

Ghana's 2012 Presidential Court Challenge: Panic and the Lessons Learned When Democracy Worked Too Well

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Abstract

Ghana's 2012 presidential elections ended with the incumbent, John Mahama, winning, and Nana Akufo-Addo, representing the main opposition party filing a motion at Ghana's Supreme Court to challenge the result. The opposition was exercising the right of the constitution grants political candidates to file a petition in court to nullify elections if they suspected fraud. This electoral challenge was the first of its kind in Ghana involving presidential candidates, and the first the court televised live. Ghanaians followed the proceedings in their finite detail not only for the unfamiliar terms like 'pink sheets', 'over-voting', and 'contempt of court' that were thrown around, but also for dreading the violence they feared would emanate from the final verdict. People had an irrational fear their country might plunge into civil conflict as many African countries had experienced following elections. The court challenge the opposition instituted was a mixed blessing for Ghanaians, as it proved that a candidate and a party discontented with an election result willing to use the due process of law to seek redress could do so unhindered. On the other hand, the novelty of the court challenge and doubt about the ability of Ghana's law enforcement establishment quelling a spontaneous upheaval from the losing party, if one occurred, put the nation on edge. To the relief of Ghanaians, however, the court decision came and went without a whimper, leaving in its trail many teachable lessons for the country. This paper analyzes the unique ways Ghanaians explored to mitigate the full effect of the anarchy they feared and hope other African countries learn some lessons from them.

Key words: Pink-sheets; Over-voting; Contempt of court; John Mahama; Akufo-Addo

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Ghanaians designed the 1992 Constitution to become the bedrock for the democratic change and governance they hoped to have after the Berlin Wall fell. This constitution, the fourth the country adopted since independence, held up well against the difficulties of politics for twenty years until the presidential election of 2012 challenged its mettle. The 2012 presidential election became infamous for a court challenge the candidate who garnered the second highest votes initiated. The plaintiffs were Nana Akufo-Addo and the National People's Party (NPP) and the defendants, John Mahama and the ruling National Democratic Congress (NDC), plus the Electoral Commission (EC). John Mahama was vice president to John Atta Mills, the former president, who passed away in July 2012. The leaders of the NPP insisted there was 'incontrovertible evidence' of widespread irregularities that favored the president and affected the result of the poll. The losing presidential candidate, Nana Akufo-Addo and the NPP, challenging the election's result in court tested the resilience Ghana's constitution had to absorb the effect of a novel case that could potentially plunge the country into anarchy. Ghanaians faced a clear dilemma. Ghana's constitution clearly spells out the prescription for resolving electoral disputes by requiring a "person who had a right to be nominated as a candidate at the election to file a petition at the High Court." The court challenge, however, created unprecedented anxiety in people because it foreboded fomenting the worst form of partisan discontent the country had ever known if the Supreme Court were to overturn the result which one party had wholeheartedly accepted. The Supreme Court waiting until June 2013, six months after the elections, to hear the case that continued through late August, worsened the nation's

unease. Throughout the eight months, partisan analysts wrote critical commentaries and traded accusations at each other over the media. The stakes the electoral challenge raised were high, as suddenly, the prospect of a presidential recall seemed possible, if the court were to rule for the plaintiffs and reorder fresh elections. This paper provides the background to how Ghanaians, fearing violence would deal with their budding multipartite experiment a cruel hand, invoked the social and cultural windbreaks their society had built over several years to forestall such foreboding. Ghana's presidential electoral challenge underscores the challenges many African countries face when their constitutions are called upon to face up to difficult events such as an executive power aggrandizement or even a military coup. Although Ghana came out unscathed from the court challenge with the newly-elected president continuing his term, Ghanaians, undoubtedly, want to avoid facing a similar experience in the future even if the constitution worked as intended for the first time. Unfortunately, no one can assuage the anxiety of a candidate who loses an election by launching a similar challenge in court. If ever there was a panacea, however, it points to all the institutions and organizations involved in elections working more diligently to sanitize them from fraud.

INTRODUCTION

When conducted diligently, elections in Africa have served more than a transition to democracy. Multiparty elections have become the impetus for liberalization and incentive for political actors to expand democratic values (Lindberg, 2006). In reality, African elections have projected two divergent trends. On the one hand, Revolutions have brought political competition including promoting more responsive governments, civil liberties, and social justice. On the other, they have precipitated party instability, political violence, autocracy, and corruption (Opalo, 2012; Lynch & Crawford, 2011). **Sub-Saharan Africa's hostile socioeconomic and historical conditions that have caused** low levels of economic development and high levels of poverty and illiteracy have not been conducive to democracy thriving (Sandbrook, 1996). Some observers have wondered if African countries would be able to keep their democratic political institutions through credible elections and fully embrace the ideals of rule of law, accountability in government, and an independent judiciary (Lemarchand 1992; Onwuekwe, 2006). Adejumbi (2000) criticized elections as a "fading shadow of democracy" because the infrastructure for managing them and their laws and procedures remain largely perverted. Saha's (2011) study of democracy in Ethiopia and the Republic of Congo shows that when applied properly, legislative competition could help to reduce poverty. In Ethiopia, **"virtuous legislative democracy" led to economic growth, but**

in the Republic of Congo, on the other hand, 'vicious legislative competition' stifled growth. Political parties' strong need to keep power impels them to engage in behaviors that have been harmful to national stability such as **voter intimidation, vote buying, and ballot fraud.** Even in South Africa where observers believe elections conducted since 1994 have been free and fair, fraud has been rampant with multiple registrations, multiple voting, falsifying voting tallies, and impersonation. **Power gravitating towards the presidency in every African country and the pervasive clientelism that structures the relations** between the state and the citizenry have corrupted political parties to win the presidency at all cost (van de Walle, 2003). Not surprisingly, the disputes surrounding presidential elections have superseded all others within the context of multiparty politics.

1. ELECTION CONTENTIOUSNESS

It has become a familiar ritual for losing political parties to blame winning parties for rigging elections despite the negligible payoff such complaints have yielded. However, the charge of vote rigging by opposition groups against ruling governments throughout Africa must have merit because some incumbent candidates have garnered ridiculously high victory margins while hardly scraping by in others. National founders such as Nkrumah of Ghana, Kenyatta of Kenya, and Senghor of Senegal held uncompetitive elections and achieved their longevity by strangulating the opposition. Eyadema of Togo, Bongo of Gabon and Biya of the Cameroons who were part of the second generation of leaders, got better at managing political longevity by manipulating electoral results.¹ From mid-1960 to late 1980 when African politics experienced extreme turbulence, incumbent governments felt uneasy whenever opposition groups complained about the state of governance. Such criticism often drew the military into politics. The coups d'état that destabilized countries became symptomatic of the distrust that festered between ruling governments and the military. Owusu (1986) showed how military coups in Ghana and other parts of Africa, which he labeled 'ritualized rebellion,' became a means of transferring power from one ruling elite (military, civilian, or both) to another. Popular revolutions in Ethiopia, Ghana, and Burkina Faso in the 1970s and 1980s showed how brought important structural changes to sharing power.

When a country relies almost only on human labor to conduct elections' mundane tasks, it exponentially increases the error rate and the contentiousness associated

¹ In Togo, 1993, Eyadema won 96.42% to 1.90% his challenger, Jacques Amouzou, got. In 1998, Eyadema won 52.1% against Gilchrist Olympio's 34.2%. In Cameroon, 1992, Biya won 39.98% against 35.97% of John FruNdi, his main challenger. In 1997, Biya won 92.57% to Henri Ndlend's 2.50%. See African Elections Database. <http://africanelections.tripod.com/cm.html>

with elections. The money African governments allocate for elections are usually paltry, largely because their overstretched budgets leave them little room to finance social service projects like water and roads. That circumstance has forced countries to embrace the technology of electronic voting, collecting voters' data biometrically, and training computer specialists to coordinate and interpret electoral data slowly and reluctantly. Besides, decrepit and inadequate infrastructure in electricity, roads, bridges, and polling stations and rest rooms make the work of officials and observers charged with conducting elections difficult. After voters had cast their ballots under these difficult circumstances, the task of counting, collating and crosschecking the results with historical data becomes burdensome when the only method for making easy those tasks is human labor. Even in an advanced industrialized country, as the saga that defined the 2000 presidential elections between George Bush and Al Gore in Palm Beach County, Florida, showed, unavoidable errors occur when antiquated technology is used to help in casting and counting votes (Agresti & Presnell, 2002; Mebane, 2004).

According to Jeffries (1998), limited acceptance of election results, justified or unjustified, underscores the zero-sum nature of politics in developing societies of Africa. **Moehler (2009) has shown that the losers of elections in Africa are less inclined to trust their political institutions, government authority or feel that voting matters. Winners, on the other hand, are more submissive and grant unconditional support for their leaders. Violence, unsurprisingly, has become a common response political parties use to intimidate voters or show their displeasure with electoral loss (Branch & Cheeseman, 2009; Straus, 2012).** The mayhem that followed Kenya's elections in 2007 and Zimbabwe's in 2008, was triggered by the view among the electorate the elections had been rigged, and many people became the victims of violence regardless of ethnicity and wealth (Klopp & Kamungi, 2008; Dercon & Gutierrez-Romero, 2012). In 2013, Kenyans understandably were petrified about the violence of 2007 repeating when the losing candidate in the presidential elections, Raila Odinga, complained about fraud. The Waki Commission Report on Kenya's electoral violence accused each of the major groups in the country for perpetrating violence to achieve political objectives. Members of the majority Kikuyu in particular perpetrated violence against smaller groups like the Kalenjin, Luo and Luhya community members (Waki Commission, 2009). In Côte d'Ivoire, the incumbent president Laurent Gbagbo disputed the electoral results and resisted the political transition for four months through military action (Milam & Jones, 2011). Once a country experiences a major electoral violence it leaves a lasting impression on people that causes uneasiness whenever candidates complain about electoral fraud.

Using courts to mediate electoral disputes, especially presidential elections, has been a sparingly used strategy even though the handful of cases filed has increased their prominence. The autocratic governments that dominated Africa's political landscape for three decades refused to hold regular elections, and when they did would not allow the losing candidate a free reign to challenge the result in court. One of the earliest court challenges, however, occurred in Uganda in 2006 when Kizza Besigye, the petitioner, brought a case against the respondents, Yoweri Museveni, the president, and the Electoral Commission, challenging the accuracy of the results of the February 2006 presidential election. The petitioner contended the election was invalid because the Electoral Commission did not conduct it under the principles laid down in the Presidential Elections Act, and the noncompliance significantly affected the results. Even though the court ruled in favor of some of the charges Besigye laid out, it inferred the Electoral Commission failing to comply with the principles laid down in the constitution did not affect the results of the presidential elections². The latest of such court challenges occurred in Zimbabwe in 2013, when Morgan Tsvangirai **charged the Electoral Commission for rigging the July elections in favor of Robert Mugabe, the incumbent. Even though Tsvangirai and his MDC-T Party withdrew their legal challenge claiming he could not successfully bid his case after the High Court denied him timely access to election materials, the court considered the challenge anyway. Chief Justice Godfrey Chidyausiku, head of the Constitutional Court, dismissed the challenge saying the court found the elections had been free and fair (Zimbabwe Rejecting Fraud Claims, 2013).**

2. THE COURT CASE

Ghana held parliamentary and presidential elections in December 2012, the sixth since the country renewed its experimentation in multiparty politics. According to Ghana's Electoral Commission, John Mahama of the National Democratic Congress (NDC) won 50.7% of the vote, and Nana Akuffo-Addo of the National Progressive Party (NPP), 47.7%. Mahama winning more than 50% of the vote cancelled the need for a round off. The Chief Justice swore in John Mahama as president on 7 January 2013. Several candidates who lost the contest for parliamentary seats in 2012 filed motions in High Courts across the country to contest the results. The most prominent of these court challenges, however, was the opposition's top presidential candidate filing a motion at

² *Dr. Kizza Besigye v electoral commission, Yoweri Kaguta Museveni*. Election Petition No.1 of 2006, Judgment Date: 30 January 2007.

Ghana's Supreme Court to annul the incumbent president's win. In filing the court motion, the NPP claimed it had waited until it had analyzed the data from over 26,000 polling stations where voters cast close to 11 million votes. "To accept this result is to discredit democracy in Ghana and, in the process, distort the process of democratization in Africa. The New Patriotic Party, therefore, could not accept the results of the presidential election." Besides the affidavits filed, the petitioners' presented evidence in the form of color photocopies of pink sheets (Statement of Poll and Declaration of Results Form) from the polling stations where they were disputing the results as declared (*Ghana Supreme Court*, 2013). The petitioners based their case mainly on the figures on the pink sheets, the official document the Electoral Commission (EC) relied on to declare the results of the presidential poll (NPP Files 400,000 Documents, 2013). The petitioners were asking the court to annul 791,423 votes from 1,826 polling stations where 'over-voting' was recorded to have happened. Accepting this dispute about over-voting would mean John Mahama, not getting the 50% +1 vote needed for an outright win. The petitioners tendered in a second amended petition on February 8, 2013 claiming the Ghanaian electorate did not validly elect John Dramani Mahama President. Rather, Nana Akuffo-Addo, the first petitioner, was elected and sought the court to issue the proper consequential orders. The petitioners' stated grounds in their second amended petition were 'diverse and flagrant violations of the statutory rules governing the conduct of the presidential elections,' and 'gross and widespread irregularities in 11,916 polling stations' fundamentally impugned the validity of the results in those polling stations (*Supreme Court*, 2013, pp.3-4). The respondents, spearheaded by John Mahama, the Electoral Commission, and the ruling National Democratic Congress (NDC), however, dismissed the allegations and asked the Court to throw it away. In mid-April, two months before the court began hearing the proceedings it backed covering the event live on television and radio. The Chief Justice reasoned, "the live telecast would help to ease the tension surrounding the taking of sides and acrimony that had characterized the petition challenging John Mahama's presidency and erase any misconceptions held about the matter" (*Supreme Court Endorses*, 2013).

3. THE SUPREME COURT'S DECISION

On August 29, 2013, the Ghana Supreme Court issued its long-awaited verdict on the legal challenge the NPP and its presidential candidate had launched against the NDC and the incumbent president, John Mahama. The court's duty, according to the petitioners, was to discover whether the statutory violations about omissions, irregularities and malpractices in the conduct of the elections affected the results of the elections (*Supreme Court*, 2013, p.53).

In a lengthy 605-page summary, the court reaffirmed Mahama's wins in a split 5-4 decisions filled with legal case history. The Supreme Court identified the core grounds of the petitioners' claim as including: Over-voting, voting without biometric proof, accepting votes in the absence of the signature of a presiding officer, duplicate serial numbers and duplicate polling station codes. The majority rebutted the petitioners' claims item by item. The majority admitted the EC made mistakes entering ballot information such as in ballot accounting, rejected ballots, and tallying votes in ballot boxes. The petitioners, however, could not use faulty entries as proof of over-voting. A major basis for the petitioners' complaint was to prove the pink sheets on whose basis the Electoral Commission declared the election results were flawed. In mid-June, a few days into the hearing, KPMG, an accounting firm, accepted to audit the pink sheets. On 24 June, when KPMG tendered the pink sheets the court had given in evidence but the parties could not agree on the exact number of pink sheets KPMG had taken in its possession (*KPMG Finds 10,333 Pink Sheets*, 2013).

Another charge the petitioners laid was election officers not signing election results. The EC Chairman conceded that about 3% of election results records were unsigned because presiding agents were burdened with so many responsibilities on election day. The Chairman insisted, however, that officers failing to sign those pink sheets in no way affected the results of the elections. Finally, the court dismissed the petitioners' charge of voting without biometric proof. Ghana's Electoral Regulation makes it compulsory for the EC to provide every polling station with a biometric verification device to help establish by fingerprint the identity of the voter. (*Supreme Court*, p.222). The EC took this measure to reduce to the barest minimum impersonation and multiple voting. In their deposition, the petitioners argued the EC illegally considered voting in polling stations where voting took place without prior biometric proof when declaring the results of the presidential elections. The EC Chairman cryptically replied that no one without biometric proof voted, rather it was presiding officers who made entries in a column (column 3) of the pink sheets in error. The court, therefore, must not throw out votes that officers wrongly entered in column 3 because his duty was to safeguard the sanctity of every vote cast. The EC Chairman and the respondents argued the petitioners showed no evidence proving any incident of multiple voting at any polling station, and no one voted when he was not entitled to vote.

4. THE CHALLENGES OF 2008 AND 2012

Ghanaians embraced multiparty politics and adopted a new constitution in 1992, and it is remarkable that more than twenty years later the people have allowed the document to guide political discourse without making significant changes to the original document.

Ghanaians have kept a remarkable sense of decorum when conducting politics, which has helped the country to avoid the bouts of lawlessness that have dogged many countries that have embarked on a similar experiment in multiparty governance. Although Ghana's politics has not been as incident-free as the country has projected it to the world to be, one characteristic about politics that explains why the country has avoided violent political outbursts has been the crosscutting support the major political parties have had from all the regions and the major ethnic groups (Heinz et al., 2010). MacLean (2004) reiterates this point by comparing Ghana and Côte d'Ivoire, which though share identical ethnic, religious, and regional divisions have had different results in politics from grassroots associations. In Côte d'Ivoire, participation in ethnically diverse cocoa producer and mutual assistance organizations reinforces vertical patronage networks based on narrower ethnic identities. In Ghana, by contrast, participation in ethnically homogeneous local church groups encourages developing democratic values and practices locally that mediate the potential for ethnic conflict. In 2008, the image of political stability and tolerance Ghana had carefully constructed was put to a strenuous test during the close run-off elections between John Atta Mills of the NDC and Akuffo-Addo of the NPP. John Atta Mills won 50.23 and Akuffo-Addo, 49.77 percent (Ghana Electoral Commission, 2008). The country held its breath as it waited for the result of a single electoral district, Tain, out of over 200 districts, to decide who would win the run-off (Meissner, 2010). In July 2012, five months to the elections, John Atta Mills, the incumbent president, passed away unexpectedly forcing his party to renominate John Mahama, the vice-presidential candidate, to fill the vacancy. The opposition NPP saw a rare opportunity to wrestle power from the NDC. Candidates focused their campaign on economic issues, yet they also appealed to their base by playing the ethnicity card (Burke, 2013; Agyeman-Togobo, 2012).

Chazan (1982) draws attention to the "dual phenomenon" in Ghana's politics that simultaneously can intensify ethnic politicization or conversely bring mutability in ethnic participation. Ethnicity, she argues, is distinct from yet overlaps regional divisions.³ Nugent (2001), using ethnicity as an explanatory variable for Ghana's 2000 elections asserts the idea did not assume a prominent profile during the campaign. There are genuine difficulties, he cautions, which come with discussing Ghanaian politics in ethnic terms because the language of identity politics is slippery and not consistent. Urban

youth, Nugent believes, found ethnic politicking a distraction from the real issues of employment, access to education, and the space in which to live. Morrison and Hongh (2006) also recognize the dynamic and multilayered aspect of electoral participation in Ghana's politics despite Ghanaians keeping a historical two-party identity. Ethnic and regional cleavages show much more complex varieties of electoral support in the ten regions ranging from strong one-party to almost three party systems. Lindberg and Morrison (2008) see these cleavages as persistent and helping Ghana to achieve its virtual two-party characteristic, which has promoted democratic consolidation and removed the country's previous turbulence. Wimmer et al. (2009) challenge the long-held assertion that highly diverse societies are more conflict prone; rather, they argue, armed rebellions are more likely to challenge states that exclude large portions of the population based on ethnic background. Since independence, Ghana, by happenstance, has had presidents who had served drawn across several ethnic groups and regions.

Although Ghana's economic and social life slowed down during the eight months the Supreme Court was considering the NPP's court challenge, it would be shortsighted to blame the NPP for seeking redress in court. The NDC has suggested the NPP's petition was a silly attempt to rewrite history, even as the NPP also has directly inferred the NDC manipulated the results of the presidential election. The NPP asserting widespread fraud in the presidential vote and going to court to defend that assertion have raised questions about how effective election monitors were ensuring transparency in the 2012 elections. Daxecker (2012) argues that election observers can mitigate violence by deterring electoral fraud, even though publicizing electoral manipulation may induce violent interactions between incumbents, opposition parties, and citizens. Kelley (2012) analyzing data from over 600 monitoring missions agrees with the assertion that outside actors often have no power and can even do harm. Election observers descended in large numbers for Ghana's 2012 elections, the largest being the 250-member strong ECOWAS Election Observer Mission led by Olusegun Obasanjo, Nigeria's former president. The others were the Commonwealth Observer Mission, Canadian International Observer Mission and the African Union Election Observation Mission. Domestic observers included the Christian Council of Ghana (CCG) and the Coalition of Domestic Election Observers (CODEO). Even though these observers praised Ghana's EC smoothly running the elections, they also issued separate reports criticizing the voting, especially using biometric registration that showed only a handful of political parties, intellectuals, and the public understood how it worked. An important characteristic mature democracies have which young democracies usually lack, is tolerance for other people

³ Ghana has had its presidents and heads of state selected from most of the country's regions. Presidents in a chronological order and the regions in which they were born: Nkrumah (Western), Ankrhah (Greater Accra), Busia (BrongAhafo); Acheampong (Ashanti); Akuffo (Eastern); Rawlings (Volta); Limann (Upper West); Rawlings (Volta); Kuffuor (Ashanti); Mills (Central); Mahama (Northern).

expressing contrary opinion, and people agreeing that political parties expressing different opinions on an issue must not cause violence. Ghanaians seemingly passed this tolerance test when no violence occurred in 2012 after the elections and following the court ruling in 2013, despite each side in the dispute carelessly inviting trouble through acerbic language.

The people of Ghana and the major political parties in the country may need continuous education about using decent language in political conversation. Another activity Ghanaians may have to streamline is the manner in which nonpolitical actors enter political discourse. The major parties can organize forums that allow pastors, Imams, chiefs, business leaders and former office holders to express their thoughts on contemporary issues. Moreover, reputable non-governmental organizations such as CHRAJ (The Commission on Human Rights and Administrative Justice), the Electoral Commission, and Danquah Institute can complement the effort toward debate by inviting these opinion leaders to discuss issues with the goal of diffusing tensions. Debating issues in the setting of a roundtable rather than on an obscure radio or television station, for instance, may mitigate the guest speakers using fighting words, a practice that became far too common as the Supreme Court deliberated the case. Ghana's 1992 Constitution guarantees people the right of free speech and successive governments have not made serious attempts to take away that right. Never losing sight of this right, partisan spokespersons have taken it several steps further by interpreting free speech to mean the right to hurl diatribes at political opponents over the media to score points without expecting retribution in the form a lawsuit for defamation. In African politics, harsh rhetoric has become the vehicle which some leaders employ to incite violence as the violence in Rwanda in 1994 and Kenya in 2007 clearly showed. Before the 2012 election, the Christian Council of Ghana (2012) cognizant of the havoc violence could wreck on political stability, warned the top two political parties not to become too polarized as to make their supporters to believe they commanded the numbers to win the general election. This warning foreshadowed the litigation that followed the elections. The Chairperson of the National Peace Council, Reverend Asante, also warned, "Belonging to a political party doesn't make us enemies," and rebuked party supporters and political candidates for engaging in fighting talk involving character assassinations, harmful comments and ethnocentrism in a bid to court favor with voters (Agyeman-Togobo, 2013).

5. A NATION ON EDGE: AN ASSESSMENT

Ghana experienced an uncertain political history from 1957 to 1992, as power alternated between civilians

and the military. When Ghana held the first multiparty elections in 1992 after eleven years of military rule, however, the country began to redeem itself as one of the most stable multiparty democracies in Africa (Haynes, 1993; Lund, 2003). Since 1992 Ghana has successfully held quadrennial elections in 1996, 2000, 2004 and 2008, a feat which the United States president rewarded by visiting the country in 2009. Elections in Ghana, however, have not been lacking in challenges, including fraud and occasional violence. Violence, comprising mainly of local skirmishes, has broken out among supporters of the top parties. One such skirmish, considered above the norm occurred in Bawku in the Upper East Region between Kusasis and Mamprusis in 2000, although it was quickly contained (Smith, 2002). Besides, since Ghana's democratic transition began, the NPP, the major opposition party, has challenged some election results. The party boycotted the parliamentary elections of 1992, after refusing to accept the legality of the presidential elections (Gadzekpo, 2001). In 1996, despite the European Union and the United States giving Ghana monetary aid to run the elections, the NPP raised questions about the elections' integrity and to NDC's win, even though the party did not seek redress in court. The 2012 presidential elections raised stakes so high the two leading parties could not ignore to consolidate power. The NDC hoped to entrench itself in spite of considerable odds, having had to select a new presidential candidate at short notice. The NPP, on the other hand, saw an opportunity to wrestle power from NDC's disconcertion.

Although most Ghanaians expected a court challenge following the elections because of the acrimoniousness of the campaign, they became anxious nevertheless about the effect a protracted court challenge would have on the country's image and stability. The eight months separating filing the challenge and the Supreme Court's ruling became the most harrowing period Ghanaians had ever experienced. No one, including the supporters of the two contending parties, could tell with certainty the manner in which rank-and-file members would react. Duodu (2013) described Ghana being "dazed" by the court case, because of the anxiety and tension it was creating. Despite the court challenge unsettling Ghanaians; it also raised questions about the extent to which Ghana's democracy would be able to withstand the most ominous test it had yet to face. Nana Akufo-Addo and the NPP, doubtless, were exercising a basic constitutional right to seek recourse in a court of law to address an injustice. Doing so, however, made many Ghanaians to question the incalculable price of the country might have to pay for a case the Supreme Court could have dismissed for lacking merit. The Supreme Court, on the other hand, saw taking up the case an opportunity to show the people, and possibly the world that the rule of law reigned over Ghana's politics.

Countries in Africa have become breeding grounds for electoral disputes, some of which degenerate slowly and uncontrollably into violence among groups. The upheaval that came to define the elections in Kenya, Zimbabwe and neighboring Côte d'Ivoire was not lost on Ghanaians, many of whom believed their country could be next. The court proceedings created its own suspense as the Supreme Court through deliberative decision making, sought to present itself as a neutral institution, cognizant but insulated from the vicious partisan bickering going on outside its walls. The court's first move was taking six months after the elections to start hearing the proceedings. The court ostensibly used that period for preliminary hearings of the petitioners and respondents to evaluate the massive documentary evidence tendered. The second significant decision the court made happened in mid-April, when it decided to broadcast the proceedings live on radio and television. The Chief Justice reasoned, "the live telecast would help to ease the tension surrounding taking sides and ill will that had characterized the petition challenging John Mahama's presidency and erase any misconceptions held about the matter" (*Supreme Court Endorses*, 2013). The court challenge was a novelty and coupled with broadcasting the proceedings live created unusually high interest among the public who became attentive and talkative. The court decided to curb this unregulated chatter, what the Chief Justice called "loose talk", by censoring the speech of political operatives whose jaundiced analyses the court found distracting (Kofi, 2013). Besides, the Supreme Court warned partisans of writing letters to judges. "Writing letters to a judge on a matter waiting in court is contemptuous and the practice should cease" (*Writing Letters Contemptuous*, 2013). The contempt warning, however, took an unexpected turn when the court called up three people to appear for publishing and making certain harmful statements and sentenced two to prison terms (Ken, 2013). The Court's action stirred debate among Ghanaians about free speech vis-a-vis the judiciary misusing its power. One columnist asserted the "court operated under anachronistic common law of contempt that gives the judge free reign to intimidate, harass and humiliate the contemnor" (Agyenim, 2013).

The court challenge showed a common strategy Ghanaians employ to ameliorate political crisis by allowing community leaders, traditional chiefs, and religious leaders to appeal to the public to do right. Such strategy of political mediation is by no means unique to Ghanaians, but anxiety over the court decision causing uproar made the public to search for anything that would work. One such strategy was to keep law enforcement agencies apprised of their basic responsibility to prevent violence. Consequently, Ghana's top security chiefs including the Inspector-General of Police, the Commissioner of Police, the Chief of Defense Staff, the

National Security Coordinator, the Director of Police Operations and the Accra Regional Police Commander held periodic meetings about securing the peace, several months before the December elections began. Besides, civil society comprising leaders of trade associations and former politicians realizing the imminency of violence, appealed to voters not to overreact to the court decision. Religious leaders mediating conflict through prayer and moral suasion have become an ingrained tradition in African politics (Haynes, 1993; Riedl, 2012). No country exemplifies this tradition than Ghana where people believe the opinion religious leaders express about politics may be divinely inspired, and therefore, attaches extra significance to those opinions (Yirenkyi, 2000; Kudadjie & Aboagye-Mensah, 1991).

Ghana did not erupt into the violence most people feared would happen no matter which direction the court's decision went. The country is accepting the verdict with distinguished calm proved the rule of law worked, although not after freezing people in a state of apprehension. The Supreme Court paying attention to the minutest detail of the law and court procedure to assure the litigants of its impartiality, the mediative measures community leaders took to prevent anarchy, and the public unanimously accepting the decision without breaking out in spontaneous uproar of disapproval, proved that Ghanaians had embraced the essential rules of democratic governance. Ghanaians may claim, righteously, the checks and balances and the adjudicative procedures the 1992 Constitution laid out worked. Most African countries have constitutions similarly patterned to uphold the rule of law but they have not always worked according to expectation. Ghanaians making such claim, however, ignores the fact the country did not face a crisis the gravity of which would have pushed its survival mettle to the brink. Such circumstance would have happened had the Supreme Court declared that the ruling party hand power over to the opposition, and reversed the fortunes of the two parties. This scenario of the Supreme Court ruling in favor of Akufo-Addo and he winning newly ordered elections seems far-fetched, but it was as close as one judge switching his or her vote. The ruling NDC party and its supporters, undoubtedly, might have taken the implacable stance the Supreme Court had robbed them of victory, and commanded the party's supporters to start civil disobedience. Besides, any recall decision the Supreme Court might have made would have been awkward, considering John Mahama had already served eight months of his presidential term and made most of his ministerial appointments. On the other hand, by lodging what he and his party believed was a justiciable complaint allowed Akufo-Addo and the NPP the opportunity to present evidence about the truth of their claim in full public view. Not winning the court challenge, doubtless, must have disappointed the plaintiffs, but perhaps not momentarily

so. That probably explains why Akufo-Addo accepted the court decision instantly and stoically. He suffered a monumental damage to his reputation and his party's but the court ruling hardly changed his political circumstance.

CONCLUSION

Ghana's democracy worked according to the rules that country's constitution had laid down for justiciable issues to be resolved. Ghana's 1992 Constitution allows candidates and political parties aggrieved by an unfavorable electoral result to appeal to the Supreme Court (High Court) for a redress. The proof the constitution had been working was Ghana not erupting into mayhem after the Supreme Court presented its verdict. It was a close verdict and Ghana was fortunate to have escaped the disruption that has entrapped many countries practicing multiparty politics. Nevertheless, the court challenge has raised questions about the manner in which the Supreme Court went about adjudicating the case and whether that predestined the result. In order not to impede the court's adjudicatory authority, the constitution does not set any time limit within which the court could decide electoral disputes whose relevancy depends on their contemporaneity. The Supreme Court recognizing it was under scrutiny because its ruling could have far-reaching consequences on Ghana's political landscape, took time to deliberate—perhaps too much time. The court had discretionary authority to dispense the case promptly, but it gravitated on the side of caution, perusing every evidentiary detail. In all likelihood, if the court had decided the case within a limited time, the losing party and its supporters might have conveniently ignored the merits of the case and concentrated rather on the uncritical manner in which the evidence presented was examined. The Supreme Court believed in conducting its business with unremitting attention and gave its decision only after ensuring it followed every detail of the law including petitioners, respondents, and their counsel observing proper courtroom protocol. Nana Akufo-Addo, the petitioner, accepting the court verdict stoically without questioning the integrity of the justices who ruled against him vindicated the court's strategy.⁴

John Mahama who the Supreme Court had sworn in as President in January 2013, undoubtedly, might have had his morale dampened by the impending court case. Throughout the court's deliberation, however, he acted as if the challenge was inconsequential. He was in charge as

Ghana's chief executive, and wasted little time appointing his cabinet ministers, touring the country and showing his appreciation for those who voted for him. He also took several foreign trips. To Mahama, the court challenge looked like a dismissible distraction. It is impossible to speculate, however, that President Mahama's demeanor of unconcern was predicated on an irrational belief he would win the case because the court was taking too long to decide. Mahama and his supporters might have believed the highest court of the land recognized it would be the highest act of irresponsibility to reverse the modicum of tranquility the country had been enjoying and the decisions of the new administration had made. The court's strategy and demeanor of thoroughness and impartiality yielded a big reward for the institution because Ghana's usually critical partisan press was deferential to the Supreme Court, never accusing it of impropriety in spite of the contempt citations. The controversy between the NDC and NPP over who really won the elections rages on until today, several months since the Supreme Court delivered its verdict. This rancor may never stop before the 2016 elections. The NPP and its presidential candidate challenging the elections in court must be valued for the cathartic effect it may have on Ghana's politics for the future. The court challenge dramatically highlighted the flaws that parliament and the EC had overlooked in Ghana's elections. It is doubtful the EC would have recognized the deep-seated problems associated with casting ballots, collating them and reporting the data from polling stations to election headquarters and fixed them.

For Ghana to avoid a repeat of dreaded court challenges of presidential elections in the future of the country may have to draw some lessons from this first experience, the most important being future elections becoming sanitized from fraud. Mitigating this possibility, however, may need the EC removing the bottlenecks that have hampered its ability to conduct elections efficiently. The EC must deliver ballots boxes to voting centers several days ahead of the voting day and their safety secured through close-circuit television. The EC must consider seeking assistance from the military to complement the police to beef up security and ease the logistical challenges associated with voting, by providing helicopters and armored cars to deliver ballot boxes to polling centers in far to reach places. When seeking ideas to improve the integrity of voting, the EC must allow all actors who have direct and indirect interest in elections to contribute, not only the party in power or groups affiliated with the government. These actors include the organizations that helped to facilitate the 2012 elections such as the Supreme Court, election monitors, non-governmental organizations and the EC. These organizations recommended Ghana improving the efficiency and sanctity of future elections. The EC may have to hire and train extra personnel to address the problems the electorate typically faces on voting

⁴ A journalist, Cameron Duodu, interviewed Akufo-Addo shortly after the court verdict. Akufo-Addo, he asserts, was unhappy with the ruling but chose to remain calm. Duodu attributes Akufo-Addo's behavior to his family background, especially his late father, Edward Akufo-Addo, serving as Ghana's president from the early 1970s. Duodu, Cameron, 2014. "Why Akufo-Addo Chose Caution, Not Confrontation." *New African*, 48(538), 68-71.

day. These include the discrepancies on voting rosters between electors ready to cast their ballots and not finding their names, missing biometric cards, and checking and counterchecking voting tallies in full public's view before sending the result to the EC's headquarters. Above all, to address electoral disputes speedily, Ghana's parliament may have to revise the constitution to replace the Supreme Court as the final arbiter of electoral disputes with an Electoral Board or Commission.

Violence has become an unflattering quality defining African politics, as some rival parties have never trusted addressing their differences through dialogue. Ghanaians waited patiently for the court to take its full recourse to settle this thorny political dispute and dutifully abided by the court's decision. This is the spirit about the rule of law that the 1992 hoped would guide political action. The plaintiffs and respondents trusting the Supreme Court to render an impartial verdict in such a historic case also were also in the spirit of the 1992 constitution espouses. Ghanaians trusting the court to settle a controversial electoral dispute fairly were probably oblivious to the panic and uncertainty in which the slow pace of adjudication would enshroud the country. Ghanaians, however, enormously rewarded themselves for the months in which they endured panic and uncertainty in the deaths averted. These deaths could have tallied in the thousands, had the parties in the dispute encouraged their supporters to express their discontent about the elections in the streets. By allowing democracy to work through the court painstakingly examining the evidence, however, every Ghanaian won, not least by the country keeping its reputation as an island of reason and stability in a sea of chaos. Many African countries can draw some lessons from Ghana when resolving electoral disputes to allow the rule of law to run its full course, not to seek impulsive answers through violent action. Countries that choose to resolve electoral disputes civilly may pay a price not different from what Ghana paid in fear and puzzlement. Countries, however, may pay a heavier price when they willfully do not allow the rule of law to work.

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