

Report of Three Inter-Faculty Member Committee on LSA Election Petition Hearing

Introduction

The three-member Inter-Faculty Committee was commissioned by the Dean of the Faculty of Law (FLAW) to review petition filed by one of the Presidential candidates for the LSA election (Mr. Maxwell M. Adu Takyi - Petitioner) which was held on June 02, 2022 against 1. The Legal Advisor, Law Students' Association, 2. The Electoral Commissioner, Law Students' Association 3. Festus Matey - Presidential Candidate/Plaintiff & Member, Law Students' Association, 4. Rosabeth Akiwele Avio - Vice Presidential Candidate & Member, Law Students' Association, 5. Grace Fredericka Lutterodt, Aspirant Secretary & Member, Law Students' Association, 6. Oswin Selasie Senyo - Aspirant Treasurer & Member, Law Students' Association, 7. Nathaniel Akyea Aspirant Treasurer & Member, Law Students' Association. The Committee's mandate is to investigate, inquire into or establish the veracity of the claim of LSA Election irregularities. The committee hearing was held on Friday, October 28, 2022 at the Faculty of Law Moot Court.

2. Panel Members

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|------------------------------|---|---------------------------------------|
| 1) Augustina Akornnor (Dr.) | - | Dean of Student Affairs (Chairperson) |
| 2) William Adjei, (Rev. Dr.) | - | Senior Lecturer, FLAW, Member |
| 3) Joseph Budu, (Dr.) | - | Senior Lecturer, SOT, Member |
| Faustina Appiah (Ms.) | - | Recorder |
| Ernest Quarcoo (Mr.) | - | Recorder |

3. Students present:

- | | | |
|----------------------------|---|--|
| 1) Maxwell M. Adu Takyi | - | Presidential Candidate, Plaintiff / Petitioner |
| 2) David-Kratos Amopofo | - | Legal Rep for Petitioner |
| 3) Festus Matey | - | Presidential Candidate / Defendant |
| 4) Fred Amese | - | Legal Advisor |
| 5) Grace F. Lutterodt | - | Aspirant Secretary |
| 6) Abdul Wahab Abdul Basit | - | |
| 7) Elfreda Nartey | - | |
| 8) Joseph Ataawiyueni | - | |
| 9) Joseph Adjei Darkwah | - | Legal Rep (Electoral Commission, LSA) |
| 10) Samuel Oppong | - | Legal Rep (Electoral Commission, LSA) |
| 11) Daniel Kafui Toseafa | - | Ex SRC Chief Justice |
| 12) Oswin Selasi Senyo | - | Aspirant Treasurer |

4. Participants Absent:

All three (3) Electoral Commissioners - Mr. Michael Appiah-Kubi, Ms. Judith Eshun and Mr. Kobina Abaanoh Arthur who were responsible for conducting and declaring winners for the various positions contested were conspicuously absent during the hearing. They were represented by their Legal Representative - Mr. Joseph Adjei Darkwah.

5. Proceedings of Hearing

Rules and Regulations for Committee Hearing

- The Chairperson made the students aware that the meeting was not a court of law hearing and therefore any cases cited or referenced will be irrelevant to the meeting. The Committee was set up by the Dean of the Faculty of Law (hereafter known as FLAW) to review the issues that have been raised with respect to the elections that were held in June 2022. The Committee had been set up to listen to their issues for further deliberations and for the Committee to give recommendations to the Dean of FLAW. She informed them that the Committee's report will be submitted to the Dean of FLAW for further action.
- The Chairperson made it clear that the reason for bringing all parties together at the meeting was to seek better clarification in the presence of everyone involved in the case and establish the facts of the case. Therefore, she wants both parties to respect themselves, be decorous and only speak up when they have been asked to do so.
- She asked the participants to state their cases clearly and straightforwardly and should desist from attacking personalities.

The petitioner presented his statement of claim as follows:

Statement of Claim - Petitioner

- 1) The Petitioner is a level 400 student of the Ghana Institute of Management and Public Administration (GIMPA), pursuing a Bachelor of Laws programme and a member of the GIMPA Law Students Association (LSA).
- 2) The first defendant is the principal legal advisor of the Law Students' Association.
- 3) The Electoral Commission of the Law Students' Association is established under Article 10 of the Constitution of Law Students Association and is the only institution mandated by the LSA Constitution to conduct and supervise all elections pertaining to elective posts of the LSA.
- 4) The petitioner contends further that the Electoral Commission (EC), in accordance with Article 10(1) to 10(4) of the LSA Constitution was constituted.

- 5) The Electoral Commission conducted the GIMPA LSA Election 2022 which was shrouded in conspiracy with many instances of irregularities reported.
- 6) On 1st June 2022, following a meeting with management in an attempt to resolve the election concerns of all parties, it was resolved that the election should be held the following day on the caveat that all the aspirants had to meet with the Electoral Commissioner (EC), and should they have any reasonable concerns the EC had to address same before voting.
- 7) The Petitioner's experts after analyzing the system found many irregularities bothering on the registration, mode of elections and software issues.
- 8) Concerns were raised with the EC and unfortunately, it fell on deaf ears. The report of the Petitioner's expert consulted is tendered into evidence and titled "Election Credibility Report".
- 9) During the Election, numerous instances of irregularities were recorded (video recording). The EC did not recognize the PDF as the election results.

The Petitioner claimed the following reliefs:

- 1) A declaration that on a true and proper interpretation of articles 7(3), 10 and 11 of the LSA Constitution that the election system used to conduct the election was compromised and could not have been the basis of a free and fair election.
- 2) A declaration that on a true and proper interpretation of articles 7(3), 10 and 11 and of the LSA Constitution, the purported declaration of Mr. Festus Matey as president is unconstitutional and the same is null and void.
- 3) An order rerunning the 2022 LSA Election.
- 4) Any consequential order(s) the court deems fit.

In conclusion, the Petitioner during the Committee hearing asserted that they had problems/issues with:

- 1) The compilation of the voters' register: The EC members which should have been made up one student from each stream i.e. Day, Evening and Modular was made up of two Evening students and one Day student and none from the Modular stream. They were appointed by the previous LSA administration two weeks to the election instead of at the beginning of the semester as stated in the LSA constitution. The EC compiled a new voters register by circulating google form link to students to register instead of contacting the Faculty Administration for the list of all students because the SRC court had put an injunction on the LSA election and the Faculty administration refused to give them the list of students. The goggle form link could only register half of the student population for the election.
- 2) Online voting system: The Petitioner displayed to key stakeholders how porous the online voting system was. The EC was asked to access the system again to see how safe it was. The Petitioner brought an IT

expert to access the system on June 1st. The IT expert affirmed that the system if used for the election could be breached. The EC was informed about it but did not take any action. A student in Level 100 displayed to a group of Senior Management and Officials (Mr. Clement Akapame, Dr. Alex Ansong, Dean of Students, Dr. Kwabena Oteng Acheampong, Mr. Kudjo Sogbey) how easy the election system could be entered into using anybody's information. The system was so simple to breach and it indeed crashed and never came back on which made it impossible for some students to vote. Prior to the system crashing, the Candidates had been given colour codes. First on the ballot sheet (Mr. Maxwell Adu Takyi) was given Orange and second on the ballot sheet (Mr. Festus Matey) Yellow. After the online monitoring system went off the system only showed Orange vote but none for Yellow. Though the system never came back online the EC announced that Mr. Festus Matey had won the election which was contrary to what the monitoring system was showing before it crashed. The EC confirmed it had indeed suffered a system crash but announced a winner using Microsoft Paint software after consultation with the previous LSA administration. An audio voice of Ms. Rosabeth Avio - Vice President contestant on her class WhatsApp platform was played where she was heard complaining that the votes changed and that her NO votes had declined from 83 to 40.

- 3) Unauthorized access to the online voting system: Anyone who had the voting link could vote whether they were students or not using any details.
- 4) Double voting due to the number of voting codes one received depending on the number of times one registered via the google form. Also, some students were unable to vote because when they tried to vote online, the system said they had already voted when they were attempting to vote online by themselves. The students contacted the EC directly but the EC failed to ever respond to the students. There were screenshot of such messages with the EC. This was proof of viable irregularities and the election system had been compromised.
- 5) The credibility of the documents released as the final election result (word document saved in PDF format) was an alien document to the online management system used in voting. The results should have reflected on the online management system that carried out the election. The petitioner requested for a post-election audit of the system to ascertain that the election results announced through the foreign document was the same one the system had captured. The EC failed to allow the petitioner to do same. The EC later mentioned that they did not have access to that data the reason why they requested the Committee to bring the software developer to assist to show such records of the direct votes of the students emanating from the system.
- 6) The conduct of the parties involved in the conduct of the election. The processes involved in the June 2022, LSA election were indeed wrong. The election should not have come on because the SRC had given a judgment whereby it had prohibited the EC from carrying out the election. But the EC held itself above the institutions of the School and decided that it would go contrary to the ruling of the SRC court and held the election. The EC was advised in a meeting where the Dean of Students was present on how it should proceed

on carrying out the election but it failed to do so thereafter and did what they wanted to do. The Petitioner received judgement from the SRC court after the results had been declared that the actions of the EC were contrary to what the law is and they had acted contrary to the SRC's jurisdiction but then the EC together with the Defendants decided to carry out themselves contrary to what the School rules and the School's Institutions had set out and decided to hold themselves out as President and other executive members of the LSA despite the fact that they had received a strong and stern warning from at the time the Faculty and the SRC Judicial Committee had told them to not hold themselves in such manner. Despite receiving the judgment of the SRC Judicial Committee in his favour the Petitioner who in his interest was seeking justice done, still submitted himself to the LSA court. The LSA Justices recused themselves from resolving the case realizing the issues bedeviling the case and the various conflicts of interest the Judges possessed thereby committing a travesty of justice. Mr. Adam the Chief Justice went contrary to the SRC court ruling and the directive of the Dean to swear in the Executives.

Response To Petition - By EC Representative

- 1) Save as hereinafter expressly or by necessary implication admitted the 2nd respondent deny / denies each and every allegation of fact contained in the petitioners' / petitioner's petition as if same has been set out in *extenso and traversed seriatim*.
- 2) The 2nd Respondent admitted to paragraphs 1, 2, 3 and 4 of the petitioner's petition.
- 3) The 2nd Respondent denied paragraph 5 of the petitioner's petition and says that, the averment in paragraph 5 of the petitioner's petition is a blatant lie and is aimed at throwing dust in the eyes of this honorable committee to prejudice and embarrass the 2nd Respondent.
- 4) The 2nd Respondent admitted to paragraph 6 in part to the extent that, there was an election run on Wednesday, 1st June, 2022 which was rerun on Thursday 2nd June, 2022 after the concerns of all interested parties have been resolved.
- 5) The 2nd Respondent denied paragraph 7 of the petitioner's petition and says that, the petitioner is on a journey of self-serving unrealistic and unproved facts and puts the petitioner to strict proof.
- 6) The 2nd Respondent denied paragraphs 8 and 8 as repeated in the petition, denies paragraphs 9, 10, 11, 12, 13, 14 and 15 of the petitions as presented by the petitioner and says that these are concocted allegations without any merit and puts petitioner to strict proof.
- 7) The 2nd respondent in as mandated by Article 10 of the LSA Constitution on Thursday, 2nd June, 2022 duly conducted a most credible election which had the 3rd Respondent emerge as the elected candidate for the President of the GIMPA LSA.

- 8) The 2nd respondent stated that the election was rerun solely to afford all candidates a fair audit of the system prior to the rerun-on Thursday, 2nd June, 2022 and petitioner never raised any concerns with the credibility of the electoral system but rather submitted himself to the conduct of the election.
- 9) The 2nd respondent averred that the petitioner never carried out any audit or provided a reason for his failure to audit the system before the election of Thursday, 2nd June, 2022 as agreed to by all parties.
- 10) The 2nd respondent further submitted that no credible, germane audit was carried out by the petitioner or any of his assigns which demonstrated any flaw or insecurity in the entire electoral process carried out on Thursday, 2nd June, 2022.
- 11) The 2nd respondent submitted that the allegations made by the petitioner to seem as facts are untrue, unreliable, irrelevant and constitute trumped up allegations crafted to fit the petitioner's narrative.
- 12) The 2nd respondent stated that the petitioner by his own admission commissioned at least one unauthorized, hostile actor to interfere with the electoral system while the election was underway leading to the pause of voting in order to safeguard cast ballots and to eliminate any possibility of a success in the attempt to alter the votes cast, after which voting resumed.
- 13) The 2nd respondent submitted that the EC carried out its duties fully and within the stipulation of Article 11 of the LSA Constitution and never fouled any rules governing elections as the results declared depict the true state and nature of the election of executives for the GIMPA LSA.
- 14) The 2nd respondent with leave of court during the trial shall render evidence and produce all relevant documents where necessary to assist the court in coming to a justiciable conclusion
- 15) Wherefore the 2nd respondent denied the claims of the petitioner.

In conclusion, the EC representative asserted during the Committee hearing that:

- 1) The EC did not have the power to appoint itself. The Electoral Commission was appointed by previous administration which they did not have control over.
- 2) The Petitioner did not act in good faith. They did not bring a representative to vet the online voting system when the election was ongoing.
- 3) The Petitioner's claim, that the election was not credible and flawed due to the results he obtained, is actually false.
- 4) There was no document anywhere or clear communication to candidates informing them of the colour codes they had been assigned. (Red, Yellow, Orange etc)
- 5) The Petitioner played someone's voice out of context which he claimed was the relevant portion to his claim. The audio could not be trusted as it could be anyone's voice. Even if it was the true person's voice, it could be sensed from the audio that the person was upset and secondly, a lot of contexts were cut out.

Summaries Excerpts of Interrogations by Committee Members to Both Parties

Committee Member 2 asked the Petitioner to respond to the submissions of the Representative of the EC. The Committee noted that the Petitioner almost repeated everything he had earlier on said - the appointment, composition and powers of the EC, the irregularities in the voters register and their complaint about the e- voting system, the election results etc. However, the Petitioner noted that there was an influence by the previous administration in the procurement of the election software which was in contravention of the Article 10 of the LSA Constitution. His concerns were that the EC had failed to produce the data from the elections and IT Developer and the EC conveniently absented themselves from the hearing.

The Chairperson asked the EC Representative why the EC compiled a voter's register when they could easily have requested for the detailed list of students from FLAW Secretariat. His response was that they thought the Law School Secretariat could not have provide the information required i.e., email address and telephone numbers. Moreover, most students do not remember their passwords for their student emails. In response, the Recorder who was from the FLAW indicated they did not receive any such request and, in any case, FLAW has all detailed information from the students.

Committee Member 1, interrogated the EC Representative as follows:

Committee Member 1: I have some questions for the EC Representative. You've tried to demonstrate that the EC and everybody involved did everything in good faith. And I'm asking these questions in good faith not because I want to make an argument for somebody but in the interest of transparency. I think it will help us to know these things and then everybody will have some closure.

So, any kind of System that takes data has an input part, the process, and the system will generate an output. It's a very simple model - input, process and output. The inputs to the election software were the votes cast, the processing was the tabulation of the votes for the various candidates and positions. Where is the output from the system after the election has been processed?

EC Representative: The outputs were the expected results for each of the candidates. It is the pdf file that I shared with you.

Committee Member 1: How was the PDF file generated?

EC Representative: It was generated. from the election screen. We just picked it up and placed it on the screen.

Committee Member 1: How was that generated from the election voting system? The petitioners made an impression or made a point that the results were shared in certain software, Microsoft Paint. You made a point. You are not obliged to share the results in the same software that you're used to, and if you write your exams on an exam sheet, usually check your results on the MIS.

Committee Member 1: There are outputs that should come from the system. I want to find out if these reports are still available. It doesn't need to have the voters' names on it.

EC Representative: No, the projections from the “strongroom” are currently not available.

Chairperson: Transparency becomes questionable because you see if you are running an online system, or you're doing an e-voting and you want everyone to be satisfied with what the system is generating. So, you can't tell me that you wrote the results from the screen.

Chairperson: When people challenge their exam results, I produce the marking scheme and give it to them to determine if they have written matches with the marking scheme. And so, with that evidence, they draw their own conclusion as to whether they failed or I was unfair to them. The School always keeps the scripts for five years so that if somebody comes to challenge the results, we can produce the evidence.

If you have a system that is generating information, you can't tell me you picked the results. From where? Who was there in the room to ensure that the information you published was truly from the system? The question Committee Member 1 is asking you where is the output from the system so that everybody's mind is at rest and we are clear these results is from the system. That is why we asked you to specifically bring the online software developer.

EC Representative: I'm sorry, I misunderstood you sincerely. I thought you were talking about something else. This is Microsoft Word interface.

Committee Member 1: This report is from Microsoft Word. Yes or No.

EC Representative: Yes.

Witness Accounts

Two other witnesses from both sides gave an account of the election process on the day of the election. The witness for the Petitioner, stated that the monitoring system went off around 5:45pm and he questioned the EC about it. He requested for an extension to enable voting which was not granted.

Two witnesses from each side also gave a narration of what transpired in the strongroom. The witness for the other Presidential aspirant who was also his agent claimed he was privy to the colour codes given by the EC but there was no agent from the Petitioner. Both agents claimed that the colour codes assigned to them was Orange. The account from both sides were contrary with respect to which candidate was assigned which colour code.

Towards the end of the hearing, there were heated arguments between both parties and the Chairperson had to put the house in order.

One of the contestants, an aspirant Treasurer, agreed that there was a meeting to ballot for the position on the ballot sheet but not to assign colour codes. This assertion was also affirmed by a contestant for the Secretary position.

The Committee noted that the absence of the EC and their inability to produce the documents requested by the Committee was problematic. There were many lapses in the LSA constitution which needed to be amended. The issues of representation concerns in LSA leadership also came up. Additionally, it is interesting that as students of Law, none of them had ensured the enforcement of some provisions in their own Constitution.

6. Findings and Conclusions

The Committee deliberated on the findings from the interrogations of the various issues and has drawn some conclusions. It is noteworthy that these conclusions are affected by the Electoral Commission's inability to provide various persons and artifacts the Committee requested as follows:

- a) The electronic voting software
- b) The software developer or vendor
- c) Audit trails with IP addresses of the voting activity
- d) Election reports generated from electronic voting software after close of polls
- e) Election declaration

Consequently, the committee concludes as follows:

First, during the hearing, the EC Representative was unable to provide the requested evidence which affected the credibility of their claim that the election was free and fair. The representative rather gave excuses to justify the absence of the requested evidence. For instance, he said the systems report was unavailable because the election software vendor had destroyed the data since he had no more contract with the

Commission. The systems report would have helped this committee to compare and verify the election results as generated from the system directly, and that of what was declared by the Electoral Commission as displayed in an editable Microsoft Word document projected on the wall of the “strong room”. The situation we faced is like a paper-based election without “pink sheets”.

Further, the audit trail would have helped this committee to verify the allegations of the system’s outage during the election exercise. This verification is important because the system’s outage is further linked to two allegations:

- a) That the system was deliberately hacked to prevent further voting so that the election results will be declared as is, in favour of one of the candidates.
- b) That the presidential election results were swapped to disadvantage the losing candidate. Hence, we could have verified the electorate’s choices - albeit anonymously.

Second, neither the election software nor its developer was available for demonstration and questioning, respectively. The committee would have done a run-through of the software by undertaking a typical vote, and then generating a report to understand the software’s algorithm. Our inability to achieve this cast doubts on the inner workings of the algorithm, especially because some of the candidates did not have the opportunity to conduct a pre-election audit of the software - whether deliberately or accidentally.

Third, on the technical difficulties the committee faced with accessing the software, its audit trail and the voting data, we suggest a lack of transparency in the electoral process which casts a doubt on the election results.

Though the Committee’s focus was the elections on June 2, 2022 we noted that there were some gaps in the LSA Constitution which are that:

- There are no clear guidelines for the election process.
- The LSA Vice President position is independently contested which has the tendency to create an imbalance in the leadership representation.
- The independence of the EC is not well outlined.

7. Recommendations

The Committee acknowledges that Student Associations offer great benefit to the Institute's growth. Additionally, they are an important avenue for students build on their leadership and other soft skills, give an opportunity to build networks and engage in other co-curricular activities. In order not to create a lacuna in the operations of the LSA, the Committee based on its findings, recommends as follows:

a) That the election results for the June 2, 2022 LSA election be set aside. The Committee makes two recommendations for Faculty of Law:

Option 1: An election re-run be conducted immediately, preferably within a week. The elections should be held **in-person**. The election should be supervised by the Office of the Dean of Students.

Option 2: An Interim Management Committee (IMC) should be constituted made up of class representatives from all levels and streams (Day and Evening). Class Representatives from each year and stream should nominate a representative to serve on the IMC who will manage the affairs of the LSA until new executives are elected next semester.

b) The LSA needs to review their Constitution.

- There is a need for clear timelines for electoral processes in the LSA Constitution. For e.g. the notice of elections should be published by Week 6 of the 2nd semester of the Academic Year. The handing over ceremony should be held before the start of the end of 2nd of semester exams.
- The provision that the EC be constituted by the beginning of the Academic Year should be enforced. Perhaps a deadline should be set e.g. by Week 2.
- The EC should be independent and be given the powers thereof. Outgoing executives should not meddle in the affairs of the LSA Elections (e.g. deciding how elections should be held, or contracting a software developer etc.).
- The LSA Vice President position should not be independently contested. There should be a running mate system. For instance, if the Presidential Candidate is from the Day school, his/her running mate should be from the Evening school and vice versa. This should be a Constitutional Amendment.

- c) Online elections should be put on hold for now. All elections should be in-person at least until all parties are transparently involved in the procurement of an election software. If an online voting is decided on, the EC should insist on a printout copy from the system to establish the veracity of the results.
- d) Henceforth, ONLY the registered list of all Law Students should be used as voters register for LSA elections.
- e) The Patrons should play more active roles in the activities of the LSA and also have an oversight responsibility of the Association.

Signed

Augustina Akonnor (Dr.)	-	Dean of Student Affairs (Chairperson)
William Adjei, (Rev. Dr.)	-	Senior Lecturer, FLAW, Member
Joseph Budu, (Dr.)	-	Senior Lecturer, SOT, Member

18th November, 2022