ELECTIONS AND ELECTORAL PROCESSES TOWARDS DEEPENING DEMOCRACY IN WEST AFRICA: A CASE STUDY OF GHANA AND NIGERIA

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I. INTRODUCTION

It is trite that an effective and efficient electoral system is a germane factor for democratic growth and governance in developing and developed countries. This study attempts to appraise the electoral process in the West African sub-region with the aim of analysing the challenges that bedevilled the same in the sub-region. Democracy has formally been established as the dominant political system across the continent, and the holding of elections has emerged as the most important institutional mechanism for the distribution of political power. Other means and methods of political rule have grown increasingly difficult to motivate and sustain in the face of changing normative and institutional frameworks at both the global and the regional level. Yet, at the same time, the sub-region has witnessed a growing trend of electoral violence in many new democracies. Elections in the sub-region have in times past been marred with violence and killings, the sub-region has been bedevilled by long military rule and dictatorship, which has adversely affected democracy and democratic institutions in the sub-region. This paper seeks to compare the electoral process in Ghana and Nigeria to explore common grounds on matters relating to elections and electoral processes in a bid to seek how democracy and democratic institutions can be strengthened. This paper attempts to proffer a road map for peaceful electoral processes in the West African sub-region by using Ghana and Nigeria as benchmarks for the sub-region.

II. ELECTIONS AND DEMOCRACY

Election is the formal process of selecting a person for public office or of accepting or rejecting a political proposition by voting.[1] It is important to distinguish between the form and the substance of elections. In some cases, electoral forms are present but the substance of an election is missing, as when voters do not have a free and genuine choice between at least two alternatives. Most countries hold elections in at least the formal sense, but in many of

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[1] The Ace Project, The Electoral Knowledge Network, "Celebrating twenty years of sharing electoral knowledge", *available at*: https://aceproject.org/ace-en/topics/em/onePage (last visited on April 5, 2022).

them the elections are not competitive. For example, all but one party may be forbidden to contest, or the electoral situation is in other respects highly compromised.[2]

Although it is common to equate representative government and elections with democracy, and although competitive elections under universal suffrage are one of democracy's defining characteristics, universal suffrage is not a necessary condition of competitive electoral politics.[3] An electorate may be limited by formal legal requirements, as was the case before universal adult suffrage, or it may be limited by the failure of citizens to exercise their right to vote. In many countries with free elections, large numbers of citizens do not cast ballots and, fewer than half the electorate vote in most elections. The legal exclusion can dramatically affect public policy and even undermine the legitimacy of a government. It does not preclude decision making by election, provided that voters are given genuine alternatives from which to choose.[4]

In sub-Saharan Africa, competitive elections based on universal suffrage were introduced in three distinct periods. In the 1950s and 1960s, a number of countries held elections following decolonization.[5] Although many of these countries reverted to authoritarian forms of rule, there were exceptions. In the late 1970s, elections were introduced in a smaller number of countries when some military dictatorships were dissolved (Nigeria and Ghana are classical examples) and other countries in Southern Africa underwent decolonization. Beginning in the early 1990s, the end of the Cold War and the reduction of military and economic aid from developed countries brought about democratization and competitive elections in more than a dozen African countries.[6]

Essentially, an elaborate meaning of an election covers all the processes which include accreditation of voters, casting of votes for one's preferred candidate, counting of

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[2] Maarten Halff, "Confidence in elections and the acceptance of results", A policy brief of the Electoral Integrity Initiative by Kofi Annan Foundation, *available at*: http://aceproject.org/ero-en/misc/confidence-in-elections-and-the-acceptance-of accessed (last visited on Nov. 05, 2021).

[3] The Report of the Global Commission on Elections, Democracy and Security, "Deepening Democracy: A Strategy for improving the Integrity of Elections Worldwide", *available at*: https://ycsg.yale.edu/sites/default/files/files/deepening_democracy.pdf (last visited on Nov. 05, 2021).

[4] *Ibid.*

[5] African Countries like Ghana, Nigeria, Gabon, Guinea, Morocco, Sudan, Senegal, Somalia, and Tunisia got independence during this period.

[6] Matt Golder and Leonard Wantchekon, *Africa: Dictatorial and Democratic Electoral Systems since 1946, Colomer* (Handbook of Electoral System Design, London: Palgrave Joseph, 2004) *available at*: https://www.princeton.edu/~lwantche/Africa_Dictatorial_and_Democratic_Electoral_Systems_Since_1946 (last visited on Nov. 05, 2021).

votes, collating and announcement of results.[7] In some cases, it also extends to the final determination of cases arising from litigations. From the foregoing, it is very clear that voting alone in a unit or polling booth does constitute an election in itself, but the voter is king in an election. The choices they make determine who emerges as the winner.[8] For an election to be free, fair and credible, all stakeholders[9] are required to abide by the rules set out by the electoral umpire. The umpire is also expected to adopt a non-partisan posture from the beginning to the end of the process. Special courts referred to as Tribunals deal with petitions arising from the election.[10]

Elections have become the most acceptable process of changing leadership in any given political system in the present day.[11] It is noteworthy that the concept of elections is quite recent in the history of man as it can be traced to the emergence of democratic governments.[12] From the foregoing, it is clear that elections and democracy are intertwined. It is therefore appropriate to touch on democracy which can be defined as a form of representative government based on the consent of the people.[13] Jimmy Carter said:

> *The experience of democracy is like the experience of life itself-*
> *always changing, infinite in its variety, sometimes turbulent*
> *and all the more valuable for being tested by adversity.*[14]

The principal medium for translating the people's consent into government authority is the holding of free and fair elections.[15] This paper discusses the definitions, the electoral processes, and the impact of competitive elections on the West Africa Sub-Region especially

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[7] National Academies of Sciences, Engineering, and Medicine Securing the Vote: Protecting American Democracy Washington DC: The National Academies Press (2018), *available at*: http://nap.edu/25120 (last visited on Dec. 20, 2021).

[8] Magdaline Umunnah, "2015 General Elections: Voting Process", *available at*: http://www.ndr.org.ng/2015-general-elections-voting-process (last visited on Nov. 05, 2021).

[9] Temitayo Isaac Odeyemi and Oludare Olawale Mosunmola, "Stakeholders, Information and Communication Technologies platforms and the 2015 General Elections in Nigeria" *Paper presented at the National Conference on The 2015 General Elections in Nigeria: The Real Issue*s organised by The Electoral Institute, Independent National Electoral Commission, Abuja, Nigeria 28-29 (2015), *available at*: https://scholar.oauife.edu.ng/sites/default/files/todeyemi/files/stakeholders_icts_platforms_and_the_electoral_pr ocess_odeyemi_mosunmola_ed.pdf (last visited on March 20, 2022) describes Electoral Stakeholders as: the citizens (Electorate), the Electoral body conducting the elections, Competitive Political Parties, the Media and Civil Society Organizations.

[10] *Ibid.*

[11] Eko-Davies Oluwafisayo E, *A Critical Appraisal of Election Laws in Nigeria* (2015) (Unpublished LL.B. Dissertation, University of Ilorin, Ilorin, Nigeria).

[12] Prof. W. Phillips Shively, *Power and Choice; An Introduction to Political Science* 253 (US Mc Graw, 2003).

[13] Matt Golder and Leonard Wantchekon, *supra* note 6.

[14] Former President of the United States, Jimmy Carter addressing the Indian Parliament on the 2nd of June, 1978, *available at*: https://www.azquotes.com/quote/50131 (last visited on Dec. 20, 2021).

[15] The Report of the Global Commission on Elections, *supra* note 3.

in Ghana and Nigeria where elections and electoral processes have been deepened. This paper also enumerates the standard of electoral processes that will aid in achieving free, fair and credible elections anywhere in the world.

<center>III. ELECTIONS IN AFRICA</center>

Elections in Africa are extremely competitive and contentious and can often result in violent conflicts and exacerbation of political instability, especially in fragile countries.[16] From the 1950s through to the 1970s, decolonization swept across Africa. While freedom was greeted with euphoria in many places, it could not mask the deep political instability that often-accompanied independence. Violence and coercion became a common means of changing power. Coups, countercoups, and aborted coups littered the political landscape on the continent.[17] The post-Cold War period witnessed several positive changes with respect to democratization in Africa. Participatory politics grew in the 1990s and 2010s, as the percentage of African countries holding democratic elections increased from 7 to 40 percent, and in 2010, Freedom House classified eighteen countries on the continent as electoral democracies.[18] During the past two decades, the general trend has been toward greater accountability of political leaders, whose domestic legitimacy is largely linked to the means through which they attain and maintain power, yet progress has been uneven.

Elections have facilitated the emergence of democratic governments in Benin, Cape Verde, Ghana, Mali, Senegal, and South Africa. Following autocratic regimes and protracted civil wars, more stable societies have emerged in Guinea, Liberia, Niger, and Sierra Leone. In some cases, however, elections have been manipulated to legitimate autocratic regimes, or to ensure dynastic successions on the continent. Violence still plagues approximately 20 to 25 percent of elections in Africa.[19] In recent times, high-profile electoral crises in Kenya (2007-2008), Zimbabwe (2000 and 2008), and Côte d'Ivoire (2010-2011) have collectively led to at

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[16] I. Côté, & M. I. Mitchell, "Elections and "Sons of The Soil" Conflict Dynamics in Africa and Asia" 23(4) *Democratization* 657-677 (2016). See also S. I. Lindberg, "The Democratic Qualities of Competitive Elections: Participation, Competition and Legitimacy in Africa" 42 *Commonwealth & Comparative Politics* 61-105 (2004).

[17] The Report of the International Peace Institute, "Elections in Africa: Challenges and Opportunities" (2011), *available at*: https://www.ipinst.org/wpcontent/uploads/publications/ipi_e_pub_elections_in_africa__2_.pdf (last visited on Dec. 20, 2021).

[18] Freedom House, Electoral Democracies in Freedom in the World 2010, The Report of International Peace Institute (2011), *available at*: www.freedomhouse.org/uploads/fiw10/ElectoralDemocraciesFIW2010.pdf (last visited on March 20, 2022).

[19] Dorina Bekoe, Trends in Electoral Violence in Sub-Saharan Africa Peace Brief, 13, United States Institute of Peace (2010), *available at*: http://www.usip.org/files/resources/PB13Electoral%20Violence.pdf (last visited on Dec. 20, 2021).

least four thousand deaths and hundreds of thousands displaced.[20] Electoral violence can erode people's faith in democratic processes. Additionally, countries with a history of electoral violence often experience a recurrence of such violence, as has been witnessed in Kenya, Nigeria, and Zimbabwe.[21] The spate of electoral violence in Africa has increased in recent times, hence the desire to examine the nature of electoral processes in Africa. Over the years, it has attracted global attention and aid with the aim promoting peaceful and successful elections in Africa.

IV. GUIDING PRINCIPLES OF ELECTORAL PROCESSES

Electoral processes require a legal and institutional system that encourages and protects fair and equitable elections as well as application of specific measures to protect integrity based on democratic election standards and best practices. The appropriate measures must be adapted to the social and political context of each country, but the basic objectives are the same and stem from the need to ensure genuine and credible elections.[22] The worldwide spread of democracy in the 1990s has attracted scholarly attention to the central role of elections in democratic transition and democratic development.[23] In the measurement of democracy elections must meet various standards to ensure democratic legitimacy. More importantly, changes in electoral rules about voting thresholds, electoral formulas, assembly size and party systems have been viewed as key to managing tensions in plural societies[24]

A. Respect for Principles of Electoral Democracy

For an election to be genuine and credible, it is not enough for electoral administration to be conducted in a relatively orderly and professional manner. A free

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[20] In Kenya, over 1,200 people were killed during the 2007-2008 post-election crisis. See UN High Commissioner for Human Rights, "Report from OHCHR Fact-finding Mission to Kenya" 6-28 (Feb. 2008), *available at*: http://blog.ushahidi.com/wp-content/uploads/2008/03/final-ohchr-kenya-report-19-march2008.pdf In Zimbabwe, 36 politically motivated deaths and 2,000 cases of political violence including abductions, beatings, torture, and killings were recorded in 2008. See Human Rights Watch, "Bullets for Each of You: State-Sponsored Violence since Zimbabwe's March 29 Elections", June 09, 2008, *available at*: www.hrw.org/news/2008/06/09/zimbabwe-runoff-vote-will-be-dead-arrival. And, in Côte d'Ivoire during the 2010-2011 post-election crisis, at least 3,000 people were killed, 72 people disappeared, and 520 people were subject to arbitrary arrest and detentions. See UN News Centre, "ICC prosecutor seeks authorization to probe Côte d'Ivoire violence", *available at*: www.un.org/apps/news/story.asp?NewsID=38817&Cr=Ivoire&Cr1=.August (last visited on Dec. 20, 2021).
[21] The Nordic Africa Institute, "Policy Notes on Electoral Violence in Africa", *available at*: https://www.diva-portal.org/smash/get/diva2:581667/FULLTEXT01.pdf (last visited on Dec. 20, 2021).
[22] Electoral Integrity, Ace Project the Electoral Knowledge Network (2012), *available at*: https://aceproject.org/ace-en/topics/ei/onePage (last visited on Dec. 20, 2021).
[23] Aiyede E R, "Federalism, Power-sharing and the 2011 Election in Nigeria" 11 *Journal of African Elections* 1 (2012).
[24] *Ibid.*

election also depends on freedom of speech, assembly, association and movement, and freedom from fear. A fair election requires a transparent electoral process, equitable electoral laws, regulations and systems; equal opportunities for all participants, an independent and impartial elections commission; lack of intimidation; proper procedures; and accurate tabulation and acceptance of the electoral results.[25] Countries in Africa have been bedevilled with the negative effects of military rule and despotic leaders, hence the concept of electoral democracy, though not novel to the continent, but has not fully attained prominence.[26] Emerging governments in the continent have to deal with issues of poverty, illiteracy, militarization, and underdevelopment produced by incompetent or corrupt governments.[27]

B. Ethical Conduct

This implies that all participants in electoral processes should behave in a way that promotes a free and fair process, and that discourages conduct jeopardizing the integrity of the process. To achieve this, all participants must carry out their duties or roles in a professional, transparent and impartial manner.[28] This means that public officials (including electoral administrators) must not use their position for personal or partisan benefit. Candidates and parties must not misuse campaign contributions and participants. Outside interests must not use money or other incentives to improperly influence an electoral administrator or public official, and must disclose their financing and spending as required by law.[29]

Ethical conduct also involves respect for the political rights and activities of others; acceptance by citizens and electoral administrators that everyone has the right to freely debate political issues and promote different political viewpoints; and an understanding that no one has the right to interfere with political parties' efforts to spread their message or with other citizens' political activities.[30] Many electoral laws make provision for *codes of conduct*

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[25] Guidelines for Reviewing a Legal Framework for Elections, OSCE Office for Democratic Institutions and Human Rights (ODIHR, 2nd ed., 2013) *available at*: https://www.osce.org/files/f/documents/f/8/104573.pdf (last visited on Dec. 18, 2021).

[26] The National Academies of Sciences Engineering Medicine, "Democratization in Africa: African Views, African Voices, Transitions to Democracy in Africa" (The National Academies Press, 1992), *available at*: https://www.nap.edu/read/2041/chapter/4 (last visited on Dec. 20, 2021).

[27] *Ibid.*

[28] Helena Catt, Andrew Ellis, *et.al.*, "Electoral Management Design" *International Institute for Democracy and Electoral Assistance* (2014), *available at*: http://www.eods.eu/library/IDEA.Electoral-Management-Design.pdf (last visited on Dec. 20, 2021).

[29] *Ibid.*

[30] Stuart C. Gilman, "Ethics Codes and Codes of Conduct as Tools for Promoting an Ethical and Professional Public Service: Comparative Successes and Lessons" (2005), *available at*: https://www.oecd.org/mena/governance/35521418.pdf (last visited on Dec. 20, 2021).

that lay out the behaviour expected of the various participants in an election, for example, political parties and candidates; election officials and workers; other government officials; and sometimes also the media. Some systems also address additional issues – such as "vote-buying" or "vote bribery" through special restrictions on related activities (such as providing cash or other benefits to voters in a constituency or their communities), especially during the campaign period.[31]

C. Professionalism and Accuracy

Electoral processes' problems are often assumed to result from dishonest or fraudulent practices, but they can also be the result of human error or honest mistake. It is essential for election administration to be professional and accurate. Sloppy work or inaccuracies in tallying votes can raise integrity questions and compromise the validity of the results. The same measures designed to limit abuse of power and ensure accountability can also help catch mistakes.[32]

Although a deliberate attempt to derail the electoral process or manipulate election results would constitute a criminal act, problems resulting from mistakes and inaccuracies usually remain a disciplinary or civil matter. Inaccuracies, vagueness, or ambiguities in the legal and institutional framework, as well as in descriptions of the mechanisms implementing and enforcing it, can inadvertently create many problems and even encourage unfair practices or fraud. For example, election officials and workers are sometimes restrained from actively upholding voter identification standards or inquiring into other voting/voter registration irregularities by the presence of provisions in law that make them personally liable for infringements of the right to vote.[33] Underdevelopment, lack of finance and incompetence are some of the challenges facing professionalism and accuracy in the conduct of elections in Africa and most electoral bodies in Africa struggle to conduct their affairs in line with the best practices and standards.[34]

D. Institutional Safeguards

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[31] International Electoral Standards Guidelines for reviewing the legal framework of elections, International Institute for Democracy and Electoral Assistance (International IDEA) (2002), *available at*: https://www.idea.int/sites/default/files/publications/international-electoral-standards-guidelines-for-reviewing-the-legal-framework-of-elections.pdf (last visited on Dec. 20, 2021).
[32] Edwin Odhiambo Abuya, "Can African States Conduct Free and Fair Presidential Elections?" 8 *Western Journal of International Human Rights* 2 (2010).
[33] Electoral Integrity, Ace Project the Electoral Knowledge Network, *supra* note 21.
[34] The National Academies Press, *supra* note 23.

Institutional safeguards based on checks-and-balances are sometimes used to protect the electoral processes. These involve dividing the authority to conduct various electoral operations among different bodies, providing a counterbalance to the electoral administration.[35] For example, legal provisions can distinguish the administration and enforcement of a law in order to reduce conflicts of legal mandate. Some scholars have advocated for a separation of the powers of prosecuting authorities and courts that issue rulings.[36] It has been advocated that this approach be extended to electoral matters, while there have been arguments for the creation of a special electoral court created specifically to adjudicate over electoral disputes.[37]

While it has been argued that, the adjudication or judicial determination of election disputes must offer aggrieved persons a genuine possibility of redress for their grievances. In order to do this, Huefer[38] identifies at least three factors that need to be embedded in the adjudication process. First of all, the process must be fair and perceived as fair by litigants and the public. This requires that the process treats the parties to a dispute equally and offers them an equal opportunity to present their case. It also requires that the process resolves disputes impartially and meritoriously.[39] A process that only decides in favour of the incumbent or incumbent party, whatever the strength of evidence presented against it, cannot be considered fair. Second, the process must be transparent, that is, when an election is disputed and a court adjudicates on the dispute, it must do so in a way that is understandable (based on prior existing rules) and must make a fair analysis of evidence as it relates to the competing claims.[40] Finally, the process must be prompt and cases should be determined with finality. As is often said, justice delayed is justice denied.

When there is a division of electoral powers between several bodies, it is important to develop effective coordination so that organizations work together without duplication of effort or conflicting approaches. It is also important to ensure that the public, politicians and

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[35] Professor Rafael López-Pintor, "Electoral Management Bodies as Institutions of Governance", Bureau for Development Policy United Nations Development Programme (2000), *available at*: http://www.eods.eu/library/UNDP.Electoral%20Management%20Bodies%20as%20Institutions%20of%20Gove rnance.pdf (last visited on Feb. 25, 2022).
[36] Steven G. Calabresi, Mark E. Berghausen, *et.al.*, "The Rise and Fall of The Separation of Powers" 106 *Northwestern University School of Law, Northwestern University Law Review* 2 (2012).
[37] African Electoral Jurisprudence Network Inaugural Discussions Report-Final, Protecting Fundamental Rights in Electoral Disputes: African Electoral Jurisprudence Network Inaugural Discussions, (2019), *available at*: http://africajurists.org/wp-content/uploads/2019/11/African-Electoral-Jurisprudence-Network-Inaugural Discusssions-Report-Final-6-6-19.pdf (last visited on March 28, 2022).
[38] S.F. Huefner, "Remedying election wrongs" 44 *Harvard Journal on Legislation* 265-326 (2007).
[39] *Ibid.*
[40] *Ibid.*

parties are informed about the roles and responsibilities of each agency to avoid confusion and misunderstanding.[41] However, a major challenge affecting Africa is her weak institutions, which has adversely affected the conduct of credible elections in the continent which has been affected by bad leadership, corruption, and ethnicity.[42]

E. Oversight and Enforcement

Legal and institutional frameworks provide for oversight and enforcement of election laws to make administrators and participants accountable. Continuous oversight of the process by internal and external mechanisms can help detect problems in the system and identify the groups or individuals responsible.[43] Application of legal and regulatory measures is essential to control actions aiming to fulfil personal and special interests. Enforcement activities are a deterrent to those contemplating illegal or unethical behaviour, and serve to penalize those who have broken the law. Otherwise, a sense of impunity and lack of enforcement can encourage a climate of corruption and mediocre performance. Ongoing enforcement is a priority in rooting out corruption from the election process, bringing those responsible to justice, and maintaining a sense of trust in the system.[44]

F. Transparency and Accountability

Countries also adopt rules governing transparency to protect electoral processes. Transparency makes institutional structures and their actions/decisions widely accessible and better understood.[45] It is difficult to maintain or publicly justify a system that permits abuse and corruption. With the right legislation, electoral administrators and election officers can be held accountable for decisions they make when administering elections; legislators for the content of the laws they pass and the level of funding allocated for elections; and candidates and political parties for their conduct and that of their supporters during the campaign.[46]

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[41] UNDP, "Elections and Conflict Prevention: A Guide to Analysis, Planning and Programming", Democratic Governance Group Bureau for Development Policy, *available at*: http://www.operationspaix.net/DATA/DOCUMENT/531~v~Election_and_Conflict_Prevention_-_A_Guide_to_Analysis_Planning_and_Programming.pdf (last visited on March 20, 2022).

[42] Anazodo, R.O *et.al.*, Leadership, "Corruption and Governance in Nigeria: Issues and Categorical Imperatives" 9(2) *African Research Review an International Multidisciplinary Journal, Ethiopia* 3 (2015).

[43] Helena Catt, Andrew Ellis, *et.al.*, "Electoral Management Design" (Revised Edition, 2014), *available at*: https://www.idea.int/sites/default/files/publications/electoral-management-design-2014.pdf (last visited on Dec. 20, 2021).

[44] *Ibid.*

[45] Accountability, Transparency, Participation, and Inclusion: A New Development Consensus?, *available at*: https://carnegieendowment.org/2014/10/20/accountability-transparency-participation-and-inclusion-new-development-consensus-pub-56968 (last visited on March 28, 2022).

[46] *Ibid.*

Participants in an election will generally have greater trust if they have access to detailed procedural information and can understand how the electoral process works. Transparency, along with the public scrutiny that follows, usually provides additional motivation for electoral administrators and election officers to comply with the rules and be prepared to be held accountable for their actions.[47] Regular consultations between policy-making bodies, the electoral management body and election participants can help build transparent electoral administration and greater confidence by the participants. Regular consultation is especially helpful in countries that are in transition, where procedures are still being developed and candidates may have concerns about the capacity of the electoral agency and other bodies to conduct free and fair elections.[48]

Transparency also builds understanding of the process, the difficulties encountered, and why electoral administrators and election officers make decisions. Thus, greater transparency increases the credibility of the process and the legitimacy of the results. If the electoral process is free and fair, accurate, transparent and well-monitored, and if laws and regulations are duly enforced, it becomes more difficult for participants and voters to reject the election results or the legitimacy of the newly elected representatives.[49]

V. GENERAL STANDARD GUIDING PRINCIPLES OF ELECTORAL PROCESSES

The standards for ethical behaviour vary, depending on the social and political context of each country. However, some common principles are universal for ensuring confidence in the way elections are conducted.[50] The requirement of proper ethical behaviour also applies to all participants in an electoral process. However, electoral administrators and others involved in election administration, in particular, must adhere to their country's constitution and laws, which provide the framework for their efforts. Electoral administrators and election

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[47] *Ibid.*

[48] European Commission United Nations Development Programme Joint Task Force on Electoral Assistance, Thematic Workshop on Sustainability in Electoral Administration: Adequate Resourcing for Credible Elections (2013), *available at*: https://www.ec-undp-electoralassistance.org/wp-content/uploads/2018/08/undp-contents-publications-thematic-workshop-on-sustainability-in-electoral-adminoistration-English.pdf (last visited on March 15, 2022).

[49] *Ibid.*

[50] UNDP, Principles for Independent and Sustainable Electoral Management International standards for electoral management bodies Global comparative experiences (2012), *available at*: https://www.ec-undp-electoralassistance.org/wp-content/uploads/2018/08/undp-contents-publications-principles-for-independent-and-sustainable-electoral-management-English.pdf (last visited on March 15, 2022).

officers must perform their duties for the public good, and must not use their position for personal or partisan gain.[51]

A. Code of Conduct

Many electoral systems formalize principles of ethical behaviour related to elections in codes of conduct. Codes of conduct vary by system and country, but there are often specific codes for candidates, political parties, election officials and workers, as well as the media and accredited observers.[52] Codes incorporated into the legal or regulatory framework have official binding force. They may specify procedures leading to penalties and sanctions for violations. Other codes set forth standards of behaviour, which participants are expected to follow voluntarily. Many codes of conduct are the outcome of negotiations among stakeholders in the electoral process.[53] These standards of ethical behaviour are among those engaged in most elections conducted around the world.[54]

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[51] *Ibid.*

[52] USAID Report, Best Practices in Electoral Security: A Guide for Democracy, Human Rights and Governance Programming (2013), *available at*: https://www.usaid.gov/sites/default/files/documents/1860/Electoral_Security_Best_Practices_USAID-1.pdf (last visited on March 15, 2022).

[53] *Ibid.*

[54] i) *Standards for Electoral Administrators and Election Officers*: Uphold the constitution and abide by the legal framework, its rules and regulations, maintain a neutral approach in performing the duties of office. This includes not giving any preferential treatment or displaying political party logos, symbols or colours, do not accept anything of value (money, offers of employment, gifts, travel, etc.) in exchange for preferential treatment or access to official or non-public information, do not discriminate against anyone on the basis of race, colour, religion, class, gender, national origin, age or disability, hire staff for their professional skills, not political connections or affiliation, use office facilities (time, space and equipment) to perform official duties, not for personal or partisan purposes, do not pressure other officials or personnel to favour a particular candidate or party, and refrain from intimidating them from doing so, disclose financial information on a regular basis, as required by law, inform the appropriate authorities of cases of waste, fraud, abuse or corruption.;

ii) *Standards for Political Parties and Candidates*: Abide by the legal framework and electoral regulations, reject all violence, and do not incite supporters to violent or criminal behaviour, respect the rights of other parties and avoid interfering with other campaigns. Limit negative campaigning and personal attacks on other candidates or their supporters, respect the right of voters to obtain information. Do not pressure them to vote for a particular party or candidate, and do not intimidate them from doing so, respect the right of the media to cover campaigns, facilitate the work of domestic and international observers, and do not obstruct monitoring by other political parties, abide by the official election results;

iii) *Standards for Observers*: Respect the laws of the country and the legal framework for elections, obtain accreditation before entering electoral sites, observe and monitor in a professional and neutral manner that does not disrupt the electoral process, act in accordance with international standards and best practices on conduct by international and national observers, refrain from intervening in the voting or other observed electoral process, and seek only to obtain further information and necessary clarification from election officials when a law or electoral procedure appears to be violated or ignored, disclose the observation goals and objectives in reporting on all dealings with political actors, the public and the press, report accurately and without exaggeration, after observing enough of the process and visiting sufficient electoral sites to ensure that the report is representative of the actual situation, remain strictly independent (non-partisan);

iv) *Standards for the Media*: Respect the laws of the country and the principles of freedom of the press, ensure that voters have access to news about the electoral process, provide accurate and balanced reports and commentaries that are based on substantiated facts and figures, identify sources, and distinguish between fact

VI. AN OVERVIEW OF TRAJECTORY OF ELECTIONS AND ELECTORAL PROCESSES IN GHANA

Ghana's post-independence history began in March 1957 with a civilian regime which soon degenerated into a quasi-dictatorship; and as a result, the first military coup of 1966.[55] In the subsequent one and a half decades, Ghana made two other brief attempts at liberal democracy between 1969 -1972 and 1979-1981, but each was overthrown after twenty-seven months. In the later instance, Flight Lieutenant Jerry Rawlings, who assumed the reins of power for a hundred and twelve days in 1979 and handed over to the civilian administration of President Hilla Limann and his People's National Party (PNP) staged a comeback on the Christmas eve of 1981. The new ruling group- the Provisional National Defence Council (PNDC) also under Rawlings Chairmanship; in spite of its name, stuck to power for eleven years until 7th January 1993 when Ghana embarked on the current democratic experiment.[56]

Indeed by 1993, the pro-democratic trend of the post-cold war globalization era had begun to have contagious effect across Africa.[57] The leader of the outgoing military regime - Rawlings contested the Presidential election with the ruling junta- the PNDC metamorphosing into a political party- the National Democratic Congress (NDC) to provide him with the means for the contest.[58] With the victory of the NDC in the Presidential poll of 1992, the opposition parties insisted the elections had been rigged and as a result, boycotted the subsequent parliamentary elections. The sources of acrimony in the elections of 1992 included a perceived bloated electoral register, the PNDC's deliberate and systematic appropriation of state resources in favour of the NDC.[59] The general impression was that the military government plotted to entrench its rule through the backdoor provided by the new

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and rumour, label opinions as such, and limit them to the editorial or opinion pages, avoid being manipulated by politicians, political parties or special interest groups, do not accept gifts or favours from newsmakers, politicians or others that might compromise journalistic integrity, avoid bidding for stories or paying for information, provide equal treatment to all political advertisers, including on access and rates, clearly label advertising so that it is not confused with news content or editorial opinion. Cited in Guidelines for African Union Electoral Observations and Monitoring Missions, African Commission on Human and Peoples' Rights *available at*: https://www.achpr.org/legalinstruments/detail?id=31 (last visited on March 15, 2022).

[55] B. Gyimah, "Six Years of Constitutional Rule in Ghana 1993-1999: An Assessment and Prospects of the Executive and Legislature" (2000) Accra: Gold type Ltd.

[56] Mohammed Majeed, *Civil Society and Democratic Consolidation in Africa: A comparative study of Ghana and Nigeria* (2011) (Unpublished B.A Dissertation, Central European University, Budapest, Hungary).

[57] K. A. Ninsin, "Ghana Transition to Democracy, Accra: Freedom Publications. Observing The 1998-1999 Nigerian Elections: Final Report", Carter Centre and National Democratic Institute for International Affairs, (1998), *available at*: Http://www.Cartercenter.Org/Documents/1153.Pdf (last visited on March 12, 2022).

[58] A. Frimpong, "Innovations in Electoral Politics in Ghana's Fourth Republic: An Analysis. Democratic Innovations in the South", Friedrich Ebert Foundation, Berlin (2006).

[59] The Report of the Global Commission on Elections, Democracy and Security, *supra* note 3.

democratic set up.[60] It was from such shaky foundation that Ghana's current dispensation blossomed. The subsequent elections of 1996, 2000, 2004 and 2008 were largely described as peaceful and generally free and fair. In 2000 there was a peaceful alternation of power from the ruling NDC to the opposition New Patriotic Party (NPP). By 2008 the NPP also successfully handed over power in a peaceful election to the opposition- NDC.[61]

On 7 December 2012, Ghanaians came out massively to elect a new President and Members of Parliament, representing the country's 275 electoral constituencies. Only seven out of the 23 registered political parties fielded presidential candidates. Mahama, the incumbent, was declared the winner, with 55,74,761 (50.7%) votes against Akufo-Addo's 52,48,898 (47.74%).[62] Although the elections generally went well and peacefully, as attested by reports of domestic and international election monitoring groups, they were not without some monumental challenges, most notably the malfunctioning of electronic voting machines on the polling day. In some other climes, particularly in many African countries, such a technical problem could have scuttled the electoral process and rendered the entire exercise a charade.[63]

There were tensions and serious disagreements over the boundary delimitation process, during which the Electoral Commission of Ghana (ECG) created 45 new constituencies, bringing the total number of members of Parliament to 275, also contributed to the heightening of pre-election tensions.[64] These and related issues had caused some concern about the prospects of the ECG maintaining its impressive record. The odds were grossly stacked against the 2012 elections, threatening to end Ghana's reputation as a maturing and consolidating democracy. But, in a sudden twist of events, the electoral process became another important milestone, betraying all prophets of doom who had anticipated that the elections would end in fiasco. The peaceful conduct of the 2012 elections will better be appreciated against the background of the foregoing crucial factors that shaped the elections in no small measure.[65]

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[60] A. Boafo, "The 2004 General Elections: An Overview, Voting for Democracy in Ghana" 1 *Accra, Freedom Publications* 36 (2006).
[61] The Report of the Global Commission on Elections, Democracy and Security, *supra* note 59.
[62] J. Shola Omotola, "Ghana Defies the Odds Again: The December 2012 Elections in Perspective" 12 *Journal of African Elections* 2 (2013).
[63] *Ibid.*
[64] *Ibid.*
[65] *Ibid.*

Going forward in 2016, Ghanaians took to the polls to elect their President and Members of Parliament in a General Election. The process leading to the election day was fraught with challenges and allegations of collusion against the Election Commission by the main opposition party. However, despite those challenges, the election was largely credible and successful based on reports by International Observation Missions.[66] The success of the election can be attributed to actions of several stakeholders including the Electoral Commission, National Peace Council (NPC), Ghana Judiciary (the Courts), Civil Society Organisation, the Media and Development Partners.[67]

The conduct of the 7 December 2016 Presidential and Parliamentary elections in Ghana has been rated to have largely been up to international standards for democratic elections. Despite some challenges encountered during the pre-election period, on election day, overall, the elections were conducted in a largely peaceful, transparent and credible manner.[68] It can be deduced that democratic processes vis-à-vis elections in Ghana have greatly improved and such should be emulated by other countries in the West African sub-region. With over fifteen years of uninterrupted democratic rule and the peaceful transfer of power to the opposition on two occasions, Ghana's electoral successes have since been described as a "paragon of good governance and peaceful co-existence in the West African sub-region."[69] Indeed, as indicated in the categorization of democratic regimes in Africa, Ghana's democracy is seen to have been consolidated.

VII. An Overview of the Trajectory of Elections and Electoral Processes in Nigeria

Nigeria is another country where its democratic experience since the enthronement of a civilian regime in 1999 has been shrouded in controversy. Having gained political independence on 1st October 1960, Nigeria's first republic lasted only till January 1966, when the first military coup took place. From 1966, the military remained in power until 1979, when the second republic came into being. However, the second republic was also short

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[66] AUEOM (2016), Press Statement: African Union Election Observation Mission to The Presidential and Parliamentary Elections in Ghana. Accra: African Union Commission. See also EUEOM. (2016). European Union Election Observation Mission: Ghana Presidential and Parliamentary Elections 2016. Accra: European Union.
[67] Chika Charles Aniekwe, "Managing Electoral and Political Competition in Africa: Lessons from Ghana's 2016 General Elections" *Institute of Development Policy (IOB), University of Antwerp* (2017).
[68] AUEOM, *supra* note 66.
[69] I. Côté and M. I. Mitchell, *supra* note 16.

lived. By 1983, following a highly contested General Election, another military coup ousted the Shagari administration and the military remained in power until 1999.

Since the end of military rule in 1999, Nigeria, according to many observers, has only added to its history of fraudulent elections; as opposed to making any significant progress towards the consolidation of democracy. The 1999 elections that brought Olusegun Obasanjo to power were said to have been marred by such widespread fraud that observers from the US based Carter Centre concluded that "it is not possible for us to make an accurate judgment about the Presidential elections."[70] Nigeria's next round of general elections in 2003 were also widely seen as a test of Nigeria's progress towards more open and accountable governance after four years of civilian rule under Obasanjo. However, the Transition Monitoring Group (TMG) described the 2003 elections thus:

> *While the voters waited and persevered in the polling stations to cast their votes, the political class and the political parties had different ideas. The voters wanted their votes to determine the winner of the elections, while the political class wanted to corrupt the process and rig their way into elective office…on the whole the result can be said to marginally reflect the choice and will of the Nigerian people.*[71]

In the same light, Nigeria's 2007 general elections were widely regarded as a crucial barometer of the federal governments' commitment to the notion of democratic consolidation, but according to Human Rights Watch:

> *The polls marked a dramatic step backwards, even when measured against the dismal standard set by the 2003 election. Electoral officials alongside the very government agencies charged with ensuring the credibility of the polls were accused of reducing the elections to a violent and fraud ridden farce.*[72]

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[70] Report of the Carter Centre, National Democratic Institute of International Affairs, "Observing the 1998-99 Nigeria Elections", *available at*: https://www.cartercenter.org/documents/1152.pdf (last visited on Nov. 19, 2021).

[71] Adigun Agbaje and Said Adejumobi, "Do Votes Count? The Travails of Electoral Politics in Nigeria" XXXI *Council for the Development of Social Science Research in Africa* 25-44 (2006).

[72] Human Rights Watch Report, "Nigeria's Presidential Election Marred by Fraud, Violence", *available at*: https://www.hrw.org/news/2007/04/25/nigeria-presidential-election-marred-fraud-violence (last visited on April 19, 2022).

Indeed, the view "that the history of election administration in Nigeria is a history of electoral fraud and violence"[73] is widespread. Suffice it to say that given its history of problematic and controversial election administration; Nigeria's democracy was also consolidated on May 29, 2015 when General Muhammadu Buhari (GMB) after wrestling power from the incumbent President Goodluck Jonathan (GEJ) successfully made transfer of political power from the democratically elected government of the People's Democratic Party (PDP) to the democratically elected government of the All Progressives Congress (APC) by the use of ballots rather than bullets to remove an incumbent President.[74]

However, the subsequent 2019 general elections, which created another opportunity to consolidate on the gains and pains of the 2015 elections, fell below expectations. It was generally believed that the APC led administration in Nigeria will fulfil part of its electioneering promises of conducting credible, free and fair elections in 2019.[75] It was reported that the 2019 general elections won by President Muhammadu Buhari was not transparent and were marred by violence and harassment of voters.[76] The elections became increasingly marred by violence and intimidation, with the role of the security agencies becoming more contentious as the process progressed.[77] It has been argued that these shortcomings of this election have further damaged the integrity of the electoral process and may deter future participation in subsequent elections and systematically weaken Nigeria's democracy. It is hoped that subsequent elections in Nigeria would be better with less cases of violence, intimidation and harassment, while it is safe to say that the journey to free, fair and credible elections is not that far in Nigeria. There is more voters' enlightenment, more political parties are emerging, more importantly, corrupt leaders are being tried and prosecuted and the increase in judicial activism from recent decisions of the court in post-election petition tribunals and at the appellate courts.

However, the failed electoral process of most West African Countries has made democratic transition to be turbulent which had led to post-electoral violence and sometimes

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[73] Ajayi, K. "Election Administration in Nigeria and the Challenges of the 2007 Elections" 2(2) *The Social Sciences, Medwell Journals* 142-151 (2007).

[74] Temitayo Isaac Odeyemi and Oludare Olawale Mosunmola, *supra* note 9.

[75] John Mukum Mbaku, "The 2019 Nigerian elections and Buhari's second chance to provide peace, prosperity, and security" (2019) *available at*: https://www.brookings.edu/blog/africa-in-focus/2019/03/01/the-2019-nigerian-elections-and-buharis-second-chance-to-provide-peace-prosperity-and-security/ (last visited on March 17, 2022).

[76] Ruth Olurounbi and Emele Onu, "EU Observers Say Nigeria 2019 Elections Weren't Transparent" (2019) *available at*: https://www.bloomberg.com/news/articles/2019-06-15/eu-observers-say-nigeria-s-2019-elections-weren-t-transparent (last visited on March 20, 2022).

[77] European Union Election Observation Mission Nigeria General Elections 2019, First Preliminary Statement, *available at*: https://www.eisa.org.za/pdf/nig2019eu.pdf (last visited on March 20, 2022).

civil war[78] unlike countries like Ghana and Nigeria where democratic transition in democratic institutions has been entrenched.

VIII. CONCLUSION

From the analysis of the election and electoral processes in Ghana and Nigeria, it is submitted that 'democracy is superior to authoritarianism' is a truism. There is no gainsaying in stating that the West African sub-region has been bedevilled with electoral violence, killings and manipulation, and this has adversely affected the growth of democracy and democratic principles and institutions. However, Africa has made considerable progress towards democracy over the last two decades and some efforts have been successful. Majority of the 54 countries in Africa have embraced multi-party democracy and the coups and authoritarian systems that characterize the post independent Africa are on the decline. The challenge however, is to consolidate the democratic gains that have been realized so far. Democracy will have no meaning if the promises of democracy do not translate into tangible benefits to the citizens.[79]

There is a need to amend electoral laws in line with global acceptable standards and the deliberate efforts should be made by the government to establish efficient, effective and independent electoral body. The citizens must equally desire credible elections and actively participate in elections notwithstanding the negative effects of past elections. It should be noted that credible, free and fair elections is a panacea for good governance and strengthens democracy. Periodic electoral education is important considering the level of illiteracy in most African countries, the need to hold public office holders accountable should be encouraged. Also, electoral bodies should be independent both in finance, administration, and appointment of officials.

Thus, there is a need to introduce the use of the biometric system and information technology during elections by counties in the sub-region by an amendment of existing electoral laws, drawing on the lessons learnt during the recent elections in Ghana and Nigeria. It is expected that these will include the provision of facilities that will enhance the performance of the biometric systems and rapid repair of equipment to address the problems

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[78] Mimmi Söderberg Kovacs and Jesper Bjarnesen, "Violence in African Elections: Between Democracy and Big Man Politics" (2018), the Nordic Africa Institute *available at*: http://www.divaportal.org/smash/get/diva2:1192338/FULLTEXT01.pdf (last visited on March 15, 2022).

[79] Felix Odhiambo Owuor, "Elections and Democracy in Africa Democracy Assistance: Spaces for Improvement", Paper Presented at a Regional Conference: CMI and Makerere University on 30th May to 1st June 2011 at Jinja Uganda, *available at*: http://www.cmi.no/file/?1321/ (last visited on March 7, 2022).

of machine breakdowns as well as proper care of election materials. Furthermore, due to high voter turnout there is a need for further public education geared towards enhancing the quality of participation in the electoral process. The electoral bodies must be truly independent and improve their capabilities, especially in relation to the production and handling of election materials.

To this end, the nexus between democracy and development must be explored. Participation in elections and other political activities will have little meaning for hungry electorates. There is a need for an improved standard of living of the electorates and increased benefits of the dividends of democracy. The development in Middle East Countries should come to mind here.[80] The recent citizen uprisings in Tunisia, Egypt, Syria, and Yemen also underscore the dimension of development to democracy. Consolidation of democracy will require a paradigm shift and a new way of conducting elections and indeed governance.[81] The recommendations suggested above are by no means conclusive, but will go a long way in providing the useful first step. It is encouraging to note that in some countries, such processes are already underway. Special efforts are needed to sustain such efforts and explore ways of initiating them in countries in the West African sub-region that are yet to embark on them.

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[80] *Ibid.*
[81] *Ibid.*