

Electoral Offences and their Sanctions





Support and
Cooperation



Democracy
and Pluralism



Knowledge and
Life-Long Education

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Electoral Offences

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Foreword

Democratic governance has come to be accepted more or less as the bedrock on which the progress and development of every nation stands considering the fact that, citizens of the world nowadays want to have a stake in the way decisions that affect their lives are taken. Arguably, election is the most essential feature in this regard. Therefore, a peaceful and successful general election enhances our quest for democratic consolidation. It in fact helps to deepen the roots of democracy into our body politic by ensuring social auditing, political accountability as well as enhances the quest for rule of law and good governance.

Backed by its constitutional mandate, the Electoral Commission ensures the translation into reality the electoral hopes and aspirations of the good people of Ghana by organising and conducting free, fair, transparent and credible general elections in the country. The fore-going does not, however, seek to imply that all is rosy and that there are no challenges inherent in our electoral system.

In our quest to trash out some of the many electoral challenges therefore, this book attempts to bring to the fore the commonest and most pervasive flaws in the Ghanaian electoral process and to call on all stakeholders to help address them. There are acts of omissions and/or commissions which when avoided by the various stakeholders in the electoral cycle will go a long way to sanitize our electoral process thereby consolidating the electoral gains made so far under our fourth republican constitution.

This booklet, we believe, is a step in the right direction in our quest to make Ghana the oasis of electoral success in the sub region where others could come and draw from our well of experience and drink from our cup of knowledge.

The Electoral Commission at this point, wishes to congratulate the Friedrich-Ebert-Stiftung for approaching us with this very good idea of compiling a list of actions that constitutes electoral offences and their sanctions in our statute books to educate the Ghanaian voter to be aware of what to do and what not to do to ensure that they don't fall foul of the electoral laws of Ghana. We are equally grateful to FES for working to ensure that the research, compilation and publication of the handbook have come to fruition.

1.0 Introduction

In our collective efforts to search for a system of governance that has recognition for and upholds the dignity and universal rights of the governed, the 1992 constitution could be described as the epitome of the will and determination of the Ghanaian populace to be part of decision-making in matters of national concern.

Through the ballot box and not the barrel of the gun, participatory democracy is given meaning as Ghana's Electoral Commission (EC), acting upon its mandate, comes in to conduct elections periodically or as and when required to do so.

It stands to acknowledge the fact that our universally-acclaimed reputation as a peace-loving nation is very important and so dear to our hearts. In this wise, it is incumbent upon us to remind ourselves of the herculean task on hand each time we as a nation have to go through the entire electoral process or a part there-of.

Admittedly, basking in the glories of the electoral successes we have chalked so far, it is worth emphasising that the enviable electoral image of Ghana that we strive to protect and improve upon is, to a great extent, seriously premised on what we are able to accomplish each time we go through the electoral process. Impliedly, it is only hard and diligent work that can always see us through the electoral cycle successfully. In this regard, it is always advisable to heed to the clarion call which enjoins all stakeholders to endeavour to do away with the propensity to deliberately commit electoral offences which risk marring the beauty of an otherwise transparent, peaceful, and successfully-conducted election.

Suffice it to mention that in terms of elections and related issues, Ghanaians have passed through thick and thin. We have survived where others have failed, thanks to the genuine and dedicated contributions of all our stakeholders in the electoral process.

Horrendous and terrifying stories are told about the situation in some war-ravaged countries, brought about by some electoral processes that leave much to be desired. Indeed, it is disheartening to remark

that some countries are experiencing political instabilities with their attendant disastrous consequences as a result of faulty electoral processes. Again, elsewhere, disturbing stories are told about the situation where protracted electoral disputes have led to the downfall of some governments. In such confused situations, not only do women and children suffer, but also almost every living creature. In such unfortunate environments, hunger, and all manner of misery and deprivation abound.

As politicians and their supporters take up arms to fight each other, lives and properties are lost and the environment ends up being polluted or degraded. The implication, in plain and simple terms is that, the often times hackneyed expression: "Ghanaians are peace-loving people" should not make us complacent into taking anything for granted in our electoral system.

We need to forever be mindful of the fact that out of sound electoral process, our political leaders are chosen to steer the affairs of the country. Free, fair, transparent and trouble-free electoral process is what is cherished and desired by all. To attain such 'electoral heights', first of all we need to appreciate

the fact that electoral offences in any form and magnitude can mar the electoral process; and that such an electoral ailment should be done away with from our electoral system through any means possible.

This publication is structured under two broad modules: Electoral Offences and Sanctions there-of. In the first module this introduction is followed by a general description of what constitutes an electoral offence. Subsequently, the author does brief background discussions of the various stages of the electoral cycle, highlighting the various offences under each stage of the cycle from registration to voting.

The second module discusses the sanctions that accompany the electoral offences by law while making recommendations on ways to reduce and hopefully eliminate electoral offences from our elections.

2.0 Electoral offences

An electoral offence could be described as an act of omission or commission on the part of an individual or persons that risks compromising the outcome of an election. In such situations, there is the likelihood of an outright rejection of the election results by a section of the electorate who may feel cheated. A consequence of such a perceived poorly-conducted election may include international condemnation and non-recognition by international observer groups. In other words, where electoral offences committed are systematic and widespread, the end result could be a failed election and its attendant difficulties such as political and social upheavals. Indeed, instances abound where some countries have undergone or are still undergoing protracted wars due to inconclusive elections or disputed elections results.

From the foregoing, it may be argued that in a way, the success story of any democratically and constitutionally organized election is premised on the extent to which election offences are eliminated

from the electoral process. It is to this end that democratically-minded institutions commit money, time and other forms of resources to assist young democracies to improve upon their electoral systems, of which the elimination of electoral offences is more or less a constant feature.

In Ghana, the electoral laws are such that any suspect who is apprehended and proved guilty by a competent court of law, could be fined or sentenced to a certain term of imprisonment or both. With certain offences, a person could, in addition, be banned from participating in public elections for a certain period of time or from holding public office.

Where a candidate's agent commits an electoral offence and it is proved beyond all reasonable doubts that the agent did so prior to the knowledge and consent of the candidate in question, it is the candidate who is held responsible.

Electoral offences are by no means confined to the agent or candidate as they could be committed by all and sundry. Again, it is an undeniable fact that in Ghana like elsewhere, our electoral process is not immune from electoral offences.

Our toddling and teething democracy has its own peculiar electoral offences. This notwithstanding, there is the firm conviction that when and if issues are viewed in their right perspectives, we could give our heads a racking to find the solutions that we need for the conduct of offence-free electoral exercises in Ghana. That is, it will do us a lot of good to hit the nail on the head by stating emphatically and unambiguously that as a nation, should we turn blind eyes and deaf ears to the numerous electoral offences inherent in our electoral system, we do so at our own peril.

It is against this backdrop that lovers of peace and democracy via successful elections deem it fitting and proper to consider what the term electoral offences imply, what constitute electoral offences and the penalties that they attract. By so doing, we may be able to get round most, if not all the perennial and hydra-headed electoral offences in our electoral system for the benefit of successful elections in Ghana.

In the light of this, it is worth examining electoral offences committed in the course of an electoral cycle such as voter-registration, political campaigns and elections.

2.1 Application for registration as a voter

Voter Registration Exercise forms a major activity and plays a pivotal role in the electoral process. By registration, names and other details of the applicant are captured and stored for subsequent use of the voting day.

Before registration of voters, the Electoral Commission of Ghana gets a notice published in the gazette to this effect and states the eligibility conditions that qualify one to apply to be registered as a voter. During registration, the application is made in person at a registration centre.

When a qualified applicant appears before a registration officer at a centre, the registration officer fills the registration form based on the relevant information the applicant supplies him/her. The applicant then affixes his/her thumbprint at the appropriate column on the form. The applicant then proceeds to the next stage of the registration process for the relevant biometric data to be taken.

Ghana has adopted a Biometric registration system that involves not only the details and picture of the applicant, but his/her ten fingerprints as well as a digital photography that ought to be taken in

person at the point of registration, making the offence of impersonation, easily identifiable. By the use of computers, fingerprint scanners and digital cameras to capture data of applicants and the issuing of Voter ID cards to the successfully-registered applicant, the voter registration process is said to be complete. All data about voters gathered from the centres are sent to a database at the head office. From there, data are processed and compiled into voters' register on the basis of electoral area.

Indeed, it is refreshing to note that with biometric voter registration; so long as fingerprints and their contours are unique to each applicant, the problems of voter identification and multiple registrations are perhaps, a thing of the past. Without doubt, those involved in electoral offences of this nature are later on singled out by the computer during a procedure called " matching" of same biometric details.

Nobody should get registered without appearing in person at the registration centre during the period and time specified for that purpose. Nobody qualifies to register unless the fellow is of voting age. To qualify as a voter, the applicant should be a Ghanaian of a minimum of 18 years. S/he should be of sound mind, and should reside or ordinarily reside

in that particular electoral area where s/he wants to apply to get registered as a voter.

A non eligible voter on the grounds of age, nationality or residence commits an offence if s/he attempts to register or succeeds in registering as a voter. In such a scenario, if detected, the affected person's name will be deleted from the register. Additionally, in the case of a non-national, it attracts a form of prosecution if found guilty by a competent court of jurisdiction.

Ideally, barring any event of transfer of vote, the centre where one registers is where one is supposed to vote. This implies that voters are at least, supposed to register in their constituency of choice and nowhere else if only they wish to vote for a candidate of their choice in the parliamentary election.

The Electoral Commission, in its wisdom, may vary the application procedure and the period of registration in the case of disabled or physically-challenged persons or prison inmates as well as Ghanaians living abroad.

2.2 Registration period:

The Electoral Commission always specifies by notice in the gazette, the period within which the registration will take place. However, depending on some circumstances which may later arise, the EC may as well review the date that it announced earlier for the exercise.

This is followed by media announcements and various forms of notifications, advertisements, awareness-creation and sensitization which are undertaken by the EC and other independent governance institutions like the National Commission for Civic Education (NCCE). The requisite information and voter-education are all well packaged for the benefit of the electorate and other stakeholders in the impending electoral exercise.

2.3 Accessibility to centre:

The Commission appoints a registration officer and two assistants to each registration centre. The biometric registration aspect of the entire exercise adds three other officials to the number, making a total of six.

Aside these registration officers, the Commission has specific persons who have the right to enter a registration centre during the period of registration. Doing so by any other person constitute an offence.

These are:

- A person applying for registration as a voter.
- A person who has a complaint to submit to the registration officer.
- A person authorised in writing by the Commission to enter the centre.
- Parties' or candidates' agents accredited either by parties or candidates to be at the centres on their behalf after getting accreditation from the Commission.
- Media personnel accredited either by the Commission or their media houses to cover proceedings at the centres.
- International and domestic observers accredited by their agencies or the Commission to observe activities at the centres.
- District Electoral Officer, Regional Director,

Head Office Director, a senior officer at the head office, Chairman of the Commission and his two Deputies or other Commission Members.

Where one flouts the law governing accessibility to a registration or voting centre without just cause, he is said to have committed an electoral offence. The punishment for such an offence could be as minimal as a caution and a reprimand.

2.4 Registration offences

For purposes of elections, voter registers are compiled on electoral area basis. It is therefore worth noting that a faulty register is, indeed, a recipe for a faulty election and all the encumbrances that may ensue.

It is also pertinent to remark that because of its sensitive nature and the crucial role it plays in the electoral process, voter registration is a matter of great concern to all stakeholders in the electoral process. This show of concern and vigilance helps to ensure that the registration process is all-inclusive and all-encompassing.

In this connection, during each registration period, the election management body (EMB) ensures that stakeholders like party agents, political parties, candidates, observers, security agents, registration officials as well as electoral staff are given relevant and sufficient training on this crucial electoral exercise. Measures are always put in place by the Electoral Commission to ensure a problem-free registration exercise. Once this electoral hurdle is cleared, it could be said of the Commission as being on its way to conducting free, fair, transparent and successful elections.

However, despite 'the schooling', the measures put in place and the warning as well as advice from the Commission to all stakeholders to do the right thing, registration offences do occur on regular basis, some emanating from pure ignorance and some from the simple desire to cheat.

To counteract this electoral canker and promote the compilation of clean, verifiable, credible and reliable voters' register, the Electoral Commission has painstakingly come out with rules and regulations governing the exercise and the penalties that the recalcitrant ones are likely to face.

This part of the publication delves into specific electoral offences at the registration level and their related sanctions in order to fashion out measures to be adopted to eradicate or at least, reduce the effects of this electoral menace.

1. Multiple Registrations

This is the situation where an applicant registers or attempts to register more than once in the same registration exercise at the same centre or at different centres.

The introduction of biometric registration in the electoral system is to help eliminate some of the electoral misdemeanours such as multiple registrations. But then, some applicants are so obsessed with the idea of cheating that despite all the repeated warnings and voter education by the Electoral Commission and the NCCE to the electorate, some of them still indulge in a malpractice of this nature even though now, they can never get away with it. Such people ought to know and accept it that even if they succeed in their plans to register more than once, they will be exposed in the final analysis. This is so

because there is an in-built mechanism in the computers used for the biometric registration which makes it possible to detect and bring out perpetrators of multiple registrations as earlier alluded to.

This is one of the many advantages of the introduction of the biometric registration system because in the past, it was not easy, as a matter of fact, to fish out multiple registrants who by their acts, ended up bloating the voters' register. Even though it is sometimes argued that some people indulge in multiple registrations out of ignorance, it is also true to state that majority of those who indulge in this wrongful act, do so on purpose.

2. Impersonation

Impersonation is where an applicant registers or attempts to register in the name of another person, whether that person is alive, dead or fictitious. In the years gone by, this kind of electoral misdemeanour had been a serious problem to the Commission. As a result, it committed a lot of resources

to try to eliminate this knotty and vexing electoral headache. But truly, complete success in this domain was never achieved. From thumbprint ID cards to photo ID cards, election officials had to be extra vigilant on voting day to avoid multiple voting in those days.

In recent times however, with the biometric voter registration in place, it will make it almost impossible for any person to use another person's ID card to vote or as it were, transact any other business as a result of unique biometric data as explained earlier in this paper. The success story of this application lies in the fact that though some people may look identical, they do not have the same bio-data. This scenario makes impersonation during voting impossible.

3. Unlawful Possession

All registration and voting materials are provided for the purpose of making the exercise a success. Long before the commencement of any electoral exercise,

the Commission goes into meticulous planning towards the acquisition of logistics in their right quantities and quality. This is followed by packaging, storage and distribution of such materials to the various centres of activity at the right time. Adequate security is provided at all times to ensure the safety of materials, both sensitive and non-sensitive.

It is worth noting that the handling of materials is done by the various persons authorised by the Electoral Commission.

It is thus an offence for an unauthorised person whoever s/he may be, to be found in possession of sensitive electoral materials. This injunction is a measure to avoid any possibility of foul play occurring in the registration process.

As a matter of fact, the nature of the registration equipment, the process of registration and the vigilance of party agents in addition to the presence of the media, observers and monitors, can hardly permit the use of any fraudulent means to

get registered without being exposed and apprehended.

4. Riots and Hooliganism

It is the democratic right of every eligible voter to freely apply for registration at the right time and place. However, at certain times, some registration centres witness acts of hooliganism and riots simply because some people decide to make it impossible for others to get registered and/or vote.

From the ensued confusion, registration or voting materials could be damaged accidentally or deliberately. The result of such an unfortunate scenario could bring about a temporary halt on the registration or voting process, with applicants abandoning the centre.

Any act of omission and/or commission on the part of an individual or a group of people whether they belong to a political party or not that may result in acts such as described above, are in foul of the law and

are deemed to have committed an electoral offence.

5. Registration of Minors

The electoral law stipulates that to qualify for registration as a voter, the applicant should be of a minimum age of 18 years on the day of registration. Indeed, in the case of some people, appearance and stature may not be able to confirm actual age.

In other words, a person could be 18 years or above but his/her diminutive stature may not help to confirm his/her eligibility. Again, many are those who have no documentary proofs of their dates of birth. This state of affairs is strong enough to create confusion at registration centres. It is not uncommon however to see minors being sent clandestinely to the centres by some unscrupulous people and politicians to register to vote.

Any person under the eligible voting age is considered a minor and ineligible. Therefore, any attempt by such persons or

by their parents or guardians to register them is unlawful and thus constituting an electoral offence.

6. Registration of Aliens

Ghana's electoral laws forbid non-Ghanaians to register to vote in the country's General Elections. In the light of this argument, come registration time, this law becomes a major issue between the political parties. They normally trade insults among themselves and cast insinuations at one another. They keep on pointing accusing fingers as to which party is scheming to benefit from aliens' votes.

Truly, in Ghana, due to linguistic homogeneity and the cultural symbiotic nature of the people along our frontiers, in some instances, it is simply not easy to determine who an alien is. There are instances where genuine Ghanaians have been queried about their national identity or even denied of their rights to register to vote on the grounds that they bear some resemblance to other nationals from the neighbouring countries.

At times, problems of this nature are settled by the registration officials and party agents as those affected are made to tender in any documentary evidence such as birth certificates, passports, national health insurance, registration cards, etc. Again, in some situations, once an applicant's eligibility is challenged, his/her ID card is retained by the Commission till the case is disposed of after the registration exercise.

7. Use of Force or Threat

During registration, some people take delight in preventing real or perceived political opponents from registering. Such unscrupulous people even go to the extent of invoking names of spirits and shrines to intimidate their opponents.

An individual, his or her agent may use force or intimidation to prevent an eligible voter from exercising his franchise during voter registration. Definition of such undue influence could include duress or threats to inflict temporary or permanent spiritual

injury to a person if the latter refuse to do as has been told. The general belief is that any person who is cast under this sort of real or perceived spell of charm or spiritual force could be traumatized and be emotionally disturbed in one way or another.

Any physical attempt at stopping an eligible person from registering is considered an electoral offence; as admittedly, the spiritual influence is hard to ascertain.

8. False Information

Every applicant is supposed to give accurate information about him/herself. Information so gathered is stored by the Electoral Commission for reference purposes. Information about each applicant is certainly unique and it helps the Electoral Management Body to treat each person as such in the course of compiling the voters' register.

From the proceedings, one can imagine how wrong it is for an applicant to present

a kind of information to the Commission during registration, knowing very well that the information is false. The law takes a hard look at such a misdemeanour and therefore considers it as one of the electoral offences of the land.

9. Destruction of Notices

The Electoral Commission believes in the dissemination of information and the impartation of knowledge about any impending electoral exercise it hopes to undertake. To this end, and as a matter of necessity, it produces a lot of written materials in the form of notices, pamphlets, banners, handouts, etc.

Regrettably, this laudable approach to the education and sensitisation of the public by the Commission does not seem to win the appreciation of some deviants in the society. They therefore resort to the deliberate defacing and destruction of registration notices and other materials. The Commission will not hesitate to hand such deviants over to the law enforcement

authorities as that also violates the electoral laws thus constitute an electoral offence.

10. Wrongful Challenge & Objection

During voter registration, the law permits any qualified voter to challenge the eligibility of an applicant provided the challenger has genuine grounds to do so. Here, it is the right of the challenger to use all the provisions the Electoral Commission has made available to register his/her protest; and the registration officer and all concerned have to cooperate with the complainant.

But then, should it turn out to be that the challenger had no evidence to support the claim and that what s/he did was purely out of mischief, an offence is deemed to have been committed.

11. Unlawful Production / Forgery

The Electoral Commission guards jealously its electoral materials for fear of

counterfeiting by the electoral miscreants or deviants in the society. In this modern age, technology is so advanced that duplication and falsification of documents have been made easy and rampant. It has made the work of fraudsters and tricksters relatively easy; the EMB in the country takes cognisance of the fact that registration forms and any other registration material could be counterfeited for dubious electoral or political gains. It is therefore an offence for any person or persons to produce or to be found in possession of any electoral material without the due authority from the EMB. It is equally an offence for any person to forge or destroy any document that pertains to the electoral process.

12. Treating/undue influence

This is a scenario where one influences or attempts to influence an applicant not to exercise his franchise by registering to vote.

Meat, food or drink may be given to someone to do the bidding of the giver of such items. Treating is synonymous to corruption; and this act is very wrong in the face of the electoral laws of the land.

13. Mass transfer

This is a situation where an election official is influenced by a politician or a candidate to transfer many willing applicants who are the supporters of that politician or candidate from one constituency to another in the hope of getting them registered to vote. Many a time, some politicians and some corrupt registration or election officials would want to come together to cheat through unapproved means of which "mass transfer" is one. This is not encouraged under the electoral laws.

14. Disruption of process

It is an undeniable fact that during voter registration, some people make it a point to disrupt the process. Such acts of

lawlessness usually occur in centres described by the politicians as the opponent's "strong holds". It is not uncommon to see or hear of hooligans having organised themselves to attack a registration or voting centre. Clearly, it is very disheartening to see people under the scorching sun waiting in vain for their turn to register only for other unscrupulous people to disrupt the process. Such acts are equally frowned upon under the electoral laws of Ghana and hence constitute an electoral offence.

15. Unlawful possession of voter ID card:

It is against the law to take possession of someone's voter ID card without the knowledge and consent of the person in question.

No party or organization has the right to possess the voter ID card of its members without the consent of the people in question.

Whoever finds a missing voter's ID card should hand it over to the District Electoral Officer or the police in charge of the nearest police station within seven days. Failure to do so will be considered as unlawful possession of another's voter's ID card, hence having committed an electoral offence.

A Police Officer to whom a voter's ID card has been given should take it to the District Electoral Officer in his district within seven days. Should s/he fail to do so, s/he would have been deemed to be in unlawful possession of the said ID card hence committed an electoral offence.

2.5 Challenge

The eligibility of a person applying to be registered as a voter could be challenged by an accredited person as per the Electoral laws, or a person qualified to register or even the registration officer involved. The said challenge passes through a kind of process which is discussed below.

2.5.1 The challenge procedure:

In case of a challenge, the challenger makes his/her intentions known to the applicant and then to the registration officer. The challenger then fills a challenge form and states the reason or reasons for the challenge. The registration officer could even fill the form on behalf of the challenger. Here, the ID card of the person challenged is kept by the Registration Officer and handed over to the District Electoral Officer. The registration form and the completed challenge form are sent to the district registration review committee that is established by the Electoral Commission in each district after the registration exercise to adjudicate such cases.

2.5.2 Composition of the committee:

A District Registration Review Committee normally consists of the following:

- A Lawyer of high repute in the district who is normally the Chairman of the Committee.
- A representative of each registered and functioning political party in the district.
- The District Electoral Officer who is usually the secretary to the committee.
- The Chief Police Officer in the district.
- The Head of the Education Service in the district.
- A Traditional Ruler in the district.

2.5.3 Functions of the Review Committee:

- To assess the reason or reasons for the challenge
- To decide whether the challenger has sufficient grounds for the challenge
- To communicate its decision in writing to

the Electoral Commission and the applicant

To arrive at reasonable conclusions, the committee has the power to:

- Call for evidence from both the challenger and the challenged.
- Examine thoroughly any documentary proof submitted.
- Call witnesses to testify.
- Carry out any investigation considered relevant to the case under review.

For purposes of taking evidence and calling witnesses, the Committee enjoys the same powers as are enjoyed by community tribunals and once a conclusion has been reached on a case, the Electoral Commission is to implement that decision within 1 days after the Commission and the applicant have been informed. However, should the applicant decide to appeal against the decision of the Committee, the Commission is obliged by law to

wait for the final determination of the case by the Chief Registration Review Committee Officer who is normally a High Court Judge in the district

A High Court Judge is usually appointed as the Chief Registration Review Officer. He is empowered to have a thorough look at all appeals brought before him/her by any person not satisfied with the decision of the District Registration Review Committee.

Decisions arrived at this level are final and are communicated in writing to the Electoral Commission. The Electoral Commission has no alternative other than complying with the decision thus reached.

3.0 Campaigning

By law, every political party duly registered in Ghana has the right to seek audience with the electorate. Equally true is the fact that candidates have the right to advertise and sell their ideas and visions to the electorate and by that ask for their mandate. To this end, all political parties or candidates are enjoined to use responsibly, the freedom available to them as they strive hard to canvass for votes from the electorate.

The Ghanaian public generally describes campaign periods that lead to general elections as very volatile. This is so because for obvious reasons, the political atmosphere sometimes gets charged and "polluted." Sincerely, many electoral offences are usually committed with impunity because of campaigns and related political activities.

Many are those who may, as it were, become genuinely apprehensive and anxious about the unpredictable and tension-packed political atmosphere. Indeed, it may be true to argue that clashes and disturbances associated with political campaigns do not augur well for peaceful elections. In fact, they are viewed by many as a precursor of the problems that may rear their ugly heads on voting day. No wonder the story is told every now and then about some people who prepare to leave the country at the least prompting as they feel insecure during each election year in Ghana.

In other words, a peaceful campaign period is likely to bring about a peaceful election while the contrary is equally believed to be true. In this connection, we need to consider what events constitute campaign offences.

3.1 Campaign Offences

The under-listed are discouraged in the electoral codes and hence constitute

campaign offences in the electoral process.

1) Abusive Language

During political campaigns, some politicians tend to use abusive language on their opponents. Platform statements that incite violence are strong enough to poison the political atmosphere. This state of affairs risks engendering a sense of fear and insecurity in the society.

2) Intimidation or Violence

Some politicians and political parties go to the extent of hiring thugs to unleash violence on their political opponents. At the rallies of their political opponents, some may disguise themselves as party members and go round to sow confusion. This is not what the law encourages.

3) Disruption and Attack

For the purpose of winning votes a political party may encourage its supporters to undertake a kind of voluntary work in a given community. This may be seen by an opponent party as an affront and undue challenge. They will therefore decide to attack without any provocation. Such an act is not in consonance with the electoral laws in Ghana.

4) Provocation:

A political party may for example, provoke an opponent by holding its campaign rally close to the opponent's office. This is an indirect invitation to confusion and mayhem. An avoidable confusion of this nature between parties should not be encouraged.

The electoral laws in Ghana equally frown upon whoever puts on the

identifying colours and party paraphernalia of a different party to attend campaign rallies or gatherings of a other parties other than the one holding the rally. This is so because, if the offender is apprehended, the ensuing misunderstanding and suspicion could pose a danger to that person and disturb public peace.

5) Obstruction

To prevent people from joining political parties of their choice goes contrary to their freedom of association hence an infringement of their fundamental human rights. The law does not encourage this behaviour. Some people believe, albeit wrongly, that by the use of any unorthodox means, they can add to their number of supporters. They are therefore ever ready to put impediments in the ways of those they believe would not vote for them.

6) Fake Identity

Wearing identifying colours and party paraphernalia of opponent parties other than the one whose membership an individual or group bears in order to foment trouble, cause confusion, disruption or commit any act that constitutes an electoral offence under the electoral laws just to put the other party's name in bad showing is committing an offence since the law also discourages that.

7) Carrying of Arms

The carrying of offensive implements to a political rally, meetings or polling station is an act that is at odds with the electoral laws of the land. We cannot imagine the number of lives that could be in danger if political activists and supporters are given a free hand to do what pleases them by carrying small and light weapons.

8) Destruction or Defacing of Materials:

It is an offence to destroy, remove or disfigure campaign materials of other candidates or parties. Many Party supporters are fond of indulging in such negative electoral activities. This act is unlawful and frowned upon by the electoral code.

9) Unruly Behaviour:

For reasons best known to them, some party supporters go to campaign grounds mainly to cause trouble under the influence of alcohol and drugs. Such people almost always succeed in causing mayhem or injury to innocent people. The electoral laws in Ghana do not countenance such a behaviour as such constitutes an offence under the law.

10) Campaign Deadline:

In Ghana, political parties and candidates believe strongly in last minute campaigns. They are of the view that the eleventh hour campaigns help to drive home their points to the electorate for the desired result. However, the law has it that all political campaigns cease 24 hours to elections. Failure to adhere to this directive compromises the political party which would be in breach of the electoral code of Ghana thus committing an electoral offence.

4.0 Elections

Arguably, voting could be described as the “climax” of the electoral process. “Election Day” could therefore be described as the “day of reckoning”. It is a very anxious moment for all stakeholders in the elections. It is, indeed, a well known fact that the tensions, complexities and uncertainties surrounding elections bring in its trail acts of commissions and omissions.

Political parties and candidates are all anxious of victory. More often than not, they only dream of victory, forgetting that in elections, there are two possibilities, a win or loss.

This day of reckoning is very crucial. The voter at this stage sees him/herself as now having the power to be part of the decision-making process. In like manner, the politician or candidate who has been campaigning all this while, will always remain restless and anxious till election results are announced and winners, declared.

Parties' or candidates' agents have their loyalties, commitments, vigilance and political maturity put to the test at voting and collation centres as the exigencies of the situation always compel them to remain at post for several hours on voting day.

Security agents drafted to all voting and collation centres remain very alert to ensure trouble-free elections. They are expected by law, to be neutral and non-partisan in the performance of their duties at the centres.

Elections officials are enjoined to exhibit a high sense of professionalism, integrity, fairness and transparency in the course of the entire voting process up to the declaration of results.

The Electoral Commission is also expected to do its bit to promote free and fair elections by doing what the law mandates them to do, as far as elections are concerned.

International and domestic observers are not left out. On their part, they are charged to give an objective and unbiased report on proceedings at the voting centres they visit. This is for the benefit of the

international donor community and donor agencies, bearing in mind that such reports go a long way to influence the universal acceptance or otherwise of the elections and their outcome by the democratically-minded and peace-loving people worldwide.

Moreover, the media is supposed to inform the general public on issues as voting begins and ends and results are announced and winners declared. In doing so, the media is always expected to be circumspect and mindful of the consequences of what they report and how they report.

In all these, the general atmosphere should be free from intimidation and harassment.

Furthermore, the general atmosphere should be conducive for the political activities of both the incumbent and the opposition. The party in Government should desist from benefiting unduly from incumbency. Equally, Politicians and political parties in opposition are to join hands and contribute their quota in this regard.

4.1 Voting Offences

From the foregoing discussions, it is quite natural for every contestant or party to be hopeful of winning. This may mean the use of "any means possible". It is therefore not surprising to realise that at the end of the day, many electoral offences are committed on the voting day, examples of which are the following.

1) Multiple Voting:

Desirous to win elections at all cost, some candidates could encourage their supporters to indulge in multiple voting where possible. Voting more than once is certainly not in the best interest of any democratically-conducted election and frowned upon in the law and by society.

2) Unnecessary Interference:

In the best of interests, the voting process is supposed to run smoothly at all centres on voting day. However, the behaviour of some unscrupulous people is such that they indulge in unnecessary interference in

the work of some election officials thereby causing undue delay in the process. It is said that some unscrupulous people do that on purpose in the "stronghold" of their political opponents. This is against the law.

3) Deliberate Wrong Recording:

The Commission expects all election officials to display absolute neutrality in carrying out their official duties on voting day. Deliberate wrong recording is where an election official uses his/her position to the advantage of a party or candidate by recording information of some sort even though he/she knows deep in his/her heart that the information in question is false.

4) Undeserved Privilege:

This is when physically-sound people are made to enjoy privileges that are only meant for vulnerable groups like physically challenged persons and the aged who are allowed to exercise their franchise in accordance to certain special provisions

made for them due to their nature. This is a form of cheating which the law will not allow.

5) Willful Disenfranchisement:

This is when an election official denies a voter his/her right to vote at the centre knowing very well that the voter in question is eligible to vote at that particular polling centre.

6) Deliberate Wrongdoing:

If an election officer deliberately counts a ballot in favour of a candidate knowing very well that the ballot in question was not validly cast for that candidate.

7) Partisanship:

Election officials are required by law to be politically neutral in performing their electoral duties on voting day. If they fail to do as required, they are deemed to have committed an electoral offence.

8) Abuse Of Office:

Election officials are enjoined by law to be polite, courteous, and respectful to the electorate at the voting centre. Where they rather take the law into their own hands to do what is not expected of them, it is said that their behaviour is not in consonance with the electoral laws of the land; hence an electoral offence is deemed to have been committed.

9) Intoxication:

Anything that intoxicates can easily impair one's sense of judgment. On voting day, election officials are strongly advised against taking any intoxicating substance. This is to eliminate all possibilities of them committing avoidable mistakes during the voting process. A failure to comply with this directive constitutes an electoral offence.

10) Abandonment of Post:

An election official is required by law to be at post at the voting centre from beginning

to the end of the voting process. At times, some election officials who may sense the least challenge, desert the voting centre. Equally guilty of this behaviour are some parties' agents who desert the centre when they sense defeat of their parties or candidates. This is unacceptable and highly discouraged.

11) Aiding and Abetting:

This is a situation where an election official encourages those he/she knows to be his/her party supporters to cheat on voting day. As a matter of fact, the Commission endeavours to recruit and train knowledgeable people with high sense of patriotism and dedication as Election Officials. This notwithstanding, there are times when some bad nuts manage to sneak through the selection process and cause problems.

12) Willful Negligence:

Election Officials are required by law to attend to problems and other forms of

complaints to which their attention is drawn at the voting centre. But then, where they deliberately refuse to act accordingly, this act of neglect is considered as an electoral offence.

13) Willful Interference:

This is where an election official interferes or attempts to interfere with a voter when he/she is about to make his/her choice on the ballot paper. This act has no basis in the electoral laws of the land.

14) Invasion of Voting Rights:

This is a scenario where an election official seeks to know through any means possible, the party or candidate the voter has voted or will vote for. This behaviour that may be displayed by an election official seeks to undermine the principles of secrecy of vote as enshrined in our electoral laws. This is clearly an electoral offence in Ghana.

15) Canvassing for Votes:

This occurs where at the centre, an election official tries to secretly influence or attempts to influence the decision of a voter as to which candidate or party to vote for. It is an offence to do such a thing at the centre on voting day.

16) Dishonesty:

This is where an Election Official cheats or tries to cheat by giving a voter more than one ballot paper to vote. On voting day, quite a number of offensive acts and behaviours are put up by a number of people at voting centres. It is therefore incumbent upon all election officials and agents to be vigilant to ensure that rules and regulations governing the elections are strictly adhered to. The deliberate display of dishonesty in this regard constitutes a grave electoral offence.

17) Deliberate Failure To Endorse Ballot Papers:

An election official is enjoined by law to endorse and authenticate every ballot

paper before handing it over to a voter to continue with the rest of the voting process. However, should the accredited officer refuse to do as required by law in the hope of making the ballot invalid at the time of counting, commits an electoral offence.

18) Unprofessional Behaviour:

An electoral offence is committed where an Election Official makes known to others a choice of party or candidate a visually impaired person or any person incapacitated has made after giving him/her, at the voting centre, the kind of assistance permissible by law. This same electoral offence covers a situation where an Election Official succeeds in tricking a voter to show him his ballot paper after he has made his choice. In addition, it is equally an offence for an election official or any person to deceive the visually impaired voter to vote for a candidate other than what the fellow would have voted for in the process of assisting the fellow to locate his/her choice

19) Sale of Alcohol:

On voting day, the Law forbids the sale of alcohol within 500 meters of any polling station. Anything short of this constitutes an electoral offence.

20) Foreign Material:

Knowingly and deliberately putting into the ballot box any material instead of a ballot paper which the law permits constitutes an offence.

21) Unlawful Transaction:

To sell or attempt to sell, buy or attempt to buy a ballot paper is an offence.

22) Tampering:

Interference with a ballot box or ballot papers without due authority from the Electoral Commission constitutes a violation of the electoral codes.

23) Unauthorised Markings:

It is against the law to on voting day for an election official to indicate a unauthorised

mark on a ballot paper meant for a voter to indirectly suggest to him/her which party or candidate to vote for.

24) Open Display of Party Colours at Polling Centres

The electoral laws of Ghana forbid any open display of party colours and paraphernalia at the polling centres or anywhere around it on voting day. Failure to comply is a breach of the law.

Similarly, people are encouraged to leave the polling centre immediately after casting their ballot. It is an offence for any person (s) not authorised to stay 500 metres within the voting area.

25) Non-compliance:

Compliance with the rules and regulations governing elections at the voting centres are a pre-requisite for peaceful and successful elections. However, there are times when supporters of some parties or candidates refuse to co-operate with

election officials in the performance of their lawful duties on voting day. Such deliberate acts to thwart the efforts of election officials, the security agent as well as authorised persons around the precincts of the voting radius is an offence.

5.0 Sanctions

It is pertinent to remark that grievous election related offences are normally referred to the High Court for adjudication.

The following are some of the sanctions proffered when an offender is found guilty of an electoral offence.

- A person proved guilty of deliberate false information to get registered as a voter is liable on conviction of a fine not exceeding 100 Gh Cedis or to imprisonment for a term not exceeding two years or both.
- Again, he shall for a period of five years from the date of the expiration of his term of imprisonment be disqualified from being registered as a voter or voting in an election.
- A person found guilty of forgery, defacing or destroying a nomination paper or any literature relating to the electoral process is liable on conviction

to a fine not exceeding 100 Gh Cedis or to imprisonment of a term not exceeding two years or both.

- Anybody proved guilty of possessing or having printed or attempting to print illegally an electoral literature or material is liable to pay 100 Gh Cedis or to imprisonment for a term not exceeding two years or both.
- A person found guilty of willful multiple voting or impersonation is liable on conviction to a fine not exceeding 100 Gh Cedis or imprisonment of a term not exceeding two years or both.
- A person proved guilty of interfering with a ballot box, ballot paper or other sensitive election material without due authority faces a sanction of 100 Gh cedis fine or to imprisonment of one year.
- Anybody proved guilty of treating, bribery, intimidation, threats or undue influence, faces a fine of 100 Gh Cedis or to a year imprisonment.
- A person proved guilty of obstruction or interference of voters rights to

exercise their franchise pays a fine of 100 Gh Cedis or to imprisonment of one year.

- A person found guilty of deliberate publication of information about a candidate pays a fine of 100 Gh Cedis or to imprisonment of a term of not exceeding two years or both.
- A person found guilty of defacing, mutilating, or removing any notice which is exhibited under lawful authority by the Electoral Commission is liable to a fine not exceeding 25 Gh Cedis or to a term of imprisonment not exceeding six months or both.
- Any individual found guilty of having published or made to publish by words written or spoken by song or statement which is false pays a fine of 100 Gh Cedis or to a term of imprisonment not exceeding two years or both.
- Any person found guilty of having organized a group of people for the purpose of using violence, intimidation, abusive and insulting behavior or language on political

opponents pays a fine of 100 Gh Cedis or to imprisonment of a term not exceeding two years or both.

5.1 Statistical Figures on Electoral Offences.

Humans as we are, our actions and inactions are numerous and varied as well as unpredictable. It is therefore true to state that in elections, the list of electoral offences is by no means exhaustive. However the good news is that every electoral offence sent before a competent court of law is considered on its own merits and demerits. With the due process of the law, the appropriate sanctions are determined and carried out to the letter.

The Commission as an Election Management Body has not in actual fact taken it upon itself to document the type of offences committed, their frequencies and the nature of sanctions imposed on offenders by the law courts. It is also sad to observe that so far, the courts themselves have no such records.

6.0 Recommendations

6.1 Reducing/Eliminating Electoral Offences

It is said that no general election is full proof; and that we may be deceiving ourselves if we are tempted to believe that all electoral offences can be completely wiped out from our electoral system. In actual fact, it appears reasoning in this way could be described as mere wishful thinking.

However, so long as we Ghanaians cherish free, fair and transparent elections in Ghana, we all have to make genuine and conscious attempts to, at least, minimise such drawbacks from our electoral system. This way, general elections in Ghana could stand a better chance of chalking more successes. It is to this end that the following recommendations are made:

- Voter/Public Education:
Ignorance of any sort has negative impacts on many aspects of human endeavours. It is

therefore inconceivable to think of the electorate being able to make informed choices in an election without first, receiving the relevant voter-education. Admittedly, the electorates have the right to know, have the right to be informed and educated, and the right to question.

It is recommended therefore that the Electoral Commission and the National Commission for Civic Education should intensify education on the canker of electoral offences in all its forms and ramifications with the view to reducing if not eliminating it from our electoral system.

- Recruitment:

Electoral Commission of Ghana depends, to a great extent, on recruitment of qualified people each time it undertakes an electoral exercise.

These are called temporary election staff. It is suggested that sophisticated methods should be used to recruit better qualified staff to handle the task on hand so as to help reduce the number of electoral offences in the system.

- **Training Session:**
To be able to work efficiently and effectively, those recruited should be given sustained on-the-job training by the Electoral Commission. By this, it is suggested that more days and improved training methods should be devoted for training sessions. This is one way of ensuring that this category of staff learns better in order to perform better.
- **Working Conditions:**
Payment of better allowances for the temporary staff would be able to attract educated and competent people to the job, thereby reducing many of the electoral offences committed during electoral exercises. For example, provisions made by the Commission to protect Electoral Officials and assistants from the vagaries of the weather during electoral exercises would be in the right direction and to be sustained.
- **Maintenance of Equipment:**
In recent times, equipment and machines are used at one stage or the other in the electoral process. To help achieve desired and expected

results, the Electoral Commission should make it a point to repair and maintain or even replace faulty electoral equipment to ensure uninterrupted electoral exercises as there is the tendency for faulty machines to do shoddy and mediocre work.

- **Code of Conduct:**
Political parties are enjoined to adhere to their own code of conduct to ensure problem-free and faultless electoral process. In-house discussions among the parties themselves should be encouraged. The code serves as a mechanism through which some differences and misunderstandings between the parties are handled amicably.

Recalcitrant offenders are publicly criticized and shamed. Meanwhile, where a particular action of a party is deemed criminal, the law certainly takes its course.

- **IPAC Meetings:**
Frank and open discussions between the Electoral Commission and political parties at the

Inter-Party Advisory Committee (IPAC) meetings at the national, regional and district levels should be sustained. Such fora help to iron out some minor differences or problems between political parties which if not addressed, could do some harm to the electoral process.

These forums also offer platforms for the exchange of ideas and solutions to problems in the interest of the electoral process and political parties involved.

- Cooperation:

It is suggested that other democratic institutions like the National Commission for Civic Education (NCCE) and accredited Non Governmental Organisations (NGOs) that have the requisite know-how should in tandem with the Electoral Commission in the crusade of voter/public education of the Ghanaian electorates. The National Media Commission cannot be left out. They should encourage media practitioners to live up to publish the truth, be circumspect and objective in their electoral coverage and avoid sensationalism. They should also endeavour to be accurate and unbiased in their reporting.

Finally, the media should be aware of the consequences of what they put into public domain.

- Learning from School:

Without doubt, ignorance on electoral matters has a negative impact on the country's electoral process. That is to say, basic education is one indispensable factor that should be considered in our search for solutions to some of the electoral offences that are associated with our electoral process. As a long term measure, policymakers should think of including election-related civic education and related issues in the curricula of schools and colleges. This is because, at the basic level, there is an opportunity to add this kind of education as part of the child's character formation.

Indeed, education could go a long way to help the voting population to understand issues at stake and to make informed decisions and be alive to their civic and electoral responsibilities. It is this belief that drives the attempt to come out with this publication as a means of educating the general public and it is anticipated that this

could go a long way to help sanitize the electoral process by helping to reduce electoral offences in the electoral cycle in Ghana.

This submission does not in any way seek to suggest that electoral offences in Ghana are committed mainly by illiterates.

- Tolerance And Respect For Other People's Opinions:

Time and again, the issue of tolerance comes to the fore each time the nation is going through an election process. It is quite natural for different people to belong to different political persuasions. It is also true to state that every voter has a candidate of his/her choice that he/she would want to vote for, come voting day.

For these and other reasons, the electorates and the general public are, indeed, bound to share different thoughts and opinions about the many issues that may crop up during an election period. People are thus advised to be tolerant of divergent views and opinions of others who do not share in theirs.

7.0 Conclusion

7.1 Doing the Right Thing:

Doing the right thing during the electoral process may neither depend solely on how much one is versed in the electoral laws nor the stringent measures put in place to steer affairs. Rather, like all other civic responsibilities, a problem-free electoral process is, to a very large extent, dependent on the electorates' and all other stakeholders' determination to do the right thing at the right time, and at the right place, for the right result.

We need to remember that election is a process and not an event. Again, we should keep in mind that the Electoral Commission cannot conduct any successful elections without the due cooperation and participation of all identifiable stakeholders.

The media for example, should avoid sensationalism, biased reporting and announcing non-certified elections results. The government has

the responsibility of creating a peaceful and congenial atmosphere for the conduct of the elections. Parties in opposition too are expected to reciprocate the good overtures of the government by doing things according to the rules of the game. Adequate security should be provided by the security agencies without fear or favour, while they remain politically neutral before, during and immediately after elections.

After declaration of results, the vanquished should accept defeat honourably and congratulate the winner without any rancour or bitterness.

In this connection, it may be argued that in our quest to reach the zenith or pinnacle of our electoral performance and credentials as a nation, all hands should be on deck. That is to say, we should roll our sleeves, gird our loins and put our shoulders to the electoral wheels. This way, Ghana could continue to be the envy of countries with failed elections, and at the same time, keep on enjoying the admiration and praises of lovers of successful elections and democracy. From all indications, it is crystal clear that the pride of the Electoral Commission, Ghana

and Ghanaians will continue to soar only when we all agree to act in concert to do the right thing, namely: the elimination from our electoral process, electoral offences of all forms, shapes and sizes.

References

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The Electoral Commission is provided for by Article 43 (1) of the Constitution. It is made up of seven (7) members; a Chairman, two Deputy Chairmen and 4 other Members all of whom are appointed by the President on the advice of the Council of State. The main functions of the Commission are outlined in the Electoral Commission Act, 1993 (Act 451), as amended by the Electoral Commission (Amendment) Act, 2003.

The EC has the vision to become an institution that is adequately resourced, staffed with professionally trained and highly motivated personnel, totally independent in the performance of its functions and dedicated to the efficient delivery of transparent, free, fair and incontrovertible elections as a contribution to good governance.

The Friedrich-Ebert-Stiftung (FES) is a political not-for-profit organisation with offices worldwide. It has been operating in Ghana for over 40 years now. Some topics FES works on are: political participation, economic development and social justice, security policy, gender and youth.

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