

**PARLIAMENT AND PUBLIC POLICY MAKING UNDER GHANA'S
FOURTH REPUBLIC, 1993-2008**

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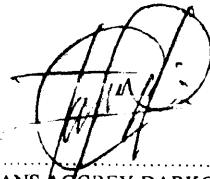
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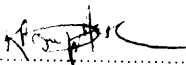
DECLARATION

I do hereby declare that besides the quotations and other references, which have been duly acknowledged, this is a research carried out under the diligent supervision of Professor Kwame Boafo-Arthur, a Professor of Political Science, former Head of Political Science and former Director of the Legon Center for International Affairs and Diplomacy, University of Ghana.

I am, however, solely responsible for any lapses, marginal or substantial, which may be found in this work.



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DEDICATION

TO MY LATE FATHER, OPANYIN KOJO DARKOH
AND THE ENTIRE FAMILY FOR THEIR RELENTLESS SUPPORT THROUGHOUT MY

ACADEMIC LIFE

ALSO TO

MY WIFE, CYNTHIA AND CHILDREN, ANDY, ANN AND ANDREA

MAY GOD RICHLY BLESS YOU ALL

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ACRONYMS

ACP	-	Action Congress Party
ADB	-	African Development Bank
ADf	-	African Development Fund
AFC	-	Alliance for Change
AFRC	-	Armed Forces Revolutionary Council
AMM	-	Ahmadiyya Muslim Mission
APP	-	All People's Party
ARPS	-	Aborigines Rights Protection Society
AWAM	-	Association of West African Merchants
CCG	-	Christian Council of Ghana
CEDEW	-	Convention on the Elimination of all forms of Discrimination against Women
CHRAJ	-	Commission for Human Right and Administrative Justice
CNCTI	-	Chinese New Techniques Construction Investment Ltd
CPA	-	Commonwealth Parliamentary Association
CPP	-	Convention People's Party
CRC	-	Convention on the Rights of Children
CS	-	Catholic Secretariat
EC	-	Electoral Commission
EEC	-	European Economic Commission
EGLE	-	Every Ghanaian Living Everywhere
ERP	-	Economic Recovery Programme

EU	-	European Union
FC	-	Finance Committee
FMC	-	Federation of Muslim Councils
GBC	-	Ghana Broadcasting Corporation
GNAT	-	Ghana National Association of Teachers
GPRS II	-	Growth and Poverty Reduction Strategy
GPRTU	-	Ghana Private Road Transport Union
IBRD	-	International Bank for Reconstruction and Development
ICC	-	International Criminal Court
IDA	-	International Development Association
IEA	-	Institute of Economic Affairs
IMF	-	International Monetary Fund
IPAC	-	Inter-Party Advisory Committee
IPU	-	Inter-Parliamentary Union
JCPF	-	Joint Community Parliamentary Forum
MDAs	-	Ministries, Departments and Agencies
MDGs	-	Millennium Development Goals
MMDAs	-	Metropolitan, Municipal and District Assemblies
MPs	-	Members of Parliament
NAL	-	National Alliance of Liberals
NCBWA	-	National Council of British West Africa
NCCE	-	National Commission for Civic Education
NCP	-	National Convention Party

NDC	-	National Democratic Party
NDI	-	National Democratic Institute
NDPC	-	National Development Planning Commission
NEDEO	-	Network of Domestic Electoral Observers
NIRP	-	National Institutional Renewal Programme
NLC	-	National Liberation Council
NLM	-	National Liberation Movement
NLM	-	National Liberation Movement
NMC	-	National Media Commission
NPP	-	New Patriotic Party
NRC	-	National Redemption Council
OPEC	-	Organization of Petroleum Exporting Countries
PAC	-	Public Accounts Committee
PCP	-	People's Convention Party
PPF	-	Popular Front Party
PHP	-	People's Heritage Party
PNDC	-	Provisional National Defence Council
PNP	-	People's National Party
PP-	-	Progress Party
RCI	-	Rational Choice Institutionalism
ROPAB	-	Representation of the People's Amendment Bill
SDF	-	Social Democratic Front
SPSS	-	Statistical Package for Social Sciences

UGCC	-	United Gold Coast Convention
UNC	-	United National Convention
UNIP	-	United National Independence Party
UNP	-	United Action Party
VAT	-	Value-Added Tax

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ABSTRACT

The role of Parliament in the policy making in Ghana has been found to be limited as the institution has suffered from the unstable political environment within which it operated especially from independence in 1957 to 1992. The lack of consistency and continuity of democratic governance undermined Parliament's ability to be properly institutionalized and benefit from path dependency.

The inauguration of the Fourth Republic and the restoration of parliamentary democracy brought in its wake a parliament that was, to all intents and purposes, a one party parliament because of the boycott of the 1992 parliamentary elections by a coalition of opposition parties. The lack of virile opposition notwithstanding, Parliament discharged its duties creditably, albeit modestly. The first parliament faced enormous challenges such as lack of personnel with institutional memory, MPs with little or no experience in parliamentary procedures and practices, weak support systems such as a poor library facilities, weak research base, lack of financial autonomy, excessive partisanship, weak committee system and poor conditions of service of MPs among others.

The study demonstrates that Parliament of Ghana works within a constitutional framework called the hybrid system that tilts power in favour of the executive and leaves parliament almost at the mercy of the magnanimity of the President in terms of resource allocation. Parliament also operates within a constitutional framework that largely subordinates it to the executive by promoting an institutional configuration that results in the depletion of its core materials for the purpose of forming government.

The study revealed that the combining effect of weak institutional configuration and the growing demands on the MP to provide both public and private goods have literally produced MPs who are keen in catching the President's eye rather than the Speaker's eye. In the process, MPs have become utility maximizers because of the desire to protect one's political fortunes.

The study recommends that considering the growing demand for institutional efficiency and good governance, there is the need for a total institutional re-configuration to balance the power between the legislature and the executive. It also recommends rigorous development of the institutional capacity of Parliament to enable it play a meaningful role in policy making in the country.

CHAPTER ONE

INTRODUCTION AND CONCEPTUAL FRAMEWORK

1.1 Introduction

There are three fundamental arms of government. These are the legislature, the executive and the judiciary. These organs perform the three core functions of government involving rule making, rule application and rule adjudication respectively. The three organs work in harmony to promote the public good in most states. The roles of the executive, legislature, and judiciary are often specified in a constitution. The role of the executive is to steer the country and to apply the rules made by the legislative body. The executive is usually the center of power and leadership.¹ It is involved in supervising, guiding, planning, coordinating, and stabilizing the activities of the state. The role of the legislature is to make laws for the country, while the courts are to adjudicate the laws by resolving disputes between citizens and citizens and the state. Generally, the legislature attracts a lot of attention because it is treated as the public or the democratic face of government.² The term “legislature” is derived from a French word “parler” which means, ‘to speak’. It is often described in pejorative term as a ‘talking shop’. It is a law-making assembly of elected members in a formally equal relationship to one another.³

The legislature is also seen as a building where representatives meet and discuss the main affairs of the nation, it passes legislation, and exercises control, or tries to exercise it over government.⁴ Others contend that they act as debating chambers, public forums in which government policies and major issues of the day can be openly discussed and analysed.⁵ Parliament is also thought of as the supreme legislative assembly of Great

Britain and Ireland, consisting of the king or queen and three estates of the realm: viz, the Lords temporal, the Lords spiritual and the Commons.⁶ According to Nelson Polsby, the legislatures are, official agencies of government, multi-membered, directly elected by their citizens, members are formally equal in status, they deliberate, and make decisions by counting votes to determine what issues have majority support.⁷ These six characteristics distinguish legislatures from other institutions of government.

Generally, the legislature is important for purposes of representation, enactment of laws, and exercises oversight responsibility over the executive, providing constituency services, serving as institutions for the recruitment of skilled personnel to form government and finally promoting some form of legitimacy to a regime.⁸ One of the most important functions of the legislature is law making. Law making which shades imperceptibly into public policy making is an effort by society to manage itself. It is often seen as the means by which governments legitimize substantive and procedural actions to reshape public problems; perhaps to resolve them.⁹ Legislation making is a product of a complex deliberative process that takes disagreement seriously and that claims its authority without attempting to conceal the contentions that surround its enactment. In this connection, legislatures are organized precisely to invite disagreements, publicly identify alternative views of an issue, and provide means of reaching a compromise or accommodation. Following from this, legislators are commonly thought of as lawmakers and have constitutional responsibility to participate meaningfully in the public policy making process.

It is against this backdrop that the legislature occupies a unique position in the machinery of government in every state. Today, every state has a legislative body of some kind. In some states legislatures are powerful decision-making bodies, while in others they are merely advisory bodies, performing only as rubber-stamp institutions.

In Ghana, parliament is an important component of national governance system. It has always been part of the governance system from colonialism to the present. In all the Four Republics, the legislature has always featured prominently. It is argued that the legislature by performing its constitutional assigned role contributes to the elements of effective governance which includes; state stability, accountability and responsiveness¹⁰. In fine, effective legislature is an essential component of democratic governance. In other words, in the absence of an effective legislature, good democratic governance will be illusive.

In the area of representation, parliament has provided the ordinary Ghanaian and organized political parties with the opportunity to represent the interests of their constituents, making input into legislation and participate effectively in the democratic governance process in accordance with the rule of law espoused by the 1992 Constitution of Ghana.¹¹ In view of the cardinal role played by parliament in the democratic arrangement of the state, it is imperative for a critical study to be conducted to identify its public policy making role and the constraints affecting its effective performance.

1.2 Statement of the Problem

Parliament as an institution has always featured prominently in the body politic of Ghana. Even though it is a colonial legacy, Ghanaians have found it very useful in view of the important role it plays. The legislative and executive institutions were part of the colonial institutional structures for the governance of the Gold Coast, even though they mostly served as advisory bodies, and were mostly undemocratic because of the under-representation of Africans.

Parliaments in Africa in general and Ghana in particular have not been given the opportunity to fully develop. In terms of enacting laws, debating national issues, checking the activities of government and in general promoting the welfare of the people, it has been argued that legislatures in Africa rarely perform these duties and obligations with efficiency and effectiveness.¹² Most first generation African leaders soon after independence turned their countries into one-party states and subsequently turned their parliaments into rubber-stamp institutions. They were expected to be loyal to single political parties, basically considered all purpose institutions and largely operated under the scrutiny of the ruling party. Parliament related to the executive in such a manner that rendered the notion of separation of powers largely ineffective. Consequently, the legislative institutions served the interest of only the ruling elites.¹³

In Ghana, parliament as an institution has suffered because of the political instability which became a dominant feature of the body politic between 1966 and 1992. This is in contrast to the executive and judicial branches which continued their operations and

subsequently developed norms, practices, procedures, competences and resources. Parliament, like any institution, tends to develop its character, structural complexity, norms, procedural standards, patterns of leadership, and decision making routines over a period of time.¹⁴ In the process it becomes institutionalized thereby exhibiting, autonomy, coherence, complexity and having the capacity to adapt to changes in the internal and the external environments. The frequent military interventions sought to undermine the development of parliamentary practice in the country. Apart from the First Republican parliament, all the others did not run their full term. It was against this bleak background that the successful military disengagement from politics in 1993 was hailed as a landmark development in the political history of the nation. The country has since 1992 witnessed four presidential and parliamentary elections with varying degrees of success with each election recording a significant improvement over the previous one.

Ghana has since independence been oscillating between both the parliamentary and presidential systems of government. Starting with the Westminster system of government in 1957, the attainment of republican status resulted in the adoption of a presidential system of government with excessive powers concentrated in the hands of Kwame Nkrumah, the first president. The nation once again reverted to the Westminster system in 1969. In 1979, under the Third Republican Constitution, the nation opted for the presidential system. The Fourth Republic which is the focus of our study is a hybrid system between the presidential and parliamentary systems of government. Ghana has always adopted a unitary state with a uni-cameral legislature and the Fourth Republic is no exception. Since the inception of the current dispensation in 1992, Parliament has

undergone a steady development. From a near one-party debate chamber in 1993, the legislature has witnessed a tremendous increase in the number of parties represented in it thereby gradually changing its shape and character. Increasingly, the populace sees the institution as mirroring the society.

There is no doubt that the proper functioning of parliament is fundamental to democratic consolidation in the country. Consequently, since the return to constitutional rule in 1993, much attention has been focused on the operations of parliament with a view to improve its public policy making role and advance the cause of democratic consolidation.

Even though parliament is a critical institution in the policy making process in the country, the critical problem is that its weak capacity and inappropriate constitutional framework have combined to constrain its ability to discharge its constitutional responsibility of assisting in the formulation of effective public policies and programmes. As a matter of fact, the hybrid nature of the 1992 Constitution has greatly constrained the independence of parliament and reduced it to a mere passive participant instead of an active one in the policy making process in the country.¹⁵ In all the four parliaments under review, the ruling parties had usually enjoyed some relative majority in the House. Considering the fact that most parliamentary businesses are conducted on the basis of simple majority, a ruling party will almost always have its policy proposals (bills) enacted into laws. This development gives the impression that parliament is only a rubber-stamp institution. Even though these problems have been acknowledged by several authors, they have not been examined within the context of neo-institutionalism.

It is this theoretical construct that this work utilizes to interrogate the critical problems aforementioned.

This study therefore examines the contribution of parliament to public policy making in Ghana with emphasis on the Fourth Republic. Specifically, it addresses the contextual and intervening variables that impact on the performance of Parliament. The empirical questions that will engage our attention are:

- i In what ways has parliament evolved in Ghana in particular since the advent of multiparty politics in the 1992?
- ii How and in what ways does parliament contribute to public policy making?
- iii How do the structure, practices, processes, procedures and resources of Parliament promote or constrain its functions?
- iv What is the relationship between parliament and the executive?
- v What incentives, both internal and external to the legislature have impacted on individual Members of Parliament (MPs)?
- vi What measures will enhance the performance of parliament in Ghana?
- vii What lessons have the study conveyed about institutions and public policy making?

1.3 Hypothesis

The hypothesis of this study is that the effectiveness of parliament in public policy making largely depends on the context within which it works.

1.4 Objectives of the Study

This study has seven-fold objectives. These are to:

1. Examine the evolution of parliament and parliamentary practices in Ghana
2. Assess the performance of parliament in the context of political, institutional and economic trajectories that Ghana has gone through.
3. Discuss the structure and constitutional powers conferred on parliament and how these impact on its performance.
4. Examine the relationship between parliament and the executive branch of government and the extent to which this relationship has affected the former's work especially in the area of public policy making.
5. Analyze the challenges that confront parliament and their effects on its capacity to contribute to public policy making.
6. Make recommendations that will help promote the public policy making role of parliament.
7. Contribute to the debate over institutions and public policy making.

1.5 Literature Review

There is a plethora of studies on the legislature as a concept and public policy-making. Very little has, however, been written on the linkages between the legislature and public policy. The review of literature is divided into five parts as follows:

- I. General Studies on Parliament;
- II. General Studies on Parliament and Public Policy making;
- III. Studies on Parliament in Africa;

IV. Studies on Parliament in Ghana: and

V. Studies on institutions and Public Policy making in Ghana

1.5. 1. General Studies on Parliament

Several studies have been conducted on the legislature globally. The studies conducted by Kessey, Copeland and Patterson and Davidson explore the evolution and growth of legislative institutions and the variables which promote or undermine their performance.

Kessey in his work, "Modern Parliamentary Procedure", highlights the modernization of parliamentary procedure to facilitate the transaction of business in an orderly, deliberative and democratic manner. He considers the voice of the majority to be the heart of democracy.¹⁶ He also underscores the right of minorities as a very crucial component in parliamentary democracy. He traces the origin of parliamentary practice to the Fifth-Century in Athens and the Council of 70 chosen by Moses in the Bible.¹⁷ Kessey also highlights special parliamentary practices such as point of order, seconding a motion, presence of a quorum as necessary practices that allow parliament to function effectively.

The study also identifies the committee system as one of the most important structures of parliament, arguing that most organizations meet largely to approve what committees have done.¹⁸ Among the voting methods he identifies are, General Consent, the Roll Call, Show of Hands, Mail Voting, Voting by Proxy and Preferential voting. He concludes by explaining the standing orders which are normally designed by parliament to suit its specific needs and objectives.¹⁹

This study is important in that it gives us the basis of parliamentary practice and shows some of the key principles and practices governing the conduct of parliaments. We will augment this information with an analysis on how the structure of the Ghanaian parliament impact on public policies, something which is missing from Kessey's study.

In a study, "Parliaments in the Twenty-First Century", Patterson and Copeland affirm that new parliament abounds in the world today²³. They point out that the aftermath of the collapse of Communist regimes in Central and Eastern Europe has led to the emergence of democratic representative assemblies in Poland, Hungary, Romania, Bulgaria etc. In Latin America, parliaments are being restored or established where authoritarian or military rule prevailed.²⁰ They explain the process by which parliament can be institutionalized, maintaining that the US Congress which is acknowledged to be one of the world's most powerful legislative institutions has to endure some changes. In the early nineteenth-century, the US Congress was a feeble, incipient organization.²¹ They opine that political institutions such as parliament tend to develop their character, structural complexity, norms and procedural standards, patterns of leadership, and decision making routines over a period of time. In short, they become institutionalized. They also contend that the British Parliament and the US Congress became what they are today through a period of evolution. New versions of parliament were established in Germany, Italy, and Japan after 1945 and have developed into formidable institutions. Copeland and Patterson indicate further that legislative and parliamentary institutionalization involves establishing and maintaining organizational structure, and linking the organization to its environment. In their view, a highly institutionalized

legislature exhibits features such as autonomy, formality, uniformity, and complexity.²² They also discuss the dynamics of legislative institutions and reiterate that legislatures grow over time, come to have a well-articulated structure, establish institutional memory and increasingly mould and shape the behavior of their members at any particular period of time.²³ It is also hinted that some parliaments start as very fragile institutions, but develop into robust institutions.²⁴ They, however, point out that parliaments vary in their degree or extent of institutionalization. Those which are weak lack organizational complexity, exhibit uneven development of institutional norms, have uncertain leadership structure among others. They conclude that the notion of legislative institutionalization does not embrace a doctrine of inherent organizational stability nor does it imply that institutions are ossified and unchanging.²⁵

We acknowledge that the process of legislative institutionalization is important and the sign post given by Copeland and Patterson will assist us identify whether or not the parliament of Ghana exhibits signs of institutionalization within the context of the hybrid system. The linkage between the structure and the performance of its functions which was not highlighted in their work will be covered in our study. We will also identify the challenges constraining the work of parliament in Ghana.

Roger Davidson in his work, "Two Congresses and how they are changing", contends that the US Congress has a persistent image problem.²⁶ He accuses the legislators for contributing to their poor image by portraying themselves as "gallant warriors against the dragons back on Capitol Hill". He asserts that "they run for Congress by running against

Congress”.²⁷ He states that the US Congress has a uniquely dual character. It is both a “deliberative assembly of one nation” and a “Congress of ambassadors”. Even though they are analytically and physically distinct, yet they are inextricably bound together; what affects one sooner or later affects the other. Congress as an institution has suffered as a result of certain currents such as the ever growing or increasing workload, resource constraints, the diverse nature of problems which do not yield to traditional solutions, the ever increasing expansion of executive powers resulting in pressure on Congress and, finally, the nation’s shifting partisan and factional structure.²⁸ Continuing, Davidson hints that Congress has responded to those challenges by adopting measures such as workload adjustment, workgroup proliferation, and democratization of Congress and the growth of staff bureaucracy.²⁹ He further identifies what he referred to as a “second set of pressure” on the Congress. These include the variety of goals held by members, decline in party organization, rising constituency demands and citizens’ ambivalence towards politics which has even turned into cynicism.³⁰

He concludes that Congress is an essentially reactive institution which mirrors the nation’s political life, its values, standards and organizing principles. In his view, Congress reflects the atomization of political life of the United States. He insists that the current trend will persist until the pressure to resist or the galvanizing force of a political movement will once again change the force of the American landscape.³¹ This study offers us an important lesson that the environmental variables are very important in shaping the performance of the legislature. While this will prove invaluable in our efforts at figuring out the endogenous and exogenous variables which impact on the performance

of parliament in Ghana, our work will further explore the extent to which these variables affect its public policy making role.

The studies by Blondel, Heywood, Jackson and Jackson, Godwin and Wahlke are basically on the structure and the generic functions of the legislature in the world. They affirm the importance of the legislature in the area of public policy making, formation of government, providing legitimacy to a regime, performance of constituency service and the exercise of oversight responsibilities over the executive.

The work of J. Blondel describes the legislature as one institution of government that possesses the most fascinating problem. Legislatures continue to be the most decried and the most revered, the most hoped for and often the least successful institution in contemporary governments.³² He maintains that legislatures are considered as mere puppets, exercising little influence over policy-making. He also opines that even though legislatures are expected to promote liberalism and democracy, they have not been successful in that endeavour.³³ Among the other issues dealt with by the study are the constraints on legislature, constitutional framework of powers and the role of legislature on policies of immediate importance which relate to the generation of new ideas and the control of output of administration and government.³⁴

Blondel is of the view that legislators serve as intermediaries for demands made by others or may themselves serve as originators of suggestions. In relation to output of the political system, it will range from very detailed to general, they often result from

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initiatives of members or triggered by constituents and interests.³⁵ The study concludes that even though there is an exaggerated view of the importance of legislatures, they still remain very influential in countries where they were originally created and elsewhere than is usually claimed.³⁶

The study offers a general overview of legislatures on a comparative basis. It also provides some useful insights into the functions of legislatures. However, the public policy making role of parliament is not explored. Our study will discuss the traditional role played by the legislature in Ghana while exploring how the structure of the institution as presently formed, affects its public policy making functions.

Andrew Heywood also explores legislatures from a theoretical point of view.³⁷ His view is that legislatures are often treated with special respect and status as the public and even democratic face of government. He identifies some of the functions of the legislature as legislation, representation, scrutiny, political recruitment and legitimacy.³⁸ He further discusses the structure of parliament and the committee system. He concludes that legislatures seem to be on the decline largely because of the emergence of disciplined political parties, the growth of big government, organisational weaknesses of assemblies or legislature and the rise of interest groups and the media power. This study is very instructive as the theoretical grounding of our study relies extensively on it. We have, however, flagged the structure of the legislature and its influence on public policy for further scrutiny.

Like Andrew Heywood, the work of Jackson and Jackson on the legislature was brief but very authoritative.³⁹ They affirm the importance of legislature and assert that in democracies, these bodies consist of representatives who govern on behalf of the people.⁴⁰ Jackson and Jackson identify some functions of legislatures such as law-making, the power to raise taxes, helping to elect a government and teaching and informing the public.⁴¹ The study also indicates that the internal rules for deliberations in legislatures are important in the determination of members' activities and their effectiveness. The study mentions the committee system, the Speaker and other bodies of the House which help the institution to function effectively.⁴² They conclude by discussing the relationship between the executive and the legislature which is very crucial to the way a political system works. They consider two main opposing schools of thought on this topic. One school of thought has it that legislatures have declined over time and thus allowed executives to become more powerful in the policy process. This position is refuted on the grounds that there never was a period when the legislature dominated the executive; legislative institutions have always been relatively weak. Our study has benefited from this study in the area of the internal dynamics of the legislature provided by the study. The relationship between the executive and the legislature is of paramount importance to our study. However, the study has been found to be heavily skewed in favour of the executive. Our study takes a further look at how this asymmetrical relationship between the legislature and the executive has affected the performance of the former.

Shedding more light on the theoretical foundation of the legislature, Godwin and Wahlke discuss the various forms of government.⁴³ They specifically discuss the parliamentary and presidential systems and the responsibility and dissolution of parliament. They dilate on the institutional framework of legislatures like legislative competence, the number of chambers, rules of procedure, and the authority and leadership structure. The committee system is identified as one of the most important institutional mechanisms which facilitate the work of the legislature.⁴⁴ Legislative processes such as initiative, deliberation and enactment are elaborated.

On legislative performance, the study identifies representation as a very crucial function of the legislature. It is their firm belief that any definition of representation must answer two fundamental questions, (1) who or what is represented? and (2) how does a representative make decisions? They maintain that a representative's first obligation is to protect the interests of the home district and to base actions on the opinions of constituents.⁴⁵ They further mention oversight and control over the executive, community service, recruitment of political elites as some of the functions of parliament which are often protected by legislators.⁴⁶

Our work will draw a lot on the theoretical foundations given by Godwin and Wahlke. We will explore the role of the various committees in the Ghanaian parliament and establish their role in the overall public policy making function of parliament. The type of relationship between the executive and parliament will be explored. We will also identify the role of individual legislators in the public policy making process.

Michael Rush, Philip Norton and Geoffrey Smith are unanimous in their views that parliament in Britain is increasingly losing its legitimacy. The high image of the Westminster system internationally notwithstanding, there is considerable dissatisfaction at home with the British Parliament in recent years.⁴⁷ This trend is due to three principal factors.⁴⁸ These are: first, parliament is seen as the symbol of government and so when there is a strong perception that Britain has over the years failed to perform as expected, it will be strange if the symbol were rising in popularity. Second, parliament is thought to be merely a rubber stamp for the decisions of government. Third, a lot of the MPs are now career politicians.

He explained the efforts which were made in the 1980s to address the frustration of the backbenchers. He specifically identifies the reforms of the committee system as one potential area capable of addressing the problem.⁴⁹ He asserts that powerful select committees would not be content for long with civil servants confining their evidence to factual information and eschewing their own ideas on policy.

He concludes that in Britain reforms permeate slowly and that it is not a country where constitutional change is in danger of being too drastic or too rapid.⁵⁰ We are concerned with the variables which undermine the work of parliament in Ghana and by extension, reduce public confidence in the institution.

Michael Rush's study is also on the British Parliament which he believes is at the heart of British politics. He places parliament in a wider social, historical and political context, as

well as looking at its operation, and taking into account the widespread changes that have taken place since 1997.⁵¹ He presents parliament as a solution to the problem of how power is curtailed within a political system. He affirms the supremacy of the British Parliament and claims that even though Britain has signed many treaties, none more than the Treaty of Rome, the ratification of which preceded Britain's accession to the European Economic Community (EEC) now the European Union (EU).⁵² However, in legal sense, parliamentary sovereignty remains intact. Rush is of the view that politics is about the exercise of power, but most power is exercised with authority and parliament lies at the heart of power in the United Kingdom (UK).⁵³ He explains that the UK parliament has a dual role; on one hand, it grants authority to the government and legitimizes its policies, and on the other, it scrutinizes the exercise of that authority. He asserts that while party government means government by the leader of majority party and his principal supporters, parliamentary government means government through parliament and not by it.⁵⁴

He further indicates that parliament is a multi-functional institution. He therefore cites legitimization of policies, representation, financial control, and recruitment of ministers and law making, as some of the functions performed by parliament.⁵⁵ Rush maintains that parties are the engines of parliament and the fact that most general elections results in one party securing majority of seats in the House of Commons, affects profoundly the way parliament operates. Rush also discusses the law making function of parliament and points out that a considerable amount of time is devoted for this. Even though he affirms that parliament has preponderance of influence in law making, he is not very happy with

the current level of scrutiny and insists that this can be improved only if parliament has the will to do it.⁵⁶ Rush highlights areas which he believes merit to be given urgent attention if parliament is to operate effectively and efficiently. These include reforms in personnel and the nature of representation, pay and resources, organization of parliament, legislative scrutiny, financial scrutiny, non-financial scrutiny, separation of powers, electoral reforms and fixed term of parliament, among others. Rush concludes that voters normally value their MPs over parliament and if the trend will stop then the needed reforms must be carried out to make parliament more responsive to the needs of the people.⁵⁷

This study is important as it demonstrates the importance of parliament in democratic governance. The nexus between parliament and environmental variables, which the author alludes to, will help us figure out what factors promote or undermine the performance of Parliament in Ghana.

Philip Norton also delves extensively into the modus operandi of the British Parliament.⁵⁸ He draws the distinction between the House of Lords and the House of Commons. He traces the history and development of parliament and indicates that unlike the US Congress, the British Parliament has moved from being a “transformative institution” where it enjoyed an independent capacity and frequently exercised power to mould and transform proposals, into an “arena parliament”, by serving as a formal arena where significant political forces could express themselves.⁵⁹ He discusses the composition of both Chambers of Parliament and identifies the educational and professional background

of MPs. He also highlights increasing attempt at improving the service conditions of MPs. Like Rush and Smith, Norton states that the Commons is a multi-functional body. Some of the functions identified include providing personnel of government, legitimization of government, providing avenue for debates, and scrutinizing the activities of government among others.⁶⁰ Norton also underscores the importance of the committee system in the work of the Commons. Other mechanisms of ensuring accountability of the government like the issue of Question Time and the institution of select committees are also treated.

Norton is also of the view that parliament continues to enjoy popular support as a legitimate political institution. He, however, concedes that recent decades have witnessed claims that neither popular support for it as a legitimating political body nor its modest powers has been as great as was previously believed. He identifies the mode of election and the adversarial relationship between the parties as responsible for undermining the claim of the House of Commons to be a representative assembly. The unelected basis of the House of Lords continues to be used as grounds to undermine its claim as a viable political institution.⁶¹ As a result of these accusations, pressure is being exerted on these institutions to embrace reforms.

This study is important as it provides us with the general environment within which the British Parliament operates and so provides us with some justification to look at the institutional and environmental contexts within which the Ghanaian Parliament operates. The study also highlights the educational and professional background of MPs. Our study

also assesses how a variable like educational background affects the performance of MPs in Ghana. The discussions on the role of parliament in policy making were very patchy and our study will delve deeper into this. Even though Norton mentions the committee system in the British Parliamentary practice, its treatment was inadequate. Our study will throw more light on the committee system and establish the relationship between the parent House and the various committees.

Studies conducted by Joseph Cooper, Davidson, and Norman Ornstein and Thomas Mann are unanimous on the position that Congress of USA is losing credibility in the eyes of the electorate.

Cooper contends that the depth and persistence of low levels of trust in government and in key political institutions provide substantial grounds for concern over the fate of representative government in the United States.⁶² He opines that belief in the basic legitimacy of the political system, the representativeness and integrity of governmental decision making units and officials, and in the ability of government to devise and implement policy programmes that satisfy the interests and aspirations of the people are all components of trust.⁶³ Most Americans have lost confidence in the Federal government and its ability to operate efficiently and effectively.⁶⁴ Cooper points out that the evidence is mixed on the dangers that this low public trust in Congress has on the overall political system.

Roger Davidson argues that belittling Congress is a venerable national pastime. He shares the view held by Lord Bryce that “Americans are especially fond of running down their Congressmen”.⁶⁵ He mentions economic worries, campaign funding revelations, public scandals, declining social capital, media hostility, poor leadership, Capitol Hill careerism among others, as some of the variables explaining the low regard for Congress in recent years.⁶⁶ He presents Congress as a very complex institution with multiplicity of workgroups and tortuous path of lawmaking.⁶⁷ He further discusses Congress and political parties and reveals that members of Congress are far more fervent partisans than the people who elected them. In his view, the partisan and ideological chasm results not only in sharp divisions on the floor during voting, but also in harsher language during debates.⁶⁸

He concludes that Congress’s low reputation may well be rooted in its own structures and procedural arrangements. To him, Congress is too large and responds to many demands. He calls for the streamlining of the institution and intensification of public education to make it much simpler, and also allow the public to appreciate the role of Congress in the political system.⁶⁹

Ornstein and Mann in their book, “The Broken Branch”, address the key factors responsible for the polarization of the US Congress.⁷⁰ These include partisan tensions, the demise of regular order and increasing levels of incivility. Tracing the institutional foundation of Congress they emphasise that the institution dominates politics and policy making at the expense of the other branches of government.⁷¹ They point out that even

though the Constitution does not provide for a legislative supremacy, it does build an institutional edifice in which Congress is seen as a powerful, independent body representing diverse interests, deliberates on important policy questions exercise oversight over other branches of government.⁷² While Congress has responded to certain forces and changed in ways never anticipated by the framers of the Constitution their logic and most of the design remain intact. Congress still retains a central position in American politics, drawing from a vital link to the citizens through a direct election separate from the executive and its impressive arsenal of constitutional powers.⁷³ They affirm that parties have over the years contributed to the polarization of Congress.

In conclusion, Ornstein and Mann posit that partisan name calling of Congress is not new in American politics, asserting that some historians will argue that it is the norm. They are convinced that Congress is much larger and more potent part of the federal government with remarkable scope and sweep. In view of this, the actions and inactions have wider ramifications. They admit that the decline in deliberation has resulted in shoddy and questionable policies.⁷⁴

The studies by Cooper, Davidson and Mann and Ornstein have brought to the fore the importance of parties in the activities of legislatures. They have also highlighted the potential dangers associated with excessive partisanship. Our work will draw on the lessons learnt from these studies in our effort at studying the role of political parties in Ghana's Parliament. Specifically, we address the functioning of the committee system and how political parties shape the deliberations and outputs of these committees. We

will look at the institutional foundation of Ghana's parliament and establish the nexus between the committees and public policies which emanate from the House. Furthermore, our work will look at the relationship between the legislature and the executive and the effect this relationship has on the performance of the latter, a void in the studies reviewed above.

Bond and Fleisher discuss the president and Congress in a partisan era.⁷⁵ They are of the view that battles between Congress and the President are not new in American politics.⁷⁶ They argue further that because the power to make national policy in the United States is shared between the Congress and the President, conflict is expected and even intended. In their view, the provision for the concept of separation of powers and checks and balances in the US Constitution were to protect liberty.⁷⁷ They argue that politics in Congress and the presidency became partisan in the 1980s. The formulation of public policies therefore requires a lot of consultations, building of coalition and compromise.⁷⁸ The rise in partisan conflict has occurred during a period when the electoral process has tended to divide control of the national institution between the political parties.⁷⁹ They contend that weak parties in a fragmented government make it very difficult for government to pass laws in response to popular preferences. The same weak parties and fragmented power makes it very difficult to apportion blame for government's lack of responsiveness. They point out two main perspectives on divided government. On one hand, there is the view that government produces the same amount of legislation under divided and unified government. While the others contend that gridlocks occur under both divided and unified government.⁸⁰ They argue that if policy making is difficult under any

circumstances, government is brought to its knees by the combined effects of divided party control and intense partisanship. They contend that parties matter in the governance process. They, however, conclude that the argument that the American government is characterised by gridlock and an incapacity to govern is too strong.⁸¹

This study affirms the fundamental role played by parties in a legislature. Even though opinion is divided on the exact role played by parties, it cannot be denied that parties contribute significantly towards the shaping of the character of legislatures. Our study draws from this position in analysing the activities of various committees in the Ghanaian parliament as they relate to public policy making.

The study of Deering and Smith is on the committees in Congress. They underscore the importance of the committee system and affirm that Congressional committees have been and remain the central structural element of the United States Congress.⁸² They identify the distributive committee perspective, party dominated perspective, and the chamber dominated perspective as the main perspectives explaining committee power.⁸³ They maintain that committees sometimes enjoy a lot of powers because of the ability to collect political and policy information. The study further discusses the type of committees that operate in the US Congress. They include ad hoc, conference, select, special, standing, and joint committees which are employed for a variety of purposes.⁸⁴ Deering and Smith trace the evolution of committees in Congress and indicate, among other things, that long before political parties were formed, Congress was organising its activities and augmenting its rudimentary structure by adding more subunits.⁸⁵ They also

discuss the modernization of the committee system after World War II to institutionalize the independence of committees in each chamber. Since then reforms have been institutionalized to ensure that Congress is always able to respond to emerging issues. They also explain the role of parties in the Congress and hint that parties have been relatively weak in Congress as compared to those in parliamentary systems. They, however, maintain that parties and their caucuses still dominate the process of policy making.⁸⁶ They also examine committee and subcommittee leaders, the role of subcommittees in shaping legislation, the distribution and the role of staff resources. They conclude by intimating that committees are unique, resilient and almost certainly permanent features of the United States Congress even though they are not immune from assault, diminution or even circumvention. They also turn to the power that is or ought to be wielded by the committees by offering two possible scenarios. The first is that if the majority party is highly cohesive on an issue, then that party will impose policy decisions by virtue of numbers, and systems of party-dominated committees will then develop.⁸⁷ On the other hand, the larger the agenda, the more separable the issues, the more frequently-issues occur, and the less resilient the issues, the more Congress relies on committees and the less it relies on parties or the parent chambers to make decisions.⁸⁸ The powers of committees will, however, continue to ebb and flow. It will continue to reflect chamber influences, party influences, and the parochial influences of committees and interests throughout the country.

This study is very important for our work since it lays down the theoretical framework within which committees operate. Our work will use the perspective discussed by

Deering and Smith in explaining the workings of the committees in Ghana's parliament. The relationship between the committees and the parent chamber and the effect of the relationship on the overall performance of parliament will be explored. The relationship between the committees and the parliament and its effect on the content of public policy, which has not been adequately addressed by Deering and Smith, will be addressed by our work.

The study by Stewart provides a theoretical foundation for the study of Congress by introducing what he calls 'spatial voting theory' (concern with how generally members of a group make choices when they are rational and their choices can be described dimensionally). He argues that because the US Congress makes decisions in an extremely complex policy environment, multidimensional chaos always lies just below the surface.⁸⁹ Stewart provides the historical foundation and constitutional origins of Congress and adds that Congress did not simply have its origins in the Constitution, but in a host of legislations that preceded it.⁹⁰ He further indicates that what the Confederation Congress provided for in the Articles of the Confederation was a very weak institution because its design encouraged the type of chaos that social theorists often treat as simply hypothetical. The Constitution establishes a Congress that is sovereign over the territory it governs and the legislators who serve as its members.⁹¹ Like Deering and Smith, Stewart also discusses the role of the committee system in the US Congress. He re-echoes Woodrow Wilson's statement that "Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work" to underscore the importance of committees. He identifies some of the committees

as standing committees, special committees, joint committees and conference committees.⁹² The membership, selection of chairpersons, staffing and the general resources used by the staff are all covered by the study. Stewart posits that members of Congress pursue three goals namely power, policy and reelection.⁹³ He subsequently asserts that the behaviour of committees is best understood in the light of the goals pursued by the members of Congress.

Like the studies of Deering and Smith, Stewart's study is very instructive. It provides us with some analytical tools to look at the Ghanaian Parliament and more specifically, the committee system, its origins and constitutional foundation. The role of the committees in the policy making process will engage our attention. We will also explore the motives underpinning the work of MPs and how these motives enhance or constrain the work of parliament.

1.5.2 General Studies on Parliament and Public Policy making

The study conducted by Adolino and Blake is a comparative one on six industrial countries. They discuss the increasing internationalization of public policies, identify the policy making process, theories of policy making, political and economic dynamics of policy making, the policy making context and case studies of certain key areas such as immigration, fiscal, taxation, health, social, education and environmental policies. They maintain that the policy making process in industrialized countries is often more dissimilar from country to country. The difference is as a result of differences in institutional arrangements that allocate power and resources in distinctly different

patterns in each country.⁹⁴ They affirm that the executive in the US does not have the ability to control the legislative agenda. The president may not introduce legislation directly to the legislature but must work with members of Congress to persuade them to adopt and propose the government's policy programme.⁹⁵ Generally, policies in the US are made by assembling a specific-issue coalition through a process of bargaining, and deal making, typically involving public officials, members of Congress as well as interest groups' representatives. The US legislature therefore exercises far more control over policy making than legislatures in most industrialized countries.⁹⁶ They also explain that the judiciary and interest groups are very active in the policy making process in the US.

In their view, France offers a hybrid system, which is a mixture of presidential and parliamentary systems of government. With the exception of periods where the president and the prime minister represent different parties referred to as cohabitation, nearly all government policy making since 1958 have been the primary responsibility of the president and a small circle of advisors. They state that the French parliament during the Fifth Republic has played a minor role in policy making, especially on important policy issues.⁹⁷ This situation is explained by the limitations put on parliament by the constitution. Nearly all legislations considered by parliament are proposed by the executive who has a wide range of powers to even encourage parliament to adopt its policy proposals. It is argued that unlike US, France has no principle of judicial review. Even though it has pluralistic interest groups which try to influence public policies, they are mainly smaller, less organized and less cohesive.⁹⁸

Turning to the situation in Britain, Adolino and Blake, point out that parliamentary democracy is organized around a unitary structure.⁹⁹ They intimate that although parliamentary sovereignty is an important foundational principle of the British political system, policy making is in reality the responsibility of the prime minister and the cabinet. The British executive is very successful in seeing its policy agenda adopted in its entirety. The existence of a two-party system also makes it possible for a prime minister to control majority of the Lower House and therefore able to influence policy decisions as he wishes. The opposition, by and large, has very little or no real ability to influence policy making and even the ability of majority members to amend the government's policies is highly restricted.¹⁰⁰ The study also emphasizes that courts do not have policy making role in the United Kingdom. The pluralistic interest groups in the UK are increasingly influencing the public process especially on issues that affect them.

The study is important as it offers the context within which public policies are made in industrial countries. In studying the role of parliament in policy making in Ghana, we will explore the context within which it operates to enable us understand the variables which affect its functioning. The treatment given to parliament and policy making is too casual and general. To fill this gap, our study will offer an in-depth analysis of parliament and public policy making in Ghana.

Peter Dorey's study, "Policy Making in Britain; An Introduction", discusses the trends of policy making in Britain since the 1980s.¹⁰¹ He states that it has been widely accepted that parliament plays only a limited, indirect role in policy making in Britain. He re-

echoes a statement made by Philip Norton that the British parliament is a policy-modifying body rather than a policy making one.¹⁰² He points out that Britain's membership of the European Union whose laws take precedence over domestic laws has reduced the law making powers of parliament. He further indicates that the existence of Question Time where ministers are held accountable for their stewardship and the debate on the floor of the House go a long way to imbue public policy with legitimacy.

Dorey also explains the legislative process (the process through which a bill becomes a law) and identifies public bills, private bills and private member's bill as the main types of bill considered by the House.¹⁰³ Dorey further discusses the committees system and its role in policy making in the UK. He concludes that even though the British electorate have become more cynical about politicians and indeed much of the political process in general, parliament remains the main institutional forum in which government measures and public policies are regularly debated and examined by elected representatives which eventually confers legitimacy on governmental policies.¹⁰⁴

The study will assist us in analyzing the role of committees in Ghana's parliament. Our study will further address the composition of the various committees in parliament and identify a model that can best explain the relationship between committees and the parent House.

Mezey's study is on political institutions and public policy in the United States with special emphasis on the Congress and the presidency. He is of the view that tension,

conflict, and policy stalemate between the president and the Congress are now permanent features of the US political landscape.¹⁰⁵ He indicates that the creation of the presidency and the Congress with the mandate to share policy-making power, has made persistent institutional conflict all but inevitable. He further states that good public policy can be measured by three basic criteria. These are the context within which the policy is being formulated, democratic, and managerial criteria. Mezey maintains that the extent to which a political system can achieve public policy that can be judged as good according to managerial or democratic criteria is influenced by the role of the legislature relative to that of the executive in the policy making process.¹⁰⁶ To him, the generic features of each institution affect its ability to achieve public policies that are informed, timely, coherent, effective, and responsible.

Making reference to the US system, Mezey asserts that the legislature tends to be collegial, representative, open, and non-specialized, whereas the executive tends to be more hierarchical, less representative, closed and specialized. These features make it possible for the legislature to pass laws which meet the democratic criterion while the executive is more predisposed to making policies that satisfy the managerial criteria. Mezey hints that the United States operates a balanced system where the legislature and the executive share political power on a more or less equal basis. Thus, the US Congress regularly initiates policy proposals, deliberate among alternatives, and decides upon the course of action that the nation must pursue.¹⁰⁷ The president and the bureaucracy are policy making partners of the Congress, with significant prerogatives of their own with regards to policy initiation, and deliberation. He concludes that both the president and the

Congress of the United States have the capacity to act independently of each other, and conversely, each has the ability to stop the other from acting.¹⁰⁸

This study highlights the relationship between the president and the legislature and the power sharing arrangement between the two. This relationship makes policy making in the United States very complex and difficult. A policy is only arrived at after a long period of negotiations and compromise between Capitol Hill and the White House. Our study will also look at the relationship between the legislature and the executive in Ghana and how this relationship affect public policy making. We will also consider the composition of parliament and how this affects the quality of policies.

Sinclair in two separate studies discusses the law making function of the Congress in the United States, within the context of what she terms “a divided system”.

Sinclair’s study is on party wars, polarization and politics of national policy making in the US. She considers the legislative process as very different from what it was thirty years ago. He examines the stages in the policy making to buttress the point that the legislative process has changed and also partisan polarization has affected the politics and the process of law making in the US.¹⁰⁹ As a matter of fact, within the committees, civility was emphasized; deal cutting across party lines was standard operating procedure. If anything, members on the extremes of ideological spectrum were the ones excluded. In contrast, committees now usually proceed in a highly partisan fashion when they consider the most important legislation. Sinclair states that there are some committees that try for

unity and bipartisanship, but she is quick to add that these are committees which deal with non-ideological and constituency-benefit legislations.¹¹⁰ She emphasizes that prior to the 1970s, committees were relatively independent and insulated decision makers, but now the situation is different, committees are much less independent and not at all insulated from party conference/caucus and party leadership pressure. Party leadership now oversees the legislative process from the beginning to the end.¹¹¹

The way legislation is considered in the House has also changed in the way that gives the majority party leadership more control to engineer the outcomes the members want. The way to succeed in the Houses of Congress is to build majority support. This requires leadership sensitivity to members' concerns. She intimates that the best way to avoid needless conflict is to pay attention early in the legislative process. In her view, the way one moves legislation with the narrow margins is constant effort to create a sense of team responsibility, a constant effort to be inclusive, and a constant effort to listen.¹¹² She concludes that serious policy differences underlie the partisan splits on issues. The parties are divided and seeking compromise can be an extremely difficult process that entails high cost in terms of policy concessions. The exclusion of the minority sometimes fuels hostility to the extent that the trust between the parties is now all-time low, an atmosphere which obviously forecloses principled compromises that might otherwise be possible.¹¹³

In another study on "Hostile Partners, The President, Congress, and lawmaking in the partisan 1990s", Sinclair looks at the interaction between Congress and the president at several points in the lawmaking process.¹¹⁴ In the previous study, Sinclair described how

the changes in the legislative process produced what she characterized as “unorthodox lawmaking”.

In this study, she explores how and why the legislative process has changed, focusing specifically on shifts in the working partnership between the president and Congress, with emphasis on increased partisan conflict.¹¹⁵ She argues that the growth in partisanship has made legislating very difficult.¹¹⁶ Sinclair’s findings show that under a unified government, committees and conferences are more likely to report legislation that the president supports. In a divided government, however, there are more disagreements. Sinclair concludes that even though the Constitution requires a partnership between the president and Congress just to get the most essential legislative business of the country done, the intensely partisan environment in the 1980s and 1990s has made relationship between them much more hostile, thereby impacting adversely on legislation making.¹¹⁷

These studies underscore the importance of compromise in legislation making. It also highlights the ill-effects of unnecessary partisanship in the policy making process. Our study builds on this by addressing the effects that partisanship have on public policies in a hybrid system and the extent to which leadership in the committees of parliament of Ghana wields power and influence in the public policy making.

Schroedel and Jones analyze public policy making in a separated system with emphasis on the United States. Schroedel contends that in an attempt to guard against both tyranny and popular passions, the American Constitution was designed such that the self-interest

of one institution could be used to check others.¹¹⁸ Her analysis portrays that the effectiveness of government depends on the cooperation of institutions that are structured against one another. In her view, the fact that presidents have few formal positive legislative powers, make them well motivated to nurture a strong working relationship with strong congressional actors in order to achieve their policy objectives.¹¹⁹ She concludes that Congress as the first branch of government, has a preponderance of influence in the policy making process.

Jones traces the lawmaking roles of both the president and the Congress from the Constitution of the United States. He insists that even though Congress has the ultimate authority to make law, the role of the president in the process cannot be dismissed.¹²⁰ He discussed the relevance of law in addressing the problems of society. He gives the features of lawmaking in the Congress as speculative, iterative and alterative, continuous, informative, deliberative, sequential, orderly, and declarative. He maintains that in lawmaking, both Houses of Congress and the president have a legitimate right to participate actively in the process. He concludes with a caution that the separated system must be made to work and the preponderance of one branch over the other should be a cause for concern and for celebration.¹²¹

These studies have identified the tensions that exist between the legislature and the executive in the policy making process. They have also underscored the importance of checks and balances in the art of governance as a way of protecting the general interest of the people.

The relationship between the executive and the legislature and the effect of this relationship on the content of public policy has been largely ignored. Our study will address this loophole by focusing, among other things, on the relationship between the executive and the parliament and the effects of this relationship on the performance of the latter. This analysis will be done within the context of the hybrid system of government.

1.5.3 Studies on Parliaments in Africa

Studies conducted on African parliaments underscore the importance of the institution in fostering democratic governance on the continent. Opinion is, however, divided on how parliament is performing its assigned functions. While others contend that it is a mere rubber-stamp institution, others are more optimistic and insist that enough time should be allowed for this institution to fully mature.

The work of Barkan et al, "Emerging legislatures: Institutions of Horizontal Accountability" discuss legislatures in Africa. They argue that the resumption of multiparty politics across Africa has enhanced the stature of legislatures. Once a rubber stamp of the executive, the legislatures have become vital players in the policy-making process, watchdog of the executive, and respond to demands by civil society thereby becoming institutions of horizontal accountability.¹²² In view of political liberalization and democratization most legislatures in Africa are more powerful today than ever before. Using Benin, Senegal, Ghana, and Kenya as case studies, they affirm that political liberalization has expanded the authority of legislatures.¹²³

They point out that the emergence of the legislature as a robust institution is a function of two set of variables. These are: (a) the structure of the society and political system within which it is embedded, (b) the formal rules that define the nature authority and operations of the legislature and the institutional resources available to the MPs.¹²⁴ They insist that political patronage, the desire of majority of MPs to accept authoritarian rule so long it favours them and the desire to attend to constituency needs shape the behavior of legislators in Africa.¹²⁵ They also maintain that clientilistic politics put undue pressure on legislators.p.221 They contend that the budget process plays itself out in four stages, the preparation deliberations and amendment and implementation and audit. They argue that unfortunately only areas parliaments put emphasis on is deliberations and amendment.¹²⁶ This work is groundbreaking and will guide our work as we provide more evidence to either validate or refute conclusions drawn by the work.

Salih's work, "Introduction: The Changing Governance Role of African Parliaments", traces the history of African parliaments from the pre-colonial days to the present. It defines legislatures as mirrors of the nature of the state (either democratic or authoritarian), party system (one-party, multi-party or dominant party) and political culture.¹²⁷ He further intimates that the changing role of African parliaments was closely tied to the party systems which are products of historical circumstances. Parliaments in one-party states were expected to be loyal to the single party, were considered an all-purpose institution which indulged not only in enacting laws and legislations, but also decision-making, policy implementation and justification of executive decisions. Generally, legislative powers were under the scrutiny of the ruling party thereby making

a mockery of the concept of separation of powers and also bestowed legitimacy on illegitimate regimes they represented.¹²⁸

Salih also identifies six generic roles of parliament in political governance in multi-party systems in Africa. These include parliament serving as areas where public policy proposals emanate, by providing the link between government and the people through representation, scrutinizing the executive to ensure that the government is accountable and acting as political recruitment of talents, providing legitimacy to government, and acting as a conflict manager.¹²⁹ He points out that whether bi-cameral or unicameral, parliamentary systems have a major role to play in regulating the relationship between and maintaining the separation of legislative and executive powers.¹³⁰ To Salih, bi-cameral legislature has the capacity to maintain a stable balance between the executive and the legislature, and restrain the unbridled powers of the first chamber. In his view, the desire to make parliament operates more efficiently and smoothly informs the creation of the so-called 'revision' chamber to maintain a careful check on a single chamber to avoid hasty decisions.¹³¹ This inclination towards a second chamber notwithstanding, Salih is sceptical about the ability of bicameral legislature to offer a foundation for political stability, delegation and accountability.

He, however, concludes that bicameralism could protect linguistic and cultural differences as well as reflect the full extent of a country's ethnic and regional diversity and disparity.¹³²

This work provides an overview of African parliaments and generally discusses their roles in both legitimate and illegitimate regimes. The study, however, fails to address the critical role of parliament in public policy making. Our work will address this shortfall by analysing the core functions of Parliament with specific emphasis on its influence in public policy making in Ghana.

Wil Hout's work, "Parliament, Politics and Governance: African Democracies in Comparative Perspective", focuses on the relationship between features of national political system, many of which relate to the functioning of national parliaments and the quality of governance. Hout is of the view that parliament occupies a central place in the comparisons because arguably it is the key institution in minimal and liberal democracies around the world.¹³³ Hout indicates that governance quality is reflected, among other things, in the degree of openness and accountability of decision-makers, the effectiveness of government, and absence of corruption.

Hout further asserts that political underdevelopment relates to the fact that the state in many developing countries is relatively ineffective, in that it is unable to pursue the collective interests of citizens and also relatively arbitrary, despotic and unaccountable.¹³⁴ After comparing some countries in Africa, Asia and Latin America, Hout believes that there is a positive relationship between development level and governance quality and contends that, the situation in Africa seems to reflect the fact that the poorest democracies of the continent perform relatively poorly in terms of governance, while richer countries show up as good performers.¹³⁵ He concludes that the characteristics of a political system

do really matter as determinants of the performance of democracies in terms of the quality of their governance.¹³⁶

Even though this study provides a comparative perspective of economic development and its impact on the quality of governance, no serious attempt is made to identify how this nexus impact specifically on political institutions like the legislature. The study is also too general. Our work considers the factors which militate against the smooth functioning of political institutions like the legislature in Ghana.

Gyimah-Boadi discusses the rebirth of liberalism in Africa and points out that after years of marginalization, parliaments in Africa have begun to emerge as key institutions in governance.¹³⁷ He notes that many African countries have restored parliament after a long hiatus. He specifically lauds the fact that the new liberal constitutions have provided the legal and political status of parliament by equipping them with greater power.¹³⁸ He maintains that this new development seems to be promoting greater confidence in parliament as formally autonomous bodies and crucial venues for the making of policy.

Gyimah-Boadi continues by cataloguing a number of factors that militate against the smooth functioning of most parliaments in Africa. These include the long hiatus which has left most of them with poorly developed institutions, poorly furnished offices, lack of tradition of tolerance, little or no secretariat support to carry out effective research, low pay and notorious deficiency in physical plant and equipment. These challenges notwithstanding, Gyimah-Boadi believes that multipartism has made it possible for a

genuine parliamentary opposition to emerge. He cites the Canadian Parliamentary Centre, the US Agency for International Development, the World Bank, Westminster Foundation, and Hans Siedel Foundation as some of the institutions assisting African legislators to pick up some skills and help build the needed confidence to forge closer solidarity among them.¹³⁹ He blames the weaknesses of African parliaments on what he referred to as a “culture of authoritarianism” by which presidents on the continent have the penchant for turning parliament into rubber-stamp institutions so as to promote strong leadership. He makes reference to the use of highly contestable notions of national security to deny the legislature the opportunity to exercise its oversight responsibility over the activities of the other branches of government, especially the executive.¹⁴⁰ He further maintains that the multiparty legislatures suffer from inadequate links to rural and urban societies thereby affecting the level of involvement in policy making by the people. He concludes that legislatures are increasingly emerging as central institutions of democratic governance. They have attempted to exercise unprecedented levels of oversight and gradually developing the skills and mechanisms to identify and align with non-state actors to promote good governance.¹⁴¹

This study is important to our work since it highlights some of the problems which undermine the efficiency and effectiveness of parliaments in Africa. Our work will draw on this in analyzing the contextual variables which promote or undermine the work of Ghana’s parliament. It is also interesting to know what the trends in parliamentary practices are in the Twenty First Century considering the fact that it is over a decade since Gyimah-Boadi did his study.

Like Gyimah-Boadi, Bratton and van de Walle consider the prospects of Parliament in fostering democratic consolidation. They posit that the weakening of the once overbearing executive was the objective of the pro-democracy forces of new constitutions promulgated in the 1990s in Africa.¹⁴² They contend that although presidentialism in Africa has often been antidemocratic, it has fostered political stability. They assert that African countries right after independence exhibited two contrasting features of presidentialism. There were those who promoted party fragmentation and that resulted in legislative instability.¹⁴³ In the second instance, party domination after independence resulted in the progressive emergence of a single hegemonic party under the control of a single leader. They conclude that even though there are prospects that the legislatures in Africa will have the capacity to monitor the executive and check the abuses of executive prerogatives, the evident weaknesses in these legislatures suggest that they will need time to develop as democratic institutions and contribute to the stability of the new democracies.¹⁴⁴

The study discusses the legislature within the context of democratic consolidation which is a vital aspect of the work of parliament. Our work while acknowledging this all important role of parliament will also assess its public policy making powers in Ghana and whether indeed it plays a subservient role in relation to the executive.

Ali Mari Tripp in a study hints that in many countries women advocacy groups are seriously lobbying for the introduction of quotas, some with the intent of increasing women representation to 50 per cent.¹⁴⁵ She is of the view that the expansion of women

in the legislature has some implications for governance in Africa in a number of ways. First, it expands the pool of talent that will be incorporated into political institutions. Second, increased women representation enhances equality, fairness, and justice in representation.¹⁴⁶ Among the factors she cites as responsible for increased women quotas are, pressure applied by women in African countries, as well as by international women's movements. Women's quotas also serve as a diffusion factor.

It is also important for its symbolic value, in that with multi-party gaining currency in many African countries, there is the need for political parties to appeal to women voters as well as create a new base for patronage. She states that in those African countries with quotas, on average, 17 per cent of legislative seats were held by women compared with 9 per cent of seats in countries without quotas.¹⁴⁷ She mentions Uganda, South Africa, Botswana, Burkina Faso, Mali, Senegal, Cameroon and Tunisia as some of the countries which practice the quota system. Tripp continues by affirming that the success of quotas in enhancing women's role in parliaments and governance depends on the political will of the government to support women's rights and the strength of the women's movement in pushing for changes in the status of women.¹⁴⁸ It also depends on the commitment of the regime to the ethos of democracy. She indicated that in South Africa where women parliamentarians have some leverage, they have made some important strides in the area of legislation making, citing the 1996 Choice on the Termination of Pregnancy, 1996 Films and Publications Act, 1998 Domestic Violence Act and the Employment Equity Act, among others, as some of the pieces of legislation where the women MPs made phenomenal contributions.¹⁴⁹ This is in sharp contrast to Uganda where by virtue of

patronage and the presence of semi-authoritarian rule, the women MPs have very little influence on legislation.

Concluding, Tripp insists that the introduction of gender-based quotas has the potential of improving the legitimacy of the government if it is tied to other measures to enhance the status of women and women's leadership.¹⁵⁰ This study is very vital as it gives a gender dimension of parliament. Even though Ghana has not adopted the quota system, it is important to examine the method used in the selection of parliamentarians and whether indeed it gives a fair representation to all segments and interests in society. The study prompts us on the need to examine the way committees of the House are composed and the effort at giving adequate representation to various interests represented.

Reneske Doorenspleet focuses on citizen's support for legislature and democratic consolidation, with special emphasis on Mali. Doorenspleet emphasises the importance of legislatures in the consolidation of democracy which manifests itself in the stabilization and effective functioning of the basic principles and institutions of state and the process of adaptation of behaviour and attitudes that promote such stabilization and effective functioning of the new democratic institutions.¹⁵¹ Doorenspleet maintains that few legislatures actually legislate, many have limited power and most are clearly overruled by the executive power.¹⁵² Doorenspleet gives an overview of political development in Mali, contending that the results of the 2002 elections introduced for the first time, a viable opposition into parliament. Doorenspleet argues that the electoral system in Mali changed significantly and quickly during the democratization process in the 1990s.¹⁵³

The reformed electoral system has introduced many more political parties into parliament thereby affecting its character. It is asserted that the Malian Constitution affirms the principle of separation of powers. In practice, however, the executive branch exercises more power and authority over the other branches of government. On the degree of trust in the legislature in Mali, Doorenspleet posits that the existence of democratic institutions such as electoral systems, political parties, a functioning parliament, an open media, among others, can be a façade without the support of the people. In effect, high levels of support for democracy in general and democratic institutions in particular are important ingredients for the consolidation of new democratic regimes.¹⁵⁴ The author concludes that the mass support for legislature in Mali is remarkably widespread and the fact that the sources for the support are diverse indicates that the institution of the legislature has a firm basis in the new democratic system of Mali.¹⁵⁵

This study is very important to our work since it gives us an insight into the relationship between citizen's support and democratic consolidation. It also helps us to appreciate the extent to which an electoral system can impact on the character of the legislature. Our work will take this further by focusing on how the electoral system impacts on the structure of parliament in Ghana and subsequently its performance.

Mafuleka's study focuses on the role of Zambia's legislature in influencing policy formulation and its ability to perform that task satisfactorily.¹⁵⁶ He indicates that the process of policy making occurs in a broad policy environment comprising official and non-official players.¹⁵⁷ He traces the origins of the Zambian legislature to colonial rule.

He explains that between 1973 and 1991, all the 135 members of the **Zambian Parliament** were from the **United National Independence Party (UNIP)** and this, to a very large extent, affected the ability of the legislature to act as an independent body charged with the responsibilities of putting government on its toes. He hints that initial attempts by some backbenchers to be critical of government policies were treated with contempt by the government.¹⁵⁸ The 1991 Constitution, however, replaced the one-party with a multi-party one. The fusion system practised in Zambia creates a situation where the principle of collective responsibility makes it very difficult for the executive members of the legislature to criticize the policies of the government. He further intimates that the powers of the executive have increased exponentially in recent years such that inputs from the legislature seem to have little effect to change the position of the executive.¹⁵⁹ Mafuleka also discusses the use of the committees in the **Zambian Parliament** to conduct its business as is the practice in most Commonwealth countries. Mafuleka catalogues a gamut of problems which in his view militate against the smooth performance of the parliament. These include inadequate office space, information and low quality of education of some MPs, among others. He commends associations like, the **Commonwealth Parliamentary Association (CPA)**, the **Inter-Parliamentary Union (IPU)**, and the **Joint Community Parliamentary Forum (JCPF)** for their invaluable contributions towards the capacity building of the **Zambian Parliament**.¹⁶⁰

He concludes by offering some recommendations which will help address the low capacity of parliament. These include the provision of office accommodation for legislators, provision of communication equipment, the extension of data banks to the

rural areas, and the introduction of wider radio, television, and print media so as to attract inputs from a larger policy environment. He also recommends improvement in library facilities, introduction of orientation programmes for new legislators and an amendment of the Constitution to provide for some minimum educational qualification to parliament to stem the tide of businessmen with very little or no education to enter parliament.¹⁶¹

The study is important since it offers us a lot of insights into the activities of a unicameral legislature. The study explains the growth in executive power and its damaging effect on the legislature. It also identifies other problems which undermine the work of the legislature. We will address these issues within the Ghanaian context. Our work will also analyze the influence of the committee system in the policy making process.

1.5.4 Studies on Parliament in Ghana

The works of Ayensu and Darkwa, Alabi, the Hand Book on the Fourth Republican parliament, Ala-Adjetej and Boafo-Arthur deal with the evolution and development of parliamentary practice in Ghana.

The study of Darkwa and Ayensu is on the evolution of parliament in Ghana. They start with the Bond of 1844 and the beginning of the exercise of legislative authority in the Gold Coast up to the Second Parliament of the Fourth Republic.¹⁶² Their work is motivated by the fact that the decisions of parliament affect the lives of everybody in Ghana. It is therefore very important for people and MPs to appreciate the history and the workings of the institution. While offering the overview of parliaments in Ghana, they

also explain that most of them could not live their constitutional mandated terms, largely because of military adventurism.¹⁶³ On the Fourth Republic, Ayensu and Darkwa explain the various processes that the country went through before the constitution was promulgated. They include the setting up of the National Commission for Democracy, the holding of regional and districts fora, the composition of the Committee of Experts, the work of the Consultative Assembly and the holding of referendum on the 28th April 1992 which ushered in the Constitution.

The study also makes some comparisons between the four republics. It maintains that the First Parliament of the First Republic (1960-1965) and the First Parliament of the Fourth Republic (1993-1997) completed their statutory terms of office.¹⁶⁴ The life of the Independence Parliament of 1957 was cut short by the nation's overwhelming desire to become a republic. The Second Parliament of the First Republic and the parliament of the Second and Third republics had their terms terminated by military interventions.

Ayensu and Darkwa conclude by shedding light on the development of the committee system, which they maintained has been a common feature of most Republican Parliaments since independence. They also contend that the committee system helps parliament to scrutinize bills brought before it. It also enables members to gain experience in dealing with a subject, and so are able to exert influence which they do not otherwise have. In addition, it seeks to reduce the areas of administration that the government may wish to keep secret.¹⁶⁵

This work is very relevant in that it provides very elaborate information on parliaments in Ghana. However, it is too descriptive. Whilst drawing on the information provided by the

work, ours will look at the parliaments of the Fourth Republic from the perspective of their capacity to perform their functions especially that of public policy making.

Like the work of Ayensu and Darkwa, "A guide to the Parliament of Ghana", a handbook prepared by the Parliament of Ghana, gives a brief outlook of the parliaments of Ghana. It tries to compare the various parliaments and brings out some peculiar features of each. However, the work concentrates on the Fourth Republic, pointing out the basic features and functions of these parliaments. They include, multi-party system, hybrid system, role in governance, representation, independence, dignity and oversight¹⁶⁶.

Even though the handbook is helpful, it is heavily skewed in favour of the Fourth Republic. Our study takes a look at all the four Republics by focusing on the relationship between the executive and the legislature and how this affects the functioning of the latter. Even though our main attention is on the Fourth Republic, the other three Republics will be discussed to provide a historical background to the work. Our work overcomes this purely descriptive study by offering an analysis of the fourth republican parliaments, particularly how their structures affect their role as a policy making institution.

The work of Alabi is on parliamentary democracy in West Africa. It focuses on parliament in both Francophone and Anglophone countries. On Ghana, Alabi discusses colonial rule and the role of other nationalist groups. He highlights the Guggisberg Constitution and asserts that it allowed a measure of representation of Africans.¹⁶⁷ The role of Nkrumah in the independence struggles, political instability and their effect on parliamentary development in Ghana, are also examined. Alabi also throws some light on

constituency and parliamentary work, arguing that the work of the legislator, particularly in Africa, is quite exacting since it goes beyond simply protecting and promoting the interests of constituents in parliament.¹⁶⁸

The work provides some of the reasons why parliaments seem to have low capacities in Ghana and the general role of legislators. The work provides us with the environment within which parliament operates. Besides, considering the role of the legislators and the legislature generally, our work will also examine the factors which promote or undermine the work of parliament.

Ala- Adjetey's work, "Reflections on the Effectiveness of the Parliament of the Fourth Republic of Ghana" traces the history of the powers of parliament since 1957. He states that parliaments from 1957 to 1979 were empowered to make laws, but they were subject to limitations and this undermined their supremacy.¹⁶⁹

He posits that even though the 1992 Constitution vests the legislative power of Ghana in the legislature, the presence of articles, 78, 107, and 108 impose serious limitations on it. Ala-Adjetey indicates that the committees system has been ineffective due to lack of human and material resources.¹⁷⁰

In order to enhance the performance of parliament, Ala-Adjetey recommends the repeal or substantial amendment of article 108, enhancement of the powers of parliament to pass a mandatory consequential motion for the revocation of a minister's or deputy minister's instrument of appointment, limit the number of MPs appointed as ministers, empower

committees and ensure financial autonomy of parliament.¹⁷¹ He concludes that it is necessary for parliament to be clothed with sufficient independence to enable it exercise oversight and control of the executive.¹⁷²

This study is important as it provides the power relationship between past and present legislatures in Ghana and provides very useful suggestions as to how the performance of parliament can be enhanced.

Boafo-Arthur takes a longitudinal view of Ghana's parliamentary practices for the past 150 years. He tackles the struggle of local elites for greater representation and influence in governance. He covers the period between 1957 and 1992, where the legislature went through several mutations.¹⁷³ On the Fourth Republic, he focuses on the officers and the composition of parliament from 1993 to 2005.¹⁷⁴ On the functions of parliament, Boafo-Arthur states that the institution embodies the will of the people because parliamentarians who represent 230 constituencies country try to highlight the developmental needs of their constituents. Other functions identified include, law-making, control of public funds, the exercise of oversight over the executive and the vetting of nominees to fill certain ministerial and other important positions.¹⁷⁵ He also takes a look at the committee system and maintains that this involves a lot of work since it demands power of reasoning and not mere rhetoric.¹⁷⁶ He concludes that a strengthened parliament with a functional committee system, to a very large extent, holds the key to national efforts at ensuring governmental accountability, transparency and democratic consolidation.¹⁷⁷

The study provides an overview of the development of parliamentary practice in Ghana and will be important for our work. However, the relationship between the legislature and public policies remain unexamined. Our work will examine the structure of parliament and how this affects its policy making role.

Ninsin, Stanton and Warren discuss the process of legislation making and the power relations between the executive and Parliament and the performance of the latter.

Ninsin's work "Executive-Parliament Interface in the Legislative Process (1993-2006): A Synergy of Powers?" assesses the work of parliament since its inception in 1993. It examines the legislative process in the light of the heavy executive presence in parliament.¹⁷⁸ He intimates that the fusion of the executive and the hybridization of the parliamentary and presidential system have given the executive a huge and unequivocal presence in parliament.¹⁷⁹ The powers of the president are exercised through the following: Firstly, the executive power is exercised in parliament through the president's majority party of which he becomes a leader by virtue of his position as the president. Secondly, the executive has more direct presence in parliament through ministers, majority of who are appointed by the president. Thirdly, the President created the Ministry for Parliamentary Affairs, whose minister is also the majority leader and a de-facto leader of the House. Fourthly, the presence of a Speaker of Parliament who is usually appointed by the majority with inclination towards the ruling party even though in theory, he has to be an independent officer of state.¹⁸⁰

Ninsin states that even though the 1992 Constitution guarantees separation of powers, and considers the legislative and executive branches of government as equal centers of powers, existing evidence portrays the executive as a dominant branch enjoying the advantage of vested capacity and control over immense resources of the state.¹⁸¹ Ninsin discusses the debates surrounding bills like the Value Added Tax (VAT), National Insurance, Ghana Education Trust Fund, Political Parties, The CNTCI Loan Agreement and the Non-Surrender Treaty Agreement with the United States of America.¹⁸² He posits that the alternation of power from the National Democratic Congress (NDC) to the New Patriotic Party (NPP), in 2001, transformed parliament into a theatre of power struggle between the two leading political parties in the country.¹⁸³ He uses the debates following the introduction of bills like the CNTCI Loan Agreement and the vetting of ministers designate to buttress his argument. He therefore indicates that the Fourth Parliament has witnessed ultra majoritarianism by which the executive has aggressively employed its majority to push its public policies through parliament irrespective of the views expressed by the minority.¹⁸⁴ This development, he insists, has impaired the already weak capacity of Parliament.¹⁸⁵ Ninsin concludes that the behavior of the majority is dependent on the nature of the bill submitted to parliament. If less controversial bills are introduced, there is the likelihood that there will be cooperation.

The work of Ninsin is very important for our study since it discusses a lot of important bills that will engage our attention. We will select bills covering social, political and economic spheres of life to give a balanced perspective of what pertains in parliament.

The synergy between the executive and parliament established by Ninsin is of great interest to our work.

Stanton discusses the process of subsidiary legislation in Ghana with the aim of making recommendations. She underscores the fact that parliament is the supreme law making body under the 1992 Constitution.¹⁸⁶ She points out that parliament does not make all of the laws that regulate the daily conduct and activities of Ghanaians. Parliament therefore delegates authority to a body outside of itself to create subsidiary legislation. She intimates that the current process of subsidiary legislation lacks opportunities for consultation, discussion and scrutiny.¹⁸⁷ She expresses surprise that parliament's contribution to the fashioning out of subsidiary legislation is limited and it can only reject or accept a piece of subsidiary legislation. In practice, however, the legislation is either accepted or withdrawn for fine-tuning. The author draws some lessons from other jurisdictions such as Australia, Tasmania, South Africa, India, United States of America and Canada and concludes that the process of subsidiary legislation in Ghana suffers procedural deficit and lacks transparency.¹⁸⁸

She concludes that Ghana should enact a law to govern subsidiary legislation process to encourage participation by relevant stakeholders, incorporate Regulatory Impact Analysis and the law must contain a sunset clause. The study discusses one of the most important areas of law in Ghana. But it indicates that the role of parliament is limited to either accepting or rejecting a piece of subsidiary legislation. Our study even though will not deal directly with subsidiary legislation will benefit from the insights gained from

Stanton's work. It helps us identify the flaws in the operations of parliament and how it can be addressed.

Warren's work, "Legislative Performance in Ghana: An Assessment of the Third Parliament of the Fourth Republic, 2001-2005", offers a qualitative and quantitative assessment of the performance of the Ghanaian Parliament.¹⁸⁹ Warren indicates that between its inception in January 2001 and its dissolution in January 2005, Ghana's Third Parliament passed an average of twenty-five bills into law per year.¹⁹⁰ She asserts that the period under review witnessed increase in the activities of the various committees in the House. She specifically singled out the Public Accounts and the Government Assurances Committees as the two committees which saw a lot of action during the period. She is, however, quick to point out that both committees faced substantial challenges in their efforts to provide effective oversight during the Third Parliament.¹⁹¹ Warren is impressed that the Public Accounts Committee is chaired by the minority. This, in her view, promotes its independence from the executive.¹⁹²

The study also examines the quality of debate in the House. She posits that the presence of a large minority group with political experience in parliament increased the breadth of ideas presented on the floor of the House and enhanced the vibrancy of debates.¹⁹³ Turning to the budgetary process, Warren maintains that parliament is yet to have a substantial impact on the budget process, insisting that the Parliamentary Service lacked the requisite research capacity to provide an independent and thorough analysis of the budget.

Warren concludes that the Third Parliament of the Fourth Republic demonstrated improved performance in civic input to committee work and bill amendment, particularly non-budget trailer bills. She also makes a number of recommendations, which will improve the performance of subsequent parliaments. These include the establishment of Parliamentary Research Center, the creation of a bill drafting unit in parliament, and the strengthening of the committee system to provide an effective oversight of the executive.¹⁹⁴

The study is important as it discusses the third parliaments and the committee system which are of interest to our study. While drawing on the lessons offered by this study, our work assesses the capacity of parliament in public policy making using all the first four parliaments of the Fourth Republic as case studies.

The works of Lindberg and Ninsin discuss the accountability pressure on MPs and the role of parliament in the governance process in Ghana.

Lindberg, in his work, “What accountability pressures do MPs in Africa face and how do they respond?: Evidence from Ghana” gives an empirical account of the daily accountability pressure and the strategies the MPs in Ghana employ to overcome them.¹⁹⁵ He posits that the institution of the office of the MP in Ghana is conducive for the provision of private goods in clientelistic network.¹⁹⁶ He points out the major roles of MPs as legislation, executive oversight, constituency representation and constituency services. Lindberg identifies citizens, local party, the national party, the extended family,

chiefs, religious leaders, civil society organizations and businesses as groups the hold MPs accountable.¹⁹⁷ He asserts that a Ghanaian MP is interested in his re-election and therefore operates in a rational actor framework.

In another work, "Co-optation despite Democratization in Ghana" Lindberg and Zhou see Ghana's democratization as one of the political success stories in Africa.¹⁹⁸ They maintain that even though Ghana's transition is relatively secured, parliament seem to be retrogressing. Their analysis indicates that limited resources for the legislature, weak capacity of the parliamentary service, high turnover among MPs and demands for constituency services weakens parliament.¹⁹⁹ They highlight the role of parliament in areas such as legislative and policy making, budgetary process, and oversight over the executive.²⁰⁰ They conclude that it is disappointing that one of Africa's most successful cases of democratization has a legislature that is largely subservient to the executive.²⁰¹

Ninsin's work, "How Parliament Decide: Decision Making in Ghana's Parliament" surveys how parliament performs its core functions as mandated by the Constitution.²⁰² He indicates that parliament plays a pivotal role in the governance framework of the country.²⁰³ He further discusses the procedures for the passage of bills. He identifies Private Members's Bills, Motions and Statements, passage of bills as some of the instruments used by parliament to influence public policies.²⁰⁴ Ninsin is emphatic that supremacy of parliament is undermined by an overbearing executive. He concludes that if problems such as lack of adequate human and financial resources are not resolved, the institution will not function effectively.²⁰⁵

These works are very important to our study since they offer some of the sign post to effective policy making by parliament

1.5.5 Studies on Institutions and Public Policy making in Ghana

Ayee uses the imagery of “saints, wizards and demons” to explain the success or failure of public policies in Ghana. Ayee is of the view that a number of well intentioned policies and programmes have been judged unsuccessful and counterproductive. He, therefore, sets out to examine why policies and programmes fail and how they succeed. He posits that public policies fail in Ghana and other African countries because the saints are few, the demons are many, the wizards are inappropriate, the systems are complex and the organisations are weak.²⁰⁶ Ayee is emphatic that success and failures of public policies are very slippery concepts, often highly subjective and reflective of individual’s goals and perception.²⁰⁷ He maintains that the assessment of public policies is highly political and it involves individuals, groups, organisations and many other stakeholders. What may be a success in the eyes of one beholder may be a total failure in the eyes of another.

Ayee, however, identifies six dimensional criteria in judging the success or otherwise of public policies. These are effectiveness, efficiency, adequacy, equity, responsiveness and appropriateness of public policy.²⁰⁸ To Ayee, the policy analyst will normally rely on three criteria in assessing public policy. These are: first, policy design, which views policy from the point of view of its appropriateness and agreement with its objectives and means. It considers certain variables like appropriateness and consensus and agreement

among the major stakeholders. A second criterion has to do with policy process and this is concerned with how the policy is dealt with within the context of the policy arena. It considers other variables such as ratio of cost to benefit, implementability and sustainability of the policy. The third criterion deals with policy achievement and is basically interested in the effectiveness and adequacy of the policy in achieving its stated objectives. This criterion is further augmented by factors such as achievement of goals and objectives of the policy, adequacy and sufficiency of the policy and whether or not the policy is properly grounded in theory.²⁰⁹

Ayee reiterates that successful policies in Ghana are rare because it is unusual to have progressive and committed politicians and bureaucrats (saints) supported by appropriate policy analysts with available reliable and valid information (wizards) that are positioned to manage hostile and apathetic groups (demons) and consequently insulate the policy environment from the vagaries of implementation (systems).²¹⁰ The study concludes with a call on governments of Ghana and other African countries to achieve the following: the right combination of committed politicians and bureaucrats, appropriate policy analysts with available and reliable information, management of hostile and apathetic groups, and insulation of the policy environment from the vagaries of implementation.²¹¹ Ayee also suggests a good governance approach which requires a strong mechanism for participation of people in politics, government, the private sector and organizations of civil society. It also requires the strengthening of the civil service to be able to provide value for money goods and services, promotion of civic consciousness among the people, information dissemination and generally sound management of public affairs.²¹²

This work is very instructive as it provides us with very important theoretical basis of public policy. Even though Ayee acknowledges that it is very difficult to provide a very solid criteria for measuring public policy, he goes on to provide six dimensions that can be used to measure the success or otherwise of any policy. He also explains into greater detail why public policies fail in Ghana and the rest of Africa. However, the study does not cover the role of political institutions in the policy making process. Our work assesses the role of the Fourth Republican parliaments in public policy making in Ghana.

Ayee's work, "Governance, Institutional Reforms and Policy Outcomes in Ghana" assesses the paucity of contributions made by key institutions to public policy making under the administration of Rawlings from 1993 to 2000.²¹³ He started with Ghana's search for enduring good governance framework with the introduction of the far reaching Economic Recovery Programme (ERP) in 1983.

He subsequently discusses other reform measures such as the National Institutional Renewal Programme (NIRP), to spearhead the revamping and rejuvenation of public sector institutions to produce value-for-money goods and services. The promulgation of the 1992 Constitution and the launching of Ghana Vision 2020-The First Step: 1996-2000 have also been mentioned as part of the efforts to put Ghana on the path of good governance and sustainable development.²¹⁴ He further mentions the cabinet, the civil service, the National Development Planning Commission (NDPC), parliament, political parties and policy management groups as some of the key institutions which are involved in policy-making under the Rawlings administration. Rawlings enhanced the role of

ministers in policy making by, asking the Chief Directors of ministries to accompany their ministers to cabinet meetings, the use of visual aids and other teaching methods by technocrats and experts to help ministers appreciate the issues being discussed and the impartial discussion following a minister's presentation.²¹⁵ He also discusses the roles of the Secretary to the cabinet and sub-committees of cabinet.

Ayee recognizes the critical contributions that the Civil Service will have to make as far as policy making is concerned. He opines that the civil service is constrained by inadequate qualified analysts with the requisite expertise and information, poor condition of service. These he adds, hampers their ability to recruit very qualified personnel.²¹⁶ Measures adopted include the Civil Service Reform Programme, the National Institutional Renewal Programme and the Civil Service Performance Improvement Programme, which are aimed at strengthening the capacity of the service and make it a viable tool for development.

The National Development Planning Commission was established to promote policy analysis. It presides over the preparation of national development plans and monitors, evaluates, and coordinates development policies, programmes and projects. Ayee states that apart from the preparation of the Ghana Vision -2020 and the First Medium Term Development Plan (1996-2000) the performance of NDPC has been largely abysmal.²¹⁷

Ayee also identifies parliament as one of the key policy-making institutions in Ghana. He states that the Constitution confers enormous powers on parliament, especially in the

areas of debating the president's state of the nation address and approving the financial policies and programmes of government, including loans, taxes and national budget which are initiated mostly through the executive.²¹⁸ Ayee indicates that under the Rawlings regime most public policy proposals such as funding of tertiary education, value-added tax, national wage policy, land policy and decentralization, among others, affected existing legislation and that called for the submission of memoranda to accompany the bills. Ayee maintains that the performance of parliament has been hampered by a number of factors including the seemingly one-sided nature of parliament which has turned it into a mere rubber-stamp institution, the generally partisan nature of debates from both sides of the political divide, the constitutional provision that most ministers must be selected from parliament deprives Parliament of very good materials, lack of accommodation and poor library facilities and inadequate information at the disposal of MPs.²¹⁹

He concludes that a number of institutions are involved in policy making in Ghana and that policy-making in Ghana is reinforced by a number of issues, namely, that a certain level of participation increased the chances of success of policies and programmes, exclusive politics deprives the nation of expert contribution from outside the ruling party in policy-making, policy space is not the exclusive preserve of politicians and, finally, even though policies seem rational, some of them are politically clouded.²²⁰

The study is very instructive as it identifies the roles of key political and non-political institutions in the policy-making process in Ghana. It is also heartwarming to know that Ayee highlights factors which hamper the effective performance of these institutions. He

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also focused on the public policy making role of parliament. However, he did not discuss how public policies are made through the enactment of laws and how, for instance, the structure of parliament impact on public policies in Ghana. While our work will discuss the public policy making role of parliament, an effort will also be made to identify how the structure affects the functioning of the institution.

1.6 Theoretical Framework

The theoretical framework guiding this work is the concept of 'new institutionalism'. Institutionalism has been a very important approach within political science for decades. Outside of political theory, the core activity within political science was the description of constitutions, legal systems and government structures, and their comparison over time and across countries.²²¹ The behavioral revolution in the 1960s and 1970s changed all that. Behavioralists sought to understand how and why individuals acted as they did in real life. The development of the rational choice model also in the 1960s and 1970s subsequently explained politics in terms of the interplay of individual's self-interest.²²² They contended that when faced with several courses of action, people usually do what they believe is likely to have the best overall outcome.

Neo-Marxists also focused upon the role systemic power derived basically from the capital-labour relationship in structuring political actions and the organization of government.²²³ Most analysts before the 1980s believed that there was more to politics than the formal arrangements for representation, decision-making and policy implementation. In the face of these discouraging developments, there were others who

continued to practice their art in the conviction that “you need to sit still, it all comes round again”.²²⁴

By the 1980s, institutionalism had emerged as a reaction to the under-socialized character of the dominant approaches in political science. Contemporary institutional theory has captured the attention of a wide range of scholars across the social sciences and is employed to examine systems ranging from micro interpersonal interactions to macro global frameworks.²²⁵

1.6.1 The Traditional Institutional Approach

Institutional theory attends to the deeper and more resilient aspects of social structure. It considers the processes by which structures, including schemas, rules and norms and routines become established as authoritative guidelines for social behavior.²²⁶ It inquires into how these elements are created, diffused, adopted and adapted over time and space, and how they fall into disuse and decline.²²⁷ Institutions, on the other hand, are referred to as the regular, stable, recurring patterns of behaviour.

Institutionalism connotes a general approach to the study of political institutions, a set of theoretical ideas and hypothesis concerning the relations between institutional characteristics and political agency, performance and change.²²⁸ The institutional approach in the study of government and politics is often referred to as the “historic heart” of the subject and part of the toolkit of every political scientist.²²⁹ Institutional approach covers the rules, procedures and formal organizations of government. It

employs the tools of the lawyer and the historian to explain the constraints on both political behaviour and democratic effectiveness, and it fosters the *Westminster* model of representative democracy.²³⁰

Embedded in the definition of institutionalism is a formal structure, whose existence has both symbolic and action-generating properties.²³¹ In line with their symbolic functions, a variety of authors have underscored some of the key functions served by mission statements, structural arrangements, and top level members.²³² Formal structures signal the organization's commitment to rational, efficient standards of organizing, and thus provide general social accounts.²³³

1.6.1.2 Features of Traditional Institutionalism

The traditional institutionalism constituted the basis of political science in the late nineteenth and the first half of the twentieth centuries. Its features include legalism, structuralism, holism, historicity and normative. These features are explained in turn.

The first key characteristic of old or traditional institutionalism is law and is concerned with the dominant role of law in governance.²³⁴ Law constitutes both the framework of the public sector itself and a major way in which government can affect the behavior of citizens and thereby shape states into effective bodies.²³⁵ The second assumption of traditional institutionalism was that structure not only mattered but also determined behavior.²³⁶ Structuralism focused on major institutional features of the political system.

The old institutionalists also relied on comparative analysis in considering political systems in order to obtain the variations they desired.²³⁷ Scholars in this tradition

compared whole systems rather than individual institutions such as legislatures, the executive and the judiciary. Holism as an approach was concerned with constitutions and formal structures. Furthermore, analysis of political institutions was done within the context of their historical development and the socio-economic conditions within which they operated.²³⁸ The assumption was that, to fully appreciate the workings of a political system, a researcher had to understand the development pattern that produced the system. It was also presumed that the behavior of political elite tended to be a function of their collective history and their understanding of politics was also influenced by history.²³⁹ Finally, the analysis of traditional institutionalists had strong normative undercurrent. Political science emerged from normative roots and so traditional institutionalists linked their descriptive analysis of politics with the concern for “good government”.²⁴⁰

1.6.1.3 Criticisms of Traditional Institutionalism

In spite of the ground breaking role of traditional institutionalism, it came under serious attack largely from behavioral and rational choice theorists. Some of the criticisms leveled against traditional institutionalism include the following:

- (i) The over reliance on structure by the old institutionalists leave very little room for the impact of individuals, which in their view is not good enough.²⁴¹
- (ii) The concentration of old institutionalists on whole systems as basis of comparison made generalization and therefore theory building too difficult.²⁴²
- (iii) The critics argue that the concentration of traditional institutionalists on normative analysis undermines the subject matter of political science. They

contend that almost by definition, **the institutionalists' concern with norms and values meant that this work could not be scientific.**²⁴⁴

(iv) **It has been argued that the focus on formal government institutions, constitutional issues and public law was unpalatably formalistic and old-fashioned.**²⁴⁴

(v) **Old institutional approach was seen as relatively insensitive to the non-political determinants of political behavior and hence to the non-political bases of governmental institutions.**²⁴⁵

On the basis of these criticisms, one can conclude that traditional institutionalism was a-theoretical, too descriptive and parochial.²⁴⁶ **It is against the backdrop of these inherent weaknesses of traditional institutionalism that I am using its variant, "new institutionalism" as the theoretical framework for this study.**

1.6.2 New Institutionalism

While institutionalism may never really have gone away, it was perceived by the 1980s as being outside the mainstream of political science. In the face of this low regard accorded old institutionalism, there was a renewed attention to institutions in political science. The term "new institutionalism" was coined by March and Olsen to emphasize the theoretical importance of institutions.²⁴⁷ This renewed interest in institutions has been expressed in the slogan, 'bringing the state back in' and 'structuring politics'. They argued that political institutions had receded in importance from the position they held in the earlier theories of political science. They, however, accused the mainstream political science of being 'reductionist'.²⁴⁸

The new institutionalism is therefore a relatively new theoretical perspective that has reached increasing levels of acceptance among social scientists. The rise of the new institutionalism can be seen as a historical modification of rational choice perspectives that became fashionable in the social sciences in the 1970s, though the two perspectives are intimately linked to the “behavioural revolution” of a decade earlier. Through their analysis, new institutionalists have made a case for giving institutions analytical primacy.

March and Olsen argued that political institutions played a more autonomous role in shaping political outcomes, because the organization of political life makes a difference. They further contend that the bureaucratic agency, the legislative committee, the appellate courts are arenas for contending social forces, but they are also collections of standards operating procedures and structures that define and defend interest. In their view they are political actors in their own right.²⁴⁹

The proposition of March and Olsen has prompted very fascinating questions about (a) what constitutes a political institution, (b) the way institutions do their work, particularly how can they define and defend interest, (c) the capacity of individual actors to influence the functioning of relatively autonomous political institutions.²⁵⁰ While ‘old institutionalism’ was very averse to theory, the new institutionalism is markedly enthusiastic, developing diverse theoretical projects. Where traditional institutionalists employed a descriptive (inductive) method and subsequently drew conclusions from empirical investigations, the new institutionalism tends to experiment with deductive approaches that start from theoretical propositions about the way institutions work.

1.6.2.1 Assumptions of New Institutionalism

There are certain core assumptions within new institutional perspectives. These include the following: Firstly, institutions create elements of order and predictability. They fashion, enable and constrain political actors as they act within the logic of appropriate action. Institutions are carriers of identity and roles and they are makers of a polity's character, history and vision. They also provide the bonds that tie citizens together in spite of the many things that divide them.²⁵¹ Secondly, the translation of structures into political action and action into institutional continuity and change, are generated by comprehensive and routine process. These processes produce recurring modes of action and organizational patterns. Thirdly, political order is created by a collection of institutions that fit more or less into a coherent system. The size of the sector of institutionalized activity change over time and institutions are structured according to different principles. Political actors organize themselves and act in accordance with rules and practices which are socially constructed, publicly known, anticipated and accepted. Institutions by virtue of these rules, norms and practices define basic rights and duties, shape or regulate how advantages, burdens and life-chances are allocated in society, and create authority to settle issues and resolve conflicts.²⁵² Fourthly, institutions give order to social relations, reduce flexibility and variability in behaviour, and restrict the possibility of a one-sided pursuit of self-interests or drives.²⁵³ The fundamental logic of action is rule following, that is, prescriptions based on the question of appropriateness and a sense of rights and obligations derived from an identity and membership in a community and the ethos, practices and expectations of its institutions. Rules are followed not because of the use of naked power but because they are seen as natural, rightful, expected, and

legitimate. Members of institutions are expected to obey, and be the guardians of its constitutive principles and standards. Finally, institutions are not static; and institutionalization is not an inevitable process; nor is it unidirectional, monotonic or irreversible. In general, however, because institutions are defended by insiders and validated by outsiders, and because their histories are encoded into rules and routines, their internal structures and rules cannot be changed arbitrarily. The changes that occur are most likely to reflect the adaptation to local experience and thus be relatively myopic and meandering, rather than optimizing, as well as inefficient, in the sense of not reaching a uniquely optimal arrangement.²⁵⁴

1.6.2.2 Approaches to New Institutionalism

There are three main variants of new institutionalism. These are normative institutionalism, historical institutionalism and rational choice institutionalism. There is an empirical problem which relates to the measurement of institutions and variations in their characteristics. This perhaps poses the greatest challenge to the use of these several theories in a more systematic manner.²⁵⁵ It is against this background that this study is based on the rational choice institutionalism. It is, however, important to throw some light on normative and historical institutionalism to provide some back grounding to the rational choice institutionalism.

1.6.2.2.1 Normative Institutionalism

Normative institutionalism was advocated by March and Olsen. They argue that the best way to understand political behaviour at both the individual and collective levels is

through the “logic of appropriateness” that the individuals acquire through their membership in institutions.²⁵⁶ They contrasted this normative logic with the “logic of consequentiality” that is central to rational choice theories. Normative institutionalists further argue that people functioning within institutions behave as they do because of normative standards rather than because of their desire to maximize individual taste and preference. These standards of behavior, they opine, are acquired through involvement with one or more institutions and the institutions are the major social repositories of values. Normative institutionalism reflects the important role assigned to norms and values within an organization in explaining behavior of actors.²⁵⁷

1.6.2.2.2 Historical Institutionalism

The second approach to institutionalism is historical institutionalism. This approach is associated with the writings of Steinmo, Thelen and Longstreth.²⁵⁸ It developed in response to the group theories of politics and structural-functionalism which was very dominant in the study of political science in the 1960s and 1970s. The proponents of historical institutionalism built on the old tradition of political science that assigned importance to formal political institutions.²⁵⁹ The argument of this approach is that the policy and structural choices made at the inception of the institution will have a persistent influence over its behaviour for the remainder of its existence.²⁶⁰

The basic explanatory principle of historical institutionalism is “path dependency”. In this connection, historical institutionalists are more concerned about the persistence of organization after they are formed than on the fact of their initial creation.²⁶¹ In historical

institutionalism, institutions are regarded as somewhat stable and rigid for reforms and environmental changes. They can range from the rules of a constitutional order or the standard operating procedures of a bureaucracy to the conventions governing trade union behavior.²⁶² This approach is well-suited to explaining the persistence of policies but less promising as a means of explaining change in policies or structures.

1.6.2.2.3 Rational Choice Institutionalism

This study is predicated on the strand of new institutionalism called, the rational choice institutionalism. Rational choice institutionalism (RCI) emerged from the study of Congress in the United States.²⁶³ It sought to explain the unusual stability associated with congressional outcomes. The basic tenet of rational choice institutionalism is that institutions are arrangements of rules and incentives, and the members of the institutions behave in response to those basic components of institutional structures.²⁶⁴ Unlike individuals in normative institutionalism, the preferences of the occupants of these structures are not modified by membership in the institutions. On the contrary, the individuals who interact with the institutions have their own set of preferences that remain largely unchanged by any involvement with the institutions. The goal of rational choice institutionalism is to uncover the laws of political behavior and action. Scholars in this tradition generally believe that once these laws are discovered, models can be constructed that will help social scientists understand and predict political behavior. Rational choice institutionalists drew very useful analytical tools from the 'new economics of organization' which emphasizes the primacy of property rights, rent-seeking and transaction cost to the operation and development of institutions.²⁶⁵ In recent

years, rational choice institutionalists have turned their attention to a variety of other phenomena, including cross-national coalition behavior, the development of political institutions, and the intensity of ethnic conflict.²⁶⁶ Other scholars have even used the concept of rational choice institutionalism to explain the rise or fall of international regimes, the kind of responsibilities that states delegate to international organizations, and the shape of such organizations.²⁶⁷

Like other theories, rational choice institutionalism contains some internal debates. Firstly, it relies extensively on a set of behavioral assumptions. They maintain that actors have a fixed set of preferences and behave entirely instrumentally so as to maximize the attainment of these preferences, and do so in a highly strategic manner that presumes extensive calculation.²⁶⁸ Secondly, rational choice institutionalists tend to see politics as a series of collective action dilemma. This is a situation where individuals acting to maximize the attainment of their own preferences are more likely to produce an outcome that is collectively suboptimal. Usually, actors are prevented from taking collective superior course of action because of the absence of institutional arrangement that would guarantee complementary behavior by others.²⁶⁹ Examples include, 'prisoners' dilemma, 'the tragedy of the commons', and political situations that present a variety of such problems. Thirdly, rational choice institutionalists emphasize the role of strategic interaction in the determination of political outcomes. They posit that the actor's behavior is likely to be driven not by impersonal historical forces, but by a strategic calculus which is likely to be deeply affected by the actor's expectations about how others are likely to behave as well.²⁷⁰ Finally, rational choice institutionalists explain how institutions

originate and persist over time. They usually use deductive method to arrive at stylized specifications of the functions that an institution performs. Subsequently, they explain the existence of the institution by making reference to the value those functions have for the actors affected by the institutions. The process of institutional creation therefore revolves around voluntary agreement by relevant actors. In a situation where the institution is subject to competitive selection, it survives primarily because the benefits provided to the relevant actors are far more than alternative institutional forms.²⁷¹

1.6.3 The Strengths of New Institutionalism

The renewed emphasis on institutionalism demonstrated the enduring benefits inherent in institutional analysis. New institutionalism demonstrates the primacy of institutions and their variants present very important analytical tools for the study of political science. Some of the key strengths of new institutionalism are discussed below.

First, new institutionalism emphasizes that institutions do not simply represent constraints or embody opportunity for action; institutions are central makers in the process of preference formation. In fine, institutions are involved in every dimension of politics, and they shape political process every step of the way.²⁷² Secondly, new institutionalism emphasizes the relationship between institutions and actions. It suggests that actors adapt their behavior to existing institutional frameworks thereby legitimizing institutions and favoring institutional continuity.²⁷³ Thirdly, new institutionalism provides the analytical tools for determining institutional change. Rational choice institutionalists have adopted the utilitarian view of institutional change. They contend that institutions

are demanded because they enhance the welfare of rational actors, and are transformed when they become dysfunctional or yield suboptimal results.²⁷⁴ Fourthly, even though the new institutionalists return to the institutional root of political science, they also stress the importance of individual actors in the political process. Individuals are important in the normative institutional and rational choice models and make choices within institutions, but these choices are largely conditioned by their membership of a number of political institutions. In point of fact, individual's actions are affected by the values that are advanced by institutions.²⁷⁵ Fifthly, the new institutional theorists address the shortfalls in the polity. Institutions according to rational choice institutionalism are designed to overcome identifiable shortcomings in the market or the political system as a means of producing desirable outcomes.²⁷⁶ Sixthly, new institutionalism helps us to really examine the nature of institutions in a political system. The new institutionalism therefore helps us to explain the persistence of institutions and their policies.²⁷⁷ It also helps us to explain the nature of those policies and institutions and why actors behave the way they do in an institutional setting. Finally, new institutionalism demonstrates the primacy of institutions. It emphasizes the origins of institutions. The rational choice institutionalists have produced an elegant account of institutions, turning primarily to the functions that these institutions perform and the benefits they provide. The theory is very helpful in explaining how existing institutions continue to exist, since the persistence of an institution often depends on the benefits it can deliver.²⁷⁸

1.6.4 The shortcomings of new institutionalism

Various criticisms have been leveled against the institutional theory. Some critics have questioned whether the institutional account presents anything new; whether its empirical and theoretical claims can be sustained; whether its explanations are falsifiable; and whether it can be differentiated from other accounts of politics. We consider some of the specific criticisms below.

First, Guy Peters has argued that there is an apparent theoretical inconsistency within new institutionalism, in that some of the alternative approaches are not only different, but also contradictory. If one adopts some versions of the institutional approach, he or she may have very different empirical evidence, and make very different predictions about behaviour, than if one were doing research using another version.²⁷⁹ Secondly, it is contended that institutions tend to be inherently static, while the world of politics it seeks to explain, is almost always changing. New institutional theories tend to be variance theories, and are better at explaining differences among types of institutions than in explaining the development of one or another individual institution.²⁸⁰ Thirdly, there is the difficulty in falsifying the predictions coming from this body of theory, especially rational choice theory. It is difficult to find any situation in which individuals could be said not to be acting rationally in the context of some possible set of incentives or another.²⁸¹ Finally, according to March and Olsen, institutions face what is celebrated in theories of adaptation as the problem of balancing exploitation and exploration.²⁸² Exploitation involves using existing knowledge, rules and routines that are seen as encoding the lessons of history. Exploration entails the examination of knowledge, rules

and routines that might come to be known. The adaptive character of rules and for that matter that of institutions, is threatened by their stability and reliability. Although violation of rules is unlikely to be a good idea, it sometimes is; and without experimentation with that possibility, the effectiveness of the set of rules decays with time.²⁸³

1.7 Justifying the Use of New Institutionalism

As has been indicated elsewhere, the theory guiding this study is new institutionalism, especially one of its variants-rational choice institutionalism. This theory is very appropriate in the sense that Parliament which is the focus of this study is an important political institution of the state. It is a vital democratic institution and functions within a plethora of rules, regulations, conventions, norms and practices. It is therefore very important for a critical analysis of the institution and how it promotes or constrains the making of public policies in Ghana. It is important to note that processes of policy making are very important in determining how just, legitimate and enduring a particular policy is in addressing the needs of society.

The employment of the tools of new institutionalism will help us address certain fundamental questions: namely, what is the nature of the formal structures of the Parliament?; What functions does parliament in Ghana perform?; What historical antecedents have shaped its character?; what is the relationship between parliament and the relevant actors?; how does this relationship shape the content of public policies?;

what shapes the behaviour of the relevant actors in parliament?; what explains the persistence and change in the structure of parliament?.

The rational choice institutionalism will also help us assess the impact of informal arrangements on the behaviour of the actors within and outside parliament and how these arrangements impact on public policy-making. In short, the theory of new institutionalism will be used because it deals with both formal and informal aspects of organizations. It also explains the utility of both the structures and the actors in the institutional setting and therefore suitable for our study.

1.8 Significance of the Study

The study has three-fold significance. First, the study underscores the importance of parliament in the governance of the state. It demonstrates in clear terms, the relevance of parliament as a key institution of state in the public policy making process in Ghana. As a debating chamber made up of the peoples' representatives, the viability of such an institution gives ample demonstration that the country is on course in ensuring procedural democracy, a sine qua non for the attainment of substantive democracy. Secondly, the study is important as it will identify the contextual variables that shape the content of public policies in Ghana. In this connection, the study demonstrates at the level of both theory and practice, the synergy between the executive and Parliament and how this relationship affect the quality of public policies in Ghana. Thirdly, the study is important in the sense that the recommendations made will impact more or less on how parliament will reposition itself to assert its authority and relative autonomy in enhancing its role as

an important actor in the policy making process in the country. The study also reiterates the importance of public policies in the ordinary lives of the people and the need to build the capacity of parliament to serve as a countervailing force to put government on its toes in order to produce good quality public policies and programmes. The study will also significantly contribute to the ongoing debate on political accountability and transparency in the administration of the state and the subsequent benefits derived from a well nurtured, efficient and effective Parliament.

1.9 Definition of Terms

For a better understanding of the terms used, it will be pertinent for us to define them.

1.9.1 Public Policy

A number of diverse definitions have been offered on the concept of public policy. James E. Anderson has defined public policy as “the behaviour of some actor or set of actors, such as an official, a government agency, or a legislature, in an area of activity such as public transportation or consumer protection”.²⁸⁴ To Thomas Dye, public policy is “whatever government chooses to do or not to do”.²⁸⁵ This definition even though recognizes both action and inaction of government as public policy, it fails to appreciate that what governments decide to do and what they actually do may diverge.

Arguably, one of the most comprehensive definitions of public policy has been offered by Yehezkel Dror. To him, a public policy is a “very complex and dynamic process whose various components make different contributions to it. It decides major guidelines for action directed at the future mainly by governmental organizations. These guidelines on

policies formally aim at achieving what is the public interest by the best possible means".²⁸⁶ To Ayee, public policy is a policy developed and pursued under the authority of governments. It is also a conscious, goal-selecting process undertaken by governmental actors in the decision-making system and it includes the identification of the means of achieving such goals.²⁸⁷ Policy is regarded as a process. This gives policy a historical dimension and alerts us to different foci during that process. Policy is also a purposive behaviour although officially stated goals may mask other intents and rationalization about policy initiatives and outcomes may come after decisions have been made and actions taken.²⁸⁸

In this study, we consider public policy as a very complex phenomenon and therefore find the definition given by Yehezkel Dror very attractive and therefore adopt it as a working definition. Generally public policies outline what a government hopes to achieve and the methods and principles it will use to achieve them. It is important to note that a policy document is not a law but it will often identify new laws needed to achieve them. It is normally necessary to pass a law to enable government to put in place the necessary institutional and legal frameworks to achieve their policy goals. In fine, laws are normally guided by current government policy.

1.9.2 Legislature

The term legislature defies simple definition. To Jackson and Jackson, legislatures are deliberative assemblies or bodies.²⁸⁹ According to Iain Mclean, legislature is a law-making assembly of elected members in a formally equal membership to one another.²⁹⁰

Legislatures generally act as national debating chambers, public forums in which government policies and the major issues of the day can be openly discussed, analyzed and scrutinized.²⁹¹ In general, a bewildering variety of terms are used to describe the law making organ of government. It is generally called the legislature. It is often referred to as the Congress in the USA, National Assembly in France, House of Representative or Diet in Japan, Congress of Deputies in Spain and Parliament in Britain and Singapore.²⁷² In Ghana, the legislature is called Parliament. It is a one chamber institution, made up of 230 members, elected on the first-past-the-post system with each member representing a single constituency.

1.10 Methodology

The study relied extensively on both primary and secondary sources of information. Primary sources of data include government and official documents, Parliamentary Hansard, Committees' reports and Bills, the strategic plans and other reference materials, memoranda to parliament, parliamentary documents and other documents of government relating to public policy making in Ghana proved invaluable in the study. In addition, we administered structured questionnaires to 100 people. Our sample size of 100 was influenced by the homogeneity of the population. Our respondents included both former and present officers of parliament such as the First and Second Deputy Speakers, the Minority and Majority Leaders, Majority and Minority Chief Whips and Principal Assistant Clerks. Others included the chairpersons of the various committees including the Public Accounts, Finance, Government Assurances, Special Budget and Judicial Committees and other ranking members of the various committees. Specifically our

respondents included 20 MPS who were former and present cabinet ministers. 30 MPs who were former and present deputy ministers of state, 20 MPs who were ministers but non cabinet members and 30 MPs who are not ministers. The selection also took into consideration the MPs for the four parliaments to ensure some balance in the views presented. Including the fifth parliament, one (1) of our respondents had served in all the previous parliaments, 14 MPs had served in four parliaments, 21 had served in three parliament, 35 had served in two parliaments and 26 of them were first-timers in parliament at the time of the field work. The selection of the sample took into account the different political parties represented in parliament. In this connection, 55 of the MPs who filled our questionnaire belong to the NPP, 42 of represented the NDC, while the other 3 came from CPP and the PNC. We paid attention to both ministers and non-minister to get the interface between the executive and the legislature. Eighty six (86) of our respondents were males with the remaining 14 being women. Interviews were also conducted using an interview guide to validate the responses gleaned from the administered questionnaires.

With regard to secondary sources of information, books, articles, CD Rom, video tapes, news papers and works on parliamentary practice and public policy making, located in the libraries in the University of Ghana and Parliament House of Ghana were used.

Statistical package for social sciences (SPSS) was employed in analyzing the data to establish various relationships between the variables identified. A mixture of quantitative and qualitative methods was used in analyzing the data from the field work to enable us use both words and figures to explain the data.

The period chosen for the study, 1993-2008 is important for a number of reasons. First, the period covers the first four parliaments of the fourth republic and it represents the most consistent attempt at democratic rule in Ghana. The period is unique in the political history of Ghana as it demonstrates the desire of the people to make democracy become the only game in town, attitudinally, behaviorally, and constitutionally and in the process, nurture parliamentary democracy in the country. This period represent an era when Ghana was hailed as a model of democracy in Africa. It is therefore imperative for a proper examination of one of the touchstone of democracy in the country, the parliament. Secondly, the period 1993-2008 is also important because it witnessed the development of Parliament from a near one-party one to an institution with very virile opposition thereby changing the face of legislation making in the country. It is a period which represents a gradual attempt by parliament and other donor agencies to build the capacity of Parliament so as to prevent the growth of an imperial president with overwhelming powers to ride rough shod over the other arms of government. Thirdly, the period also saw an alternation of power in the year 2001. It therefore afforded us the opportunity to critically assess the role of parliament in public policy making under both the National Democratic Congress (NDC) and the New Patriotic Party (NPP) governments. It also gave us a unique opportunity to examine the contextual variables that constrained or promoted the formulation of public policies under the two political parties in Ghana.

As case studies, the Public Order bill, Political Parties Bill, National Reconciliation Commission Bill, Representation of the People's Amendment Bill, Minerals and Mining Bill, the Non-Surrender Treaty Bill, the Value Added Bill, the Ghana Education Trust

Fund Bill, the Domestic Violence Bill, and the National Health Insurance Bill were examined to assess the performance of parliament in the formulation of public policies in Ghana. These bills were carefully selected for a number of reasons. First, bills selected cover the period 1993-2008 and it gave us a representative sample of the bills passed by parliament during the period under review. Secondly, the bills cover social, political and economic issues and therefore the sample reflects a cross-section of problems covered by public policies in the country. Lastly, the bills were carefully selected to cover both controversial and non-controversial issues and therefore enabled us to analyze how the majority and the minority in parliament responded to these varying issues when they are put before the House for debate. Four Appropriation Bills, one representing each Parliament were selected to ascertain the performance of Parliament in this area of legislation making.

1.11 Organization of the Study

The study is organized into six chapters. Chapter One, "Introduction and Conceptual Framework", deals with the introduction, statement of the problem, hypothesis, objectives of the study, literature review, theoretical framework, justification of theoretical framework, significance of the study, definition of terms, methodology and the organization of the study.

Chapter Two, "The Evolution of Parliament in Ghana", discusses the trajectories in the development of Parliament in Ghana, from colonialism to the Fourth Republic. The empirical questions that engaged our attention include;

1. Why was the **Legislative Assembly** created by the British in the **Gold Coast**?
2. What factors influenced the composition of the **Legislative Assembly**?
3. What was the contribution of the **Legislative Assemblies** in the **policy making** process in the **Gold Coast**?
4. Why did Ghana practice different forms of government and how did they affect the operations of parliament?
5. What were the powers of parliament under the various republics in relation to public policy making?
6. What factors promoted the growth or otherwise of parliamentary democracy in Ghana after independence?

Chapter Three, “The Architecture of the Fourth Republican Parliament”, examines the structure, composition, functions, the processes and resources of the Fourth Republican Parliament. The following questions were addressed:

1. What are the philosophical underpinnings of the hybrid system of government adopted by Ghana?
2. What are the core functions of the fourth republican parliament?
3. How does the structure of parliament affects the performance of the institution and its actors in public policy making in Ghana?
4. What contextual variables shape the work of parliament and to what extent do they promote or constrain the work of parliament?
5. How has party politics affected the work of parliament?

Chapter Four, “The Committee System and Parliamentary Practice in Ghana”, discusses the committee and how this facilitates the work of parliament. Specifically, this chapter answered the following questions:

1. How did the committee system in parliament in Ghana evolve?
2. What are the types, functions, and composition of committees in Ghana’s Fourth Republican Parliament?
3. What is the relationship between the committees and the parent House?
4. How do the committees operate?
5. What are the challenges facing the committees?

Chapter five, “Parliament and Public Policy Making”, which is the analytical chapter, examines a number of bills passed by parliament under the Fourth Republic. Specifically, the role of parliament in the policy making process in Ghana was discussed. We also analyzed the debates preceding the passage of the bill and the extent to which Parliament asserted itself as an independent institution with the mandate to pursue national interest by responding to the desires, hopes, fears and aspirations of the people of Ghana. The following questions that engaged our attention:

1. What socio-economic and political problems informed the introduction of bills into Parliament by the executive and do the final bills contain the requisite remedial measures to address the problems identified by the executive?
2. What is the law making process in parliament and how is this process observed?
3. What explains the frequent use of Certificate of Urgency, especially, in the introduction of Appropriation bills?

4. What is the nature of debates prior to the enactment of bills?
5. To what extend does parliament display independence and demonstrate capacity to amend clauses in bills they find inappropriate and how does the political divide affect the enactment of bills?
6. How does the work of parliament reflect the felt needs and aspirations of the people?
7. To what extent does the work of parliament shape public policies in Ghana?

Chapter six, “Summary, Conclusions, and Recommendations” is devoted to summarizing the findings of the study, and recommendations that will help enhance the performance of Parliament. The following questions were addressed:

1. What have been the key findings of the work?
2. What recommendations will improve the performance of Parliament especially in the area of public policy making?

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CHAPTER TWO

THE EVOLUTION OF PARLIAMENT IN GHANA

2.1 Introduction

The idea of representation has always featured prominently in the politics of Ghana even before the advent of colonial rule when the chieftaincy institution ensured that the voice of the people was always heard on major decisions. This role was effectively played by the counselors and the commoners in the traditional system. The desire of the people to have adequate representation on the major institutions of state, particularly parliament, was therefore in line with traditional practices. Parliament, which is a major arm of government of the state, is expected to play a key role in fostering representative democracy in a modern state. The chapter, therefore, examines the evolution of parliament as an institution in Ghana. It discusses the trajectories in the development of parliament in Ghana, from colonialism to the Fourth Republic. It analyzes how the legislative institution was created and composed within the context of new institutionalism. The chapter further explores the variables which motivated the institution of parliament in the Gold Coast and Ghana. The empirical questions that engaged our attention include:

1. Why was the Legislative Assembly created by the British in the Gold Coast?
2. What factors influenced the composition of the Legislative Assembly?
3. What was the contribution of the Legislative Assemblies in the policy making process in the Gold Coast?
4. Why did Ghana practice different forms of government and how did they affect the operations of parliament?

5. What were the powers of parliament under the various republics in relation to public policy making?
6. What factors promoted the growth or otherwise of parliamentary democracy in Ghana after independence?

2.2 Parliamentary Practice under Colonial Rule

The genesis of British rule was fully consummated with the signing of the Bond of 1844 between Governor Hill and the eight Fante Chiefs which sought to place the coastal belt of Gold Coast under the jurisdiction of the British. This called for some local involvement in the governance process of the colony. The Bond of 1844 spelt out the relationship that existed between the chiefs and the coastal states and the British. Section A of the Bond states that: “whereas power and jurisdiction have been exercised for and on behalf of Her Majesty the Queen of Great Britain and Ireland, within diverse countries and places adjacent to her Majesty’s forts and settlements on the Gold Coast; we, chiefs of countries and places so referred to, adjacent to such forts and settlements, do hereby acknowledge that power and jurisdiction, and declare that the first objects of law are the protection of individuals and of property.”¹ The Bond also put in place measures to deal with crimes such as murder, robberies, human sacrifices, panyarring and other obnoxious customs of the indigenous people.

One of the pseudo-democratic institutions the British established to facilitate the administration of the Gold Coast was the Legislative Council (LC). The movement towards local autonomy in the Gold Coast dates back to the earlier years of colonial rule

from 1950, when the first African unofficial members were appointed to the first Legislative Council.² Legislative power was first exercised in the Gold Coast during the reign of Queen Victoria (1837-1901). The creation of LC in 1850 was significant as it was the first body in the Gold Coast that representatives of sections of the people of the Gold Coast, had been allowed to serve on.³ The creation of the LC was to address an inherent contradiction where a democratic assembly exercised sovereign power and authority over a population other than which it represents. The Gold Coast was reunited with other West African Settlements and administered under the same LC between 1866 and 1874. The legislature began a sturdy, albeit slow growth from 1874 when the country was given a separate LC and governed separately from the other settlements in West Africa.

The first LC of the Gold Coast followed the normal Crown Colony pattern with an official majority. It consisted of two merchants, Brodie Cruickshank and James Bannerman and three full-time un-officials. There were continued agitations by doctors, lawyers, merchants, government clerks and other educated people for a greater representation and subsequently greater say in the administration of the Gold Coast.

The Legislative Council served both as an advisory body and as a representative institution.⁴ Specifically, the functions of the LC included the: (a) enactment of ordinances for the colony subject to the Governor's veto and the power of certification, (b) discussion and approval of the Governor's annual budget estimates before it was sent to the Secretary of State in charge of colonies in Britain for approval before

implementation. (c) forum where grievances of the people were discussed and issues affecting the colony debated and decisions taken. These functions notwithstanding, the LC had practically no powers, except meeting periodically to discuss national issues and advise the Governor accordingly. The advice of the LC was only of persuasive nature.⁵ This situation was because of the structure of the colonial administration which centralized power in the Governor. Even the representative function was of limited utility as the LC members were appointed by the Governor.

The LC during the period under review performed only advisory functions and did not play any significant public policy making role. It was expected to make all such laws, institutions and ordinances as may from time to time be necessary for the peace, order and good government of our subjects and others within the said present or future forts and settlements in the Gold Coast.⁶ The powers of the LC were also very limited even with some local representation. One can therefore infer that the British put it in place only as a façade and not to enhance representation in the Gold Coast. The LC during the period under review did not even approximate the image of the British parliament in terms of both its representative nature and its influence in the policy making process.

2.2.1 The Clifford Constitution, 1916

Sir Hugh Clifford made an assessment of the LC when he arrived in the Gold Coast as Governor in 1915. When he assumed duty, the LC was made up of nine nominated members. The LC consisted of the Governor as the President, four official and four unofficial members. Of the four unofficial members, two were Europeans representing

mercantile and mining interests while one African each represented the educated elite and chiefs.⁷ Clifford found the machinery of government inadequate for modern requirements. One would have thought that after making such observations, he would carry out root and branch reforms to bring the LC in line with what he had observed in Ceylon. Contrary to this expectation, he proceeded to declare that the Gold Coast was not ready for elections. He indicated that “a few of the educated natives at Cape Coast have from time to time agitated for the recognition of the elective principle; but I am convinced that the vast majority of the general public of this colony have not yet reached such a stage of intellectual development as would enable them to exercise the franchise with wisdom and discrimination and in the best interests of the community as a whole”.⁸

Under the Clifford Constitution of 1916, the LC was reconstituted and enlarged to twenty-one members. This included nine nominated ex-officio members, six of whom were Africans in addition to the eleven official members and the Governor. The enlargement of the LC was thought to be necessary to allow the government of the colony to obtain varied opinions on issues of national importance. The membership of the Executive Council was also increased to eight but unfortunately this did not include any African. The expansion of the Council was seen by Clifford as a major breakthrough in a truly representative institution. He however, affirmed that it was not yet time to change the method of appointment. The Governor defended his stand by arguing that the Crown Colony system was paternalistic and not democratic and posited that there was tremendous difference between LC and parliament.⁹ He even discounted the notion of

opposition and maintained that the government and the people formed a corporate body working for the advancement of the prosperity of the Gold Coast.

The constitutional changes made did not appease the nationalists most of whom felt there was the need for greater representation of Africans. It is, however, interesting to note that the nationalists, mainly lawyers of the Aborigines' Rights Protection Society (APRS), and the National Congress of British West Africa (NCBWA) were vehemently opposed to British rule to the extent they referred to the Africans who served on the LC as traitors.⁹ In fact, some of the Africans felt very uncomfortable serving on the LC. For instance, Hutton Mills confessed that people looked at him as the favorite of the Governor.¹⁰ Guggisberg realized that the mode of appointing to the LC had the tendency of destabilizing the colony and therefore decided to introduce some form of franchise without undermining the authority of the chiefs. This franchise was to ultimately materialize under the Guggisberg Constitution of 1925 to which we turn our attention.

2.2.2 The Guggisberg Constitution, 1925

It has been argued that the Constitution of 1925, otherwise known as the Guggisberg Constitution was the first radical constitution ever produced for the governance of the Gold Coast. The Constitution introduced far reaching reforms aimed at enhancing the democratic credentials of the colonial government. Among other things, the constitution introduced a LC with elected members. The LC was empowered to assist the Governor with advice 'to make laws for peace, order and good government of the colony'. The first LC election was held under the Guggisburg Constitution in 1925 but the Governor still

held absolute control over legislation. The LC consisted of thirty members. Fifteen of them were official members, and the other fifteen were unofficial members. The Governor had an original and a casting vote in case of a tie. Thirteen of the members were ex-officio members who were already members of the Executive Council excluding the Provincial Commissioners and eight government officials, and two nominated to represent business interest like merchants. Nine unofficial members represented the Provincial Councils and municipalities of Accra, Cape Coast and Sekondi-Takoradi.¹¹ The LC had six prominent chiefs, representatives of British merchants, largely representatives of the Association of West African Merchants (AWAM) who mainly represented mining, commercial and banking interests and representatives of churches.¹²

The expansion of membership notwithstanding, the LC largely remained weak. The fact is that the Europeans were always in the majority on LC and even though it could be argued that not all Africans took African stance on issues brought before it. All the official and unofficial members of the Council were appointed by the Governor for a term of four years and were eligible for re-appointment. This provision made it possible for the Governor to effectively control the members of the LC. The elected members represented the Eastern, Central and Western Provincial Councils. The qualification for election into the Provincial Council was that one had to be a paramount chief and certified in writing by the Provincial Commissioner that he was able to read and speak the English language sufficiently well to enable him participate effectively in the deliberations of the Council. This qualification presupposed that illiterates could not be elected to serve on the L. C. This development was unfortunate since majority of the people were illiterate and were

therefore precluded from participation in the law making process. Also, to be able to serve in the Provincial Council, one had to owe allegiance to the stool of a paramount chief in the province.

2.2.3 The Features of the Clifford and Guggisberg Constitutions

The two constitutions which existed in the Gold Coast before 1945 had certain key features. First, both constitutions featured unofficial and official members. The official members were heads of important government departments or persons who by virtue of their official positions in the British colonial administration, were nominated to serve on the LC. The unofficial members, on the other hand, held no official position but were included in the LC because they represented special interest in the colony. Secondly, there were official majority and unofficial minority. Thirdly, the unofficial minority had very little influence over the administration of the state **except** to criticize bills brought before the LC. Fourthly, the official majority was designed to ensure that British interest always prevailed in the final decision that was taken by the LC. Finally, both constitutions could be described as a mere window dressing designed to give the system of rule some semblance of democracy.

2.3 The Expansion of Representation after the World War II

Events after the Second World War ushered the Gold Coast into a new era of rapid political and economic development. The harsh economic and social conditions incensed the people of the Gold Coast and consequently called for wide ranging reforms aimed at giving Africans greater representation in the decision making process. This call had an effect on legislative reengineering in the Gold Coast. The Gold Coast was referred to as

a “model colony” because it enjoyed advantages such as reasonable geographical size of the colony, wealth in minerals, timber and other natural resources, relatively high standard of education of its people, high caliber of administrative personnel, and an air of confidence and stability.¹³ These factors taken together smoothed the transition to self-government. The colony was regarded as very unique and the people were applauded for their steadfastness. The Gold Coast people found themselves as the pioneers of political advancement and the touchstone of political competence in Africa.¹⁴

2.4 The Burns Constitution, 1946

The arrival of Governor Allan Burns in 1942 was significant as it ushered in a period of the introduction of a measure of representative government. This presupposed that the evolution of the legislature in the Gold Coast became more distinct under the Burns Constitution of 1946 which replaced the Guggisberg Constitution of 1925. The Burns Constitution was therefore an improvement on the earlier constitutions. The Constitution introduced a somewhat parliamentary system under the control of chiefs and intelligentsia. The Constitution reflected the views of the youth movements and the growing educated class.¹⁵ The Constitution reduced the number of official members on the LC from 15 to 12 and increased the elected members from 13 to 15. Ashanti was this time given 4 seats. The development increased the number of unofficial members to 24. The distribution of the seats was as follows; 18 of the unofficial members were to be elected; 9 of the members were elected by the Provincial Councils, 4 from Ashanti, and 5 from the Municipal Councils; 6 additional members were to be Africans. The Constitution saw the removal of the official majority and the introduction of African majority and the granting of representation to Ashanti. This development was cosmetic as

the Governor still retained enormous powers through the exercise of what became known as 'reserve powers' which enabled him to legislate over the head of the LC.

In spite of the perceived far reaching reforms carried out by the 1946 Constitution, it was denounced by the Africans who described it as a mere window dressing, designed to deceive and not to advance the interests and aspirations of the Africans. The educated elites were upset because they felt that the reforms contained in the new constitution did not advance their course but rather serve British interest.¹⁶ The reform was considered a sham and the African majority dismissed it as a naked deception as the Governor and his high ranking British officials, exercised overwhelming powers as far as law making was concerned.¹⁷ In 1949, the Legislative Council was given jurisdiction over Southern Togoland under the United Kingdom Trusteeship. In 1951, the Northern Territories also came under the Legislative Council. Before the admission of Ashanti and the Northern Territories into the Legislative Council, these two territories were under the exclusive jurisdiction of the Governor.¹⁸ One unique feature of this constitution was that the chiefs were given preferential treatment over the educated elites and this in no small measure contributed to the sour relationship that was to exist between the chiefs and the educated elites. The Constitution, however, did not guarantee universal adult suffrage, perhaps because the colonial masters felt that the people were not mature enough to exercise matured judgment especially in the choice of their rulers. Even though the Burns Constitution was moving the colony slowly in the direction of self rule like Burma, India and Ceylon, the intelligentsia still felt that more fundamental reforms were to be carried out so that the right People would be the beneficiaries.¹⁹

2.5 The Formation of the United Gold Coast Convention (UGCC)

The thought of a possible take-over of government informed P'aa Grant to engage in discussions with Awoonor Williams, R.S. Blay and J. B. Danquah on the possibilities of forming a new political movement.²⁰ On August 4, 1947, a new political movement, United Gold Coast Convention (UGCC) was launched in Saltpond under the direction of a Working Committee. Some of the leading members of this political movement included A.G. Grant, chairman, R.S. Blay, vice-chairman, J.B. Danquah, vice-president, R.A. Awoonor Williams, treasurer, W. E. Ofori Atta, E.A. Akuffo, J.W. de Graft Johnson and Obetsebi Lamptey, members. The membership of the UGCC expanded to include John Tsioboe and Cobina Kessie.²¹ The declared intention of the UGCC was to restore the leadership of the country into the hands of the chiefs and people and prepare the country towards self-rule. The basic objective of the movement was "to ensure by all legitimate and constitutional means that the direction and control of government should pass into the hands of the people and their chiefs in the shortest possible time".²² Specifically, the aim and objective of the movement included "the desire to ensure that persons elected to represent the people and their natural rulers in the present LC shall be elected by reason of their competence and not otherwise".²³ The UGCC particularly resented the presence of chiefs on the LC and argued, among other things, that the contact of the chiefs and the government was unconstitutional and consequently the position of the chief on the LC was anomalous. The invitation of Dr. Kwame Nkrumah at the behest of Ako Adjei in December 1947 began to transform this movement into a real political association capable of wrestling political power from the colonial authorities.

2.6 The 1948 Riot and their Implications for Legislative Reforms in the Gold Coast

The 1948 riots precipitated by the shooting of Sergeant Adjetei, and other ex-servicemen, changed the political landscape of the country overnight. The shooting of the ex-servicemen on February 28, 1948 by a British officer, Major Imray, created chaos, confusion, pandemonium and mayhem as cars and properties belonging to British and other Europeans were set on fire and their owners attacked. There was widespread looting. Law and order broke down completely as the nation was gripped by fear and panic. In the wake of the chaos, Nkrumah and the leadership of the UGCC called on the nation to rally behind the ex-soldiers. It was perhaps this call which incensed the Governor Gerald Creasy to order the arrest and the detention of the six prominent leaders of the UGCC namely Dr. J. B Danquah, Dr. Kwame Nkrumah, Dr. Ako Adjei, Mr. Obetsebi Lamptey, Mr. Edward Akufo-Addo and Mr. William Ofori-Atta. The British government responded to the events by recalling Governor Gerald Creasy and setting up of the Watson Commission and charged it with the responsibility of investigating the causes of the riots and come out with recommendations that will address the fundamental problems in the country and prevent the recurrent of such events in the future.²⁴

The riot itself had been occasioned by the emergence of a new class of elementary school-leavers who had a mass of following among commoners of the Ashante and the native authorities.²⁵ There was also some discontent among the educated intelligentsia over the slow pace of reforms undertaken by the colonizers. The intelligentsia was also upset about the change of attitude on the part of the chiefs to the distribution of power under the Burns Constitution. It could be argued that the establishment of the

Commission invariably led to the collapse of the 1946 Burns Constitution. This development explains why the 1946 Constitution is often referred to as “outmoded at birth”. The argument is that a constitution is expected to address the interests and aspirations of the people and if for whatever reason a particular constitution falls short of these major objectives, it must be subjected to a review or total overhaul. Specifically, the riots were caused by political, social and economic factors. These are explained in turn.²⁶

Politically, a number of developments made the riot very eminent. Firstly, the large number of Africans soldiers returning from services with the Forces, where they had lived under different and better conditions, made for a general communicable state of unrest. Such Africans by reason of their contacts with other peoples including Europeans had developed political and national consciousness. The fact that they were disappointed at conditions on their return, either from specious promises made before demobilization or a general expectancy of a golden age of heroes, made them the natural focal point for any movement against authority. Secondly, the feeling of political frustration among the educated Africans who saw no prospects of ever experiencing political power under existing conditions and who regarded the 1946 Constitution as mere window-dressing designed to cover but not to advance their natural aspirations. Thirdly, the failure of the government to realize that, with the spread of liberal ideas, increasing literacy and a closer contact with political developments in other parts of the world, the star of rule through the chiefs was on the wane. The achievement of self-government in India, Burma and Ceylon had not passed unnoticed in the Gold Coast. Fourthly, a universal feeling that Africanisation was merely a promise and not a driving force in government policy,

coupled with the suspicion that the growth of education had been slowed and directed in such a way as to impede Africanisation. Fifthly, a general suspicion of government measures and intention reinforced by a hostile press and heightened by the general failure of the administration in the field of public relations. Finally, there was increased resentment at the growing concentration of certain trades in the hands of foreigners, particularly at the increase in the number of Syrian merchants.

Among the economic factors which motivated the riots are: firstly, the announcement of the government that it would remain neutral in the dispute which had arisen between the traders and the people of the Gold Coast over high prices of imported goods and which led to organized boycott of January-February, 1948. Secondly, the persistence of war-time control of imports, and the shortage and high prices of consumer goods which were widely attributed to the machinations of European importers. Thirdly, the alleged unfair allocations and distribution of goods in short supply by the importing firms. Fourthly, the government acceptance of the scientists' findings that the only cure for swollen shoot disease of cocoa was to cut out diseased trees and their adoption of that policy combined with the allegations of improved methods of carrying it out. Fifthly, the degree of control in the Cocoa Marketing Board which limited the powers of farmers' representatives to control the vast reserves which were accumulating under the Board's policy was found to be very disturbing by the Gold Coasters. Sixthly, the feeling among the people that the Government had not formulated any plans for the future of industry and agriculture and the lukewarm attitude to any development apart from production for export.

The social factors explaining the riots included the following: first, there was the alleged slow development of educational facilities in spite of high demand, and the almost complete failure to provide any technical or vocational training. Secondly, the shortage of housing, particularly in the towns, and low standard of housing for Africans as compared with those for Europeans. Thirdly, the fear of wholesale alienation of tribal lands leaving a landed peasantry provided enough impetus for revolt. Finally, the inadequacy of the legal powers of government necessary to deal with speeches designed to arouse disorder and violence. The combination of these political, economic and social factors proved extremely viable for any nationalist who wanted to push for self-determination to use.

Earlier in 1942, the government had accepted an amendment to the 1925 Constitution making it possible for the chiefs of the Joint Provincial Council to elect non-chiefs to the LC as a way of dealing with the tension between the chiefs and the educated elites. The elections conducted in July 1946 did not produce the desired result the Gold Coasters wanted. Only two commoners, J. B. Danquah and Rev. C. Baeta were successful when the chiefs of the colony met to choose their nine representatives.

Under the Commissions of Enquiry Ordinance (Chapter 209 of the Laws of the Gold Coast), a Commission of Enquiry was appointed in March, 1948 to look into the disturbances in February 1948. The decision to appoint a Commission of Enquiry was first announced in the House of Commons on the 25th March 1948. The terms of reference of the commission were as follows; to enquire into and report on the recent disturbances in the Gold Coast and their underlying causes; and to make

recommendations on any matter arising from their enquiry. The composition of the Commission as announced by the Governor was as follows: Aiken Watson the chairman, Dr. Keith A. Murray, Rector of Lincoln College, Oxford, and A. Dalglish, Trade Unionists. The "Big six" were represented at the Commission by Dingle Foot, a British lawyer. The Commission also had Mr. E. G. G. Hanrott of the Colonial Office as its secretary. The Commission delved into the political, economic and social causes of the unrest. Among the political causes of the riot was the failure of the colonial authorities to resettle the large African soldiers who had participated in the Second World War and lived under very trying conditions. The disenchanted ex-servicemen became a natural focal point for mass action against the existing colonial authority.

The Commission sat for several weeks. It interviewed the "Big Six" and other prominent leaders of the country. It also received written memoranda and petitions from a variety of sources. The members of the commission also traveled to the other regional capitals for more information on the riots. The Committee identified the colonial administration's abysmal performance in the management of the economy of the Gold Coast, couple with the slow pace of political and social development had provided the needed ammunition for the riots to survive and attract the support badly needed by the organizers.

The Watson Commission recommended the creation of a Gold Coast Assembly with legislative powers and parliamentary status. By this recommendation, the commission demonstrated that the legislature is important for both symbolic and latent importance as an institution which is cardinal for the consolidation of democratic rule. The Commission

also recommended a full responsible government for the Gold Coast. The report of the Commission was accepted by the Colonial Office.²⁷

Following the recommendations of the Watson Commission, a constitutional committee under the chairmanship of Sir Charles Coussey, a British Supreme Court Judge was set up to critically study the Watson Commission's report and make recommendations that will address the political problems of the country taking into due cognizance the developments in the country at the time. It is instructive to note that six Conventionists namely; B.D. Addai, E. Akufo Addo, J.B. Danquah, Cobina Kessie, and E.O. Obetsebi Lamptey were invited alongside nine chiefs and 24 commoners to constitute a Committee on Constitutional Reforms. After extensive nation-wide travels, investigations and interviews, it drew a constitution that almost granted self-government to the people.

The Coussey Committee recommended the reconstitution of the Executive Council as a full ministerial body responsible and answerable to the legislature. The Committee by this recommendation had recognized the need to check the overbearing nature of executive power and highlight the importance of the legislature as a representative body. The recommendations of the committee did not please Nkrumah as he launched vitriolic attacks on the constitution and in the process, described it as 'bogus and fraudulent'. The Constitution, however, formed the basis of the Legislative Assembly of 1951 which gave the Gold Coast limited responsible government. He subsequently started his nationwide campaign of civil disobedience, strikes and mass demonstration to undermine the constitution arguing that the constitution fell short of granting eventual independence to

the country. The action of Nkrumah which was christened “Positive Action” although received nationwide support, the call for strikes was not enthusiastically welcomed as there were sporadic clashes between the police and some demonstrators in certain parts of the country.²⁸

The 1950 Arden-Clarke Constitution was promulgated to replace the Burns Constitution of 1946. The 1950 Constitution set up a 104 member legislature, 70 of whom were to be directly elected. Out of this number, 33 were elected from the colony, 18 from Ashanti and 19 from the Northern Territories. Even though the 1946 Constitution had been rubbished as “bogus and fraudulent”, it nevertheless paved the way for the introduction of the Legislative Council of 1951 which was established 101 years after the first Legislative Council of 1850. The 1950 Constitution also paved the way for the holding of the general elections in 1951. This election was the first of its kind held in the country where political parties had to contest. The rift between Kwame Nkrumah and the ideological differences between the key functionaries of the Convention resulted in the break-away of Dr. Kwame Nkrumah and the formation of the Convention People’s Party (CPP) in August 1949, thereby setting the stage for the two parties to subsequently dominate Ghanaian politics till independence in 1957 and beyond.

The general election held on February 8, 1951 was won by the CPP. The election was held at a time when Nkrumah had been incarcerated for his role in the “Positive Action” which had virtually brought the nation to her knees. Surprisingly, Kwame Nkrumah stood and won the Accra Central seat even though he was not a registered voter as this was not

a requirement at the time. The election of 1951 was guided by certain rules. First, one had to be a British subject or **British-protected** person who was 21 years and over. Second, in the rural districts, one had to be six months resident within the constituency; in municipalities, six months' ownership, rental or occupancy of assessed premises within the constituency and finally, in the rural districts, payment of local tax "if liable thereto" for the current or preceding year.²⁹

The rule further stipulated that persons who had been sentenced to death, or imprisonment for a term exceeding twelve months or convicted of any offence involving dishonesty within the previous five years, lunatics, persons convicted of an offence in connection with election and a person who was a registered voter in other constituency could not vote.³⁰ It is instructive to note that apart from the voting age which was fixed at 21, property qualification was also very important for one to exercise matured judgment at elections. On February 12, Nkrumah was released and invited by the Governor, Sir Charles Noble Arden-Clarke to become the leader of Government Business and subsequently the Prime Minister in 1952, the first African to attain that feat. This decision was taken after extensive consultations between the Governor, his chief secretary of the colony, Sir Reginald Harry Saloway, his chief advisors, and the Colonial Office in London. J. B Danquah, even though a very bitter rival of Nkrumah at the time, hailed the victory and subsequent release of the latter as symbolic and a conquest over imperialism.³¹

In June, 1953, Dr. Kwame Nkrumah submitted proposals for the crafting of a new constitution. A new constitution was subsequently introduced in April 1954 making the country a virtually self-governing one. The new constitution provided for an all-African cabinet from an enlarged legislature of 104 seats. In the ensuing elections, the CPP won 79 out of the 104 seats of the National Assembly.

Under the 1954 Constitution, otherwise known as the Nkrumah Constitution, the legislature was to be directly elected by secret ballot in single-member constituencies. Even though the administration of the state was headed by an African, tremendous influence was exerted by the Queen in Britain because the nation was still under colonial domination. The legislature under the 1954 Constitution was preoccupied with the programme to prepare the nation for self-determination. This preparation included negotiations with the British government on the process towards independence and the Africanization of the public service in Ghana.³²

The year 1954 ushered Ghana into another phase of nationalist movement, uncertainty and violent politics. Spearheading the moves to break Ashanti away from the rest of the country or at least, give it almost complete autonomy was the National Liberation Movement (NLM). It was led by prominent Ashanti chiefs, politicians, and intellectuals some of whom started with Nkrumah but had become disillusioned about what they considered as creeping dictatorship and the overbearing nature of Kwame Nkrumah.³³ The NLM was formed in mid-September, 1954 and by October, its activities had been felt throughout the country. The NLM challenged the CPP as it proposed an alternative

federal system of government which drew a lot of political support from local grievances. The CPP won the 1954 elections with 55 per cent, but the turn-out was only 32 per cent. The opposition made representation to the Colonial Office in London, arguing that the CPP did not command the support needed to govern the country. The confrontation between the CPP and the NLM turned violent and in the process, the British government was forced to intervene and imposed a third election in 1956. Kofi A. Busia, in a memorandum to the British argued that federation will disperse power, and protect the liberties of the people. The NLM specifically called for bi-cameral regional assemblies, a bi-cameral federal parliament, and revenues sharing formula predicated on needs, deprivation and population.³⁴

The activities of the NLM spread very fast in the country with a lot of people either joining the new movement or showing sympathy for its anti-Nkrumah stance. Following the refusal of the leadership of the NLM to negotiate with the CPP, the British government appointed a British statesman, Sir Frederick Bourne, to thoroughly investigate the claims of the movement and advise the Colonial Secretary accordingly. The work of Frederick Bourne was complemented by a select committee set up by the Legislative Assembly in 1955 to examine the question of federal system of government and the question of a Second Chamber for the Gold Coast.³⁵

The reports of the two bodies favoured a unitary system of government. On its part, the Select Committee argued that on the basis of the memoranda it had received, the establishment of a federal system of government and a Second Chamber were out of the

question. In the same breadth, Frederick Bourne who earlier interviewed a cross section of the population, political leaders and canvassed opinions and views from various segment of the population concluded that it was in the best interest of the country that Ashanti remained an integral part of Ghana under a unitary system of government. He further recommended the introduction of a new constitution for independence and subsequently elections were to be conducted to herald the birth of a new nation through the granting of full independence. The report gave support to the Regional Assemblies as the proper instruments for the devolution of power. On the basis of this assumption, the report recommended five Regional Assemblies with a wide range of powers, including approval of local authorities' estimates, control over local authorities, primary education, regional roads, rural housing, hospital sites, and all statutory boards and committees.³⁶

The call for the institution of a federal system of government was a failure and the reasons are not far fetched. First, the country was too small for a federation. In practice, federal system of government is usually adopted by countries that are vast geographically. Secondly, those who agitated for federalism were not very committed to that cause since from their demands one could conclude that they were more interested in the breakaway of Ashanti than the institution of a federal system of government. Thirdly, the leadership of the new movement failed to take advantage of the constitutional conferences to state their claim and perhaps win some sympathies for their cause. Fourthly, the recommendations of Frederick Bourne were emphatic on the need for the country to stick with a unitary system of government. Finally, the CPP which dominated politics of the period was seriously opposed to the federal system of government. The

Association Party and Independence Member won 1 seat each. In effect, the 1957 transitional Constitution created an assembly of 104 members.

The Constitution provided for the office of the Prime Minister (PM) to be appointed by the Governor-General. The PM was the leader of the majority party in parliament. The PM was both a member of the legislature and the executive. This arrangement largely affected the independence of the legislature and worked against its public policy making role in the country even though the Constitution was supposed to be a sovereign one. The Constitution provided for a uni-cameral legislature called a National Assembly. The National Assembly was presided over by a Speaker. The Constitution also created regional assemblies. The regional assemblies were given powers in nine areas of national development. These include, local government, agriculture, education, medical and health services, public works, town and country planning, housing, police and such other matters as Parliament may from time to time determine.³⁸

The government was, however, not very keen in keeping the regional bodies. It argued that the regional bodies should be advisory ones since in its considered opinion, the establishment of Regional Assemblies to exercise powers that would be exercised by local authorities was wasteful and altogether unsound administratively. After reducing the powers of these bodies, the government proceeded to organize elections into them. The opposition boycotted this election and subsequently the CPP won in all the five regions. This development made it very easy for the assemblies to vote for their own dissolution by passing the Constitutional (Repeal of Restrictions) Bill which enabled the

government majority in parliament to change the constitution by a simple majority. In March, 1959, the Regional Assemblies were abolished thereby defeating the aim of ensuring that these bodies acted as countervailing forces to that of the central government.

The National Assembly had a lot of public policy making powers. It was empowered to discuss government policies, debated fiscal policies, and approved government financial estimates including approval of taxes, exercised supervisory role over the executive and had the power to remove the executive from office through a vote of no confidence. Article 36 gave the Parliament the power to from time to time make amends and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the dispatch of business, and for the passing, instituting and numbering of bills and for the presentation thereof to the Governor General for assent. The significant role of parliament in public policy making was further strengthened by article 31 (1) of the Independence Constitution of 1957 which states that subject to the provision of this order, it shall be lawful for parliament to make laws for the peace, order and good government of Ghana. These powers were really enormous and theoretically placed parliament at the heart of public policy making in the country.

The acrimonious nature of the pre-independence politics and the failure of the major opposition parties to avail themselves of the various conferences aimed at ensuring compromise position, the failed attempt by the NLM to push for a federation, coupled with the overwhelming electoral victory chalked by the CPP in the run up to

independence, shaped the parliamentary practice that was to follow. Nkrumah stated in his autobiography that “given the violent, waspish and malignant nature of his political opponents, there was the need for a temporary benevolent dictatorship”³⁹ This position adopted by the Nkrumah contributed in no small measure towards the regime’s attitude to parliamentary practice in the country.

Even though the constitution had vested the legislative powers of the state in parliament, which consisted of the President and the National Assembly, the latter’s control over the public purse was largely constrained. The legislature was also used by the PM to pursue personal vendetta against perceived or real opponents of the regime. For instance, to be able to effectively deal with the opposition, Nkrumah cajoled parliament to pass the obnoxious Preventive Detention Act in July 1958. Under this law, people could be arrested and detained indefinitely for numerous offences broadly defined as “being activities not conducive to the public good”. In effect, the Governor-General could order the detention of any citizen if he was satisfied that it was necessary to prevent that person from acting in a manner prejudicial to the defense of Ghana, the relations of Ghana with other countries and the security of the state.⁴⁰ This draconian law made serious inroads into the fundamental human rights of citizens and other residents in Ghana. Under the Preventive Detention Act, acts of violence and civil disobedience were brutally crushed and identified or rumored leaders arrested and imprisoned and subjected to various degrees of torture from agents largely trained from the Soviet Union.⁴¹ The Act was used to literally force into exile hundreds of eminent Ghanaians, lawyers, doctors, engineers,

teachers, businessmen, academics and senior policemen. Several others were arrested and sent to prison under the Act.⁴²

The problem with this Act was that those who decided to challenge Nkrumah were denied the opportunity to do so, and so they had to resort to other unconventional tactics which nearly caused the life of Nkrumah. The PM reacted to this by using hard-handed approach in crushing the opposition. It is interesting how the peoples' representative body, the legislature, could abdicate and allow the PM to have virtually unrestricted powers to do as he wished. Nkrumah also used the legislature to pass other legal instruments like, the Deportation Act, and the Emergency Act all aimed at giving Kwame Nkrumah totalitarian powers he needed to facilitate the development of the young country. The passage of these laws was also in line with Nkrumah's personal political instincts, which were also in favour of a strong central government under the aegis of a monolithic party. It is contended that people who had earlier on supported the passage of the PDA, were later to suffer or caught up in the same mesh.

The public policy making power of the National Assembly was further undermined by article 31 (1) which states that, no expenditure was to be made for any public expenditure from any public fund except under the warrant issued by the authority of the President.⁴³ It is important to note that while the National Assembly could vote on annual estimates, no amendment of the estimates shall be moved by parliament. This provision made it possible for the President, on behalf of the republic to enter into any agreement for the granting of a loan out of any public fund or account. This was a recipe for disaster and did

not promote transparency and accountability which are the two cardinal principles of democratic governance. The parliament so created was therefore constrained as far as public policy was concerned since fiscal policy is at the heart of overall development agenda of any state. It could be inferred that the passage of so many obnoxious laws primarily aimed at crippling the opposition undermined the credibility of parliament and one is tempted to conclude that parliament did not promote the public interest but rather the parochial one of the party in power, the CPP.

The Constitution inherited at independence remained in operation until 1st July 1960 when it was replaced by the Constitution of the first republic. This Constitution was enacted by the National Assembly sitting as a Constituent Assembly in exercise of the sovereign right of the people of Ghana. The 1960 Republican Constitution of Ghana established a system of government that transformed the 1951-1957 structure of government into a presidential one with a lot of powers concentrated in the hands of the president. The Constitution provided for an executive president who as an executive Head of State was also part of parliament, combining both the executive and legislative powers. The president had the powers to make and unmake laws, declare a state of emergency and even dismiss judges who fell out of favour with the government.

The Constitution provided for the establishment of a uni-cameral parliament, called National Assembly, and made up of 104 members and the president. The National Assembly was empowered by the constitution to take active part in the making of public policies in the country. These include: the power to make laws for the country subject to

the approval of the president, the power to authorize the executive to raise taxes to generate revenue for the government, the parliament was to elect future president acting as an electoral college, and served as a forum for the deliberation of issues of national importance. These powers notwithstanding, the constitution contained a number of limitations which affected the public policy making role of parliament. The fact that the president could override the decision of the legislature constituted a serious limitation on the powers of the parliament. Besides, because the CPP had tremendous majority in the House, it could pass any bill it wanted into law without any problem. It is, however, interesting to note that the parliament under 1960 Constitution had fewer limitations than the one created under the 1957 Constitution.⁴⁴

In 1960, the government introduced the Representation of the People (women members) Bill that sought to offer women the opportunity to represent the interests of women in the legislature. The bill received the assent of the Governor-General on the 16th June, 1960, making Ghana the first nation in Africa to introduce the quota system for women. Earlier on, Mr. A. E. O. Ofori-Atta, the then Minister of Local Government had intimated that the rapid social, economic and political advancement in Ghana had made it necessary for women to play an important role in the governance of the country.⁴⁵ Even though all the ten women who were elected turned out to be CPP members, it could be said that this dispensation was unique as it allowed, for the first time, a good number of women to take part in the decision making process at the highest level. The snag was that the Act made no provision for filling a vacancy in the event of death, resignation or expulsion of a woman MP.⁴⁶

Nkrumah responded to the growing intimidation and criticisms from the minority parties by organizing a national referendum in 1963 to decide whether the country should opt for a one-party state or not. The campaign was vigorous and expensive and the outcome of a 'Yes' vote was received by Nkrumah as a mandate to carry out external and internal programmes unimpeded.⁴⁷

The result of the national referendum also allowed Nkrumah to carry out far reaching reforms. The 1960 Constitution was substantially amended in 1964 by the Constitution (Amendment) Act, 1964, (Act 224). The amendment inserted article 1(a) by which Ghana was effectively converted into a one-party state with the Convention People's Party as the only national party and all other parties proscribed. The new article provided that: "in conformity with the interests, welfare and aspirations of the People, and in order to develop the organizational initiative and the political activity of the People, there shall be one national party which shall be the vanguard of the people in their struggle to build a socialist society and which shall be the leading core of all organizations of the People".⁴⁸ The amendment went ahead to suggest that the national party shall be the "Convention People's Party". The objective of this amendment was to transform Ghana into a socialist country. Also the Republican Constitution of 1960 was in the main designed to assert the Convention People's Party's ultimate control over power and centralize all authority in the President. The President justified this move in an address to the Second Parliament of the First Republic on August, 24, 1965 that:

"With our adoption of the one-party system of government, this House, this National Assembly of Ghana has ceased to be the battle ground where rancour and vituperation were used by the opposition to discredit the government with the

aim of overthrowing it. This House has now assumed a new character and atmosphere, and this has made a significant change in the role and conception of the Speaker's Chair. The days are gone when the Speaker sat like an umpire over dissensions, bickering, and parliamentary maneuvers of rival political parties. Ours is a House united by one party, one ideology, one aim and one destiny".⁴⁹

It is surprising how someone who battled the colonial administration to open the political space could overnight turn into an almost totalitarian president with antipathy towards political pluralism and effective virile opposition, for the consolidation of democracy in the country.

A critical examination of the power dynamics between the executive and the legislature during the mid 1960s reveals a number of interesting findings. These include the following.

First, the 1965 parliament was expected to be loyal to the single party, the CPP, to ensure that the laws and legislations put forward by the government were duly passed. Second, the one party parliament under Nkrumah was considered an all-powerful institution, which indulged not only in enacting laws and legislation, but also in decision making, policy implementation and most of the time the justification of executive decisions. Third, legislative decisions were under the strict scrutiny of the ruling party, the CPP. Fourth, Parliament under Nkrumah was not only bound up with the executive in a manner that made a mockery of the doctrine of separation of powers. Finally, parliament was the voice of the ruling elite and the oppressive regime it represented and not the expression of people's sovereignty. In effect, the adoption of one-party socialist regime ensured that

the liberal and good governance notions of free expression, media freedom, freedom of association, the rule of law, human rights, public accountability and transparency, and an autonomous parliament with considerable leverage in public policy making were all discounted in the interest of building one unified socialist society.⁵⁰

Even though the intention of Kwame Nkrumah was to centralize political power and use that power to fast track the development of the state, the parliament so created had virtually become a rubber-stamp institution. Generally the governance role of parliament under one-party dispensation was muted at best and oppressive at worst. It is not an exaggeration to conclude that the parliament of the First republic just represented the interest of Kwame Nkrumah and his CPP and not the broad masses of Ghanaians in whom popular sovereignty resided.

The First National Assembly of Ghana was dissolved in May 1965 and a general election held June, 1965 in which all the 198 members, all whom belonged to the Convention People's Party, were returned unopposed. This number included 19 women. While the Westminster political model adopted by Ghana had its own inherent contradictions, the Prime Minister hastened them through his political tactics that were largely influenced by the genuine threat of a strong and often violent opposition and partly by his own ambitious and authoritarian propensities. The 1960 Constitution as amended in 1964 was ousted in 1966 through a military cum police inspired coup.

2.8 Parliamentary Practice under the Second Republic, 1969-1972

The 1960 Constitution of Ghana was suspended following the February 24, 1966 coup masterminded by the police and some elements within the military. The reasons for the coup were given as: unprecedented corruption, economic mismanagement, arrests and detentions of political opponents, dictatorship, sexual immorality and the drift of the country towards communism.⁵¹ The government of National Liberation Council (NLC) promised to restore liberties that had been trampled upon by the CPP government. The military junta as was expected dissolved the National Assembly elected under the 1960 Constitution. The Establishment Proclamation that came into effect on February 26, 1966 suspended the 1960 Constitution. The NLC was quick to point out its non-political ambitions and declared its intentions to hand over the administration of the state to a civilian government. A Constitutional Commission, otherwise known as the Akufo-Addo Constitutional Commission was set up by the NLC. This was the first time since independence that a constitution for Ghana had been preceded by extensive and wide-ranging enquiries throughout the country.

Following the recommendations of the Constitutional Commission, a Constituent Assembly was elected. After sitting for several months, the Constituent Assembly produced in 1969, a democratic constitution. The philosophical and the fundamental bases of the Constitution were guided by the historical and cultural circumstances of the country. Specifically, the Constitution was designed to ensure that one-party dictatorship would never again be revisited in Ghana.⁵²

The 1969 Constitution provided for a parliament that was fashioned along the Westminster system of government with a president who served as a Head of State and a PM operating as a Head of Government. Article 69 (1) states that there shall be a parliament of Ghana which shall consist of the President and a National Assembly. The Constitution also provided for a National Assembly of 140 seats. All ministers of state were to be MPs and the role of the Opposition Leader was given official recognition with pay. The same qualification as prescribed under the 1960 Constitution was maintained. Among others, one had to be a Ghanaian, attained the age of 21 and must be sufficiently proficient in the English language.⁵³ However, under article 71 of the Constitution, persons whom adverse findings had been made against by Commissions of Enquiry were disqualified from contesting for seats in the National Assembly.⁵⁴ This provision ensured that many functionaries of the CPP were disqualified from contesting the general elections.

The public policy making function of the Second Republican Parliament of Ghana was captured vividly by article 69 (2) of the Constitution which states that "subject to the provision of this Constitution, the legislative power of Ghana shall vest in the parliament of Ghana and shall be exercised in accordance with the provision of this Constitution". The public policy making function of parliament was further reinforced by article 83 (1), which stated that the power of parliament to make laws shall be exercised by bills passed by the National Assembly and assented to it by the President is significant.

Under the Transitional Provisions of the Constitution, a general election was held in August 1969. The elections were won by Dr. Kofi Abrefa Busia's Progress Party (PP) who secured 104 out of the 140 seats parliament. Other parties which contested and won some seats included; the National Alliance of Liberals (NAL)-29 seats, United Action Party (UNP), 2 seats, All People's Party. (APP) 1 seat, while an independent candidate won the remaining one seat. The resounding victory of the PP was attributed to a number of factors. These included, the anti-CPP sentiments, organizational ability of the party, the propensity to extend moral and political credit younger, educated professional elite which coalesced at the local level to grant the PP its wide margin at the polls.⁵⁵ Besides, Busia's role as the chairman of the Centre on Civic Education had exposed him to the people across the country and so the victory was a matter of course.

The parliament created under the Constitution was neither sovereign nor supreme and legislative powers were limited in a number of ways. For instance, parliament had no power to amend the constitutional provisions relating to the liberty of the individual and the representation of the people.⁵⁶ This limitation was important to forestall a situation where an overbearing leader will turn the legislature into a constitutional dictatorial institution. The legislature had no power to amend Section 13(3) and (4) of the Transitional Provisions which prohibited the courts to hear any law suit brought against the National Liberation Council in respect of acts of commission or omission committed during their rule.

Even though the parliament of the Second Republic adhered to some of the basic tenets of the constitution the debates in the House were sometimes lopsided due to the skewed nature of the House. The formation of the Justice Party did not help much as the opposition only resorted to flippant walk-outs, sometimes under very flimsy excuses. The deliberations of the house are usually affected negatively by frequent walk-outs even though it is one of the tools available to members who feel peeved about certain developments. To all intents and purposes, parliament was polarized along ethnic lines. It is interesting to note that any proclivity towards ethnic exclusivity has the danger of undermining democratic governance as well as parliamentary practice.⁵⁷

Busia's Progress Party was overthrown in a military Coup d'état spearheaded by General Ignatius Kutu Acheampong on 13th January, 1972. The coup once again deprived the nation of another opportunity to build the capacity of parliament and nurture the institution as one of the pillars of democratic governance. A similar fate was suffered by Hilla Limann's People's National Party (PNP) which was elected under the 1979 Constitution to which we turn our attention now.

2.9 Parliament under the Third Republic, 1979-1981

The Armed Forces Revolutionary Council (AFRC) that came to power on June 4, 1979 undertook what its leaders termed "house cleaning exercise". In September, 1979, the military government of the Armed Forces Revolutionary Council (AFRC), restored constitutional rule under the 1979 Constitution. The presidential elections held in June, 1979 was inconclusive as no one secured enough votes to be declared elected. The run-off held in July was won by Dr Hilla Limann of the People's National Party (PNP)

against Victor Owusu of Popular Front Party (PFP). The AFRC handed over political power to the Limann led government on September 24, 1979 after what they termed, “three months of house cleaning exercise”. The 1979 Constitution introduced a pure presidential system in which, the president, the vice-president, all ministers and deputy ministers were appointed from outside parliament. The framers of the Constitution were informed by Montesquieu’s position that when too much power is vested in an individual or group of persons, the likely result is abuse of power. This position is also shared by the author of Federalist 51 who wrote that “ambition must be made to counteract ambition”.⁵⁸ In this connection, the Constitution provided for a separation of powers between the Executive and the Legislature. No one, the framers of the 1979 Constitution reasoned, can be entrusted with excessive authority. The 140 seats unicameral legislature were distributed among the political parties as follows; People’s National Party (PNP)-71, Popular Front Party (PFP), 42, United National Convention (UNC), 13, Action Congress Party, 10, Social Democratic Front (SDF), 3, and one independent member. The Parliament had five women. The representation political parties in Parliament under the 1979 Constitution is shown on the table below.

Table 2.1 The Distribution of Parliamentary seats under the 1979 Constitution

POLITICAL PARTY	NUMBER OF SEATS
People’s National Party (PNP)	71
Popular Front Party	42
United National Convention	13
Action Congress Party	10
Social Democratic Party	3
Independent	1

Source: The Electoral Commission of Ghana, May 2008.

The Constitution vests the legislative power of the state in the parliament. Article 75 (2) states that subject to the provision of this Constitution, the legislative power of Ghana shall vest in Parliament of Ghana and shall be exercised in accordance with the

provisions of this Constitution.⁵⁹ The 1979 Constitution, for the first time, introduced the office of the vice-president.

Oversight and Public policy making functions of the parliament under the 1979 Constitution were enormous. Like the 1969 Constitution, the 1979 Constitution made provision under article 56 (1) for the removal of the president by parliament if there was evidence that they had violated the Constitution. Under the Constitution, for the first time, ministers and deputy ministers were to be appointed by the President only with the prior approval of Parliament. Other appointees including Supreme Court judges were also subjected to the same parliamentary approval. It was in the pursuit of this power conferred on parliament that it rejected the nomination of Samuel Riley-Poku as Minister of Defense. Parliament also had authority to control the public purse and was to approve both public expenditure estimates and loans contracted by the executive. This was to ensure transparency in the financial management of the country. In consonance with this dictate, parliament rejected the government's budget in 1981. This event was unprecedented in the history of the country. This perhaps signaled the dawn of a new era in the politics of the country and was perhaps to shape the future constitutional architecture of the country. The Constitution also gave power to the parliament under article 69 (1), by resolution supported by at least not less than two-thirds of all the MPs to pass a vote of censure on a Minister of state.

The conferment of these powers on parliament discussed above, were meant to enhance the role of Parliament in public policy making and the general governance in Ghana.

However, parliament was severely constrained in its public policy making role in number of ways. First, under article 88 (14), no bill introduced into parliament by or on behalf of the President could be delayed for more than three months in any committee of parliament. Second, under article 89 (1), the Constitution imposed limitations on the legislative power of parliament with regard to legislative judgment and the retrospective operation of laws except that financial bill regulated by articles 140 and 145 were not affected by the restrictions on retroactivity.

The relatively short life of the Third Republican parliament notwithstanding, it demonstrated tremendous capacity to promote parliamentary democracy through certain transformational posturing. The reasons for this assertion are not far fetched. First, the rejection of the budget statement presented by the government though very embarrassing, brought to the fore the need for government to be thorough in its thinking before public policies are presented to parliament. Secondly, the diverse nature of representation in parliament, even though worrisome to government, made it possible for diverse interests to be brought to bear on public policies and programmes. Thirdly, parliament exhibited lively debates on national issues and in the process served as a truly representative institution. Even though this parliament's life was cut short by the coup in 1981, it exhibited tremendous promise as the executive did not also trump over it as exemplified by the rejection of the budget statement alluded to above.

The 1979 Constitution was also overthrown 31st December, 1981 by certain elements in the military. After eleven years of military interregnum, the country was once again

ushered into a Fourth Republic on January 7, 1992 which is the subject for discussion in the next chapter.

2.10 Conclusion

Parliament is one of the traditional “three arms of government” and perhaps the most important in the practice of democracy. This is because it is the institution through which the people are represented in government. The colonial authorities employed the institution of parliament to give the system of governance some semblance of legitimacy but the fact that the institution under colonialism only functioned as an advisory body undermined its democratic credentials. Parliamentary practice in Ghana is arguably, the most underdeveloped of the three arms of government. Historically, whenever there has been an interruption democratic government, parliament is the first casualty. While the dismissed Head of State is immediately replaced and the judiciary constituted, parliament is dissolved. The functions of parliament are then taken over by the executive which monopolizes public policy making in the country. This unfortunate trend has affected the smooth evolution of the institution and stunted its growth. In fine, its institutionalization is hampered. This explains why despite its long history of existence, the legislature is still at its nascent stage of development.

The history of parliamentary practice in Ghana has moved from a purely advisory body to one that is a cardinal actor in the public policy making process. Ghana has always operated a unicameral legislature primarily because of the unitary system of government it operates while trying to avoid governmental stalemates associated with bi-cameral

legislatures. The overview of the evolution has demonstrated the commitment on the part of Ghanaians to participate in the public policy making process in particular and the governance of the state in general. Parliament in Ghana since independence have always been granted enormous powers by the various Constitutions to be a key actor in the public policy making process usually through the vesting of legislative power including the power of the purse. Unfortunately, the balance of power which normally tilt in favour of the executive largely constrains the former's activism as far as public policy making in the country is concerned.

The country after independence has always operated the first-past-the-post system of elections with a single-member constituency. The continued existence of the legislature makes the actions of government very predictable and ensures that the people obey the laws they themselves have made. The form of government operated and the powers conferred on the president in particular and the executive in general have impacted tremendously on the operations of parliament since the institution of parliament in the country.

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CHAPTER THREE

THE ARCHITECTURE OF THE FOURTH REPUBLICAN PARLIAMENT

3.1 Introduction

After several years of marginalization, parliaments have begun to emerge as key institutions in African governance. Many African countries can now boast of legislatures after a long period of hiatus.¹ Since the early 1990s serious efforts have been made to improve the legal and political status of parliaments by equipping them with the requisite powers grounded on multi-party system. The new legislatures seem to be enjoying a new lease of life and some greater prestige as autonomous bodies playing key roles in public policy making. The parliament of Ghana's Fourth Republic is among many others on the continent trying to strengthen its place and role in democratic governance.

The architecture of the 1992 Constitution is a very complex one. It is based on the principle of separation of powers, as well as a system of overlapping personnel, functions and powers resulting in a hybrid of the presidential and parliamentary system of government.²

Invariably, politics is ultimately about the judicious exercise of power, but most politics is about the exercise of power with authority and parliament lies close to the centre of authority in Ghana. This does not necessarily mean that parliament lies at the centre of power in Ghana. This position is obviously enjoyed by the executive in view of the enormous powers given to the president by the 1992 Constitution. It is, however, true that Parliament lies at the heart politics of the Fourth Republic in Ghana.

Like other parliaments in Africa, the Fourth Republican Parliament seems to have a weak institutional capacity to represent citizens, make laws and ensure accountability of presidents to the citizenry. This situation notwithstanding, parliament is still considered an important official actor in the public policy making process in Ghana because it occupies a formal state position prescribed by the political community and derives maximum guidance and support about the exercise of its authority from the country's constitution. Nonetheless, parliament is still considered the weakest of the three main organs of government. Parliament has shown deep party cleavages in the performance of its duties. This is amplified by the burning desire on the part of the two major political parties, the NDC and the NPP to protect and defend the records, policies and programmes of their respective governments. Though the Constitution is in its eighteenth year of operation, this period represents the most enduring and consistent attempt at fashioning out a parliamentary democracy in the country since all the earlier attempts were put in abeyance by military adventurers supported by a section of the civilian population. Even more significant as a measure of democratic progress are the successes represented by the elections of 2000 and 2008 which saw the alternation of political power where opposition political parties managed against all odds to win political power in the country.

In this chapter, we examine the structure, composition, functions, the key functionaries and the relationship between the executive and the legislature and how this institutional architecture affects the functioning of parliament under the Fourth Republic. The following questions will engage our attention:

1. What are the philosophical underpinnings of the hybrid system of government adopted by Ghana?
2. What are the core functions of the Fourth Republican Parliament?
3. How does the structure of parliament affect the performance of the institution and its actors in public policy making in Ghana?
4. What contextual variables shape the work of parliament and to what extent do they promote or constrain the work of parliament?
5. How has party politics affected the work of parliament?

3.2 The Origins of Fourth Republican Parliament

A combination of promptings, mainly from the Bretton Woods institutions, the Fund and the Bank, and domestic forces, forced the PNDC to open the political space by adopting the 1992 Constitution. The Constitution was promulgated after a painstaking exercise of soliciting views from a cross section of the public on the system of government favoured by them. The result of this broad consultation was a report prepared by the National Commission for Democracy titled "Evolving a True Democracy" submitted to the PNDC on 25th March 1991.

A committee of experts was appointed under PNDCL 252 specifically mandated to "draw up and submit to the Council proposals for a draft Constitution of Ghana".³ The Committee of Experts chaired by Dr. S. K. B. Asante, with Osagyefo Oseadeeyo Dr. Agyeman-Badu (Dormaaahene), Mr. Justice Annie Jiagge, Mr. L. J. Chinery-Hesse, Mr. Ebo Bentsi-Enchill as members. Other members included Dr. K. Afari-Gyan, Dr. Charles

D. Jebuni, and Dr. E. O. V. Dankwa with Mrs S. Ofori-Boateng as a member secretary. In its deliberations, the Committee was expected to take into account the report of the National Commission for Democracy, the abrogated 1957, 1960, 1969 and 1979 Constitutions of Ghana and any other constitutions, such other matters relating to proposals for a draft Constitution as the Council may refer to and any other matter which in the opinion of the Committee is reasonably related to the foregoing.⁴ The Committee was further mandated to provide for an Executive President to be elected on the basis of universal adult suffrage, provide for a Prime Minister who must command majority in the National Assembly and provide for a National Assembly to be elected on the basis of universal adult suffrage, among others. In accordance with its mandate, the Committee took into account the aforementioned documents and several memoranda submitted by the general public. It also evaluated constitutional practices and experiences of Ghana and countries such as United Kingdom, United States of America, India, Sri Lanka, Namibia, France and Zimbabwe. It paid attention to the First, Second, and Third Republican Constitutions. It also picked serious lessons from the National Redemption Council (NRC), the Supreme Military Council, the Armed Forces Revolutionary Council governments and an assessed the various laws and institutions introduced by the PNDC during its eleven year rule.⁵

The draft Constitution which was presented to the PNDC in July 1991 was debated upon by a Consultative Assembly established under the Consultative Assembly Law, 1991, (PNDCCL 253) and made up of representatives of District Assemblies and 62 identifiable interest groups and professional bodies. Apart from these representatives, the government

directly appointed 22 other members. The opposition's suggestion that the Consultative Assembly should be elected on a constituency basis was rejected by the PNDC because it feared that a resort to election might create a situation where the Consultative Assembly will be captured by opposition forces.⁶ While it was contended that the PNDC broadened the base of participation in order to dilute the influence of the professional bodies who were very critical of the government,⁷ others were of the view that the expansion of the membership was necessary to give as many people as possible the opportunity to impact on the decisions that will finally shape the constitution of the country. These processes had been started after the Chairman of the PNDC, Flt. Lt. Jerry John Rawlings, had provided the political programme in January 1990. He sought to deal with the impression that the decision to choose the path of democratization had been largely dictated by foreign pressure when he warned that "we will proceed according to our Ghanaian pace and not upon the dictates of those who peddle models and abstract prescriptions without paying attention to specific circumstances...the new constitution will derive from our historical experience and also from the democratic process set in motion on June 4th, 1979 and 31st December, 1981".⁸

The Constitution was subsequently subjected to a referendum on the 28th April 1992 and went into force in January, 1993. This was the first time in the history of the country that a constitution had been promulgated by the people as earlier ones had been promulgated by the Constituent Assemblies which drafted them. This represented a third transition from military to civilian-constitutional rule since the nation achieved political independence in 1957. The Constitution vests the three important functions of the state

law making, law execution and law adjudication in the legislature, the executive and the judiciary respectively. Article 93 (1) of the constitution states that: "there shall be a Parliament of Ghana which shall consist of not less than one hundred and forty elected members".⁹ The Constitution further vests the legislative powers of Ghana in parliament and expect that these powers shall be exercised in accordance with the constitution. Article 58 (1) vests the executive powers in the president, while article 78 (1) vests the judicial powers of the state in the judiciary. In effect, the three powers of the state are shared among the three organs of state.

The Constitution declares Ghana a unitary republic with sovereignty residing in the Ghanaian people. Drawn up with the intent of preventing future coups, dictatorial government, and one-party state, it is designed to foster tolerance and the concept of power-sharing. Under the 1992 Constitution, Ghana is a unitary state as provided for by the 1969 and 1979 Constitutions, albeit with some slight differences. While the 1969 Constitution made provision for a Westminster or parliamentary system of government, the 1979 Constitution prescribed for a presidential system of government with executive president and for the first time in the history of the country a vice-presidential position was created. While the PM and all his ministers who constituted the political executive were part of the National Assembly under the 1969 Constitution, the same could not be said of the 1979 Constitution as ministers could only be appointed with the prior approval of parliament. Significantly, a member of parliament who was appointed a minister had to resign his position as an MP in accordance with article 65 (1) and (2) of the constitution. Put succinctly, the President and all his ministers were not part of

parliament. The 1992 Constitution, however, makes provision for a hybrid of the Westminster and presidential types. The Constitution prescribes for an executive president to be elected by a universal adult suffrage, whilst the constitution states in Article 78 (1) that "the majority of Ministers of State shall be appointed from among Members of Parliament".¹⁰ The framers of the Constitution recognized that the president should not necessarily be a constitutional monarch. The electoral process invests in him a unique quality that makes him the repository of the executive power of the state. He is, therefore, the head of government, head of state and a Commander-in-Chief of the Armed Forces of Ghana. The president exercises the supreme executive authority of the state. The prior approval by parliament required by someone who has been nominated to become a minister, approval of annual budget estimates, the delivery of annual state of the nation address, among other provisions, are meant to ensure executive responsibility to Parliament. The Committee of Experts reasoned that any concept that underscores the ultimate responsibility of the executive functionaries to the people's representatives and serves as a constraint on executive excesses would be conducive to good governance and the rule of law.¹¹ The committee was, however, of the view that the principle of executive responsibility to parliament should not be pressed to the point of institutional instability. In this connection, even though certain provisions were necessary to protect the executive from becoming overweening, government should not necessarily be unseated because of parliamentary displeasure.¹²

The Constitution was further anchored on the presumption that a multi-party and a single member constituency electoral system will, all things been equal, produce a majority and

minority parties who will have the duty to collaborate to build the necessary consensus to prosecute the agenda of government.¹³ One can infer that the framers of the Constitution were motivated by the notion of new institutionalism that institutions will persist over time if it serves the interest of the people. The decision to opt for the hybrid system was also informed by the belief that while parliamentary system of government has a greater propensity for governments to have majorities to implement their programmes and its lower susceptibility to military coups, presidential systems of government have fared better in lower income countries.¹⁴ The framers of the 1992 Constitution were therefore inclined to maximize the advantages of both the parliamentary and presidential systems of government. It must also be stated that even though Ghana has practiced both presidential and parliamentary systems of government, neither of them was allowed the opportunity to operate long enough to allow for an intelligent and objective evaluation of their relative merits.¹⁵ It therefore stands to reason that the desire to balance the need for a strong executive tempered with the checks and balances provided by the existence of parliament, more than anything else, might have informed the framers of the constitution to opt for the hybrid system of government.

The hybrid system has undermined parliament and to a very large extent reduced it to a mere rubber-stamp institution while granting the executive enormous powers, thereby reinforcing the principle of executive supremacy. The president has been invested with the power of patronage, a disproportionate share of both the “power of the purse” and the power to make laws, and the monopoly of the “power of the sword”, which belongs to the president as the Commander-in-Chief. The power to pronounce judgment is left

completely in the hands of the judiciary. Even here, the president still has enormous leverage through the power of appointment and the control over the public purse. The overall powers invested in the president by the 1992 Constitution is argued to be “too much for a bad president to have and yet too much for a good president to need”.¹⁶ Let us turn our attention to the functions of parliament and assess the extent to which these have been prosecuted since new institutionalism is also anchored on the functions performed by institutions.

3.3 Functions of Parliament

In discussing the functions of parliament, one must contend with the position that parliament does not govern. Even a parliamentary government does not mean government by parliament but government through parliament. In the view of J. S. Mill, parliament should not propose taxation or expenditure, it should not administer policy, and it should not examine or approve legislative proposals in detail. He contends that parliament’s involvement in such matters will not only be inappropriate but inefficient and even counter-productive. Mills therefore called for a radical distinction between controlling the business of government and actually doing it.¹⁷

In spite of Mill’s characterization, parliament is one of the key institutions of democratic governance because it has the unique role of representing the citizens’ interests, making laws, debating national policies, and balancing the power of the executive. It is often contended that a parliament’s ability to perform these roles depends largely on the extent of openness of the political system, constitutional requirements and available human and

material resources. This is in line with new institutional philosophy which underscores the relationship between the structure and functions of an institution.

According to formal rules set out by constitutions, legislatures are the principal policy making institutions in modern democracies. The most fundamental decisions—budgets, treaties and trade agreements, economic, environmental and social regulations, elaboration of individual and collective rights—are all approved by legislatures.

The functions of the Ghanaian parliament are not a departure from the aforementioned broad functions of parliaments. The 1992 Constitution has granted parliament a pivotal role in the governance framework of the country by virtue of its mandate as the representative of the whole nation, which mandate is derived legitimately from the people organized into various single-member constituencies.¹⁸ The functions of parliament can be divided into four: representational, deliberative, legislative and the voting of supply, otherwise called the financial function.¹⁹ These are explained within the rubric of neo-institutionalism.

Under the representational function, parliament of Ghana like other legislative bodies in the democratic world is a plural body with large membership than the executive and so offers the possibility both to represent more accurately the range of diversity in the country and fosters closer collaboration between representatives and voters. The representative function of parliament provides a vital link between the government and the people. In the eighteenth century this was expressed by the slogan adopted by the 13

American colonies that rebelled against British rule: “no taxation without representation”. The eventual extension of franchise and the introduction of universal adult suffrage turned legislatures into popular forums, bodies that stood for the people themselves. The power of the legislature is, therefore, seen as an important index of democratic government. The representation in Ghana’s parliament is based on 230 first-member constituencies (it had 200 members from 1992 to 2004). The demarcation of the country into constituencies for purpose of the elections into parliament is done by the Electoral Commission based on population size and geographical location. Since its inception in 1992, parliament has been seen as a representative body in that its members have always been elected to represent those living in clearly defined territorial area or constituencies. Even though the individual members represent different constituencies, parliament as a whole represent public opinion, acting as a conduit for the views of the people, whether individually or collectively, organized or unorganized. It is in this connection that Edmund Burke argued that “you choose a member indeed: but when you have chosen him, he is not the Member of a constituency, but he is an MP”.²⁰ Ideally, parliament must mirror the cross-section of the whole nation. This ideal has, however, not been realized in Ghana because parliament continues to be dominated by educated and middle-class males, manual workers, disabled and women continue to be underrepresented. This situation is largely attributable to the first-past-the- post electoral system used in Ghana.

Secondly, under the deliberative function, parliament exercises control over the executive. Parliament is a forum for debate and all things being equal, reasoned consideration of the diverse viewpoints they inevitably embrace.²¹ It is in the nature of

democratic systems that government must be held accountable for its actions and inactions by parliament. Closely related to the deliberative function is the oversight function. Under this function, parliament is expected to be the embodiment of the sovereign will of the people of Ghana. In this connection, parliament keeps watch over the performance of the executive to ensure that the formulation and implementation of public policies follow laid down procedures. The oversight function is exacted by the use of the committee system, Question Time, Motions and Censorship of ministers whose actions and inactions contravene the Constitution.

The effectiveness of the exercise of legislative oversight of government underscores how effective parliament itself is as an institution in the governance architecture of the state. It is argued that the price of democracy is eternal scrutiny. The parliament of Ghana can only perform this all important function if it has the requisite means. Irrespective of the business before parliament, debate is conducted to elicit the views of members before they consider the questions before them. Deliberations usually occur when a motion is moved and seconded. This is called the deliberative or inquiry function. A Motion is a generic term covering all proposals submitted to the House for its decision. A Motion is the expression of the opinion or wish of one or more than one Member which is put before the House. If the House accepts it, it becomes the opinion or the will of the whole House. A second method of exercising the deliberative function is by moving half-hour motion. This is a substantive motion which is not aimed at attracting full-dress debate. Half-hour Motion is usually the last item of business to be taken. A third method of carrying out the deliberative function is by addressing questions to ministers of state. The

purpose of the question time is to seek information. Questions must usually be addressed to specific ministries and ministers and must be responded to within twenty-one days upon receipt. For a question to be entertained, it must meet the following criteria: First, it must not contain an argument. Second, it must have a factual basis. Third, it should avoid personal allusions. Fourth, it must relate to matters for which the minister is responsible and finally, it should not refer to a matter which is *sub judice*. It must be pointed out that the Speaker is the final authority as far as the admissibility or otherwise of a question is concerned.

One area where the parliament can exercise oversight of the executive activities is the power to act on its own initiative to investigate any issue of public interest. Parliament can investigate issues of corruption, mismanagement of state enterprises, ministerial abuse of power, and governmental profligacy.²² This is one area that the parliament of Ghana has failed woefully. Instead of causing enquiry to be conducted into certain allegations, parliament has often called on the government to conduct investigations into these allegations as though it has no mandate to do that. For instance, in 1999 the call for parliamentary enquiry into the purchase of a Presidential Jet was done by the minority group in Parliament after the group had failed to convince the majority to pursue this case. In most cases, the majority sees any attempt at investigating the activities of the executive as an attack on government and therefore resist with all the force they can muster. Parliament also ceded one of the viable tools of ensuring executive compliance when it passed the Civil Service Amendment Act 2001 (Act 600) which grants the President the power to create new ministries and departments at anytime he deems fit,

and this can be done without recourse to parliamentary approval. One is at a loss why parliament will deny to itself an opportunity to put the executive in check by controlling how many ministries can be created since their creation have cost implications for the whole nation.

A third function of the legislature in Ghana is lawmaking as is the case in other democratic jurisdictions. Law making generally is the effort by society to manage itself. It is the means by which governments legitimize substantive and procedural actions to reshape public problems and resolve them. Legislators are commonly thought of as law makers and they have the constitutional responsibility to take part in the law making process. One can argue plausibly that statute passed by the legislature is not the end of law making. Executives, bureaucrats, judges, and others implement and evaluate statutes through rule and standard setting, administrative and executive interpretations, court decisions, and petitions.²³

There are three basic methods of law making in the world. The first method is where a monarch or a dictator or a military junta makes laws called decrees. These laws are not subject to the usual debates that characterize democratic systems. In point of fact, the making of these decrees are shrouded in secrecy. Under this system, the people are not allowed to take part in the legislative process. In fine, the law is imposed on them and they have no option than to obey. This method of law making is inconsistent with Jean Jacque Rousseau's position that the people are only free when they obey the laws they themselves have made. The second method is where all the citizens come together and

take votes on specific public policy issues. This system was practiced in the ancient Athens where all male adults took part in decisions that affected the polis. This method is impracticable in modern states with huge populations. The third method is a situation where the elected representatives of the people exercise the freedom to discuss and scrutinize bills brought to them usually by the executive to make a law. In Ghana, the legislative function of parliament consists of passing a bill and approving statutory instruments. Clause (2) of Article 93 of the Constitution of Ghana states that “subject to the provision of this Constitution, the legislative power of Ghana shall be vested in parliament and shall be exercised in accordance with this Constitution”²⁴ A person or a body other than parliament does not have the power to make provisions that have the force of law except by and under the authority conferred by an Act of parliament. Although the Constitution has vested legislative powers in parliament, the legislative powers of parliament are constrained by the executive dominance of the governing dynamics of the state.

Fourthly, parliament also performs financial function. Chapter thirteen of the 1992 Constitution of Ghana severally vests the control of public funds otherwise referred to as the power of the public purse in parliament. Article 174 of the constitution stipulates specifically that “no taxation shall be imposed otherwise than under the authority of an Act of Parliament”. The democratic imperative here is that the people must have a way of influencing how taxes are collected and expended. Under Article 178 of the Constitution, apart from moneys charged directly on the Consolidated Fund of the Constitution (the consolidated fund is established under Article 175 of the Constitution) or by an Act of

Parliament, no money shall be withdrawn from the Fund without the authority of Parliament. The withdrawal of money can only be allowed under the following circumstances:

- a. To meet expenditure that is charged on that Fund by the 1992 Constitution or by an Act of Parliament; or
- b. Where the issue of those moneys has been authorized by an Appropriation Act by parliament; or by a supplementary estimates approved by resolution of Parliament passed for that purpose; or by an Act of Parliament enacted under Article 179 of the 1992 Constitution; or by rules or regulations made under an Act of Parliament in respect of trust moneys paid into the Consolidated Fund.

Specifically, under Article 178 (2) no moneys shall be withdrawn from any public fund, other than the Consolidated Fund, unless the issue of those moneys has been authorized by or under the authority of an Act of Parliament. Even though it is the executive that prepares the estimates of revenue and expenditure for a financial year, the constitution enjoins the executive to lay such estimates and expenditure before parliament for scrutiny. Article 179 states that “the President shall cause to be prepared and laid before parliament at least one month before the end of the financial year, estimates of the revenues and expenditure of the government of Ghana for the following financial year”. In the Budget Statement, the Minister of Finance reviews the state of the national economy and informs parliament of his tax proposal for the next financial year.²⁵ The purpose of the consideration of annual estimates is to enable MPs to probe the proposed public expenditure and allow ministers to defend the policies of the ministries,

departments and agencies under their watch. MPs are empowered to raise objections to any estimates they are not comfortable with and can either accept or reject a budget. Even though various aspects of budgets have been criticized by MPs, no budget has as yet been rejected under the Fourth Republic.

The financial function of parliament is also reflected in its duty to monitor the expenditure of public funds to ensure that the moneys it has authorized are used for the purpose for which they are intended by acting promptly on the Auditor-General's Reports. Parliament has other wide ranging financial powers like the authorization of the granting of or receiving of loans. Under Article 181, parliament is empowered through a resolution supported by the votes of a majority of all the MPs to authorize the Government of Ghana to enter into an agreement for the granting of a loan out of the public fund or public account. On the strength of Article 184, parliament monitors Ghana's foreign exchange receipts and payments or transfers. Parliament is also empowered by Article 174 (2) to impose, vary or waive taxes. The Standing Orders of Parliament gives power to the Finance Committee to examine tax waiver and make appropriate recommendation to parliament.²⁶ Under Article 187 (15) parliament has the power to appoint an auditor to audit and report on the accounts of the Auditor-General's office. It is interesting to note that even though the executive is free to propose various revenue and expenditure estimates and how the revenue should be raised to meet them, Parliament has the power to control how revenues are raised and expended.²⁷

Even though these wide ranging financial powers are enshrined in the constitution, the financial role of Parliament is seriously constrained. First, it is only the executive that can take financial initiatives. In effect, parliament itself does not appropriate money unless the executive requires such taxation. Second, parliament's role is only limited to approving, supplying, and appropriating and criticizing how a government spends money granted it. Parliament can only reduce expenditure if it does not meet its expectations but it cannot increase same. The circumscribing effects of these limitations will be fully explored under the executive-legislative relations to be covered in this chapter.

3.4 The Structure and Composition of the Fourth Republican Parliament (1993-2008)

While the Constitution makes provision for a minimum number of elected members, that is not less than 140 members, the actual number of MPs is left to the EC which was established under article 43 of the Constitution to decide. The country was initially divided into 200 single-member constituencies but in November 2003 under the Representation of Parliamentary Constituencies Instrument, 2004 (C. I. 46), this number was increased to 230 constituencies. The increase was meant to take care of population growth and the need to ensure a fair and balanced representation of the people in the legislature.

The 1992 Constitution maintains the decoupling of parliament from the presidency by providing for a parliament which does not have the President as an important component.²⁸ However, the formal assent of the president is an essential prerequisite for the promulgation of Acts of Parliament.

The Fourth Republican Constitution provided for a hybrid system of government, that is a blend of parliamentary and presidential systems. This constitutional arrangement was designed to enhance the administration of the state. It is a departure from the strict separation of powers between the executive and the legislature as practiced in the United States of America. It was the contention of the Committee of Experts that the strict adherence to the principle of separation of powers as espoused by Baron de Montesquieu in his seminal work *The Spirit of the Laws*, does not necessarily guarantee the democratic order or the rule of law. The framers of the 1992 Constitution were also impelled by the experiences parliamentary practice under the 1979 Constitution which excluded all ministers from membership of parliament and subsequently stalled government business.

It was the considered view of the framers of the constitution that, what is important in the rule of law is the unqualified independence of the judiciary from the executive and legislative manipulations.²⁹ The Constitution therefore seeks to promote consensus-building over power politics by combining a presidential system with the principle of executive responsibility to parliament, an important feature of parliamentary government. The provision that allows the president to appoint some ministers from outside of parliament is to allow for non-members to be appointed on the grounds of expertise, experience, or regional and gender balance. The President, Vice President, and ministers of state who are not MPs can participate fully in the proceedings of parliament with all the privileges but without the right to vote or hold parliamentary office.

To become law, legislation must have the assent of the president, who has the power of veto over all bills except those to which a vote of urgency is attached. Members of

parliament are popularly elected by universal adult suffrage for terms of four years, except in war time, when terms may be extended for not more than twelve months at a time beyond the four years. Ministers and Deputy Ministers are, however, subject to the prior approval of parliament before they can hold themselves up as such in accordance with article 78 (1) of the Constitution. The 1992 Constitution fuses the executive and the legislature. Unlike the article 65 (2) of the 1979 Constitution, a minister appointed by the president under the 1992 Constitution does not need to resign his parliamentary seat.³⁰

The fusion of the legislature and the executive to all intents and purposes was meant to facilitate the administration of the state. The arrangement was also intended to provide a platform where the executive arm of the government will have it pretty easy to formulate public policies and programmes without the usual stalemates which characterize divided governments. Furthermore, the framers were informed by the situation where under the Third Republic, the budget statement of the government was rejected by parliament. It is however, unfortunate that the rejection of a single budget statement should constitute enough justification to invest so much powers in the executive as to render the parliament a mere appendage of the executive. Under enduring democratic systems, such development would have been praised and not condemned. This provision, however, undermines the effectiveness of the legislature in performing its oversight responsibility. It also works against the accountability-demanding function of the parliament.³¹ The cumulative effect of this structure is a largely ineffective parliament in the execution of one of its core mandates, the active participation in the making of public policies and programmes.

It further compromises the loyalty of MPs to parliament. Minister who double as members of parliament are more inclined towards the executive and this situation enhances the executive's preponderance of power and influence over the legislature thereby reducing its public policy role.³² It is interesting to note that the attempts to vest legislative and executive powers in individuals tend to undermine their performance since legislation making and the executive work requires tremendous effort on the part of the individual concerned. This arrangement also gives a psychological advantage to legislators who are also ministers over those who serve only as legislators.³³ In reality, an MP who doubles as a minister, gives more attention to the later role thereby denying Parliament the full participation of all its human resources in the deliberations on public policies and programmes submitted to it in the form of bills. The recruitment of majority of ministers from parliament also depletes the institution and reduces its critical role in initiating and shaping public policies and programmes in the country.

3.5 The Legislative Process under the Fourth Republican Constitution of Ghana

Ghana's 1992 Constitution has constrained parliament's potential policy influence by creating very high expectations of parliamentary oversight of executive activities while, simultaneously undermining its independence. The executive has over the years had preponderance of influence over the formulation of public policies. This situation has arisen largely because of the following factors.³⁴ First, the Constitution grants the President a vast 'power of patronage', a disproportionate share of both the 'power of the purse', and the 'power to make law', the monopoly of 'power of the sword' as the Commander-in-Chief of the Armed Forces. It is only the 'power to pronounce judgment'

which is left in the hands of the judiciary. Even here, the President has enormous influence and leverage through the power of patronage and of the purse.³⁵ Second, the amount of information, expert advice and expertise for the drafting of bills are often not available to parliament. Parliament generally lacks the capacity that the executive has to be able to prosecute its mandate firmly. Thirdly, MPs cannot count on their respective political parties to get a bill through parliament in the same manner that the executive does. Parliament prosecutes its mandate through its deliberations.

Ghana's parliamentary calendar is divided into three. These are Sessions, Meetings and Sittings. Parliamentary Session is equivalent to one calendar year. A Session of Parliament is made up of periods known as Meetings. The Meeting is Sitting of Parliament commencing when parliament first meets after being summoned at any time and ending when Parliament is adjourned sine die. Within this one calendar year, there are about three meetings of between 6-12 business weeks. The first Meeting starts from January and ends in March. The second Meeting starts from May and ends in July, while the third and the last Meeting in the Session commences from October and terminates in December. Parliament sits from Tuesday to Friday, making an average of 132 Sittings in a Session.³⁶

On the average, Parliaments sits for about 28 weeks and goes on recess for 24 weeks in one Session. The recess normally enables MPs to take a well-deserved rest after a hectic Parliamentary Meeting usually lasting about three months. The break also gives the legislators the opportunity to visit their constituencies to explain policies and

programmes to the people. get feed back on the laws passed by parliament during a Meeting and also conduct “constituency surgeries” by way of attending to some of the pressing needs of the people. A Sitting of Parliament is the period during which parliament sits continuously without adjournment. Normally, Sitting commences at 10.00 am and ends at 2.00 pm, unless otherwise declared by the Speaker. Usually, extended Sittings are announced if very urgent business is pending before the House and they need enough time to finish. There are instances parliament Sits up to 9.00 pm.³⁷

Under the 1992 Constitution, parliament plays a key role in public policy formulation and it is also mandated to debate the president’s state of the nation address, approve financial policies and programmes, including taxes, loans and the national budget. Most of the policies and programmes of the executive are initiated mostly through bills initiated by the executive.³⁸

The power of parliament to make laws and influence public policies in the process is executed through the passage of bills that are assented to by the President and Instruments laid before parliament and allowed to come into force after twenty-one sitting days by parliament. A Bill is a legislative proposal usually introduced in the House of parliament either by a minister sponsoring it or a Private Member. Article 106 (2) of the 1992 Constitution of Ghana and Standing Orders 116 of parliament provide inter alia that “no bill, other than such a bill as is referred to in paragraph (a) of article 108 of the Constitution, shall be introduced in parliament unless:³⁹

- (a) It is accompanied by an explanatory memorandum setting out in detail the policy and principles of the bill, the defects of the existing law, the remedies proposed to deal with those defects and the necessity for its introduction, and
- (b) It has been published in the Gazette at least fourteen days before the date of its introduction in parliament.

These provisions are very important for a thorough understanding of the rationale for the introduction of bills. It is intended to ensure that bills introduced fit into the overall development agenda and the existing body of laws in the country for social, economic and political re-engineering. This requirement also prevents the presentation of ill-conceived and out of tune bills. It is important for the society to make progress and government must be seen to be pursuing the public interest. Therefore, loopholes in existing laws and general public policies must be identified and plugged so that policy instruments introduced can address the problems of society. One implicit advantage is that it calls for a thorough scrutiny of existing policies and programmes, usually through empirical studies and stakeholder participation before bills are introduced.

There are two main types of Bills variously considered by parliament of Ghana, namely Public Bill and Private Member's Bill. A Public Bill is a Bill introduced by the government, via senior ministers who are usually deemed to be sponsoring the Bill and invoke legislation which is applicable to all the citizens or institutions of Ghana unless otherwise stated.⁴⁰

A private members' bill on the other hand, ought to be introduced mainly by backbench MPs, and should constitute one of the few occasions or opportunities available to them to initiate legislation rather than always responding to the government's legislative initiatives. It is, however, unfortunate to indicate that because of the constraining effect of article 108 of the 1992 Constitution, no private member has ever introduced legislation even though provision has been made for one in the Constitution. Article 108 of the Constitution states that parliament shall not, unless the bill is introduced or the motion is introduced by, or on behalf, of the President:⁴¹

- (a) Proceed upon a bill including an amendment to a bill, that, in the opinion of the person presiding, makes provision for any of the following;
 - (i) the imposition of taxation or the alteration of taxation otherwise than by reduction, or
 - (ii) the imposition of a charge on the Consolidated Fund or other public funds of Ghana or the alteration of any such charge otherwise than by reduction, or
 - (iii) the payment, issue or withdrawal from the Consolidated Fund or other public funds of Ghana of any moneys not charged on the Consolidated Fund or any increase in the amount of that payment, issue or withdrawal; or
 - (iv) the composition or remission of any debt due to the Government of Ghana; or
- (b) Proceed upon a motion, including an amendment to a motion, the effect of which, in the opinion of the person presiding, would be to make provision for any of the purposes specified in paragraph (a) of this article.

3.6 Stages of Bills in Ghana

There are four stages through which a Bill must pass in Parliament. These are:⁴²

1. The First Reading
2. The Second Reading
3. Consideration Stage
4. Third Reading

These stages are explained in turn.

3.6.1 The First Reading

The First Reading involves the introduction of the Bill in the House by a minister or private member at which the Clerk of parliament reads the long title of the Bill. Before the First Reading, the Bill must have been published in the Gazette for at least fourteen days before it can be introduced in the House unless it is considered under a certificate of urgency. In the case of Private Members' Bill the leave of the House must be sought before it is introduced. Upon First Reading, a Bill is referred to the appropriate Committee of the House for consideration and report back to the House.⁴³

At the committee stage, stakeholders, including individuals, groups and institutions are invited to assist in examining the merit or otherwise of the Bill. The committee fine tunes the various provisions of the Bill to satisfy the objectives for which the Bill is being introduced. The committee work normally includes public hearings, consideration of memoranda from the public, other materials and documents, organization of workshops with stakeholders for greater and better insights as well as fact-finding visits. The Committee's report is laid at the Table of the House before the Second Reading.⁴⁴

3.6.2 The Second Reading

At the Second Reading stage, the general principles and merits of the Bill are explained and a debate follows on the basis of the Committee's report. During the Second Reading Stage the Minister sponsoring the Bill normally moves for the Bill to be read the second time. This is followed by a brief introduction to the Bill and what the key objectives are. The Minister also highlights the loopholes in the existing legislation and what remedies exist in the new bill to address them.

After this brief introduction by the sponsoring Minister, the Chairman of the Committee then proceeds to present the report. Usually, the presentation covers certain broad areas like the introduction, reference documents used, deliberations of the committee, memoranda received and the objectives of the Bill. The presentation also covers the provisions of the Bill, recommendations and their rationale and conclusion. Debate on the bill follows immediately after the presentation by the chairman of the committee.⁴⁵

3.6.3 The Consideration Stage

At the Consideration Stage, the Bill is further examined clause by clause and amendment proposed and voted on. There is informality of proceedings here as the Marshall of Parliament tilts the Mace towards the Speaker.⁴⁶ This allows an MP to speak more than once to a question proposed from the Chair. The Consideration Stage is the stage where MPs tend to put themselves in the bill by offering spirited argument to help sway members to support a proposed amendment. It is usually marked by heckling and a lot of

interruptions and call for order by the Speaker. Every proposed amendment is voted on and either agreed or rejected by the House.

3.6.4 The Third Reading

The Third Reading is the final stage of the passage of Bills in Ghanaian parliament. Upon a motion that the Bill be read the Third time, a member may move that the Bill be rejected. If the motion for the Third Reading is agreed to, the Clerk reads aloud the long title of the Bill, which shall then be taken as read the Third time and passed.⁴⁷ It is worth emphasizing that before the motion for the Third Reading of the Bill is moved, a member may move that the Bill be taken through a Second Consideration Stage either wholly or in respect of some parts of the Bill to allow amendments, if any. If the Motion is agreed to, the Bill passes through a Second Consideration stage before the Third Reading.

3.6.5 Presidential Assent

When a Bill has been passed, the final version, which must be authenticated by the Clerk to parliament, is presented to the President for assent in order for it to become law. Article 106 (11) of the Constitution provides that without prejudice to the powers of Parliament to postpone the operation of a Law, a Bill shall not come into force unless it has been published in the Gazette.⁴⁸

3.7 The Criteria for Election into Parliament under the 1992 Constitution

The 1992 Constitution spells out strict qualification for aspirants to parliament. Article 94 states that a person shall be qualified to be an MP provided he or she, among other

qualifications, is a citizen, does not owe allegiance to a country other than Ghana, has attained the age of twenty-one years and is a registered voter, has not been declared bankrupt, and has not been convicted of a treasonable offence against the state. The Constitution also considers that prospective MP should ordinarily be resident in the constituency he or she seeks to represent. It considers that the maintenance of the previous requirement that one has to be proficient in the English language will effectively debar majority of Ghanaians from membership of parliament and therefore such qualification has no place in the Constitution of modern Ghana.

Specifically, article 94 (1) states that a person shall not be qualified to be a member of parliament unless: (a) he is a citizen of Ghana, has attained the age of twenty-one years and is a registered voter; (b) he is resident in the constituency for which he stands as a candidate for election to parliament or has resided there for a total period of not less than five years out of the ten years immediately preceding the election for which he stands, or he hails from that constituency; and (c) he has paid all his taxes or made arrangements satisfactory to the appropriate authority for the payment of his taxes.⁴⁹ Article 94(2) and (3) on the other hand make provision for circumstances and factors which disqualify one from contesting for a parliamentary seat. These include, situations where a person: (a) owes allegiance to another country, (b) has been adjudged or lawfully declared bankrupt and has not been discharged, (c) is of unsound mind, (d) has been convicted for high crime under the laws of the country, (e) has been found to have misconducted himself while in public office, (f) is under sentence of death or imprisonment imposed on him by any court, (g) is not qualified to be registered as a voter under any law relating to public

opposition parties namely the New Patriotic Party (NPP), the People's Heritage Party (PHP) and National Independence Party (NIP), on the grounds that the November Presidential election had been rigged. The opposition parties feared a worse defeat in the December parliamentary elections believing that the election of Rawlings as a President conferred on his party, the NDC enormous advantages in the subsequent parliamentary elections. The result of the boycott of the parliamentary elections by the major opposition parties alluded to above was the creation of a de facto one-party system, as the National Democratic Congress had 189 out of 200-seat Parliament. The other eleven seats were occupied by the National Convention Party (NCP)-8 seats, the Egle Party-one seat, (the two parties were in an alliance with the NDC) and two seats went to independent candidates. The boycott of the parliamentary elections by the opposition parties produced a de facto one-party Parliament that was little more than a rubber stamp for the executive.

The practice of holding presidential and parliamentary elections on separate days conferred an unfair advantage on the party whose candidate wins the presidential elections. The advantage is derived from two sources. First, most Ghanaians see their MP as people who should mediate between them and the national government for development. They see an MP whose party is in power as having the leverage to play this mediatory role effectively. Secondly, the constitutional provision which enjoins the president to appoint majority of his ministers from parliament enhances the chances of MPs of the ruling party to fill this all important political office. People cherish the idea of seeing their MP as a minister. This further enhances their role as economic mediators. The seemingly unfair advantage is what the EC together with political parties in the

country under the code name Inter-Party Advisory Committee (IPAC) dealt with by fixing both the parliamentary and presidential elections on the same day, 7th December in an election year.

There were 16 women representing 8 per cent of the total number of MPs in parliament. This figure was an improvement over the 1979 figure where out of 140 MPs only 5 were women representing a paltry 3.5 per cent of the total number. It is true that numbers in themselves do not necessarily mean improvement in the quality of debates, but what is true but less obvious is the fact that there is no guarantee that men are necessarily the best representatives of women issues and interests.⁵²

The central overarching feature of parliament at this time was the absence of a virile opposition. Taken together, the composition of parliament was therefore a far cry of a true democratic institution. The domination of one party, the National Democratic Congress in parliament made the institution a near one-party parliament. This development raised serious doubts as to whether parliament will be able to marshal the courage to debate government policy proposal dispassionately. The fear was that as rational actors, MPs who were made ministers were as a matter of political convenience, going to serve the executive and continue to enjoy the support of the president. Backbenchers were also guided by the fact that they could be nominated to fill ministerial positions and as such had to give unflinching support to the executive irrespective of the nature of bills introduced into parliament. This had the disadvantage of undermining the oversight responsibility of parliament

Interestingly, MPs were also very much interested in their re-election and therefore the continued support from the executive and their party was necessary to win the primaries in order to contest the elections. To allay the fears of the critics, President Rawlings observed that “even if the present composition of parliament is like a one-party system, there is so much trading in logic and criticism that it will serve the ends of democracy”.⁵³ It is worth emphasizing that the lack of clear-cut opposition in the first parliament of the Fourth Republic to subject bills presented by the executive to critical scrutiny invariably rendered an otherwise august institution a mere rubber-stamp one and in the process undermined its credibility and gave a lot of leeway to the executive to ride roughshod over the governed. Debates were only an exercise in futility. For, all MPs were “singing from the same political hymn book”. Instead of the usual excitement which characterizes the debates between opposing parties in parliament, the situation between 1993 and 1996 was one of monologue without any vigour and inspiration. Debates were therefore characterized by insipid intra-party talk with very predictable outcomes.⁵⁴

This situation notwithstanding, parliament distinguished itself quite creditably with the passage of many bills which established core constitutional institutions such as the Media Commission (MC), Electoral Commission (EC), the Commission for Human Rights and Administrative Justice (CHRAJ), National Commission for Civic Education (NCCE), among others. The first Parliament of the Fourth Republic passed about (80) eighty Acts in its four year life span (averaging 20 Acts per annum), covering various aspects of national life.

The holding of elections in 1996 presented Ghana with yet another opportunity to demonstrate its commitment to the promotion of democracy and good governance. It was the first time in the history of the country that a democratically elected government had run its course and handed over power to another government albeit the same party, NDC. The 1996 elections demonstrated the capacity of the nation of Ghana to endure democratic system of government. The government of the NDC had to listen to the persistent calls of the opposition parties that the 1992 elections had been flawed on the grounds that a number of policy measures were not in favour of opposition parties. The opposition, therefore, demanded a number of electoral reforms to ensure the credibility of the electoral process. These reforms included: the creation of a transitional authority to supervise the electoral process, the compilation of a new voter's register and the introduction of voter's identity cards to avoid impersonation, the reconstitution of the electoral body with representatives from political parties.⁵⁵ The opposition parties also raised serious concerns about the opaque nature of the ballot boxes used in the 1992 elections, which in their view contributed to the stuffing of ballot boxes. It was widely believed that the voter's register was also bloated.

The initial reaction of government to these concerns was one of apathy and hostility. But the persistence of the opposition and the affirmation of the Commonwealth Observer Mission's report on the 1992 elections that the processes had been generally free and fair but questioned the credibility of the voter's register.⁵⁶ The formation of Inter-Party Advisory Committee (IPAC) in March 1994 in line with what pertained in Zimbabwe

helped in consensus building on electoral issues. The EC introduced a number of far-reaching reforms that improved considerably the credibility of the electoral process.

In order to complement the efforts of foreign observers and also build capacity for election monitoring, a coalition of civil societies formed the Network of Domestic Election Observers (NEDEO) under the aegis of the Institute of Economic Affairs (IEA) with financial and technical support from Washington-based National Democratic Institute (NDI).⁵⁷ The NEDEO was chaired by Joseph Kingsley Nyinah, a retired Appeal Court Judge and former Electoral Commissioner. The NEDEO also had a broad base as it encapsulated such groups as the Christian Council, the Catholic Secretariat, the Federation of Muslim Councils, the Ahmadiyya Muslim Mission, the Ghana National Association of Teachers (GNAT), and the National Union of Ghana Students (NUGS). Some of the members of NEDEO were trained to serve as electoral observers on the election day.⁵⁸ Civil society organizations notably, the Christian Council, the Conference of Catholic Bishops, and the Ghana Legal Literary and Resource Foundation were very instrumental in educating the electorate and the general public on the rational to participate in the electoral process and do so bearing in mind the rules of the game.

The response of the government to the concerns raised by the opposition parties was the revision of the voter's register with political parties playing a key role in the process, the issuance of photo identity cards in the urban centers while the rest of the electorate were issued with a thumb-printed identity cards due to financial difficulties, and the provision of transparent ballot boxes to replace the much maligned opaque ones to debunk the

allegations that ballot boxes were stuffed with votes before being sent to the polling stations.⁵⁹

The EC consistently portrayed itself as an independent entity created by the constitution to prosecute a specific agenda- electoral management in the country. The cumulative effect of these changes was a much more level playing field and subsequently much more credible elections in 1996. The election itself produced a parliament which had the presence of the opposition. This time, even though the NDC still retained its majority in parliament with 133 seats, the NPP secured 61 seats, People's Convention Party (PCP) had 5 seats and People's National Convention (PNC) managed a paltry one seat. The women representation increased marginally from 16 to 18 seats in spite of the campaign mounted by numerous women groups encouraging the electorate to vote for more women to be at the centre of decision making in the country. Surprisingly, no independent candidate won a seat, confirming the evolving trend that political parties are the dominant actors when it comes to representation in parliament. The continued dominance of NDC and NPP underscore the near consolidation of two-party system in the country.

The composition of parliament brought the two major political parties NDC and NPP face to face in hot exchanges and a struggle for hegemonic influence in Ghanaian politics. While the NPP was determined to effectively utilize its 61 seats together with the other 6 seats commanded by the opposition to counter the domineering influence of NDC, the NDC was also keen on maintaining the political dominance it had established in the two successive elections.⁶⁰ This bitter rivalry introduced an unfortunate

phenomenon into Ghanaian politics where the majority contends that it will always have its way even though the minority can have its say. This seems to have clouded the judgment of both the majority and the minority to the extent that any suggestion from either of them was rubbished. This situation produced a very antagonistic relationship between the political parties in parliament and in the process led to unnecessary politicization of most of the issues in the country. The extremely partisan positions taken by the two major political parties, the NDC and the NPP produced a stance described as ultra-majoritarianism with dire consequences for consensus building as far as public policy making is concerned.

The years before 2000 general elections generated some apprehensions as to whether President Rawlings was going to abide by the dictates of the Constitution and hand over power to a new president since by the constitution he was not even qualified to contest after two four-year terms. The apprehension was fuelled by a suggestion from Vincent Assiseh, in charge of NDC communications that the country should contemplate extending the mandate of the president to seven years. There was spontaneous public backlash to the extent that the suggestion did not receive any serious consideration.⁶¹ This suggestion, even though drowned by high level of public condemnation, was perceived as an attempt by the ruling NDC to literally subvert the constitution. It is important to note that institutions are created by human beings but once they are established, the same human beings no matter how rational they may be, will have to submit to the dictates of the institutions.

The 2000 election had several features. First, the NDC had been in power for eight years and was seeking a third term. Second, President Rawlings had run his two four year terms and was not even qualified to be on the ballot. Third, the economy had not improved significantly after years of structural adjustment programmes and belt tightening by the people. This unfavourable economic environment was epitomized by high inflation, low income, high interest rates, high unemployment figures and low wages among other grim economic statistics. Fourth, there was renewed vigour of the opposition, who with their 67 seats in parliament started punching holes into the public policies and programmes of the NDC government. Fifth, the transparency of the elections was enhanced on the account of several reforms made by the Electoral Commission. These include the following: The collaboration of the EC with the National Media Commission and the Ghana Journalists Association for an effective framework to ensure fair coverage of the activities of the political parties by the Ghana Broadcasting Corporation (GBC). promulgation of political parties code of conduct, involvement of party agents in all stages of the electoral processes and the formation of IPAC for consensus on balloting for positions by political parties on the ballot papers. The reforms also included a strenuous voter education campaign, collaboration with political parties on the role of foreign observers operating under the overall direction of Coalition of Domestic Electoral Observers (CODEO). The EC also undertook a revision of the electoral register, introduced the use of party agents during voting, counting of ballots, collation, declaration and the verification of result from the polling stations.⁶²

The cumulative effect of these policy measures was a free, fair and relatively violent free election in December 7, 2000. The first round of the presidential election was inconclusive and a run-off was organized in December 28 which saw an alternation of power. This was the first time a ruling government had lost political power to an opposition party in this country. The standings of the parties after the 2000 election were as follows; NPP-100, NDC- 92, PNC- 3 CPP-1 with four seats going to independent candidates. The December elections also altered the composition of parliament in very significant ways. First, the election produced a parliament which was almost split between the NPP and NDC. Second, independent candidates managed to secure four seats. Third, the results showed the dwindling fortunes of the CPP and brought to the fore the need for serious reinvigoration of the party if it hopes to capture the nostalgic moments which characterized the CPP under Kwame Nkrumah.

Under the Representation of the People Parliamentary Constituencies Instrument, 2004 (C.I. 46), the Electoral Commission increased the parliamentary seats from 200 to 230 for the purpose of the 2004 elections. The rationale behind this exercise was to re-align some constituencies and split some of them to ensure adequate representation of the people since it had become apparent that some constituencies like Bantama in Kumasi had become over-populated. Under the fourth parliament of the Fourth Republic, the standings of the various parties were not a major departure from what pertained under the third parliament. The 2004 election result gave the political parties the following number of seats in parliament; NPP- 128, NDC- 94, PNC- 4, CPP-3, with the remaining one seat

going to an independent candidate. The composition of parliament under the Fourth Republic is shown in the table below.

Table 3.1 The Distribution of Parliamentary Seats among Political Parties under the 4th Republic

<i>Party</i>	<i>1st Parliament 1993-1996</i>	<i>2nd Parliament 1996-2000</i>	<i>3rd Parliament 2001-2004</i>	<i>4th Parliament 2005-2008</i>
NDC	189	133	92	94
NPP	-	61	100	128
PNC	-	1	3	-
NCP	8	-	-	-
CPP	-	-	1	3
EGLE	1	-	-	-
PCP	-	5	-	-
INDEPENDENT	2	0	4	1
TOTAL	200	200	200	230

Source: Electoral Commission of Ghana, March 2005.

The parliamentary results of 2004 also revealed a number of interesting things. First, it underscored the growing importance of political parties in Ghanaian politics. This is explained by the poor showing of independent candidates and the continued dominance of political parties. Second, there is growing tendency towards two-party system in the country. The evidence available indicates that since 1997, the NPP and the NDC have been the dominant political parties. The two parties have collectively accounted for an average of 96% of parliamentary seats. In 1997, the two parties accounted for 97% of the seat. Their percentage share of parliamentary seats dropped marginally to 96% in 2001. This further increased to 97% in 2005. The dominance of the two major parties has sometimes resulted in unnecessary tension and an apparent promotion of the dictatorship of the majority. The position usually held by the majority that “you can have your say but we will have our way” sometimes leads to needless walk-outs which delay parliamentary business and affects the quality of public policies and programmes.

The structure of parliament has in no doubt affected the quality of debate and invariably the content of public policies. Parliament of the Fourth Republic has continued to exhibit deep cleavages between the two major political parties; the NPP and NDC, which strive very hard to defend the records and policies of its governments. Parliament has become polarized along party lines. Majority parties see the legislature as the extension of the executive arm of government and very reluctant to subject public policies which come to parliament in the form of bills to the scrutiny that they deserve. This situation invariably affects the oversight function of parliament and reduces this noble institution into one of an appendage of the executive, a position which is inimical to the growth of democratic governance and the development of enduring public policies in the country.

Apart from structures, new institutionalism also lays emphasis on the actors in the institutions. The work of parliament is enhanced by certain key functionalities which is the subject for discussion in the next section.

3.9 Functionaries of Parliament

The effective prosecution of the agenda of parliament is facilitated by certain key functionalities, namely the Speaker, Deputy Speakers, Majority Leader, and Minority Leader. Their functions are discussed below:

3.9.1 The Speaker

The Speaker is the first officer of the House. According to Article 95 (1) of the 1992 Constitution, "there shall be a Speaker of Parliament who shall be elected by the MPs

from among persons who are MPs or who are qualified to be elected as MPs". Article 95 (3) of the Constitution states that "no business shall be transacted in parliament other than an election to the office of the Speaker, at any time when the office of the Speaker is vacant". The Clerk of Parliament presides over the business of the house until a new Speaker is elected. At the national level, the Speaker ranks third in the official order of precedence after the President and the Vice-President. The first business which is conducted in a new parliament is the election of the Speaker. All the Speakers of the first-four parliaments of the Fourth Republic were elected from outside parliament. It can be contended that apart from the fact that the majority parties normally want to reward a hardworking functionary with the position, one can also argue plausibly that they do not intend to reduce their parliamentary majority by electing an MP into that position.

The Speaker presides over all plenary sittings of parliament. He/she wields enormous powers because he or she cannot be challenged except on a substantive motion. The Speaker has to act as the spokesperson of the House in its relations with the state and its institutions. He is both the master and servant of the House. He/she has the responsibility to enforce strict adherence to all the Standing Orders of Parliament for the preservation of order and the conduct of its business. In the performance of his duties the Speaker is expected to exhibit the highest sense of fairness and impartiality to be able to handle all matters of the House with relative ease.⁶³ The Speaker is expected to have patience to tolerate all MPs and ensure that all views are expressed in the House. Even though the Speaker is usually put forward by the majority party, upon assumption of office, he is expected to sever all relationship with his party and act in a very professional way

devoid of unnecessary partisanship. It is argued that the powers of the Speaker are derived and not inherent in that he/she is guided in the conduct of his/her duties by the Constitution, the Standing Orders of Parliament and the House. These sources of power make the Speaker the servant of the House. The Speaker also chairs the Parliamentary Services Board and has the overall responsibility in the administration and management of the Service.⁶⁴ The Speaker can be removed from office upon a motion of no confidence supported by two-thirds majority of the total number of MPs. The table below shows the Speakers of the first four Parliament of the Fourth Republic.

Table 3.2 Speakers of the first Four Parliament of the Fourth Republic

NAME OF SPEAKER	YEAR OF SERVICE
Mr Justice Daniel Francis Annan	January 7,1993- January 6,2001
Mr. Peter Ala Adjetey	January 7,2001-January 6,2005
Mr. Ebenezer Begyina Sakyi Hughes	January7, 2005-January 6,2009

Source: Parliament of Ghana, 2009

From the above table, it is clear that apart from Justice D. F. Annan who served as a Speaker for two-four year terms, Ala Adjetey and Begyina Sakyi Hughes served for one term of four years each. It has also been observed that the tenure of the Speaker is coterminous with that of the Parliament. Four years was approved by the Constituent Assembly to be the life span of any parliament even though the Committee of Experts suggested five years.

3.9.2 Deputy Speakers

The Speaker of Parliament is assisted by two Deputy Speakers in the performance of his duties. These deputies like the Speaker are elected at the commencement of every parliament. The two deputies are elected in accordance with Article 96 (a) and (b) which states that there shall be two Deputy Speakers of Parliament who shall be elected by the MPs from among the MPs and both of whom shall not be members of the same political party. The provision for two deputies under the 1992 Constitution is a sharp contrast to what pertained under the 1969 and 1979 Constitutions where only one deputy Speaker was elected. Article 104 (1) states that except otherwise provided in this Constitution, matters in Parliament shall be determined by the votes of the majority of members present and voting, with at least half of all the MPs present. Under the first three Parliaments of the Fourth Republic, all the Deputies were selected by consensus between the majority and minority parties. The selection of the Second Deputy Speaker under the Fourth Parliament was, however, by election since the consensus which usually characterizes the election of the Speaker and his Deputies was missing. Apparently not happy that the NDC had put up Peter Ala Adjetey to contest NPP's favoured candidate, Ebenezer Begyina Sakyi Hughes for the Speakership, the party also fielded Yakubu Alhassan of NPP to contest NDC's Kenneth Dzirasah. The unfortunate consequence was that NDC, the biggest opposition party in the Fourth Republican Parliament was not represented on the Speakership. In the considered view of the framers of the 1992 Constitution, two deputies were necessary in order not to create a power vacuum in parliament.

Usually the First Deputy Speaker presides over the Sittings of parliament whenever the Speaker is absent. Whenever the First Deputy Speaker presides over the Sitting of the House, he assumes all the functions and powers of the Speaker and is accorded all the respect and courtesies usually accorded the Speaker. It must be noted that either of the Deputy Speakers shall take the Chair as Deputy Speaker whenever requested to do so by the Speaker during a Sitting of the House without any formal communication to the House. Whenever it is necessary to elect a new Speaker because the Speaker has vacated his office for any reason, the Chair shall be taken by the First Deputy Speaker and in the absence of the latter, by the Second Deputy Speaker. If both officers are absent the House may by a motion elect a member to preside over the election of a new Speaker.⁶⁵

2.9.3 Majority Leader

The Majority Leader is the leader of the party with majority seats in Parliament. He occupies an important position in the leadership of the House and is considered the Leader of House and the principal spokesperson of the majority caucus in the House. He serves as a vital link between the executive and the legislature. The Majority Leader has an onerous responsibility of ensuring that the business of the House proceeds smoothly without unnecessary disruptions.⁶⁶ He is a towering figure and a real power broker and his interventions in debates are always important in securing the approval of bills submitted to Parliament by the executive.

3.9.4 Minority Leader

The Minority Leader is the leader of the largest opposition party in parliament. He is the principal spokesperson for the minority in parliament. He also occupies an important leadership position of the House and he is a Ranking Member of the Appointment Committee. He is expected to wield enormous expertise in parliamentary practice and the potency or otherwise of the opposition depends on his versatility. Until the promulgation of the 1992 Constitution, the minority leader was referred to as the leader of the opposition. This designation was considered divisive. The new designation of minority leader is intended to strengthen the cohesion in the House to help in consensus building to produce public policies and programmes that are bi-partisan and enduring.⁶⁷ It is rather unfortunate to relate that this has not happened since political parties have usually taken entrenched positions much to the chagrin of Parliamentary watchers.

The Fourth Republican Parliament also has Majority and Minority Chief Whips. The occupants of these positions are also part of the leadership of the House. Their major function is to ensure unity, discipline and solidarity in their respective parties. They usually guide their parties in parliamentary practice and liaise with other parliamentary committees and the Parliamentary Service for the smooth performance of their functions. They are assisted by two deputies each in the discharge of their responsibilities.⁶⁸ The Minority Chief Whip is member of the committee which is responsible for the welfare of MPs.

3.9.5 The Clerk of Parliament

Article 124 (3) of the 1992 Constitution states that “there shall be a Clerk to Parliament who shall be the head of the Parliamentary Service”. Clause 4 of the same article states that “the appointment of the Clerk and the other members of his staff in the Parliamentary Service shall be made by the Parliamentary Service Board of which the Clerk is a member in consultation with the Public Services Commission.”⁶⁹

The Clerk of Parliament is the chief advisor to the Speaker on parliamentary practice. He must be available to all MPs, public officers and the parliamentary press. In the discharge of his duties he must be a classicist in the interpretation of law. He must not countenance any form of adulteration by succumbing to the taste and preferences of any political party or persons to influence his judgement. The decision of Clerk to remain professional and perform impartially may sometimes incur the displeasure of some MPs and officials but this must be considered as occupational hazard.⁷⁰ Individuals who have served as Clerks of Parliament from 1952 to 2008 are shown on the table below.

Table 3.3: Clerks of Parliament of Ghana

NAME	DATE
1. Mr. Ffoulkes- Crabbe	1951-1954
2. Mr. K. B. Ayensu	1955-1966
3. Mr. C. A. Lokko	1969-1971
4. Mr. Aggrey-Orleans	1979-1981
5. Mr. S. N. Darkwa	1993-1996
6. Nana Rex Owusu-Ansah	1997-2001
7. Mr. K. E. K Tachie	2001-2007
8. Mr. Emmanuel Anyimadu	2007 to date

Source: Parliament of Ghana, May 2008

3.9.6 The Parliamentary Service

The Parliamentary Service (PS) was established in 1993 by the Parliamentary Service Act (Act 460) in consonant with the 1992 Constitution. It has a governing Board composed of six (6) members with the Speaker of Parliament as the Chairman.⁷¹ The head of the PS is the Clerk to Parliament who is assisted by three (3) deputies, Heads of Departments, Unit Heads and other specialized officers.⁷²

The PS exist to facilitate the work of parliament through the provision of support services to the House including its committees and agencies for the purpose of ensuring that the powers and functions of parliament are efficiently and effectively exercised. The PS also works to enhance the dignity of the House and adequately inform the public on parliamentary activities to elicit their support and participation. In the process of discharging its responsibility, the PS ensures transparency, non-partisanship and a high degree of professionalism.⁷³

The PS is assisted in the discharge of its responsibility by a Board known as the Parliamentary Service Board. The Board is composed of the Speaker as the Chairman, four other members appointed by the Speaker in accordance with the advice of a committee of parliament, and the Clerk to Parliament. The Board has a primary responsibility of promoting the welfare of MPs and staff of the Service. It also exercises general control of the management of the Service in matters of policy. The Board, with the approval of parliament makes general rules and regulations prescribing the terms and conditions of service of officers and other employees for the effective and efficient

administration of the Service. The Parliamentary Service Board appoints the Clerk to Parliament and other members of staff of the Service in consultation with the Public Services Commission.⁷⁴

The seemingly abysmal performance of parliament is explained by the type of relationship which exists between it and the executive. This relationship is as a result of the hybrid system prescribed by the 1992 Constitution. The relationship between the legislature and the executive is the focus of our attention in the next section of the study.

3.10 The Legislative-Executive Relations under the Fourth Republic

The institutional architecture of the 1992 Constitution is a very complex one. The Constitution is based on the principle of separation of powers, with some measure of overlapping of personnel and functions. The hybrid system of government adopted by the country represents a mixture of features from both presidential and parliament forms of government. The 1992 Constitution clearly spells out the functions and duties of the organs of government and establishes the relationship that ought to exist between the three organs of state. The institutional relationships are explained below.

First, the powers of state of Ghana are shared among three main organs. Article 58 (1) of the 1992 Constitution vests the executive powers in the president, Article 93 vests legislative powers in parliament, and Article 125 (3) vests the judicial power in the judiciary. Second, Article 78, clause 1 enjoins the president to appoint majority of his ministers from among MPs. While clause 2 allows the president to appoint such number

of ministers as may be necessary for the efficient running of the state. A careful reading of Article 78 of the constitution reveal a number of disturbing issues which tend to undermine the work of parliament. The requirement that majority of ministers must be selected from among MPs has a destabilizing effect on the work of parliament.⁷⁵ In the first place, the principle of collective responsibility enjoins ministers of state and other members of the executive to support and defend publicly government policies and programmes. The effect of this is that ministers of state who are also MPs cannot be seen to be openly criticizing public policies and programmes. The deliberative and oversight functions of parliament are therefore impaired. Second, the demands of a ministerial portfolio and that of legislator are all full-time jobs requiring full-time attention. Ministers who double as MPs tend to relegate their legislative function to the background simply because ministerial positions appear to be very juicy. Such MPs only rush to parliament to vote on important policy issues. Parliament does not get their full participation because of the divided attention. Third, because the president has the power to appoint any number of ministers to help him prosecute his agenda, even backbenchers or non-ministers are more often than not reluctant to criticize the government. The strategy is to be in the good books of the executive in order to be considered for ministerial appointment if an opportunity for a reshuffle.

The constitutional provision that majority of ministers must be picked from parliament ensures huge and unequivocal executive presence in parliament. It is true that Ghana is not the only country with MPs doubling as ministers of state. In fact, in a pure parliamentary system of government the entire team of ministers including the prime

minister is chosen from among MPs. In point of fact, parliamentary systems make the executive an agent of the legislative majority, hierarchically inferior to it because the majority in parliament can terminate the authority of the executive.⁷⁶ In Ghana, the concentration of powers in the hands of the executive has been one of the leading causes of bad governance in the country over the years. One therefore wonders what virtue there is in adopting a constitutional arrangement that can only exacerbate the problem of executive hegemony.⁷⁷

It must also be noted that though the Constitution empowers the president to exercise executive power including the enforcement of all laws of Ghana, the president cannot spend public money or raise taxes without the approval of parliament. The power to make laws and authorize the spending of public money is vested in parliament. The snag, however, is that under Article 108, it is only the executive which can introduce a bill or motion to impose a tax or spend public money. The President can even refuse to assent to a bill passed by parliament even though it has the power to override the President's veto by a vote of not less than two-thirds of its members.

It must be stated that Article 108 as it stands has serious implications for the legislature. Indeed, it affects the effectiveness of parliament in a number of ways. First, the making of a new policy invariably involves some form of expenditure on the part of government. The preclusion of parliament from initiating legislations which have cost implication seriously undermines the power of the legislature to introduce legislations aimed at addressing the myriad of problems facing the citizens in the country. This situation will

lead to policy inertia and turn parliament into a policy ratifying institution. This phenomenon is certainly not good for democratic development which hinges on the nurturing of strong institutions.

The approval of budget estimates is also limited, in that parliament cannot increase allocations to a particular line item or category in the government's budget submissions. The disturbing situation is that private members cannot introduce bills which have financial implications. The cumulative effect of Article 108 is that practically parliament is now under the budgetary control and discretion of the executive.⁷⁸ This provision partly explains why parliament has over the years remained under-resourced and has had to depend on the magnanimity of the president for resources to operate. By prohibiting parliament from merely debating matters involving the expenditure of public funds on its own initiative without a request from the executive and by further prohibiting parliament from debating matters involving the raising of taxation or increases in the levels of expenditure, parliament has been denied the use of a very critical weapon which can bring a recalcitrant executive to heel. By this provision, the people's representatives are effectively prevented from having their way in matters that effectively affect the people.⁷⁹

The relationship between the executive and the legislature has also been largely affected by the appointment of the Speaker of Parliament who is normally selected from the majority party. Constitutionally, the Speaker is expected to be an independent officer of state who has sworn the Speaker's Oath to defend the Constitution and do right to all manner of persons in accordance with the Constitution of the Republic of Ghana and the

laws and conventions of parliament. The evidence available, however, indicates that the Speaker is elected on the strength of the ruling party in parliament, which makes him or her sail very close to the wind when it comes to giving judgement on issues concerning the ruling party.

Theoretically, the 1992 Constitution guarantees the independence of the legislature and the executive, but Articles 78 and 108 make the former play second fiddle to the latter. In practice, the executive power is dominant and has the capacity to command the resources of the country. In contrast, parliament is largely constrained by the provisions of the constitution and operates largely without the political and material means to function effectively.⁸⁰

3.11 Conclusion

The chapter has shown that representation in the Fourth Republican parliament demonstrates a trend towards two-party system with the NPP and NDC capturing an average of 96% of the seats. It further demonstrates the weakness of other parties and brings to the fore the need to re-strategize if, indeed, they want to give Ghanaians a third choice. The chapter has demonstrated the growing polarization of Parliament along partisan lines and the taking of entrenched positions culminating in ultra-majoritarianism which has the tendency of producing the tyranny of the majority with dire consequences for public policies and programmes. The chapter further identified the functions of Parliament as representational, law making, financial, deliberative and oversight. The performance of these functions has been largely affected by the institutional architecture

of the Constitution which places several limitations on the capacity of parliament to perform as an independent organ of state. The relationship between parliament and the executive has largely been skewed in favour of the latter and subsequently made Parliament an appendage of the executive.

The public policy making role of parliament has been affected by the hybrid nature of the 1992 Constitution, which draws majority of minister from parliament thereby depleting the institution, the tendency for potential ministers to be overly lenient with the executive when debating its policy proposal, and the inability of Private Members to introduce bills because of the constraining effect of article 108.

The internal workings of parliament are usually anchored on the committee system which is the subject for discussion in the next chapter.

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CHAPTER FOUR

THE COMMITTEE SYSTEM AND PARLIAMENTARY PRACTICE IN GHANA

4.1 Introduction

Parliamentary committees evolved from the 16th century in the British Parliament. Committees of Parliament are groups of MPs appointed by parliament to carry out certain functions or investigate matters either too complex or too technical for the normal routine of parliamentary business.¹ The need for efficiency in the performance of new and wide functions of legislative and other related functions, which modern legislatures are confronted with, makes the utility of the committee system indispensable to modern legislatures.

Decision making in parliament in Ghana is therefore the interaction between committees, political parties, interest groups and the parent chamber. The committee system is very significant to the smooth functioning of the parliament of the Fourth Republic. It is plausible to argue that all complex organizations operate through delegation of authority. Committees are put in place to digest the various matters in the form of bills introduced into parliament by the executive and the individual MPs. Parliament usually sits to sanction the conclusions of its committees as quickly as possible. The parliament of Ghana like its counterparts in the United States, United Kingdom and elsewhere, legislates in its committee rooms. It can be argued that parliament in session is parliament on public exhibition, but parliament in the committee rooms is parliament at work.² Parliamentary committees normally have the following characteristics.³ First, they are

made of groups of MPs set up within the parliamentary system. Second, it is usually the focal point for legislation and oversight. Third, they are not a decision making body except in respect of its own internal proceedings. Fourth, they have no standing independent of the legislature. Finally, the committees submit their reports to the chamber, often with recommendations for decision to be made on an issue. In short, parliamentary committees provide a very valuable means by which the executive is not only properly scrutinized but also an avenue for the public to contribute to parliamentary debates.

This chapter therefore discusses the committee system in Ghana's Fourth Republic and how they facilitate the work of Parliament. Specifically, this chapter will answer the following questions.

1. How did the committee system in parliament in Ghana evolve?
2. What are the types, functions, and composition of committees in Ghana's Fourth Republican Parliament?
3. What is the relationship between the committees and the parent House?
4. How do the committees operate?
5. What are the challenges facing the committees?

4.2 The Rationale for Committees in Parliament

The committee system is the bulwark of the parliamentary system in Ghana. The committee system is very useful for the following reasons:

Generally, the committee system is a check point for a detailed, clause by clause examination of the content of a bill. Committees and sub-committees are usually where parliament does its work. It is where the contents of public policies are shaped, various civil society organizations in the country heard, and finally legislation fashioned out. One can infer therefore that the final content of bills passed into laws in parliament, are thus the products of the groundwork undertaken and perfected by the legislative committees. The committee system therefore helps the institution of Parliament function effectively. Any well performing parliament must be deliberative, draw the attentive citizenry onto its deliberations, respect the political equality of its members, and allow voters to judge directly whether policy has been beneficial to the nation, so that voters could reward or punish those who were responsible. In most developing countries, bills are normally initiated by the executive with the legislature only called upon to make amendments and generally legitimize the public policy.

Also parliamentary committees have become a focal point of legislative oversight in the world. The committee system in a presidential, parliamentary and hybrid system are regarded as a very important feature of modern democratic parliaments. The committees consider policy issues, scrutinize the work and expenditure of the government and examine proposals for primary and secondary legislation.⁴ Most of the work of parliament is done by committees.

Again, the working of the committee allows parliament to increase the amount of work that can be done. It is usually more efficient for a large group to delegate its work to smaller groups than to try to do it all in a single group.

Furthermore, they ensure that issues can be debated in more depth than can be done in plenary sessions. Usually more time is available to the committee members to concentrate on details.

Also, the existence of the effective committees increases the participation of MPs in discussing more fully proposals submitted to them when the group is much smaller as the various committees provide. This enables MPs to develop expertise and in-depth knowledge of the committee's area of work thereby improving the quality of debate and subsequently the quality of policies that issue from the committees.

Parliamentary Committees also serves as a vehicle for reviewing the practice of government by scrutinizing the performance of government ministries, departments and agencies. Committees in the Commonwealth countries including Ghana oversee the expenditure of public money and they may call the government or the public service to account for their actions and ask them to explain or justify certain administrative decisions they have taken.

It is also interesting to point out that the committee system provides a forum for the public to presents its views directly to MPs something which is not possible in plenary

sittings of parliament. Committees are places where members of the public can express their opinions directly and try to influence the outcome of parliamentary decisions. It allows parliament to perform several functions simultaneously and also provides the opportunity for more detailed investigations and discussions before findings and outcome of these committee meetings are presented as committee reports. The meetings are sometimes held in public although they may be held behind closed doors if there is very good reasons to do so.

Finally, the committee system provides a forum for parliament to hear evidence and collect the relevant documents which are relevant to the work of specific committee's work. Information is a power resource and therefore the availability of reliable and relevant information to the MPs impacts positively on the quality of analysis they make which ultimately affect the quality of the reports they produce. Bills normally pass through several stages before being enacted into law. Parliamentary Committees enable a more thorough, detailed and consultative examination of legislation than is possible in the chambers. Parliament through its committees obtains detailed information about proposed laws from a variety of sources including ministries, departmental heads, business and other interests and is able to receive advice from experts about proposed bills and the likely consequences of laws.

4.3 Parliamentary Committee System in Ghana

Owing to the volume and complex nature of legislative work in Ghana, it is felt that if legislators are going to do a thorough work and be productive, they need more time and high level of specialized knowledge in certain critical areas. The House as a whole can

hardly work with dispatch if it has to handle all bills or legislation and scrutinize all financial arrangements and facilities and exercise oversight responsibility over the activities of the executive. It has been argued that it is in the committee rooms that an MP does his/her work. Since its inception, the committee system has been the hub around which the work of the modern legislature revolves. It provides the opportunity for MPs to be placed in a number of smaller bodies to consider in-depth, specific aspects of the work of parliament.⁵ The establishment of the committee system in Ghana was a landmark in its institutional development of Ghana. Parliamentary committees conduct surveillance on defined areas of government administration. Parliamentary committee system ensures that the executive is accountable to parliament. It brings parliament face-to-face with bureaucrats, thus increasing the information available to parliament on issues of national interest. Parliamentary committees generally assist parliament in the efficient discharge of their functions and in giving close consideration to legislative and other issues that come before it. A significant aspect of the work of parliament is transacted through the committees as the time at the disposal of parliament is limited and insufficient to make a thorough and detailed examination of the varied and voluminous legislative and other works possible. The following section discusses the committee system under the various republics in Ghana.

4.4 The Committee System under the First Republic

From 1957 to 1966, the parliament of Ghana did not develop a committee system that could offer effective solutions to the numerous problems confronting the country at the time. The committees which operated at the time were classified into Sessional Select

Committee and Ad-hoc Committees. There were generally five Select Committees. They included the House Committee which was responsible for advising the Speaker on all matters connected with the comfort and convenience of MPs. Secondly, there existed a Business Committee charged with the responsibility of determining the business of each Sitting and the order in which it is to be taken. Thirdly, there also existed the Committee of Privileges which was charged with the responsibility of enquiring into complaints of contempt of parliament and matters of privileges referred to it. Fourthly, parliament also had the Public Accounts Committee which had the responsibility of examining the accounts showing the appropriation of the sums granted by parliament to meet public expenditure and such other accounts laid before it together with the Auditor-General's Report on the accounts. The committee was required to submit its report to Parliament twice a year. The Public Accounts Committee (PAC) was chaired by the Sessional opposition leader. It constituted the main financial watchdog of parliament. Fifthly, another committee which assisted the work of parliament during the First Republic was the Standing Orders Committee.⁶ The Standing Orders Committee was instituted to consider proposals for the amendment of the Standing Orders from time to time to bring these orders in line with modern trends and also make the orders relevant to the workings of parliament.

These committees were largely ineffective since their powers were limited. For instance, they could only make recommendations for the adoption of the House. The Sessional Select Committee was appointed at the beginning of each parliamentary session for the duration of that session. The party whips usually nominated members to the committees.

Ad-hoc committees were also appointed when it became necessary for such a unit to be used.⁷ There was no specific committee put in place during the period under review to critically examine bills and report to the House. The absence of a virile committee system robbed parliament of the needed bite to be able to scrutinize bills and other loan agreements brought before it. The executive was not subjected to the kind of scrutiny usually present when the committee system is very effective. Parliament during this period under review faced other serious challenges which impacted adversely on the smooth functioning of its committees. These include the following: First, parliament lacked space by way of appropriate rooms which could be used for effective committee work. Secondly, parliament did not have effective library system for effective research by the MPs. Thirdly, there was shortage of personnel including research assistants and clerks (there were only four clerks, the Clerk, his deputy and two other assistant clerks) to make the work of the committees very effective. Fourthly, there was generally insufficient funding of parliament and its work. Some have argued that funding of and governmental support for parliament was not a priority because the executive cherished a weak parliament so they could run rough shod over it. The only active committee was the PAC which functioned like a proper committee. In the discharge of its responsibilities, the PAC managed to invite some ministers of state and civil servants to testify before it.⁸ The consensus was that committees which worked assiduously and probed issues critically to identify malfeasance and promote good governance were considered anathema to the executive. This situation did not help parliament as all bills were passed under certificate of urgency. This anomaly was, however, corrected under the 1969 and 1979 Constitutions to which we turn our attention now.

4.5 The Committee System under the Second and Third Republics

The 1969 and 1979 Constitutions of Ghana gave a lot of prominence to the committee system to forestall the situation where a lot of bills were passed under certificate of urgency under the First Republic.⁹ The framers of the 1969 and 1979 Constitutions decided that Parliament should hasten slowly in making laws. Under the First Republic, the public was sometimes unaware of the bills which had been passed into laws under certificate of urgency. Many decisions were taken in parliament without public consultation. What is true but less obvious is that, the work of parliament has educational value to the people. When people appreciate the workings of parliament, they are encouraged to participate in its work. It is therefore incumbent upon parliament to widely publicize its law making activities to elicit public support. The resort to the use of certificate of urgency in the passage of several bills before 1969 therefore deprived the people the opportunity to make contributions directly and indirectly to the policy making process.

Under the 1969 and 1979 Constitutions, it was compulsory for any bill introduced in the House for the First Reading to be referred to the appropriate committee of the House for effective scrutiny and make enquiries which it considered expedient. The report of the committees with explanatory memorandum usually formed the basis of debate and eventual passage or rejection with or without amendment. Parliaments did not admit or encourage the public to participate in its activities on the floor of the House. The committee system therefore afforded people the opportunity to participate in policy making and the legislative process considering the fact that their deliberations were less

formal and less intimidating.¹⁰ The committees were empowered to adopt any method they deemed fit to discharge their responsibilities. Usually the members of the general public were invited to share their experiences and provide some insights on the subject matter under discussion. As has been stated elsewhere in this work, public input is important, and the committee hearings provided a public forum for the presentation of the views of individual citizens and interest groups. The result of this detailed attention given to the passage of the bill is that the final product is more likely to be effective and have the support of the broad masses of the people.¹¹ When people understand a policy and have some sense of ownership because they participated in the formulation of the policy, they become sympathetic evaluators of that policy when it is being implemented.

4.6 The Committee System under the Fourth Republic

The committee system is an important Parliament. The 1992 Constitution recognizes the crucial role played by committees in the performance of the functions of Parliament. Like the Second and Third Republican Constitutions, the framers of the 1992 Constitution envisioned a situation where the presence of efficient committees will facilitate the work of parliament as a whole while at the same time helping the public to participate effectively in the legislative process in the country.

The framers of the Constitution indicated in appendix C article 9 (1) of the Report of the Committee of Experts that parliament shall appoint standing committees and other committees. Clause (2) of article 9 of the same report went further to suggest that the committees shall be charged with various functions including the administration of

ministries and departments and the making of various enquiries and investigations.¹² By these provisions, the Committee of Experts laid a solid foundation for the establishment of an effective committee system with wide ranging powers. Underpinning these provisions was the desire to see Parliament exercise its functions of policy making and oversight of the executive in a professional manner so as to secure for the people of Ghana a well governed state.

Article 103 (1) of the 1992 Constitution empowers Parliament to appoint standing committees and other committees for the effective discharge of its functions. Sub-section (2) of article 103 also states that “a committee appointed under this article shall have the powers, rights, and privileges of the High Court or a Justice of the High Court at a trial for:

- (a) Enforcing the attendance of witness and examining them on oath, affirmation or otherwise,
- (b) Compelling the production of documents; and
- (c) Issuing a commission or request to examine witnesses abroad.

We can infer from the above provisions of the 1992 Constitution that committees so created by Parliament wield enormous powers and if they are given the opportunity and the corresponding resources to function, they can constitute an effective check on the overweening tendencies of the executive and thereby produce public policies and programmes which are enduring and have the capacity of addressing the myriad of problems facing the country.

4.7 Perspectives on Committee Power in Ghanaian Parliament

Decision making in Ghana's parliament is shaped by the interactions between political parties, committees and the parent House and to some extent the influence of interest groups and think tanks. There is usually pushing and shoving among these actors for influence and hegemony. However, the relative influence of each of the actors listed above varies with time. In order to fully understand the relationship between the committees and the parent House, it is important to understand the perspectives on committee power in the literature. There are two fundamental perspectives on committee power in Ghana. These are the party-dominated committee perspective, and the chamber dominated committee perspective.¹³ Each of these perspectives in one way or the other manifests itself in the workings of Parliament of Ghana. These perspectives are explained in turn.

Firstly, the party-dominated committee perspective put emphasis on the role played by political parties in parliament. The Committees membership is determined by the strength of political parties in Parliament.¹⁴ Committee members are seen as agents of their respective political parties. Because of high level of party discipline in Ghana's parliament, committee members hardly vote against their party's preferred position on issues. In effect, political parties have influence on committee members. Party leaders or majority leaders in parliament have a lot of leverage within the committees. These relationships create an implicit contract between the political parties and committees and subsequently constrain committee behavior. It must be pointed out that the Ghanaian parliaments have since 1992 been dominated by the party of the executive. Even though

MPs have a solemn duty to serve the interest of their constituents (this is the promise they normally make during electioneering campaigns), they are also **bound by party discipline to comply with party directives.**¹⁵

Since the inauguration of the Constitution in 1992, committee work has been dominated by political parties and this has limited the potential for independent policy actions by the committees.¹⁶ The limited influence of the committees is also due to the fact that the composition of committee reflects the partisan composition of parliament and deliberations are sometimes skewed in favour of the majority. The cumulative effect of the partisan nature of the committee is that the majority party more often than not has effective control over committee decisions. And because committee recommendations are constrained by the views of the majority party, committees lack autonomy.¹⁷

There are instances when the parliament of Ghana exhibits a chamber-dominated or informational committee perspective. This perspective emphasizes the subordination of committees to the parent chamber. According to this view, committees are largely created to meet the needs of the chamber in its search for an effective way to perform its task effectively and efficiently.¹⁸ It is the desire of the parent chamber to build the competencies and expertise and have the capacity to have access to the most reliable and valid information to legislate properly. The rules of the committees are found in the Standing Orders of parliament, and parliament reserves the right to create more select committees or establish an ad hoc committee to deal with an issue of national importance. The report of the various committees must receive majority support on the floor of the

House for legislation. It is therefore important for the various committees to be sensitive to the prevailing views in the chamber and must bear in mind the potential reactions to their recommendations.¹⁹ In this perspective, committees are seen not as autonomous but highly constrained by chamber preferences. Committees are granted a measure of discretion but this leverage is only within narrow ranges of policy options and over legislative details.²⁰ The leverage given to the committees enables them exercise some control over the individual members but it does not allow them to exercise any phenomenal control over issues of importance.

In practice, each of these perspectives has certain attractive features. The party-dominated perspective encourages the emergence of strong party leadership that can supervise the development of coherent and timely public policies. This model helps us to understand the growing strength of political parties in parliament which is eventually leading to ultra-majoritarianism. Parliament through its committee system has evolved to a point where the majoritarian principle is being applied in an instrumental manner and without regard for the interest of the nation as a whole.²¹ This situation becomes more evident when parliament is dealing with very controversial issues like loan agreements, and specific cases such as the deliberations on National Reconciliation Bill and the Representation of Peoples Amendment Bill, among others.

The chamber-dominated system tends to preserve the equality of its members by sharing expertise widely and allowing all members a voice in important policy decisions in the chamber. This perspective helps us to appreciate why neither political parties nor

committees have absolute power and why policy decisions tend to represent centrist rather than extreme positions.²²

4.8 Types of Committees

In the United Kingdom, both Houses of Parliament adopted the practice of delegating to small bodies of members, to represent the House itself to consider detailed and technical questions on behalf of the parent House. Each House now possess an organized system of committees which comprises the Committees of the Whole House, Select Committees and Committees on private bills; in the House of Lords, public bills committees; and in the House of Commons, Standing Committees on public bills and other matters.²³

The 1992 Constitution provides for three main types of committees. These are Standing Committees, Select Committees and Ad Hoc Committees. Whereas all committees are Select Committees, not all Select Committees are Standing Committees. The types of Committees are explained in turn.

Standing Committees are appointed at the First Meeting of Parliament after the election of the key leaders such as the Speaker, and the two deputies. Article 104 of the 1992 Constitution of Ghana requires that every MP must belong to at least one of the standing committees. It is important to relate that if a member of parliament is allowed to belong to more than two committees, that MP is overstretched subsequently becomes less effective. The Standing Committees are permanent and the tradition is that once established under clause (2) of article 103 of the 1992 Constitution. they cannot be

disbanded. In other words, the Standing Committees exist for life or term of each parliament and then re-established in the next parliament. By virtue of the fact that Standing Committees are written into the rules of parliament, they have a sense of permanence about them. Standing Committees permit a continuing surveillance of defined fields of government activity. The size of the committee ranges from fifteen to thirty-one and members are chosen by their party in proportion to their numerical strength in Parliament. Under the First Parliament of the Fourth Republic, the Standing Committees established are shown on the table 4.1 below:

Table 4.1 The Standing Committees of Parliament of Ghana.

1. The Standing Orders Committee	5. The Subsidiary Legislation Committee
2. The Business Committee	6. The Finance Committee
3. The Committee on Privileges	7. The Appointment Committee
4. The Public Accounts Committee	8. The Committee on Members Holding Offices of Profit
	9. The Committee on Government Assurances

Source: Ayensu and Darkwa, 2006, p.54

The revised Standing Orders which came into force in November 30, 1995 further added the Committee on Government Assurances to the Standing Committees of Parliament.²⁴

The Standing Committees have had the responsibility of bills referred to them for scrutiny. Unlike their counterparts in the United Kingdom where standing committee are named alphabetically, to make them impersonal, Standing Committees in Ghana are called by their names such as Committee on Finance (FC), PAC, etc. In addition to the Standing Committees, there exist Select Committees by virtue of the Standing Orders of Parliament. The Select Committees are established to examine the expenditure,

administration and policies of the principal government ministries, departments and agencies. In other words, the Select Committees are normally organized around the structure of government departments, with each major ministry having a departmental select committee shadowing it. It is therefore worthy of note that each change in the structure of government ministries prompts a corresponding change in the select committees. It is plausible to argue that if the Select Committees are able to maintain effective and comprehensive oversight of the specific ministries, departments and agencies assigned them, it will serve as a resource for the ministers to know their department and agencies better and therefore contribute to the effective running of the ministries and consequently the state. The Standing Orders of Parliament stipulates that at the first meeting of every session of parliament, there shall be appointed a Committee of Selection comprising the Speaker as the chairman and not more than nineteen other MP.²⁵ The Committee of Selection prepares the lists of chairpersons, vice-chairpersons and Members to compose the Standing Committees of Parliament. The Standing Orders of Parliament make provision for sixteen Select Committees which are departmentally related. The Select committees are covered in the table below.

Table 4.2 Select Committees in Parliament of Ghana

1. The Committee on Food, Agriculture and Cocoa Affairs	9. The Committee on Employment, Social Welfare and State Enterprises
2. The Committee on Lands and Forestry	10. The Committee on Defence and Interior
3. The Committee on Health	11. The Committee on Trade, Industry and Tourism
4. The Committee on Constitutional, Legal and Parliamentary Affairs	12. The Committee on Environment, Science and Technology
5. The Committee on Works and Housing	13. The Committee on Education
6. The Committee on Local Government and Rural Development	14. The Committee on Youth, Sports and Culture
7. The Committee on Communications	15. The Committee on Mines and Energy
8. The Committee on Foreign Affairs	16. The Committee on Roads and Transport

Source: The Standing Orders of Parliament of Ghana, 2000 pp.102-103

The Select Committees are usually concerned with the expenditure, administration and policy of ministries, departments and agencies of government. It is rare for bills to be referred to Select Committees in the House of Commons in the United Kingdom, but in Ghana almost all bills are referred to the appropriate Select Committees.²⁶ Select Committees in Ghana's are also empowered to carry out investigations into issues of national importance and their proposals can lead to legislation. Like the Standing Committees, the aforementioned Select Committees are also written into the Standing Orders of Parliament and therefore have some sense of permanence about them. The assignment of specific departmental responsibility to committees helps establish some form of organic relationship between members of parliament who serve on these select committees and the executive departments under their control.

Parliament may also appoint ad hoc committees to preside over specific issues of national importance. Ad hoc Committees are also referred to as special committees. They are usually appointed by parliament to investigate any matter of public importance or any bill that does not fall under the jurisdiction of any other Select Committee. The life span of ad hoc committees is usually tied to the completion of the assigned responsibility. An example of the ad hoc committee was the one on poverty reduction which was set up in 2007. The Poverty Reduction Committee was a twenty-five member committee under the leadership of Hon. Josephine Hilda Addo, with Hon. Alex Tetteh-Enyo as the ranking member. Among the major tasks of the committee was the review of 2004 and 2005 Annual Progress Reports of the Ghana Poverty Reduction Strategy under the auspices of the Parliamentary Centre in partnership with parliament of Ghana. The committee, with support from parliament of Ghana organized a study visit to Tanzania from 14th to 23rd October, 2006 to help the committee members build the necessary capacity for their work. The committee also met six key ministries in December, 2006 to discuss their 2007 budgetary allocation and planned programmes to ensure that they are in line with the priorities in the Growth and Poverty Reduction Strategy (GPRSII). The committee also discussed extensively other issues related to poverty reduction dimension of planned activities of Municipal and District Assemblies (MDA) activities under the Millennium Challenge Account. To be able to get first hand information and learn from the best practices in other countries, the committee adopted a variety of methods to achieve its objectives. These include, committee meetings, stakeholder consultations and meetings, Civil Society Collaborations. Video Conferencing, study tours to other African countries and field visits to the districts in Ghana.

4.9 Compositions of the Committees of Parliament

Article 103, clause 5 of the 1992 Constitution stipulates that “the composition of the committees shall, as much as possible, reflect the different shades of opinions in Parliament”. This provision is almost a verbatim reproduction of what is contained in the report of the Committee of Experts which states that “the composition of the committees shall reflect the different shades of opinions of parliament”. This provision is reechoed by section 154 of the Standing Orders of parliament. One can infer from this provision that the representation of members of parliament of the committees shall be based on the strength of the political parties in parliament. It is believed that members of the same political parties may hold similar positions on issues in parliament. Since the inception of the Fourth Republic, MPs have voted en-block for their respective parties giving rise to what has been described as ultra-majoritarianism.

Members of both the Standing and Select Committees are nominated by the Committee of Selection whose chairman is the Speaker of Parliament. At the beginning of every session, a member decides on which committee one wants to serve based on one’s educational and professional background in consultation with the leadership of the House. After the nomination of members during the first session of parliament, they normally serve on the same committees throughout the life span of the parliament. Occasionally, some members are changed. Usually non-conformists of the ruling party are punished by being removed from important committees. The membership of the committees reflects the strength of the various political parties in parliament. This arrangement has three effects.²⁷ First, the smaller parties and independent MPs may not

qualify for a place on the committee of their choice or which interest them, since members do not have the free will to self-select into committees.

Secondly, when elections produce a hung parliament, the representation of the majority party on both the Standing Committees and the Select Committees will only be minimal, and therefore may not be strong enough to prevent bills being amended in a manner not acceptable to the government.

Thirdly, in the event that an election produces a hung parliament, the composition of the committees will be such that excessive partisanship is likely to be limited as consensus building and dialogue is what will guide the operations of the various committees. The rationale for this position is that the ruling party will realize that before it can amend bills or make sure that bills are maintained in the form in which they were presented to parliament, it must be prepared to work with other political parties. This provision is in line with what was envisioned by the Committee of Experts which indicated that the composition of the committees shall reflect the different shades of opinion in parliament; a provision which was fully endorsed by the Constituent Assembly which finally fleshed-out the Committee of Experts Report.

The chairpersons of seven of the Standing Committees are determined by the Standing Orders. These are the Business Committee, Privileges Committee, Standing Orders Committee, the House Committee, and the Public Accounts Committee. The rest are the Appointment Committee and Committee on Members Holding Offices of Profit. The

Standing Orders give the members of the Select Committees the powers to elect the chairperson and vice-chairpersons of the respective committees.²⁸ In the case of the House of Commons in the UK, the chairman or chairmen of each Standing Committee are appointed by the Speaker from a panel consisting of not less than ten members nominated by him at the commencement of every session.²⁹ Committees are empowered by the Standing Orders to decide how to do their work provided they do not overstep their remit. They can meet as often as they like and have the freedom to even hold public sessions to encourage public participation in the making of decisions that affect the lives of the people. They also hold closed door sessions especially when they are composing their reports.³⁰ The size of the Standing and Select Committees are fixed by the Standing Orders of parliament. Committees are masters of their own proceedings.

Committee deliberations are generally non-controversial and therefore you will find objectivity and compromise prevailing even in the passage of bills and you will find people deferring to those with superior knowledge or special skills in this all important area. The deliberations of the committees become divided when dealing with controversial issues such the purchase of planes, CNTCI Loan agreements. The committee is as divided as the House itself. There are instances where the majority is so vicious that even the minority does not have its way. The committees do not rely on expert advice and this is not good enough. It should be possible for the committees in Parliament to conduct enquiry into issues of national interest and not depend on the executive to carry these out. There is little or no opportunity for people to participate in the deliberations of the various committees and this is a deficiency.

4.10 Features of the Committee System in Ghana

The power relationship between the parent house and the committees in Ghana's parliament is such that the latter is derided as having the power only to send for papers, persons and records. The committees generally work in the shadow of the parent House.

The committees in parliament have the following general features.

- i. They are permanent for a time of parliament and are not appointed seasonally;
- ii. They take bills, scrutinize the budget of their corresponding ministries, departments and agencies;
- iii. They conduct investigations into issues affecting their ministries and departments whenever such issues are referred to them by parliament;
- iv. A member serves on at least one Standing and one Select Committee. This is possible because there are 230 members in Ghana's parliament;
- v. Standing Committees, except the Finance Committee which doubles as a Select Committee, do not handle any bill nor investigate any issue affecting any particular ministry or department;
- vi. The Chairmen of seven of the Standing Committees are specified in the Standing Orders of the House;
- vii. By Article 103(5) of the 1992 Constitution of Ghana, the composition of the committees shall as much as possible, reflect the different shades of opinions in Parliament;
- viii. Chairmen of the Select Committees are elected by members of the committee;

- ix. Ministers of State who are MPs are members of Standing Committees only;
- x. A Select Committee has three months within which to report a bill after being referred to it;
- xi. No Select Committee has the power to spike a bill at the Committee level and every matter referred to it has to be treated by the end of the session.³¹

4.11 Functions and Powers of Parliamentary Committees in Ghana

The Committees perform very important tasks some of which are so complex and technical that the full House cannot effectively undertake. It is often argued that the name “committee” suggests that a piece of work has been committed or given to that body by a superior, the parliament.³² The committees are generally expected to consider matters referred to them and report back to parliament. It is worth pointing out that about 70% of the activities of committees in parliament are policy related. Whether they are debating bills, scrutinizing international treaties or budget statements, committees have the objective of improving the general quality of public policies to protect the public interest. Section 156 of the Standing Orders of parliament states that, “the Standing and Select Committees of the House shall be constituted and shall be assigned such functions as are specified in the Orders”. It further states that all Bills, resolutions and other matters relating to the subjects within their jurisdiction shall, be referred to them as provided for in the Standing Orders.

The general functions of parliamentary committees can cover all the functions performed by the legislature itself. These functions, to all intents and purposes have public policy

dimensions. The only exception is the formation of a government. Committees generally perform functions which parliament is not well-fitted to perform. These include finding out facts of a case or issue, examining witnesses, sifting evidence and drawing reasoned conclusions from the empirical evidence available. All committee meetings save the Public Accounts Committee (since 2007), are officially closed to the public and the media and the minutes are not made publicly available except in special cases. Among the functions performed by committees are the following:

First, committees provide an increased ability for the parliament to scrutinize government policy and expenditure which are presented to the parliament in the form of budget statements. The budget statement among other things captures the policy intentions and expenditure and revenue targets for the financial year. The work of the finance committee and the public accounts committee are for instance, aimed at ensuring financial prudence in the administration of the state. They also ensure value for money in respect of government expenditure.³³ Select committees are normally selected to parallel government ministries, departments and agencies. Each select committee has oversight responsibility over specific government portfolio. To facilitate its work the remit of a committee is determined by the Constitution and the Standing Orders of parliament. The accountability functions of parliament usually cover the capacity of parliament to conduct enquiries, compel attendance of persons and presentation of documents and make reports and recommendations available to parliament.

Secondly, committees do play an important part in the legislative process. The critical examination of bills presented to parliament allows public inputs into the law-making process. This function helps the institution to make valuable contributions into the policy making process by ensuring that policies contain the requisite remedial measures to address the problems they seek to address. The committees scrutinize all bills and all delegated legislations including Statutory Instruments.³⁴ Under this, the committees work to exercise proper oversight over the executive activities in greater detail and depth than the full House can ever hope to do. It must be emphasized here that the situation where members of the majority party vote en-bloc for the ruling party turns to undermine the oversight function of the House. The other difficulty is that budget estimates and other important policy documents are sent to parliament rather late. This situation does not allow the committees ample time to do a diligent analysis.

Thirdly, committees enable the people to feel the presence of parliament. The committee system enables parliament to tap into the expertise of individuals and groups to enrich their work and improve the general quality of public policies. It facilitates the direct interaction between elected representatives and the people. The holding of workshops, seminars and visits to other project sites enable members of parliament to have first hand information about issues of national importance. This arrangement also helps the public to have direct access to parliamentarians. In short, the committees investigate issues and provide public contact.³⁵

Fourthly, committees facilitate increased level of collegiality between members from different political parties who may not otherwise have the opportunity to work with one another. To facilitate the committee's work, it is expected that members will work in a non-partisan manner. This allows for consensus building on issues of national importance. Members of the committees ordinarily should not see themselves as representing political parties but are merely members of the committees. For instance, after a series of workshops organized by the World Bank Institute in collaboration with the parliament of Ghana and Institute of Economic Affairs (IEA) aimed at building cross-partisan trust within the committees, developing a strategic approach to committee work planning, and providing deeper research and analytical support to the committees, the various committees of parliament began to discharge their duties as members of committees. Partisan considerations began to play a lesser role and informal links with the various ministries were developed. The manager of the Parliamentary Centre Programme in Accra maintained that the committees had come to have dynamics of their own, with a sense of internal purpose and an ability to confront questions of their ongoing role with realism. He further asserted that the basic insights on the budget process, the audit role of parliament, and the ways that committees can have impact in a parliamentary system, all have come to be understood by the Ghana Finance Committee.³⁶

Finally, committees stimulate public debates on policy issues thereby increasing public awareness and facilitating the effective participation in the policy process. Increasingly, the committees have accepted the reality of inviting the civil society organizations and

other public to its sittings and have encouraged a greater public participation in their activities as a way of encouraging openness in their deliberations and public participation in their operations. The functions of the committees are performed within the framework of certain powers granted by the 1992 Constitution.

The powers of the committees in parliament are prescribed by the rules laid down by the Constitution and the Standing Orders of parliament. According to article 103 (6) of the 1992 Constitution and Section 155 of the Standing Orders of parliament, the committees, for the purpose of effectively performing their functions shall have the powers, rights and privileges as are vested in the High Court of Justice or a Justice of the High Court.

It is pertinent to note that the powers of the committees in parliament are effectively circumscribed. Parliament is normally reluctant to allow committees a lot of leverage to conduct enquiries into matters which have not been referred to them by the parent House. The committees largely operate in the shadows of the parent House which created them. This situation can be explained by the fact that parliament of Ghana is not supreme in law making. For instance, parliament cannot pass a law to make Ghana a one-party state.³⁷ Since Parliament itself is not supreme in law making, it will be preposterous for one to expect the committees created by parliament to operate beyond the powers conferred on them by the parent House. Generally, the committees of parliament are better suited to exercise oversight responsibility on the executive than the whole House for a number of reasons.

First, the committees need not necessarily be constituted to give excessive leeway to the majority party in parliament. Under article 110 (1) of the Constitution, parliament is empowered to regulate its own procedure through its Standing Orders. Parliament thus has the opportunity to structure the committee such that it will strengthen its oversight function while at the same time empowering minority parties in the House.³⁸ This is, however, yet to happen under the Fourth Republic since most committees reflect the strength of the political parties and subsequently give overbearing powers to the majority party in parliament. The ruling party has therefore always had its way. The cliché that “you can have your say but we will have our way” has come to define the relationship between the majority and minority political parties in parliament. It is even argued that the minority does not always have its say, especially where the majority in parliament becomes so tyrannical that the minority has no option than to boycott proceedings. Secondly, because of the usual small size of the committees, it makes for collegiality, consensus building, and bi-partisanship as against the full House which demonstrates extreme partisanship. The committees tend to have unity of purpose and therefore present reports which reflect this unity.³⁹ Thirdly, the fact that the operations of most of the committees are not conducted in the full view of the public and the media, the temptation to play to the gallery and overly indulge in grandstanding which normally characterize the activities of the full House is absent from the committees operations.⁴⁰ This allows for sober reflection and deep thinking and therefore decision taken will normally be informed by both partisan and national interests. Fourthly, the reports of the committees are expected to be sent to parliament for the necessary action to be taken. This implies that Parliament can accept or reject the recommendations of the committees.⁴¹ But what is

significant is that since the reports of the committees are invariably public documents, they can generate debate on specific policy issues raised, to the extent that an executive which is not prepared, for the sake of partisan considerations to implement the findings or recommendations of a particular committee will feel pressured to do so. Finally, the interactions engaged in by committees with civil society organizations through public engagements, help the members of the committee to be better informed about certain developments in the country. The public engagements may equally aim at gauging public opinion or knowing what policies are acceptable to the public or some targeted group.⁴²

For purposes of understanding the workings of the committee system in Parliament, the following section deals with the Public Accounts Committee and the Finance Committee in much greater detail. The focus on the two committees is important as their activities affect every sector of the country. It is also through these committees that accountability and transparency, key virtues of good governance is exacted from the executive.

4.12 The Public Accounts Committee

The Public Accounts Committee (PAC) is one of the instruments that parliament can use to check government activities.⁴³The Public Accounts Committee which was first instituted in the United Kingdom by a resolution of the House of Commons in 1861 has become fairly common in the countries of the Commonwealth. In general, PACs are parliamentary standing committees of the Lower House.

In Ghana, by virtue of the fact that there is a unicameral legislature, there is one PAC. However, there are some exceptions to this general trend. In Australia and India for

instance, the PAC is a bicameral committee, and in Nigeria, both chambers have established PACs.

PACs are also institutionalized in different ways in different countries. It is either established by the country's constitution, or the Standing Orders of Parliament, or by an act of parliament. In countries such as Antigua and Barbuda, Bangladesh, Seychelles, and Zambia, PACs were established by their constitutions. In Canada, Guyana, Jamaica, Malta, Tanzania, and Uganda they have been established by the standing orders of parliament or the assembly. In India, PAC was created by the rules of procedure. In Trinidad and Tobago, and Ghana, PAC were established by both the Constitutions and by the Standing Orders.⁴⁴

The number of members in a PAC also varies from country to country. In Malta, there are seven members in the PAC, 17 in Canada and 22 in India. Generally the distribution of seats in the PAC corresponds with the seats in the whole assembly. This arrangement necessarily makes the governing party dominate the membership of the PACs.

The general practice is that an opposition member is usually made the chairman of the Public Accounts Committee. This practice is informed by two perceived advantages. First, the presence of an opposition member as a chair balances the power between the government and the opposition. Second, it performs a symbolic function in that it indicates the willingness of both the majority and the minority to operate with the PAC in a bipartisan manner.⁴⁵ Australia represents an exception in this general trend. In

Australia, the chairman of the PAC is usually a MP from the ruling political party. The rationale behind this arrangement is that it makes the implementation of the recommendations of the PAC very easy. It is considered the duty of the chairman of the PAC to lobby for the implementation of its recommendations. It is therefore believed that a MP from a governing party stands a better position to advocate for the implementation of these recommendations than somebody who belongs to an opposition political party.

In Ghana the PAC has featured prominently in all the Constitutions of the country since independence. It is one of the standing committees under the Fourth Republican Constitution listed under Standing Order 151 (2). The Standing Order 165 deals with the composition and membership of the PAC. Articles 174(1) and 184(1-4) of the 1992 Constitution cover extensively the role that parliament should play in the public financial management of the country. Financial management is arguably the most important part of the internal management of government. As has been indicated elsewhere in this work, parliament is the only institution that is constitutionally mandated to give approval for taxes to be collected from the citizens of the country, and the spending of public money thereof from the Consolidated Fund. In other words, parliament is the custodian of the public purse. It is only appropriate that after authorizing the raising of taxes parliament must exercise a high level of oversight responsibility by obtaining the necessary feedback on how these funds have been expended by the executive. In this connection, parliament is seen as the apex of accountability. Citizens of Ghana elect politicians who form a government and are accountable to the parliament and through it to the people. Parliament is therefore the central part of the system of political accountability, because it

is the institution that simultaneously represents the people and to which the government is responsible.⁴⁶ This, parliament does through the institution of the PAC.

2.12.1 Composition and Functions of the Public Accounts Committee (PAC)

Section 165 (1) of the Standing Orders of Parliament states that; “the PAC shall consist of not more than twenty five Members under the Chairmanship of a member who does not belong to the party which controls the executive branch of government”. This arrangement has, to a very large extent, facilitated the independence of the PAC from government. Since its inception in 1993 the PAC has always gone for the upper limit of twenty-six members and it has always been chaired by a member from the opposition party. A similar situation exists in the House of Commons in Britain where a leading member of the opposition is usually the chairman of the Committee of Public Accounts. The PAC of Ghana has the rights and privileges of the High Court and can examine witnesses. Below is table of past chairmen of the PAC from 1993 to 2008.

Table 4.3: Chairpersons of the Public Accounts Committee

NAME	PARTY AFFILIATION	YEAR
Hon. Dr. Owusu-Agyekum	NDC	1993-1996
Hon. Joseph Henry Mensah	NPP	1997-2000
Hon. Alban Sumana Bagbin	NDC	2001-2004
Hon. Samuel Sillas Mensah	NDC	2005-2008

Source: Parliament of Ghana, 2011.

The Standing Orders 165 (2) also states that the PAC shall be assigned the examination of the audited accounts showing the appropriation of the sums granted by parliament to meet the expenditure of the government and of such other accounts laid before parliament. The main function of the PAC is to ensure that public money is spent for the

purpose intended by parliament and due economy and high standards of morality are maintained in all financial matters. The PAC also advises on changes that may be considered desirable in the form of the estimates. It is also empowered to examine the accounts of statutory bodies which have been laid before parliament.⁴⁷ This is an *ex post* responsibility rather than *ex ante* role in the budget process typical of legislatures in the United States model.⁴⁷ The committee is empowered by the Standing Orders to report to the House at least twice a year. The PAC also works closely with the Auditor-General and it is increasingly involved in performance auditing as well as financial auditing, even though in Ghana it is the financial auditing which attracts a lot of media attention. It is hoped that the performance audit will also be given the needed prominence by the media. The PAC and the Committee on Government Assurances serve as mechanisms for executive oversight.⁴⁸ The PAC indeed serves as a check on executive branch on financial management. The hallmark of the PAC is its non-partisan approach. The report of the committee is usually above party politics and has therefore managed to achieve a high degree of unanimity in its findings and recommendations.⁴⁹

In order to give visibility to the activities of the PAC, it started public meetings in October, 2007. The public meetings of the PAC generated a lot of interest and enthusiasm among Ghanaians especially civil society organizations and political parties. The institution of public meetings by the PAC is important for a number of reasons. First, it promotes accountability and transparency in its own activities. Second, it demonstrates the preparedness of Parliament to hold ministries, departments and agencies responsible for the resources allocated to them during the financial year. Third, it also promotes

accountability and transparency in the use of public funds, and exposes cases of malfeasance, incompetence, fraud and dishonesty in the management of public funds. Increasingly, members of the PAC are acting as part of committee rather than as party representatives. By November, 1997, the PAC had adopted the role of the principal watchdog over the expenditures and operated as an activist body able to take initiatives.⁵⁰ There are two main schools of thought regarding practices and norms of the PAC. While one group thinks that the PAC should only limit itself to the examination of the report of the Auditor General, others contend that there should be far greater scope for its investigations. Increasingly, government officials have responded timely to the reports and recommendations of the PAC even though one will expect that there will be greater follow-ups on recommendations for full impact.⁵¹ The work of the PAC has been generally constrained by inadequate support staff, inadequate resources, lack effective powers among others which will be discussed under the limitations of the committee system in Ghana. Apart from the PAC, one other committee whose work cuts across the various sectors of the economy is the Finance Committee to which we turn our attention to now.

4.13 The Finance Committee (FC)

The FC together with the PAC are the two dominant committees which help in the exercise of oversight over the activities of the executive to prevent it from becoming overweening, overbearing and corrupt. Section 169 of the Standing Orders of Parliament provides for the Finance Committee which shall compose of twenty-five members, to which shall be referred Bills, inquiries and other matters relating to finance and the

economy generally. During the first four parliaments of the Fourth Republic, this provision has been complied with. The FC is usually chaired by an experienced MP from the ruling party.

4.13.1 Functions of the Finance Committee (FC)

The Standing Orders of Parliament determines the functions of the FC as follows: First, all inquiries and other matters relating to finance and the economy generally shall be referred to the FC. Secondly, the FC has the power to authorize advances from the Contingency Fund whenever it is satisfied that an urgent or unforeseen need has arisen for some expenditure to be made by government but for which no other provision exists. Whenever any amount is authorized in this connection, a report should be made thereon to parliament. It is specifically provided that in all such cases, the FC is duty bound to ensure the preparation of Supplementary Estimates for replacement of the advance which shall be placed before parliament. This underscores the fundamental principle of parliamentary governance that in the final analysis only parliament has ultimate control over the nation's funds. Thirdly, whenever any Loan Agreement, international business or economic transaction which requires the authorization of parliament through a Resolution is brought before the House, it is the duty of the FC to examine the relevant agreement or transaction and report to the House with the appropriate recommendations. Fourthly, the FC is responsible for monitoring the foreign exchange receipts and payments or transfers of the Bank of Ghana both inside and outside of Ghana in accordance with article 184 (1) of the 1992 Constitution of Ghana. Fifthly, the FC examines the annual financial statement that relate to revenue expedition as well as

estimates of ministers, general government services and financial bills. Sixthly, the FC also examines the tax waiver and the imposition of taxes in the country. Furthermore, it authorizes advances in accordance with article 177 (1) of the 1992 Constitution which states that “there shall be paid into the contingency fund moneys voted for the purpose by parliament and advances may be made from that fund which are authorized by the committee responsible for financial matters in parliament whenever that committee is satisfied that there has arisen an urgent or unforeseen need for expenditure for which no other provision exists to meet the need.” Article 177 (2) also states that where an advance is made from the contingency fund a supplementary estimates should be prepared as soon as possible to parliament for the purpose of replacing the amount so advanced.

From the above functions, it appears the FC appears is the single most important committee of the parliament. How the FC operates is discussed in the next sub-section.

4.13.2 The Operations of the Finance Committee

In the performance of its duties the FC is expected to report to parliament every six months. The FC’s activities have over the years centered on a number of areas including the following:

First, the examination of loan agreements has been one of the major activities of the FC. Provision for the prior examination of certain financial matters by the FC before parliament does so, enables the House to tap into the expertise of the members of the FC before plenary. Considering the fact that the nation depends on loans to finance

significant portion of the public goods and services, the FC is one of the key committees used by the executive to meet its obligation to the public. In July 1998, the committee considered a Credit Agreement of US\$35.0 million between the government of Ghana and the International Development Association (IDA) to finance the Health Sector Programme. Also between 2003 and 2005 eighty-two (82) loans, financial instruments and bilateral agreement were entered into by the government through the FC.⁵² Majority of the loans and instruments were entered into with International Financial Institutions like the International Development Association (IDA), African Development Fund, African Development Bank (ADB). Others include the OPEC Fund for International Development and other governments including the People's Republic of China, and the Kingdom of Spain. The government of Ghana has also negotiated loans agreements with institutions such as the Nordic Development Fund, and the Export-Import Bank of India, among others.

It is interesting to note that the FC has not always done effective due diligence on the credibility of the institutions governments interact with. For instance, the CNTCI loan agreement went to Parliament and it was referred to the FC. The FC subsequently reported back to the House on March 12 2004.⁵³ The consensus among the majority NPP and NDC MPs was that this agreement was going to serve the best interest of Ghanaians. Available records indicate that as many as nine MPs from the Minority side spoke in favour of the agreement. It is unfortunate to state that later information undermined the credibility of the agreement. A private member motion which sought to prevail upon parliament to rescind its decision to approve the loan agreement was defeated and

Parliament subsequently passed it. Unfortunately the agreement was never pursued perhaps because of the acrimony which greeted the debate on it.⁵⁴

Secondly, by monitoring the functions of the Bank of Ghana, the FC has become an important watchdog over the nation's foreign exchange reserves under the general direction and control of parliament. The practice where audited account of the Bank of Ghana is sent to the committee is not good enough. It is absurd for the committee to be presented with the audited account when the money has already been spent. Parliament is expected to take steps to establish how much receipts came in.

Thirdly, the FC also has the power to authorize payments from the Consolidated Fund in certain extreme circumstances. Finally, the FC has over the years been actively engaged in the function of reviewing Government estimates. Every year, the FC deals with the Annual Estimates for General Government Services. This is usually done after the presentation of the Government's Financial Statements. Normally the General Government Services of Estimates caters for expenditure which has the general application to all sectors Ministries, Departments and Agencies in the country. The Finance Committee like other committees of parliament also suffers from numerous limitations which are treated under the general rubric of limitations of the committee system of parliament to which we turn our attention now.

4.14 Limitations of the Committees of Parliament

The work of committees of parliament is constrained by five main factors. First, the bulk of the legislation is initiated by the executive. It is a very difficult task for private members to initiate bills in parliament. In the first four parliament of the Fourth Republic no Private Members' Bill was introduced in parliament. This underscores the preponderance of influence of the executive over the legislature.

Secondly, even though the Constitution gives parliament explicit mandate to investigate any issue of national importance by using the committee system, parliament has always called on the executive to initiate investigations into scandals. This seemingly lack of interest tends to portray the committee system as unable or unwilling to carry out its oversight functions effectively. This position ties in very well with a view held by Nana S. K. B Asante on the committees in Ghana when he stated that "US Congressmen have had to infer their investigative powers from their legislative powers...The Ghanaian counterparts are expressly empowered to conduct investigations and enquiries not only in respect of legislative proposals, but also in the performance of their oversight functions in respect of the activities and administration of the Executive. Yet Ghana's parliament has not availed itself of these investigative powers, except with respect to the preparation of estimates."⁵⁵ MPs rarely use the investigative powers of parliamentary committees to probe into the implementation of enacted bills or into matters of malfeasance.⁵⁶ What they normally do is to file questions to ministers in exercising oversight. Questions are normally asked about when a project in ones constituency will commence or completed rather than substantive issues of the implementation of national policies. This gives the unfortunate impression that MPs are more of utility maximizers and rational actors and

therefore put a lot of emphasis on their re-election. In other words, even though MPs function within institutional dictates which among other things enjoin them to fully participate in the deliberations of the House, they operate in a way that will enhance their re-election.

Thirdly, the committees of parliament are not adequately resourced to perform effectively and efficiently. Parliament does not vote money unless the executive proposes it, nor does the House impose or increase taxes unless the executive requires such taxation. J. H. Mensah, the Minority Leader of the Third Parliament of the Fourth Republic stated that the lack of financial independence tended to undermine the oversight functions of parliament. He indicated that the PAC, for instance, cannot even afford to hire a counsel to help study Auditor General's Report on the judiciary service because the executive only gives parliament a very small budget. He further lamented that "if the culprit can decide whether you can investigate him, then you have lost the game to start with". He asked further that "which suspect will give you resources to investigate him?" The chairman of PAC during the Fourth Parliament, Albin S. Bagbin was in agreement with J.H.Mensah, but when the NPP came to power in 2001 nothing was done about it.⁵⁷ The problem with the Committee on Government Assurances is the sheer volume of its work. For instance during the Third Parliament of the Fourth Republic 400 questions were asked of ministers but the committee did not have the human and material resources to follow-up on all of them.⁵⁸

Fourthly, committees are unable to effectively scrutinize government policies because more often than not policy documents are submitted to parliament when it is too late for any detailed to be done. This gives the committees very little opportunity to contribute meaningfully to the shaping of government policies.⁵⁹ For instance, the PAC has never been able to provide timely reviews of the executive branch's finances because the Auditor-General's office is unable to provide regular and timely Public Accounts reports to parliament. The Auditor-General, for instance, laid its report on the 1998 Public Accounts in May 2001, and that of 1999 in May 2002. The reports for 2002 and 2003 were laid in March 2005.

Finally, the bulk of the time in the House is taken up by government business. About three quarters of the MP's time is spent on government business.⁶⁰ As has been stated elsewhere, not a single Private Members' Bill has been introduced since the inception of the Fourth Republic. All Bills are introduced by the executive, leaving no space for members to introduce bills. It is disturbing that there are no resources at the disposal of MPs by way of legislative drafters, and the constraining effect of article 108 makes it extremely difficult for a good number of Private Member's Bills to be introduced to deal with the myriad of problems confronting the nation.

4.15 Conclusion

This chapter has considered the functioning of the committee system in Ghana's parliament. The discussions have revealed that the committees are usually task oriented bodies with clearly defined purpose and direction, which normally acts on behalf of the

whole House. The chapter established that the committee system was poorly developed under the First Republic in Ghana making the work of parliament quite difficult since most bills were passed under certificate of urgency. The subsequent Republics, from the Second to the Fourth featured the committee system prominently. It has been established that committees in Ghana's parliament are normally under the domination of the parent House. Report of the committees is subject to further scrutiny by the parent House. It has been established that in order to promote division of labour in the legislation process, the 1992 Constitution provides for Standing, Select and Ad hoc committees. Committees have been very instrumental in the work of parliament especially in the area of public policy making. Through the scrutiny they give to bills, treaties, loan agreements, and budget statements among others, committee undertakes due diligence to improve the quality of public policies and programmes in order to address the critical problems facing the society.

Committees in Ghana's parliament are normally constrained by office space, skilled support staff, inadequate resources, poor incentive packages and logistical support. These limitations have tended to undermine the effective performance of these committees and reduced their role in the development of enduring policies and programmes in the country.

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CHAPTER FIVE

PARLIAMENT AND PUBLIC POLICY MAKING

5.1 Introduction

Policy making in Ghana as in other countries, reveals much about the nature of the state, the internal institutional arrangements and the nature of the relationship that exist between the state and the non-state actors.¹

In Ghana, public policy actors can be broadly grouped into two. These are the official and unofficial actors. The official actors include the legislature, the executive, administrative agencies and the courts. The non-official actors include, but not limited to, interest groups, political parties, and think tanks, communication media, and individual citizens.² However, the balance of power still tilts in favour of the executive. This situation is similar to what pertains in Britain as parliament has become a policy modifying institution rather than policy making institution.³

Ghana is gradually moving out of the closed circuit policy network, dominated by core politicians and bureaucrats, into a pluralistic arena which encourages participation of other publics in the policy making process.⁴ In approving legislation, parliament performs the vital function of deliberating, scrutinizing and publicizing governmental policies and programmes. Other instruments used by parliament to influence public policy making are question time, introduction of motions and debates.

This chapter focuses on the contribution of parliament to the policy making process and not the entire policy making process in the country. Specifically, the chapter discusses the legislative process in Ghana's parliament. It analyzes the influence of parliament in policy making in the country. It further assesses the institutional capacity of Parliament and the personal development of MPs. It also examines the debilitating features of Parliament which undermines autonomy and ability to respond to the desires, hopes and aspirations of Ghanaians.

The empirical questions that will engage our attention are as follows:

1. What is the law making process in parliament and how is this process observed?
2. What explains the frequent use of Certificate of Urgency, especially, in the introduction of Appropriation bills in the country?
3. What is the nature of debates prior to the enactment of bills?
4. To what extent does parliament display independence and demonstrate capacity to amend bills they find inappropriate and how does the political divide in the house affect the enactment of bills?
5. How does the work of parliament reflect the felt needs and aspirations of the people?
6. To what extent does the work of parliament shape the content of public policies in the country?
7. What are the major challenges to the effective prosecution of the mandate of parliament especially as they relate to the making of public policies?

5.2 The Performance of the Legislature in the Policy Making Process in Ghana

Statements, motions, proposals, suggestions, among others, persuade ministers to look at certain sectors or areas which were inadvertently overlooked because of pressure of work. Statements made by MPs may provoke certain policy positions which government may want to consider in the course of the year.⁵ In other words statements may inform certain policy positions which governments may have to pay attention to.⁶ For instance, the decision of the Public Utilities Regulatory Commission (PURC) to suspend the implementation of tariffs increases in 2010 was as a result of a private member motion condemning the increases.

Through Motions and Resolutions, MPs and ministers of state can initiate debate in the House. Normally, debates on a motion passes through four different stages. These are (a) moving the motion and seconding it where necessary; (b) debate where permissible, (c) proposing of the Question by the Speaker and finally (d) vote or decision.

Parliament during the legislative process makes serious amendments to most bills. At the consideration stage of the bill, various suggestions and opinions are openly expressed and these affect the amendments that are usually made to bill by the House. Most of the time, suggestions made by parliament are considered by the executive to help fine-tune policy proposals.⁷

Other instruments of oversight include the question time. This instrument gives MPs the opportunity to put forth options, proposals, and suggestions, among others, to persuade

the executive to address some critical problems in constituencies. This, once again, underscores the rational choice institutional approach used by many MPs because they want to give the impression to their constituents that they are, indeed, pursuing their interests. The only snag here is that overwhelming majority of the questions is of this nature and hardly touches on broad public policy issues.⁸

Having discussed the legislative process in Ghana and some of the ways by which parliament influences public policies in Ghana, it is now appropriate for us to discuss the questionnaire we administered and ascertain from the responses the extent to which parliament as an institution impacts on public policies in Ghana. It starts with the discussion of the age distribution of the respondent and their party affiliation, debates and partisanship, institutional capacity of parliament, exposition on private members' bill, the contribution of parliament in the amendment of bills submitted to parliament, an assessment of the first four parliament of the fourth republic and the debate of the budget. The chapter also examines the characteristics of MPs, their conditions of service, personal development of MPs and the constraints to effective performance of parliament in the area of public policies. Let us now turn to the age distribution of our respondents.

5.3 The Age Distribution of the Respondents

Age usually must impact positively on the deliberations of the parliament. The issue of age classification in parliament is considered important in the quality of debate and the extent to which public policies reflect the felt needs of the people. Table 5.1 below shows the age distribution of our respondents. The majority of the respondents (76%) fell within

the 41-60 year bracket, while 10% of them are within the 61-70 age range. It is expected that the gradual increase in the average age of the Ghanaian MP will have qualitative impact on the general output of the institution of parliament. Surprisingly, the evidence on the ground does not support this assertion. Our interviews indicated that the increasing presence of much more mature people in parliament notwithstanding, the quality of debate and subsequently public policies has not improved largely due to excessive partisanship and generally weak capacity of the institution.

Table: 5.1: Age Distribution of Respondents

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 - 30	1	1.0	1.1	1.1
	31 - 40	7	7.0	7.4	8.5
	41 - 50	37	37.0	39.4	47.9
	51 - 60	39	39.0	41.5	89.4
	61 - 70	10	10.0	10.6	100.0
	Total	94	94.0	100.0	
Missing	System	6	6.0		
Total		100	100.0		

Source: Field work, May-July, 2011

On gender disparities, the representation in parliament since its inception has been extremely unfavourable to women. The statistics is grim with regards to the gender divide. Consistently the representation of women in the first four parliament of the Fourth Republic has not gone beyond 11%. It was 8% in the first parliament, 9% in the second and third parliament and 11% in the fourth parliament. The factors explaining this poor representation of women is beyond the scope of this work but suffice to state that those who support the semblance model of representation argue that in a nation where women account for almost 51% of the population, more women must be in parliament to represent women interests better. Our research set out to capture as many of the women

MPs as possible. It is interesting to report that a lot of the women MPs in parliament did not want to speak to our researchers, arguing that the exercise was waste of their time. This problem notwithstanding, 14% of our respondents were females, while the remaining 86% were males (Table 5.2). This skewed gender balance did not affect the picture we wanted to present, as the few we spoke to demonstrated tremendous understanding of the critical role of parliament in policy making and argued that efforts should be made to further enhance the role of parliament in order for the institution to discharge its obligation effectively and efficiently.

Table 5.2: The Gender of the respondents

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	86	86.0	86.0	86.0
	Female	14	14.0	14.0	100.0
	Total	100	100.0	100.0	

Source: Field Work, May- July, 2011

5.4 The Political Affiliation of the Respondents

In the course of the interview efforts were made to pay attention to the political divide in the House. The rationales were, first, to get a fairly balanced representation of ideas and allow us to draw conclusions based on the cross section of the different shades of opinions in the House. Second, since the country had experienced alternation of power, with both NDC and NPP having had the opportunity to govern and be in the opposition, their representation in the respondent was crucial to assist us get a candid view on the issues we sought to interrogate. However, this was very difficult.

The objective of having a fairly balanced representation from the two major political parties, NPP and NDC, was not realised because the ruling NDC's MPs were largely unavailable as a result of ministerial and other commitments. Table 5.3 below shows the party representation of the respondents. Fifty five percent (55%) of our respondents were from the NPP while 42% represented the NDC with the remaining 3% representing the CPP, PNC and Independent MP. The lack of balance, however, does not undermine the validity of the conclusions we draw from the analysis because, irrespective of the parties they represent, MPs are utility maximizers and they all suffer from the same institutional problems and the responses capture vividly what the research sought to identify.

Table 5.3: Which Political Party do you represent?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	NDC	42	42.0	42.0	42.0
	NPP	35	55.0	55.0	97.0
	CPP	1	1.0	1.0	98.0
	PNC	1	1.0	1.0	99.0
	Independent Candidate	1	1.0	1.0	100.0
	Total	100	100.0	100.0	

Source: field work, May-July, 2011

Table 5.4 indicates the representation of political parties in parliament since its inception in 1993. The unique feature of this table is that the two major parties, the NDC and the NPP have since 1993 accounted for more than 95% of the seats in parliament indicating that increasingly, Ghana is drifting toward a two party state. A number of reasons explain this trend. First, the average Ghanaian voter will want to identify with a winning party and so since NDC and NPP have demonstrated capacity to secure more seats, they enjoy the support of most Ghanaians. Second, funding political parties has become an

extremely expensive enterprise. Therefore, the party with greater visibility tends to win more votes. It cost on average between US\$40,000 and US\$100,000 to campaign to contest a parliamentary seat.⁹ So those who have the capacity to spend more are more likely to win. It was revealed that the NPP and NDC candidates had the capacity to mobilize requisite resource to campaign and therefore have a better chance of winning. Thirdly, Ghanaians tend to vote for political traditions they are comfortable with and since the United Party (UP) tradition and lately NDC tradition have become the dominant actors in the politics of this country, they are able to attract majority of the votes. Fourthly, the minority parties are so ill-organized and divided that they are not attractive to the average Ghanaian voter.

The domineering role of the two parties has implications for the making of public policies in Ghana. First, the almost two-party parliament ensures strict party discipline and this has negative consequences for public policies and programmes. It is therefore very easy for political parties to toe party lines knowing very well that parliament is almost divided between diametrically opposed traditions. Second, incumbent regimes are inclined to use their parliamentary majorities to push through amendments and legislations that sometimes run counter to democratic ethos.¹⁰ Third, closely related to these is the constitutional requirement that majority of ministers must come from parliament. This tends to weaken the ruling party in parliament both in terms of quality of materials left in the House to conduct legislative business and the number of MPs from the ruling government side readily available to prosecute parliamentary agenda. This situation arises because ruling parties normally recruit the most experienced MPs as ministers.

This further strengthens the hand of the whip to literally force the remaining MPs from the ruling party to vote on party lines thereby undermining the quality of debates and subsequently public policies and programmes. In effect, excessive grandstanding of parties in parliament motivated by desire of the ruling party to maintain hegemonic influence in the house undermines the quality of debates and adversely affects the quality of decisions taken by the house.

Table 5. 4: Number of Seats shared by Political Parties in Parliament

	1 st Parliament (Jan.1993- Jan. 1997)	2 nd Parliament (Jan.1997- Jan.2001)	3 rd Parliament (Jan.2001-Jan. 2005)	4 th Parliament Jan.2005-Jan. 2009)
NDC	94.5%	66.5%	46%	41%
N	189	133	92	94
NPP	0.0%	30.5%	50%	128
N	-	61	100	55.5%
Other Political Parties and Independent	5.5%	3%	4%	5%
N	11	6	8	8

Source: Electoral Commission of Ghana, Accra, May, 2009.

*N=the number of seats held.

5.5 Parliamentary Debates and Partisanship

Parliament of Ghana like other legislatures in the world, hold debates in which members discuss government policy, propose new laws and discuss current issues. There are few people who are knowledgeable on an issue at any given time. The presence of people with varied backgrounds in the House must inure to the benefit of the institution as the diversity it offers can be enriching when it comes to debates.

Individual MPs who want to contribute to parliamentary debate must in theory catch the speaker's eye. Table 5.5 below shows that 41% of the respondents were of the view that one gets the opportunity to contribute towards a debate when one catches the Speaker's

eye, while 55% of them contended that one must be selected by leadership of the party in order to get the opportunity to speak on the floor of the House. Further interviews revealed that political parties know the capacity of their MPs and normally will want their ranking members on various committees to present party positions especially on controversial issues. It is therefore possible for one to declare an intention to speak by raising a hand but will never catch the eye of the Speaker.

While this approach allows a party's position to be clearly articulated, it denies new entrants into parliament the opportunity to get themselves into the debates. If parliament is a real debating chamber, then MPs must genuinely have the opportunity to contribute towards debate as and when they think they want to do so.

Table 5.5: How do individual Members of Parliament get the opportunity to contribute to parliamentary debates?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	One must catch the Speaker's eye	41	41.0	41.8	41.8
	One must be selected by a party leadership	1	1.0	1.0	42.8
	1 & 2	55	55.0	56.8	98.6
	1 & 4	1	1.0	1.0	100.0
	Total	98	98.0	100.0	
Missing	System	2	2.0		
	Total	100	100.0		

Source: Field Work, May-July, 2011.

On whether parliamentary debates have a bearing on the content of public policies in the country or not, our respondents were of the firm conviction that, indeed, debates play a significant role in the shaping of public policies and programmes in Ghana. Table 5.6 overleaf shows that 75% of the respondents answered in the affirmative and contended that if an argument is well crafted, it has the possibility of swaying other MPs to support

an issue under discussion. Generally, debates are designed to assist MPs to reach an informed decision on a subject. Votes are often held to conclude a debate, which may involve them passing, or rejecting a proposed new legislation or simply registering their opinion on a subject. All debates are recorded in the parliamentary Hansard. It was also revealed to us that debate in parliament influences public policy in a number of specific ways especially when dealing with less controversial issues.

First, it is contended that debates offer a unique opportunity for members of parliament to make suggestions which can help shape the content of policies under consideration. Seventy five 75% of our respondents were of the view that the pouring of suggestions during debates help shape government policies and programmes. They argue that laws usually reflect both the thinking of government and the suggestions made in parliament and from the general public. It is a fact that parliament represents different shades of opinions and expertise and these are brought to bear on the deliberations of the house. Some MPs make consultations and research on issues before the House and are therefore predisposed to making suggestions which have the capacity of addressing perceived or real loopholes in bills. Secondly, the debate in the House offer MPs and the general public the opportunity to be educated on social, economic and political problems in the country and the remedial measures being adopted to address them. Agreeing with the educational value of debates, 9% of the respondents contended that debates have educational value. The media coverage of parliamentary debate has educational value. People become active participants of policy implementation if they really appreciate the dynamics of that policy. Thirdly, 3% of the respondents argued that while they agree with

the general notion that debates offer useful suggestions that affect the general quality of public policies, debates equally offer expert advice to government. Fourthly, debates generally lead to amendment of bills before an approval is given. A well argued case can trigger certain critical amendments which will improve the quality of bills presented to parliament. Furthermore, debates help parliament to build consensus on issues before the House. Laws, once passed, represent the collective will of the people through their representatives in parliament. Finally, debates generally provide useful information to government and other policy makers. The availability, validity and reliability of information is critical to the formulation, implementation and monitoring of public policies and programmes. A well researched presentation by an MP on an issue can prove invaluable to the reconfiguring of certain policy proposals before parliament.

Table 5.6: In what ways do parliamentary debates assist the policy making process in Ghana?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Pouring out different opinions / Improve or shape government policies	78	75.0	78.1	78.1
	The outcomes become law	9	8.6	9.1	87.5
	Law making	9	8.6	9.1	96.9
	Education	9	8.6	9.1	96.9
	Provision of expert advice	3	2.9	3.1	100.0
	Total	96	96.0	100.0	
Missing	System	4	4.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

Our respondents agreed that their suggestions in parliament affect the content of public policies. In point of fact, 84% (table 5.7) of our respondents posit that their contributions in parliament do affect the content of policies. The only proviso is that the argument must be very convincing and well researched and must be devoid of unnecessary partisan

considerations. If these ingredients are present then there is the possibility that such arguments will sway other members especially those at the other side of the political divide. Interestingly, 16% of the respondents believe that debates have no public policy value and that parties prior to debates might have already taken entrenched positions and the presence of all-powerful party whips ensure that irrespective of the quality of debate presented by an MP from an opposing political party, parties still remain stuck to their entrenched positions. For these people, this trend is so damaging that it does not allow fresh ideas to be infused into bills submitted to parliament. They said that debates are only formality and will not yield any policy making value. We find this position disturbing because, apart from the executive, parliament is the next most important public policy actor in the country and debate is one of the mechanisms available to parliament to shape the content of public policies.

Table 5.7: Do MPs know that their arguments on the floor of the House are likely to sway colleagues to his/her side?

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	84	84.0	84.0	84.0
No	16	16.0	16.0	100.0
Total	100	100.0		

Source: Field Work, May-July, 2011

Table 5.8 below shows the extent to which the contributions of members of parliament can influence the decision of other colleagues to vote for or against a position. The table shows that an overwhelming 81% (table 5.8) of the respondents insists that debates on the floor of the House can sway their colleagues. They contend that this can only be achieved if the submissions by members of parliament are convincing enough. One's presentation has to be coherent, well-informed and devoid of partisan consideration. otherwise one will succeed in only swaying members of his/her party and not those of the opposing

interviews revealed a number of interesting constraints which are captured on Table 5.9 overleaf. It was revealed that 39% of the respondents claimed that they are not given adequate time to address the fundamental issues they want to deal with and they think that this constitute a fundamental constraints to debates in the House. According to one MP, "the time for debate is usually not enough and therefore debates are not thorough and critical. The difficulty is that members of parliament have very little or no time to read around and know the issues."¹¹

Secondly, it was also revealed to us that by the time a bill is discussed, a good number of parliamentarians do not have copies. This certainly does not allow them ample time to read the bill thoroughly and do a rigorous research to improve the quality of debates and subsequently the quality of public policies. To ensure the effective performance of parliament in the area of public policy making, it is important for bills and other documents to be submitted to parliament on time so that members can scrutinize them before debates.

Table 5.9: what do you consider to be the major obstacles to parliamentary debates in Ghana?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Inadequate time for debates	39	39.0	39.0	39.0
	Having less knowledge on the subject/Lack of information & influence from political parties/Excessive partisanship	16	16.0	16.0	55.0
	Lack of secretariat for M.P & Preparation /Research staff	32	32.0	32.0	87.0
	Member cannot introduce private member bill	11	11.0	11.0	98.0
		2	2.0	2.0	100.0
	Total	100	100.0	100.0	

Source: Field Work, May-July, 2011

Third, 32% of the interviewees also argue that the debates in the House are seriously constrained by excessive partisanship and the refusal of political parties in the House to listen to good debate. They argue that once a party takes a stand, it is literally impossible for that party to back down irrespective of the quality of argument advanced by other parties in the House. This, they contend, frustrates any genuine attempt to impact positively on public policies and programmes.

Fourthly, there is generally lack of expertise of MPs in several technical areas dealt with by parliament. In fact, 16% of the respondents associated themselves with this fact. It was argued that so long as parliament does not depend on expert advice, it is likely to produce policies which cannot stand the test of time.¹²

Fifthly, a recurring problem which generally impedes the smooth functioning of the legislature is the absence proper support system. Specifically, lack of secretariat services and absence of competent research assistants were cited by 8% of the respondents as some of the factors militating against debates in the house.

Finally, the floor of the house also experiences too many disruptions by way of movements and discussions while debates are on-going. Some informants complained that too much movement during debates undermines the quality of work done by the House. They are also appalled by the increasing number of visitors who call on MPs during parliamentary meetings.¹³

Our research revealed that in order to deal with the problems identified above the following remedial measures are necessary. As many as 33% of the respondents expressed this need (table 5.10). There is also the need for the extension of the sitting periods and debate times to allow for a thorough debate. The current situation where most debates are rushed because of time constraints takes a lot away from parliament and allows only few MPs to contribute to debates.

An active and productive MP is the one who is well-resourced to carry out his/her duties. It is therefore not surprising that a respectable 35% of the respondents pointed to the lack of adequate resources as a serious bane to the productivity of MPs.

It is important for capacity to be built even in the area of research by the MPs themselves. Besides, MPs must be given a competent research assistant, adequate financial resources must be made available for the engagement of experts where necessary and the secretariat system must be revamped to provide effective back-up to the MPs to peak performance.

There is no doubt that regular seminars and workshops organized by knowledgeable resource persons on pertinent issues could be an elixir to effective debate and general parliamentary work. However, only 10% of our respondents, as table 5.10 indicates felt this was important for the overall output of parliamentarians. Regular orientation of MPs will sharpen their reflexes and improve on their general debating skills. The art of debating itself demands a critical understanding of the subject matter. A good and on-going orientation programme must fill certain shortfalls in the skills of legislators. The

low percentage notwithstanding, such orientations are bound to impact positively on parliamentary debates.

Table 5.10: How can these obstacles be overcome?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Extension of sitting periods and debate times	33	33.0	34.0	34.0
	Regularly /Orientations	10	10.0	10.3	44.3
	Political parties should allow members to vote freely	5	5.0	5.2	49.5
	Equipping MPs with research staff Resources & Offices	35	35.0	36.1	85.6
	Change/adjust Laws	1	1.0	1.0	86.6
	Constitutional review A 108 & A 78 must be amended	1	1.0	1.0	87.6
	Salaries must be increased	1	1.0	1.0	88.7
	Review of standing Orders	4	4.0	4.1	92.8
	TV Broadcast /Media	1	1.0	1.0	93.8
	Bills must be introduced early	1	1.0	1.0	94.8
	Bi-Partisanship	5	5.0	5.2	100.0
Total	97	97.0	100.0		
Missing	System	3	3.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

In discussing the ability of parliament to participate effectively in the policy making process, it is important to assess its institutional capacity. We turn our attention to this in the next section.

5.7 Institutional Capacity of Parliament

Usually, institutional capacity is made up of instruments that give parliament the potential to exert influence and perform their main responsibilities of law-making,

oversight and representation. In this conceptualization, institutional capacity has two dimensions. First, the relative powers and level of autonomy of the legislature and second, the infrastructural, financial and human resources available to the institution.¹⁴ Parliament of Ghana legislates at two levels. At the minimum level, parliament passes laws, but such activities sometimes may merely rubber-stamp the legislation usually handed over to it by the executive. In a broader sense, it concerns parliament's contribution to the making of public policy by crafting legislation in partnership with the executive, the civil society and individuals within the state. These policies are usually backed by legislation passed by parliament. Parliament is making serious in-roads into the policy making process. This is evident during legislation making especially the amendments that are made to the bills. Second, during debates in the House, members make suggestions and express opinions which invite the executive to make certain policy interventions. Most of the time they are considering instruments, performing oversight functions, serving as debating chamber and generally helping in the formulation and legitimacy of public policies and programmes among others.¹⁵

It became necessary for the researcher to know whether MPs, indeed, track their own work and have a fair idea of the level of performance as compared to other parliaments in other Commonwealth countries. Our research indicated that most MPs are simply not very interested in comparing the parliament of Ghana to those of other Commonwealth countries since it was difficult for them to track the bills they pass into laws. A cumulative figure of 81% of our respondents (table 5.11) said parliament passes between 21 and 30 bills in a session. The high number of missing values (19%) indicates that some MPs do not find it expedient to track their own output. To perform effectively as an

MP, it is also important to find out how the work one does compare with similar institutions in other parts of the world.

Table 5.11: How many bills does parliament pass into laws in a parliamentary session?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	20	21	21.0	25.9	25.9
	24	41	41.0	50.6	76.5
	25	7	7.0	8.6	85.2
	30	2	2.0	2.5	87.7
	Between 5- 10	10	10.0	12.3	100.0
	Total	81	81.0	100.0	
Missing	System	19	19.0		
	Total	100	100.0		

Source: Field Work, May-July, 2011

Our research wanted to find out if the number of bills passed into laws compare favourably with other parliament in the commonwealth. This was to ascertain whether indeed, the Ghanaian parliament produces as many bills as other commonwealth countries do. It is true that different nations have different needs and institutional capacity and will require different interventions to deal with the problem. However, at the minimal level, knowing whether what one does compares favourably with other established systems helps one to assess the progress being made.

Table 5.12 overleaf indicates that 12% of our respondent argued that the number of bills produced by the Ghanaian parliament in a session is very adequate and for them these numbers compare adequately with what pertains in other commonwealth countries. 68% of the respondents contend that the number of bills produced by the parliament of Ghana is adequate. Cumulatively, 68% (table 5.12) of the respondents noted that they were satisfied with the number of bills passed by the legislature. They, however, contend that the various parliaments of the Fourth Republic performed at different levels because of

certain contextual variables which varied from parliament to parliament.

Six percent (6%) of our respondents disagreed sharply with the majority position that the number of bills passed into laws is adequate. The missing value of 14% also indicate that these MPs have no means of tracking the number of bills they pass in a session and have no idea as to how these numbers compare with those of other jurisdictions, especially other commonwealth countries

Table 5.12: How adequate are these numbers compared to what pertains in other commonwealth countries?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very adequate	12	12.0	14.9	14.9
	Adequate	68	68.0	79.1	84.0
	Not adequate	6	6.0	7.0	91.0
	Total	86	86.0	100.0	
Missing	System	14			
Total		100			

Source: Field Work, May-July, 2011

The records indicate that the first parliament of the fourth republic passed 80 bills into laws, (table 5.13) and this translates into 20 bills per session. This compares favourably with the Commonwealth average of 24 bills per session. During the same period, 4 bills were rejected.

The second parliament, 1997-2000 witnessed the most aggressive and enduring debates in the House. Parliament at this time became extremely active largely because of the presence of very experienced people in the ruling party, the NDC and the opposition NPP. It is therefore not surprising that only 64 bills were passed representing an average of 16 bills per session. This is way below the Commonwealth average of 24 bills per

session. During the second parliament, 14 bills were rejected, accounting for the highest number of bills rejected during the first four parliaments of the fourth republic. This could be attributed to the presence of a virile opposition in the House and perhaps the desire of the majority party to accommodate the views of the opposition party. It could also mean that the executive did not do a good job on the bills and hence the high number of rejected bills during this period under consideration.

The third parliament produced the most bills, passing 93 bills during its life time. This means on the average, parliament passed 23.3 bills per session with only 2 bills rejected throughout the four sessions of parliament. The fourth parliament passed 70 bills into laws and had none rejected. The domineering influence of the executive during this period largely explains this phenomenon.

Table 5.13: Indicators of Impact on Legislation

	1 st Parliament (Jan. 1993-Jan. 1997)	2 nd Parliament (Jan. 1997-Jan. 2001)	3 rd Parliament (Jan. 2001-Jan. 2005)	4 th Parliament Jan. 2005- Jan.2009)
Bills enacted	80	64	93	70
Bills expired ^a or withdrawn	4	14	2	0

Source: Parliament of Ghana, Parliament House June, 2010

Note a. There are two types of expired bills. The first type occurs when a committee purposely leaves a bill to "die a natural death" at the end of the year as a diplomatic way of rejecting it. The second type of the expiration of a bill is a situation where by virtue of its workload, the legislature cannot genuinely finish its legislative business and therefore a bill is affected and therefore it expires. Bills which suffer this fate are normally reintroduced the next year. We do not regard such bills as rejected because they are eventually reintroduced and possibly passed.

In table 5.14 below, while 78% of the respondent insists that bills are normally rejected, 18% of them maintain that bills are hardly rejected. Four percent (4%) of the respondents offered no conclusive responses. They argued that bills are normally not rejected per se but referred to the executive for refinement. Asked why they find it expedient to refer unsatisfactory bills back to the executive and not reject them outright, they argued that

the essence of parliament is not to undermine the work of the executive but pursue the national interest at all times. This, they can do, by facilitating rather than promoting stalemate in the legislative process.

Table 5.14: Are you in a position to reject bills brought to the House by the executive?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	78	78.0	81.3	81.3
	No	18	18.0	18.8	100.0
	Total	96	96.0	100.0	
Missing	System	4	4.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

The research also sought to identify the conditions under which bills are normally rejected by parliament. Fifty-six percent (56%) of the respondents as captured by table 5.15 in the next page were of the view that normally bills are referred back to the executive when they fail to meet the expectations of MPs. They contend that bills are meant to address certain critical problems of society and therefore parliament will not endorse a deficient bill. In that case, parliament either rejects bills outright or refers it back to the executive for fine tuning. Others contend that bills are rejected on the grounds that either the executive did not do any prior consultation before the introduction of the bill (6%), or the objectives of the bill was not clearly spelt out (6%). Even though the capacity to reject bills is important, what is critical is whether the policies that they help in crafting have the capacity of addressing the problems of society. So we find the approach where inappropriate bills are referred back to the executive for fine tuning very progressive than perhaps their outright rejection; after all the purpose of governance is the good of the citizens.

Table 5.15: Under what circumstances were these bills rejected by Parliament?

	Frequency	Percent	Valid Percent	Valid Percent Cumulative
The bill did not meet the expectation of members of Parliament	56	56.0	60.2	60.2
The objectives of the bills were not clear	6	6.0	6.5	66.7
The bill was too partisan	2	2.0	2.2	68.9
The executive did not do any prior consultations before introducing it to parliament	6	6.0	6.5	75.3
All the above	2	2.0	2.2	77.4
1 & 2	7	7.0	7.5	84.9
1, 2, & 3	3	3.0	3.2	88.2
1 & 3	2	2.0	2.2	90.3
1, 2, & 4	4	4.0	4.3	94.6
3 & 4	1	1.0	1.1	95.7
2 & 4	1	1.0	1.1	96.8
2, 3, & 4	1	1.0	1.1	97.8
1 & 4	1	1.0	1.1	98.9
the bill was unconstitutional	1	1.0	1.1	100.0
Total	93	93.0	100.0	
Missing System	7	7.0		
Total	100	100.0		

Source: Field Work, May-July, 2011

It is important to note that the fact that few bills are rejected does not undermine the credibility of the institution of parliament. It is also possible that the executive know what will meet the expectations of the members of parliament and therefore bills are fashioned out with this in view. It is equally true that the retention of majority seats by ruling parties further strengthens their position to have their bills accepted by parliament. In some rare cases, bills are rejected outright.

One critical bill which was rejected based on the report of the committee of parliament is the Vice President's Succession Bill. The bill had been introduced in Parliament to

address issues of succession of Vice President. However, in March 2000, the Bill was withdrawn as a result of the report submitted by the Constitutional, Legal and Parliamentary Affairs Committee. The committee argued that the bill when passed will be a recipe for dictatorship and intolerance. In withdrawing the bill, the then Attorney General indicated that even though he knew that parliament could amend provisions in the constitution, he was not sure that parliament could amend a chapter of the constitution. Besides, the withdrawal of the bill was necessary in order not to draw the country into what he termed “dry legal argument”.

The withdrawal of this bill was instructive as it was historic. This was the first time in the Fourth Republic that the executive had been forced to withdraw a bill from parliament because of opposition from within parliament.¹⁶ What was unique was that this was a parliament dominated by the ruling NDC party. The influence of interest groups in the work of Parliament is gaining currency even though some MPs are still very comfortable with the activities of these groups. Put differently, Ghanaian MPs sometimes react negatively to the activities of interest groups either out of ignorance of the value of interest groups in a democracy or the desire to protect their turf as legislators. For instance, some members of parliament did not take kindly to the decision of the coalition on domestic violence to present a petition to parliament urging the institution to expedite action on the Domestic Violence Bill. In the words of one MP “The domestic violence bill is not an exceptional thing. It is violence and violence is abhorred whether it occurs in the house, on the sea, in space or anywhere. So I do not see anything so strange about it such that people felt we did not want to pass the bill. People were putting on red bands,

parading the corridors of parliament, carrying themselves about as champions of the Domestic Violence Bill. That is what I hated about the bill".¹⁷

5.8 Private Members' Bill

The ability of a parliament to introduce a Private Members' Bill is indicative of the institutions ability to initiate policies and flag certain fundamental problem in the society. In Ghana, the concept of Private Members' Bill was copied from Britain. It is a facility which is available to backbenchers to initiate legislation rather than respond to the government's legislative initiatives. In Britain, Private Members' Bills are usually debated on Fridays with the rest of the days reserved for Public Bills. While 33% of the time of House of Commons is devoted for the debate of Public Bills, Private Members' Bill account for just 5% of their time. Even though the time allotted to Private Member's Bills is very small, it affords MPs the opportunity to introduce legislation on almost any issue they wish.¹⁸ It must be argued that the fact that a Private Members' Bill does not reach the statute book does not necessarily signify complete failure. At least, they succeed in putting issues on the institutional agenda for future consideration.

It is unfortunate that since the inception of the Fourth Republic, not even a single member's bill has been introduced in parliament. This does not allow the legislature to legislate on a number of issues which have a bearing on the welfare of the people. The absence of private member's bill is making the country loose the opportunity to make laws to govern many areas of particular importance. The current situation where MPs are unable to introduce Private Members' Bill is so limiting. There is therefore the need for

the frontiers to be expanded. We lack legislation on so many areas of importance and the presence of private member's bill would have given us the opportunity to address those shortfalls. With regards to the legislature, despite the rights of members and even private citizens to initiate bills, no Private Members' Bills have been presented except for one instance during the Second Parliament of the Fourth Republic. This was the instance when the Domestic Violence Bill was put forward as a private member's bill by Hon. Hannah Tetteh-Kporda, Hon. Cecilia Djan Amoah and Osei Kwame Prempeh but never saw the light of day. It was later to be re-introduced by the executive in 2006.

It appears that parliament has limited itself to the role of considering, amending and passing bills initiated by the executive. Two sets of factors have been identified to explain the seemingly weak role of the legislature in policy making. Under the first set, it is contended that the inability of MPs to initiate their own bills is attributed to dependence of the legislature on the executive for all sort of support, inadequate logistical and personnel support, the long period of military rule that inhibited parliamentary development and inadequate citizen involvement in the legislative.¹⁹

The second set of constraining factors which we gleaned from the interviews conducted includes the nature of institutional configuration of the constitution which have prove to be a serious limiting factor. Specifically, the continued existence of article 108 makes it virtually impossible for individual MPs to have the capacity to introduce bills. In fact, 81% of our respondents shown on table 5.16 below subscribe to this position. The introduction of bills is very expensive and so private members are not encouraged at all

to venture into this area. The question one must ask is whether there is any bill which has no cost implication. Another serious constraint is the paucity of legislative drafters to assist members who may even have such initiatives to put forth their proposals. At least this was the perception of 6% of the respondents. Their position is that even though they can use the drafters at the Attorney General's department, these drafters are already overwhelmed by government business and cannot help the MPs. A further 3% of the respondents were of the view that the difficulty in introducing Private Member's Bills emanates from MPs overstretched by legislative and constituency business that leave them little or no time to contemplate the introduction of Private Members' Bill. Given the enormous responsibilities MPs are confronted with on daily basis, the decision to introduce a Private Members' Bill will undoubtedly amount to stretching members too thinly.

Table 5.16: What makes it so difficult for private's members to introduce bills to parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	The constraining effect of the constitution	81	81.0	84.4	84.4
	Inadequate time at the disposal of an MP	3	3.0	3.1	87.5
	Lack of legislative drafters	6	6.0	6.3	93.8
	Unwillingness of MPs to convince their colleagues --	1	1.0	1.0	94.8
	1, 2 & 3	2	2.0	2.1	96.9
	1 & 3	1	1.0	1.0	97.9
	1, 3, & 4	1	1.0	1.0	99.0
	2 & 3	1	1.0	1.0	100.0
	Total	96	96.0	100.0	
Missing	System	4	4.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

It has been established that the inability of parliament to introduce Private Members' Bill has very far reaching negative consequences for the institution as it allows the executive unfettered advantage to introduce almost all the legislations into parliament thereby reducing the role of parliament to one of policy legitimation instead of an active participant in the process. It is, however, heartwarming to state that one area where Parliament exercises some level of leverage is the amendments it makes to various bills submitted to it. This is the focus of our attention in the next section.

5.9 Amendments to Bills

One indicator of the role of parliament in public policy making is the number of amendments made to various bills. An amendment is normally a correction in or an improvement upon a document or text or the making of minor changes to it.

According to Erskine May, amendments may be classified into three types:²⁰

1. To leave out certain words,
2. To leave out certain words in order to insert or add others,
3. To insert or add certain words.

Parliamentary practice provides that any amendment must be relevant to the Bill, clause or part of the Bill it seeks to amend, and consistent with same and be intelligible. Amendments are usually carried out either at the committee stage and or at the consideration stage. At the consideration stage amendments can be carried out after a notice to that effect has been given by a member who intends to propose them. A notice of amendments consists of two parts. The first part is called the location of the amendment. The most essential components of the location of amendments include clauses or schedule, page and line. The second part is called the substance of the

amendment and it may take the form of (a) deletion, or (b) insertion or addition (c) deletion and insertion or addition of other words or figures.²¹

In this section, we discuss the rationale for the introduction of the bills in our sample and explain the various amendments made and the rationale behind them. Specifically, the research sought to analyze some of the bills passed during the four parliaments to ascertain the number and the nature of amendments carried out. The amendment of bills is considered very vital for the policy making in Ghana. It must be noted that, amendments are normally undertaken to ensure that the bills which are in effect public policies because they carry the intentions of government on how specific problems of society are going to be addressed or what government generally intends to do, are fine tuned to serve the public interest. In other words, the essence of amending a bill is to make it better for the attainment of public good.

The analysis indicates that very fundamental changes are made to the bills submitted to parliament. We selected the Value Added Tax Bill, Minerals and Mining Bill, Political Parties Bill, The Ghana Education Trust Bill, National Reconciliation Bill, the National Health Insurance Bill, and the Representation of the People (Amendment Bill). Others include the agreement between Ghana and the United States of America regarding the surrender of persons to the International Criminal Court (ICC), and the Domestic Violence Bill. They cover broad strokes of economic, social, political and aspects of foreign policy. We are interested in establishing the number of amendments carried out by Parliament with the view to ascertaining the nature of the amendments made to these

bills. More importantly, our concern is about the public policy making role of parliament, highlighting amendment as one of the instruments. It must be pointed out that the bills selected for examination cover either by commission or omission every aspect of the Ghanaian society. We now turn our attention to the individual bills in the sample.

5.9.1 The Value-Added Tax (VAT)

The Value-Added Tax (VAT) was introduced and given the first reading on June 21, 1994. It was subsequently referred to the Finance Committee for thorough review and report back to the parent house. It was given a second reading on November, 9 1994.

It must be noted that since 1965 Ghana had operated five forms of taxes, namely, Sales Tax, Hotels and Restaurants Customers Tax, Advertisement Tax, Betting and Entertainment Tax. Of all these forms of taxes, the Sales Tax was the most important because it had wide coverage and use. The tax was, however, very limited in scope as it did not cover wholesale and retail trade as well as services. Besides, all the taxes were unable to meet the projected revenue targets of successive governments.²² The introduction of VAT was meant to: (a) replace the existing taxes, namely, Sales Tax, Hotels and Restaurants Customers Tax, Advertisement Tax, Betting and Entertainment Tax. (b) widen the scope of the tax net; and (c) broaden the tax base and by so doing, increase government revenue.²³

Even though the greatest disadvantage of the VAT system is that it is an indirect tax and it is regressive, it had the following specific advantages:²⁴

- (i) It avoids cascading taxes, and therefore avoids distortions and over-taxation. It only taxes the value added by the person being taxed. Sales tax was normally imposed on manufacturers, wholesalers, and retailers and often caused distortions, mainly because it cascades, that is, it represent tax on tax;
- (ii) It is transparent, since one can see what tax is being applied;
- (iii) It introduces an innovative self-policing feature when documentation is simple and understood by the taxpayer; and
- (iv) It increases the effectiveness of tax collection and reduces revenue losses by minimizing the incidence of tax avoidance, evasion and plain fraud which characterized the Sales Tax.

The expression of grave concern by the public after the introduction of the VAT bill to Parliament, prompted the Finance Ministry to set up two major bodies; A VAT Technical Committee and an Oversight Committee. A VAT Project Management Committee was also instituted to conduct rigorous public education on the new tax system.²⁵ The new tax system promised to be a simple and neutral tax. Public education was considered particularly crucial to the success of the new tax policy because the Ghanaian environment had certain unfavourable features such as low levels of literacy, tax literacy, difficulty in taxpayer identification and poor records-keeping by the business community. In order to encourage public participation and ensure that the final VAT law represented the overall interests of Ghanaians, the VAT Project Implementation Committee and officials of the Ministry of Finance and Economic Planning toured all the ten regional capitals in the country and four other district capitals with very vibrant commercial activities. About 30 seminars were organized together with several workshops for various

groups and institutions. The Finance Committee of Parliament also held public hearings to encourage institutions and individuals to make contributions and submit memoranda. The Finance Committee finally submitted its report to parliament with a number of proposed amendments. Among other things, the report urged parliament to pass the VAT bill because in its considered opinion, the time was just right for its implementation.

The debate on the VAT Bill in parliament started in November 11, 1994 with very interesting views expressed by MPs. In an almost one-party parliament, one would have expected that the debate on the tax policy would have been one-sided. However, this was not the case. Some argued that the VAT would reduce the craze for foreign goods and thus lead to capital formation that would help education, housing, health and other sectors. This, however, has not happened. Others were very critical of the tax policy with some even referring to it as "Very Augmented Trouble" instead of Value Added Tax. Those who were against the policy insisted that it was going to cause havoc in the country and perhaps even contribute to the defeat of a good number of MPs in the next elections because the electorate would punish them for undermining the public interest.²⁶

Despite the criticisms of the VAT Bill, it went through third reading and subsequently passed by Parliament as VAT Act 1994 (Act 486) on December 1 1994 after 46 amendments had been made to the original bill. The VAT was to start on March 1, 1995 instead of the January 1, originally proposed by the bill.

The introduction of VAT led to a cascading effect on general prices of goods and services. Transport fares were increased by about 10% by the Ghana Private Road Transport Union (GPRTU). Importers, exporters, manufacturers, wholesalers, retailers and consumers all cried for the abolition of the VAT. The Trades Union Congress and Civil Servant Association joined the critics of the new policy and held demonstrate to denounce it and called on the government to as a matter of urgency withdraw the policy.²⁷

The Alliance for Change, an opposition pressure group led by figures from the New Patriotic Party, Convention People's Party and other opposition elements organized massive demonstrations in May 1995 christened "Kume Preko" which literally means "kill me instantly". In spite of a nation-wide broadcast on May 7, 1995, calling for calm, the demonstrations continued on the grounds that the government was insensitive to the economic plight of the people.²⁸

In the face of mounting public criticisms and outcry, the VAT was withdrawn on the orders of the President. This directive was overwhelmingly supported by the majority in parliament. Factors such as wrong timing of the implementation of the policy, inadequate public education, institutional problems and poor policy environment were instrumental in its withdrawal. One is not sure whether, indeed, parliament did due diligence before passing the bill because even before its passage the mood of the country was one of stiff opposition to the bill so if parliament had decided to be guided by public opinion, the bill would not have seen the light of day. The resort to the pure majoritarian system with the

conviction that since one is vested with executive power, one is a paradigm of virtue does not allow parliament to really defend the public interest.

5.9.2 Minerals and Mining Bill

Ghana is endowed with abundant natural resources, which have played very important roles in agriculture, industrial, economic and social development of the country. However, the overexploitation of these natural resources to meet legitimate socio-economic aspirations of the people has largely led to depletion and mismanagement of the resources. Government policy on the environment captures certain broad areas. These include, land degradation, deforestation, biodiversity, water pollution, marine and coastal degradation, mining and industrial development and urbanization. Some of the new challenges include climate change, natural disasters, urban noise, oil and gas industry, invasive alien species, e-waste and chemicals.²⁹

The selection of the Minerals and Mining Bill is informed by a number of reasons.³⁰ Firstly, the mining sector contributes substantially to national development. For instance, between the year 2000 and 2008, it contributed 5.5% to Gross Domestic Product (GDP) and 42% of total merchandise export during the same period. About seven (7) large scale companies are producing gold, while one (1) each producing bauxite and manganese. Also about 650 registered small scale mining groups are engaged in the mining of gold, diamond and industrial minerals. Secondly, the mining industry also offers substantial employment in the country. It is estimated that between 500,000 and one million people are directly in small scale mining and another 500,000 to one million, benefit directly or

indirectly from their activities. By the end of 2008, the mining sector provided about 24,000 jobs for Ghanaians in the formal sector. Thirdly, the sector contributes enormously to the Ghanaian economy through the payment of corporate taxes, royalties and income taxes on both salaries and wages of employees, and dividend declared. Between 2000 and 2008, the mining sector contributed an average of 11% of Government revenue collected by the Internal Revenue Service in the form of corporate tax, Pay as You Earn (PAYE) and royalties. Fourthly, the mining sector continues to be the single largest contributor of royalties, accounting for an average of about 98% of total royalties paid to government over the last ten years. Finally, the mining industry poses one of the most intractable environmental challenges to the country, in terms of degradation of forest, displacement of people in areas affected by mining, the destruction of the vegetative cover of the land, pollution of water bodies through cyanide spillage among others.

The foregoing factors make a case for the consideration of the mining bill very compelling. We now turn to the mining bill as considered by parliament.

The Minerals and Mining Bill, is an Act to revise and consolidate the law relating to Minerals and Mining and to provide for connected purposes. The paper was read the first time and referred to the Committee on Mines and Energy on the 17th June, 2004. It was withdrawn and re-introduced on the 26th of July, 2005. This decision was taken after the committee had proposed about 84 amendments to the bill. Considering the number of amendments and the time constraints on the part of parliament, it was advised by the

committee that the Bill be withdrawn and redrafted taking into account the 84 amendments proposed by the committee. We find this development very significant because instead of the committee and for that matter parliament rejecting the bill outright, it recommended that there is the need for some fine-tuning so that the overall national interest will be served through the introduction of a much more credible and well-thought through Bill.

The bill was intended to sustain and revive the mining industry so that a favorable climate would be created and to ensure that the law reflects the thinking in the industry at the time. The bill sought, among other things, to give a specific time frame for the approval of mining rights and applications. The bill also gives a stable fiscal environment to investors as well as development agreements which also provide a kind of incentives to investors who want to invest beyond USD 500 million. The bill also required a mandatory work plan for the recruitment and training of the local personnel in the mining industry to replace the expatriates and also ensure that local suppliers and providers of services are considered when it comes to procurement by the mining companies. The law also takes care of resettlement of people affected by mining activities, and royalty payments among others.³¹

It is interesting to note that in view of the phenomenal work done on the first bill after it had been withdrawn, only six amendments were made to the second bill submitted to parliament. A significant amendment was in relation to the strengthening of the Minerals Commission by requiring (under article 49 of the bill) that the minister may on the advice

of the Commission enter into a development agreement under the mining lease with a person where the proposed investment by the person will not exceed US\$500 million. In the draft proposal, the minister was not required to seek the advice of the minerals commission but act only on behalf of the president. This was thought to be superfluous since the constitution already grants that a minister acts on behalf of the president.

5.9.3 Political Parties Bill

The existence of political parties is fundamental to the operation of modern politics. As an emerging democracy, the significance of a legislative framework governing political parties in Ghana cannot be overemphasized. Political parties have become ubiquitous in modern democracies. Their proper regulation is sometimes considered sine qua non for an enduring democracy. Since the inception of the Fourth Republic, parties have performed a number of functions in Ghana. For instance, they have engaged in elite formation and recruitment, served as symbols of representation, served as aggregators and articulators of the public good, mobilized support for and socialized people into the political system, encourage the citizenry to participate in the democratic process and take part in decisions that affect their lives and finally contributed in no small measure towards political education. These functions make the consideration of political party's bill an ennobling one. We now turn to the Political Parties Bill.

The Political Parties Bill was laid before parliament on 20th May 1999 and referred to the Committee on Constitutional, Legal and Parliamentary Affairs. As is normally the case,

the committee was enjoined by article 106 (4) to examine all such enquiries in relation to it as the committee considers expedient or necessary.

The purpose of the Bill was to re-enact with new provisions, the existing Political Parties Law 1992 PNDCL 281 as amended. The bill brings the existing enactment in line with the Constitution, removes some provisions in the existing laws which are no longer considered purposeful and relevant and introduces some reform for the better regulation of political party activities in country. Specifically, some of the changes introduced by the new bill included the following:³²

- (i) the existing provisions on proscribed political parties were not restated in the Bill,
- (ii) specific provisions on merger of political parties were introduced, under these, merged political parties were to lose their individual identities upon becoming merged,
- (iii) political parties in alliance are dealt with under clause 20, where the parties in alliance retain their separate registration as individual parties and are dealt with by the Electoral Commission as separate parties for the purposes of the Bill and public elections,
- (iv) time frames for submission of various accounts and reports to the Electoral Commission required under PNDCL 281 have been extended under the bill, upon the clear realization that the parties cannot realistically comply with the law as provided under the existing enactment.
- (v) the requirement under section 15 (2) of PNDCL 281 for political parties to provide to the Electoral Commission the location of offices by indicating,

among others, the nature of ownership of properties, the names, addresses and nationalities of the owners have been deleted as not being purposeful, and (vi) fines and penalties for contravention of the various punishable provisions were revised.

At the consideration stage of the bill as many as 81 amendments were made. Even though some of the amendments were not substantial as they were largely involved in either the deletion or the insertion of a word or a phrase, some were very substantial and changed the policy governing political parties in the country. For instance, parliament through its committee amended the section that deals with the appointment of auditors to audit the account of political parties. The committee found it difficult to accept the position that the EC should appoint auditors for political parties. Parliament held that auditors need only to be recognized by their professional associations and not by the Electoral Commission. Parliament therefore proceeded to delete the phrase, “approved by the Commission under subsection (3) of section 21 of the Act”.

We find this amendment very significant since the retention of the provision would have further burdened the EC and seriously undermined the freedom of political parties to choose their own auditors provided they are credible. The implementation of the political parties’ law has brought some sanity into the operations of political parties in Ghana and has contributed in no small measure towards the consolidation of democracy in the country.

5.9.4 The Ghana Education Trust Bill

The choice of this bill was largely informed by the growing importance of and demand for education in the country and the capacity gap which existed in most educational institutions in the country. The main purpose of the Bill was to provide supplementary funds to support education by the government. It is significant to note that any investment in education is bound to have wide ranging effect on the overall development of the country.

The Ghana Education Trust Bill was submitted to Parliament for the first reading on Friday, 17 March, 2000 and referred to the Committee on Education for consideration and report. The Committee report was submitted on the 30th May 2000 and taken through the second reading which lasted for four days. In view of the importance of this Bill, it enjoyed bi-partisan support in the House. Debate on the bill was less acrimonious and conclusions reached reflected consensus in the House. Thirty-one (31) amendments were effected by parliament. These amendments mainly dealt with structural and governance issues and were intended to ensure the successful implementation of the law. One such amendment was the decision to make the Ghana Education Trust Fund Board independent of the Minister of Education under clause 8 of the Bill. The original position of the Bill was for the Minister of Education to give policy directions to the Board. To parliament this provision was going to undermine the autonomy of the Board and was therefore dropped.³³

5.9.5 National Reconciliation Commission Bill

The instability which characterized politics in Ghana, largely as a result of military adventurism, and massive corruption, nepotism, neo-patrimonialism and political vendetta, made the introduction of a policy of reconciliation extremely important. The idea was to heal old wounds and chart a new path towards national unity and development. Even though controversial, this bill was selected because of its agenda of fostering national unity.

The National Reconciliation Commission Bill was laid in the House on 24th July, 2001 and referred to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report pursuant to articles 103 and 106 of the 1992 Constitution of Ghana and Orders 125, 126, and 178 of the Standing Orders of Parliament. Parliamentary Debates Tuesday, 20th November, 2001.³⁴

The National Reconciliation Bill was an Act to establish a Commission to seek and promote national reconciliation among the people of this country by recommending appropriate redress for persons who have suffered any injury, hurt, damage and grievance. It was also to address the needs of those who have in any other manner been adversely affected by abuses and violations of their human rights arising from actions or inactions of public institutions and persons holding public offices during periods of unconstitutional government and to provide for related matters.

In addition to the above broad objective, the bill also sought to emphasize on victims rather than perpetrators. Put differently, the object of the bill was not to constitute a tribunal or court to hunt for and prosecute perpetrators. It was, indeed, for reparation and not recrimination and for appeasement and not for punishment. The bill was also intended to bring positive attitudinal change and consequently institutional reforms necessary for preventing further human rights abuses in the country.³⁵

Parliament at the consideration stage made 29 amendments to the National Reconciliation Commission Bill. One of the significant amendments was the increase in the number of the Commission from seven as originally proposed to nine (clause 2) in order to allow the Commission to function even when some of the members are chairing some committees made up of non-members.³³ This amendment served the commission very well since it had enough members at all times to prosecute its mandate.

Even though some politicians have argued that the exercise was a wasted effort, the Reconciliation Commission succeeded in addressing issues of official denials and set certain records straight. It also provided an opportunity to those who masterminded some of the heinous crimes in the country to offer at least, an apology and ask for forgiveness. Some form of restitution was also provided to assuage the pain of some of the victims.

5.9.6 The National Health Insurance Bill

It has been argued that access to effective and affordable health service, including preventive and primary health care, drugs, surgeries, and other medical interventions, is

rarity in developing countries including Ghana.³⁷ The need to come out of “the illness poverty trap”, a vicious cycle in which ill-health feeds into financial incapacitation and vice versa compelled the government of Ghana to introduce a National Health Insurance Scheme. We are considering this bill because there is an inescapable interconnection between health, employment and income generation. The lack of affordable health care services, undoubtedly, has ramifications for socioeconomic development. Besides, the provision of affordable or cost effective health care services forms an integral part of many poverty reduction and international development initiatives such as the Millennium Development Goals and the African Union’s Abuja Declaration of 2001 which dealt with issues of HIV/AIDS, TB and other infectious diseases.³⁸

The National Health Insurance Bill was presented and read the first time in parliament on the 11th July, 2003. It was subsequently referred to the Joint Committee on Health and Finance for the consideration and report in accordance with article 106 (4) of the Constitution and Standing Order 125.

The National Health Insurance Bill was one of the most important bills passed by the Third Parliament of the Fourth Republic. The bill came to replace a very iniquitous “cash-and carry” system that operated in the country where those who least could afford health care were made to pay at the point of service delivery.

It must be noted that, in the immediate post-independence era, Ghana, like many African countries had provided health care services which were relatively free. However, during

the 1970s and the early 1980s, persistent budgetary constraints, deteriorating health infrastructure, falling standards in health care, and massive emigration of health care professionals impelled the government of Ghana to introduce the IMF and World Bank sponsored structural adjustment programmes which had as a major health component cost recovery, otherwise known as “cash-and-carry”.³⁹

The policy of full cost recovery had serious negative consequences on the utilization of health services. First, the low income groups in the country were forced to regularly postpone medical treatment, or resort to self-treatment and traditional medicine which were sometimes provided by unqualified, untrained and unregulated people. Secondly, the implementation of the cash-and-carry also increased the inequality in access to health care on the axes of gender, class and geography. For instance, rural communities were worse off as most of the low income people did not have access to orthodox health care, thereby making the resort to herbal treatment, self-medication and the use of traditional herbalists the only alternative available to them. The gender disparities in health services accounted for high incidence of maternal mortality which were mostly attributable to common treatable infections, obstructed labour, hypertensive disorder in pregnancy, and complications of unsafe-abortion.⁴⁰

The objective of the bill was to put in place a mechanism that will ensure equitable access to an acceptable package of essential health services, without out-of-pocket payment at the point of service for all Ghanaians.⁴¹ In order to ensure a well-regulated and designed system, the bill sought to provide the following:

- (a) a regulatory framework in the country for health insurance; and
- (b) a mechanism for the establishment of district mutual insurance scheme in every geographical area or district or contiguous districts.

At the consideration stages, 55 different amendments were made to the bill to tighten up what the executive presented. The amendments covered various aspects of the bill ranging from membership to the establishment of the scheme and the payment of premium, among others. To ensure the universality of the scheme, parliament, for instance, made it mandatory for every body living in the country to subscribe to the scheme. It recommended, for instance, that every person resident in Ghana shall belong to a Health Insurance Scheme under the Act. Parliament contended that the primary objective of the bill was to ensure that every person resident in the country has equitable access to healthcare that is in relation to need rather than socio-economic and socio-cultural status.⁴² This amendment was well-intended to ensure that everybody living in the country was covered by a health insurance to ensure accessibility and affordability of health care delivery in the country.

The implementation of this policy has generally improved access to health care facilities and to a very large extent dealt with the issue of cost since the sick have access to affordable health care. Attendance at health facilities throughout the country has improved tremendously indicating that people are now very comfortable to go to health facilities even when they do not have money knowing very well that their health insurance will cover them.

5.9.7 The Agreement between Ghana and United States of America Regarding the Surrender of Persons to the International Criminal Court (ICC)

The agreement between the Government of the Republic of Ghana and the Government of the Federal Republic of United States of America regarding the surrender of persons to the International Criminal Court was referred to the Joint Committee on Foreign Affairs, Constitutional, Legal and Parliamentary Affairs on Tuesday 28th October, 2003.⁴³ The Committee submitted that the International Criminal Court (ICC) was established to try crimes of genocide, war crimes, crimes against humanity and crimes of aggression. The Rome Treaty became operational on July 1 2002, and the statute had received 140 states' signature and had been ratified by 90 countries including Ghana. In the light of concerns raised concerning the powers, structure and jurisdiction of countries not party to the Rome Treaty, countries such as USA, Russia, China, and India had refused to append their signature to the Rome Statute.

The objective of the Agreement between the Government of Ghana and the USA was to enter into a bilateral agreement under Article 98 of the Rome Statute, which provides safeguard that suspects may not be surrendered to the ICC without the consent of the countries of origin. Thus by this agreement, no suspect shall be surrendered or transferred by any means to the ICC without the consent of country of origin of suspect.⁴⁴

The major motivation for the Government of Ghana to enter into such an agreement is national interest concerns which translate into military aid in the form of military hardware and training of the personnel of the armed forces of the country. In view of the

contentious nature of the agreement, the committee was unable to reach a consensus so they recommended to the House to take a decision on the matter.

The debate on this agreement was very acrimonious with the major political parties, NDC and NPP taking very entrenched positions. While MPs from the ruling NPP were unanimous in their support for the agreement citing the issue of national interest and the need to maintain a healthy relationship with USA, the minority NDC felt it was a sell-out. They argued against the sanction clause which indicates that nations that refuse to sign the agreement will incur some sanctions from the USA. Their contention was that the agreement must be based on mutual respect and not on threat. They also raised the issue of sovereignty and argued that the ratification of this agreement undermines the sovereignty of Ghana. These disagreements notwithstanding, the agreement was ratified through a vote of 101 in favour and 54 against.

A number of implications, however, can be distilled from the processes leading to the ratification of this agreement. First, it has been observed that the committee which worked on the agreement failed to observe its own procedure of putting the issue to vote. According to Mr. Ken Dzirasah, the then MP for South Tongu, what took place at the Joint Committee meeting was a flagrant violation of the procedures of the House. He argued that his colleagues who were in charge of the proceedings flatly refused to put the Question to vote. For him this was an indictment as it was highly irregular.⁴⁵ The conclusion one can draw is that the procedures were so manipulated to allow the majority to have its way. The second issue is that of national interest and whether the US\$4

million promised Ghana was enough and, indeed, served the national interest. Thirdly, it is contended that the ratification of the agreement with the USA seeks to undermine the ICC which is considered as one of the achievements of the then UN Secretary General Kofi Annan, a Ghanaian. Some have also argued that Ghana could not undermine an institution it had selected one of its own, Professor Akua Kuenyehia to serve as its Vice President.

To a very large extent, the ratification of this agreement represented one of the cases where the majority uses all its power and numbers to endorse an agreement irrespective of what the minority thinks.

5.9.8 The Representation of the People (Amendment) Bill

The Representation of the People (Amendment) Bill was laid before Parliament on Monday, 9th March 2004 and immediately referred to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report pursuant to article 106 (4), (5) and (6) of the Constitution and Standing Order 179 of the House in spite of the opposition from the minority that it should not be introduced under the certificate of urgency. The committee was to report back to the House the next day, Tuesday, 10 March, 2004 to enable the House pass it into law.

The Bill fundamentally sought to amend the Representation of the People Law, 1992 (PNDCCL 284) to enable Ghanaians resident abroad who, by virtue of restrictions imposed

on them by the law are unable to register and vote in public elections and referenda in Ghana to do so.⁴⁶

The minority, the media and the general public raised serious objections to the manner in which the Bill was being rushed and argued that they felt very uncomfortable with the manner the majority was handling the Bill. Some of the objections included the practical administrative difficulties that could undermine the implementation of the law, concerns about the possible difficulty in identifying Ghanaians abroad for purposes of registering them to vote during elections, the difficulty in sitting registration centers, the credibility regarding the neutrality of Heads of Mission during elections abroad and the possible delays in electoral results due to delay in receipt of Diaspora votes, among others.

These objections compelled the majority to withdraw the Bill on the 12th March 2004. The Bill was re-laid as an ordinary Bill and referred to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report but the committee did not present its report before parliament was dissolved. The decision of the majority to withdraw the Bill was significant as it demonstrated the power of the minority and the sensitivity of the majority to the prevailing public opinion. It underscores the power of parliament to serve the national interest.

The Representation of the People (Amendment) Bill was re-introduced by the Attorney-General and the Minister of Justice, J. Ayikoi Otoo on Tuesday 14 June, 2005. The new bill, obviously with modifications was to come into force on a date determined by the

Electoral Commission in an Executive Instrument issued under the hand of the Chairman of the Commission.⁴⁷ This revision is important because it vests the power of implementation of the amendment in the Electoral Commission and hopefully prevents the executive from clandestinely interfering with the process.

Even though the debate on the Bill was acrimonious, it was eventually passed into law on Friday, 23 February 2006 as the Representation of the People (Amendment) Act, 2006 (Act 699), with only the NPP Majority in the House. The NDC having protested the introduction of what in their view was an ill-conceived bill, walked out of parliament. The episodic nature of the passage of the ROPAB again underscored the creeping tyranny of the majority into the parliamentary process in Ghana because the majority has always used its numbers to ignore concerns raised by the minority, insisting that the minority can have its say but the majority will have their way.

Interestingly, since the passage of the bill and its subsequent assent by the president within 24 hours of its passage, the Electoral Commission is yet to present an Executive Instrument detailing how the law will be operational for all Ghanaians living outside the country to participate in all elections in the country perhaps because of the difficulty in working out the details of how this law could be made operational.

5.9.9 Domestic Violence Bill

The Law Reform Commission in 1999 examined the phenomenon of domestic violence and came up with proposals for legislation to curb this social evil. This examination was

followed by an initiative from the International Federation of Women Lawyers (FIDA) together with other non-governmental organizations to prepare a private member's bill in 2000. The executive, however, took over the enactment of the legislation to specifically proscribe domestic violence in the country, hence the bill.

The bill was introduced to parliament and given a first reading on the 24th May, 2006 and referred to the Joint Committee on Gender and Children and Constitutional, Legal and Parliamentary Affairs in accordance with article 106 (4), (5) and (6) of the 1992 Constitution and Standing Orders 175 and 179 of parliament.⁴⁸

The object of the bill was to provide victims of domestic violence with a broader set of remedies in the form of protection orders. It was argued that legislation on domestic violence will uphold provisions in the Constitution on respect for human dignity in article 15 among other human rights provisions. It was also intended to accord with the international commitments and obligations of the Republic under the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) ratified by Ghana in 1986 and the Convention on the Rights of the Child (CRC) in 1989 also ratified by Ghana. The ratification of these conventions required that the country will take steps to protect certain groups and provide special care and assistance required for the physical and mental well-being of women and children among others.⁴⁹

The enactment of domestic violence bill was also to confirm the commitment of the country to be proactive about domestic violence, an issue which had been raised by Amnesty International in 2002.

An examination of the various amendments revealed that 36 amendments were made to the original bill and these amendments shaped the bill to a very large extent. Among the various innovations was the suggestion that there must be the establishment of a Fund by the Act to be called Domestic Violence Support Fund. The fund is being applied towards the basic material support of victims of domestic violence, tracing families of domestic violence, the rescue, rehabilitation and reintegration of victims of domestic violence. The construction of shelters as required by the Act is yet to be complied with by the government.

The amendments, to all intents and purposes, were significant as the very essence of the whole bill was to support victims. The passage of this bill has really highlighted the issue of domestic violence and to a very large extent given voice to those who suffered a lot of abuses in the home but could not seek redress. The operations of the Domestic Violence and Victims Support Unit have recorded some modest gains even though the prosecution rate is still very low.

After an examination of the sample bills to find out the nature of amendments, we decided to find out from our respondents the extent to which parliament carries out amendments of various bills.

5.10 Respondents' Views on Amendments to Bills

It must be emphasised that the number of amendments made to bills are not readily available in Parliament. In order to ascertain the number of amendments made to all the bills, a huge research project is required. Investigators will have to literally consider the Second Reading, the Consideration Stage and the Collection of Votes for every single bill in order to track the specific amendments made. Considering the time and resource constraints at our disposal coupled with the generally weak or poor data management system in Parliament, we complemented the review of the bills discussed with interviews. In other words, we could not study all the bills passed by parliament for the following reasons:

First, the data storage and retrieval system in parliament is very poor. Unfortunately, the website of parliament does not capture amendments made to bills. The option available to the researcher was to examine the bills one after the other to know the number and the nature of amendments made. Secondly, since the data on amendment was not readily available, we simply did not have the capacity to literally sift through all the bills and come out with the various amendments. Thirdly, even if we had to time to go through all the bills to know all the amendments, the poor data storage system would not have allowed us because even with those bills we had to study, it took several months of searching before bills and amendments were obtained. In view of the foregoing, it became necessary to select a sample of bills for a more thorough study and rely on our respondents to provide us with the general picture of the nature of amendments to bills.

We now turn to the responses given to our questionnaire concerning the nature of amendments by parliament.

Amendments are usually done at two critical stages of legislation making. The first is at the committee stage where a member of a particular committee to which a bill has been referred to makes certain amendments. These amendments are normally captured in the report submitted to the general House. The second opportunity for members to make contribution to the fashioning out of public policies is at the consideration stage where individual members propose certain amendments which in their view will help shape the bill and address what they consider to be some of the inherent shortfalls. To ensure that the final bill meets the expectations MPs, all proposed amendments are voted upon and either “positived” or “negatived”.

Interestingly, when it comes to amendment to bills, it is only few Members of Parliament who avail themselves of this unique opportunity. It was argued that at that critical stage in the development of public policies, very deep reflection coupled with a depth of knowledge is required to make any impression. This is one of the stages where the competence and expertise of an MP comes in handy.

Asked whether Parliament often amend bills, our respondents revealed that almost all bills are amended in one way or the other. While 38% of the respondents shown on table 5.17 overleaf noted that all bills are amended, 36% of them insisted that some of the bills are amended, with 26% of the respondents saying that most of the bills are amended. Our

respondents revealed that almost about 80% of all bills submitted to parliament are amended in one way or the other.

Table 5.17: How often do you amend bills submitted to parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	All bills are amended	38	38.0	38.0	38.0
	Some of the bills are amended	36	36.0	36.0	74.0
	Most of the bills are amended	26	26.0	26.0	100.0
	Total	100	100.0	100.0	

Source: Field Work, May-July, 2011

We sought to find out how substantial are the amendments made by parliament to the bill submitted to it. The responses were very interesting and seem to nullify the conventional wisdom that amendments made by Ghanaian parliament are trivial and not substantial. As a matter of fact, 25% of the respondents as indicated on table 5. 18 below stated that the amendments made by parliament are very substantial while 68% of them indicated that the changes made to the bills are substantial. However, a cumulative and low 3% of the respondents indicated that the amendments made by the institution are either very trivial or trivial, with 4% of them being apathetic when asked to comment on the substantial nature or otherwise of amendments to bills.

Table 5.18: How substantial are these amendments?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very substantial	25	25.0	26.0	26.0
	Substantial	68	68.0	70.8	96.9
	Very trivial	1	1.0	1.0	97.9
	Trivial	2	2.0	2.1	100.0
	Total	96	96.0	100.0	
Missing	System	4	4.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

On the nature of amendments that are usually carried out, 38% of the respondents as shown on table 5.19 below said that sometimes changes are made to certain clause and this has the tendency of altering the nature of the bill. Four percent (4%) of the respondents pointed out changes are sometimes made to certain phrases. Cumulatively, 94% of the respondents agree that the changes made to the bills submitted to parliament are substantial and in most cases change the content of public policies and programmes. It was pointed out that most of the amendments are carried out by consensus,⁵⁰ demonstrating the existence of bipartisanship in Parliament, especially on less controversial issues.

Table 5.19: What is the nature of amendment you undertake?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Changes are made to certain clauses	38	38.0	40.4	40.4
	Changes are made to certain phrases	4	4.0	4.3	44.7
	Changes are very significant and alter the content of the policies	6	6.0	6.4	51.1
	All the above	4	4.0	4.3	55.3
	1 & 2	42	42.0	44.7	100.0
	Total	94	94.0	100.0	
Missing	System	6	6.0		
	Total	100	100.0		

Source: Field Work, May-July, 2011

5.11 The Debate on the Budget

The power of the purse means mandate for the allocation of money amongst the various sectors of the economy. Money is usually allocated by the government through the budget. The budget carries the policy intentions of the government. Parliament has the

authority to approve, deduct or reject the budget. In theory, the sole responsibility of approving budgets rests on the legislature. The budget is usually a means for implementing public policies and programmes.

The national budget is the most important policy statement made by the executive in the course of the year. It usually reflects the values and principles underlying national policies and programmes. The budget usually reflects and outlines government's view of socio-economic state of the country. It provides a valuable measure of government's intentions and past performance. It must borne in mind that neither the expenditure nor the revenue figures in the budget represent facts on the ground, but only intentions and expectations for the future.⁵¹ The budget approval processes generally, helps Parliament to check that spending decisions of government are in line with national priorities.

Legislative oversight of the executive branch is to ensure that policies agreed on at the time they are passed into laws are implemented by the state. Parliamentary oversight ensures vertical accountability of the rulers to the ruled and horizontal accountability of all other agencies of government to the legislature. The oversight function of parliament has generally been ad hoc and erratic. What the various committees have done in the past is to organise visits to project sites and enjoy TV coverage to give semblance of oversight but this is largely cosmetic and ineffective since most of the committee members do not have the technical expertise to ensure value for money. Effective oversight, however, requires a significant measure of transparency about the substance of governmental operations.⁵² Legislative oversight is no where more important than in the budget process.

In a democracy, the assumption is that government does not have a final say in the budget. The final word belongs to the ordinary citizens and is expressed through their representatives in parliament.⁵³

The parliament of Ghana has no financial autonomy. The resources needed for the development of parliament is more often than not determined by the executive. Between 1993 and 2000, parliament was treated as one of the MDAs. Parliament was given a copy of the estimates and members were expected to give feedback. There was budget hearing and this exercise usually resulted in cuts in the estimates largely due the financial constraints within which the state found itself. In the estimation of the executive, it was, therefore, important for the agencies of the state to operate within the limits set by the budget to ensure financial prudence and discipline.⁵⁴

Parliament exercises a fundamental control over the executive by the approval it gives to the budget. Budget itself is estimates of policies and programmes government intends to undertake. Budget is a set of proposals or indications of intentions of government of what they want to do to develop the country for parliamentary approval. Once the approval is given, parliament ensures that adequate provision has been made for the various institutions of state. To a very large extent, parliament does not get value for money in the projects it executes.⁵⁵

The role of the legislature in most countries is to scrutinize and authorize revenues and expenditures and to ensure that national budget is properly implemented. It is plausible to

argue that how governance affects the well-being of the citizenry depends on tax levels, spending patterns, the impact of policies on investment and on interest rates, and the ways that domestic priorities and choices interact with international economic and financial trends.⁵⁶

The budget cycle in Ghana includes many institutions and organisations which constitute the nation's governance system. These include the executive, the public service, civil society and the legislature. There are certain aspects of the budget process which are among the core functions of the executive. These include, government accounting, managerial reporting, and internal audit. However, in a democratic setting it is important to ensure that the budget is formulated and implemented in a transparent, open and accountable way within the national economy. It is important to note that the various functions outside the cycle which include budget planning, revenue and expenditure allocation, financial reporting, external audit and evaluation and accountability require the involvement of civil society and the general public. This is where parliament plays a significant role.

The parliament of Ghana has the power of the purse as alluded to elsewhere in this work but largely, it plays a crucial role in the allocation of the resource (ex ante) and in the financial reporting, external auditing, and evaluation (ex post) phases of the budget process. It is, therefore, important for us to consider both phases and figure out the extent to which the parliament of Ghana plays these roles.

The parliament of Ghana has over the years indicated that, at least, in theory, it has the power of the purse. But the interviews conducted indicate that this power is seriously constrained by certain provisions of the Constitution. For instance, Article 108 states that only the President can introduce legislation or seek to amend an existing legislation that imposes or revises the method of taxation or which results in a charge on the Consolidated Fund. As it has been alluded to elsewhere in this work, since the implementation of almost every law has financial implication, this article effectively limits the introduction of all proposed legislation to the President. Also, the preparation of the annual budget and control of the budgetary process is effectively controlled by the executive. Article 174 states emphatically that it is the President who proposes the budget for the next fiscal year to the legislature by presenting budget estimates, at least, one month before the end of the fiscal year. Under article 179 (8), the President has the power to introduce supplementary budget to cover past overruns in expenditure, or the President has the power to request Parliament to pass an interim budget to keep the government running if the budget itself has been formerly passed.

The other problem is that parliament can only make suggestions for reduction of certain estimates but not upward adjustment. The process of approving the budget is, therefore, nothing but cosmetic. The interviews revealed that most MPs are not happy with the two weeks usually earmarked for the debate on the budget. They argue that there must be, at least, one month given for the critical scrutiny of the government estimates.

In law, parliament does have the power to amend the budget. Articles 174 and 178 of the 1992 Constitution of Ghana empower the Legislature to levy taxes, approve loan

agreements and all expenditure estimates proposed by the executive in the budget. Although parliament follows the appropriation process as defined by the constitution, it has become an effective forum for negotiations and compromises on the allocation of resources.⁵⁷ This situation is partly explained by the absence of a budget office to assist MPs in dealing with the budget.

Normally the budget is presented to parliament in November, in line with the constitutional requirement that the budget statement must be submitted to parliament one clear month before the start of the fiscal year. The actual debate on the budget is usually between mid-February and early March. According to the interviews, about two weeks is usually used for the debate on the budget.

Majority of the respondents (57%) (Table 5.20) indicated that the debate on the budget usually last for about two weeks. The researcher was surprised that some of the respondents could not give definite number of days usually devoted for the debate of the budget.

Table 5.20: How many days do you normally use in debating the national budget?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1 - 5 days	2	2.0	2.0	2.0
	4 - 7 days	19	19.0	19.4	21.4
	8 - 11 days	20	20.0	20.4	41.8
	Within 2 weeks & above	57	57.0	58.2	100.0
	Total	98	98.0	100.0	
Missing	System	2	2.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

About 77% (table 5.21) of the respondents argued that the time allocated for the debate on the budget is woefully inadequate for a thorough scrutiny of the budget. Put differently, the budget is submitted too late to the House for it to do any effective analysis. However, 33% of the respondents were of the view that the time is enough for a thorough work. To them, if Parliament has the right competences they will not need more time other than the normal two weeks to debate the budget.

Table 5.21: Is this adequate for a thorough scrutiny of all the estimates and policy guidelines contained in the budget?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	23	23.0	23.0	23.0
	No	77	77.0	77.0	100.0
	Total	100	100.0	100.0	

Source: Field Work, May-July, 2011

On measures that can be put in place to improve the quality of work that Parliament does on the budget, almost 43% (table 5.22) of the respondents called for adequate time for research and debate on the budget for effective scrutiny to be done so that the legislature can effectively hold the executive in check. About 33% of the respondents also indicated that the budget statement must be brought to parliament, at least, one month earlier so that effective work can be done on it by parliament.

Table 5.22: If no, what can be done to improve the quality of scrutiny done by parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Adequate time for debate & Research	42	42.0	42.9	42.9
	Budget must be brought to parliament at least one month/ earlier	33	33.0	33.7	76.5
	N/A	18	18.0	18.4	94.9
	Adequate resources	3	3.0	3.1	98.0
	Budget repackaging	2	2.0	2.0	100.0
	Total	98	98.0	100.0	
Missing	System	2	2.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

It must be noted, however, that parliament's power of amendment of the budget is limited. It can only reduce the expenditures but cannot raise them above the levels proposed by the executive. Any additional expenditure after the budget has been approved must be approved by parliament. Parliament on its own cannot impose or raise taxes. The proposals for taxes must always come from the executive. This is yet another example of the subservient role played by parliament in the current institutional architecture of the Fourth Republican Constitution.

The budget is always laid before parliament for debate and approval. Since the country is not in a position to generate enough resources from within the country to finance the much needed public goods, loan acquisition has become an integral part of the sources of funds available to the government. In order to ensure value for money through rigorous due diligence, all loans contracted to finance the needed policies and programmes are usually approved by parliament. It is worth pointing out that the ability of the legislature to exercise effective oversight on public expenditure is undermined by the inability of the legislature to be independent from the executive branch of government.⁵⁸ The ruling parties have since 1993 enjoyed majority in the house thereby promoting the tyranny of the majority when dealing with controversial issues, confirming assertion that parliament has promoted ultra-majoritarianism.⁵⁹ The budgetary process is not very transparent. Besides, it is extremely hierarchical. Even though the general public is normally invited to submit memoranda to the Finance Committee of Parliament, in practice, not many citizens take advantage of this unique opportunity to contribute to the policy making process. Even though parliament tends to play a minimal role in the budget process, some

modest gains have been made in Ghana. The Finance Committee of Parliament of Ghana has chalked some modest successes in influencing the budget process in particular by requiring pre-budget consultations with the Minister of Finance and Economic Planning and quarterly statements from the finance minister to the Public Accounts Committee on the budget execution.⁶¹¹

The budget is usually rushed. Before 2007 the budget statement was usually presented in February. In order to cater for the first quarter of the year, provisional estimates are approved in January. The main budget was normally approved in March. The decision to present it in December was to allow a full cycle of the budget to be achieved. The opportunity to present supplementary budget is to allow government to tackle all issues and bring the budget into conformity with realities of the day.

The fundamental weakness of the legislature in the budgetary process has been caused by the following factors. First, the hybrid nature of the Constitution gives too much power to the executive at the expense of the legislature. This situation is no different from what pertains in other semi-presidential systems of government in the Commonwealth parliamentary systems.

Second, it has been argued that budgeting takes place in broader political context that is ultimately subject to the power relations of political participants. Ghana's parliament has always been dominated by a single political party coupled with a very strong party discipline.

Third, the legislative research capacity of parliament is very weak. Legislators need reliable, accurate and timely information in order to make informed and meaningful contributions to budget formulation. Examples of best practices include the Congressional Planning and Budget Office of the Philippines, staffed by some 50 people and the Parliamentary Budget Office of Uganda, which has the staff strength of 27 economists. The Parliaments of Zambia, Namibia and Sri Lanka have no such specialized research outfit.

Fourthly, the weakness of the Finance Committee undermines the role of parliament in the budgetary process. Unfortunately, the executive always alters the budget after the House has approved it. Permission for over-expenditures by the executive is not sought, and surprisingly, the House has never imposed sanctions for this breach.

5.12 Financial Autonomy of Parliament

A major drawback on the capacity of parliament in Ghana is the inability or unwillingness of parliament to exert financial autonomy in the preparation of its own budget. Article 179 (2) of the 1992 Constitution of Ghana and the Parliamentary Service Act 460 of 1993 state that the administrative and operational expenses of the Parliamentary Service are neither subject to budgetary review or control by the Ministry of Finance, nor to be voted on but only laid before parliament for the information of members. This provision means that the recurrent expenditure of parliament is not to be formally subjected to any influence by the executive. Parliament, contrary to what the Constitution says, always submits its budget estimates to the Ministry of Finance.

In 2002, the Speaker of Parliament, Peter Ala Adjetey, insisted that parliament's constitutionally guaranteed financial autonomy must be respected. He therefore refused to submit estimates to the Ministry of Finance for 2003 and 2004. During this period, parliament was treated like the judiciary. The budget of parliament which was charged on the Consolidated Funds was put together by a Board and sent to the president for approval. This period witnessed a huge jump in the resources made available to parliament to prosecute its mandate. The executive was certainly not happy with this development. Our research revealed that this was one of the reasons for the refusal of President Kufuor to re-nominate Peter Ala Adjetey for the speakership position during the Fourth Parliament of the Fourth Republic.⁶¹ The Speaker was motivated by the desire to wean parliament off the Executive but this did not sit well with the president of the Republic. There appears to be a conspiracy on the part of the executive to keep parliament perpetually subordinated to it to render it virtually ineffective. In 2005, an attempt to give a legal backing to an agreement to ensure financial autonomy of parliament proved futile.⁶²

From 2005, the activism of parliament in safeguarding its own constitutional leverage in its own budget preparation and approval was undermined. The new Speaker of parliament reverted to the previous practice where the budget was submitted to the Ministry of Finance for scrutiny and in the process subjected parliament to executive dominance and manipulation. For instance, in November 2004 out of a total estimated budget of US\$5.4 million, only a paltry US\$ 1.2 million was allocated to parliament in March 2005. This amount represented some 22% of what was needed by parliament to

legislation because it has an important role of formally and constitutionally determining the allocations and expenditure of government for the coming year. Our investigations revealed that the Appropriation Act is usually rushed through and often it can go through all the different stages in one day, in some cases in a matter of few hours. For instance, in 2002, the Appropriation Bill went through all the stages of first reading, consideration, and report by the Finance Committee, second reading, and final approval in less than four hours. That of 2003 and 2007 that we sampled were all taken through all the stages within the same day.

This situation notwithstanding, our interview revealed that the passage of this bill need not take too much time because once the budget estimates have been approved, the Appropriation Bill is just prepared to reflect the figures approved thereof. It is just an authorization for the government to spend and that work on it is usually done during the debate on the budget.

Our field survey indicates that cumulative 47% (table 5.23) of the respondents share the above views. Another 12% of the respondents were of the view that parliament as an institution lacks adequate time to debate the Appropriation Bill hence the usual rush, while 14% of them indicated that it is only the climax of the budgetary process and should not consume more time. One MP argued that:

*“Parliament concentrates on legislative instruments aimed at shaping the content of public policies and programmes in Ghana. Appropriation Bill is passed almost immediately because it has to do with figures and it is mostly done at the committee level. The only thing done in the House is to cross check the figures provided for in the Appropriation Bill with those in the main budget statement”.*⁶⁴

Table 5.23: The appropriation bill is usually passed after few days or hours of deliberations. Why is that the case?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	It authorises the government to spend	22	22.0	22.2	22.2
	The standing orders stipulates that it should elapse for hour	7	7.0	7.1	29.3
	Work on it is done during the debate on the budget	27	27.0	27.3	56.6
	To control unexpected inflation that may affect the budget	15	15.0	15.2	71.7
	It is only the climax of the budget approval process	11	14.0	14.1	85.9
	Lack of time	11	11.0	11.1	97.0
	Lack of Information	3	3.0	3.0	100.0
	Total	99	99.0	100.0	
Missing	System	1	1.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

On why parliament also asks for more funds for the MDAs, the answers were varied. 50% (table 5.24) of the respondents pointed out that they wanted the MDAs to be well-resourced in order to perform their functions effectively and efficiently. Another 23% of the respondents posited that they normally ask for more resources for the MDAs because

the allocation given to them is usually not enough and therefore there is the need to ask for more resources so that they can provide value for money, goods and services.

Table 5.24: Why is parliament always asking for more funds for the MDAs?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	We want to fully resource the MDAs to deliver	50	50.0	52.6	52.6
	The allocations made to MDAs are not enough	23	23.0	24.2	76.8
	We want to be seen as serving the public interest	2	2.0	2.1	78.9
	1 & 2	17	17.0	17.9	96.8
	All the above	2	2.0	2.1	98.9
	1 & 3	1	1.0	1.1	100.0
	Total	95	95.0	100.0	
Missing	System	5	5.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

The conclusion we can draw from the analysis on the debate of the budget is that parliament in Ghana lacks capacity to cope with the demands of rigorous budget scrutiny. There is dearth of skilled support staff, lack of resources to engage experts for thorough evaluation of the budget, and lack of Budget Office to assist MPs deal with the budget. These and other problems discussed in this section have largely contributed to the poor performance of the legislature in the budgetary process in Ghana.

5.14 The Performance of the First Four Parliaments of the Fourth Republic

Our interviews tried to assess the performance of the first four parliaments of the Fourth Republic for purpose of ascertaining whether the performance of the institution is improving or deteriorating.

Our investigations revealed that, the first parliament of the Fourth Republic had a crisis of legitimacy and subsequently faced a number of problems. These included the following:⁶⁵

1. The fear of a coup and a possible termination of the life of the parliament because of the history of frequent coup making in the country. This lingering fear made members of parliament too nervous.
2. The public perception that it was a rubber stamp parliament because of the absence of any virile opposition put a lot of pressure on the MPs to discharge their duties creditably.
3. The largely inexperienced MPs made deliberations very difficult. There were only three MPs who had had any experience at all in parliamentary practice. The rest were all first-timers and had to learn from scratch.
4. The public perception that the MP is a development agent, marriage counselor, provider of all basic needs and the high cost of campaigning made the life of an MP a very difficult one.
5. The MPs also operated with very meager resources and this made them extremely vulnerable to all sorts of influences both from the government and other actors outside parliament. It is part of the reasons why MPs instead of working assiduously in the House to help the institution to grow, are almost always working to please the president so that they can get ministerial appointments.
6. Most MPs were also computer illiterate and could not use the internet facilities available in parliament to do a thorough research to broaden their horizon.

not enjoy any phenomenal majority in parliament (it controlled 100 out of 200 seats) and therefore needed to really toe the party line to make any meaningful impact in the fashioning out of policies in line with their manifesto promises. Thirdly, the defeat of the NDC in the 2000 elections had made its MPs extremely bitter. The new government was bent on improving upon the governance of the country to justify the overwhelming confidence reposed in them by the electorate. The MPs of the ruling government were therefore prepared to use their slim majority to push through most of their policies and in the process tended to ignore the suggestions of the minority.

The four Parliaments passed a total of 317 bills which translate to an averaged of 19.8 bills per session. Even though this figure is below the commonwealth average of 24 bills per session, as a developing country, it is encouraging considering the fact that parliament faces serious constraints which have been explained elsewhere in this work.

The Second Parliament of the Fourth Parliament appears to be the best since it had very good materials. This parliament passed the least number of bills (64) into laws and rejected 14 bills. This indicates proper scrutiny of bills by this parliament. The presence of a crop of very competent members from NPP contributed in no small measure towards the victory of the party in the 2000 general elections. The 61 NPP MPs in the second Parliament gave the party a good public image and gave the impression that they are capable of formulating and implementing very enduring public policies if given the mandate.⁶⁶ Our respondents generally scored very high for the performance of the first four Parliaments of the Fourth Republic. As shown on table 5.25 below, 15% of the

respondents were of the view that the performance of the first four parliaments in policy making is very satisfactory with an overwhelming 85% maintaining that their performance was satisfactory.

It is interesting that our respondents rated the performance of parliament since its inception as satisfactory. In table 5.26 below, while 87% of the respondents noted that the performance of parliament has been satisfactory, 13% of them argued that the performance of the institutions is very satisfactory.

Table 5.25: How do you rate the first four Parliaments in terms of public policy making?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very satisfactory	15	15.0	15.0	15.0
	Satisfactory	85	85.0	85.0	100.0
	Total	100	100.0	100.0	

Source: Field Work, May-July, 2011

Table 5.26: How do you assess the performance of parliament since its inception in 1993?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very satisfactory	13	13.0	13.0	13.0
	Satisfactory	87	87.0	87.0	100.0
	Total	100	100.0	100.0	

Source: Field Work, May-July, 2011

5.15 Parliament and Representation

The legislature has the power of representation which is to aggregate and articulate the interests of the constituents and strive to advance their respective objectives in the policy making process. Many issues will otherwise not be heard if it were not for the power of representation of parliament. Issues which are feasible and rational are the ones which

attract government attention and these are sometimes brought to the attention of the government by MPs. Parliament of Ghana is the institutional mechanism through which the society experience representative governance on a day-to-day basis. Regardless of the type of the electoral system by which members of the legislature gain their seats, the main purpose of individual legislators and the body they belong to is to represent the varied and conflicting interests extant in society as a whole.⁶⁷ The issue of representation also brings into sharp focus the issue of the size of parliament.

The size of a parliament has a bearing on its performance. The size of parliament influences its capacity in legislative work. There is the assumption that members constitute quality human resources capable of legislative work. They offer their individual skills, contacts, and time to fulfil the collective responsibility of the institution. When it comes to the business of the House, including the assessment of proposed legislation, drafting of amendments, scrutinizing budgets, reading of MDA reports, introducing motions, asking questions, attending committee and plenary meetings, participating in debates among others, more members simply means more hands to get the various jobs done.⁶⁸

It must be noted also that the size of parliament also influences capacity by affecting the need for human, infrastructural and financial resources. Specifically, the more members a parliament has, the more office accommodation, as well as support staff may be necessary to facilitate the work of the institution. Financial resources will also be needed to pay salaries and other allowances to boost the morale of MPs to peak performance.

Where the support systems are provided, the increase in the size of the legislature is likely to affect the institution positively.

The size of parliament is also related to the size of the population it represents. Generally, MPs in Africa are less fortunate than their counterparts in Europe. While on the average an MP represents about 110,000 people, his counterpart in Europe represents 89,000 people. There are however, wide variations in Africa. While in Cape Verde and Lesotho an MP represents 6000 and 15,000 respectively, in South Africa an MP represents 110,000 citizens. The situation in Nigeria is even more worrying as a Senator in the National Assembly represents 320,000.⁶⁹

In Ghana, under the first three Parliaments, one MP represented about 110,000 citizens. Even though this figure compares favourably to the African average, it lags behind the European average of 89,000 citizens to one MP. This situation, however, improved under the Fourth Parliament when as a result of the increase in parliamentary seats from 200 to 230, one MP represented 100,000 people. One must, however add that there are wide constituency disparities. For instance, while an MP for Weija in the Greater Accra Region represented 180,000 citizens during the fourth Parliament of the Fourth Republic, his/her counterpart in Ketu South represented about 100,000 in the same parliament. The situation in some rural constituencies presents a picture which forces one to conclude that some people are underrepresented. The MP for Nadowli East, represented less than 30,000 people which is even far below the European average of 89,000. Representation must be so fairly weighted to ensure even representation.

Asked whether the increment of the number of seats from 200 to 230 in 2004 has had any impact at all on parliament, 74% of respondents (table 5.27) had no doubt that it has made it possible for the people of Ghana to be adequately represented. About 6% of the respondents also maintain that the availability of 30 additional people means more people are available to serve on various committees of the House. Others (6%) contend that more people in the legislature also means the likely availability of varied expertise to help the institution deal with the various technical issues it may be confronted with.

Table 5.27: How has the increase in parliamentary seats from 200 to 230 enhanced the role of parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	More members are available to serve on various committees	6	6.0	6.6	6.6
	It makes it possible for the people of Ghana to be adequately represented	74	74.0	81.3	87.9
	It ensures that more expertise are brought to bear on decision	6	6.0	6.6	94.5
	All the above	2	2.0	2.2	96.7
	1 & 2	1	1.0	1.1	97.8
	1, 2, & 4	1	1.0	1.1	98.9
	2, 3, & 4	1	1.0	1.1	100.0
	Total	91	91.0	100.0	
Missing	System	9	9.0		
Total		100	100.0		

Source: field work, May-July, 2011

5.16 The Characteristics of MPs

It has been argued that knowledge will always govern ignorance, and a people who mean to be their own governors must arm themselves with the power that knowledge gives them. A popular government with popular information or the means of acquiring it is but a prologue to farce, or perhaps both.⁷⁰ The quality of MPs by way of education must

reflect in the quality of debates and the number of people contributing to debates. Maturity in age must also sometimes result in improvement in the quality of debates. It is however, important to note that maturity short of good quality education will not produce the required effect. Maturity also comes with the longevity of service in parliament. This imbues an MP with the requisite institutional memory and parliamentary practices and procedures to handle issues fairly well. To be successful in parliament requires good education, professional competence, experience and exposure.⁷¹

Education and training cannot be ignored as an important pre-requisite for developing the capacity in rational debates and decision making in the legislature. In point of fact, formal education and training increase an individual's store of knowledge, extends his repertoire of competence and skills and deepen his insight on values.⁷²

Even though the educational background of MPs has improved considerably since 1993, the relationship between this increase in the educational level and the quality of public policies is very difficult to establish. Our interviews revealed that it is not just enough to have a higher degree or education but this training must be complemented by the right competencies and skills. The general characteristics of MPs as shown on the table below indicates that consistently, there has been a very high attrition rate which, to a very large extent, impact adversely on the operations of the institution. New members normally need not less than one year to learn the ropes of parliamentary practice before they can become very useful to the institution. Unfortunately, parliament has to function even when a large chunk of the MPs are new and have to learn.

Table 5.28 below indicates that the new members introduced to parliament were 100% in 1993 but our interview revealed that out of the total of 200 MPs, only three had had previous parliamentary experience. In 1996, the share of new MPs was 68%. This was very high because the decision of the opposition parties to contest the 1996 elections meant that the NDC MPs who represented their constituents from the opposition strongholds, particularly in the Ashanti region lost their seats. The share of new MPs in the third parliament reduced to 42% but it rose to 56% in the fourth parliament. The above analysis demonstrates that there is a very high attrition rate in parliament. The implication is that if you have an institution in which about half of the members lose their seat every election, it weakens its capacity to perform its core mandate because it will lack the personnel with the competencies, experience and institutional memory to impact positively on decision making. High attrition rate coupled with rather amateur membership, and weak support base seriously undermine the capacity of the legislator to act knowledgeably and independently on complex and technical legislative matters.

Increasingly, the educational background of MPs has improved consistently since 1993. In the first parliament, the number of MPs with first degree was 47%, while those with second degree accounted for 17%, with 5% of them holding PhD, (table 5.28). During the second parliament, the MPs with first degree rose from 47% in the first parliament to 65%. Those with second degree also increased from 17% in the first parliament to 19%, while those with PhD dropped slightly to 4%. The trend in the third Parliament was slightly different. While those with first degree dropped to 57%, those with second degree rose from 19% in the second parliament to 27%. The fourth parliament witnessed

very interesting combinations. MPs with first degree rose again to 68%, while those with second degree still stood at 27% with the PhDs accounting for 5%.

Table 5.28: Characteristics of MPs

	First Parliament (1993-1996)	Second Parliament (1997-2000)	Third Parliament (2001-2004)	Fourth Parliament (2005-2008)
Turnover:				
Share of new MPs	100%	68%	42%	56%
Education:				
MPs with first degree	47%	65%	57%	68%
MPs with second degree	17%	19%	27%	27%
MPs with PhD	5%	4%	n.a.	5%
Age:				
MPs age 45 and below	58%	43%	n.a.	25%
MPs age 40 and below	32%	18%	n.a.	10%
Average age	45 years	48 years	49 years	51 years
Gender:				
Share of MPs who are female	8%	9%	9%	11%

Source: Parliament of Ghana, May, 2010.

One would have expected that the constraining effect of articles 78 and 108 in particular would have prompted our respondents to cite constitutional limitations and inadequacy of the Standing Orders as major constraints to effective performance of the institution. Rather, 94% of the respondents as shown on table 5.29 below indicated that they are comfortable with the legal framework which guides the conduct of legislative business. In fact, 16% of them said the legal framework is very adequate, while 78% said it is adequate. Only a paltry 5% argued that the Constitution and the Standing Orders fall short and are unable to aid them efficient and effectively in their legislative work.

Table 5.29: How adequate is the constitution and the Standing Orders in aiding the work of parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very adequate	16	16.0	16.2	16.2
	Adequate	78	78.0	78.8	95.0
	Inadequate	5	5.0	5.0	100.0
	Total	99	99.0	100.0	
Missing	System	1	1.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

Our respondents generally lauded the quality of leadership in parliament over the years. Table 5.30 below shows that 96% of the respondents explained that leadership has generally been fair and exhibited a high level of impartiality in their dealings with the rank-and-file. A paltry 4% of the respondents expressed serious misgivings about the quality of leadership provided in parliament. Pressed further to ascertain the rationale behind this position, they indicated that leadership has been very selfish and has not given the young MPs the opportunity to serve on some of the critical committees.

Our interviews further revealed that although the nomination of the Speaker and Majority and Minority leaders are vested in parliament and the respective parties, the executive has generally exerted a preponderance of influence in the selection process. In the first two parliaments from 1993-2000, Justice Daniel Francis Annan, a former member of the PNDC was made the Speaker. His political background ensured favoured the NDC in most of the decisions he took thereby promoting excessive partisanship in the House, especially after 1996. The election of Peter Ala Adjetey, a former chairman of the NPP as the Speaker in 2001, brought some legislative activism as he sought to wean the legislature of executive control especially in financial matters.

Table 5.30: What is the quality of leadership in Parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very effective	16	16.0	16.0	16.0
	Effective	80	80.0	80.0	96.0
	Ineffective	4	4.0	4.0	100.0
	Total	100	100.0	100.0	

Source: Field Work, May-July, 2011

5.17 Conditions of Service of MPs

Another variable considered in this work is the condition of service of MPs. The condition of service of the MP is determinant of the legislature's assertion of autonomy and impact on policy making. We consider here a gamut of factors that hinder the MP from performing his/her constitutionally assigned roles.

On research assistants, our interview revealed that while 52% (table 5.31) of our respondents had research assistants assigned to them by Parliament, 46% of them indicated that they did not have research assistants. Even though majority of our respondents agreed that research assistants are necessary, they suggested that these assistants must be chosen on merit and not dumped on them as is the current practice.

Table 5.31: Do you have a personal assistant/research assistant assigned to you by Parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	52	52.0	53.1	53.1
	No	46	46.0	46.9	100.0
	Total	98	98.0	100.0	
Missing	System	2	2.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

On whether the research assistants available to MPs are effective, 5% of the respondents maintain that their research assistants are very effective, 29% of them say they are effective, with 30% of them arguing that they are not effective (table 5.32). For those who maintain that their research assistants are very effective or effective, they posit that this they had personnel with the requisite background training and therefore fit into their new roles as legislative assistants.

However, those who stated that the research assistants are not effective made very scathing remarks about research assistants assigned to them and suggested ways to make them useful to the institution. An MP lamented that: *“research assistants are normally dumped on us without recourse to what we need as MPs. This I find very patronizing. We need to know their background and what competencies they bring to the job. We need national service personnel who will have institutional memory. We need research assistants who are part of parliament and build capacity over time. Their quality research can largely improve the quality of debates in the House and subsequently the quality of public policies. They must be available for at least four years to support the work of MPs. Their conditions of service must be attractive to motivate them to peak performance”*.⁷³ It was pointed out by our respondents that in most cases, national service personnel who do not even have the basic skill to do proper research are sent to parliament as research assistants.

Table 5.32: How effective is the personal research assistant?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Effective	5	5.0	7.8	7.8
	Effective	29	29.0	45.3	53.1
	Not effective	30	30.0	46.9	100.0
	Total	64	64.0	100.0	
Missing	System	36	36.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

An overwhelming majority of MPs do not have offices in parliament and this even makes the assignment of research assistants very irrelevant since they and their bosses have no office space to work.

Table 5.33 shows that only 10% of our respondents have offices in parliament. The 10% of our respondents who have offices in parliament are those in leadership positions. Unfortunately, about 84% of the respondents said that they do not have offices in parliament and have to operate from either the lobby of parliament or their car boots or from their homes. Considering the number of visitors who are usually at the lobby of parliament every day, one wonders how effective these MPs can be if they have to use this area literally as their offices. It is also important to note that the MPs must be accessible to their constituents and the public and one wonders if by operating an office from the home, the MP is not denying the public accessibility.

Table 5.33: Do you have an office in parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	10	10.0	10.6	10.6
	No	84	84.0	89.4	100.0
	Total	94	94.0	100.0	
Missing	System	6	6.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

The MPs who have offices argued that these facilities are adequate for the purposes for which they have been provided but a large majority of the MPs are of the view that the absence of proper office accommodation has a serious effect on their work. In point of fact, a cumulative 34% of the respondents as shown on table 5.34 below were satisfied with the accommodation facilities in parliament. The fact that 66% of the our respondents did not even respond to the issue of whether their offices were adequate or not indicate that either they do not have office accommodation themselves or they are not happy with the existing state of affairs where majority of them do not have this essential facility to help parliamentary work.

Table 5.34: If yes, how adequate is this office for the needs of a legislator?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very adequate	9	9.0	26.5	26.5
	Adequate	16	16.0	47.1	73.5
	Inadequate	9	9.0	26.5	100.0
	Total	34	34.0	100.0	
Missing	System	66	66.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

The general lack of office accommodation for MPs seriously hampers their ability to organize research, meet their constituents and generally avail themselves to the public in a professional manner to discuss either constituency or national issues. Most of our respondents were quite worried that as a key institution, parliament must as a matter of urgency provide for office accommodation for MPs to aid their work. One former MP laments the general lack of accommodation for MPs by noting that *“for twelve years, I did not have an office. My car boot was my office. All the researches were supposed to be done by the MPs themselves. The Research Department was only established in 2002.*

*Even the residential accommodation is not suitable. An MP is allocated just two bedrooms flat. One is therefore compelled to keep two homes with economic and social implications”.*⁷⁴

The above statement was subsequently confirmed by the responses we received when administering our questionnaire. The lack of office accommodation compels MPs to resort to a variety of sources to serve their constituents.

As captured on table 5.35 below, 44% of our respondents indicated that they maintain office accommodation at home. About 16% of them prefer operating from the lobby of Parliament. This practice makes the lobby of parliament an extremely chaotic place since MPs meet their constituents and other visitors there. This situation, they contended, is highly unprofessional. For 10% of our respondents, their car boots serve as an alternative office accommodation. The researcher witnessed on countless occasions, MPs attending to people from their car boots with all the inconveniences one can imagine.

Table 5.35: If no to 33, how do you operate as an MP without this essential tool?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	I have a personal office at home	44	44.0	54.3	54.3
	I operate from the lobby of Parliament	16	16.0	19.8	74.1
	I use my car as an office when I am in parliament	10	10.0	12.3	86.4
	I use the library as my office	5	5.0	6.2	92.6
	All the above	2	2.0	2.5	95.1
	1, 2, & 3	2	2.0	2.5	97.5
	3, & 4	1	1.0	1.2	98.8
	2 & 3	1	1.0	1.2	100.0
	Total	81	81.0	100.0	
	Missing	System	19	19.0	
Total		100	100.0		

Source: Field Work, May-July, 2011

5.18 Offices of MPs in the Constituencies

In order to facilitate their work in the constituency, most MPs maintain their own offices. This is where they receive complaints and attempt to address some of the needs of the people either personally or through the help of a governmental agency.

About 70% (table 5.36) of our respondents said that they have offices in their constituencies with 30% saying that they do not have such facilities. Even though offices are not provided to these MPs, they consider this facility extremely important to the smooth functioning of the MP since it provides a means of visibility and accessibility of the MP to the constituents.

Table 5.36: Do you have an office in your constituency?

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid Yes	70	70.0 %	70.0	70.0
No	30	30.0 %	30.0	100.0
Total	100	100.0 %	100.0	

Source: Field Work, May-July, 2011

Out of the 70% who indicated that they have offices in their constituencies, 61% stated that they finance these offices themselves while 2% argued that their political parties support them to pay for the office accommodation in their constituencies (table 5.37). The maintenance of office accommodation, we found, help the MP aggregate and articulate the interests of his/her constituents.

Table 5.37: If yes, who pays for the maintenance of the office?

		Frequency	Percent	Valid Percent	Valid Percent
Valid	Myself	61	61.0	82.4	82.4
	The government	1	1.0	1.4	83.8
	Parliament	10	10.0	13.5	97.3
	Politically	2	2.0	2.7	100.0
	Total	74	74.0	100.0	
Missing	System	26	26.0		
	Total	100	100.0		

Source: Field Work, May-July, 2011

5.19 Salary Levels of MPs

As shown on table 5.38, although the salaries of MPs tripled and doubled during the third and the fourth Parliaments respectively, the terms and conditions of MPs in Ghana remain among the lowest in Africa.⁷⁵ In fact, the salary given to the MP in Ghana is woefully inadequate and so if care is not taken very capable people will not be in parliament, because they will not be motivated enough to compete for seats.⁷⁶

Table 5.38: Gross Monthly Salary of MPs including (allowances in US\$)

	First Parliament				Second Parliament				Fourth Parliament							
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
MPs' Salary	591	461	535	494	414	437	374	389	722	770	1322	1293	1,340	2,300	2,760	2,760

Source: adopted from Lindberg, Co-optation despite Democratization in Ghana 2009, p. 167

In fact, as high as 87% of respondents (table 5.39) indicated that their salaries are not attractive at all and this makes it very difficult for them to cope with the real business of parliament. This situation gives the MP a divided attention and therefore unable to deliver. The MPs interviewed argued that it is not easy for an MP to cope at all. In this connection, some even expressed the view that the MP's position is good for people who

have made it in life and have probably passed the survival level. They argue that unless something is done about the conditions of service, particularly salaries, it will not be a job for starters. The demands of the job make MPs on the side of the governing or ruling party struggle for positions in the executive by catching the eyes of the president instead of catching the Speaker's eye.⁷⁷

One of our respondents captures the frustrations of the MP in the following statement. *"Because of the desire to make extra money in order to sustain the support given to constituents, many of the senior MPs sit at the back only to make phone calls. Some also chat all through the sitting. They talk about nothing but money. It is also important to state that the number of visitors who call in during sittings is too much and has the danger of disrupting an MP. A culture has to be built to maintain some level of decorum".*⁷⁸ A typical case in point is when the Speaker cautioned members to stay in the House for a vote to be taken on the agreement between the government of Ghana and the Federal Government of United States of America on the surrender of persons to the International Criminal Court (ICC).

The salaries are normally not adequate to take care of the numerous challenges confronting the MP. 2400 dollars which takes care of the MP, his driver, watchman, fuel and car maintenance etc is simply not enough. The extent to which pressure is brought to bear on MPs for monetary support will certainly prevent the competent but not wealthy to come to parliament. If you can survive, then you must have other sources of income in order to cope with the financial pressure that will be brought to bear on them. MPs

struggle for ministerial appointment because it gives one the opportunity to have access to extra income and he/she is better positioned to address some of the societal pressures. Where parliamentary salary is low, MPs tend to be far more vulnerable to becoming dependent on political bosses, especially the heads of the executive and the immediate functionaries, than where salaries are high.⁷⁹

Table 5.39: How attractive is your monthly salary?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Attractive	11	11.0	11.2	11.2
	Not attractive	87	87.0	88.8	100.0
	Total	98	98.0	100.0	
Missing	System	2	2.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

Our interviewees generally bemoaned the low salaries of MPs and the increasing pressure on them. They also contended that the context within which the MP operates is very hostile. One MP succinctly stated that: *“it is your business to look after a constituent who is due for a surgery and cannot pay. If there is a very fatal accident in your constituency it is your business. Even though you do not have a road budget, you need to mediate such that roads in your constituency are fixed, if people are sacked from school it is your business, you have to be an advocate, an economic mediator to mediate between the constituency and other agencies of government. Otherwise you do not impact on their lives. You must pursue their interests at all times. Even though it is not coming from your pocket or your votes, you must know where their interests lie. The pressure on the MP has also to do with the level of poverty and ignorance. It is extremely difficult for the*

electorate to appreciate that the MP is not a development agent but primarily a legislator. This state of affairs makes it difficult for a potential MP to campaign without promising development projects in his constituency. The victor in an election therefore becomes a prisoner of the demands of the people. In Ghana, it is believed that if you have a lot of problems, you go to the elder early in the morning. So by six o'clock in the morning, a typical MP has a lot of visitors to see already".⁸⁰

One other factor which undermines the capacity of the MP to function effectively is the cost of running political campaigns in Ghana. In most cases, the cost is beyond the reach of most potential MPs. A person who wins a seat usually has a huge debt to contend with and therefore right from day one, he/she is looking for money and cannot concentrate on the real business of legislating.

5.20 Personal Development of MPs

We have argued in the work that MPs are rational actors and therefore will always behave in a manner that will enhance their re-election back into Parliament. It is true that parliamentarians are not adequately resourced but one wonders why the competition to get back into the House is so keen. A number of factors are responsible for this trend of affairs. First, the constitutional requirement that majority of ministers must be selected from parliament gives some attraction to being an MP. Because of this constitutional requirement, if you are an MP and your party wins the presidential elections, you stand a better chance of becoming a minister. By any stretch of imagination, being a minister in a developing country offers a lot of advantages to the office holder. We wanted to find out how many times our respondents had been in parliament and how many more years they

hope to serve. About 26% (table 5.40) were first timers in the House and 35% had been in parliament for eight years. 21% of the respondents have served the institution for twelve years and 14% had been in parliament consistently for sixteen years. The mixture of MPs with varying lengths of service in parliament, demonstrates some level of institutional memory which we consider vital for debates.

Table 5.40: For how long have you been in parliament?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Once	26	26.0	26.8	26.8
	Twice	35	35.0	36.1	62.9
	Thrice	21	21.0	21.6	84.5
	Four times	14	14.0	14.4	99.0
	Five times	1	1.0	1.0	100.0
	Total	97	97.0	100.0	
Missing	System	3	3.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

It is also interesting to note that as high as 42% (table 5.41) of our respondents indicated their preparedness to continue serving the nation in that capacity as long as their constituents find them suitable to serve. This underscores the rational choice institutional aspect of our MPs. On one hand the MPs argue that their work is very frustrating because of the enormous pressure that is brought to bear on them coupled with low salaries and poor conditions of work as the analysis above shows. If this is granted, then, one would have expected that this position will no longer be attractive, but the evidence as presented above does not support this conclusion. People are prepared to do anything, from undermining their opponents to doling out money for purposes of vote buying just to get elected back to parliament. It must be attractive to be an MP.

Table 5.41: How many terms do you want to serve in parliament?

	Frequency	Percent	Valid Percent	Cumulative Percent
As long as my people will continue to return me to power	42	42.0	49.4	49.4
Four term	16	16.0	18.8	68.2
Five term	4	4.0	4.7	72.9
Three terms	16	16.0	18.8	91.8
Two terms	7	7.0	8.2	100.0
Total	85	85.0	100.0	
Missing System	15	15.0		
Total	100	100.0		

Source: Field Work, May-July, 2011

It is interesting to know that if one will want to retain a parliamentary seat, “constituency surgeries” are very important. The average Ghanaian voter wants to see his MP regularly in order to make certain demands such as the payment of school fees, hospital bills, national health insurance premium, placements in Junior High Schools and Senior High Schools, job placement, among others. The community as a whole expect the MP to facilitate the construction of local feeder road, drugs for the local health post, textbooks for local secondary schools, and boreholes to facilitate the communities’ access to portable water etc. Legislators in Ghana like their counterparts in most of Africa are expected to provide for the individual and collective needs of the local constituency otherwise he/ she stands the risk of losing the next election.⁸¹

MPs are motivated by three things; (a), their own re-election, (b), the election of their party’s candidate if they are not contesting again and (c), their place in history. These considerations weigh heavily on every decision MPs take. This explains why as high as 61% (table 5.42) of our respondents indicated that they spend between 21%-40% of their time in their constituencies. Interestingly, those who spend less than 20% of their time in

their constituencies accounted for a paltry 8% of the respondents. This indicates the importance MPs place on their service to the constituencies. About 7% of the respondents indicated that they spend about 61% of their time in the constituency. While we agree that this figure may be too high taking into consideration the amount of time usually spent in parliament, these are MPs whose constituencies are either in Accra or are very close to Accra.

Table 5.42: What percentage of your time do you spend on your constituency?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Below 20%	8	8.0	8.5	8.5
	21 - 40%	61	61.0	64.9	73.4
	41 - 60%	18	18.0	19.1	92.6
	Above 61%	7	7.0	7.4	100.0
	Total	94	94.0	100.0	
Missing	System	6	6.0		
Total		100	100.0		

Source: Field Work, May-July, 2011

About 51% (table 5.43) of our respondents maintained that they spend between 21% and 40% debating in Parliament. The interview also revealed that about 33% of the respondents spend about 6% of their time in parliament. Even though the absolute time spent in parliament does not necessarily guarantee the quality of debate and public policies, it is important to note that the demands on the MP which restrict him from fully concentrating on the business of legislation impacts adversely on the performance of the institution as a whole.

Table 5.43: What percentage of your time do you spend in parliament debating policy issues?

		Frequency	Percent	Valid Percent	Relative Percent
Valid	Below 20%	2	2.0	2.1	2.1
	21 - 40%	51	51.0	53.7	55.8
	41 - 60%	33	33.0	34.7	36.0
	Above 61%	9	9.0	9.5	10.0
	Total	95	95.0	100.0	
Missing	System	5	5.0		
Total		100	100.0		

Source: Field Work, May-July, 2011.

5.21 Conclusion

The chapter has demonstrated the complex nature of legislation making and the contextual variables that shape public policy making in Ghana. It has demonstrated the process of legislation making which invariably shade imperceptivity into public policy making in Ghana. The chapter underscored the critical role usually played by the legislature in the policy making process.

The chapter further affirms the hypothesis that the legislature's output as far as policy making is concerned is informed by the context within which it works. The discussions therefore brought to the fore the institutional and other environmental constraints that bedevils the performance of the legislature in public policy making in Ghana. The chapter revealed that the institutional capacity of parliament of Ghana is weak and this, coupled with the unfavourable constitutional architecture and the desire of MPs to operate as rational actors, combine to weaken the legislature and make it subservient to the executive. The chapter further identified other constraining variables to the effective performance of the legislature especially in the area of public policy making in Ghana. In

spite of some modest gains made by the legislature, parliament continues to remain weak as compared to the executive. The desire of the country to nurture an enduring democracy with the legislature performing an effective role in policy making will require a huge institutional reconfiguration and the provision of the necessary support services and the better appreciation of the role of the legislature by the entire citizenry in the governance structure of the country.

The main findings of the work that the structure and the institutional architecture of parliament shapes the behaviour of MPs, confirms the central theoretical argument of rational choice institutionalists that institutions shape actions by offering opportunities and impose constraints. The importance of institutions, from the perspective of rational choice institutionalists stems from their mediating effect on the calculations of actors, and new institutionalism becomes an “institutional incentives” or a “choice within constraints” approach. The study has found out that even though MPs tend to be utility maximizers, their actions are constrained by the institution of parliament. This further confirms the fundamental argument of rational choice institutionalists that utility maximization can and will remain the primary motivation of individuals; those individuals may realize that their goals can be achieved most effectively through institutional action.

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CHAPTER SIX

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

We set out in this work to critically examine parliament and public policy making in Ghana. Even though our main focus was on the first four parliaments of the Fourth Republic, covering the period between 1993 and 2008, we had to provide a historical background to the institution of parliament and the trajectories it has gone through since its inception in the 1850s. Institutionalists contend that history matters not merely to increase the reference points for analysis, but other reasons including the fact that political events happen within historical context, which has a direct consequence on the decisions and events; the actors and agents can learn from experience knowing very well that behavior, attitudes and strategic choices made by individuals and states take place inside particular social, political, economic and even cultural contexts; and finally, expectations from a political institution are molded by the past. Policy making itself is a complex process involving several actors. It involves both official and unofficial actors.¹

It is a truism that we live in an executive-centered era, in which the effectiveness and efficiency of government largely depends on the leadership the executive provides in the formulation and implementation of public policies². The relevance or otherwise of parliament in the policy making process largely depends on the constitutional configuration and the power dynamics within which it operates.

This chapter is therefore devoted to summarizing the findings of the study, and recommendations that will help enhance the performance of parliament. The following questions were addressed:

1. What have been the key findings of the work?
2. What recommendations will improve the performance of Parliament especially in the area of public policy making?

6.2 Summary of Findings

The study was anchored on the hypothesis that the effectiveness of parliament in policy making largely depends on the context within which it works. The study identified a number of contextual variables which impact on the operations of parliament since the inception of the Fourth Republic. The study came out with the following findings.

Firstly, the study found out that public policy making process in Ghana is heavily dominated by the executive with the others, the judiciary, the legislature, the mass media, civil society organizations and individuals playing largely peripheral roles. The generally low level of political development coupled with the history of coup making have combined to impose on the people a seemingly subject participant political culture which tends to impact adversely on policy making process in the country. Ann Swider has argued succinctly that culture represents a tool kit from which people select both institutionalized ends and the strategies for their pursuit.⁴ The executive, with the mandate to govern, has generally occupied the largest portion of the policy space. The continued process of democratic consolidation has, however, demonstrated some positive

signs towards pluralism in the policy making process with other actors asserting their autonomy. Parliament is beginning to show some bite as a credible institution capable of serving as a representative institution with a determination to impact positively on public policy making in the country. The snag, however, is that the executive is in no mood to relinquish its dominance in policy making to any other organ of the state let alone the legislature. The fact, however, still remains that the parliament of Ghana is still an institution of subservience. The executive is too domineering and so long as the majority is coterminous with the government, this subservience will continue.

Secondly, the study revealed that the process of institutionalization of parliament has taken a long, albeit checkered roots and this has largely accounted for the seemingly weakness of the institution as compared to the executive and even the judiciary. The frequent military interference in politics with their concomitant truncation of parliamentary democracy has robbed the institution of the path dependency it so badly requires to fully mature. The basic problem with the first parliament of the fourth republic was generally due to lack of expertise and institutional memory to prosecute the legislative agenda. An institution persists over time because of its capacity to solve certain collective problems. The implicit or explicit claim is that rational actors produced these outcomes in order to solve these problems.

It is appropriate to point in this context that Rational Choice Institutionalists view institutional equilibrium as the norm. They argue that the normal state of politics is one in which the rules of the game are stable and actors maximize their utilities (usually self-

interest) given these rules. As actors learn the rules, their strategies adjust and thus an institutional equilibrium sets in. Though not everyone may be happy with an institutional structure, a significant coalition is or else it would not, by definition, be stable. Once stabilized, it becomes very difficult to change the rules because no one can be certain what the outcomes of the new structure would be. This is because institutions shape strategies and new institutional rules implies new strategies throughout the system. Scot contends that institutional framework define the ends and shape the means by which interests are determined and pursued.⁴ In a period where the institutions do not enjoy continuity like the parliament of Ghana before 1993, the process of institutionalization is adversely affected.

Thirdly, the study found out that the committee system in Ghanaian parliament is weak. The support system available to the various committees by way of personnel, committee rooms, expert advice and financial resources are weak and therefore contribute to making the work of the various committees very difficult and unable to fully impact on policies and programmes. There is also very low attendance and the fact that members serve on multiple committees engender divided attention and upend full contribution to all the committees on which one serves. There is also too much attention on few of the committees, especially the Public Accounts Committee, the Business Committee, the Finance Committee and the Committee on Constitutional, Legal and Parliamentary Affairs. Even though consensus sometimes characterizes the decisions of the various committees, this only happens when they are dealing with less controversial issues. In deciding upon controversial issues the committees tend to be as divided as the House

itself. The high rate of turnover of members also affects the continuity that members need to fully appreciate the dynamics of committee work. The majority party also uses the committee system to articulate their policy goals.

The cumulative effect of these factors is that the parliament of Ghana has produced a chamber-dominated committee emphasizing the subordination of committees to the parent chamber. The creation of the committee system is therefore seen as the need for the parent chamber to promote division of labour, search for experts and information to handle the various issues that come before the House so that it can perform its functions optimally. Strong committees must be valued as a minimal necessary condition for effective parliamentary influence in the policy making process.⁵ It was also revealed that parties and committees are strongly linked and a common assumption is that the stronger political parties are in Parliament, the less important the committees are and vice versa.

In spite of the current weakness of the committee system, it gives the members the opportunity to do their work as MPs. The committee system affords MPs to put their expertise and experience at the disposal of the House. After all, it is at the committee level that the real input of an MP is fully felt. However, the holding of deliberations of the committees in secret often obscures their effects on policy.

Fourthly, the study revealed that the existence of single-member constituency affects the capacity of MPs to fully concentrate on the business of legislation making in the House. The single-member constituency coupled with the patron-client politics in Ghana ensures

that electorate expects so much from the MP even beyond what his/her personal capacity is. Single-member constituency coupled with the generally low level of education on the role of the legislator and the failure of aspiring MPs to be moderate in their promises to the electorate during electioneering campaigns combine to put enormous pressure on MPs. It therefore becomes extremely difficult for starters to retain their seats in swing constituencies. The MPs have developed a hybrid character consisting of combining the formal expectations and the informal norms of being a father/mother of the constituency by providing both private and public goods to the constituents. According to Lindberg⁶, the hybrid configuration of the MP's office puts enormous pressures on the office holders to be responsive to constituent's needs and priorities and this has produced an agent-principal relationship. The effect of this relationship is the over concentration of an MP on constituency surgeries rather than issues of national policy. This position is also in line with what Joel Barkan⁷ has said of emerging African legislatures that MPs elected from single member constituencies especially in agrarian societies where political interests are defined in local and geographic and communal terms, are under constant pressure from their constituents to service their constituencies.

Fifthly, it also emerged that the existence of the hybrid system of government undermines the institution of the legislature. It changes the power dynamics in favour of the executive and ensures that it trumps the legislature. The executive seem to be overwhelmingly dominant in the governance process of the country. The legislature therefore plays second fiddle to the executive in terms of resources and powers.

Sixthly, it was also evident that the increase in the number of seats from 200 to 230 in 2004 only had representational value as the move ensured that people who were hitherto underrepresented were given a new opportunity to be properly represented. However, the increase in parliamentary seats did not lead to any qualitative improvements in debates and public policy making in parliament.

Furthermore, debates in the first two parliaments tended to be much heated and scrutiny of various bills done by parliament was much better than the second two parliaments. Collaborative atmosphere characterized the committee deliberations of the first two parliaments than the third and fourth parliaments. In short, the independence of the legislature was threatened and the debates in both the chamber and the committee rooms tended to be much more muted in the second and third parliaments than in the first two parliaments.

In addition, our work revealed that the inner workings and structuring of parliament are important factors that impinge on its ability to influence policy outcomes and also hold the executive accountable. This position is in accord with the new institutionalists position that policies are shaped by institutions through which they are processed.

It has also become clear through the study that parliament's capacity to influence the budgetary process is very limited. This has been the case because in all hybrid systems of government the powers of parliament in the budget process are limited to debating the final document and making amendments where necessary. Furthermore, the enjoyment of

parliamentary majorities by the ruling parties coupled with strong party discipline undermines parliament ability to influence public policy process. According to Stapenhurst⁸, the existence of a strong and dominant party majority aided by strong party discipline weakens parliament's ability to impact positively on the budget process. Also, the generally lack of budget research capacity does not allow parliament to make informed contribution to the formulation and adoption of budgets.

Finally, the study revealed a critical capacity gap in parliament and this largely militates against its performance. This capacity gap is manifested in several areas including lack of financial autonomy of the institution, generally inadequate office accommodation, poor library facilities, weak research base, ineffective legal department, and lack of critical skills on the part of MPs to effectively handle their work.

6.3 Recommendations

To effectively perform as an autonomous parliament capable of playing a significant role in the policy making process calls for the revamping of the incentive structure. This will ensure, to a large extent, which MPs devote more time and effort to the functions of the legislature in the broad sense, and to policy making, while ensuring that their reputations for constituency service are not compromised. Salaries and other conditions of service must be revised to make them financially self-sustaining. This will help them stay focused and work assiduously to project the image of parliament.⁹

There is also the urgent need for the establishment of drafting unit in parliament staffed by experts to help those MPs who want to introduce Private Members' Bill to do so. Since the cost of drafting bills is very high, one would expect that the presence of drafters in the House will aid the institution to venture into the uncharted waters of Private Members' Bill. The ability of MPs to introduce Private Members' Bill will provide the MPs with a unique opportunity to effectively translate the pressing needs of constituents into legislation and thereby influence government policies and programmes. Even if a Private Members' bill does not make it to the final stage of the legislative process, it would succeed in putting an issue on the systemic agenda which may be taken up by the government, the donor community or a non-governmental organization.

To ensure sound financial autonomy, parliament must initiate, develop and approve its own budget devoid of the usual scrutiny by the Ministry of Finance and Economic planning. The situation where the budget of parliament goes through the normal budgetary process does not allow for financial autonomy and it makes the parliament vulnerable and susceptible to influence and manipulation by the executive thereby reducing it to a mere rubberstamp one. Then also, there is the need for adequate provision of funds for parliament to work effectively. There must be amendment to parliamentary services act to make the budget of parliament charged on the Consolidated Fund. Availability of resources is critical besides the constitutional and legal guarantees.

It is further recommended that there must be effective leadership for both the majority and minority. This calls for the strengthening of the whip system as well as enhancement of the offices of the majority and minority leaders.

It is also important for some orientation programmes to be organized for new MPs. This orientation must be on-going and leadership must take the capacity building of parliament very seriously. It is again important for the leadership to put a lot of premium on attendance in parliament. This must be complemented by the commitment of the leadership to the growth and development of parliament and parliamentary practice. The current situation where the leadership on the majority side calls members to show up on the floor of the House only to vote on important bills before it is not good enough. Many of the MPs who are ministers are only called to participate in the deliberations of the House when there is an important issue before it.

There is equally the need for the establishment of Budget Office to support the work of parliament and the committees to enhance effective engagement in the budget process. This will allow for independent analysis of the budget statement and help MPs make informed contributions towards the shaping of this all important policy document. Parliament needs to be capacitated to deal adequately with the budget. There is the need for effective consultation of experts and research institutions and well trained support staff to assist parliament in its duties. The revision of the budget time is absolutely necessary. Wider participation would require more time, and more time is also needed by Parliament to be able to scrutinize the budget properly. Parliament also needs more

resources, including funds to allow it to obtain expert advice and to hire assistants.¹⁰ It is also important for the government to show more openness and make the budgetary process a participatory one for Ghanaians to set their development priorities. To facilitate this, there is the need for parliament to hold public hearings on the budget so that the citizens can participate.

There is also the need to strengthen the Auditor-General's Department by guaranteeing its autonomy and thereby enhance its effectiveness. It is commendable that while the executive budget proposal provides substantial information that allows citizens to have some fair idea of government's revenue plans and expenditure for the coming year, it is however not made available on time for public debates and inputs. It has been suggested that to make the budget more credible and ensure the rule of law in the budget process, the budget proposal should be available to the public and to the legislature prior to being finalized, at least three months before the start of the budget year to allow for sufficient review and public debate. It is also necessary for a mid-year review of the budget to be done to strengthen public accountability through the provision of more comprehensive update on how the budget is being implemented during the year.

It is clear from the discussions that parliament needs to play a more active role in the preparation and implementation of the budget. Furthermore, to allow parliament to be fully active in the entire process of the preparation of the budget, a Budget Act has to be passed.¹⁰ Otherwise parliament will continue to play second fiddle to the executive in the preparation and implementation of the budget. Even though, increasingly parliament is

playing a key role in the preparation of the budget from preparation to the implementation. there is the need for the Act to enable the House to take part in the entire budget cycle.

The diminishing role of parliament in the budgetary process is evident in the rest of the world.¹¹ In Britain, parliament has long since ceased to influence budget measures proposed by the executive. In France, the National Assembly has initiated a wide-ranging budget reform that includes a reclassification of the budget to support parliamentary oversight and an expansion of powers to amend expenditure. There is also a trend towards budget activism in the developing world. In Brazil, the Congress hitherto had no significant role in the preparation of the budget. However, in recent years, constitutional reforms have been undertaken to give Congress the power to modify the budget.

The trend in Africa is also encouraging even though progress is slow. South Africa and Uganda have passed financial administration acts or budget acts that give more influence to the legislature during the budget formulation and approval processes. At least, parliament needs about one month to discuss the budget thoroughly. There must be tremendous improvement in the data processing units in the country so that by October, the budget is ready and then parliament will have at least about six weeks to do a proper surgery on the budget.

The committee system must be strengthened. There is the need to provide resources for the committees to engage experts to help in the oversight responsibility. The committees

must have the requisite personnel and specialists to assist in critically examining proposals brought before them.

One area of grave concern is the existence of an omnibus Appointment committee for the vetting of everybody from women and children affairs to energy, among others. Select committees must vet people nominated for ministerial positions in areas under their jurisdictions. This is what pertains in the US. It is also absurd for one to be vetted for a ministerial position and after the person has been sworn-in as say a tourism minister, the next day the person is reshuffled to say, the Finance Ministry without parliamentary approval. It is also absurd for members on the committee to participate in the vetting process as members in one breadth and come in to be vetted at another time when they are nominated for ministerial position. This situation reduces the vetting to a cosmic show as it becomes difficult for MPs to grill a nominee who is one of them. Sometimes one is even aware of the low competencies of the nominees and when an attempt is made to find out the person's suitability for the position, other MPs prevail upon their colleagues to be soft because when he goes he will learn. It is important for a minister who has been nominated for a specific responsibility to be tested in that area to determine the person's suitability. In the US, if you are appointed to superintend over Agriculture, you cannot be reshuffled to energy or treasury departments. It is important to test the competencies of nominees in the area they are going to work to assess their suitability. The appointment of several incompetent people does not help with policy making since for a whole year that minister is learning. It is possible for countries practicing

Westminster system to be more successful at fighting corruption than those who subscribe to presidential system of government.

It is also imperative for a competent research team capable of undertaking rigorous and path breaking research to be set up to support the operations of the House. Generally, without research-based information, the quality of work of the committees will be undermined. This is why research assistants must have the requisite background to assist the MPs deliver on their mandate. This therefore, calls for regular orientations and workshops to sharpen the competencies of the research assistants. The situation where most of the research assistants are floating and do not know what to do must be discouraged. Proper documentation is necessary for effective references to be made by MPs. In the light of this, the recruitment of research assistants must be based purely on merit. Persons so selected must be made to work with the MP for at least four years to allow for continuity and capacity building. Proper monitoring system must also be put in place to check the work of research assistants.

It is important to encourage MPs to participate in some of the high profile committees and not only dumped in those which are not very important. Regular seminars and workshops must be organized to equip MPs with the tools to do their work. MPs must also invest in capacity building. It is important for MPs to develop capacity in Information and Communication Technology so that they can take advantage of the overwhelming flow of information to improve the quality of debates and subsequently public policies.

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Another area of concern is the legal department which needs to be strengthened to give the institution the necessary capacity to advise the leadership on legal dynamics of policies and programmes put before the institution.

Parliament must also have the capacity to monitor the implementation of public policies and programmes. The institution must conform to the dictates of article 103 of the 1992 Constitution which empowers parliament to use the committee system to investigate and inquire into any matter of public concern. In other words, parliament must exercise the investigative powers conferred on it by the constitution and stop the usual practice of calling on the executive investigate issues of national concern when in fact it has the power to do it.

It is clear from the fieldwork that some of the challenges facing the legislature are as a result of the hybrid system. It is therefore recommended that the hybrid system is abolished and a presidential system of government adopted. Under the current hybrid system, too much power is vested in the president and this undermines parliament. There is the need for overarching power in the form of a strong and an autonomous parliament to check the potential abuse of executive power.

Finally, the Speaker must be bold and confront article 108 because it stultifies the initiatives of MPs. The construction of article 108 must be progressive to enable MPs introduce Private Members' Bill.

6.4 Conclusions

The study concludes based on the findings that, the institutional architecture of the 1992 Constitution seriously undermines the capacity of parliament to impact effectively on public policies in the country. This confirms the premise that the context within which an institution finds itself either promotes or undermines its performance. Since its inception in 1993, Parliament has performed modestly as far as the enactment of enduring public policies is concerned. It is, however, sad to state that the continued executive dominance in the policy space coupled with the generally weak capacity of parliament has reduced the institution of Parliament into one of subservience.

The study calls for a general paradigm shift from a hybrid system of government to a presidential system and the need for a legislature with increased capacity in order to function as an independent branch of government, capable of balancing the power of the executive branch and having the necessary information to make independent and informed policy decisions. Increased capacity includes longer sessions, increased staff numbers, including full-time staff, adequate space in which to conduct legislative business, reduction in excessive partisanship, financial autonomy, adequate institutional framework and compensation levels that allow legislators to live without simultaneously performing other tasks.

NOTES

1. James E. Anderson, *Public Policy Making: An Introduction* 7th Edition, (Boston: Wadsworth, 2011), p.48.
2. Ibid, p.59.
3. Ann Swider in Walter W. Powel and Paul J. DiMaggio (eds), *The New Institutionalism in Organisational Analysis*, (Chicago: University of Chicago Press, 1991), p.28.
4. Ibid, p.28.
5. Vibeke Wang: parliament as machinery for political control; the inner workings of Bung: Tanzania in (Sali (ed.), *African Parliaments: Between Governance and Government*, (New York: Palgrave Macmillan, 2005). p.186.
6. Staffan I. Lindberg, "Variation in Performance among Members of Parliament: Evidence from Ghana", *African Power and Politics*, (London: Overseas Development Institute, Working Paper No. 7 February, 2010), p.3.
7. Joel D. Barkan, "African Legislature and the "Third Wave" of Democratization in Joel D. Barkan (ed.), *Legislative Power in Emerging African Democracies*, (Boulder: Lynne Rienner Publishers, 2009), p.8.
8. Rick Staphenurst, "The Legislature and the Budget" in R. Staphenurst, et al (eds.) *Legislative Oversight and Budgeting: A World Perspective* (Washington, DC, World Bank, 2008), p.52
9. Joel D. Barkan, "African Legislature and the "Third Wave" of Democratization in Joel D. Barkan (ed.), *Legislative Power in Emerging African Democracies*, p.8.
10. Tony Killick, *The Politics of Ghana's Budgetary System- CDD/ODI Policy Brief No. 2* November, 2005.) p.2
11. Staphenurst. "The Legislature and the Budget" in R. Staphenurst, et al (eds.) *Legislative Oversight and Budgeting: A World Perspective*, p.53.

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APPENDIXES

Department of Political Science
University of Ghana
Legon
Questionnaire

Introduction

I am a lecturer and a PhD student at the Department of Political Science, University of Ghana carrying out a study on “Parliament and Public Policy Making under Ghana’s Fourth Republic, 1993-2008”. The study is an important component of the fulfillment of the requirement for the award of a PhD. The study is intended to interrogate the role of parliament in public policy making in Ghana. As an important democratic institution, parliament’s role in the policy formulation cannot be underestimated. It is important for rigorous academic study of this all important institution in order to identify the strengths and weaknesses so as to facilitate the development of enduring public policies and programmes. The study will be of critical benefit to Parliamentarians, policy makers, students, academics and all those who want to appreciate the dynamics of parliament and policy making in Ghana.

The study is not for any political party, or government or any of its agencies. The study is for purely academic purpose. Your contribution will be invaluable towards the success of the study. I will therefore be extremely grateful if you could answer the questions as candidly as you can. Please be assured that any information you give will be treated in strictest confidence.

Thank you for your maximum cooperation.

Personal Data

Age 1-30 () 2. 31-40 () 3. 41-50 () 4. 51-60 () 5. 61-70 () 6. 70 and above ()

1. Gender 1. Male [] 2. Female []

2. Name of Constituency

3. Which Political Party do you represent?

1.NDC [] 2. NPP [] 3. CPP [] 4. PNC [] 5. Independent Candidate []

Parliamentary committees and public policies

4. On Which committee (s) have you served since you entered Parliament?

.....
.....
.....

5. What is the relationship between the Parent House and the committees in Parliament?
1. The committee are subordinate to Parent House []
 2. The committees are autonomous []
 3. The committees are semi-autonomous []
 4. The committees have no power on their own []
6. How do the deliberations in the committees reflect partisan considerations?
1. Deliberations reflect bi- partisanship []
 2. Deliberations are informed be partisan considerations []
 3. Deliberations are informed by personal desire to influence decisions []
 4. Deliberations are informed by national interest concerns []
 5. Deliberations are informed by constituency interests []
7. How does the report of the committees reflect the different shades of opinions present in the committees?
1. The report is usually informed by consensus []
 2. The report reflect the opinions of the majority []
 3. The report reflect the opinions of the leadership []
 4. The report reflect the opinions and interest of the ruling government []
8. What percentage of your time do you spend in the committees?

.....

9. What are the major constraints to committee work in Parliament?

.....
.....
.....

10. How can the committee work be improved in Parliament?

.....
.....
.....

Parliamentary Debates and partisanship

11. How do individual Members of Parliament get the opportunity to contribute to parliamentary debates?
1. One must catch the Speaker's eye []
 2. One must be selected by a party leadership []
 3. One must be selected by the clerk of parliament []
 4. One must have demonstrated capacity to articulate views very well []

12. In what ways do parliamentary debates assist the policy making process in Ghana?
1.....
2.....
3.....

13. Do members of Parliament know that their arguments on the floor of the House are likely to sway colleagues to his/her side?
1. Yes [] 2. No []

14. Explain your answer to question 14.
.....
.....
.....

15. What do you consider to be the major obstacles to parliamentary debates in Ghana?
.....
.....
.....

16. How can these obstacles be overcome?
.....
.....
.....

Institutional Capacity of Parliament

17. How many bills does parliament pass into laws in a parliamentary session?
1. 20 2. 24 3. 25 4. 30 5. other

18. How adequate are these numbers compared to what pertains in other commonwealth countries?
1. Very adequate [] 2. Adequate [] 3. Not adequate [] 4. Woefully inadequate []

19. Are you in a position to reject bills brought to the House by the executive?
1. Yes [] 2. No []

20. If yes, can you give an example of a bill which was submitted to Parliament and was rejected by the House?
.....
.....

21. Under what circumstance were these bills rejected by Parliament?
1. The bill did not meet the expectation of Members of Parliament []
 2. The objectives of the bills were not clear []
 3. The bill was too partisan []
 4. The executive did not do any prior consultations before the bill was introduced to Parliament []
22. What makes so difficult for private members to introduce bills to parliament?
1. The constraining effect of the constitution []
 2. Inadequate time at the disposal of an MP []
 3. Lack of legislative drafters []
 4. Unwillingness of MPs to convince their colleagues to rally behind a bill they may want to introduce []
23. How often do you amend bills submitted to parliament?
1. All bills are amended []
 2. Some of the bills are amended []
 3. Most of the bills are amended []
 4. None of the bills is amended []
24. How substantial are these amendments?
1. Very substantial []
 2. Substantial []
 3. Very trivial []
 4. Trivial []
25. What is the nature of amendment you undertake?
1. Changes are made to certain clauses []
 2. Changes are made to certain phrases []
 3. Changes are minor and usually concern spellings and punctuations []
 4. Changes are very significant and alter the content of the policy []
26. How do you rate the first four Parliament in terms of public policy making
1. Very satisfactory []
 2. Satisfactory []
 3. not satisfactory []
27. How do you assess the performance of parliament since its inception in 1993?
1. Very Satisfactory []
 2. Satisfactory []
 3. Not satisfactory []
28. How has the increase in parliamentary seats from 200 to 230 enhanced the role of parliament?
1. More members are available to serve on various committees []
 2. It makes it possible for the people of Ghana to be adequately represented in the legislature []
 3. It ensures effective division of labour to facilitate the work of parliament []
 4. It ensures that more expertise are brought to bear on decision making []

29. How adequate in the constitution and the Standing Orders in aiding the work of parliament?

1. Very adequate [] 2. Adequate [] 3. Inadequate []

30. What is the quality of leadership in Parliament?

1. Very effective [] 2. Effective [] 3. Ineffective []

Conditions of Office of MPs

31. Do you have a personal assistant/research assistant assigned to you by Parliament?

1. Yes [] 2. No []

32. How effective is the personal research assistant

1. Very Effective [] 2. Effective [] 3. Not effective []

33. Do you have an office in parliament?

1. Yes [] 2. No []

34. If yes how adequate is this office for the needs of a legislator?

1. Very adequate [] 2. Adequate [] 3. Inadequate []

35. If no to 35, how do you operate as an MP without this essential tool

1. I have a personal office at home []
2. I operate from the lobby of Parliament []
3. I use my car as an office when I am in parliament []
4. I use the library as my office []

36. Do you an office in your constituency?

1. Yes [] 2. No []

37. If yes who pays for the maintenance of the office?

1. Myself [] 2. The government [] 3. Parliament [] 4. Political party []

38. How attractive is your monthly salary?

1. Very attractive [] 2. Attractive [] 3. Not attractive []

The Debate on the Budget

39. How many days do you normally use in debating the national budget?

.....
.....
.....

40. Is this adequate for a thorough scrutiny of all the estimates and policy guidelines contained in the budget?

1. Yes [] 2. No []

41. If no, what can be done to improve the quality of scrutiny done by parliament?

.....
.....
.....

42. The appropriation bill is usually passed after few days or hours of deliberations why is that the case?

.....
.....
.....

43. Why is parliament always asking for more funds for the MDAs?

1. We want to fully resource the MDAs to deliver []
2. The allocations made to MDAs are not enough []
3. We want to be seen as serving the public interest []
4. Others.....

Personal development

44. For how long have you being in parliament?

1. Once [] 2. Twice [] 3. Thrice [] 4. Four time [] 5. five times []

45. How many times do you want to serve in parliament?

1. As long as my people will continue to return me to power []
2. Four times []
3. Five times []
4. Six times []
5. Other.....

46. What percentage of your time do you spend on your constituency?

.....
.....
.....

47. What percentage of your time do you spend in parliament debating policy issues?

.....

48. What are the six major constraints hampering the effective performance of parliament in the area of policy making?

1.
2.
3.
4.
5.
6.

49. What suggestions do you have to help parliament perform as an effective actor in the policy making process in Ghana?

.....
.....
.....

THANK YOU VERY MUCH FOR ANSWERING ALL THE QUESTIONS.

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