



# **PARTISAN POLITICAL PARTY ATTITUDES TOWARDS THE ELECTORAL COMMISSION OF GHANA:**

THE NEW PATRIOTIC PARTY AND NATIONAL DEMOCRATIC  
CONGRESS IN COMPARATIVE PERSPECTIVE

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# ABSTRACT

This paper examines partisan political party attitudes towards the Electoral Commission of Ghana. The commission has organised elections that have been considered to be successful since 1992 but these successes have done little to dent partisan attitudes towards its independence in the country's politics. The core partisanship contention relates to whether and, if so, how, the commission independently administers its mandate. This paper explores partisan attitudes that the two major parties - the New Patriotic Party and National Democratic Congress - portray towards the commission. It shows how both parties are fluid in their partisanship about the commission, such that they are able to trade-off positions they once held while in opposition for those they denounced when power alternates in their favour. In particular, they attach importance to formal independence of commission when in government, insisting the commission has the legal authority to execute its mandate as it sees fit, but immediately trade this off when they lose power. In opposition, they seek to ensure there is inclusive approach to dealing with electoral matters. The paper concludes by reflecting on areas for policy reform.

**Keywords:** Electoral commission, independence, political party attitudes, two-party state, Ghana, National Democratic Congress, New Patriotic Party.



# INTRODUCTION

The independence of the Electoral Commission (EC) of Ghana has continued to provoke partisan debates even though it has continued to organise elections that are considered to be successful by both local and international observers (Aseyere, 2021; Adams & Asante, 2020; Aiyede, Erameh, & Orimolade, 2013). It organised the 1992 elections which the National Democratic Congress (NDC) captured the presidency and won majority seats in the legislature. The NDC again won the 1996 presidential election as well as majority seats in the legislature but lost both to the New Patriotic Party (NPP) in 2000 and 2004 elections. The NDC won a majority of seats in the legislature and as well as the presidential election in 2008 and 2012 but lost both cases once again in 2016 to the NPP. In 2020 the NPP won the presidential election, but the two parties secured the same number of seats - 137 - in the legislature, with one independent legislator who is loosely aligned with the NPP (Agbele & Saibu, 2021; Aseyere, 2021).

The commission's work has contributed to three peaceful transfers of power since 1992 - from NDC to the NPP in 2000, from the NPP to NDC in 2008, and from the NDC to the NPP in 2016 (Aseyere, 2021; Agbele & Saibu, 2021). This condition, whereby power alternates between the NPP and NDC has resulted in Ghana's democracy being described as a two-party system (Aseyere, 2021; Alidu, 2014; Torvikey, 2017). The NPP and NDC dominate the political space, such that they have become the only parties to have formed governments since 1992. While smaller parties often contest and occasionally win parliamentary seats, no smaller party has ever won majority seats in the legislature or formed a government since 1992. This two-party dominance has also created a political context in which the two parties 'compete in tightly contested national elections characterised by viciously fought campaigns' and demonstrate 'willingness to use fraud and corruption in the hope of securing a win' (Owusu-Mensah & Rice, 2018: 45). The EC seeks to address the threats this presents to the management of elections (Adams and Asante, 2020; Omotola, 2013). Nonetheless, neither these efforts nor celebratory remarks it usually receives from outside authorities (Torvikey, 2017), especially for its contributions to peaceful transfers of power (Gyampo, Agbevade, & Graham, 2022; Aiyede, Erameh, & Orimolade, 2013; Omotola, 2013) have helped to dent partisan political party attitudes towards its independence. The crux of the contention relates to the extent to which there is political interference with the work of the EC from outside authorities or persons. The commission has regularly been accused of fixing election outcomes in favour of the party in government, even though there have been elections when the governing party has lost its re-election bids (Omotola, 2013; Owusu-Mensah & Rice, 2018).


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It is against this background that this paper compares the partisan attitudes of the NPP with NDC focusing exclusively on the commission's formal and operational independence. Previous studies have examined the institutional framework of Ghana's democracy (Debrah, Asante, & Gyimah-Boadi, 2010; Aiyede, Erameh, & Orimolade, 2013; Owusu-Mensah & Rice, 2018; Gyampo, Agbevade, & Graham, 2022). However no study has specifically analysed partisan political party attitudes that the NPP and NDC portray towards the EC. This paper highlights dispositions of both parties towards the commission, comparing the attitudes they portray when they are in power and when they are out of power. The paper generates new insights to better inform policy on why, and how, the attitudes of the political parties drive electoral politics.

The analysis is based on data obtained from publicly available and verifiable documents. They include the 1992 Constitution, parliamentary enactments, judicial rulings, election management directives and media commentaries, as well as election observer mission reports and peer-reviewed works. The paper begins by framing and interpreting the formal and operational independence of the EC. The next section deals with partisan attitudes towards the formal independence of the EC with a sub-section specifically discussing partisanship related to the appointment and removal of electoral commissioners. The fourth section engages with partisanship of the commission's operational independence, focusing especially on partisanship arising from the compilation of the voters' register. The final section provides a conclusion and an outline for a policy response.

## **CONCEPTUALISING AND ANALYSING THE INDEPENDENCE OF THE ELECTORAL COMMISSION**

This paper conceives electoral commissions as a political institution in that they are constituted by rules and norms related to the conduct of political activities, such as elections and voter registration (Birch, 2008; Omotola, 2013; Owusu-Mensah & Rice, 2018). These rules and processes are often written into national constitutions, legislative enactments, judicial rulings and government policy statements, such as budgets, but can also be administrative directives of commissions themselves (Owusu-Dapaa, 2011; Gazibo, 2006; Foley, 2017). These designs provide officials of electoral commissions the legitimacy to operate and also enable electorate and elites alike to accept decisions of electoral officials as unbiased (López-Pintor, 2000; van Ham & Lindberg, 2015).



This also implies electoral commissions are defined significantly not just by their own formal rules but also everyday decisions of electoral officials and the political context within which they operate.

van Ham & Garnett (2019) argue that designs of formal rules shape the decisions of electoral officials while effective electoral administration strengthens formal designs of electoral commissions. In particular, formal frameworks may grow through court litigations and parliamentary enactments but such reforms are more likely to arise from grievances over how officials dispense their mandate. This also means electoral rules can vary from country to country, from election to election and from regime to regime. For example, Gazibo (2006) reported that Benin's commission had total control over the electoral process in the 1990s. But Gyimah-Boadi and company (2021) observe that governments have increasingly exercised extreme control over Benin's electoral process, enabling the ruling party to undermine the effective participation of opposition parties.

Electoral commissions are established as arbiters of partisan contestations (Birch, 2008; Alidu, 2014). Hence, how they adhere to their legally mandated roles defines, to a great extent, how their everyday practices are perceived and treated by political parties (Torvikey, 2017; van Ham & Garnett, 2019). This then suggests a range of factors inform how electoral commissions are considered to be independent. Gazibo (2006: 612) stressed the independence of electoral of commissions as primarily defined by the way they are created and established as formal institutions: the way electoral commission 'is created [in law] greatly determines whether or not it will be able to take control of (and independently manage) the electoral process'. The more an electoral commission is restrained from party politics in law, the more likely it is to be perceived and treated as independent, capable of organising free and fair elections argues Gazibo.

This view is challenged by the fact that elections are political activities conducted by electoral officials for political parties that have been formed and operated by political actors (Gyampo, Agbevide, & Graham, 2022). Both the agents of political parties and electoral commissions are rational human beings with high potential to work in ways that maximise their respective interests (ibid). These interests could also conflict with one another, and in the process, foster negative evaluations of the work of electoral officials. However, van Ham and Garnett (2019) stress that electoral commissions that are constituted by officials who have been appointed based on professional competence with specified tenure of service that is also guaranteed by law typically have greater operational independence, unlike those constituted by representatives of political parties. Balule (2008:106) reviewed the legal and operational frameworks of electoral commissions in southern Africa and concluded that operational independence requires insulation of electoral officials from controls of 'government of the day or any political party or any other body'. This helps to ensure electoral commissioners can 'act impartially and professionally' in the performance of their electoral functions as established in law (ibid: 106).

What can be learned from these reviews is that independence of electoral commission can be split into formal and operational aspects. Gyampo and company (2022) relate formal frameworks with how a commission is established in law and operational frameworks to how electoral officials execute the formal mandate of electoral commission, including how they compile the voter register, conduct

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elections, and relate with political parties.

This paper decouples the independence of Ghana's EC into formal and operational aspects. It explores its formal independence in terms of whether the EC is a self-contained entity with its own office and chief commissioner who has no affiliation to government or other state institutions. This establishes the extent to which the commission is not attached to a government and/or managed by a state institution, such as judiciary or legislature. Focusing on how electoral commissioners are appointed and dismissed, highlighting what the law says, how it works in practice and why attitudes about this law are the way they are is also assessed. It also approaches the operational independence in terms of how electoral officials carry out the formal mandate of the commission in everyday practices. It establishes the extent to which officials of the commission relate with outside authorities or persons, especially the two political parties and governments. A review of how the voter's register is compiled and contested in the country's politics, including how voters are encouraged to vote and why the process tend to generate partisanship from the political parties, is also considered.

## **PARTISAN POLITICAL ATTITUDES SHAPE PERCEPTIONS OF FORMAL INDEPENDENCE**

The overall partisan political party attitude towards Ghana's EC is such that both the NPP and NDC tend to attach importance to the formal independence of the commission when they are government, insisting the commission has the legal authority to execute its mandate as it sees fit. But they quickly change tune when out of office, emphasising the importance of inclusive approach to deciding on electoral matters. The party in government tends to embrace the formal independence of the commission but, in doing so, it also knowingly or unwittingly aligns partisan interests of the party with the non-partisan interests of the commission. This then provokes the party in opposition to want to depict the commission as doing the bidding of the party in government. These attitudes effectively polarise the populace against the commission, creating conditions for the party in opposition to want to interfere with the commission once power alternates in its favour.

Ghana's EC is formally a self-contained entity. It is legally unattached to any formal and/or informal institution. This formal independence is laid out clearly in Article 46 of the 1992 Constitution which states unambiguously that 'except as provided in this Constitution or in any other law not inconsistent with this Constitution, in the performance of its functions, the Electoral




Commission, shall not be subject to the direction or control of any person or authority.' It has a chief electoral commissioner, known as the chairperson, who is assisted directly by two deputies and four other commissioners. Article 43 grants presidents the power to appoint all the seven members, without being legally required to subject them to legislative debate and approval (Myjoyonline.Com, 2018). The 1992 Constitution, through articles 44 (4) and 286 (1) and (5), however, require that once appointed, all the commissioners must relinquish any existing attachment to any other state institutions and further declare, to the state attorney in writing, all their private assets and liabilities before assuming their roles as commissioners. The chairperson and two deputies enjoy the same conditions and terms of service accorded respectively to Justices of Appeal and High Courts and are guaranteed security of tenure until retirement, with the chairperson retiring at 70 while the deputies retiring at 65 (Gyimah-Boadi, 2021).

The ECs commissioners can be removed from office, but such a cause must first be established through judicial means. As Gyampo (2017: 106) explains, 'upon receipt of a petition for removal [of a commissioner], the president is required to forward the petition to the chief justice, who upon establishing a prima facie case may initiate an investigation into the allegations and make recommendations to the president.' This also means that all that is required for commissioners to be dismissed is for presidents to receive complaints against them from anyone in the general population and then initiate actions through the Office of the Chief Justice which then investigates and establishes the legal merits of such petitions. Their removal processes are not subject to debate by the legislature, as the representative body of the populace. This framework means that the country depends considerably on the benevolence and good conscience of presidents to appoint politically impartial persons to head the commission. This context explains the bulk of the partisanship associated with appointment and removal of commissioners in recent years, as the case of the appointment and removal of Charlotte Osei highlights.

## APPOINTMENT AND DISMISSAL: PARTISAN PERCEPTIONS

Charlotte Osei was appointed chair of the commission by NDC government in 2015 and removed, together with her two deputies, by NPP government in 2018. According to Gyampo (2017), the legal merit of the petition against Osei was largely premised on financial improprieties, especially procurement breaches and poor financial management. These problems arose partly because of poor interpersonal relations that ensued in the Osei-led commission and inhibited its members from working together more harmoniously. This hostile context pre-dated the NPP coming to power in 2017 but Gyampo (2017: 105) further observed that some members of party had expressed a strong desire to have their 'preferred person made the chair of the commission' if the party won the 2016 elections. These individuals publicly 'threatened to get rid of her [Osei] when the party was elected' (ibid: 105). Thus, irrespective of the merit of the dismissal, these views had long created impression that Osei was removed precisely because the ruling party decided to do so while it was in opposition.





The Coalition of Domestic Election Observers however suggested the manner by which Charlotte Osei was appointed contributed to the acrimony that ensued between her and the NPP in the lead up to the 2016 elections. In particular, 'the President [Mahama] appointed and swore Charlotte Osei into office without broad consultations concerning it' (2016: 10). Osei was appointed in June 2015 by the then governing NDC to replace Afari-Djan who had retired after successfully chairing the commission since 1993. The Afari-Djan-led commission was often celebrated for producing two peaceful alternations of power, from the NDC to the NPP in 2000 and NPP to NDC in 2008 despite close and highly contested polls (Alidu, 2014; (Debrah, Asante, & Gyimah-Boadi, 2010). However, these successes were dented following the declaration of the winner of the 2012 presidential election which the then opposition NPP candidate, Nana Akufo-Addo contested at the Supreme Court (Gyimah-Boadi, 2021; Gyampo, Agbevade, & Graham, 2022).

The court did endorse the NDC candidate, Mahama's win as declared by Afari-Djan. Following proceedings that lasted for close to eight months, they revealed several administrative irregularities and clerical errors on the part of the EC. Alidu (2014) reported, for example, that the justices unanimously dismissed the NPP's claims of duplicate serial numbers on ballot papers, duplicate polling station codes and unknown polling stations but differed significantly on three important claims. These included claims of over-voting, absence of signatures of presiding officers on results sheet and voting without biometric verification. The petitioner's claims were rejected by a slim majority of 5:4 with some members of the nine-panel recommending the cancellation and re-run of the elections in the disputed polling stations. The court also suggested elections are won and lost at polling stations and not in courts of law. The implication being that political parties needed to ensure the EC addresses the irregularities exposed by court proceedings to prevent their repeat in future elections. These dispositions encouraged electoral reforms, but both political parties sought to advance their own partisan interests in this process (Gyampo, 2017). It was within these acrimonies that NPP's posture portrayed Afari-Djan as the ultimate cause of the misfortune that befell their candidate in the 2012 elections (Torvikey, 2017; Alidu, 2014). These attitudes often depicted Afari-Djan, who was appointed by NDC government in 1993, as a sympathiser of the party (Alidu, 2014). Some functionaries of the NPP even called for Afari-Djan's resignation and created context for the NPP to be less willing to embrace Charlotte Osei, another NDC-regime appointee, more fully as chair of the commission (Torvikey, 2017; Coalition of Domestic Election Observers, 2016).

The unwillingness of the NPP to embrace Osei was particularly felt in the way a '2008 campaign poster of her look-alike National Democratic Congress [parliamentary] contestant' was recalled in the lead up to the 2016 elections in an effort to disinform the public that 'she was politically aligned to the ruling [NDC] government which appointed her' (Torvikey 2017: 13). This false content was popularly debunked, but a key NPP member of parliament, Ken Agyepong also alleged she had traded sex for the job (ibid). This then triggered popular backlash to the extent that many women groups demonstrated and called on the legislature to have him sanctioned (ibid). The bulk of these popular reactions attracted politically divisive counter reactions as 'the support she had from the women groups appeared to be engineered by the ruling NDC' (ibid:13) It should be noted that the NDC raised similar concerns when Jean Mensah was appointed by the NPP to replace Osei in 2018. The party's reservations were that Jean Mensah was a well-known-pro-NPP and an avowed

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anti-NDC person and hence the NPP had 'appointed its own referee to conduct and rig the 2020 presidential and parliamentary polls in their favour' (Kwame, 2018).

The posture of the NDC as a governing party in 2015 when Osei was appointed also somehow became the posture of the NPP as a governing party in 2018. Both parties defended the decisions of their respective presidents to appoint whoever they wished to head the commission. In both instances the parties tried to accommodate each other's grievances, despite support for members of the EC to be appointed based on consensus when in opposition (Gyampo, 2017; Gyimah-Boadi, 2021). These comparative dispositions show the extent to which the two political parties are often fluid in their attitudes towards the commission, such that they may support a position while in government but immediately trade it off and adopt the opposite view of the commission once they lose power. These attitudes also affect the way both parties relate with electoral officials in the everyday operations of the commission.

## PARTISAN ATTITUDES TOWARDS OPERATIONAL INDEPENDENCE

Elklit and Reynolds (2001: 3) stress that effective electoral administration is one that is manifestly 'perceived by all stakeholders to be efficient, legitimate and unbiased' as such perceptions facilitate the wide acceptance of election results. The work of Ghana's EC has indeed seen greater acceptance and appreciation by the electorate and elites alike as well as by international and domestic observer groups (Debrah, Asante, & Gyimah-Boadi, 2010; Torvikey, 2017; Gyimah-Boadi, 2021). However, substantial partisanship over the administration of elections still persists. Tight and competitive elections between the two major political parties is often used to explain some of these hostilities (Coalition of Domestic Election Observers, 2016). But how the commission manages these hostilities also instigates some of the partisan attitudes it faces from political parties. For example, Omotola (2013) notes that one of the ways the commission uses to address critical partisan grievances has been the advisory mechanisms provided by Inter-Party Advisory Committee (IPAC) that was established in 1994. Omotola (2013) however finds that successive EC commissioners have increasingly become unwilling to recognise the importance of IPAC. This has allowed partisan disagreements that IPAC could potentially mitigate to play out in the media and the courts. The NDC's secretary, Asiedu Nketia, corroborated this observation (Lartey, 2020), having previously expressed similar concerns in an interview prior to the 2008 election, when his party was in opposition:

*From the beginning of ... IPAC in 1994, there ... were regular meetings ... I can count about eleven or so IPAC meetings in that very year of its establishment. In those days the decisions of IPAC eventually found themselves incorporated in the electoral process ... we were in power ... and the opposition parties were sort of ganging against our delegation because at IPAC each party is represented by an equal number of delegates, irrespective of its strength. So, when you have the*

*opposition parties ganging up against you, the ruling party was losing the debate in those meetings. It was very useful because it was another way of checking abuse of ... incumbency ... IPAC decisions were virtually mandated for the Electoral Commission ... we were able to introduce more than forty changes into our electoral system. Some of them - the transparent ballot boxes ... voter ID cards ... thumb-printed ID cards ... then move from that to photo-based ID cards ... from photo-based ID cards to photo-based ID cards with photos in the electoral register itself so you could compare the picture on the ID card with the picture on the electoral roll ... these ... helped improve transparency in our elections and boost the confidence of the electorate in the electoral process. Things however have changed dramatically since 2000 to date. I think it had to do with the aftermath of the 2000 elections in which the opposition captured power and the Electoral Commission had no fears or whatever in declaring the opposition party the winner and then the sitting government also had no hesitation in handing over peacefully to the opposition (Innovation for Successful Societies, 2008: 1-2).*

The quote implies that an effective professional working relationship with political parties allows partisan issues to be addressed in ways that enhance perceptions of neutrality and impartiality around the commission. However, the excerpt does not necessarily imply the EC has failed to recognise the importance of developing a cordial working relationship with the political parties. It rather shows, on the one hand, how the belligerent attitudes of the political parties tend to frustrate the commission from mobilising them to build consensus on critical electoral matters. This seems to have also created a context whereby the EC seems to over-indulge in asserting its strong formal independence and in doing so, overlooks the extent to which a cordial working relationship with the political parties could reinforce formal independence.

Another challenge is linked to Ghana's majoritarian electoral system. Securing the presidency is pegged at a threshold of 50% +1 vote win in national elections while the parliament is a simple majority win in constituency elections. Both the presidential and parliamentary electoral systems have been described as producing winner-takes-all and losers-lose-everything outcomes (Gyimah-Boadi, 2021; Alidu, 2014). They give the winning party complete control over state resources (Asunka, 2016; Ayee, 2016) which it can exploit in its efforts to influence electoral decisions. For example, IPAC meetings are funded from operational budgets of the commission which are also allocated by government (Imaniafrica.Org., 2020; Ghanaiantimes.org, 2020). Also, while the salaries, allowances and pensions of the chairperson and two deputies are charged to the consolidated fund instead of government budgets (Gyimah-Boadi, 2021), article 44 (5) of the 1992 Constitution subject the conditions of service of the remaining four members to legislative approval. The legislature further approves the operational budget of the commission (Debrah, Asante, & Gyimah-Boadi, 2010). These are avenues through which, a ruling party can try to influence in the hope to shape the commission to work in its favour by threatening funding cuts for example.

Moreover, while the excerpt above indicates opposition parties tend to 'gang up' against the ruling party in IPAC meetings, there are still possibilities that the governing party could dispense patronage rewards to the smaller parties in effort to influence them against supporting the position of the dominant opposition party in IPAC meetings. Thus, while both the NDC and NPP often insist on using a party's parliamentary

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representation as a threshold for participation in IPAC meetings; they vigorously do so only when they are in opposition (Amoyaw, 2021). This is because irrespective of their influence in the country's politics, each party has equal voice and vote in IPAC meetings. There is no threshold mark qualifying a party to participate in IPAC meetings, except being registered by the EC as a political party in the country (Adu-Owusu, 2022). This means that all registered political parties continue to participate in IPAC meetings even in the face of two parties dominating in the legislature.

However, the ineffectiveness of IPAC has led to increased use of the law courts to settle election-related disputes by political parties (Omotola, 2013). The adversarial ways these grievances are often mitigated by the courts sometimes further enhance the belligerent attitudes of the two main political parties. For example, supporters and elites of the ruling party tend to publicly express support for judicial rulings that favour the commission, which also portrays ruling party communicators as spokespersons of the commission (Gyimah-Boadi, 2021). This causes the party in opposition to want to treat such attitudes as celebratory endorsements of collusion between the commission and the party in government (ibid). The way the EC compiles the voters' register gives an example of how these intransigent grievances are reinforced.

## PARTISANSHIP FROM VOTER REGISTER COMPILATION

The compilation of the voters' register has become a major source of political contestation. This arises partly from the adversarial nature of court decisions. The win-lose outcomes of these decisions are often exploited by the two leading political parties in an effort to court the populace to identify with their respective claims (Owusu-Dapaa, 2011; Owusu-Mensah & Rice, 2018). This is also because the technical nature of judicial rulings often renders them too difficult to be comprehended by the wider public and thereby allow partisan commentaries on (ambiguous) rulings to polarise the populace against the commission. In 2020 the Supreme Court, in response to a petition around the voter registration process, stated that:

*The Electoral Commission in exercising their discretion in the discharge of their constitutional mandate in cleaning the voters' register should be deemed as authorised to be acting within the law and regulation therein and cannot be faulted even if it is considered that there is a more efficient mode or method available (Electoral Commission, 2020) (Electoral Commission of Ghana, 2020, para. 5).*

The part of the excerpt which states that the commission cannot be faulted even if it is considered that there is a more efficient mode or method available requires a specialised legal interpretation for non-legal persons to properly appreciate. It seems to grant the commission an absolute liberty to indulge in inefficiency and therefore could be indulged in by electoral officials to violate formal rules and/or engage in activities that have the potential to undermine the integrity of the commission.

Gyimah-Boadi (2021: 60) notes that all the three commissioners, the chair and two deputies,

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enjoy 'decent basic compensation packages, including duty cars, personal vehicles, official housing.' Yet evidence shows how certain actors well-placed within it tend to exploit their constitutional and legal independence and operational control over the Commission to advance their personal interests (Gyimah-Boadi, 2021). This includes carrying out 'decisions and initiatives that entail high expenditure and procurement of equipment and supplies, such as repeated rounds of compilation of voters' register, issuance of voter cards, leadership and senior staff travel abroad' (ibid: 60).

Civil society groups accused the EC of nepotism in awarding a \$72 million contract for the supply of technologies for the 2020 elections to a company which the World Bank has included in its blacklist of companies that use corruption to win business contacts around the world, including in Taiwan in 2010 and Gabon in 2015 (Imaniafrica.Org., 2020; Ghanaiantimes.Org, 2020). Motivations to gain personally can sometimes shape decisions and initiatives that the commission makes. The effect is that the commission accounts poorly for the way it allocates resources, which also reinforces the suspicious attitudes held by political parties, especially when they are in opposition.

The commission formally accounts to the legislature (Gyimah-Boadi, 2021; Gyampo, Agbevede, & Graham, 2022). However, until the 2020 elections, in which both the NDC and NPP secured equal seats in the legislature, decisions of the legislative house were dominated by the perspectives of the ruling party elites (Agbele & Saibu, 2021; Gyimah-Boadi, 2021). These governing party elites typically approved almost every requests of their government and were therefore more likely to approve requests and decisions of the commission, especially when such decisions could support their party's chances of retaining power (Gyimah-Boadi, 2021; Alidu, 2014). This reality means that the party in opposition tends to portray the EC as siding with the ruling party (Gyampo, 2017), which contributes to their boycotts of IPAC meetings and the space for dialogue-based resolutions (Amoyaw, 2021). The equal representation of the two parties in the 2020 parliament may help to control some of these challenges (Gyimah-Boadi, 2021). However, partisan debates arising from the ECs stated intention to limit evidence of nationality to only the national identification card for prospective voters in the upcoming 2024 elections will likely be a point of continued contestation (Duodo, 2022). The NDC has shown its aversion to the directive and indicated a strong willingness to vehemently oppose its passage in the legislature (Businessghana.com, 2022).

The EC formally accounts to the law courts (Gyampo, 2017), but this only happens when a case is filed at the courts, successfully proving procurement irregularities for it to be properly adjudicated (Owusu-Mensah & Rice, 2018). The 2020 Supreme Court ruling, for example, arose from a suit challenging the compilation of the voter register. The governing party, NPP supported the commission, while the opposition NDC, opposed the compilation, especially the exclusion of the existing voter identification card and birth certificates as invalid nationality items and irrelevant for the purposes of compiling a credible register. The commission had only accepted passports and national identification cards as valid evidence of nationality. These documents, however, are mostly procured using the birth certificate, while few voters eventually registered with passports (Arhinful, 2020). The ruling on both the existing voter identification card and birth certificate favoured the commission. The birth certificate was dismissed as invalid nationality item in a sense that suggested birth certificates cannot prove citizenship since not only Ghanaians can register for birth certificates (Appiah & Ahiabre, 2020). The existing voter identification card was also dismissed (ibid).

However, the court retained its support for the guarantor system that was introduced in the compilation of the 2012 register. This system empowers a registered voter to vouch for the nationality of other citizens who have no valid passport and/or national identification card. The NDC, which was in power in 2012, supported the guarantor

system (Myjoyonline.com., 2016), although the legislature it led expressed reservations about the maximum number of five applicants that a registered voter is permitted to guarantee for in this manner:


*The Committee took note that Electoral Commission could not proffer the reasoning behind one individual acting as a guarantor for a maximum of five applicants who cannot provide any evidence of identification for registration. The Committee was divided on the basis of the guarantee and the number of applicants one can guarantee (Amoah, 2016: 3-4).*

Yet the commission increased the maximum number of applicants a registered voter could vouch for their nationality for, from five in 2016 to ten in the 2020 elections. The NPP, unlike the NDC, opposed the guarantor system in 2012 and 2016, when it was in opposition, arguing that it was more likely to facilitate the infiltration of foreign nationals and minors into the voter register (Myjoyonline.com., 2016). In government, however, it supported the commission to increase the maximum number of applicants a registered voter can guarantee nationality of in the 2020 elections (Modernghana.com., 2020) but has reverted to its 2012 and 2016 positions, opposing the guarantor system and supporting the commission to abolish it ahead of the 2024 elections (Otchere, 2022). In the 2020 elections, however, a prospective applicant needed two guarantors, unlike one guarantor that pertained in the 2016 elections, to vouch for their nationality. The guarantor system was also upheld by the Supreme Court in the 2020 elections (Appiah & Ahiable, 2020). The NDC has consistently supported this system (Lartey, 2022).

The overall effect of these vulnerabilities limits the everyday operations of Ghana's EC to demonstrate strong, formal independence. This means, on the one hand, that the strong formal independence of Ghana's EC has barely safeguarded its operational independence against profiteering motives of actors well-placed within the electoral process. It also means, on the other hand, that profit motives of individual actors well-placed within the commission can undermine the formal independence of the whole commission with their actions.

## CONCLUSIONS AND POLICY RESPONSES

The paper has shown how frameworks of the formal and operational independence of Ghana's EC are vulnerable to partisan political influence by the NDC and NPP. It also shows how the commission typically manages such portrayals and how these responses often generate further partisan reactions. This revelation offers useful lessons for the EC but also for those working to deepen democracy in West Africa more broadly. For example, it shows that framers of formal independence of electoral commissions always have to consider the susceptibility of majoritarian democracies to two-party dominance. Inadequate attention to this possibility in Ghana partly explains the complicated working



relationship that has developed between the EC and the political parties. In particular, it gives the party in government a degree of control over the party in opposition in their relationship with the electoral commission. It is this context that often provokes the party in opposition to want to depict the commission as doing the bidding of the party in government. This perceived politicisation of the EC subsequently inspires the party in opposition to want to interfere with the commission when power eventually alternates in its favour.

In Ghana, both the NPP and NDC tend to embrace the formal set-up of the commission, insisting the commission has the legal authority to carry out its mandate as it sees fit when in government, but immediately trade this off, insisting on inclusive approach to dispensing its authority when they are out of power. This suggests that both are equally aware of what each of them can do with the commission when power alternates in their favour, which it does on a fairly regular basis. This awareness drives contestation around decisions related to the commission. It positions the party in opposition to suspect the party in government of trying to manipulate the EC when they are in government, in order to stay there.

The findings of this paper improve knowledge about the motivations underlying the fluid attitudes that the political parties typically portray towards Ghana's EC. It also offers lessons for pro-democracy promoters in West Africa. It calls for efforts to critically review frameworks of formal and operational independence of existing electoral commissions in the region's majoritarian democracies to safeguard them from being pawns of two-party competition.

The paper further shows the extent to which the way electoral commissioners are appointed and dismissed constitutes one of the reasons for the type of partisan attitudes they face. To address this vulnerability, it is recommended that the judiciary and legislature should significantly contribute to the vetting, appointment and removal of commissioners. The commission is already accountable to these state institutions. The judiciary should therefore be empowered to use merit-based criteria to publicly vet prospective applicants and submit short-listed applicants to the parliament for a two-third majority approval. This reform could generate and promote bi-partisan support for anyone who is appointed to lead the commission.

The challenge of ensuring the EC's operational independence reinforces its formal independence moreover raises an important issue in the existing literature. For example, Gazibo (2006) argues that electoral commissions which are formally restrained from party politics are more likely to be seen and treated as independent, capable of organising free and fair elections. van Ham and Garnett (2019) agree that electoral commissions with commissioners appointed based on professional competence and specified tenure of service tend to have greater operational independence than those constituted by representatives of political parties. However, these insights are not fully observed in Ghana. Although the EC has strong formal independence: it is neither headed by representatives of the political parties nor its commissioners depend on governments for their salaries and other conditions of service, although key officials are appointed by the executive. Commissioners also have security of tenure till retirement, and this can also, in theory, enable them to push back against ruling party pressure. But the lack of stated reason (s) for their appointment can place them in precarious situations. It leaves the public and political actors with little idea of why they, among the pool of qualified persons in the country, have been appointed, offering the party in opposition the opportunity to

suspect the motivation of the appointing authority as being primarily political. It is therefore recommended that Ghana takes steps to address this by ensuring whoever is appointed to head the commission receives publicly stated explanations for their appointment to pre-empt accusations of political bias.

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