

IN THE SUPERIOR COURT OF JUDICATURE  
IN THE SUPREME COURT OF GHANA  
ACCRA - A.D. 2025

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RECEIVED  
SUPREME COURT OF GHANA

SUIT NO:

WRIT

TO INVOKE THE ORIGINAL JURISDICTION OF THE SUPREME  
COURT

UNDER J 115/2026

ARTICLE 2(1) & (2) AND ARTICLE 130(1) OF THE 1992  
CONSTITUTION

AND UNDER

RULE 45 OF THE SUPREME COURT RULES, 1996, (CI 16)

BETWEEN

PROF KWABENA FRIMPONG BOATENG  
Accra

1st PLAINTIFF

DR NYAHO NYAHO-TAMAKLOE  
Accra

2nd PLAINTIFF

DR CHRISTINE AMOAKO-NUAMAH  
Accra

3rd PLAINTIFF

AND

NEW PATRIOTIC PARTY  
No.15 Borsue Lane, Asylum Down, Accra.

1st DEFENDANT

NATIONAL DEMOCRATIC CONGRESS.  
20 Hall ST GA-075-6857, Adama Ave, Adabraka, Accra

2nd DEFENDANT

CONVENTION PEOPLE's PARTY.  
House No. 64, Mango Tree Avenue, Asylum Down, Accra

3rd DEFENDANT

ELECTORAL COMMISSION OF GHANA  
William Tubman Rd, Adabraka, Accra

4th DEFENDANT

THE ATTORNEY-GENERAL.  
Law House, Ministries, Accra

5th DEFENDANT

IN THE NAME OF THE REPUBLIC OF GHANA, you are hereby  
commanded within fourteen days after the service on you of the statement

of the Plaintiff's case inclusive of the day of service, that you are to file or cause to be filed for you a statement of the defendant's case in an action at the Suit of

**PROF KWABENA FRIMPONG BOATENG**  
Accra

**1st PLAINTIFF**

**DR NYAHO NYAHO-TAMAKLOE**  
Accra

**2nd PLAINTIFF**

**DR CHRISTINE AMOAKO-NUAMAH**  
Accra

**3<sup>rd</sup> PLAINTIFF**

**The nature of the relief sought is as follows:**

- i. A declaration that upon a true and proper interpretation of the Preamble and Articles 1(1) and (2), 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution the election of a political party's presidential and parliamentary candidate(s) constitutes a core element of the party's internal organisation within the meaning of Article 55(5) of the Constitution.
- ii. A declaration that upon a true and proper interpretation of the Preamble and Articles 1(1) and (2), 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution, the internal organisation of a political party must be structured in a manner that ensures equal political participation and equal voting rights of its members in the selection of the party's presidential and parliamentary candidate(s).
- iii. A declaration that, on a true and proper interpretation of the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42, 55(2), 55(5), 63 and 93 of the 1992 Constitution, democratic principles governing the internal organisation of political parties require political equality, meaningful and broad participation of members in decision-making, accountability of leadership to the membership, and substantially equal and direct voting rights for members in good standing in the election of the party's presidential and parliamentary candidates.
- iv. A declaration that the delegate-based Electoral College system established under Article 13 of the Constitution of the 1st Defendant for the election of its presidential candidate, which confines or restricts voting to specified executives, office holders and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the

1992 Constitution and is therefore unconstitutional, null, void and of no effect.

- v. A declaration that the Extraordinary Constituency Delegates Conference system established under Article 7 of the Constitution of the 1st Defendant for the selection or election of its parliamentary candidates, which confines voting to specified constituency executives, coordinators, polling station officers, elders, patrons and other delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- vi. A declaration that the Electoral College system established under Articles 43 and 44 of the Constitution of the 2nd Defendant for the election of its presidential and parliamentary candidate, which confines or restricts voting to specified executives, office holders and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 33(5), 17, 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- vii. A declaration that the Constituency Branch Party Conference system and the National Delegates Congress system established under Articles 53, 96 and 77 of the Constitution of the 3rd Defendant for the election of its presidential and parliamentary candidate(s), which confines voting to specified executives, elders, officers and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- viii. A consequential order striking down and declaring unconstitutional, null, void and of no effect all provisions of the constitutions, rules, regulations or electoral arrangements of the 1st, 2nd and 3rd Defendants, to the extent that they restrict or confine the election of their presidential and parliamentary candidates to limited Electoral Colleges, delegate bodies or similar structures, or otherwise exclude or materially disenfranchise members in good standing of the parties from voting in elections for their presidential candidates.
- ix. An order directing the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants to amend their respective constitutions, rules and electoral arrangements to adopt procedures for the election of their presidential

candidates or flagbearers that conform to the democratic principles required under Article 55(5) of the 1992 Constitution and ensure the equal, direct and meaningful participation of members in good standing in such elections.

- x. An order directed at the 4th Defendant, in the exercise of its supervisory and regulatory mandate under the Constitution and Act 574, to ensure and enforce the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Defendant's compliance with the Preamble Article 55(5) of the Constitution and Section 9(a) of Act 574 in respect of their internal elections.
- xi. Such further or consequential orders as this Honourable Court may deem just.

**The capacity in which the plaintiffs are bringing the action is as follows:**

The Plaintiffs, citizens of Ghana bring this action pursuant to Article 2 of the 1992 Constitution which vests in them a right to bring an action in the Supreme Court alleging that an enactment or anything contained in or done under the authority of that or any other enactment; or any act or omission of any person, is inconsistent with, or is in contravention of a provision of that Constitution.

The addresses for service of the Plaintiffs are as follows:

**PROF KWABENA FRIMPONG BOATENG** **1st PLAINTIFF**  
Accra

**DR NYAHO NYAHO-TAMAKLOE** **2nd PLAINTIFF**  
Accra

**DR CHRISTINE AMOAKO-NUAMAH** **3<sup>rd</sup> PLAINTIFF**  
Accra

**The address for service of Counsel for the Plaintiffs is as follows:**

Oliver Barker-Vormawor  
Merton & Everett LLP  
94 Swaniker Street  
Abelemkpe  
Tel: 034-229-5174  
[secretariat@mertoneverett.com](mailto:secretariat@mertoneverett.com)

**The names and addresses of persons affected by this writ are as follows**

**NEW PATRIOTIC PARTY**  
No.15 Borsue Lane, Asylum Down, Accra.

**1<sup>st</sup> DEFENDANT**

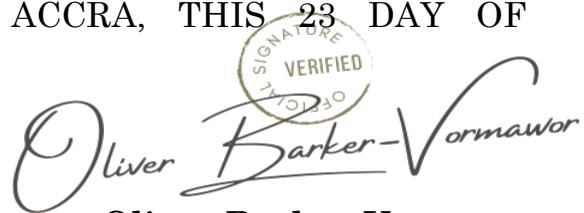
**NATIONAL DEMOCRATIC CONGRESS.** **2nd DEFENDANT**  
20 Hall ST GA-075-6857, Adama Ave, Adabraka, Accra

**CONVENTION PEOPLE's PARTY.** **3rd DEFENDANT**  
House No. 64, Mango Tree Avenue, Asylum Down, Accra

**ELECTORAL COMMISSION OF GHANA** **4th DEFENDANT**  
William Tubman Rd, Adabraka, Accra

**THE ATTORNEY-GENERAL.** **5th DEFENDANT**  
Law House, Ministries, Accra

DATED AT MERTON & EVERETT, AQUATEC PLACE, 2ND FLOOR, 94  
SWANIKER STREET, ABELEMKPE, ACCRA, THIS 23 DAY OF  
JANUARY, 2026.



Oliver Barker-Vormawor

**Oliver Barker-Vormawor**

Merton & Everett

Chamber Registration No: ePP00812/23

Partnership TIN: C0063476185

Solicitors License No: eGAR25303/26

Solicitors BP Number: 3000003173

Solicitors TIN: P0001564978

Tel: 034-229-5174

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IN THE SUPERIOR COURT OF JUDICATURE  
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THE PLAINTIFF'S STATEMENT OF CASE  
(Rule 46, C.I. 16)

If it pleases your Lordships, this Statement of Case is made on behalf of the Plaintiffs:

## **I. INTRODUCTION**

1. The Statement of Case is presented for and on behalf of the Plaintiffs, in support of the Writ – brought under Articles 2 and 130(1) of the Constitution – which invokes the original jurisdiction of the honourable Court to interpret and enforce the Constitution, and in particular for the proper construction and application of Article 55(5) of the Constitution.
2. The Plaintiffs challenge the constitutionality of the method adopted by the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants for the election of their presidential candidates or flagbearer.
3. The Plaintiffs pray this Court to find as just and to grant them the following reliefs:
  - i. A declaration that upon a true and proper interpretation of the Preamble and Articles 1(1) and (2), 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution the election of a political party's presidential and parliamentary candidate(s) constitutes a core element of the party's internal organisation within the meaning of Article 55(5) of the Constitution.
  - ii. A declaration that upon a true and proper interpretation of the Preamble and Articles 1(1) and (2), 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution, the internal organisation of a political party must be structured in a manner that ensures equal political participation and equal voting rights of its members in the selection of the party's presidential and parliamentary candidate(s).
  - iii. A declaration that, on a true and proper interpretation of the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42, 55(2), 55(5), 63 and 93 of the 1992 Constitution, democratic principles governing the internal organisation of political parties require political equality, meaningful and broad participation of members in decision-making, accountability of leadership to the membership, and substantially equal and direct voting rights for members in good standing in the election of the party's presidential and parliamentary candidates.
  - iv. A declaration that the delegate-based Electoral College system established under Article 13 of the Constitution of the 1<sup>st</sup> Defendant for the election of its presidential candidate, which confines or restricts voting to specified executives, office holders

and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.

- v. A declaration that the Extraordinary Constituency Delegates Conference system established under Article 7 of the Constitution of the 1st Defendant for the selection or election of its parliamentary candidates, which confines voting to specified constituency executives, coordinators, polling station officers, elders, patrons and other delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- vi. A declaration that the Electoral College system established under Articles 43 and 44 of the Constitution of the 2nd Defendant for the election of its presidential and parliamentary candidate, which confines or restricts voting to specified executives, office holders and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 33(5), 17, 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- vii. A declaration that the Constituency Branch Party Conference system and the National Delegates Congress system established under Articles 53, 96 and 77 of the Constitution of the 3rd Defendant for the election of its presidential and parliamentary candidate(s), which confines voting to specified executives, elders, officers and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- viii. A consequential order striking down and declaring unconstitutional, null, void and of no effect all provisions of the constitutions, rules, regulations or electoral arrangements of the 1st, 2nd and 3rd Defendants, to the extent that they restrict or confine the election of their presidential and parliamentary candidates to limited Electoral Colleges, delegate bodies or similar structures, or otherwise exclude or materially disenfranchise members in good standing of the parties from voting in elections for their presidential candidates.

ix. Such further or consequential orders as this Honourable Court may deem just.

4. To this end, this Statement of Case is divided into the following parts:

- a. The Particulars of the parties,
- b. The Facts of the case,
- c. Internal Organisation of the 1<sup>st</sup> – 3<sup>rd</sup> Defendants
- d. The Plaintiffs' legal arguments, and
- e. Application of the Constitutional Standard to the 1<sup>st</sup> Defendant's Internal Organisation
- f. Application of Article 55(5) To The 2<sup>nd</sup> Defendant
- g. Application of Article 55(5) To The 3<sup>rd</sup> Defendant
- h. Comparative Constitutional Jurisprudence
- i. The Plaintiffs' concluding prayer.

## II. THE PARTICULARS OF THE PARTIES

5. The 1<sup>st</sup> Plaintiff is a Ghanaian citizen of voting age, a renowned and multiple award-winning cardiothoracic surgeons, Founding Chief Executive Officer of the National Cardiothoracic Center, former President of the Ghana Red Cross Society, and academic, and a former Minister of State of the Republic of Ghana. As a member, he is directly affected by the 1<sup>st</sup> Defendant's internal electoral arrangements, which deny him and the general membership the right to vote in the selection of the party's flagbearer.
6. The 2<sup>nd</sup> Plaintiff is Dr Nyaho Nyaho Tamakloe, a Ghanaian citizen of voting age, a medical practitioner and Ghana's former Ambassador to Serbia and Montenegro. He is a member in good standing of the 1<sup>st</sup> Defendant political party and is directly affected by the 1<sup>st</sup> Defendant's internal electoral arrangements.
7. The 3<sup>rd</sup> Plaintiff is Dr Christine Amoako-Nuamah, a Ghanaian citizen of voting age, a distinguished scientist, seasoned public administrator, and former Minister of State of the Republic of Ghana. She has served the nation in several senior capacities, including as Minister for Environment, Science and Technology, Minister for Education, and Minister for Lands and Forestry, and has subsequently acted as a presidential adviser and held leadership roles in national public institutions and higher education governance. She is a longstanding member in good standing of the 2<sup>nd</sup> Defendant. As such, she is directly affected by the 2<sup>nd</sup> Defendant's internal electoral arrangements, which confine the selection of the Party's presidential and parliamentary candidates to restricted electoral colleges and delegate structures.
8. The Plaintiffs, as senior citizens and longstanding contributors to Ghana's public and democratic life, and being deeply concerned about

the health, integrity, and future of the Republic's constitutional democracy, bring this action both in their personal capacities and in the public interest pursuant to Article 2(1) of the Constitution, to secure and enforce compliance with the mandatory democratic requirements imposed on political parties under Article 55(5) of the Constitution and section 9(a) of the Political Parties Act, 2000 (Act 574).

9. The 1st Defendant is the New Patriotic Party, a political party duly registered under article 55 of the 1992 Constitution and the Political Parties Act, 2000 (Act 574), with its national office situate at No. 15 Borsue Lane, Asylum Down, Accra. The 1st Defendant sponsors candidates for public elections, including presidential and parliamentary elections, and exercises constitutionally recognised functions in the formation of government. Its internal organisation and procedures are therefore required by article 55(5) of the Constitution to conform to democratic principles. The 1st Defendant is sued as the political party whose constitutional and regulatory provisions governing the selection of its presidential and parliamentary candidates are impugned in these proceedings.
10. The 2nd Defendant is the National Democratic Congress, a political party duly registered under article 55 of the Constitution and the Political Parties Act, 2000 (Act 574), with its national office situate at No. 20 Hall Street, GA-075-6857, Adabraka, Accra. The 2nd Defendant regularly contests national elections and nominates candidates for the offices of President and Members of Parliament. As a constitutionally recognised vehicle for the exercise of political power, its internal structures and electoral processes are subject to the mandatory requirement under article 55(5) that its organisation conform to democratic principles. The 2nd Defendant is sued in respect of the provisions of its constitution regulating the election of its presidential candidate and related internal electoral arrangements.
11. The 3rd Defendant is the Convention People's Party, a political party registered pursuant to article 55 of the Constitution and the Political Parties Act, 2000 (Act 574), with its national office situate at House No. 64, Mango Tree Avenue, Asylum Down, Accra. The 3rd Defendant participates in public elections and nominates candidates for presidential and parliamentary offices. As with all political parties recognised under the Constitution, its internal governance and candidate selection processes are required to comply with democratic principles. The 3rd Defendant is sued as the party whose constitutional provisions concerning the election of its presidential candidate through a delegates-based congress are challenged for constitutional compliance.

12. The 4th Defendant is the Electoral Commission of Ghana, a constitutional body established under article 43 of the Constitution with offices situate at William Tubman Road, Adabraka, Accra. The 4th Defendant is mandated to regulate the registration, supervision and oversight of political parties and to ensure compliance with constitutional and statutory requirements governing their operations, including the requirement that their internal organisation conform to democratic principles. The 4th Defendant is sued as the body charged with supervisory and regulatory responsibility over political parties and whose compliance and enforcement obligations are directly implicated by the reliefs sought.

13. The 5th Defendant is the Attorney-General and Minister for Justice of the Republic of Ghana, sued in his official capacity pursuant to article 88 of the Constitution as the principal legal adviser to the Government and the representative of the State in all civil proceedings. The 5th Defendant is joined as the proper constitutional representative of the Republic in proceedings involving the interpretation and enforcement of the Constitution and the validity of laws, policies, and institutional arrangements affecting the public interest.

### **III. FACTS OF THE CASE**

14. According to Article 55 of the 1992 Constitution of Ghana, every citizen has the right to form or join a political party for the purpose of participating in shaping the political will of the people and influencing the governance of the State. Political parties are thereby recognised not as private associations, but as constitutionally significant institutions through which democratic representation and governmental authority are organised.

15. Article 55 further regulates the formation, operation and organisation of political parties and, in particular, provides in clause (5) that the internal organisation of every political party shall conform to democratic principles. The language of this provision is mandatory and admits of no exception. Compliance with democratic principles is therefore a constitutional obligation binding on every registered political party.

16. Pursuant to Article 55(11) of the Constitution, Parliament enacted the Political Parties Act, 2000 (Act 574) to regulate the registration, organisation, conduct and supervision of political parties, and to give effect to the constitutional requirements governing their operations. The Act establishes a statutory framework for the recognition and regulation of political parties and places them under the oversight of the Electoral Commission.

17. In particular, section 9(a) of the Political Parties Act reiterates the constitutional requirement that the internal organisation of political parties shall conform to democratic principles. The statutory scheme therefore reinforces the constitutional command that parties operate in a manner consistent with democratic participation, equality and accountability.

18. The Electoral Commission – the 4<sup>th</sup> Defendant - is, by Article 45 of the Constitution, 1992 and the Political Parties Act, 2000 (Act 574), the constitutional and statutory regulator of political parties. It is mandated to register political parties and is expressly prohibited from registering any party whose internal organisation does not conform to democratic principles. The Commission is therefore under a continuing legal duty to ensure that the constitutions, structures and internal electoral processes of political parties comply with Article 55(5) of the Constitution, 1992. The Commission further supervises internal party elections and possesses investigative and enforcement powers to secure compliance. The Commission is accordingly a necessary party to these proceedings, as the reliefs sought directly implicate its supervisory and compliance obligations.

19. In furtherance of its constitutional and statutory mandate to register and regulate political parties, the Electoral Commission is required by law, as a condition precedent to registration, to examine and vet the constitution, rules and internal organisational arrangements of every political party to ensure that such arrangements conform to democratic principles and are not inconsistent with the Constitution. In particular, section 9(a) of the Political Parties Act, 2000 (Act 574) prohibits the Commission from registering a political party unless its internal organisation conforms with democratic principles.

20. Accordingly, prior to the registration of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants as political parties, the Electoral Commission reviewed and approved their respective constitutions and organisational structures for purposes of determining compliance with article 55(5) of the Constitution and the requirements of Act 574. The said Defendants continue to operate as registered political parties under the supervision and regulatory oversight of the Commission.

21. The Plaintiffs further state that, whether or not the Electoral Commission has adequately discharged its supervisory and vetting responsibilities, the constitutional obligation imposed by article 55(5) rests directly and independently upon every political party. The duty to ensure that the internal organisation of a political party conforms to democratic principles is not contingent upon prior approval, certification, or enforcement by the Electoral Commission.

22. Political parties are themselves enjoined by the Constitution to organise their structures, processes and internal elections in a manner consistent with democratic principles. That obligation is self-executing and continuous, and cannot be avoided or excused by reliance on administrative registration or regulatory oversight.

23. Accordingly, the internal structures and candidate selection processes of registered political parties are matters of constitutional and statutory compliance and are not immune from constitutional challenge where they fall short of the democratic standards mandated by the Constitution.

24. The Plaintiffs state that, having carefully reviewed the constitutions, rules and internal organisational arrangements of the 1st, 2nd and 3rd Defendants, they contend that in material and significant respects the said parties' systems for the selection of their leadership and candidates fall short of the democratic principles mandated by article 55(5) of the 1992 Constitution and are therefore inconsistent with their constitutional obligations, and accordingly bring this action to seek the interpretation and enforcement of the said provision and related constitutional guarantees so as to assess and determine the compliance of the 1st, 2nd and 3rd Defendants with those obligations and, further or in the alternative, to inquire into whether the 4th Defendant has failed, refused or neglected to properly discharge its statutory and constitutional duty to vet, supervise and ensure such compliance.

#### **IV. THE INTERNAL ORGANIZATION OF THE 1<sup>ST</sup>, 2<sup>ND</sup> And 3<sup>RD</sup> DEFENDANTS WITH RESPECT**

25. My Lords, as noted, the 1st Defendant is a political party registered under article 55 of the Constitution and the Political Parties Act, 2000 (Act 574), and is accordingly subject to the constitutional requirement that its internal organisation conform to democratic principles.

26. As part of its internal organisation and governance structure, the 1st Defendant has adopted and operates under a written Constitution, first registered with the 4<sup>th</sup> Defendant Electoral Commission in June 1992 and subsequently amended on several occasions, which caution with its aims, membership, structure, candidate selection processes, and internal disciplinary mechanisms. That Constitution expressly regulates how the Party sponsors and selects candidates for public office and establishes binding eligibility and vetting requirements for such candidates, thereby demonstrating that the Party has chosen to subject its internal political processes to formal constitutional norms rather than unfettered discretion.

27. The internal processes governing the nomination and election of the 1st Defendant's presidential candidate are set out in Article 13 of its Constitution.

28. Article 13 provides that although any member may apply for nomination, the ultimate selection of the Party's presidential candidate is not conducted by the general membership of the Party, but through a system of delegate-based and electoral college voting. Article 13 further provides that the final election of the Party's presidential candidate is conducted not by universal suffrage of all members in good standing, but by a delegate-based Electoral College.

29. The delegates entitled to vote at this final stage comprise specified office holders and functionaries of the Party, including members of the National Council, National Executive Committee, Regional Executive Committees, Constituency Executive Committees, Electoral Area Coordinators, Polling Station Executives, the National Council of Elders, Members of Parliament, past national officers, representatives of special organs, selected external branch delegates, founding members, patrons, recognised TESCON representatives, and Ministers and Deputy Ministers when the Party is in government.

30. Each such delegate is entitled to one vote, and no voting right is conferred on the general body of party members outside these designated categories.

31. The effect of Article 13 is therefore that the overwhelming majority of ordinary members of the 1st Defendant who are not office holders, executives, or selected delegates do not participate directly in either the short-listing or the final election of the Party's presidential candidate.

32. The choice of the Party's presidential candidate is consequently determined exclusively by a limited and defined class of delegates rather than by the general membership of the Party.

33. In addition to regulating the selection of its presidential candidate, the Constitution of the 1st Defendant similarly prescribes the manner in which parliamentary candidates are chosen at the constituency level. Article 7 provides that, in every year, a Constituency Annual Delegates Conference shall be convened prior to the Regional Annual Delegates Conference, and that such Conference shall be attended not by the entire membership of the constituency, but by specified categories of delegates only. These delegates comprise members of the Constituency Executive Committee, all Electoral Area Coordinators, all Polling Station Executives, five members of the

Constituency Council of Elders, five Constituency Patrons, and any founding member from the constituency who was a signatory to the Party's registration documents.

34. Where a parliamentary candidate is to be selected, the Constituency Executive Committee is required to convene an Extraordinary Constituency Delegates Conference for that purpose, and the delegates entitled to vote at that Conference are expressly limited to the same categories of persons who attend the Constituency Annual Delegates Conference. The effect of these provisions is that the choice of the Party's parliamentary candidate is determined exclusively by a defined and limited body of party officers and designated functionaries, rather than by the general body of members in good standing within the constituency. Ordinary members who do not occupy any of the specified offices or delegate positions are not entitled to vote in the selection process. Through this mechanism, the Party determines, at the internal stage, which individual may present himself or herself to the electorate as its candidate for legislative office in Parliament.
35. My Lords, with respect to the 2nd Defendant, it is a political party registered with the 4th Defendant pursuant to article 55 of the Constitution and the Political Parties Act, and operates under a written Constitution first adopted and registered with the Electoral Commission in or about September 1992 and subsequently amended from time to time to regulate its internal governance, membership, organs, and procedures for the nomination and election of candidates for public office.
36. That Constitution when first adopted made detailed provision for the selection of the Party's presidential candidate. The then Article 42 (Now Article 44) vested responsibility for the conduct and supervision of the presidential primary in the Party's National Executive Committee and provides that the election shall be held within prescribed timelines preceding a national election.
37. Although the nomination process is open to eligible members, the right to vote in the election of the presidential candidate is not conferred on the entire body of members in good standing. Instead, the then Article 42 established an Electoral College composed of specified categories of party officers, executives, office holders and designated representatives.
38. The Electoral College comprised, *inter alia*, branch, constituency, regional and national executive committee members, ministers and deputy ministers, presidential staffers, metropolitan, municipal and district chief executives, members of the Party's

parliamentary group, representatives of affiliated organisations, members of the Council of Elders, founding members, past office holders, ambassadors and former state officials, as well as other designated delegates and representatives determined by the Party's organs.

39. Voting power was therefore confined to this defined body of executives, office holders and selected delegates, and not extended as of right to the general membership of the Party.

40. The effect of these provisions was that the choice of the Party's presidential candidate is determined through a delegate-based electoral college system rather than through universal participation of all members in good standing.

41. The Plaintiffs further state that the 2nd Defendant's constitutional arrangements have not been static. In or about 2015, the Party amended its Constitution to replace the delegate-based electoral college system with a system of universal suffrage, under Article 44 which all members registered in the Party's biometric register were entitled to vote directly in the election of the Party's presidential candidate.

42. Under that arrangement, participation in the presidential primary was extended beyond executives and delegates to the broader membership of the Party nationwide, thereby enabling direct voting by ordinary members rather than indirect selection through office holders.

43. The new amendment provided as follows

#### *Article 44*

- a. The date and venue for the election of the Presidential Candidate shall be decided by the National Executive, Committee provided that such an election shall take place at least 12 months before a national election date in the case where the party is in power, and at least 24 months in the case where the party is outside government.*
- b. If at the close of nomination only one person files nomination f as the Party's Presidential Candidate he shall be subject to a vote out of which he must obtain 50% plus one of the votes cast. Where two persons file their nomination the person who receives the greater number of votes shall be declared elected as the Party Presidential Candidate.*

- c. *Where at any ballot between two candidates the votes are equal, another ballot shall be held.*
  - d. *At any ballot between more than two persons, the candidate who receives the greatest number of votes shall be declared elected, provided that he receives a majority (i.e. 50% plus one) of the votes cast; but if no Candidate receives such majority the name of the Candidate who receives the least number of votes shall be withdrawn; this shall be followed by a run-off between the first-two contestants and the contestant with a simple majority shall be declared the Party's Presidential Candidate.*
  - e. *The run-off shall be repeated in the case of a tie between the two contestants until one of them obtains a simple majority.*
  - f. *Where there is equality of votes between candidates who receive the smallest number of votes and one of them has to be excluded from the election under sub-clause (d) there shall be a ballot to determine which of them shall be excluded.*
  - g. *The National Executive Committee shall in consultation with the Council of Elders issue guidelines regarding the election of a Presidential Candidate based on the provisions of this Article.*
- 44. Following Ghana's 2016 presidential elections, which the 2nd Defendant lost, the Party however constituted a committee commonly referred to as the Kwesi Botchway Committee to review its internal structures and performance.
- 45. The Plaintiffs state that, following that review, concerns were expressed in some quarters within the 2<sup>nd</sup> Defendant Party that the universal suffrage system had diminished the influence of branch and constituency executives and other traditional delegates, and that these concerns informed subsequent proposals to revert to a delegate-based structure.
- 46. Consequently, in or about 2019, the Party again amended its Constitution to discontinue the universal suffrage model and to reinstate the present electoral college system, thereby restoring voting power to a limited class of executives, office holders and selected delegates and withdrawing direct voting rights previously enjoyed by the wider membership.

47. As matters presently stand, the election of the 2nd Defendant's presidential candidate is therefore conducted through a restricted electoral college composed of specified categories of party functionaries and representatives, rather than through universal or near-universal participation of all members in good standing.

48. Through these constitutional arrangements, the 2nd Defendant determines, at the internal stage, which individual may present himself or herself to the Ghanaian electorate as its candidate for the office of President of the Republic.

49. With respect to the election of parliamentary candidates, the 2<sup>nd</sup> Defendant's 1992 Constitution first provided that they were to be elected through an electoral college consisting, according to the then Article 41 of

- a. Branch Executive members both electd and co-opted in the Constituency;
- b. Every constituency Executive member, elected and co-opted and who are members of a Branch in the constituency;
- c. The member of Parliament who is a member of the Party;
- d. Members of the Regional Executive Committee both elected and co-oped who are members of a branch in the constituency and hail from the constituency; founding members of the Party who hail from the Constituency;
- e. Two (2) members of each integral organ who are members of a branch in the constituency and hail from the Constituency;
- f. Members of the national and regional Council of Elders who hail from the Constituency;
- g. Ministers and Deputy Ministers of State who are members of the Party and who are members of a branch in the constituency and hail from the constituency;
- h. Presidential staffers who are members of the Party and who are members of a Branch in the constituency and who hail from the constituency;
- i. Ambassadors and High Commissioners who members of the Party and who are members of a Branch in the constituency and who hail from the constituency;
- j. Former Ministers and Deputy Ministers of State who are members of the Party and who are members of a branch in the constituency and hail from the constituency;
- k. Former Members of Parliament e who are members of the Party and who are members of a branch in the constituency and hail from the constituency;

1. Metropolitan, Municipal and District Chief Executives who are members of a branch in the constituency and hail from the constituency;
- m. Former Metropolitan, Municipal and District Chief Executives who are members of a branch in the constituency and hail from the constituency;
- n. Former Ambassadors and High Commissioners who are members of the Party and who are members of a Branch in the constituency and who hail from the constituency;
- o. Members of the Council of State and former Members of the Council of State who are members of a Branch in the constituency and who hail from the constituency;
- p. Presidential staffers who are members of the Party and who are members of a Branch in the constituency and who hail from the constituency;
- q. Members of the party registered in the biometric register subject to the approval of the National Executive Committee in Article 38(c)

50. With respect to the 3rd Defendant, it is a political party registered with the 4th Defendant pursuant to article 55 of the Constitution and the Political Parties Act, and operates under a written Constitution which regulates its internal governance, organs, membership structures, and the procedures by which it nominates and elects candidates for public office.

51. The Party's Constitution provides, under Article 96, for the election of a Presidential Candidate to contest national presidential elections on behalf of the Party. That Article stipulates that the Presidential Candidate shall not be chosen by the general membership of the Party, but shall be elected by the Party's National Delegates Congress following a vetting process conducted by the Vetting Committee.

52. The election of the Presidential Candidate is therefore conducted through the National Delegates Congress as the sole electoral body, and not through universal participation of all members in good standing of the Party.

53. Article 77 of the Party's Constitution designates the National Delegates Congress as the highest decision-making body of the Party and prescribes its composition. The Congress is not constituted by the entirety of the Party's membership but is instead made up of specified categories of officers and representatives.

54. In particular, membership of the National Delegates Congress comprises members of the National Executive Council, founding

members, members of the Council of Elders, constituency officers including chairpersons, secretaries, treasurers, organisers, women organisers, youth organisers and education secretaries, two additional representatives from each constituency, representatives from tertiary institution branches, and representatives from approved overseas branches.

55. Only those persons falling within these defined categories are entitled to attend and vote at the National Delegates Congress, and the right to vote in the selection of the Party's Presidential Candidate is confined exclusively to this body of delegates.
56. Ordinary members of the Party who do not hold any of the specified offices or delegate positions are not entitled to vote directly in the election of the Party's Presidential Candidate.
57. Through these constitutional arrangements, the determination of who may present himself or herself to the Ghanaian electorate as the 3rd Defendant's candidate for the office of President is made exclusively by a limited congress of designated officers and representatives rather than by the general body of members of the Party.
58. The Constitution of the 3rd Defendant further regulates the selection of parliamentary candidates at the constituency level through a similarly delegate-based structure. Article 52 establishes a body known as the Constituency Branch Party Conference, which is designated as the highest organ of the Party within each constituency.
59. The Constituency Branch Party Conference is not constituted by the entire membership of the Party within the constituency. Rather, it is composed exclusively of specified categories of office holders and representatives, namely members of the Constituency Branch Executive Committee, two Polling Station Branch Executive Committee Members, five Electoral Area Branch Executive Committee Members, and five members from each tertiary institution branch within the constituency.
60. Article 53 assigns to this body the responsibility of electing the Party's Parliamentary Candidate for the constituency, subject to the approval of the Central Committee of the Party.
61. The effect of these provisions is that the selection of the 3rd Defendant's parliamentary candidate is determined solely by this defined and limited conference of executives and designated representatives, and not by universal participation of all members of the Party in good standing within the constituency.

62. Ordinary members who do not hold any of the specified offices or delegate positions are not entitled to vote directly in the choice of the Party's parliamentary candidate. Through this mechanism, the decision as to who may present himself or herself to the electorate as the 3rd Defendant's candidate for legislative office is made internally by a restricted body rather than by the broader membership.

## **V. PLAINTIFF's LEGAL ARGUMENTS**

63. The Plaintiff's claim raises a plainly justiciable constitutional issue, which is whether constitutionally recognised institutions being the Defendant political parties have complied with an express constitutional command contained under Article 55(5), in how they are internally organized with respect to how their parliamentary and presidential candidates are chosen.

64. The Plaintiffs say that they have not. The Defendants say otherwise and have conducted themselves in that manner for nearly 30 years.

65. The question then whether which of the parties is right falls squarely within the interpretive jurisdiction of this Honourable Court under Articles 2 and 130.

66. My Lords, the 1992 Constitution accords political parties a unique and elevated status within Ghana's democratic order. Rather than being merely voluntary associations formed for social or private purposes, the Constitution conceives them to be the principal institutional mechanisms through which citizens organise political power, formulate public policy alternatives, and contest for the control of the State.

67. Article 55(1) guarantees the right of citizens to form political parties, while article 55(2) guarantees the right of every citizen of voting age to join a political party. These guarantees recognise that membership in political parties is itself a constitutionally protected form of political participation. The right would be largely illusory if members, having joined a party, could be excluded from meaningful involvement in its most important decisions.

68. Article 55(3) further recognises that political parties exist to shape the political will of the people, disseminate political ideas, and sponsor candidates for public office. In practical terms, political parties are the gateways through which access to executive and legislative authority is obtained. Whoever controls candidate selection within a party effectively influences who may govern the nation. For

that reason, the internal governance of parties is not merely an internal affair but a matter of public constitutional significance.

69. It is precisely because of this public character that the Constitution imposes standards on how political parties are organised. If parties were purely private associations, the Constitution would have had no reason to regulate their internal structure. The fact that it does so underscores that internal party democracy is part of the constitutional design of the Republic.
70. Parliament has reinforced this constitutional requirement through the Political Parties Act, 2000 (Act 574). Section 9(a) provides that the Electoral Commission shall not register a political party unless its internal organisation conforms with democratic principles. This provision translates the constitutional command into an operational legal requirement.
71. The significance of section 9(a) is that conformity with democratic principles is treated as a condition of lawful existence. A party that does not meet that threshold is not entitled to registration. Parliament thus recognised that internal democracy is foundational to the legitimacy of political parties and is not merely aspirational rhetoric.
72. When read together, article 55(5) and section 9(a) establish a coherent constitutional and statutory scheme: political parties may operate and contest elections only if their internal structures meet minimum democratic standards. This Court is therefore entitled, and indeed obliged, to ensure that those standards are respected.
73. The Plaintiffs note in addition, the decision of this Honourable Court in *Republic v Yebbi & Avalifo* [1999–2000] 2 GLR 50, where the Supreme Court recognised that political parties, although voluntary associations, perform constitutionally significant public functions and are subject to public regulation and scrutiny. In that case, the Court held that, by reason of Article 55 of the 1992 Constitution and the elaborate statutory controls imposed on their organisation, finances and operations, political parties form an essential part of the framework of democratic government, and that their affairs are matters of public interest rather than purely private concern. The Court accordingly observed that the organisation, mode of operation and finances of political parties are regulated by law and are subject to inspection and accountability to the public at large, and that their activities directly affect the governance of the State. Political parties therefore cannot properly be characterised as private clubs immune from constitutional standards, but are institutions operating within

the public constitutional order and bound to comply with constitutional requirements

### ***Mandatory Requirement of Internal Democracy***

74. My Lords, Article 55(5) provides that the internal organisation of a political party shall conform to democratic principles. The language is categorical and mandatory, rather than being permissive. It does not say that parties “may” or “should” adopt democratic practices. It says they “shall”.
75. The mandatory character of this provision makes clear that internal democracy is not a matter of political preference or internal discretion. It is a constitutional obligation. A party cannot contract out of it, redefine it, or dilute it through its own rules. The standard is fixed by the Constitution itself.
76. It would therefore be inconsistent with constitutional supremacy to allow political parties to define for themselves the content of “democratic principles” or to adopt internal arrangements that dilute or contradict the democratic norms entrenched in the Constitution.
77. The natural implication is that where internal rules fall materially short of democratic principles, those rules are unconstitutional and unenforceable. Article 55(5) would serve no purpose if parties were free to organise themselves in an undemocratic manner and then claim that such arrangements were immune from review.
78. My Lords, it is the Plaintiff’s case that the determination of this action, and the success of their case turns on four principal questions.
  - a. First, whether the processes and mechanisms by which the 1st to 3rd Defendants select their presidential and parliamentary candidates constitute matters of their internal organisation as political parties and are accordingly subject to, and bound by, the mandatory requirement under article 55(5) of the 1992 Constitution that such internal organisation conform to democratic principles.
  - b. Second, whether the democratic principles contemplated by article 55(5), properly construed in light of articles 1, 17, 35(6)(d) and 42 of the Constitution, require equal, direct and meaningful participation of members in good standing in the election of party leadership and candidates, and whether the delegate-based and restricted electoral systems adopted by the 1st to 3rd

Defendants materially disenfranchise the general membership and thereby fall short of those constitutional requirements.

- c. Third, whether the processes and mechanisms adopted by the 1st to 3rd Defendants for the selection of their presidential and parliamentary candidates, including the use of electoral colleges, delegates congresses, conferences and other restricted voting bodies, afford members in good standing substantially equal, direct and meaningful participation in such elections and thereby comply with the democratic principles required under article 55(5) of the 1992 Constitution.
- d. Finally, whether the 4th Defendant, as the constitutional and statutory regulator of political parties, is under a continuing duty pursuant to article 45 of the Constitution and the Political Parties Act, 2000 (Act 574) to vet, supervise and ensure that the internal organisation and electoral processes of registered political parties conform to democratic principles, and whether it has failed, refused or neglected properly to discharge that duty in respect of the 1st to 3rd Defendants.

79. My Lords, the Plaintiffs' note that the 1992 Constitution does not define "internal organization" or "democratic principles" under Article 55 of the Constitution.

80. With respect to "internal organisation", the Plaintiffs respectfully submit that the expression "internal organisation" in article 55(5) must be interpreted in accordance with settled principles of constitutional interpretation, namely by giving the words their ordinary meaning, read purposively and in the light of the structure and design of the Constitution as a whole.

81. In its ordinary sense, "organisation" denotes the manner in which an institution is structured, arranged and governed, including the rules and processes by which authority is allocated and decisions are made within that institution. The phrase "internal organisation" therefore naturally refers to the structures, procedures and decision-making mechanisms through which a political party regulates its own affairs.

82. That ordinary meaning is reinforced by the constitutional purpose of article 55. Political parties are recognised under the Constitution as the principal vehicles through which citizens aggregate political will, sponsor candidates and access governmental power. The evident object of article 55(5) is to ensure that the exercise of such power within parties is itself democratic. The provision would

be deprived of practical effect if it were confined to administrative or housekeeping matters and excluded the very processes by which party leadership and candidates are chosen.

83. Read structurally and purposively, therefore, “internal organisation” must extend to all arrangements that determine how power is constituted and exercised within the party, including the selection of its officers, leaders and candidates for public office.
84. On this construction, the processes and mechanisms by which the 1st to 3rd Defendants select their presidential and parliamentary candidates plainly fall within their internal organisation and are accordingly subject to the mandatory requirement under article 55(5) that such organisation conform to democratic principles.
85. With respect to “democratic principles” the Plaintiffs further submit that the phrase “democratic principles” in article 55(5) must likewise be interpreted in accordance with settled principles of constitutional construction, by giving the words their ordinary meaning, read purposively and in the context of the Constitution as a whole.
86. In its ordinary sense, “democratic” denotes a system of governance in which authority is derived from the people and exercised through their participation on terms of political equality. The concept connotes inclusiveness, representation, accountability and the rejection of rule by a narrow or self-selecting elite. The word “principles” signifies foundational norms or standards that guide institutional design and conduct. The phrase therefore imports minimum constitutional standards of participatory and accountable governance rather than discretionary or symbolic practices.
87. That ordinary meaning is reinforced by the evident purpose of article 55. Political parties are the primary vehicles through which citizens organise politically, sponsor candidates and access state power. The object of requiring that their internal organisation conform to democratic principles is to ensure that those who seek to govern the Republic are themselves chosen through democratic means. The provision would be rendered largely ineffectual if parties were free to adopt exclusionary or oligarchic systems for selecting their leaders and candidates.
88. My Lords, precisely because the Constitution does not define the expression “democratic principles,” nor does it expressly prescribe an exhaustive code of internal party governance, the phrase is therefore open-textured and requires judicial construction. However, that indeterminacy does not imply that its content is left to the

discretion or subjective judgment of political parties themselves. On the contrary, article 55(5) employs the language of obligation and command. It provides that the internal organisation of political parties *shall* conform to democratic principles. The use of mandatory language indicates that the provision establishes an objective constitutional standard capable of legal determination and enforcement, and not a matter of internal preference or political convenience

89. In this regard, the phrase cannot properly be understood in a free-floating or abstract sense, as though it referred to democracy in the realm of political theory or ideology. Concepts of democracy vary widely across historical, philosophical and institutional contexts. Some models emphasise elite decision-making, others indirect representation, and others broad participatory suffrage. If “democratic principles” were to be understood at that level of abstraction, the constitutional command would become uncertain and indeterminate, and courts would be left without any objective yardstick by which to assess compliance. A constitutional requirement framed in such subjective or contestable terms would be incapable of consistent application and would risk being reduced to a matter of political opinion rather than legal principle.
90. Equally, the meaning of the phrase cannot be left to political parties to define for themselves. If each party were at liberty to determine what it considers “democratic,” the obligation imposed by article 55(5) would be rendered largely nugatory. A party could adopt highly restrictive or oligarchic arrangements and simply characterise them as democratic according to its own internal understanding. Such an interpretation would defeat the very purpose of the provision, which is to subject political parties to constitutional discipline and to prevent the concentration of political power in undemocratic internal structures. The Constitution cannot reasonably be read as imposing a mandatory obligation while simultaneously allowing those bound by it to determine the content of that obligation for themselves.
91. Furthermore, by virtue of article 1(2), the Constitution is the supreme law of the Republic and binds all persons and authorities. It follows that constitutional standards must derive their meaning from the Constitution itself and not from extra-constitutional or variable sources. To determine the content of a constitutional requirement by reference to external political or philosophical notions of democracy would invert the hierarchy of norms and subordinate constitutional supremacy to fluctuating ideological conceptions. That approach would be legally incoherent.

92. In accordance with settled principles of constitutional interpretation, undefined constitutional expressions must therefore be construed internally, by reading the provision in harmony with the text, structure, values and institutional design of the Constitution as a whole. The Constitution must be taken to speak with one voice, and its provisions must be interpreted purposively so as to give them practical and effective meaning.

93. The Plaintiffs contend that the meaning of “democratic principles” must thus be derived from the broader constitutional structure, and that the proper interpretive approach is accordingly to ascertain the meaning of “democratic principles” by reference to the Constitution itself, including its text, structure, underlying values, and the system of governance it establishes. Democracy under article 55(5) must mean democracy as the Constitution understands it, not democracy as any private organisation might prefer.

94. In this regard, the Plaintiffs say that the Constitution consistently articulates and protects a coherent conception of democratic governance. Article 33(5) recognises that the constitutional order is grounded in principles inherent in a democracy and intended to secure the freedom and dignity of the person, thereby affirming democracy as a substantive constitutional value from which enforceable norms may be derived. Consistently with that foundation, the Constitution vests sovereignty in the people under article 1, guarantees equality before the law under article 17, directs the participation of the people in decision-making at every level of national life under article 35(6)(d), and secures the equal right of every citizen to vote and to participate in political activity under article 42. Executive and legislative authority is ordinarily conferred through universal and equal suffrage under articles 63 and 93, and any departures from that model are expressly stated and narrowly confined, as exemplified by the limited electoral college mechanism established under article 89 concerning the Council of State.

95. Read together, these provisions reveal and entrench a coherent constitutional conception of democracy grounded in: (a) broad and meaningful participation of the people in decision-making (Preamble, and Article 35(6)(d)); (b) political equality and equal protection of the law (Preamble, and Article 17); (c) universal and equal suffrage and the right of every citizen to vote and to participate in political activity intended to influence the composition of government (the Preamble, and Article 42, read together with articles 63 and 93); (d) representative legitimacy and the conferral of executive and legislative authority through elections (the Preamble and Articles 63 and 93); and (e) the accountability of leadership to the people from whom sovereignty is derived (the Preamble, and article 1(1) and (2)).

96. These features, reinforced by the Preamble which affirms that all powers of Government spring from the sovereign will of the people, commits the Republic to freedom, justice, probity and accountability, and expressly adopts the principle of universal adult suffrage, and further reinforced by Article 33(5), which recognises rights and norms inherent in a democratic order and intended to secure human freedom and dignity, together constitute the minimum constitutional standards that give substantive content to the requirement under Article 55(5) that the internal organisation of political parties conform to democratic principles.

97. In other words, when the Constitution is read holistically, it becomes clear that it adopts a particular theory of democracy, grounded in these identified values. Those values are therefore operative constitutional commitments that inform the content of article 55(5), when it speaks of democratic principles.

98. In the context of how political parties are organised internally, the Plaintiffs' case is that the "democratic principles" required by Article 55(5) are not abstract or discretionary, but derive their minimum content from both the Preamble and the substantive provisions of the Constitution. The Preamble affirms, as foundational commitments of the Republic, that all powers of Government spring from the sovereign will of the people, that the State is founded on freedom, justice, probity and accountability, and that the principle of universal adult suffrage shall govern the conferment of political authority. These declarations entrench popular sovereignty, political equality, accountability of leadership, and universal participation as organising norms of Ghana's constitutional democracy. Read together with the operative provisions of the Constitution, those norms establish, at the very least: (a) broad and meaningful participation of the people in decision-making (Article 35(6)(d)); (b) political equality and equal protection of the law (Article 17); (c) universal and equal suffrage and the right of every citizen to vote and to participate in political activity intended to influence the composition of government (Article 42, read together with Articles 63 and 93); (d) representative legitimacy and the conferral of executive and legislative authority through elections (Articles 63 and 93); and (e) the accountability of leadership to the people from whom sovereignty is derived (Article 1(1) and (2)). These principles, taken cumulatively, constitute the minimum democratic standards to which the internal organisation of every political party must conform.

99. Properly construed, the foregoing constitutional democratic principles establish concrete institutional requirements that must guide the design of political structures within the Republic, including

the internal arrangements of political parties. Democracy, as contemplated by the Constitution, is not satisfied by the mere existence of formal procedures or the periodic selection of leaders by any method whatsoever. It requires that political authority be rooted in the participation, equality and consent of those who are subject to that authority. These commitments must therefore find practical expression in the manner in which political decisions of consequence are made.

100. In the context of political parties, few decisions are more consequential than the selection of presidential and parliamentary candidates. Political parties are the constitutionally recognised vehicles through which citizens aggregate political power and through which access to executive and legislative office is obtained. In practical terms, the choice of a party's flagbearer or parliamentary candidate determines who may ultimately govern the Republic or represent constituents in Parliament. The selection of such candidates is therefore not an internal administrative matter of minor importance, but the very gateway through which governmental authority is constituted. It follows that the democratic safeguards embedded in the Constitution must apply to that process with particular force.

101. When the principles earlier identified are translated into operational terms, their implications are clear. Broad and meaningful participation requires that members be given a genuine opportunity to take part directly in leadership choices, rather than being confined to indirect or symbolic involvement. Political equality requires that no class of members enjoy privileged or superior voting power by reason only of office, status or appointment. Universal suffrage and representative legitimacy require that authority flow upward from the widest possible base of members, and not downward from a narrow or self-selecting elite. Accountability requires that those elected as leaders be directly answerable to the general membership whose votes confer legitimacy upon them.

102. Properly understood, therefore, democratic principles within the meaning of article 55(5) require at a minimum that members of a political party in good standing be afforded real, meaningful and substantially equal opportunities to participate in the election of the party's leadership and candidates for public office, and that internal governance structures must not concentrate decisive electoral power in a limited or privileged class to the exclusion or material disenfranchisement of the general membership. Any arrangement that materially restricts participation to a small group, or accords disproportionate influence to office-holders and delegates, is inconsistent with these minimum constitutional standards.

103. The Plaintiffs say that the electoral college, special electoral college and delegate-based mechanisms adopted by the 1st to 3rd Defendants offend these requirements in both design and effect. By confining voting rights to specified categories of executives, ministers, Members of Parliament, past officers, patrons or selected delegates, while excluding the overwhelming majority of ordinary members from participating directly in the choice of candidates, such systems substitute indirect and oligarchic selection for broad and equal participation. They create unequal classes of political influence within the party, insulate leadership from the direct control of the membership, and sever the chain of accountability which the Constitution seeks to preserve. In substance and effect, these arrangements deny members the equal democratic voice guaranteed by articles 1, 17, 35(6)(d), 42, 33(5) and 55(5), and are therefore inconsistent with the democratic principles mandated by the Constitution.

### ***The Minimum Content of “Democratic Principles” Under Article 55***

104. My Lords. As noted, when the 1992 Constitution talks of democratic principles, it means at the minimum require political equality, meaningful participation, accountability of leadership to members, non-oligarchic structures of governance, and universal or near-universal suffrage in the selection of executive leadership.

105. Having stated, in outline, the minimum elements which the Plaintiffs say are encompassed within the phrase “democratic principles” in article 55(5), it is necessary to examine the constitutional content of those principles in greater depth.

106. My Lords, the constitutional content of “democratic principles” within the meaning of Article 55 must be traced back to the Preamble, which sets out the normative foundation of Ghana’s constitutional order. The specific provisions that follow in the body of the Constitution do not create new or separate democratic standards; rather, they particularise and operationalise the same commitments first declared in the Preamble.

107. It is necessary then to begin with the Preamble, which sets out the foundational values and organising commitments of the Republic. The Preamble is an authoritative statement of the constitutional order which guides the interpretation of the substantive provisions that follow and illuminates the meaning of broad and value-laden terms, including the phrase “democratic principles” in article 55(5).

108. In the Preamble, “We the People of Ghana” solemnly declare that all powers of Government spring from the sovereign will of the

people, commit the Republic to freedom, justice, probity and accountability, and expressly affirm the principle of universal adult suffrage and the rule of law. These are structural commitments that define the character of Ghana's constitutional democracy and the source of all political legitimacy.

109. The affirmation that all powers of Government spring from the sovereign will of the people entrenches popular sovereignty as the foundation of authority. The commitment to freedom, justice, probity and accountability embeds the idea that those who exercise public power must remain answerable to those from whom that power is derived. The express adoption of universal adult suffrage establishes political equality and broad participation as the default method by which authority is conferred. Taken together, these principles reject oligarchic or elite control of political decision-making and insist that governance must rest on the widest possible consent of the people.

110. Properly understood, therefore, the Preamble supplies the normative baseline against which the democratic character of all constitutional institutions must be measured, including political parties. Where article 55(5) requires that the internal organisation of political parties conform to democratic principles, those principles necessarily include, at a minimum, the Preamble's commitments to popular sovereignty, accountability, political equality and universal suffrage. Political parties, as constitutionally recognised vehicles through which governmental power is accessed, cannot organise themselves in a manner inconsistent with these foundational democratic commitments.

111. Against that foundational backdrop, the first democratic principle is the accountability of leadership to members, grounded in the constitutional doctrine of popular sovereignty. That doctrine is proclaimed at the very threshold of the Constitution itself. In the Preamble, the People of Ghana solemnly affirm "the Principle that all powers of Government spring from the Sovereign Will of the People" and commit themselves to "Freedom, Justice, Probity and Accountability" and to "the Principle of Universal Adult Suffrage." These are not rhetorical flourishes. They are the normative premises upon which the entire constitutional order rests.

112. Article 1(1) and (2) gives concrete legal effect to those preambular commitments by expressly vesting sovereignty in the people of Ghana and providing that all governmental authority flows from them. The Article thus operationalises the Preamble's declaration that political power originates in the people and must remain answerable to them.

113. Article 1 therefore establishes the fundamental source of political legitimacy in the Republic. All authority, whether legislative or executive, must ultimately derive from the consent and participation of the people, and must remain accountable to those from whom that authority is derived.

114. Political parties are the primary constitutional vehicles through which citizens aggregate political will and gain access to public office. It is through parties that candidates are sponsored, elections are contested, and governmental power is organised. In practical terms, parties constitute the institutional bridge between the sovereign people and the organs of State.

115. It follows logically that the internal leadership of political parties must itself derive legitimacy from the participation and consent of their members. A system in which leadership is selected by a closed or self-selecting elite breaks the chain of accountability contemplated by both the Preamble and Article 1, and contradicts the constitutional premise that authority must flow upward from the people rather than downward from an entrenched minority. Democratic principles under article 55(5) must therefore ensure that party leadership is rooted in the will of the membership rather than in the discretion of a narrow governing class.

116. Democratic principles under article 55(5) must therefore ensure that party leadership is rooted in the will of the membership rather than in the discretion of a narrow governing class.

117. Secondly, My Lords, the Constitution repeatedly demonstrates, both textually and structurally, that the primary model of democracy adopted for the Republic is one of broad-based participation, political equality and universal suffrage. This model is foreshadowed in the Preamble itself, where the People of Ghana affirm “the Principle of Universal Adult Suffrage,” and is then given concrete institutional expression throughout the operative provisions of the Constitution. The organising assumption of the constitutional order is that public authority flows directly from the people and that those who wield power must derive their mandate from the widest possible electorate.

118. Consequently, the President, who exercises the highest executive authority of the State, is elected directly by all citizens of voting age through universal and equal suffrage pursuant to Articles 42 and 63 of the Constitution. Each citizen’s vote carries equal weight. No intermediary body, delegate system or elite college filters that choice. The same democratic architecture governs the election of Members of Parliament under Articles 42 and 93. Political power is

therefore conferred through the direct and equal participation of the electorate itself.

119. These arrangements reveal the Constitution's substantive understanding of democracy. They show that, as a matter of constitutional design, the default method for selecting persons who exercise executive or representative authority is universal participation on the basis of one person one vote. Where executive or legislative power is at stake, legitimacy must flow from the broadest possible franchise.

120. My Lords, when the Constitution intends to depart from this model, it does so expressly and with narrow precision. By way of example, Article 89 establishes a limited electoral college mechanism for certain members of the Council of State. That body, however, performs purely advisory and consultative functions and exercises no executive or legislative authority. The departure from universal suffrage is therefore confined to a narrowly defined, non-governing institution.

121. The constitutional significance of this is clear. Departures from universal participation are exceptional, expressly stated, and carefully limited to bodies that do not wield sovereign power. No comparable exception exists permitting political parties to restrict participation in the selection of those who may seek to exercise executive or legislative authority on behalf of the Republic. In the absence of such an express derogation, the constitutional default of broad and equal participation must prevail.

122. The selection of a presidential candidate, which determines who may exercise executive authority on behalf of a political party and potentially the nation, is functionally analogous to the election of the President itself. It is the antecedent gateway to the same constitutional office. It would therefore be inconsistent with the constitutional design to require universal suffrage for the election of the President while permitting the decisive choice of who may contest that office to be made through an oligarchic or restricted process within the party.

123. Similarly, the selection of a parliamentary candidate determines who may exercise legislative authority in Parliament and represent the people of a constituency. It is, in substance, the preliminary stage of the same representative mandate later confirmed at the polls. Just as Members of Parliament are chosen directly by the electorate through universal and equal suffrage under Articles 42 and 93, the internal process by which a party determines who may present himself or herself to the electorate must equally

conform to broad, participatory and non-oligarchic democratic standards. It would be constitutionally incoherent to demand equality and universality at the final election while tolerating exclusion and hierarchy at the decisive internal stage.

124. The Plaintiffs' case, in essence, is therefore that political parties, as constitutionally recognised vehicles through which executive and legislative authority is accessed, cannot organise their internal processes in a manner inconsistent with the democratic principles that the Constitution itself prescribes for the conferment of public power. While parties are not required to replicate mechanically the precise procedures of national elections, they are constitutionally obliged to mirror, in substance and principle, the same values of participation, equality and accountability. Where an internal process determines who may access constitutional office, the Constitution's democratic norms necessarily attach to and regulate that process.

125. This Court's decision in *Republic v High Court (General Jurisdiction), Accra; Ex parte Dr. Zanetor Agyeman-Rawlings* reinforces this conclusion. There, the Court treated compliance with constitutional qualifications for election to Parliament as a requirement that must be satisfied by the Party in determining the candidate, thereby recognising that constitutional standards govern the antecedent internal mechanisms by which parties select their candidates. The necessary implication of that reasoning is that party processes which condition access to constitutional office are not insulated from constitutional control. By parity of reasoning, the obligation under Article 55(5) that the internal organisation of political parties conform to democratic principles must equally regulate the manner in which presidential and parliamentary candidates are chosen and cannot be avoided by characterising those processes as merely internal or private affairs.

126. Thirdly, My Lords, the principle of equality is a core democratic principle embedded throughout the Constitution. It is anticipated in the Preamble's affirmation of "liberty" and "equality of opportunity," and finds concrete legal expression in Article 17, which guarantees equality before the law and the equal protection of the law. Equality is a binding constitutional norm that structures the distribution of political power. It rejects the notion that certain classes of persons are entitled to greater political influence merely by virtue of status, office or proximity to leadership. Article 42 further guarantees every citizen of voting age the equal right to vote and to participate in political activity intended to influence the composition of government. The right is universal and non-hierarchical.

127. Together, these provisions establish a constitutional norm of political equality, under which each person's political voice is entitled to substantially equal weight. Political influence cannot constitutionally be stratified according to office, rank, patronage or internal status within a party.

128. Any internal party arrangement that grants voting rights exclusively to ministers, executives, former officers or selected delegates, while denying the same right to ordinary members in good standing, creates unequal classes of political participation. Such stratification concentrates electoral power in a privileged minority and correspondingly dilutes the voting power of the majority. It therefore offends the equality guarantees in Articles 17 and 42 and fails to conform to the democratic principles mandated by Article 55(5).

129. Fourthly, My Lords, effective and equal participation in the democratic process is central to the Constitution's conception of democracy. It is foreshadowed in the Preamble's affirmation that all powers of Government spring from the sovereign will of the people and that governance must secure liberty, equality of opportunity and accountability, and is given concrete institutional form in Article 35(6)(d), which directs the State to ensure the participation of the people in decision-making at every level of national life.

130. Political parties, being constitutionally recognised vehicles through which governmental power is organised and accessed, form an integral part of that decision-making architecture. Decisions taken within parties, especially those concerning candidate selection, directly determine who may govern the Republic and therefore fall squarely within the sphere of decisions in which the people are constitutionally entitled to participate.

131. Participation, in this constitutional sense, must be real, effective and meaningful. It cannot be satisfied by symbolic, mediated or merely consultative involvement. Where the majority of members are excluded from voting in the selection of leadership or candidates, participation is reduced to form without substance and the constitutional promise of popular involvement is rendered illusory. Democratic principles therefore require that members have a genuine and substantially equal opportunity to influence leadership and candidate choices.

132. My Lords, when these constitutional commitments to sovereignty of the people, equality, universal suffrage and participation are read together, they reveal a coherent and integrated constitutional design. Democracy under the 1992 Constitution is

participatory, egalitarian and accountable. It is not compatible with structures that insulate leadership from the general membership or that vest decisive authority in a closed or self-perpetuating elite. At a minimum, therefore, internal party systems must secure political equality, meaningful participation of members, representative legitimacy, accountability of leadership to the membership, and substantially equal voting power in leadership selection.

133. The Court is therefore entitled, and indeed constitutionally obliged, to derive from these provisions a set of enforceable minimum democratic requirements for purposes of Article 55(5), including political equality, meaningful participation, representative decision-making, accountability of leadership to members, and substantially equal voting power among members.

134. Any internal party arrangement that materially departs from these requirements by disenfranchising the majority of members, filtering participation through restricted delegate bodies, or concentrating decisive authority in a narrow class of office-holders substitutes oligarchic control for democratic choice. Such arrangements fail to conform to the democratic principles mandated by Article 55(5) and are, to that extent, unconstitutional.

## **VI. THE JURISPRUDENCE OF THIS COURT RECOGNIZES UNIVERSAL SUFFRAGE AS A SACROSANCT DEMOCRATIC PRINCIPLE**

135. My Lords, the Plaintiffs' submission that "democratic principles" under Article 55(5) require broad, equal and near-universal participation in the selection of those who seek to exercise executive and legislative authority is not novel. It is firmly rooted in the settled jurisprudence of this Honourable Court.

136. For over two decades, this Court has treated universal adult suffrage not merely as a procedural device for conducting elections, but as a foundational constitutional value that gives life to the entire democratic order. The right to vote has repeatedly been described as the bedrock of representative government, the vehicle through which sovereignty is exercised, and the indispensable condition for all other constitutional rights.

137. The point of departure is the Constitution itself. This Court has consistently returned to the Preamble as the interpretive compass of Ghana's democratic order. In *Occupy Ghana v Attorney-General* (2017) JELR 68817 (SC), the Court reaffirmed that the entire

constitutional framework is anchored in popular sovereignty and universal suffrage, stating in clear terms:

“What is worthy of note is that, the 4th Republican Constitution has been anchored on the principles of Freedom, Justice, Probity and Accountability and the recognition that the powers of government spring from the sovereign will of the people based on the concept of universal adult suffrage and rooted on the principle of Rule of Law, the protection and preservation of fundamental human rights among others as stated in the preamble to the Constitution.”

138. In the same spirit, the Court emphasised that the 1992 Constitution was consciously adopted as a democratic charter grounded in the equal franchise of citizens:

“The people of this country in 1992 promulgated for themselves a Constitution which vested sovereign power in the people and provided a democratic form of government based on certain fundamental principles, namely a political pluralism, a majority parliamentary representative rule, under which form of government, all citizens of full age and sound mind had the right to vote during an election to choose their representatives. In the preamble to the Constitution, 1992 it is stated clearly that:

*‘We the people of Ghana, in exercise of our natural and alienable right to establish a framework of government which shall secure for ourselves and posterity the blessings of liberty, equality of opportunity and prosperity; ...*

*The Principle that all powers of Government spring from the Sovereign Will of the People;*

*The Principle of Universal Adult Suffrage;*

*The Rule of Law;*

*The protection and preservation of Fundamental Human Rights and Freedoms, Unity and Stability for our Nation;*

*Do Hereby Adopt, Enact and Give to Ourselves this Constitution.”*

139. My Lords, this Court has gone further. It has described universal suffrage as the pre-eminent constitutional right, without which all other freedoms would be hollow. In *Apaloo v Electoral Commission* (2001) JELR 67528 (SC), the Court held:

“As said by eminent writers of constitutional law, the right of suffrage is the pre-eminent right provided under the Constitution, 1992 without which the basic rights and freedoms would all be diminished. The people’s solemn and ardent intention and desire to adopt our present form of government based on universal adult suffrage requires our court to ensure that nothing be allowed to detract from a citizen’s voting right granted under the constitutional democracy we have so freely adopted for ourselves and for posterity.”

140. The Court then tied the right to vote directly to the structure of representative government itself:

“The government of this country is therefore exercised on behalf of the people by elected representatives in a pluralistic free and fair elections. The way and manner for the exercise of this right to elect representatives, is provided for in the Constitution, 1992 and within certain laid down limits. In article 42 of the Constitution, 1992 it is provided that:

‘42. Every citizen of Ghana of eighteen years of age or above and of sound mind has the right to vote and is entitled to be registered as a voter for the purposes of public elections and referenda.”

141. And, crucially for present purposes, the Court characterised suffrage as an **inalienable democratic entitlement**, inseparably linked to participation in political life:

“The right to vote is an inalienable right and is listed also under article 21(3) of the Constitution, 1992 among the general fundamental freedoms as well as under article 55(2) of the Constitution, 1992 which gives every citizen of Ghana of voting age the right to join a political party and to freely participate in the shaping of the political will of the people. As stated in article 21(3) of the Constitution, 1992: ‘(3) All citizens shall have the right and freedom to form or join political parties and to participate in political activities subject to such qualifications and laws as are necessary in a free and democratic society and are consistent with this Constitution.”

142. In the same case, the Court spoke in even stronger normative terms:

“Ghana has adopted democracy and those principles are eloquently given force in the Preamble to and article 1 of the 1992 Constitution. In the contemporary world, any limitation on suffrage is rejected. It is universally accepted that there is no reason at all for exclusion of the right to vote or any limitation to it, considering that all men are created equal and

have one vote each. For this reason, it is incumbent on the Electoral Commission to provide by all legitimate means for the free and unlimited exercise of the citizens' franchise in conformity with both the letter and spirit of the Constitution. This is the manner in which electoral laws ought to be interpreted." (Apaloo v Electoral Commission [2001–2002] SCGLR 1 at 19)

143. My Lords, the Court has also made plain that universal suffrage is the exclusive constitutional mechanism through which the sovereign will of the people is given effect. In Ahumah Ocansey v Electoral Commission & Others (2010) JELR 66435 (SC), the Court stated:

"the people of Ghana adopted and enacted for themselves a democratic regime of constitutionally guaranteed adult suffrage for all Ghanaians, save only persons under eighteen years of age and persons of unsound mind. We crafted for ourselves a Constitution that set out its own limitations on the right to vote and perhaps having regard to the value it places on the right in question, never ceded any of its authority to either the E C or some other authority to add further to the list of who shall not have the right to vote."

144. The Court, in the same case continued:

"Significantly, the only means of giving effect to the exercise of the sovereign will is through adult suffrage. When this court had opportunity to examine the nexus between the sovereign will of the people and the right to vote it unanimously declared in Tehn-Addy v Electoral Commission [1997-8] 1 GLR at p. 595: '...in order to give meaning and content to the exercise of this sovereign power by the people of Ghana, article 42 guarantees the right to vote every sane citizen of eighteen years and above. The exercise of this right of voting, is therefore indispensable in the enhancement of the democratic process, and cannot be denied in the absence of a constitutional provision to that effect.'"

145. The Court further emphasised the dignity-based foundation of the franchise, adopting with approval comparative constitutional authority: "the universality of the franchise is important not only for nationhood and democracy. The vote of each and every citizen is a badge of dignity and person hood. Quite literally, it says that every body counts."

146. And perhaps most powerfully, the Court described Article 42 as the very foundation of Ghana's constitutional order: "The general

principle governing elections in Ghana is that they are held on the basis of universal adult suffrage... Article 42... is for me the first of the fundamental human rights of our Constitution. For without the general right to vote, the system of representative democratic government set out in the Constitution would fall away and be emptied of content. Without a democratic representative system of government, constructed on the bedrock of universal adult suffrage, the likelihood would be that the rights enshrined in Chapter 5 would be ineffective... To summarise, in Ghana, the right to vote is a creature of the Constitution and not of statute... This is a very significant characteristic of our electoral regime. It is a characteristic which, to my mind, this Court should guard jealously.”

147. My Lords, this Court’s jurisprudence has also adopted a substantive conception of democracy in which universal suffrage is central, and in which the right to vote is linked to inclusiveness, the rule of law, judicial independence, and human rights. In the passage you have set out, the Court explained:

True democracy, with its hall mark of all inclusiveness, recognises certain key fundamental values and principles. Without these there can be no functional democracy. A core value of any democratic system is the concept of sovereignty of the people, and as expressed through the right to choose representatives, through whom the sovereign will of the people, shall be exercised. This choice can only be achieved through the popular participation in public elections. Other foundational values which lie at the heart of democracy include rule of law, judicial independence, with human rights being of paramount importance. As the learned Judge and author Aharon Barak explains: “Democracy is not just about legislative supremacy- it requires actualizing the values and principles at its core. There can be no true democracy without protecting human rights, rule of law, and the independence of the judiciary. Democracy is not just rule by the majority. It is also rule by fundamental values, in general, and human rights, in particular. Democracy is not just formal democracy (concerned with the electoral process governed by the majority and expressed in legislative supremacy). Democracy is also substantive democracy (concerned with fundamental values and human rights).” (“Purposive Interpretation in law, page 239”)

148. The Court, in the same case, also drew persuasive support from comparative constitutional experience concerning the dignity basis of the franchise, stating as follows: “Of persuasive worth also is the decision of the Constitutional Court of South Africa, which empowered all prisoners to vote through its decision in *August and another v. Electoral Commission and Others*, CCT 8/9 ON 4th April,

1999. The court outlined the importance of adult franchise in these terms: “the universality of the franchise is important not only for nationhood and democracy. The vote of each and every citizen is a badge of dignity and person hood. Quite literally, it says that every body counts.”

149. At the same time, the Court cautioned against uncritical borrowing from foreign jurisprudence and explained the proper basis for deploying comparative materials, while stressing that universal suffrage is a right of universal constitutional significance. The Court stated: “

In the case of William Brown v. Attorney General suit No. CM J1/1/2009 dated 3rd February, 2010, my respected brother Dotse JSC, cautioned courts against the slavish application of foreign judicial pronouncements, given that their value systems, history and other circumstances may differ from ours. I agree in principle with this caution, but I must point out that we are here dealing with basic universal adult suffrage, a right common to humanity. Constitutional principles of universal application and decisions from other true democracies on the right to vote, a right which has been described as the “indispensable foundation of a democratic system” serves as useful guides in fashioning our constitutional jurisprudence.””

150. My Lords, the Court then stated, in extended and highly instructive terms, that universal adult suffrage is not merely important but constitutionally primary, and it located Article 42 at the apex of Ghana’s rights architecture, while also contrasting Ghana’s approach with other jurisdictions.

151. The Court stated:

“The general principle governing elections in Ghana is that they are held on the basis of universal adult suffrage. This principle is embodied in article 42, an entrenched provision, of the 1992 Constitution, which has already been set out supra. Article 42, although it is not contained in Chapter 5 of the Constitution, which is on “Fundamental Human Rights and Freedoms”, is for me the first of the fundamental human rights of our Constitution. For without the general right to vote, the system of representative democratic government set out in the Constitution would fall away and be emptied of content. Without a democratic representative system of government, constructed on the bedrock of universal adult suffrage, the likelihood would be that the rights enshrined in Chapter 5 would be ineffective. It was thus very wise that the framers of our Constitution deemed it appropriate to embody the principle

of universal adult suffrage as a specific entrenched provision in our Constitution. The constitutional importance of the principle of universal adult suffrage is further buttressed by the fact it is one of the few principles selected by the framers of our Constitution for highlighting in the Preamble to the Constitution and to which the People of Ghana solemnly declare and affirm their commitment. This constitutional significance of the right to vote is in contrast to the position, for instance, in India where the Supreme Court has held in *Jyoti Basu v. Debi Ghosal* AIR 1982 SC 983 at 986 that: “A right to elect, fundamental though it is to democracy, is, anomalously enough, neither a Fundamental right nor a common law right. It is pure and simple, a statutory right. So is the right to be elected. So is the right to dispute an election. Outside of a statute, there is no right to elect, creations they are, and therefore, subject to statutory limitation.” This position, as it were, brings into sharp relief, the different approach adopted by the law in Ghana where, as already indicated above, there is a constitutionally protected fundamental right to vote. Any statutory derogation from this fundamental constitutional right must therefore fall away. To summarise, in Ghana, the right to vote is a creature of the Constitution and not of statute. The Supreme Court so held in *Tehn-Addy v. Electoral Commission* [1996-97] SCGLR 589, where Acquah JSC, as he then, was delivering the unanimous judgment of the court, said (at p. 594): “Whatever be the philosophical thought on the right to vote, article 42 of the 1992 Constitution of Ghana makes the right to vote a constitutional right conferred on every sane Ghanaian citizen of eighteen years and above. ...As a constitutional right therefore, no qualified citizen can be denied of it, since the Constitution is the supreme law of the land.” This is a very significant characteristic of our electoral regime. It is a characteristic which, to my mind, this Court should guard jealously.””

152. The Court also contrasted Ghana’s constitutional approach to suffrage with the position in the United States, emphasising that Ghana’s Constitution contains a general and comprehensive guarantee, whereas the United States’ protection has historically been piecemeal and group-specific.

153. The Court stated:

“This generous and expansive constitutional protection of the right to vote in Ghana may be contrasted with the position also in the United States of America which has no equivalent comprehensive grant of universal adult suffrage in its Federal Constitution. The United States Constitution has extended piecemeal protection to particular groups of citizens whose voting rights have needed buttressing. Thus,

the Fifteenth Amendment was ratified in 1870 to prevent voting rights being abridged on the grounds of “race, color, or previous condition of servitude” and the Nineteenth Amendment was ratified in 1920 to prevent the abridgment of voting rights “on account of sex.” The United States Constitution does not thus contain a general provision on the right to vote; the right to vote expressed in it relates only to particular groups whose franchise cannot be denied or abridged on the basis of certain specified attributes, such as those I have cited above. (Another illustration of these specified attributes is: “by reason of failure to pay any poll tax or other tax” introduced by the Twenty-Fourth Amendment in 1964.””

154. My Lords, when these authorities are read together, the jurisprudential position of this Court is unmistakable. Universal suffrage is not treated as a narrow technical rule from which derogations are possible. It is treated as:

- a. A non-derogable constitutional right
- b. The constitutional expression of popular sovereignty;
- c. the foundation of representative legitimacy;
- d. The pre-eminent democratic right; and
- e. The bedrock upon which all other rights depend.

155. It follows, with respect, that a constitutional command that political parties must conform to “democratic principles” under Article 55(5) cannot be interpreted in isolation from this settled understanding. If universal and equal participation is the indispensable foundation for the conferment of executive and legislative authority at the national level, the Constitution cannot coherently permit the decisive antecedent selection of who may contest those offices to be made by narrow, privileged or oligarchic internal bodies.

156. To hold otherwise would be to protect universal suffrage at the final stage of elections while tolerating its effective erosion at the gatekeeping stage within parties. That would empty this Court’s repeated characterisation of the franchise as sacrosanct of much of its practical content.

157. Put differently, the Constitution cannot protect universal suffrage at the final stage while permitting its practical erosion at the gateway stage. If universal suffrage is, as this Court has said, the foundation that gives content to representative democracy and sustains the effectiveness of constitutional rights, then the Court’s interpretation of Article 55(5) must take seriously the requirement that parties, as the constitutionally recognised vehicles through which citizens access governmental authority, structure their candidate-

selection processes in a manner consistent with that foundational democratic principle.

158. The Plaintiffs therefore respectfully submit that the jurisprudence of this Court itself supports the proposition that universal or near-universal participation is not optional but forms part of the minimum democratic content that must inform party structures under Article 55(5), particularly where those structures determine access to presidential and parliamentary office.

## **VII. APPLICATION OF THE CONSTITUTIONAL STANDARD TO THE 1ST DEFENDANT'S INTERNAL ORGANISATION**

159. My Lords, the 1st Defendant's constitutional arrangements for selecting its presidential and parliamentary candidates must be tested against the minimum democratic principles which the Plaintiffs have identified as inherent in article 55(5), namely political equality, meaningful participation, accountability of leadership to members, non-oligarchic governance structures, and universal or near-universal suffrage in the selection of executive leadership.

160. The Plaintiffs respectfully submit that the 1st Defendant's delegate-based Electoral College system fails that test in both design and effect. While the 1st Defendant may properly adopt administrative rules to regulate nominations, vetting, timelines and procedures, it cannot, consistently with article 55(5), adopt an internal electoral architecture that confers decisive voting power on a narrow class of party insiders and functionaries while withholding meaningful voting rights from the general body of members in good standing.

### *Political Equality*

161. Political equality, as a democratic principle, requires that members of a political party in good standing must have substantially equal political voice in the selection of the party's leadership and candidates. Where internal rules establish privileged voting classes, such that some members obtain decisive electoral power by virtue of office, status or appointment while the majority are excluded from voting altogether, political equality is impaired in substance, not merely in form.

162. The 1st Defendant's presidential candidate selection system creates precisely such unequal classes. Under Article 13, voting power is confined to specified categories of executives, party office holders, Members of Parliament, patrons, founding members, external branch representatives, and, when in government, Ministers and Deputy

Ministers. Ordinary party members who do not fall within these categories are excluded from voting in the selection of the party's presidential candidate.

163. The effect is not simply that some members vote in a representative capacity. Rather, it is that the constitutional design of the 1st Defendant establishes a formally unequal distribution of political influence within the party, in which a narrow class of members possess the right to determine who becomes presidential candidate, while the wider membership is denied any vote at all. Such exclusion is inconsistent with political equality as a minimum democratic principle.

164. Further, the system amplifies the inequality by assigning voting rights to persons who possess political influence by reason of public office or prior office, including MPs, Ministers, Deputy Ministers and past national officers, while excluding the ordinary members whose party membership is itself the source of the party's constitutional legitimacy. This structure imports hierarchy into the core act of democratic choice and elevates the political weight of insiders above that of general members, contrary to the principle of substantially equal political voice.

### *Meaningful Participation*

165. Meaningful participation requires that members in good standing have a genuine, direct and effective opportunity to influence the choice of leadership and candidates, especially where those candidates serve as the party's instruments for acquiring executive and legislative power within the Republic.

166. The 1st Defendant's arrangements do not provide such meaningful participation. The vast majority of members have no direct vote in either the shortlisting stage or the final selection of the presidential candidate. Participation is therefore not broad-based but structurally restricted.

167. The Plaintiffs emphasise that participation cannot be reduced to indirect or symbolic involvement where the decision at issue is the most consequential internal decision a party makes, namely the choice of who will carry the party's mandate to seek executive authority on behalf of the nation. Under the 1st Defendant's framework, ordinary members may mobilise, campaign, fundraise, or attend rallies, but they are not permitted to participate in the decisive act of selection. This is participation in labour, not participation in power.

168. The exclusion is particularly acute because the system is not confined to a narrow technical election. It determines the political identity, leadership direction, and governing mandate of the party, and by extension shapes the options presented to the national electorate. A structure that withholds voting rights in this context denies meaningful participation and therefore fails the minimum democratic standard.

#### *Accountability of Leadership to Members*

169. Accountability requires that party candidates derive their authority from, and remain answerable to, those who confer their mandate, namely the party membership. Where leaders are chosen by a limited voting class, they are incentivised to be accountable primarily to that class and not to the broader membership.

170. The 1st Defendant's system necessarily weakens accountability because the presidential candidate's mandate is conferred not by the general body of members but by a restricted body of delegates, executives and privileged categories. The rational consequence is that aspirants must prioritise the preferences, interests and demands of that restricted class in order to secure nomination and election.

171. This structure itself creates a closed accountability loop: candidates secure office by satisfying the limited electoral body, and once elected, remain politically dependent on the same class of insiders for continued influence, support and future legitimacy. The broader membership, having no vote, lacks the essential tool of democratic accountability, namely the ability to confer or withhold electoral mandate.

172. In this manner, the 1st Defendant's arrangements sever the constitutional chain of democratic accountability which article 55(5) seeks to ensure, by insulating candidate selection from direct membership control.

#### *Non-oligarchic Structure of Governance*

173. The non-oligarchic principle requires that decisive political power within a party not be monopolised by a narrow, entrenched or self-reproducing governing class. Democratic internal organisation may permit administrative leadership and organisational hierarchies, but it cannot constitutionally permit the permanent concentration of decisive electoral authority in a small class of insiders.

174. The 1st Defendant's structure is oligarchic in design. The Electoral College is composed primarily of office holders, executives, and insiders, including persons who hold positions that are either

internally elected through prior delegate processes or acquired through public office, and the system continues to reproduce itself by ensuring that those who already possess institutional power retain decisive control over future leadership selection.

175. The Plaintiffs submit that a democratic system may impose nomination thresholds, vetting standards, and procedural regulations. However, it cannot, without violating article 55(5), place the critical gatekeeping function of narrowing contestants in the hands of an insider group whose interests may not align with the general membership.

176. The resulting structure is one in which decisive political power is not dispersed broadly among members but concentrated within a narrow governing class. That is the essence of an oligarchic internal organisation, and it falls short of democratic principles.

#### *Universal or Near-universal Suffrage in the Selection of Leadership*

177. The final and central democratic principle is that selection of leadership, especially presidential candidates who may acquire the highest executive authority in the Republic, must be conducted on the basis of universal or near-universal suffrage of members in good standing, or by an equivalently broad, proportionate and representative mechanism that preserves substantially equal voting power among members.

178. The 1st Defendant's system does not approximate universal or near-universal suffrage. It is not even a broadly representative proxy system. Rather, it is explicitly confined to discrete categories of officials and delegates. It excludes the mass membership not incidentally, but by design.

179. The Plaintiffs stress that internal party democracy does not require a mechanical reproduction of the national electoral register. However, where a party seeks to select a candidate for the office of President, the process must in substance reflect the Constitution's democratic commitments to broad participation and political equality. A restricted electoral college system, composed largely of executives and office holders, does not meet that minimum threshold.

180. Indeed, the 1st Defendant's arrangements establish a model in which the leadership is selected by a narrow electorate, notwithstanding that the presidential candidate will then seek legitimacy from the universal electorate of Ghana. The Constitution cannot be read as permitting a party to deny broad internal suffrage

at the antecedent stage while relying on universal suffrage at the national stage to legitimise the same candidate.

181. My Lords, the Plaintiffs do not contend that every internal decision of a political party must replicate, in mechanical detail, the procedures prescribed by the Constitution for national elections. Political parties necessarily require administrative hierarchies and internal management structures for routine affairs. Article 55(5) does not constitutionalise every committee meeting or organisational choice.

182. The Plaintiffs' case is narrower and more precise. It is that where a political party performs a function that directly conditions access to constitutional office, the democratic standard is correspondingly heightened. The closer an internal process is to the conferment of public power, the more strictly it must conform to the democratic principles embodied in the Constitution itself.

183. The selection of presidential and parliamentary candidates is not an ordinary internal matter of party administration. It is the gateway through which executive and legislative authority under the Constitution is accessed. In practical and constitutional terms, the party primary is the antecedent stage of the national election. It determines who may present himself or herself to the Ghanaian people as a contender for offices created by, regulated by, and legitimised under the Constitution.

184. It would therefore be conceptually incoherent for the Constitution to require that the President and Members of Parliament be chosen by universal and equal suffrage of the people under articles 42, 63 and 93, yet permit the decisive internal step that determines who may stand for those same offices to be controlled by narrow or exclusionary mechanisms inconsistent with those very principles. Such an arrangement would allow the substance of democratic choice to be displaced upstream into oligarchic structures, leaving the national election to ratify choices already made by a few.

185. Properly understood, therefore, the requirement that parties conform to "democratic principles" bears its greatest constitutional force at the point where parties select persons to contest constitutional offices. At that stage, parties are not merely managing internal affairs. They are performing a constitutionally consequential public function. Their processes must accordingly mirror, in substance though not necessarily in exact procedure, the same principles of political equality, broad participation, and accountability that the Constitution prescribes for the election of those offices themselves.

186. The Plaintiffs accordingly submit that assuming without admitting that more limited or representative mechanisms might be permissible for certain internal or administrative roles within a party, the selection of presidential and parliamentary candidates must, at a minimum, approximate universal or near-universal participation of members in good standing and must avoid structures that concentrate decisive authority in a narrow or privileged class.

#### *Parliamentary Candidate Selection as Further Evidence of Non-compliance*

187. The Plaintiffs submit that the same democratic deficit arises in the selection of the 1st Defendant's parliamentary candidates. Under article 7, the parliamentary candidate is chosen not by all members in good standing within the constituency, but by delegates to a Constituency Delegates Conference composed of constituency executives, electoral area coordinators, polling station executives, selected elders, patrons, and founding members.

188. Here too, the general membership is excluded from direct voting. Yet the parliamentary candidate is the individual through whom the party seeks to exercise legislative authority in Parliament and represent the people of a constituency. The constitutional analogy is direct: just as Members of Parliament are elected by the people of the constituency through universal and equal suffrage, the antecedent party decision determining who may present himself or herself to the electorate must, at a minimum, avoid exclusionary and oligarchic structures that materially disenfranchise members.

189. The parliamentary candidate selection process therefore reflects the same structural pattern as the presidential process: decisive choice is confined to a limited class, the general membership is excluded, accountability is redirected upward to party insiders rather than outward to the membership, and political equality within the party is compromised.

#### *Conclusion on the 1st Defendant*

190. For these reasons, the Plaintiffs contend that the 1st Defendant's Special Electoral College and delegate-based Electoral College system for the selection of its presidential candidate, and its delegate-based constituency conference system for the selection of parliamentary candidates, fail to conform to the minimum democratic principles required under article 55(5) of the 1992 Constitution.

191. The failure arises not from the mere existence of elections, voting, or secret ballots, but from the constitutional structure of exclusion and unequal political influence created by these arrangements, which deny the general membership substantially

equal, direct and meaningful participation in the selection of candidates through whom executive and legislative authority is sought and exercised.

192. The Plaintiffs accordingly submit that the impugned provisions, in their design and effect, are inconsistent with the constitutional democratic principles they have earlier identified, and ought to be declared unconstitutional, null and void to the extent of that inconsistency.

### **VIII. APPLICATION OF ARTICLE 55(5) TO THE 2ND DEFENDANT**

193. My Lords, the constitutional arrangements of the 2nd Defendant, when measured against the democratic principles earlier identified and the heightened constitutional standard applicable to the selection of candidates for presidential and parliamentary office, likewise fail to conform to the mandatory requirements of article 55(5).

194. As already set out, although eligibility to contest for the Party's presidential nomination is open to members, the decisive power to elect the Party's presidential candidate is not vested in the general membership but is confined to a defined and restricted Electoral College composed principally of party executives, office holders, former officials, political appointees and selected representatives.

195. The overwhelming majority of ordinary members in good standing who do not occupy executive or delegate positions are thereby excluded from direct participation in the most consequential decision the Party makes, namely the choice of the person who may ultimately exercise executive authority on behalf of the Party and potentially the Republic.

196. This structure substitutes indirect and hierarchical selection for direct and equal participation. Voting power is not distributed on the basis of membership, but on the basis of status, office or appointment. Certain categories of persons are thereby granted privileged political influence, while ordinary members are denied any vote at all.

197. Such an arrangement is inconsistent with the principle of political equality guaranteed by article 17 of the Constitution. It creates unequal classes of political voice within the same political community and accords superior voting power to a small elite solely by reason of their position within the Party hierarchy.

198. It is equally inconsistent with the principle of broad and meaningful participation contemplated by article 35(6)(d).

Participation cannot be described as meaningful where the majority of members are structurally excluded from the decisive act of selection and are reduced to spectators in a process controlled by a narrow governing class.

199. Most importantly, My Lords, the office of President is the highest executive office established under the Constitution and is filled nationally through universal and equal suffrage under article 63. The internal process by which a political party determines who may present himself or herself to the electorate as its presidential candidate is therefore functionally analogous to that constitutional election.

200. In those circumstances, the democratic principles governing that internal process must, at a minimum, approximate the same values of equality, inclusiveness and broad participation that the Constitution itself requires for the conferment of executive authority.

201. A system which concentrates the decisive choice of a presidential candidate in the hands of a limited electoral college of office holders cannot be said to mirror those principles in substance. It instead resembles an oligarchic or corporate selection mechanism, which the constitutional design rejects.

202. The constitutional infirmity of the present arrangement is further underscored by the 2nd Defendant's own history. In or about 2015, the Party adopted a universal suffrage model which extended the right to vote in presidential primaries to all members registered in its biometric register.

203. That arrangement demonstrated that broad-based participation by the membership was both administratively feasible and institutionally practicable within the Party.

204. The subsequent decision, following the 2016 elections, to abandon that universal suffrage model and to revert deliberately to a restricted delegate-based system for the express purpose of restoring influence to executives and traditional power brokers illustrates that the present structure is not compelled by necessity but is the result of conscious institutional choice.

205. In the Plaintiffs' respectful submission, a deliberate contraction of the franchise from the general membership to a privileged class of delegates cannot be reconciled with a constitutional obligation that internal organisation "shall conform to democratic principles." It moves the Party away from, rather than towards, democratic participation.

206. The same constitutional defect attends the 2nd Defendant's arrangements for the selection of parliamentary candidates.

207. Article 41 (as then framed) similarly confines the choice of parliamentary candidates to a constituency-based electoral college composed of executives, office holders, past officials, appointees and other designated functionaries, while excluding the general body of members within the constituency.

208. Yet a Member of Parliament exercises legislative authority directly on behalf of the people of the constituency and is elected under articles 42 and 93 through universal and equal suffrage of the electorate.

209. The internal process which determines who may present himself or herself to that electorate as the Party's candidate is therefore functionally analogous to the national parliamentary election itself and, for that reason, attracts the same constitutional expectation of broad, equal and participatory decision-making.

210. A system which restricts that choice to a narrow class of executives and delegates, while disenfranchising ordinary members of the Party within the constituency, fails to satisfy the minimum requirements of political equality, meaningful participation and accountability earlier identified.

211. In both its presidential and parliamentary candidate selection processes, therefore, the 2nd Defendant has adopted structures which concentrate decisive authority in a limited and privileged class, materially disenfranchise the general membership, and sever the chain of democratic accountability from members to leadership.

212. Properly construed, such arrangements do not conform to the democratic principles mandated by article 55(5) of the Constitution and are accordingly unconstitutional, null and void to the extent of their inconsistency.

## **IX. APPLICATION OF ARTICLE 55(5) TO THE 3RD DEFENDANT**

213. My Lords, the internal constitutional arrangements of the 3rd Defendant, when examined against the democratic principles earlier identified and the constitutional standard applicable to the selection of candidates for presidential and parliamentary office, reveal an even more restrictive and exclusionary structure.

214. As already noted, Article 96 of the 3rd Defendant's Constitution provides that the Party's Presidential Candidate shall not be elected by the general body of members in good standing, but solely by the

National Delegates Congress following a vetting process conducted by the Vetting Committee.

215. The right to vote in the election of the Party's Presidential Candidate is therefore not attached to membership as such. It is instead confined exclusively to persons who fall within specified categories of officers, executives and designated representatives.
216. By virtue of Article 77, the National Delegates Congress is composed principally of members of the National Executive Council, founding members, members of the Council of Elders, constituency officers, selected constituency representatives, tertiary institution representatives and approved overseas branch representatives.
217. The Congress is thus not a gathering of the Party's membership at large but a closed body constituted by status and office. Only those who hold defined positions within the Party structure are entitled to attend and vote.
218. Ordinary members in good standing who do not occupy any of these offices or delegate positions are wholly excluded from participating in the decisive act of choosing the Party's presidential candidate.
219. The effect of these provisions is that the overwhelming majority of members of the 3rd Defendant possess no vote whatsoever in the selection of the person who may ultimately exercise executive authority on behalf of the Party and potentially the Republic.
220. Such an arrangement is fundamentally inconsistent with the principle of broad and meaningful participation contemplated by article 35(6)(d) of the Constitution. Participation cannot be said to be meaningful where it is structurally denied to the vast majority of the Party's membership.
221. It is equally inconsistent with the constitutional guarantee of political equality under article 17. By granting voting power exclusively to a narrow class of office holders while denying that same right to ordinary members, the Party creates unequal classes of political influence within its internal governance.
222. My Lords, the office of President is filled nationally through universal and equal suffrage under article 63. The internal process which determines who may present himself or herself to the electorate as the Party's candidate for that office is therefore functionally analogous to the constitutional election itself.
223. In those circumstances, democratic principles require that the internal selection process reflect, at a minimum, the same values of

inclusiveness, equality and broad participation that underpin the national electoral system. A closed congress of designated elites cannot reasonably be said to mirror those values in substance.

224. The National Delegates Congress model instead concentrates decisive authority in a small and self-selecting governing class and insulates the choice of leadership from the direct consent of the general membership. In substance, it replaces participatory democracy with hierarchical appointment.

225. The constitutional deficiency is even more pronounced in respect of the selection of parliamentary candidates.

226. Under Articles 52 and 53, the responsibility for electing the Party's parliamentary candidate is vested exclusively in the Constituency Branch Party Conference, which is composed not of all members within the constituency but only of specified executive and branch functionaries and selected representatives.

227. As with the presidential process, the right to vote is attached to office rather than membership. Ordinary members who do not hold those offices are entirely excluded from participation.

228. Yet a Member of Parliament exercises legislative authority directly on behalf of the people of the constituency and is elected through universal and equal suffrage under articles 42 and 93 of the Constitution.

229. The internal process which determines who may present himself or herself to the electorate as the Party's candidate is therefore the gateway to legislative power and attracts the same constitutional expectation of broad and equal participation.

230. A system which confines that choice to a limited conference of executives and delegates, while disenfranchising the general body of members within the constituency, cannot be reconciled with the democratic principles of political equality, meaningful participation and accountability.

231. Furthermore, the requirement that the choice of the Constituency Branch Party Conference be subject to the approval of the Central Committee introduces an additional layer of centralised control, further distancing the selection process from the membership and concentrating authority in a small leadership group.

232. When viewed cumulatively, the 3rd Defendant's presidential and parliamentary selection mechanisms exhibit the very characteristics which article 55(5) was intended to prevent, namely the concentration of political power in restricted bodies and the

exclusion of the general membership from decisions that determine who may govern in their name.

233. Properly construed, such arrangements do not conform to the democratic principles mandated by article 55(5) of the Constitution. They materially disenfranchise members in good standing, create unequal classes of political influence, and substitute oligarchic decision-making for participatory democracy.

234. The Plaintiffs therefore say that the 3rd Defendant's constitutional provisions governing the selection of presidential and parliamentary candidates are inconsistent with articles 1, 17, 35(6)(d), 42, 33(5) and 55(5) of the 1992 Constitution and are unconstitutional, null and void to the extent of that inconsistency.

## X. COMPARATIVE CONSTITUTIONAL JURISPRUDENCE

235. Growing international jurisprudence confirms that Courts treat internal party democracy not as a matter of grace or internal discretion, but as a matter of constitutional obligation. Comparative constitutional practice supports this approach.

236. In jurisdictions where political parties are constitutionally recognised and expressly required to conform to democratic principles, courts have consistently treated internal party arrangements as justiciable and subject to constitutional scrutiny. A leading and persuasive authority in this regard is the decision of the **Constitutional Court of South Africa in Ramakatsa and Others v Magashule and Others (CCT 109/12, [2012] ZACC 31)**.

237. The South African Constitution expressly protects political participation as a fundamental constitutional right. In particular, section 19 guarantees to every citizen the freedom to make political choices, including the right to form a political party, to participate in the activities of a political party, and to stand for and hold public office. These guarantees are framed not merely as negative liberties against state interference, but as substantive democratic entitlements designed to secure real and effective participation in the political process.

238. The Constitutional Court of South Africa has consistently interpreted section 19 as recognising that political parties are not merely private associations, but integral components of the constitutional democratic order. Because parties determine who may stand for election and who may ultimately exercise public power, their internal processes directly affect the enjoyment of constitutional political rights. It follows, as a matter of constitutional logic, that the

rights of members to participate in the activities of their parties must be meaningful and enforceable, and cannot be reduced to nominal or symbolic membership without genuine influence over decision-making.

239. These principles were squarely considered by the Constitutional Court in the case of *Ramakatsa and Others v Magashule and Others*. The applicants in that matter were ordinary members of the African National Congress (ANC), South Africa's governing political party, who challenged the lawfulness of the processes by which delegates were selected and accredited to attend a provincial conference at which the party's leadership was to be elected. The party employed a delegate-based system under which branch structures elected delegates who would in turn vote at higher-level conferences to determine leadership. The applicants alleged that numerous branch meetings had been irregularly convened, that membership rolls had been manipulated, that legitimate members had been excluded, and that delegates had been improperly appointed in violation of the party's constitution.

240. The respondents in *Ramakatsa* contended that the dispute concerned internal party matters which were not justiciable and that courts ought not to interfere in the internal affairs of voluntary political associations. The case thus raised a foundational question closely analogous to the present action, namely whether the internal organisational arrangements of a political party, including the mechanisms by which leaders are chosen, may be subjected to constitutional scrutiny and judicial review.

241. The Constitutional Court rejected the contention that such matters were immune from judicial oversight. It held that political parties occupy a distinctive constitutional position and that their internal processes, insofar as they affect members' political participation and the exercise of public power, are matters of constitutional significance rather than purely private concern.

242. The Court held that the constitutional right to participate in the activities of a political party necessarily imposes a corresponding duty on political parties to act lawfully and in accordance with their own constitutions and democratic procedures. Participation, the Court explained, must be genuine and effective. It cannot exist where members are excluded from lawful processes or where internal structures are manipulated so as to concentrate control in a narrow group of insiders.

243. In emphatic terms, the Court stated that the Constitution confers on every member of every political party the right to exact compliance with the party's constitution by its leadership. The Court

reasoned that, because parties are vehicles through which public power is organised and contested, their internal governance must reflect constitutional norms of accountability and legality. Where internal processes undermine those norms, courts are both empowered and obliged to intervene.

244. Applying those principles, the Court concluded that the irregularities in the selection of delegates and the conduct of branch processes were inconsistent with the constitutional right of members to participate meaningfully in party activities. The delegate system, although formally part of the party's structure, could not be allowed to operate in a manner that deprived members of effective participation. The Court therefore upheld the challenge and treated the defects as capable of invalidating the leadership outcomes that flowed from those flawed processes.

245. By parity of reasoning, if South African courts may review and invalidate internal party arrangements that undermine meaningful participation in delegate conferences, then this Honourable Court must equally be entitled to scrutinise, and where necessary strike down, systems that confine the decisive choice of presidential and parliamentary candidates to narrow electoral colleges composed predominantly of executives, office holders and selected delegates. Such arrangements, like the defective delegate processes in *Ramakatsa*, diminish the effective participation of ordinary members and concentrate decisive authority in a restricted class.

246. The comparative experience therefore supports the Plaintiffs' central submission that internal party democracy is not a matter of political preference but of constitutional command, and that courts have both the competence and the duty to ensure that political parties, as constitutional actors, organise themselves in a manner consistent with democratic principles. While the precise questions that arose in *Ramakatsa v Magashule* are not identical to those presented in the instant proceedings, and the South African Court was concerned primarily with the lawfulness of delegate accreditation and compliance with the party's own constitution rather than the broader constitutional validity of the delegate system itself, the central and enduring significance of that decision lies elsewhere. Its principal takeaway is the clear recognition that the internal organisation and decision-making processes of political parties are not immune from constitutional scrutiny and judicial review.

247. The Constitutional Court firmly rejected the proposition that disputes concerning party structures and leadership selection are merely private or political matters beyond the competence of the courts, and held instead that, because political parties perform constitutionally significant public functions and directly affect the

exercise of political rights and access to public office, their internal arrangements are justiciable. By parity of reasoning, this Honourable Court likewise possesses both the jurisdiction and the constitutional responsibility to examine whether the internal organisational mechanisms adopted by the Defendants comply with the mandatory democratic standards imposed by article 55(5) of the 1992 Constitution.

248. My Lords, further comparative guidance may be drawn from the Constitutional Court of South Africa case of *My Vote Counts NPC v Speaker of the National Assembly and Others (CCT121/14) [2015] ZACC 31 (30 September 2015)*

249. In *My Vote Counts NPC v Speaker of the National Assembly and Others*, the applicants challenged the failure of Parliament to enact legislation requiring disclosure of private funding to political parties. The applicants contended that without transparency regarding who funds political parties, citizens are unable to make informed political choices, and the right to vote is thereby rendered hollow or illusory. The issue before the Constitutional Court was therefore whether the Constitution imposed a positive duty on Parliament to regulate political parties in a manner that secures the meaningful exercise of the right to vote.

250. In determining that issue, the Constitutional Court began by carefully examining the constitutional character of political parties. The Court rejected the notion that political parties are merely private voluntary associations operating in a private sphere insulated from constitutional scrutiny.

251. Instead, the Court held that political parties are integral constitutional actors and constitute the primary institutional mechanisms through which democracy is realised in practice. The Court emphasised that citizens do not ordinarily exercise political power directly, but do so through political parties, which select candidates, shape political programmes, and present choices to the electorate.

252. Political parties were thus described as the “indispensable conduits” through which the right to vote is exercised and through which representative government is constituted. The necessary implication of this characterisation was that the internal functioning and regulation of political parties cannot be treated as matters of purely private concern, but are matters of constitutional significance because they directly affect the effective exercise of political rights.

253. Having recognised the constitutional importance of political parties, the Court held that transparency regarding their funding was

essential to the meaningful exercise of the right to vote. The Court reasoned that if voters are unaware of the financial interests influencing political parties, their choices at the ballot box cannot be fully informed or rational.

254. It therefore concluded that Parliament bore a constitutional obligation to enact legislation regulating party funding disclosure, and that failure to do so was inconsistent with the Constitution. In substance, the Court held that where the internal operations of political parties bear directly upon the effective exercise of constitutional rights, those operations fall within the reach of constitutional norms and may not be insulated from judicial review.

255. My Lords, while the precise issue in *My Vote Counts* concerned transparency of political funding rather than candidate selection, the principles articulated by the Court are directly apposite to the present action. The central premise of the decision is that political parties are not private clubs free to arrange their internal affairs without constitutional constraint. Rather, because they are the vehicles through which citizens exercise the right to vote and through which public authority is accessed, their internal structures and practices have direct constitutional consequences.

256. The Court accepted that where the internal functioning of parties affects the substance and quality of democratic participation, constitutional standards apply and judicial intervention is permissible. If the Constitution requires disclosure of party funding because such funding may influence how citizens vote, then, *a fortiori*, the processes by which political parties determine who may stand as presidential or parliamentary candidates implicate the right to vote even more directly. Funding affects the context of choice. Candidate selection determines whether a choice exists at all.

257. The person who appears on the ballot is not determined by the electorate at large, but first by the internal processes of the political party. Those processes therefore operate as a gatekeeping mechanism that conditions access to constitutional office. Where that gatekeeping function is exercised through closed or oligarchic mechanisms that exclude the general membership, the democratic chain between the people and those who ultimately wield public power is weakened at its source.

258. The logic of *My Vote Counts* therefore supports the conclusion that constitutional democratic norms must penetrate and regulate those internal mechanisms. Just as the South African Constitutional Court held that constitutional rights require transparency in party funding because it affects voting choices, so too must this Honourable Court recognise that article 55(5) requires democratic participation in

candidate selection because it determines who may exercise executive and legislative authority in the first place.

259. In both systems, political parties perform constitutionally consequential functions. In both, those functions attract constitutional discipline. And in both, the courts are empowered to ensure that internal party arrangements do not undermine democratic rights. The comparative experience in *My Vote Counts*, read together with *Ramakatsa*, therefore reinforces the Plaintiffs' submission that internal party processes which determine access to constitutional office are justiciable and must conform to constitutionally mandated democratic principles, and cannot be shielded from review by characterising them as merely internal or private affairs.

260. Similarly, in the Kenyan case of *Mwicigi & 14 Others v Independent Electoral and Boundaries Commission & 5 Others (Supreme Court of Kenya, 2016)*, the Supreme Court of Kenya affirmed that political party nomination processes which determine access to public office are not merely private or internal matters of party administration, but form part of the constitutional electoral architecture and are accordingly subject to constitutional standards and judicial review.

261. Under the Constitution of Kenya, 2010, legislative representation is secured partly through proportional representation by party lists. Article 90 mandates that certain seats in Parliament and County Assemblies be filled through party lists submitted by political parties, while Articles 97 and 177 incorporate those lists directly into the constitutional scheme for the composition of legislative bodies. Crucially, the Constitution designates the Independent Electoral and Boundaries Commission (IEBC) as the supervisory authority responsible for ensuring that such lists comply with constitutional requirements, including fairness, equality, representativeness and legality. Thus, the Kenyan constitutional structure treats party nomination lists not as private political choices, but as constitutionally recognised mechanisms through which public power is constituted and exercised.

262. The dispute in *Mwicigi* arose after certain persons were nominated to County Assemblies through party lists. Other party members challenged the nominations, alleging that the lists had been compiled in violation of constitutional and statutory requirements and did not reflect the mandated representational criteria. The respondents argued that the preparation of party lists was an internal party affair and therefore insulated from judicial scrutiny, save through limited electoral procedures. In effect, they contended that

courts lacked jurisdiction to interrogate the internal nomination processes of political parties.

263. The Supreme Court rejected that contention. It held that once party nominations determine who may occupy constitutionally created legislative seats, the process transcends the realm of private association and enters the sphere of public constitutional law. The Court reasoned that although party list preparation originates within the party, it must proceed strictly in accordance with the Constitution, the party constitution, and electoral law, and is subject to oversight by the electoral commission and review by the courts. In substance, the Court treated party nominations as part of the electoral process itself and therefore constitutionally justiciable.

264. While *Mwicigi* did not directly concern delegate systems or intra-party suffrage, its doctrinal significance is directly relevant to the present action. First, it confirms that political parties do not enjoy immunity from constitutional scrutiny merely because a process is described as “internal.” Where that process determines who may hold public office, constitutional norms apply. Second, it recognises that nomination procedures are not purely private or voluntary matters. They are integral steps in the chain through which public authority is conferred. Third, it affirms that electoral bodies and courts have supervisory jurisdiction to ensure that such processes comply with constitutional standards.

265. These principles align closely with the Plaintiffs’ submission in this case. Here too, the Defendants’ internal mechanisms for selecting presidential and parliamentary candidates determine who may present himself or herself to the Ghanaian electorate for offices created by the Constitution. Those mechanisms therefore form part of the constitutional pathway through which executive and legislative authority is constituted. They cannot properly be characterised as private club arrangements immune from constitutional discipline. The necessary implication of *Mwicigi* is that once a political party performs a function that conditions access to public office, constitutional values “pass through” to regulate that function.

266. Accordingly, just as the Kenyan Supreme Court subjected party list nominations to constitutional control, this Honourable Court is equally entitled, and indeed obliged, to examine whether the delegate-based and restricted electoral systems adopted by the Defendants conform to the democratic principles mandated by Article 55(5) of the 1992 Constitution.

267. My Lords, a particularly instructive comparative example is the decision of the United States Supreme Court in *Terry v. Adams*, 345 U.S. 461 (1953), in which the Court refused to permit a political

organisation to evade constitutional scrutiny by characterising itself as a private association while in practice controlling access to public office.

268. In that case, an organisation known as the Jaybird Democratic Association operated in Fort Bend County, Texas. The Association was not formally recognised under state electoral law and described itself as a voluntary private club. It conducted its own “pre-primary” elections each year to select candidates for county offices. Only white voters were permitted to participate. Although the Association’s nominees were not officially certified by the State, in practice its chosen candidates invariably went on to win the official Democratic primary and then the general election. For over sixty years, the Jaybird primary was the only stage at which electoral competition effectively occurred.

269. The practical consequence was that Black voters, though technically allowed to vote in the official state primary and general election, had no meaningful influence, because the decisive choice of candidates had already been made at the racially exclusive Jaybird stage.

270. The plaintiffs challenged this arrangement as a violation of the Fifteenth Amendment, which prohibits racial discrimination in voting. The Association argued that it was merely a private organisation and therefore outside constitutional control, since the State neither regulated nor formally recognised its elections.

271. The US Supreme Court rejected this formalistic defence.

272. The Court held that constitutional guarantees could not be defeated by “casting the electoral process in a form which permits a private organization to practice discrimination.” It reasoned that the Jaybird primary had become “an integral part, indeed the only effective part, of the elective process.” Because it effectively determined who would hold public office, it could not be treated as private conduct insulated from constitutional review. The Court therefore struck down the exclusionary system and held that the combined electoral machinery violated the Constitution.

273. The critical doctrinal move in *Terry* was functional rather than formal. The Court looked past labels and asked a simple question: does this internal or private process, in reality, determine who governs? If yes, constitutional norms attach.

274. While the precise facts in *Terry* concerned racial exclusion rather than delegate systems, the constitutional principle is directly analogous and highly persuasive. The decision establishes that:

- a. Political parties and party-like bodies are not immune from constitutional review merely because they are formally private associations.
- b. Where an internal party process effectively determines who may present himself or herself to the electorate for public office, that process forms part of the public electoral system in substance.
- c. Constitutional guarantees protecting the democratic character of elections “pass through” to such internal mechanisms.

275. This reasoning supports the Plaintiffs’ contention that the internal nomination structures of political parties cannot be insulated from constitutional scrutiny where those structures determine who may contest constitutionally created public offices such as President or Member of Parliament.

276. Just as the Jaybird Association could not privatise what was in substance the decisive stage of public elections, a political party cannot design internal mechanisms that substantially narrow political participation in the selection of candidates for constitutional offices while claiming complete autonomy from constitutional standards. In both contexts, the constitutional injury arises not from the label attached to the body, but from the functional reality that the internal process effectively controls access to public power.

277. Accordingly, *Terry v. Adams* provides strong comparative authority for the proposition that constitutional principles governing democratic participation extend to internal party structures where those structures determine who may stand before the electorate.

278. My Lords, Similarly, in the United States Supreme Court decision in **Smith v. Allwright**, 321 U.S. 649 (1944), the Court held that constitutional voting guarantees apply not only to general elections but also to party primaries where those primaries form an integral part of the process by which public officials are chosen.

279. The case arose from the practice of the Texas Democratic Party excluding Black voters from participating in its primary elections through an internal party rule restricting membership to white citizens. Texas argued that the primary was merely a private, voluntary party affair and that the party was therefore free to determine its own membership and voting rules without constitutional scrutiny.

280. The Supreme Court rejected that characterisation. Examining the statutory scheme, the Court found that Texas law heavily regulated and structured party primaries, required nominees to emerge through those primaries, and effectively made the primary the

decisive stage in the selection of public officials. In those circumstances, the primary was not a purely private activity but “a part of the machinery for choosing officials.” Consequently, when the State channels access to public office through party primaries, constitutional protections attach at that stage. The Court held that “when primaries become a part of the machinery for choosing officials, state and federal, the same tests to determine the character of discrimination or abridgment should be applied to the primary as are applied to the general election”.

281. The Court further reasoned that constitutional rights cannot be avoided by delegating decisive electoral power to a private organisation. Where the State “endorses, adopts and enforces” a process that determines who may appear on the ballot, the party’s actions become attributable to the State itself . Accordingly, racial exclusion in the primary violated the Fifteenth Amendment.

282. While *Smith* concerned racial discrimination rather than delegate structures, its constitutional logic directly supports the Plaintiffs’ case here. The central principle is that once a political party’s internal process becomes the gateway through which access to constitutional office is determined, that process is subject to constitutional norms and cannot be insulated as merely “internal” or “private.” The State may not permit parties to organise the decisive stage of candidate selection in a manner inconsistent with the Constitution’s guarantees of political equality and participation.

283. Thus, *Smith v. Allwright* reinforces the proposition that party nomination processes, where they effectively determine who may exercise public power, must comply in substance with constitutional democratic standards. It supports this Court’s jurisdiction to scrutinise internal party mechanisms and to ensure that structures which determine eligibility for public office do not undermine constitutional principles.

## **XI. THE DELEGATE SYSTEMS OF THE 1ST TO 3RD DEFENDANTS CONSTITUTE AN UNCONSTITUTIONAL DILUTION OF MEMBERS’ VOTES AND OFFEND THE PRINCIPLE OF POLITICAL EQUALITY**

284. My Lords, further, comparative constitutional jurisprudence consistently treats mechanisms of voting that result in the dilution or unequal weighting of votes as incompatible with democratic equality and therefore constitutionally impermissible. Courts in established democracies have long recognised that the right to vote is not merely the formal opportunity to cast a ballot, but the substantive guarantee that each person’s political voice must carry substantially equal weight in collective decision-making. Thus, arrangements which

debase, nullify, or disproportionately weaken the votes of some citizens, while amplifying those of others, are understood to constitute a denial of equal political representation.

285. It is also the case of the Plaintiffs that the constitutional vice inherent in the delegate-based systems operate as mechanisms of vote dilution. They grant decisive voting power to a small and privileged class of insiders while rendering the votes of the overwhelming majority of members either valueless or non-existent. In substance, they confer unequal weight on the political voices of members of the same party.

286. The consequence is that similarly situated members, each of whom enjoys equal political status within the party, are treated as constitutionally unequal. A minister, executive officer or designated delegate is vested with a vote that determines who may contest for President or Member of Parliament. An ordinary member, though equally bound by the party's rules and equally entitled under Article 55(2) to participate in shaping the political will of the people, is denied any vote at all. One member counts fully. Another does not count at all.

287. My Lords, these electoral college-delegate system are discriminatory in weight and effect. They transform what ought to be a system of political equality into a system of weighted or selective suffrage. In effect, they replace the constitutional premise of one person one vote with a regime of one office holder one vote; many members zero votes. In essence, a process that concentrates decisive authority in a narrow electoral college while excluding the majority of members does not merely limit participation. It devalues and dilutes the political agency of those excluded.

288. This Court has already recognised, in its own jurisprudence, that the franchise and political participation rights guaranteed by the Constitution are grounded in equality and must be protected jealously. The logic of those authorities necessarily condemns systems that artificially elevate some voices above others within the same political community.

289. The concept of vote dilution is well understood in comparative constitutional law. It refers to arrangements that formally allow voting but so structure political power that some votes carry greater weight than others, or that the votes of a large class are rendered practically ineffective.

290. The central democratic principle is simple. Political equality requires that each person's vote, or political voice, count substantially equally. Where institutional design systematically debases or nullifies

the votes of some citizens while amplifying those of others, constitutional injury arises.

291. Although Ghana's Constitution must be interpreted on its own text and structure, courts in other constitutional democracies have repeatedly recognised this principle and treated vote dilution as legally cognizable and constitutionally impermissible.

292. While these authorities are not binding and are only persuasive. They illuminate the universal democratic intuition that equality of political weight is indispensable to representative government.

293. The United States Supreme Court has long treated the right of suffrage as a fundamental right and recognised that dilution or debasement of the weight of a citizen's vote is constitutionally objectionable.

294. In **Mobile v. Bolden (1980)**, the Court affirmed that: "The political franchise of voting is . . . a fundamental political right" and "the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote."

295. That formulation is directly instructive. A right may be denied not only by outright prohibition, but also by dilution of its weight. In other words, formal access is insufficient if structural design renders the vote ineffective. That dilution occurs irremediably by the structure of the representative vote system that the delegate systems promote.

296. In *Davis v. Bandemer*, 478 U.S. 109 (1986), the US Supreme Court treated claims of partisan vote dilution as constitutionally justiciable and recognised that arrangements which systematically weaken the voting strength of identifiable groups may violate the guarantee of equal protection. The Court required inquiry into discriminatory intent and discriminatory effects. The underlying premise remained that equal political weight is constitutionally protected.

297. Lower US courts applying Bandemer similarly recognised that structural devices which dilute voting power are actionable. In **Smith v. Boyle (7th Cir., 1998)** and **Nipper v. Smith (11th Cir., 1994)**, the courts acknowledged that the right to vote encompasses not only the right to cast a ballot, but also protection against dilution of that ballot's effectiveness.

298. The one-person-one-vote doctrine further illustrates this commitment to equality of political weight. US Courts have consistently required that legislative districts contain substantially equal populations so that citizens' votes carry approximately equal

weight. Malapportionment that dilutes votes violates equal protection. Thus, in **Montes v. City of Yakima (2014)**, the court held that the Constitution requires an honest effort to construct districts as nearly equal in population as practicable and that “substantial equality of population” is the overriding objective.

299. Similarly, in **Garcia v. 2011 Legislative Reapportionment Commission (3d Cir., 2014)**, the US court reiterated that the Fourteenth Amendment obliges states to prohibit systems that result in unequal weighting of representation.

300. Even where the United States Supreme Court has declined to provide remedies for certain categories of partisan gerrymandering claims on justiciability grounds, the Court has not retreated from the underlying principle that vote dilution is constitutionally suspect. In **Vieth v. Jubelirer (2004)** and **Rucho v. Common Cause (2019)**, the Court held that federal courts lack manageable standards for some partisan claims. Yet the normative commitment to vote equality remained acknowledged.

301. My Lords, when the delegate structures of the 1st to 3rd Defendants are examined through this lens, their constitutional infirmity becomes clear. In each case, decisive voting power over the selection of presidential and parliamentary candidates is confined to a small class of executives, office holders or designated delegates. The overwhelming majority of ordinary members, though equally qualified, equally registered and equally entitled under Article 55(2) to participate in shaping the political will of the people, are excluded entirely from the decisive vote.

302. The result is **systematic debasement of political weight**. A delegate’s vote determines the party’s candidate. An ordinary member’s preference counts for nothing. Functionally, the delegate’s vote is worth many times more than that of any ordinary member, because only the delegate’s vote is legally recognised.

303. If a system of legislative districts in which one citizen’s vote counted ten times more than another’s would be constitutionally intolerable, it is difficult to see how a system in which thousands of members’ votes count not at all can be reconciled with the democratic principles mandated by Article 55(5).

304. Put plainly, the delegate systems create **two classes of political citizens within the same party**: (a) those whose votes count; and (b) those whose voices are extinguished.

305. That is the very definition of dilution.

306. In effect, the Plaintiffs contend that the arrangements of the 1-3<sup>rd</sup> Defendants sever the chain of accountability, entrench insider control, and substitute oligarchic filtering for equal participation. They are therefore inconsistent with participation and accountability, as well as with the deeper constitutional and democratic commitment to equal political worth.

307. My Lords, these comparative authorities do not import foreign doctrine into Ghanaian law. Rather, they confirm what Ghana's own Constitution already requires.

308. Articles 1, 17, 42, 55 and 35(6)(d), read together with the Preamble's commitment to universal adult suffrage and equality of opportunity, embed a model of democracy founded on equal citizenship and equal political voice.

309. If the Constitution insists that every citizen's vote must count equally in the election of the President and Members of Parliament, it would be internally inconsistent to permit political parties to structure the antecedent and decisive candidate-selection stage in a manner that nullifies or disproportionately weakens the voices of the majority of their members.

310. The constitutional promise of equality cannot stop at the gates of the party. Where the party's internal process determines who may stand for constitutional office, that process must respect the same core commitment to equality of political weight.

311. Accordingly, the Plaintiffs respectfully submit that the delegate-based systems of the 1st, 2nd and 3rd Defendants, insofar as they restrict decisive voting power to narrow electoral colleges and exclude the general membership from the selection of presidential and parliamentary candidates, operate as mechanisms of vote dilution and are incompatible with the democratic principles required by Article 55(5). They are therefore unconstitutional.

## **XII. DEMOCRATIC PRINCIPLES UNDER BINDING INTERNATIONAL LAW**

312. The Plaintiffs further submit that the constitutional requirement that political parties conform to "democratic principles" does not exist in isolation. It may be interpreted consistently with Ghana's international obligations and with the settled international understanding of what constitutes meaningful political participation in a constitutional democracy. Where the Constitution employs an open-textured normative standard such as "democratic principles," this Honourable Court is entitled, and indeed obliged, to construe that standard in harmony with Ghana's commitments under international human rights law and with comparative democratic practice.

313. Ghana is a State Party to the International Covenant on Civil and Political Rights. Article 25 thereof guarantees to every citizen the right and the opportunity, without unreasonable restrictions, to take part in the conduct of public affairs, directly or through freely chosen representatives, and to vote and to be elected at genuine periodic elections guaranteeing the free expression of the will of the electors. These guarantees are not merely procedural. They are substantive protections of political equality and meaningful participation.

314. The United Nations Human Rights Committee, in its authoritative General Comment No. 25, has emphasised that political participation must be real and effective, and that States must ensure that citizens have a genuine opportunity to compete for public office and to influence the choice of those who govern them. Restrictions that unduly limit access to candidacy or concentrate political power in the hands of narrow groups are incompatible with the Covenant's requirements.

315. In modern constitutional systems such as Ghana's, political parties are not peripheral actors. They are the principal and often exclusive gateways through which citizens may present themselves for presidential and parliamentary elections. In practice, a citizen cannot meaningfully exercise the right "to be elected" without first passing through the party's nomination process. It follows that internal party mechanisms which determine who may stand for public office are not merely private organisational matters. They are integral components of the broader electoral architecture that gives effect to Article 25 rights.

316. Where those internal mechanisms confine decisive voting power to a small, self-selecting or office-holding elite, while excluding the overwhelming majority of members from meaningful participation, the effect is to impose structural and unreasonable restrictions on political participation. Such arrangements operate as filters that predetermine access to constitutional office before the general electorate is ever engaged. In substance, they narrow the field of democratic choice and dilute the equality of political voice which the Covenant seeks to protect.

317. Ghana is equally bound by the African Charter on Human and Peoples' Rights. Article 13 guarantees to every citizen the right to participate freely in the government of his country, either directly or through freely chosen representatives. The African Commission has consistently interpreted this right broadly to encompass genuine opportunity for political participation, equality of access to public office, and the prevention of exclusionary or oligarchic political structures. Systems that entrench political power in a restricted class

of insiders are incompatible with the Charter's participatory conception of democracy.

318. These international commitments do not create new obligations beyond the Constitution. Rather, they illuminate the content of the constitutional standard itself. When Article 55(5) commands that the internal organisation of political parties shall conform to democratic principles, it must be taken to incorporate, at the very least, those core attributes of democracy that are universally recognised: political equality, broad participation, accountability of leadership, and non-oligarchic governance. International law therefore provides persuasive guidance as to the minimum floor beneath which party arrangements cannot fall.

319. Comparative constitutional practice confirms this approach. Courts in multiple jurisdictions have recognised that, because political parties perform public constitutional functions, their internal processes for selecting candidates are subject to democratic constraints and judicial scrutiny. The emerging international consensus is that parties cannot rely on private association arguments to shield structures that effectively disenfranchise their own members or distort the democratic chain of accountability between citizens and the State.

320. Properly understood, these principles reinforce the "pass-through" effect of the Constitution pleaded by the Plaintiffs. Where an internal party process determines who may present himself or herself to the Republic as a candidate for President or Member of Parliament, that process forms part of the pathway through which constitutional power is accessed. The democratic guarantees that apply at the level of the national election cannot logically be severed from the antecedent party mechanisms that control entry to that election. The values of participation, equality and accountability must therefore pass through and regulate those mechanisms.

321. Accordingly, the delegate-based and restricted electoral systems of the Defendants, insofar as they govern the selection of presidential and parliamentary candidates, are inconsistent not only with the text, structure and spirit of the 1992 Constitution, but also with Ghana's binding international commitments to secure effective and equal political participation. These considerations provide further and independent support for the conclusion that such arrangements cannot satisfy the democratic standard mandated by Article 55(5).

### **XIII. CONCLUSION**

322. My Lords, this action presents a straightforward but constitutionally significant question. It is whether political parties, which the Constitution recognises as the primary vehicles through

which citizens access executive and legislative power, may organise their internal structures in a manner that excludes the overwhelming majority of their members from meaningful participation in the selection of those who seek to govern the Republic.

323. The Plaintiffs respectfully submit that the Constitution answers that question in the negative.

324. Article 55(5) commands, in clear and mandatory language, that the internal organisation of every political party shall conform to democratic principles. That requirement is neither decorative nor aspirational. It is a binding constitutional obligation. It reflects a deliberate constitutional choice that political parties, unlike purely private associations, perform public constitutional functions and must therefore operate according to minimum democratic standards.

325. When the Constitution is read holistically, those democratic principles are not abstract or indeterminate. They are concretely expressed throughout the constitutional text: sovereignty resides in the people; political authority flows upward from their participation; citizens are equal in political voice; suffrage is universal and equal; and leadership must remain accountable to those who confer its mandate. At a minimum, these commitments entail political equality, meaningful participation, accountability of leadership to members, non-oligarchic structures of governance, and universal or near-universal suffrage in the selection of those who exercise executive and representative power.

326. The selection of presidential and parliamentary candidates is the most consequential internal decision a political party makes. It determines who may present himself or herself to the Ghanaian electorate as a potential holder of executive or legislative authority. In practical terms, it is the gateway through which constitutional power is accessed. It therefore falls squarely within the “internal organisation” of a party and must comply, with particular force, with the democratic standards required by Article 55(5).

327. Yet, as the Plaintiffs have demonstrated, the 1st, 2nd and 3rd Defendants have each adopted systems that confine decisive voting power to restricted electoral colleges, delegates’ congresses or similarly limited bodies composed primarily of executives, office holders and selected insiders. These arrangements exclude or materially disenfranchise the general membership of the parties, create unequal classes of political influence, insulate leadership from broad accountability, and concentrate decisive authority in narrow and self-selecting groups.

328. In substance and effect, such systems are oligarchic rather than democratic. They are inconsistent with the participatory, egalitarian

and accountable conception of democracy embedded in the Constitution. They therefore fail to conform to the democratic principles mandated by Article 55(5) and reinforced by section 9(a) of the Political Parties Act.

329. My Lords, the Plaintiffs further submit that Article 55(5) operates with what may properly be described as a constitutional pass-through effect. Political parties are not merely private clubs choosing leaders for private purposes. They are constitutionally recognised instruments through which public power is accessed. Where a party's internal processes determine, in a legally consequential way, who may present to the Republic as a candidate for constitutional office, those processes necessarily attract and must reflect the Constitution's own democratic norms. The constitutional values that govern the conferment of executive and legislative authority cannot be halted at the gates of the party; they pass through to regulate the antecedent mechanisms that condition access to that authority.

330. The Plaintiffs emphasise that this argument is not directed at every internal office within a party's bureaucracy, nor does it require political parties to replicate mechanically the precise procedures of national elections for every internal role. The contention is narrower and constitutionally grounded. It concerns, in particular, those internal processes that determine who may stand for national constitutional elections, namely candidates for President and Members of Parliament. In respect of those offices, which exercise the Republic's highest executive and legislative authority, the constitutional demand for democratic conformity applies with the greatest force.

331. Accordingly, even if certain delegate arrangements might arguably suffice for minor or purely administrative party matters, that justification cannot hold where the process effectively determines who may occupy constitutional office. In the case of presidential and parliamentary candidatures, the Constitution itself supplies the controlling democratic principles: broad and meaningful participation, political equality, and accountability rooted in popular sovereignty, expressed through universal or near-universal suffrage and representative legitimacy. A party cannot, consistently with Article 55(5), require universal and equal participation for the election of a President or Member of Parliament at the national level, while permitting the decisive antecedent choice of those same candidates to be confined to a narrow, privileged or self-perpetuating class within the party.

332. It is therefore the Plaintiffs' respectful submission that the impugned electoral college, special electoral college, and delegate-

based mechanisms of the 1st to 3rd Defendants, insofar as they govern the selection of presidential and parliamentary candidates, fail to comply with this constitutional requirement. They attenuate the chain of popular accountability, entrench unequal political influence within the party, and substitute oligarchic filtering for the constitutional principle that public authority must be rooted in broad, equal and participatory consent. For that reason, and to that extent, they offend the minimum content of democratic principles required by Article 55(5), read in harmony with the broader constitutional design.

333. The Plaintiffs further submit that these matters are plainly justiciable. Where the Constitution imposes an express standard on constitutionally recognised institutions, it is the duty of this Honourable Court, under Articles 2 and 130, to interpret and enforce that standard. Political parties cannot, by characterising their arrangements as “internal”, place themselves beyond constitutional scrutiny. The Constitution is supreme over all persons and bodies, including political parties.

334. On these premises, the Plaintiffs respectfully pray this Honourable Court to give full and purposive effect to Article 55(5); to declare that the impugned delegate-based and restricted electoral systems of the 1st, 2nd and 3rd Defendants are unconstitutional to the extent that they exclude or materially disenfranchise members in good standing; and to grant the declaratory and consequential reliefs sought, including appropriate orders directing compliance with the democratic requirements of the Constitution and ensuring effective supervision by the 4th Defendant.

335. Only by so doing will the Constitution’s promise of internal party democracy be made real, and only by so doing will those who seek to govern the Republic be chosen through processes that reflect, in substance and principle, the democratic character of the Republic itself.

**WHEREFORE, THE PLAINTIFFS PRAY THIS COURT TO FIND AS JUST AND TO GRANT THEM THE FOLLOWING RELIEFS, AS INDORSED ON THE WRIT OF SUMMONS:**

- i. A declaration that upon a true and proper interpretation of the Preamble and Articles 1(1) and (2), 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution the election of a political party’s presidential and parliamentary candidate(s) constitutes a core element of the party’s internal organisation within the meaning of Article 55(5) of the Constitution.
- ii. A declaration that upon a true and proper interpretation of the Preamble and Articles 1(1) and (2), 17, 33(5), 35(6)(d), 42 and

55(5) of the 1992 Constitution, the internal organisation of a political party must be structured in a manner that ensures equal political participation and equal voting rights of its members in the selection of the party's presidential and parliamentary candidate(s).

- iii. A declaration that, on a true and proper interpretation of the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42, 55(2), 55(5), 63 and 93 of the 1992 Constitution, democratic principles governing the internal organisation of political parties require political equality, meaningful and broad participation of members in decision-making, accountability of leadership to the membership, and substantially equal and direct voting rights for members in good standing in the election of the party's presidential and parliamentary candidates.
- iv. A declaration that the delegate-based Electoral College system established under Article 13 of the Constitution of the 1st Defendant for the election of its presidential candidate, which confines or restricts voting to specified executives, office holders and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- v. A declaration that the Extraordinary Constituency Delegates Conference system established under Article 7 of the Constitution of the 1st Defendant for the selection or election of its parliamentary candidates, which confines voting to specified constituency executives, coordinators, polling station officers, elders, patrons and other delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- vi. A declaration that the Electoral College system established under Articles 43 and 44 of the Constitution of the 2nd Defendant for the election of its presidential and parliamentary candidate, which confines or restricts voting to specified executives, office holders and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 33(5), 17, 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.
- vii. A declaration that the Constituency Branch Party Conference system and the National Delegates Congress system

established under Articles 53, 96 and 77 of the Constitution of the 3rd Defendant for the election of its presidential and parliamentary candidate(s), which confines voting to specified executives, elders, officers and delegates to the exclusion or material disenfranchisement of members in good standing of the party, contravenes the Preamble and Articles 1, 17, 33(5), 35(6)(d), 42 and 55(5) of the 1992 Constitution and is therefore unconstitutional, null, void and of no effect.

- viii. A consequential order striking down and declaring unconstitutional, null, void and of no effect all provisions of the constitutions, rules, regulations or electoral arrangements of the 1st, 2nd and 3rd Defendants, to the extent that they restrict or confine the election of their presidential and parliamentary candidates to limited Electoral Colleges, delegate bodies or similar structures, or otherwise exclude or materially disenfranchise members in good standing of the parties from voting in elections for their presidential candidates.
- ix. Such further or consequential orders as this Honourable Court may deem just.

## LIST OF AUTHORITIES

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1. Constitution of the Republic of Ghana, 1992
2. Political Parties Act, 2000 (Act 574)

### **B. Ghanaian Case Law**

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2. Sallah v Attorney-General [1970] 2 GLR 55 (SC)
3. Tuffuor v Attorney-General [1980] GLR 637
4. New Patriotic Party v Inspector-General of Police [1992–93] GLR 586
5. New Patriotic Party v Attorney-General (31st December Case) [1993–94] 2 GLR 35 (SC)
6. NPP v Inspector-General of Police [1993–94] 2 GLR 459
7. Kuenyehia v Archer & Others [1993–94] 2 GLR 525
8. J.H. Mensah v Attorney-General [1996–97] SCGLR 320
9. New Patriotic Party v Attorney-General (CIBA Case) [1996–97] SCGLR 729
10. Republic v Tommy Thompson Books Ltd; Ex parte Attorney-General [1996–97] SCGLR 804
11. New Patriotic Party v Attorney-General [1997] 1 GLR 378
12. Tehn-Addy v Attorney-General & Electoral Commission [1997–98] 1 GLR 47
13. Sam (No 2) v Attorney-General [2000] SCGLR 305
14. Apaloo v Electoral Commission & Attorney-General [2001–2002] SCGLR 1
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17. Centre for Juvenile Delinquency v Attorney-General [2001–2002] SCGLR 312
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19. Ghana Bar Association v Attorney-General [2003–2004] SCGLR 250
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21. Adjei-Ampofo v Attorney-General [2003–2004] SCGLR 411
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24. Agyei Twum v Attorney-General & Akwetey [2005–2006] SCGLR 732
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26. Commission on Human Rights and Administrative Justice v Attorney-General & Anor [2011] SCGLR 761
27. Dodzie Sabbah v Republic [2015] SCGLR 430
28. Martin Kpebu v Attorney-General [2015–2016] 1 SCGLR 143
29. Justice Dery v Tiger Eye PI & Attorney-General [2016]
30. Civil & Local Government Staff Association of Ghana (CLOGSAG) v Attorney-General [2017]
31. Raphael Cubagee v Asare & Another [GHASC] 14 (28 Feb 2018)
32. Ezuame Mannan v Attorney-General & Speaker of Parliament [2022] SCGLR 450
33. Justice Abdulai v Attorney-General (Unreported) Writ No. J1/07/2022
34. Prof. Kwadwo Appiagyei-Atua & 7 Ors v Attorney-General Writ No. J1/14/2022
35. Kwame Baffoe @ Abronye v Attorney-General [2024] SCGLR 120
36. Prince Obiri-Korang v Attorney-General [2024] SCGLR 220

### **C. International Instruments**

1. International Covenant on Civil and Political Rights (ICCPR), 1966
  1. Article 25 (Right to take part in public affairs; right to vote and be elected)
2. UN Human Rights Committee
  1. General Comment No. 25 (1996): Participation in Public Affairs and the Right to Vote (Article 25)
  2. African Charter on Human and Peoples' Rights, 1981 (Banjul Charter)
  3. Article 13 (Right of every citizen to participate freely in the government of his country and to have equal access to public service)

### **D. Comparative and Persuasive Foreign Authorities**

#### South Africa

1. Ramakatsa and Others v Magashule and Others [2013] ZACC 5; 2013 (2) BCLR 202 (CC)
2. My Vote Counts NPC v Speaker of the National Assembly and Others [2015] ZACC 31; 2016 (1) SA 132 (CC)

#### Kenya

3. Mwicigi & 14 Others v Independent Electoral and Boundaries Commission & 5 Others [2016] eKLR; Supreme Court Petition No. 1 of 2015

United States

1. Smith v Allwright, 321 U.S. 649 (1944)
2. Terry v Adams, 345 U.S. 461 (1953)
3. Mobile v Bolden (1980)
4. Davis v Bandemer, 478 U.S. 109 (1986)
5. Vieth v Jubelirer (2004)
6. Rucho v Common Cause (2019)
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8. Nipper v Smith (11th Cir., 1994)
9. Montes v City of Yakima (2014)
10. Garcia v 2011 Legislative Reapportionment Commission (3d Cir., 2014)

**DATED AT MERTON & EVERETT, AQUATEC PLACE, 2ND FLOOR,  
94 SWANIKER STREET, ABELEMKPE, ACCRA THIS 26TH DAY OF  
JANUARY 2026.**

**The address for service of the Plaintiff is as follows:**

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**DR NYAHO NYAHO-TAMAKLOE** **2nd PLAINTIFF**  
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**AND**

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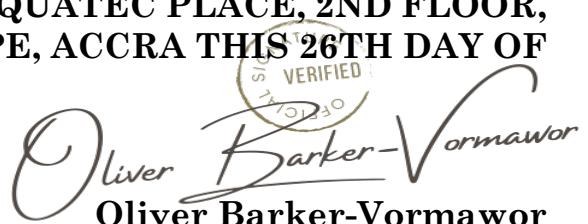
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**DATED AT MERTON & EVERETT, AQUATEC PLACE, 2ND FLOOR,  
94 SWANIKER STREET, ABELEMKPE, ACCRA THIS 26TH DAY OF  
JANUARY 2026.**



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