verification No Vote under CI 75.

Unsigned Statement of Polls (pink sheets) by Presiding Officers

The Interpretation Act defined signature to include the making of a mark and of a thumbprint²⁵. Signature plays an important role in peoples' lives, as by affixing it either by writing with a pen or pencil or otherwise they can personally authenticate a document (Wang, 2006). Wang (2006) argues that a critical element of signature is that the signatory is preparing to adopt the document as well as to be bound by it. Contextualizing the legal component of signature, Erber-Faller (1996) maintains that under German law, a combination of a written form and a signature perform the function of identifying the signatory as well as guaranteeing the authenticity of the statement (Erber-Faller, 1996). The wholeness of documents, contracts and memoranda of understanding is determined by the availability of signatures of parties involved.

It is instructive to establish the position of the law on the subject of the signature of the presiding officer in the Ghanaian electoral process.

Article 49 of the 1992 Constitution states:

- (1) " At any public election or referendum, voting shall be by secret ballot.
- (2) Immediately after the close of the poll, the presiding officer shall, in the presence of such of the candidates or their representatives and polling agents as are present, proceed to count, at that polling station, the ballot papers of that station and record the votes cast in favour of each candidate or question posed
- (3) The presiding officer, the candidate or their representatives and, in the case of a referendum, the parties contesting or their agents and the polling agents if any, shall then sign a declaration stating
 - (a) the polling station, and
 - (b) the number of votes cast in favour of each candidate or question posed, the presiding officer shall there and then announce the results of the voting at that station before communicating them to the returning officer."

Another important statute is Regulation 36 (2) of the Public Elections Regulations 2012, C.I. 15:

" (2) The presiding officer, the candidates, or their representatives and the counting agents shall then sign a declaration stating

- (a) the name of the polling station;
- (b) the total number of persons entitled to vote at that polling station;

(c) the number of votes cast in favour of each candidate.”

In spite of the significance and responsibility of the presiding officer to sign the pink sheets according to the law, the majority view of Justices Atuguba, Adinyira, Baffoe-Bonnie, Gbadegbe and Akoto-Bamfo argued that the relief of unsigned pink sheets by presiding officer cannot be granted. The Justices downplayed the relevance as well as the role signatures play in public discourse. According to Atuguba, “signature in itself has no magic about it, it is judicially acknowledged that failure to sign an official document could be due to administrative error.”²⁶ It is further contended that this category of irregularity is outside the domain of the voter, as it is caused solely by an error or omission on the part of the presiding officer. Baffoe-Bonnie asserts, “failure to sign the document ought to be seen as irregularity that does not affect any party or conduct of the polls”²⁷. Justice Akoto-Bamfo maintains “visiting sins of some public officials on innocent citizens . . . runs counter to the principle of universal adult suffrage”²⁸; it follows that the omissions of the presiding officer should not disenfranchise the voter.

The Justices maintained that to annul an election based on the legality, the said law or the constitution must:

- (a) in explicit statutory language state that the provisions are mandatory
- (b) In explicit statutory language specify that the election is voided because of the failure
- (c) state that the violation affected an essential electoral component
- (d) state that the violation changed the election’s outcome or rendered it uncertain.

The petition meets the three requirements but falls short of (b) supra.

According to Atuguba “It would be unfair and fraudulent for the petitioners to authenticate the results through the polling agents’ signatures and turn round to seek to invalidate [them] on purely technical grounds of absence of presiding officers’ signature.”²⁹

For Adinyira, the constitutional mandate to sign the statement of polls pertains to public referenda but not to presidential elections” “the use of the commas in the sentence, ‘the parties contesting or their agents and polling agents if any’ relates to referenda.”³⁰

On the contrary, the minority comprising Justices Ansah, Owusu, Annin-Yeboah and Dotse, in upholding the infractions based on the evidence supplied, relied on the Constitution extensively to determine the judgment. They cited Article 49(3) that it is a mandatory constitutional entrenched provision that places responsibility on presiding officers; consequently it is impossible to accept an explanation for impugned provision. For the purpose of sustaining constitutional arrangement in Fourth Republic every public servant, irrespective of the capacity, must demonstrate reverence for the sanctity of the constitution. The provision is an entrenched provision which parliament cannot amend; the people of Ghana through a referendum can only do an amendment. As a result, the court has no mandate to give effect to unconstitutional practice. These infractions are statutory violations and irregularities but does address the issue of the enfranchising or disenfranchising of citizens, and therefore must be upheld. The previous Constitutions of 1969 and 1979 did not place such a duty on the presiding officer. It was purposively introduced in the 1992 Constitution to promote a democratic base through transparency and accountability. Thus any attempt by the court to deny the effect of the provision is tantamount to a reversal of democratic development.

Assessment of the Verdict

The Supreme Court set for itself two core issues of the judgment. Therefore the verdict should have been held around the two main issues, *inter alia*:

1. “Whether or not there are statutory violations in the nature of omissions, irregularities and malpractices in the conduct of the Presidential Elections held on December 7th and 8th 2012.
2. Whether or not the said statutory violations, if any affected the results of the elections”

None of the nine judges determined the case along the two issues. However, all the Judges determined the effect of the irregularities on the elections. This is an admission and an upholding of the first case, that there were irregularities, statutory violation and malpractices that affected the 2012 elections.

However, the written judgment revealed that Justices Atuguba, Gbadegbe, Akoto-Bamfo and Adinyirah dismissed the entire six violations and irregularities. Justices Dotse and Baffoe-Bonnie sustained the “over-voting” and “no signatures of the presiding officers” categories and the “voting without biometric verification” categories respectively and directed a re-run of the elections in the affected areas. However, Justices Ansah, Anin-Yeboah and Owusu upheld the three categories of “over-voting”, “voting without biometric verification” and “no signatures of the presiding officers”, so the final results should be 5-4 in favour of the petitioners. It is baffling how the court arrived at the calculations declaring the verdict that the President was validly elected. It is principally more perplexing for the Supreme Court to arrive at such a landmark decision in an unprecedented case and later make a correction on account of the decision of the judges the following several public calculations of the verdict.

The Justices of the Supreme Court have sworn the Judicial Oath, part which states, “ I will at all times uphold, preserve, protect and defend the Constitution and laws of the Republic of Ghana . . .” On the basis of the

oath, it was the expectation of the election watchers and other stakeholders that the judgment would reflect the upholding and preserving of the Constitution as well as the Acts of Parliament that guide the conduct of public elections. The judgment affirms Thomas Jefferson's postulation that "to consider judges as the ultimate arbiters of all constitutional questions is very dangerous and would place us under despotism and oligarchy."³¹ The image of the Judiciary, based on Salzman and Ramsey's (2013) argument that institutional performance is the principal driver of individual attitude about the institutions, has contaminated the Ghanaian public realm.

On the substantive irregularities, the unsigned pink sheets, the majority decision dismissed the infractions, violations and irregularity by downplaying the significance of signature. "Absences of signature are an administrative error", "sins of voters must not be visited on voters". The Justices consequently by inference approved that when a student presents an unsigned university degree for employment, the employers must accept it as an administrative error; similarly, when a diplomatic envoy presents an unsigned letter of credence, the host nation should accept it as an administrative error and allow the designated envoy to commence diplomatic responsibilities. Also, when a country currency is unsigned it ought to be considered an administrative error and all stakeholders ought to accept it as legal tender. It is perplexing for citizens to accept the little importance the Judges attach to signatures, especially recognizing the contribution of Wang (2006) that signature provides the approval and integrity of the signed documents.

Although the judges downplayed the significance of signatures in public elections, the Electoral Commission disqualified and failed to accept the nomination forms of the presidential candidate of the National Democratic Party (NDP), Nana Konadu-Agyemang Rawlings, for failing to provide the required signature according to the Public Elections Regulation, 2012 (C.I 75). The public expressed an outcry, but the Commission was insistent on implementing the law to the letter.

The major political parties had a different perspective from the judges. At the first meeting held by the Inter-Party Advisory Committee (IPAC) made up of the leadership of the major political parties in Ghana on issues of future elections, the leadership advocated for the prosecution of the 900 Presiding Officers who failed to sign the statements of poll in the 2012 elections. The IPAC argued that the Presiding Officers were assigned to provide and perform defined electoral tasks including signing the statements of poll. Hence, a refusal to sign them constituted negligence of duty by public officers, and therefore culpable presiding officers must be hauled to court for prosecution to serve as a deterrent to future Presiding Officers who may consider shirking their responsibilities³².

Ramifications of the Verdict on Democratic Consolidation

The democratic journey of Ghana evolves after every election. In the 1992 general elections presidential and parliamentary elections were conducted with opaque ballot boxes and thumb printed Voters Identification Card. The NPP established irregularities in the conduct of the elections, so the party and other opposition parties boycotted the Parliamentary elections and wrote a book, *The Stolen Verdict*. The NPP restrained itself from seeking legal redress, because according to the party, the transitional process was too fragile to stain its legal actions.

However, by the year 2000, all voters were issued with photo identification cards, a new photo electoral register was inaugurated and the Inter-Party Advisory Committee (IPAC) was in place to facilitate communications as well as to address pertinent issues about the electoral process.

The judgment venerates the work of the EC in its totality as perfect. Although some of the Judges proposed reforms, these reforms are intrinsic constituents of the existing system. There are significant lapses in the administration of elections in Ghana. There are no criteria to determine who qualify as temporary electoral staff. Illiterates have had the opportunity to be appointed as polling assistants and primary school graduates as presiding officers. Lack of appropriate recruitment benchmarks and criteria motivate Returning Officers to appoint the staff based on their personal standards and interest.

Also on the poor quality of staff, the appointed officers are poorly trained. By the EC's own budget of training, the temporary staffs are offered two days' training and they are required to be equipped to understand the entire electoral process and stages of the elections. The EC must also devise an appropriate mechanism of paying the remuneration of the temporary staff. The current arrangement where staff are paid late and irregularly by cash must be reviewed to incorporate modern payment systems that are attractive to the staff. On the human dimension of elections and how it can shape public confidence in elections, Hall, Monson and Patterson (2014) conclude that underestimating recruitment and training of competent poll staff can have a detrimental effect on voter confidence.

Failure to deal out any form of punishment to irresponsible public officers who failed to sign the pink sheets, at least from the minority's perspective, condones acts of discretion and negligence of responsibility on the part of electoral officers who may progress further to violate the Constitution and other public elections laws in future elections.

Finally, the hypothesis of the study cannot be accepted because the panel demonstrated through the

reasons adduced that the judiciary strived hard to uphold election results in the name of public interest but not democratic principles and the rule of law which the Judiciary is entrusted to uphold and defend at all times for all the people.

Conclusion

The paper has sought to raise some salient issues in the 2012 presidential elections petition and its ramifications for the conduct of future elections. The 2012 petition conveys the extent of vulnerability of the political system, especially the extent of impartiality of the judiciary as well as citizens' trust in democratic institutions. The outcome of the judgment communicates to all political stakeholders that electoral politics in Ghana has been reduced to polling station politics. The state institutions entrusted with the responsibilities of delivery of public goods cannot be trusted with any meaningful post electoral adjudication. Consequently, contesting political parties in future elections will employ all available mechanisms to ensure that the rights of voters and votes are well protected within the appropriate legal frameworks without recourse to the Judiciary for settlement. The respective democratic institutions such as the National Commission for Civic Education, the Electoral Commission and the security agencies must reorganize their programmes to create equal platforms and opportunities for all parties within the law to ensure a smooth electoral process in the 2016 Presidential and Parliamentary elections. Parties should eschew any temptation to pursue any form of electoral fraud because any bid by any party to perpetuate any electoral fraud will be counteracted by developing vigilante groups which may generate unprecedented electoral violence in the country.

NOTES

- 1 Supreme Court Verdict, 2012 Presidential Election Petition, Aeon International, 2013.
- 2 International Institute for Democracy and Electoral Assistance, International Electoral Standards, Guidelines for reviewing the legal framework of elections, pp93-94 2001.
http://www.idea.int/publications/pub_electoral_main.html
- 3 The Executive, 1992, Constitution of the Republic of Ghana, Ghana Publishing Company, Assembly Press (pp. 55)
- 4 Afrobarometer surveys are conducted to measure the social, political and economic atmosphere of Africa. For more information consult www.afrobarometer.org
- 5 See www.afrobarometer.org
- 6 Public Elections Regulations, 2012 (CI 75)
- 7 See Constitution, of the Republic of Ghana, Ghana Publishing Company, Assembly Press (pp. 91)
- 8 See Constitution of the Republic of Ghana, Ghana Publishing Company, Assembly Press (pp. 91)
- 9 Interpretation Act, 2009 (792) Ghana Publishing Company, Assembly Press, Accra.
- 10 Interpretation Act, 2009 (Act 792) Ghana Publishing Company, Assembly Press, Accra
- 11 Communication from the Prof. Emmanuel Asante chairman of National Peace Council on 9th December 2012.
- 12 Affidavit of Dr. Mahamudu Bawumia on Presidential Election Petition, Petition No. J1/6/2013, pp 6.
- 13 Affidavit of Dr. Mahamudu Bawumia on Presidential Election Petition, Petition No. J1/6/2013, pp 6.
- 14 Affidavit of Dr. Mahamudu Bawumia on Presidential Election Petition, Petition No. J1/6/2013, pp 7.
- 15 Affidavit of Dr. Mahamudu Bawumia on Presidential Election Petition, Petition No. J1/6/2013, pp 7.
- 16 Affidavit of Dr. Mahamudu Bawumia on Presidential Election Petition, Petition No. J1/6/2013, pp 7.
- 17 Affidavit of Dr. Mahamudu Bawumia on Presidential Election Petition, Petition No. J1/6/2013, pp 9.
- 18 At the time of the case, Justice William Atuguba was second senior most Judge at the Supreme Court next to the Chief Justice.
- 19 The survey conducted on Ghana Law Reports.
- 20 Justice Atuguba Judgment page 33
- 21 Public Elections Regulations, 2012 (C.I 75) Ghana Publishing Company, Assembly Press
- 22 Affidavit of Dr. Mahamudu Bawumia on Presidential Election Petition, Petition No. J1/6/2013
- 23 Justice Atuguba Judgment page 33
- 24 Justice Gbedegbe Judgement
- 25 Interpretation Act, 2009 (792) Ghana Publishing Company, Assembly Press, Accra. pp. 33
- 26 See Judgment, Atuguba
- 27 See Baffoe-Bonnie
- 28 See Judgement Akoto-Bamfoe
- 29 See Judgment ,Atuguba
- 30 See Judgment, Adinyira
- 31 Jefferson Thomas- <http://www.thefederalistpapers.org/founders> (accessed 20/08/14)
- 32 Press Release on IPAC Meeting in Accra on held on June 6, 2014.

REFERENCE

- Adjei, D. (2014). *Preliminary Modern Approach to the Law of Interpretation in Ghana*. Accra: Adwinsa Publication (Gh) Ltd.
- Asamoah, O.Y. (2014). *The Political History of Ghana (1950-2013): The Experience of a Non-Conformist*. UK: AuthorHouse.
- Bowler, S. (2014). *Electoral Performance, Rules, and Perceptions of Electoral Integrity*, a paper presented at a workshop on Citizen, Parties and Electoral Contexts, organized by International Political Science Association.
- Buscaglia, J & Domingo, P. (1997) *Impediments to Judicial Reform in Latin America*. Mexico City: CIDE.
- Easton, D. (1965). *A System Analysis of Political Life*. New York: John Wiley and Sons.
- Erber-Faller, S. (1996). Draft Bill of the German Federal Chamber of Notaries Regarding the Introduction of the Digital Signature, *EDI Law Review* Vol. 3, No. 25.
- Hall, T.E, Monson, J.Q. & Petterson, K.D. (2014). Human Dimension of Elections, *Political Science Quarterly*, Vol. 62, No. 3, pp. 507-522.
- Kerr, N. (2013). Popular Evaluations of Election quality in Africa: Evidence from Nigeria, *Electoral Studies*, Vol. 32, Issue 4, pp. 563-908.
- Levasseur, A. (2002) Legitimacy of Judges, *American Journal of Comparative Law*, Vol. 50, pp. 43-85.
- Mishler, W. & Richard, R. (2001). What are the Origins of Political Trust? Testing Institutional and Cultural Theories in Post-Communist Societies, *Comparative Studies*, Vol. 34. No. 1, pp. 30-62.
- Morrison, J. (2013). Judicial Politics: Election petitions and Electoral fraud in Uganda, *Journal of Eastern African Studies*, Vol. 7 No. 3, pp. 492-508.
- Githinj, Mwangi wa & Holmquist, F. (2012). Reform and Political Impunity in Kenya: Transparency without accountability, *African Studies Review*, Vol. 55, Issue 01, pp. 53-74.
- Norris, P. (2013). The New Research Agenda studying Electoral Integrity, *Electoral Studies*, Vol. 32 Issues 4, pp. 563-575.
- Owusu-Mensah, I. (1997). *The Role of Electoral Commission in Ghana's Democratization Process*. Unpublished dissertation, University of Ghana.
- Pastor, R. A. (1988). *Condemn to Repetition: The United States and Nicaragua*. New Jersey: Princeton University Press.
- Pastor, R.A. (1999). The Role of Electoral Administration in Democratic Transitions: Implications for Policy and Research, *Democratization*, Vol.6, No. 4, pp. 1-27.
- Salzman, R. & Ramsey, A. (2013). Judging the Judiciary: Understanding Public Confidence in Latin American Courts, *Latin American Politics and Society*, Vol. 55, No. 1, pp. 73-95.
- Stalin, J (1975) *Marxism and the national question*, New Book Center.
- Wang, M. (2006). The Impact of Information Technology Development on the Legal Concept- A Particular Examination on the Legal Concept of Signatures, *International Journal of Law and Information Technology*, Vol.15, No.3.
- Warf, B. (2006). Voting technologies and residual ballots in the 2000 and 2004 presidential elections, *Political Geography*, Vol. 25, Issue 5, pp 530-556.