

Chapter 2

The Electoral Framework and Preparations for the Elections

The Constitution

The current Constitution of the Republic of Ghana came into force on 7 January 1993 subsequent to the 1992 Presidential and Parliamentary elections. This Constitution was adopted by a referendum held in April 1992. The 1996 Presidential and Parliamentary elections were therefore the first to be held under the 1992 Constitution.

A number of provisions of the Constitution are of special significance so far as elections are concerned. For instance, there are provisions which limit the President to two four-year terms, and which specify a single chamber Parliament with a life of four years. There is also a provision which requires parliamentary elections to be held within 30 days following completion of Parliament's four-year term. In the case of the President, the corresponding provision is that the election shall not be held earlier than four months nor later than one month before her/his term of office expires.

Eligibility to vote at both the presidential and parliamentary elections is based on universal adult suffrage for citizens who have reached the minimum age of 18 years.

An important characteristic of the electoral system is that while in a presidential election a successful candidate requires more than 50 per cent of the valid votes cast to win, a candidate in a parliamentary election requires only a simple majority. In the event of a tie for a parliamentary seat, a second election would be held within 30 days of the receipt by the Electoral Commission of a writ endorsed by the Returning Officer certifying that fact. In a presidential election, if no candidate secures the stipulated percentage of votes to win, a second election must be held within 21 days of the first. At the second election the candidates shall be the two who obtained the highest numbers of votes at the previous election. No minimum percentage of turnout of registered voters is required.

In 1992, parliamentary elections were held eight weeks after the presidential election. As noted earlier, the 1992 parliamentary elections were boycotted by all the opposition political parties. By contrast, the 1996 elections were held simultaneously on a day set by the Electoral Commission pursuant to Regulations made by it under the Public Elections Regulations 1996.

Article 47 of the Constitution provides that Ghana shall be divided into as many constituencies for the purpose of election of members of Parliament as the Electoral Commission may prescribe and that each such constituency shall be represented by one member of Parliament. Pursuant to this, the Commission has divided the country into 200 single-member parliamentary constituencies.

The Electoral Commission

A new Electoral Commission was established in 1993 as provided by the 1992 Constitution. Although the Electoral Commission derives its existence and authority primarily from the Constitution, its organic framework, functions and mode of operation are more extensively set out in the Electoral Commission Act 1993. This law also repealed the Interim National Electoral Commission Law 1992 under which the Commission's predecessor, the Interim National Electoral Commission, operated and under which the 1992 elections were conducted.

The Commission consists of seven members comprising a Chairman, two deputy chairmen and four other members, all of whom are appointed by the President acting on the advice of the Council of State. Both the Constitution and the Electoral Commission Act contain explicit provisions designed to secure the independence and autonomy of the Commission by not only stating that the Commission shall not be subject to the direction or control of any person or

authority in the performance of its functions, but also by giving its members security of tenure and by providing that the administrative expenses of the Commission shall be charged directly to the Consolidated Fund.

The Commission's functions include:

- the compilation of the voters' register;
- the demarcation of electoral boundaries;
- the registration of political parties;
- the conduct of all public elections and referenda as well as national party elections;
- voter education.

The Constitution requires the Commission to have an office and a representative in each of the ten regions and 110 districts into which Ghana is divided. Accordingly, there are Directors and District Electoral Officers in each of the ten regional and 110 district capitals respectively.

In the course of our work, we had the opportunity to visit not only the Commission's headquarters in Accra but also all its offices in each of the ten regional capitals, as well as some at the district level and were able to see for ourselves the arrangements being made for the security and distribution of election materials. These arrangements were also monitored by party agents.

The District Electoral Officer in effect has the general responsibility under the guidance of the Regional Director for the organisation of elections in her/his district, including the training of election officials and voter awareness facilitators. It is also her/his responsibility to ensure the safe storage of election materials, including the ballot papers, both before and after the elections and to transmit the results of the elections from that district to the Regional Director who sends them to the Commission Headquarters in Accra.

Because of the very heavy schedule of engagements of the Commission in its preparations for the elections, it was not possible for us to meet all the Commissioners as a body. Nevertheless, we were able to meet the Chairman, Dr Afari-Gyan, from whom we received a comprehensive briefing about the Commission's work, its current preoccupations and its readiness for the elections. At a subsequent meeting, we were given a supplementary briefing by the Commission's Deputy Chairman responsible for operations and received from him clarification on some of the points that had arisen during our discussions with political parties.

Voter Registration

The 1992 elections were characterised by allegations of irregularities and fraud in a number of aspects. Among these was the allegation that the electoral register lacked integrity, and many believed that it was inflated. On taking office, the Electoral Commission made a number of changes to address these allegations.

Under the authority of the Electoral Commission Act 1993 the Commission undertook a complete re-registration of voters in October 1995 using as registration centres the 20,000 polling stations where voters would subsequently be voting on election day. Initially, according to the Electoral Commission, this yielded some 9.23 million names. The lists were then exhibited at the registration centres and subjected to a period of examination by voters and political parties. This afforded registered voters an opportunity to check that their names were on the voters' register, and to correct their personal data if necessary. Interested parties could also object to the inclusion in the register of unqualified persons such as the under-aged, aliens and the deceased. It also provided an opportunity for voters to become more familiar with their polling centres.

We were informed by the Commission that there were differences of opinion among the political parties as to whether the period for registration should have been extended. In August 1996 the Electoral Commission carried out a supplementary registration for persons who, in the meantime, had attained the voting age or who for some other good reason had been unable to register in 1995. The latter included staff at Ghana's Diplomatic Missions and students living abroad.

We were also told that opening the register for the supplementary registration was not



Voter education ... reached all parts of the country: an Electoral Commission poster showing the voting procedure is displayed on a tree near the border with Burkina Faso

thought by some of the political parties to be necessary. In any event, the exercise yielded a total of 25,000 additional names. The supplementary list was subjected to the same process of public scrutiny by voters and other interested persons. The result was that on completion of the register and at the date of the elections the total number of registered voters stood at approximately 9.27 million. A copy of the register was supplied free, both in hard copy and on CD-ROM, to each political party contesting the elections.

We noted that although some doubts were expressed over the figure of 9.27 million names on the voters' register, all of the political parties with whom we had discussions seemed satisfied that it provided an acceptable basis for holding a credible election. An opinion poll with a 10,000 sample conducted in June and July 1996 by the National Commission for Civic Education (NCCE) found that over 95 per cent regarded the register as either 'acceptable' or 'very acceptable'.

The Transferred Voters' List

A more immediate concern brought to our attention by some of the opposition parties was an allegedly high incidence of voters applying to have their names transferred from the

constituency in which they had been registered to the constituency in which they would be located on election day. It was alleged that in some cases, the numbers involved were such as to raise suspicions of the transfer of votes from safe to marginal constituencies.

We were assured by the Electoral Commission, however, that each application for transfer was treated on its merits and thoroughly investigated before the name was placed on a transfer list. To guard against this facility being misused, the Commission imposed stringent conditions and restrictions on applications for transfer. Importantly, this included a residence requirement of not less than two months in the constituency to which the voter wished to transfer, and Returning Officers were under instructions to reject an application for transfer unless the applicant satisfied this requirement. Also, when it became apparent to the Commission that large numbers of applications were being received for transfers particularly between contiguous urban constituencies, it issued instructions to Returning Officers to the effect that such transfers should, as a matter of practice, not be effected if it was considered that the applicant could reasonably be expected to travel on election day to the constituency where she/he was registered in order to vote.

Other Categories of Voters

In addition to the transferred voters' list, there were other categories of voters. These included:

Special Voters

A special voting day was set aside for certain security officers, election officials and other persons who, because of their duties on election day, would be unable to vote in the constituency where they were registered. Applications for special voting were submitted through the applicant's superior officer who forwarded the applications in the form of a list which indicated the names, the voter identity card numbers and the polling stations where the applicants were registered. Upon completing the necessary checks, their names were entered on a Special Voters' List to be used as the Voters' Register for the polling station in the constituency designated by the Returning Officer for voting by special voters. At the same time, the names of the voters were to be entered on the Absent Voters' List for the polling stations where they were registered. The day appointed for voting by special voters was 3 December.

Security personnel and election officials who were on duty in their own constituencies did not need to vote on 3 December but were given certificates which enabled them to vote at the polling station where they were on duty on 7 December.

Proxy Voters

Provision was made for registered voters who, by reason of ill health or absence from their constituency could not attend in person to vote at their designated polling station on election day, needed to appoint another eligible voter to vote on their behalf (Regulation 23, Public Elections Regulations 1996). Applications for proxy voting were to be made in the prescribed form to the Returning Officer who entered the name on the Proxy Voters' List, if satisfied that the person qualified. This was then forwarded to the Presiding Officer of the polling station to which the proxy was assigned.

Voter Identity Cards

In line with regulations made by the Electoral Commission under the Constitution (Article 51), a Presiding Officer could, before issuing a ballot paper to a voter, require the person to produce her or his voter identity card. Alternatively, the voter could be required to furnish other evidence to establish that she/he was the registered voter whose name and voter identity card number and other particulars appeared in the register, and to make a declaration in the prescribed form that she/he had not already voted elsewhere.

Accordingly, every registered voter was issued with a voter identity card bearing her/his name, age, sex and a unique number. The card also bore the number of the polling station where the voter was registered and was expected to vote on election day. The latter ensured voters could be easily directed to the correct polling station. Voter identity cards were issued at



Transparency in action ... the Electoral Commission's decision to use transparent ballot boxes was one of a number of measures which enhanced confidence in the process: these were part of a consignment for the Eastern Region

the polling stations where the registration of voters was conducted. Two types of cards were issued. We were advised by the Electoral Commission that due to financial constraints photo-identity cards could only be issued to voters in the ten regional capitals and ten selected rural constituencies. The rest were issued with cards which bore the thumbprint, and not the photograph, of the voter.

We heard complaints in the course of our discussions with some political parties that every registered voter should have been issued with a photo-identity card or none at all. However, none of the parties suggested that failure to do this would in any way jeopardise the integrity of the electoral process. We also heard complaints from some political parties that under-aged persons had been included in the register.

Registration of Political Parties

The Electoral Commission is required to supervise the registration of political parties and their national party elections. We heard complaints from some of the smaller political parties that they had not been treated fairly by the Commission in this regard. One of the parties alleged, for example, that the Commission was extremely dilatory in issuing its final certificate of registration and that this had an adverse effect on its ability to participate fully in the elections. The same party also alleged that although its national elections were supervised by the Commission, they were still required to produce 220 persons, two from each of the

110 electoral divisions, to support the nomination of their potential presidential candidate.

We brought these complaints to the attention of the Commission and were satisfied with the explanations we were given: there are clear statutory provisions relating to the registration of political parties which must be complied with. For example, the Commission is bound to reject an application for registration unless it is satisfied that the party seeking registration has branches in all the regions of Ghana and in addition that it is organised in not less than two-thirds of the districts in each region. It appeared that the party in question had difficulty in meeting these requirements.

Demarcation of Electoral Boundaries

The Commission is required to review constituency boundaries at intervals of not less than seven years or within 12 months after the publication of census figures whichever is earlier. The functions of the Commission with regard to the delimitation of electoral boundaries did not generate any complaints from the political parties or from any other groups.

Nominations

The qualifications for nomination of candidates for the Presidential and Parliamentary elections remained unchanged from 1992. Thus, by virtue of section 1(1) of the Presidential Elections Law 1992, a candidate for the office of President of Ghana must be a citizen of Ghana by birth; must have attained the age of 40 years; be a registered voter; have the requisite residential qualification, and have paid all due taxes. Similar qualifications apply to parliamentary candidates, except that the applicable age requirement is 21 years.

In addition to being qualified to stand for election, whether as President or as Member of Parliament, a candidate was required to be nominated in terms of the Public Elections Regulations 1996. The relevant provisions require a presidential candidate to be nominated by not less than two registered voters resident in each of the 110 districts of Ghana on a form to be delivered to the Chairman of the Electoral Commission, as Returning Officer for the presidential election. In the case of a parliamentary candidate, the nomination paper, to be delivered to the Returning Officer for the constituency in question, must be witnessed by two electors as proposer and seconder, supported by 18 other electors and endorsed with the candidate's consent to her/his nomination. In both cases, the nomination papers had to be accompanied by the appropriate financial deposit, which would be returned if, in the case of a parliamentary election the candidate polled more than 12.5 per cent of the valid votes cast within the constituency, and in a presidential election more than 25 per cent of the valid votes cast.

At the close of nominations, papers filed on behalf of three presidential candidates and their running-mates were accepted by the Chairman of the Electoral Commission. These were as follows:

<i>Party</i>	<i>Presidential Candidate</i>	<i>Vice-Presidential Candidate</i>
Progressive Alliance (of NDC/EGLE/DPP)	Flt-Lt Jerry John Rawlings	Prof John Evans Atta Mills
Great Alliance (of NPP/PCP)	Mr John Agyekum Kufuor	Mr Kow Nkensen Arkaah
People's National Convention	Dr Edward Nasigrie Mahama	Ms Adeline Dedo-Mate

In the case of the parliamentary elections, 780 candidates were validly nominated of whom 60 were women. These candidates represented eight political parties, but also included 57 independents. The affiliations of the candidates at the close of nominations on 18 September 1996 were as follows:

Progressive Alliance	NDC	199
	EGLE	8
	DPP	22
Great Alliance	NPP	179
	PCP	116
People's National Convention		127
National Convention Party		71
Great Consolidated Popular Party		1
Independents		57

We were informed that a number of opposition candidates subsequently withdrew from the contest in favour of other alliance candidates, only after their nominations had been accepted and ballot papers had been printed. Their names therefore remained on the ballot paper with the possibility that this might cause confusion in the minds of supporters and adversely affect the electoral chances of some opposition candidates.

It was suggested to us by two of the smaller political parties that they had been unfairly treated by the Electoral Commission. For example, one of them complained that conditions imposed by the Commission made it impossible for it to file nomination papers for its potential presidential as well as for some of its parliamentary candidates. In addition, it complained that it had not been given any indication of whether the financial deposits it had paid would be returned. We raised these matters with the Electoral Commission and were satisfied with the explanations provided.

Voter Education and Training of Officials

The Electoral Commission conducted an extensive voter education campaign by radio, television, through the print media and through educational posters. One of the most illustrative posters depicted the steps at a polling station, from the voter leaving the queue to have her/his name checked on the register through to receiving a ballot paper to marking the ballot paper and placing it in the ballot box, first for the presidential and then for the parliamentary election. Samples of these posters are reproduced as *Annex XI*. The Commission also issued a pamphlet entitled *A Guide to the Voter* illustrating the electoral process.

A number of other bodies, notably the National Commission for Civic Education, a body established under the Constitution, as well as some other non-statutory voluntary bodies such as the Ghana Legal Literacy Foundation, Ghana Alert and the Network of Domestic Election Observers (NEDEO) undertook public awareness campaigns to educate citizens and local observers on their civic responsibilities, and to engender an appreciation of their rights and obligations as electors under the Constitution. These groups held seminars and training workshops throughout the country. We were told by several sources that the public was better prepared for the 1996 elections than was the case in 1992.

The Commission also undertook the training of election officials and candidates' agents and the provision of educational programmes in various local languages. To facilitate their work, the Electoral Commission published a reference manual for all election officials, *Election Officials' Manual 1996*.

Other Innovations

One of the new aspects of the 1996 elections was the use of transparent ballot boxes which could be sealed. As a measure to deter any attempt at multiple voting, the Commission also introduced the requirement that voter identity cards be perforated before a ballot paper was issued. The political parties and the general public welcomed these innovations as significant steps towards better electoral security and greater transparency.

The Commission initiated a regular meeting known as the Inter Party Advisory Committee (IPAC) involving all the political parties. All matters of common interest and concern to the parties were discussed at IPAC meetings. All parties to this arrangement acknowledged the value of IPAC in fostering trust and reducing political tension, intimidation, and politically

motivated violence. A similar arrangement was put in place at regional and district levels where Election Task Forces comprising local administrative officers, security personnel, and political parties dealt with relevant issues on an *ad hoc* basis. It is worth recalling that in its Report on the 1992 Presidential election, the Commonwealth Observer Group strongly recommended that this process of consultation between political parties should be institutionalised and placed on a formal footing.

It should be noted that the Commission had not promoted a Code of Conduct for the political parties. At the same time, we were aware that leaders of both the ruling party and the opposition parties appeared to be fully conscious of their responsibilities and consistently appealed to their supporters not to engage in acts of violence, reminding them of the need for peaceful elections.

Assistance

The Electoral Commission received assistance from a variety of sources including Britain, Canada, China, Denmark, Germany, the Netherlands and the US, as well as from the United Nations and a number of international organisations. The assistance received covered items such as transparent ballot boxes, high-frequency radio sets, motorcycles, stand-by generators, scanning machines, computer equipment and the printing of election materials. Assistance was also provided to enable candidates' agents on election day to be paid a *per diem* allowance.