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CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

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ABSTRACT

The cornerstone of every functioning democracy is the ability of the citizenry to be able to freely elect their leaders into office. In the everlasting words of Abraham Lincoln, democracy is “government of the people, by the people and for the people”. In order for one to be elected into office however, one must first partake in the arduous task of campaigning. Due to the competitive nature that comes with elections, it does not take a genius to figure out that campaigns demand an inexhaustible amount of money and other vital resources. This can evidently put pressure on a candidate or campaign team to raise funds by any means necessary, especially where there are no clearly spelt-out statutes and legislations, as it seems to be the case in Ghana. This paper will therefore shed light on the concept of campaign finance laws, what the status quo is in Ghana, the defects that are present in the system and the proposed reforms to address the problems. It will be divided into three parts: Part One will focus on the introduction and the status quo in Ghana, Part Two will analyse examples of campaign finance laws in other countries, and Part Three will deal with what a proposed campaign finance law should entail as well as the conclusion.

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CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

KEYWORDS: Campaign Financing, Assets, Liabilities, Non-citizens, The Federal Election Campaign Act of 1971, The Political Parties, Elections and Referendums Act 2000, Mandatory limits, Political Parties.

PART ONE:

INTRODUCTION:

The concept of campaign financing in Ghana is one that has certainly been in my thoughts of late. With the beckoning of primaries in the various political parties to select their next presidential and parliamentary candidates, it is quite clear that campaigns would need to be undertaken, and with it comes investment of huge amounts of resources.

The question that then comes into mind is, "where are the candidates going to generate the much-needed funds to run their campaigns?" It is true that some individuals are wealthy enough to personally finance their own campaigns, or some are able to secure loans or generous donations from friends. Some may even sell personal properties like lands and houses to generate the much needed funds.

Recently, it was reported that a candidate for the New Patriotic Party's (NPP) flagbearership, Dr Bryan Acheampong, had personally financed the campaign activities of some of the NPP Members of Parliament, as well as provided others with monthly stipends for about four years.² Such acts make one ponder in curiosity and ask a variety of questions such as, "is this legal?", "is this ethical?", "is this something that should be encouraged?", just to name a few.

In order to assiduously comprehend the legality of such acts, it is quite vital to take a comprehensive look at any existing statutes and legislations that may be in place which highlight on campaign finance.

An Overview of the Relevant Statutes:

² 'I funded 62 NPP MPs with GH¢20K monthly allowance while in power' - Bryan Acheampong. <<https://mobile.ghanaweb.com/GhanaHomePage/NewsArchive/I-funded-62-NPP-MPs-with-GH-20K-monthly-allowance-while-in-power-Bryan-Acheampong-2017861>>. Retrieved on 24th January, 2026.

CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

In Ghana, the foremost source of law with regards to campaign financing is the 1992 Constitution of the Republic of Ghana. It first of all mandates political parties to fulfil certain requirements such as to declare their revenues and assets and the source of these revenues and assets publicly³, and they must also annually publish their audited accounts.⁴ The Constitution also restricts non-citizens from making contributions or donations to any registered political party in Ghana.⁵

Parliament of Ghana, based on constitutionally granted powers⁶, enacted legislation that is responsible for regulating political parties in Ghana, and this is known as The Political Parties Act, 2000 (Act 574). Act 574, in order to ensure transparency and accountability goes a bit further to accentuate the constitutional provisions.

It first of all requires that political parties declare their assets and expenditures made upon the founding of the party to the Electoral Commission within ninety days after the issuance of a final certificate of registration.⁷ It also mandates that within twenty-one days before the general election, the political party must submit a statement of its assets and liabilities to the Electoral Commission, where failure to do so could result in the Electoral Commission cancelling the registration of the political party.⁸

Obviously, it is clear that these aforementioned statutes recognise the importance of ensuring transparency and accountability in political parties, since they are the literal engines behind political campaigns. Unfortunately, it would be wrong to conclude that every problem has been resolved as there are clear and evident loopholes in the system.

The Lingering Problem:

The aim of the various statutes and legislations that are in place is to regulate political parties to ensure accountability. Although this is quite a laudable feat, it is

³ Article 55(14)(a) of the 1992 Constitution.

⁴ Article 55(14)(b) of the 1992 Constitution.

⁵ Article 55(15) of the 1992 Constitution.

⁶ Article 55(17) of the 1992 Constitution.

⁷ Section 13 of Act 574.

⁸ Section 14 of Act 574.

CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

woefully insufficient. The reason is that political parties are not the sole players when it comes to political campaigns, although they are at the heart of it. The individuals equally play a role. In Ghana, when it comes to campaigning for presidential and parliamentary elections, the burden of fundraising is heavily placed on the candidates. They first of all have to go through a grueling and expensive primary race to emerge as their parties' candidate, before finally competing on the national stage to win the general elections.

This will presuppose that while the various legislations have focused their attention on the political parties, they have unfortunately glossed over the individuals themselves. The individuals running the campaigns are not legally mandated to declare how they raised the money to run their campaigns, especially at the primaries before reaching the national elections. This will therefore imply that the candidates have free range to engage in acts that may be quite unethical in order to raise funds for the campaign.

A typical example is a rich businessman donating millions of Ghana Cedis to a particular candidate's campaign. Although legal, it can evidently result in the candidate having to placate the said businessman with either a political appointment, or awarding them a government contract, resulting in a quid pro quo type situation that is evidently corruption. In another scenario, a candidate sinks all of his resources into a particular campaign with the sole aim of winning. Upon winning such an election, the aim of the said candidate will be to recoup all that he has spent in the campaign, and even build more illicit wealth. There are dozens of stories of candidates selling their houses and other properties all in the name of financing their campaigns, and in such circumstances, it is only wishful thinking to believe that such a person will not strive to regain all that he has lost upon the assumption of power.

These are not necessarily hypothetical instances or mere possibilities, rather they are circumstances that occur on a regular basis and unfortunately expose how there is virtually non-existent legislation when it comes to proper campaign finance laws. It

CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

is therefore imperative to pull the plug on those nefarious activities in order to ensure accountability, fairness and transparency.

PART TWO:

Here, the focus will be to analyse how campaign finance laws operate in two countries that are well renowned as the pioneers of their respective forms of political governments, namely the United States of America and the United Kingdom. This will give a proper understanding of how campaign finance laws can be in order to ensure proper accountability and transparency. The first to be looked at will be The Federal Election Campaign Act of 1971 from the United States, followed by The Political Parties, Elections and Referendums Act 2000 from the United Kingdom.

The Federal Election Campaign Act of 1971:

The Federation Election Campaign Act (FECA)⁹ was a law enacted on 7th February, 1972 by the Congress of the United States of America, and it focused on regulating campaign fundraising and spending by placing limits on the amount of money that can be spent on campaigns as well as the imposition of disclosure requirements in federal campaigns.

The Act first of all placed limits on the amount of money that individuals who were running for federal office could personally contribute towards their own campaign, and it also compelled the candidates for federal office to disclose contributions made to the campaign as well as provide relevant details of the various donors.

Here, it is quite evident to note that the Act focused on the candidates themselves and their campaigns, rather than focusing on the political party of the candidate as a whole. In this way, the candidate is the one who is restrained from engaging in any shady deals, and this goes a long way to ensure accountability and transparency.

Subsequent amendments have been made to FECA due to the United State's Supreme Court's decision in the infamous case of Buckley v Valeo¹⁰, nevertheless it

⁹ Pub. L 92-225.

¹⁰ 424 U.S. 1 (1976).

CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

still serves as a blueprint for how campaign finance laws can operate and what they can entail.

The Political Parties, Elections and Referendums Act 2000:

The Political Parties, Elections and Referendums Act 2000¹¹ was a law enacted by the Parliament of the United Kingdom on the 30th of November, 2000. The focus of the Act was to specifically regulate political parties, elections and referendums in the United Kingdom.

The Act performed three major tasks. First of all, the Act created an Independent Electoral Commission. This Electoral Commission was responsible for controlling the political parties. It did so by ensuring that the political parties were duly registered in order for them to be able to appear on the ballot papers. All parties that are interested in contesting for elections are mandated to be registered by the Electoral Commission. Where the political party is not registered, it cannot appear on the ballot paper.

The second thing that the Act did was to regulate donations made to the parties. It regulated the calibre of persons permitted to make donations to a political party. It also mandated the party to make disclosures of the donors where it exceeded a predetermined amount. In that way, there is open transparency which is able to ensure that no single individual or corporation will unduly force a political party to bend towards their will upon winning the elections.

The third and final thing was the control of expenditure. The Act empowered the Electoral Commission to control the amount of money that a party may spend during an election or a referendum. The parties were mandated to strictly adhere to the limits, as failure to do so would amount to the party committing an offence. This greatly aids in creating a level playing field for the parties to compete in and to prevent the need for parties to seek to fund their campaigns either through dubious means.

¹¹ Chapter 41.

CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

Just like FECA, there have been a number of amendments made to the Act, but the substance found in it can still serve as an outline on how campaign finance laws operate in different types of democracies. I believe that strategically analysing the systems of these two great pillars of democratic governments will bring a clearer understanding on how the system of campaign finance laws work and greatly help in developing one for the country.

PART THREE:

Here, the focus is on giving an outline on what a campaign finance law should look like in Ghana, taking into consideration certain provisions that should be present, in order to ensure its effectiveness and efficacy. This is followed by the conclusion of the paper. .

Proposed Campaign Finance Law:

In recognising the fact that Ghana desperately needs a Campaign Finance Law to ensure transparency in our democratic dispensation, the following are the proposals for what such a law must entail.

i. Mandatory limit on the amount a candidate can contribute to his own campaign: In order to ensure fairness and proper transparency, there must be a mandatory cap on the amount that a candidate can personally contribute to his own campaign. The reasoning behind this is to prevent the situation where the candidate utilises all of his monetary funds and resources for the campaign. In such a circumstance, upon winning the election, the candidate's aim and focus will solely be on seeking to recoup all the money that he lost. Critics of such a provision will argue that individuals must be free to invest how much they want or how much they have, and limiting them will amount to a restriction of their rights, specifically rights of speech and franchise. However, the 1992 Constitution specifically provides that in the instance where it is due to public interest and other reasons, the rights of persons may be limited.¹² In reliance on the utilitarian concept here, it will amount to a

¹² Article 12 of the 1992 Constitution.

CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

greater good for the society in general where such reasonable restrictions were put in place.

ii. Mandatory limit on the amount an individual or corporation can contribute to a particular candidate: Another means of ensuring transparency is to place a mandatory cap on the amount of money that an individual or corporation can make towards a particular candidate's campaign. The reasoning behind this is because where an individual or corporation is allowed to make unlimited donations to a campaign, it can create a sense of "indebtedness" on the part of the candidate. That would imply that upon the assumption of office, the candidate must reciprocate the "goodwill" done by the individual or corporation donors. This will include giving them favourable political appointments, enacting laws and policies that will benefit such persons and the candidates acting according to their donors' whims and caprices. This erodes the trust that is embedded in the elected candidate to serve dutifully and diligently, rather it makes them elected officials that will work for the highest bidder. Limiting the amount that can be contributed to a candidate will therefore strengthen the faith and confidence in elected officials. In the words of Justice Byron White in the aforementioned case of *Buckley v Valeo*¹³

"The act of giving money to political candidates, however, may have illegal or other undesirable consequences: it may be used to secure the express or tacit understanding that the giver will enjoy political favor if the candidate is elected. Both Congress and this Court's cases have recognized this as a mortal danger against which effective preventive and curative steps must be taken."

iii. Declaration of list of donors and their particulars: There is also the importance of declaring the names of persons that contribute to a candidate's campaign. This singular act will help to ensure that the funds that were used to run the campaign were not obtained by illicit means or from unscrupulous persons. It will help to promote the concept of campaigns as being one that is built on integrity and has the confidence of the citizenry.

¹³ Ibid.

CAMPAIGN FINANCE LAWS: AN INTROSPECTIVE LOOK INTO THE STATUS QUO IN GHANA AND THE NEED FOR CHANGE

Volume-2, Issue-3

Pages:297-305

iv. Imposition of penalties for flouting such laws: In the event that a candidate fails to adhere to the provisions of the laws, it is imperative that the requisite punishments be meted out on such a candidate. This could range from a public reprimand from the Electoral Commission, a fine or even outright disqualification from the elections. This will ensure that the candidates are effectively kept on their toes and eschew committing any infraction of the law. The candidates will be on their best behaviour in order to ensure that they do not have to bear any form of embarrassment during the campaign.

CONCLUSION:

In retrospect, the purpose of this paper has been to shed light on a very controversial topic known as campaign finance laws in Ghana. The journey commenced with highlighting on what it meant, then it proceeded to look at the status quo, by highlighting on the current statutes and legislations in place. There was a brief insight into The Federal Election Campaign Act of the United States and the Political Parties, Elections and Referendums Act, 2000 of the United Kingdom, before finally settling on what the proposed Campaign Finance Law in Ghana must entail in order to ensure fairness, transparency and accountability.

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