

# Parliamentary Oversight and Corruption in Ghana<sup>1</sup>

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## **Background to Study**

This project, funded by the British Academy (BA) and Department for International Development (DFID), addresses the scarcity of research at the country level on the impact of parliamentary oversight on curbing corruption. Over the past decade, a growing body of research at global and regional levels has demonstrated that parliamentary oversight is an important determinant of corruption and that effective oversight of public expenditure is an essential component of national anti-corruption strategies and programs. However, little research has been undertaken at the country level regarding *how* parliamentary oversight is undertaken, which oversight mechanisms are effective or on how national parliaments interact with other anti-corruption stakeholders.

Oversight is the bedrock of every democracy and in developing countries, it is even more important given that it ensures the delivery of basic goods and services that will otherwise elude a majority of the citizenry. In Ghana, Parliament has the lead responsibility in ensuring oversight over Executive actions, programs and policies. This report, the result of field work conducted under the auspices of the project, examines the role of the Ghanaian legislature in curbing corruption, with the goal of developing practical policy advice for both the legislature and for DFID. This is particularly pertinent given the UK government's acceptance that DFID should include the role of the national Parliament in each of its country-level anti-corruption strategies.

The report basically demonstrates that while the existence of legislative oversight tools matters in that such tools improve the quality of governance and the legitimacy of the political system their impact is conditional and it depends on the presence of contextual factors. In this regard, the results support the conclusions of Olson and Norton (1996) and Norton and Ahmed (1999) who claim that contextual factors determine the effectiveness of legislatures and that internal factors, such as oversight tools, are only supportive.

Having explained the context for this study and the framework for data collection and analysis, this report is divided into three sections: external factors, external oversight

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<sup>1</sup> This paper is a report prepared as part of a project examining the role of Parliament in curbing Corruption at the National Level, funded by the British Academy and Department for International Development (DFID) as part of its Anti-Corruption Evidence (ACE) Partnership.

institutions and internal factors. Within each of these, using a combination of survey data (collected in 2009/2010 and 2016), focus group data and a review of existing literature, each relevant element is analyzed, particularly for its effectiveness in curbing corruption.

## **Framework**

The framework employed for the collection and analysis of the data contained in this report is based on that used by Stapenhurst, et. al. (2016). The framework is an extension of Wang's (2005) methodology for the comparative analysis of parliamentary oversight, and enables a distinction to be made between external or contextual variables and internal variables. Stapenhurst's extension, however, enables the inclusion of practitioner and scholar identified variables which represent an overlap between the two categories.

The data for this report was collected by interviewer-led and self-administered questionnaires completed by forty three respondents (twelve MPs or former MPs), twelve Parliamentary staff, eleven media representatives and eight representatives of CSOs. The interviews were complemented by insights and knowledge gained by the staff of the African Centre for Parliamentary Affairs (ACEPA) who have worked with the Parliament of Ghana over the last two decades. A literature search on oversight and anti-corruption efforts in Ghana was also conducted.

In this report, there are three levels of analysis: the first is that of survey and focus group data collected in September 2016 from xx participants in total in Ghana. The second is a comparative of the same data with that collected from a similar group in Nigeria and Uganda in 2016 and in 2017. The third, a comparative between the data collected in 2016 in Ghana and that collected between 2009 and 2010 in the same country during i 52 personal interviews (18 with politicians; 16 with parliamentary staff; 9 with civil society representatives and 9 with journalists) and four focus groups (one with each of politicians, parliamentary staff, civil society representatives and journalists), each of which comprised between four and seven participants. The focus groups comprised different participants from the personal interviews. A fifth focus group was conducted with a selection of earlier participants. This data was analyzed by Stapenhurst et. al. (2016).

The report is divided into three sections. The first section looks at the political environment in Ghana with a focus on how the macro context impacts Parliament, particularly from the point of view of oversight. The second section focuses on the oversight activity of the Ghana Parliament using analyzed data form the interviews conducted. Section three provides some explanations on the poor oversight performance of the Ghanaian legislature. The concluding section draws some conclusion and policy recommendations.

## **Section 1. The Ghanaian Political Environment**

Since 1992, Ghana has emerged as one of the few African countries where peaceful change of government has occurred. The most recent election occurred on December 7, 2016. None of the parties secured the required 50 plus one majority for an outright win. Following a runoff between the ruling New Patriotic Party (NPP) and the National Democratic Congress (NDC), the major opposition party on December 28, the NDC emerged as the winner. This marks the second alternation of government: in December 2000 power was transferred from the NDC to the NPP and now, back to the NDC.

Ghana enjoys a reputation of being one of the stable democracies on the African continent. The Democracy Index 2015 ranks Ghana 53<sup>rd</sup> out of 167 countries surveyed, putting it among a group of countries perceived as “more democratic”.<sup>2</sup> The country has a thriving multi-party political space with several political parties participating in the governance process. Not only are people allowed to form political parties and contest elections, but also, the voice of political parties often feed into processes such as elections. For instance, there is an Inter Party Advisory Committee (IPAC) which works closely with the Electoral Commission of Ghana to shape electoral reforms in Ghana. Ghana is also a member of the Open Government Partnership (OGP), an initiative that seeks to secure concrete commitments from governments to promote transparency, enhance citizens’ participation, promote accountability and adopt new technologies to enhance good governance.

Similarly, the most recent Afrobarometer surveys, conducted in 2014/2015 demonstrate that 68% of Ghanaians prefer democracy over military rule, one-party government, or dictatorship, 88% overwhelmingly reject presidential dictatorship, while 83% reject one-party rule.<sup>3</sup> This evidence shows that the quality of democracy has improved and that the democratic regime has a high level of legitimacy, which, we will show later on is to a considerable extent a function of the improvements in the quality of Parliaments’ oversight activities. Not surprisingly, the Afrobarometer surveys show that Ghanaians consistently recognize Parliament as the major institution in a democracy whose supreme responsibility is to check the executive and restrain it from exceeding its constitutional powers.

The 1992 Constitution is the foundation for the country’s Fourth Republic (Gyimah-Boadi 2001); it prescribes a hybrid, or semi-presidential system of government. The President is popularly elected to a four-year term of office, but unlike the pure presidential system of government, the majority of the cabinet members must be Members of Parliament. Under the constitution, the Parliament is the sole law making

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<sup>2</sup> See Freedomhouse.org

<sup>3</sup> See Afrobarometer.org

branch of government with autonomy over its agenda (Article 93). Parliament can remove the President, Vice President, and Speaker (Article 69), but the President cannot dissolve Parliament. The uniqueness of the constitutional design was intended as a “remedy against past failures” (Lindberg and Zhou, 2009).

The Parliament of Ghana is a unicameral legislature, with 275 members who must be appointed to at least one but no more than three standing committees; there are 14 Standing Committees and 19 Select Committees.<sup>4</sup> The Parliament of Ghana has fairly extensive oversight powers or capacity as revealed in the survey for this report.<sup>5</sup> The responses provided by the Parliament of Ghana indicated that the government is collectively responsible to Parliament, as required by the Constitution and several acts of Parliament, that the Parliament can keep the government accountable by lodging motions of censure, by taking votes on governments’ reports, and in *ultima ratio* by impeaching the government for its actions as we will shortly discuss.

In fact, in addition to the dispositions established by the articles 53, 54 and 76-80 of the Standing Orders and that concern other types of motions, articles 104-107 of the Standing Orders enable the Parliament to introduce a resolution/motion for the removal of the President and the Vice President as well as for a Vote of Censure against a Minister. The motion for the censure on a minister has to be introduced by at least one-third of the MPs and has to be approved by at least a two-third majority. The same requirements apply also for tabling and approving a motion for the removal of the President and the Vice President.

However, in responding to the survey questionnaire, Ghanaian respondents indicated that no motion of censure had been adopted in the last 20 years. There are two possible explanations for the inability of Parliament to censor any Minister. First, under the hybrid system in Ghana, the President is required by the constitution to nominate ministers from Parliament. Strategically, the President usually co-opts active MPs by nominating them for ministerial assignments. Apart from inducing them to switch their allegiance from the legislature to the executive, the selection of

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<sup>4</sup> On the 14 standing committees see art. 152 (2) of the Standing Orders, on the 19 select committees see art 153 of the Standing Orders, while the dispositions concerning membership in committees can be found in articles 154.1 and 154.2.

<sup>5</sup> In April 2016, Researchers from Laval University and the African Centre for Parliamentary Affairs (ACEPA), under the auspices of a British Academy funded project, administered a survey questionnaire that was completed by 43 respondents in Ghana. The purpose of this survey was to update and improve the information that IPU and WBI had collected in a survey administered in 2001, 2009 and had been used in several WBI publications (Pelizzo and Stapenhurst, 2004; Pelizzo and Stapenhurst, 2008). The 2016 survey on parliamentary oversight consisted of 40 questions, pertaining respectively to the political system, the government accountability to parliament, the presence/use of motions of censure, the parliament’s power of dismissal, the dispositions concerning the parliament’s dissolution, tools for parliamentary oversight, the presence of additional oversight bodies, the tools of budgetary oversight, the existence/implementation of a legislative code of conduct, and oversight on the implementation of the enacted legislation.

the effective MPs denies Parliament some of its best legislators. Besides, MPs have over the years built very strong collegial relationships prior to and in Parliament. Without doubt, these informal relationships tend to trump the formal institutional infrastructure ushered in by the constitution. Previous research demonstrates that constitutional powers are insufficient in determining the powers of the legislature (Patzelt 1994; Norton 1998) because of the incongruity between formal and actual powers (Wang 2005). Formal definitions (*de jure*) do not always translate into practice. Formal institutions in Africa lack effective authority because of deeply personalized authority (Chabal and Daloz 1999) which tends to supersede formal authority. In addition, the tendency to override formal institutions has been enabled by a weak legal system (Bratton 2007).

The second reason for Parliament's inability to censor ministers is that Ghana has so far experienced a unified government (in contrast to a divided government) in which both the executive and legislature is controlled by the same party. The allegiance of ministers is to the executive and not to Parliament. As a result, members of the majority party led by the Speaker of the House are reluctant to embarrass the government and by extension their party whose patronage is essential for MPs to continue to contest elections and hold their seats. The election of MPs in Ghana is party-centered. Consequently, party cohesion and party discipline are very strong. Taken together, party cohesion and discipline ensures predictable voting outcomes (Wehner 2005) thus diminishing the government's willingness to compromise and negotiate with the minority.<sup>6</sup>

Since international organizations have long believed in the importance of legislative oversight for keeping governments accountable, minimizing corruption, promoting good governance, improving the quality of democracy, facilitating democracy's consolidation and the pacification of post-conflict societies, one of the main focuses of the survey concerns the role of the Parliament of Ghana in curbing corruption using the oversight tools at its disposal.

The evidence generated by the survey show that the Parliament of Ghana, in terms of fighting corruption, has at its disposal a number of oversight tools. Among others, it plays a role in cabinet formation, it can censure ministers, can amend the budget, has an Auditor General who reports to Parliament.

In addition, the 1992 constitution empowers the Parliament of Ghana with the constitutional role of exercising oversight authority over the executive and recognizes Parliament as the sole law making branch of government (Article 93). Parliament has

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<sup>6</sup> Without stable majorities in Parliament, the executive is required to bargain with the minority and forge mutually beneficial compromises. By implication, the executive will have to make concessions - and the minority is able to extract compromises that are otherwise inadmissible. Undoubtedly, this strengthens the oversight process (Wehner 2005) although it carries the risk of gridlock. Bargaining creates opportunities for oversight and enables the minority to hold the government accountable (NDI 2000).

legal oversight authority over the budget and is empowered to authorize public expenditure, impose and waive taxes, authorize, grant, and receive loans (Articles 174, 178, 181). It is also empowered to approve the appointment of ministers nominated by the President Parliament as well as confirm the appointment of heads of state institutions, heads of independent authorities, ministers, deputy ministers and Supreme Court judges. Articles 152 and 169 of the Standing Orders of the Parliament of Ghana establish that one of the 14 standing committees of the Parliament of Ghana is the Appointment Committee. This committee, “composed of the First Deputy Speaker as Chairman and not more than other twenty-six members” (art. 169 (1)) has the duty to make recommendations to Parliament for approval or rejection with regard to all the presidential nominations for “appointment as Ministers of State, Deputy Ministers, and such other persons as are specified under the Constitution or under any other enactment” (art. 169 (2) (a)) as well as “for appointments as Chief Justice or other Justices of the Supreme Court” (art. 169 (2) (b)).<sup>7</sup> The Appointments Committee is mandated to report to Parliament within three days after the conclusion of its deliberation and the Parliament the takes a vote, by secret ballot, to confirm or reject the presidential nominations for appointment.

In addition to internal tools of legislative oversight, Ghana also has additional oversight bodies such as the Ombudsman (whose functions, we are told by the respondents, are performed by a body called the Commission of Human Rights and Administrative Justice), an anti-corruption agency that reports directly to Parliament, and a Supreme Audit Institution (the Auditor General) that also must report to Parliament “anytime a report is ready”<sup>8</sup>.

## **Section 2. Parliament’s Oversight Activity and Legitimacy**

The Parliament of Ghana, like many developing country parliaments, has at its disposal, a number of oversight tools.<sup>9</sup> However, while knowing how many oversight tools are available to a legislature provides an indication of that legislature’s oversight potential (Pelizzo and Stapenhurst, 2004; Sartori, 1987) or capacity, it does not provide any information as to whether, how much, how frequently and how effectively those tools are actually used.<sup>10</sup> In the case of Ghana, data collected suggest

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<sup>7</sup> The importance of the power to review presidential nominations and appointment was emphasized in the course of personal communications to one of the authors as well as in response to question 47 of the IPU-WBI survey conducted in 2009.

<sup>8</sup> As the respondent noted in responding to question 62 of the IPU-WBI survey.

<sup>9</sup> The oversight tools at the disposal of the Parliament of Ghana include: Questions, Interpellations, Public Hearings, Committee of Inquiry, Specialized Committees, Question Time and Ombudsman. See Rasheed Draman, “Oversight Guide for the National Assembly of Nigeria”, Unpublished, 2015.

<sup>10</sup> The relationship between oversight potential, the amount of oversight activities performed and the effectiveness of oversight has been subject to some disagreement. While it is clear that legislative oversight cannot be effective if it is never performed, and that it cannot be performed if a legislature does not have adequate oversight tools, it is much less clear whether and how oversight potential,

that the oversight tools at the disposal of the Parliament have not been put to effective use. This section looks at a number of tools available to the legislature and how they have been used.

**Table 1: Internal Tools and Mechanisms Influencing Legislative Oversight**

(Scale of 1–5, where 1 = very weak/never and 5 = very effective/always)

Survey Question Number	Survey Question	Ghana 2009-10		Ghana today	
		Mean Score	Std. Dev.	Mean Score	Std. Dev.
1	How Frequently Does the Legislature Review Appointments	3.5	1.7	4.6	1.0
2	How Frequently Does the Legislature Censure Ministers/the President	1.7	0.8	1.3	0.5
20	How Effective Are Oversight Committees in Uncovering Incidents of Fraud and Corruption	3.2	1.5	3.8	1.0
21	How Effective Are Special Committees/Commissions of Inquiry in Uncovering Incidents of Fraud and Corruption	3.8	1.3	3.5	1.4
16	What is the Degree of Partisanship Within Legislative Oversight Committees	2.2	1.6	3.0	1.4
19	How Often do Oversight Committees Meet During a Legislative Session	4.7 (10 times)	0.7 (9 times)	5.0	0.6
22	How Effective is Question Period in Uncovering Incidents of Fraud and Corruption	3.7	0.9	3.0	1.2
24	Are Opposition Members Given at Least Equal Time to Ask Questions	1.0	0.1	1.0	0.0
25	What Percentage of Legislators Attend Plenary Sessions	3.5 (65%)	0.8	3.7 (67%)	1.26

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activity and effectiveness are actually related to one another. Sartori (1987) for example suggested that what is important, with regard to legislative oversight, is not how frequently it is performed but whether a parliament has oversight potential that can be used if necessary. Sartori in fact believed that if a legislature spent too much time performing its oversight activities, it would dissipate its energy and resources and undermine the effectiveness of its actions. Some evidence on the inverse relationship between amount of oversight activity performed and its effectiveness can be found in Pelizzo (2008). If instead of focusing on legislative oversight out court, one were to focus exclusively on the oversight of public expenditures and public accounts committees, the relationship between potential, activity and effectiveness has been addressed in Pelizzo (2010a) for the PACs of the Pacific Islands states and in Pelizzo and Stapenhurst (2011) for the PACs of the Commonwealth.

Table 1 above presents comparative data on internal oversight tools at the disposal of the Parliament of Ghana based research in 2009 and the current research. The data show that while the Legislature has been active in reviewing appointments and uncovering incidents of corruption, the critical elements that are needed to ensure effective oversight have been on the decline.

Active and effective committees are an important indicator of parliament's role in fighting corruption. In Ghana, while oversight committees meet regularly, have been somewhat active when it comes to uncovering corruption, that activism has not translated into effective oversight.

The data shows that Committees in Ghana's Parliament meet regularly to carry out their functions as per the Standing Orders. They are also relatively effective in uncovering fraud and corruption. What they have not been effective at is ensuring that once cases of fraud and corruption are uncovered, sanctions are meted to those found culpable.

A close examination of committees suggests that they have a busy schedule but the output of their busy schedules is not commensurate to their effort in fighting corruption and this is an issue that this piece interrogates.<sup>11</sup>

The Legislature has also not been as effective as it used to be in censuring Ministers; it has not effectively used Question period to demand accountability of duty bearers and most importantly, the degree of partisanship witnessed in the Legislature has significantly increased from 2009. As observed by a senior Ghana MP, "a Parliament that is not united can hardly ensure oversight and fight corruption"<sup>12</sup>

Ghana's maturing political culture has often been compromised by excessive partisanship that hinders the work of the Legislature. This partly explains the weakness of committees in providing effective oversight and fighting corruption despite their activism. The strong party cohesion that exists in Parliament and which should have been used to promote legislative work and oversight, is often used to promote the interest of the party, thereby compromising the powers of Parliament to provide effective checks on the Executive. Even though MPs are hesitant to admit the levels of cohesion in Parliament, our data shows that Civil Society Organizations,

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<sup>11</sup> The data collected by WBI on PACs and that were used in Pelizzo and Staphenurst (2011) show that in the 3 years from 1999-2002, the PAC met more than 50 times, that is more frequently than Botswana and Namibia and as frequently as the PACs from Kenya, Mozambique, Nigeria and South Africa. The data presented in that paper also suggest that the PAC from Ghana is considerably more effective than its Namibian and Nigerian counterparts. A new survey conducted in 2009 collected information on PACs' activity and effectiveness for the 2006-2008 period, but the data have not yet been made available for analysis.

<sup>12</sup> Interview with Hon. Anthony Akoto-Osei, former Minister of Finance and ranking Member of the Finance Committee of the 6<sup>th</sup> Parliament of Ghana.



Parliamentary Staff and Journalists all agree that there is a high level of party cohesion in Parliament.

In 2016, following a report by investigative journalist - Manesseh Azure Awuni – into a bribery scandal, Ghana’s President John Dramani Mahama admitted receiving a Ford vehicle gift worth about \$100,000 in 2012 from a Burkinabe contractor, Djibril Kanazoe. The gift was considered an inducement as Kanazoe was subsequently awarded a contract to construct the Dodo Pepeso-Nkwanta road construction project. This was after he had constructed a fence wall for a land belonging to Ghana’s Embassy in Burkina Faso for nearly half a million dollars. The President was harshly criticized for accepting the vehicle he claims to have put in the state’s pool of vehicles. Critics alleged that the revelation indicates a case of conflict of interest and called for his impeachment of the president.<sup>13</sup>

Following the public outcry, the Minority in Parliament, through its leader – Hon. Osei Kyei- Mensah Bonsu, invoking Article 112 (3) of the 1992 Constitution<sup>14</sup> and Order 38 (1) of the Standing Orders of Parliament<sup>15</sup> - filed a motion on August 3, 2016, to recall the House to consider a motion seeking Parliament to constitute a special committee to investigate the controversial receipt of Ford Expedition vehicle by the President. The motion, sought to establish if the receipt of the vehicle by the President infringed on any of the Laws of Ghana and on his (President’s) Code of Conduct.<sup>16</sup>

Many observers of Parliament saw this as a unique opportunity for the Legislature to demonstrate its independence/willingness to provide a check on the Executive. But in a landmark ruling on September 1, 2016, the Speaker of Ghana’s Parliament, Edward Doe Adjaho, dismissed the motion filed by the Minority calling for investigations into President John Mahama’s Ford gift saga. The Speaker directed the Minority New Patriotic Party (NPP) members of the House to pursue the case at the Commission for Human Rights and Administrative Justice, (CHRAJ). According to the Speaker, various legal and constitutional provisions indicate that the body mandated to deal with such issues is the Commission for Human Rights and Administrative Justice, (CHRAJ). He also listed a number of such cases against public officials which he said were investigated by CHRAJ hence Parliament has no business in looking into President Mahama’s Ford saga.<sup>17</sup>

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<sup>13</sup> See “*Speaker throws out motion to investigate Mahama’s Ford gift*”, [www.citifmonline.com](http://www.citifmonline.com), Thursday 1st September, 2016. Accessed December 18, 2016

<sup>14</sup> The 1992 Constitution of the Republic of Ghana

<sup>15</sup> Standing Orders of the Parliament of the Republic of Ghana.

<sup>16</sup> See “*Recall not for impeachment of President – Majority*”, [www.gna.com](http://www.gna.com), August 31, 2016. Accessed December 18, 2016

<sup>17</sup> See “*Speaker throws out motion to investigate Mahama’s Ford gift*”

For ruling parties, this suggests a tendency to want to “protect their own”, particularly given that most Ministers of State in Ghana are drawn from Parliament. For opposition parties, the strong cohesion is often used to advance an agenda to “oppose” often not in a constructive manner but simply to distinguish itself from the majority party. For example, in November 2016, the minority voiced its disagreement over a 60 million dollar loan being procured by the government of Ghana for the Electricity Company of Ghana (ECG). The Agreement was however passed amidst opposition from the Minority on concerns over the terms by which government will lend the money to ECG to implement the project, which is expected to extend electricity to rural areas. The minority’s concern relates to the terms and condition of the facility, which it describes as too costly for the ECG. Speaking on the floor of the House, the Minority Spokesperson on Finance, Dr Anthony Akoto Osei described the terms of the on-lending agreement to ECG as unfair. He noted that “The interest is too onerous, 5% is too commercial...is government now a commercial bank?” he asked, adding that ECG is too “broke” to pay back the loan. He wondered why the government will adopt such a strategy to procure loans for an institution that is facing financial challenges.<sup>18</sup>

What all the data above suggests is that Parliament and its committees have not been very effective in discharging their oversight duties and by extension, fighting corruption. In fact, the Legislature has often been accused of condoning rather than fighting corruption. According to a former Ghanaian Attorney General and anti-corruption crusader – Mr. Martin Amidu:

The partisanship, cronyism, patronage, ethnicity, and endemic corruption of the Looter Governments of the Fifth and Sixth Governments of the Fourth Republic had been allowed by the majority to infect the fabric and conduct of Legislative business in the House. Corruption became endemically pervasive in the Fifth and Sixth Parliaments because of the deliberate acts of infection by the Presidents and Governments whose members made up the majority in those Parliaments.<sup>19</sup>

### *The Public Accounts Committee*

In the midst of the disappointing performance by committees, the Public Accounts Committee (PAC) has performed creditably when it comes to oversight of the expenditure of public money, as reflected in the work of the Public Accounts Committee (PAC). An important development in the fourth Parliament of the fourth Republic of Ghana (2005-2008) was the opening up of Public Accounts Committee

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<sup>18</sup> “Parliament divided over \$60 million loan agreement”, [citifmonline.com](http://citifmonline.com), November 2, 2016.

<sup>19</sup> See “Martin Amidu accuses previous Parliaments of ‘endemic corruption’”, [myjoyonline.com](http://myjoyonline.com), 10-01-2017. Accessed 10 January, 2017.

(PAC) hearings to the media and the public.<sup>20</sup> With the support of the Parliamentary Centre, and with the widely-acknowledged (by survey respondents) leadership by former Chair, Hon. Samuel Sallas Mensah, PAC hearings were both opened to the public and held in different regions of the country – factors which contributed significantly to the effectiveness of the committee. In a now famous case emerging out of its first public hearing in October 2007, the PAC ordered the Ministry of Tourism and two advertising agencies to refund 53 million Ghana cedis and 2,500 US dollars to the government including interest accruing on the amounts.<sup>21</sup> The PAC sitting was prompted by an Auditor General report which revealed financial discrepancies in the accounts of the Ministry of Tourism since 2003. At the public hearing, the PAC members concluded that the Minister of Tourism and the Chief Director of the ministry were unable to satisfy the committee about the disbursement of funds allegedly paid for advertisements.<sup>22</sup> In a November 2008 news conference the Chairman of the PAC reported that the committee has so far recovered \$40 million.<sup>23</sup>

PAC's activism in Ghana has continued to the 6<sup>th</sup> Parliament, whose mandate expired on January 6, 2017. The Chairman – Hon. Kwaku Agyeman-Manu, revealed in a press briefing, that his committee retrieved over Ghc20 billion from various public institutions in the course of their work in 2014. Institutions covered, he said, included district assemblies and Senior High Schools (SHSs) in the country. Of the amount, fourteen billion cedis (Ghc14b) was retrieved from the SHSs while 6-7 billion was also retrieved from various district assemblies. The amount retrieved, he added, has been paid into government coffers and excluded monies which the Committee has tasked various personnel in other public institutions charged with misappropriation to repay into state coffers. The legislator was optimistic that by the time the committee files its report to parliament, they would have recovered much more into the state funds.<sup>24</sup>

One senior Member of the PAC commented, however, that "...the PAC can only be successful in tackling 'petty' [bureaucratic] corruption – and that, if the Committee

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<sup>20</sup> McGee (2002) had long suggested and subsequent studies are repeated that opening PAC meetings to the media is crucial in securing PACs' successful performance.

<sup>21</sup> Interestingly, the public disgust at the government prompted by the PAC's public hearing led the government to order the termination of live broadcasts on the state-run television channel. Unfortunately, the proliferation of private TV and radio stations in the country permitted continuous live broadcasts of the hearings. The government reversed its order to terminate live broadcasts on the state-run TV channel and sought to associate itself with the decision to hold public hearings as further proof of its zero tolerance policy on corruption.

<sup>22</sup> For further details see *The Statesman* newspaper dated October 17, 2007. This news report is also available online at [www.ghanaweb.com](http://www.ghanaweb.com)

<sup>23</sup> For details of the report see Ghana News Agency report entitled "PAC Recovers 40m from public servants" November 5, 2008 available online at [www.ghanaweb.com](http://www.ghanaweb.com).

<sup>24</sup> PAC retrieved Ghc20b of state cash in 2014 – Agyeman-Manu reveals, [adomonline.com](http://adomonline.com), 5 January 2015. Accessed November 12, 2016.

tried to investigate cases of ‘grand’ corruption, party discipline would be invoked to ensure that the majority [governing] party MPs on the Committee would squash enquiries”.

In spite of the opening up of the PAC, its activism, particularly with regards the retrieval of resources from institutions and individuals, there are concerns about the longer-term effectiveness of PAC in light of a possible legal gridlock that continues to limit the effectiveness of the committee. One of the key reforms to strengthen the work of the PAC was the establishment of a Financial Tribunal to support the work the PAC by trying cases of public officers found culpable of financial malfeasance by the Auditor General’s Report on public accounts as a result of the Public Hearings of the PAC. Ghana’s Financial Administration law - Act 645, provides for the establishment of a Financial Administration Tribunal by the Chief Justice in consultation, with the Judicial Council, and approved by the President. The Tribunal is to be composed of a High Court Justice who shall be the chairperson, and a Chartered Accountant or a professional value.

Over the years, there appears to be deadlock between Parliament and the Judiciary, over the court responsible for the prosecution of public officers found culpable of financial malfeasance by the Auditor General’s Report on public accounts. Although the Financial Administration Courts (FAC) have been established in Accra, Kumasi, Sekondi-Takoradi and Tamale, in February 2014 to among others, adjudicate case of impropriety emanating from findings of the Auditor General’s Report, the Public Accounts Committee has reservations about composition of the court. According to the Chairman of the Committee - Hon. Kwaku Agyeman Manu, the composition of the Financial Administration Court was not the same as stated in the Financial Administration Act, 2003 Act 645. He said Parliament, through the Speaker of Parliament, had written to the Judiciary to enquire about the composition of the FAC, but said “the response was not clear”. The composition of the Financial Administration Court does not fit into the provisions of the Financial Administration Act 654, which provides for the establishment of a Financial Tribunal to be manned by financial professionals.”

The tribunal is expected to enforce recommendations of the PAC on the Auditor General’s report as approved by Parliament, by making such orders it considers appropriate for recoveries of assets or other property due to the state.<sup>25</sup>

The challenge for committees is that they do not have prosecutorial powers. They have to rely on multiple agencies and channels for further action, including enforcement of their recommendations and prosecution of their findings. Some of the follow-up mechanisms include: committees make recommendations to the House

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<sup>25</sup> Parliament, Judiciary Deadlocked ...Over Right To Prosecute Public Officers For Financial Malfeasance, [peacefmonline.com](http://peacefmonline.com): 2015-04-21

which often calls for the parties involved to make amends and/or be prosecuted; the committee's findings to be transmitted to the Attorney General's department for prosecution, referred to the police for investigation, or the Serious Frauds Office (SFO), or the Commission for Human Rights and Administrative Justice (CHRAJ).

The PAC for instance, as required by law, reviews the Auditor-General's (A-G) report but does not have the power to initiate independent investigations. The committee reviews the A-G's report in a timely fashion, however its recommendations are not strictly enforced as is required by law. Audit Report Implementation Committees (ARICs), established in each government department, are responsible for monitoring the implementation of audit reports. These Committees have not functioned as expected. The A-G is a public servant and even though Parliament, as an institution, could request it to carry-out special audits, this is largely not done because Article 187 (7a&8) of the Constitution makes this the preserve of the President.

A problem with follow-up is that ultimately it is the office of the Attorney General (AG) that is responsible for prosecution. The AG's mandate is governed by Article 88 of the 1992 constitution, under which the AG doubles as a Minister of State and principal legal counselor to the government. As Minister of State, the AG is part of the executive branch – and, at the same time, is responsible for prosecutions emanating from the investigations of parliament and its committees, the Serious Frauds Office (SFO), and the Auditor General. Over the years, Ghanaians have been of the view that the contribution of the AG to parliamentary oversight is dampened by the perception that the office is not independent and that some cases have not been prosecuted, possibly because of political interference and influence. The Majority Leader in Parliament, Hon. Alban S.K. Bagbin, for instance, has called for the decoupling of the position of the Minister of Justice from that of the Attorney-General as a necessary step to stem the tide of corruption in the country. He believes that such a move had become necessary because a minister of state holding the two portfolios would find it very difficult to prosecute his or her colleagues who fell foul of the law or abused their office for private gain. He has strongly advocated for an independent prosecutor.<sup>26</sup>

Apart from lack of prosecutorial powers, another area of challenge for oversight is the fact that Parliamentary committees, active as some of them are, cannot by themselves, initiate activities, investigations or inquiries unless a matter has been referred to them by the Speaker or the House. Under the current Rules of the House, a Committee of Parliament cannot commence investigation into a matter unless the matter has been referred to it by the full House. Control of the Parliamentary majority and the Executive by the same party means the government can easily prevent Parliament

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<sup>26</sup> Alban S. K. Bagbin, "Decouple position of Minister of Justice from that of Attorney-General", Daily Graphic, 31 January 2015.

from tasking a Committee to investigate a matter where the findings would embarrass government

According to Order 156 of the Standing Orders of the Parliament of Ghana: “The Standing and Select Committee of the House shall be constituted and shall be assigned such functions as are specified in these Orders. All Bills, resolutions and other matters relating to the subjects within their jurisdiction shall, unless as otherwise specified, be referred to them as provided for in these Orders”<sup>27</sup>

The summary of the analyses so far shows the Parliament of Ghana has a significant potential for oversight and fighting corruption given the tools at its disposal and given its efforts over the years. However, the Parliament can be described as the classic case where “oversight potential” does not translate to oversight effectiveness. Several surveys and experts believe that instead of being part of the solution and indeed, the key institution to lead the fight against corruption, Parliament is part of the problem.

In a recent survey by the Institute of Economic Affairs – Ghana (IEA), Parliament was ranked number four when it comes to institutions that are corruption – behind the Police, Office of the President and Tax Officials.<sup>28</sup> Similarly, a visiting Fellow at IEA – Prof. George Ayittey, blames Parliament for corruption in Ghana. He is of the view that Parliament has not done its constitutionally mandated duty of protecting the public purse and demanding the prosecution of corrupt public officials.<sup>29</sup>

Furthermore, afrobarometer found that large majorities of Ghanaians (ranging from 83% to 89%) perceive “*some*,” “*most*,” or “*all*” police officers, national government officials, *parliamentarians*, judges and magistrates, tax officials of the Ghana Revenue Authority, chief executives of local government bodies, president and officials in his office, local government representatives, and officials of the country's electoral management body to be involved in corruption (Figure 1). The 2014 figures are marginally lower than those from the 2012 survey for all the listed public officials.

**Figure 1: Afrobarometer corruption perceptions | 2012-2014**<sup>30</sup>

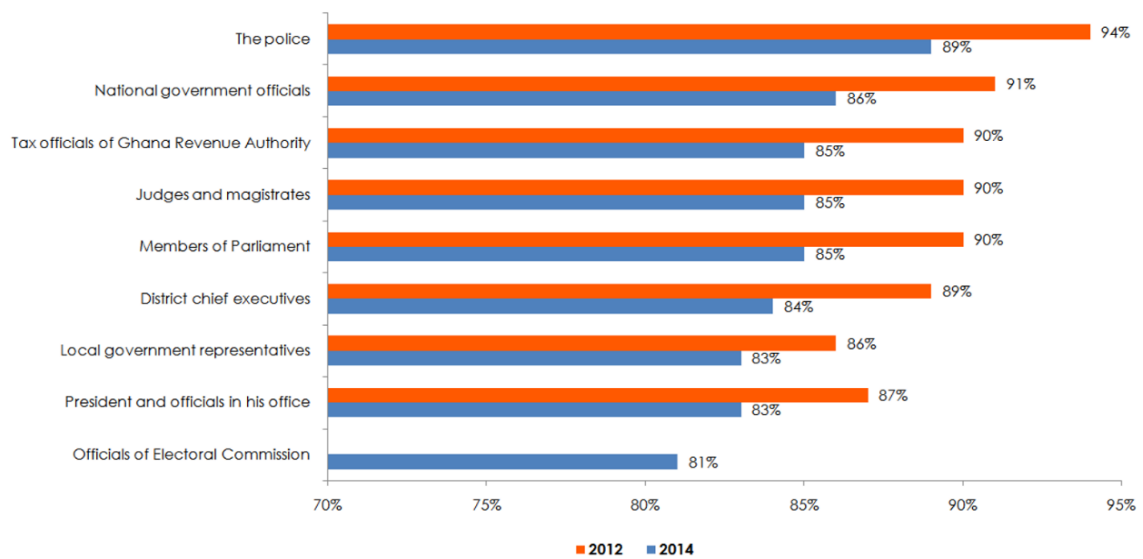
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<sup>27</sup> Standing Orders of the Parliament of Ghana, Order 156, p. 105.

<sup>28</sup> IEA, “List of Most Corrupt Ghanaian Institutions: Police, The Presidency, Parliament, All Feature Prominently”, [www.ieagh.org](http://www.ieagh.org)

<sup>29</sup> “Prof. Ayittey Blames Parliament for Corruption in Ghana”, [www.ghananewsagency.org](http://www.ghananewsagency.org), November 7, 2013.

<sup>30</sup> [www.afrobarometer.org](http://www.afrobarometer.org)



Ghana has made significant progress over the years in its democratic trajectory. However, based on the data analyzed, Parliament as an oversight institution, has not lived up to the expectation of holding government to account and ensuring that governance leads to development outcomes for citizens.

Having examined internal oversight tools, I turn attention now to external oversight tools and how they aid or hinder oversight in Ghana.

**Table 2: External Tools and Mechanisms Influencing Legislative Oversight**

(Scale of 1–5, where 1 = very weak and 5 = very effective)

Survey Question Number	Survey Question	Ghana 2009-10		Ghana today	
		Mean Score	Std. Dev.	Mean Score	Std. Dev.
14	How Effective is the Auditor General in Uncovering Incidents of Fraud and Corruption	4.2	0.9	4.2	0.7
16 d	How Effective is the Ombudsman in Uncovering Incidents of Fraud and Corruption	3.6	0.8	2.6	1.5
17 d	How Effective is the Anti-Corruption Agency in Uncovering Incidents of Fraud and Corruption	3.5	1.3	3.0	1.0

## Auditor General

As in other parliamentary systems based on the Westminster model, the **Ghanaian Auditor General's Office (AGO)** plays an important role in the oversight process, because Parliament relies on its audited accounts to conduct its ex-post oversight. Under Article 187(2) of the 1992 Constitution, the AGO is charged with auditing all ministries, departments, and other agencies of the central government for the financial year ending December 31. Section 5 of Article 187 requires the AGO to inform Parliament of any irregularities, through the audited accounts. The AGO's report to Parliament is referred to the PAC by the Speaker.

The rating of the AGO has not changed in the last ten years. A number of issues explain the low mean score for the supreme Audit Institution's ability to fight corruption in Ghana. Financially, the department remains one of the most under-resourced institutions in Ghana. Budgetary allocations to the department is usually not enough to cover the institution's programs and activities. It is barely able to comprehensively audit all institutions in the public sector within a year as should be the norm. In cases where there are budgetary allocation for some of its activities, the funds are not released on time which severely compromise the timely delivery of its planned activities. Aside the financial constraints, there are serious gaps in the staff strength of the institution. For instance, even though Ghana discovered oil in 2007, ten years on, Ghana's Auditor Generals department is yet to do a comprehensive audit of activities of the public institutions in the sector. The forgoing challenge has been the result of non-availability of the skill set needed for such an audit. Retooling the department with these skills is paramount in ensuring good financial management practices across the public service.

It is important to know that, the above challenge could be a deliberate ploy by the Executive to stifle the department from intensively exercising its constitutional mandate. This is especially true as adequately resourcing the AGO will put more arsenals in the hand of the Legislature to do more checks on the Executive branch of government. In developed democracies, intensive checks by the Supreme Audit Institution will be welcomed as it puts government on its toes to deliver on transparency and accountability in public financial management. But the same cannot be said of growing democracies like the Ghana. Revelations of corrupt practices in public institutions are seen as bad publicity for the Executive primarily because most of the heads of these state institutions are appointed by the Executive.

The resource constraints has forced the department to rely on other means that do not guarantee the credibility of audit reports and the independence of the institution. For instance, the AGO has had to outsource most of its audit to external audit firms who are eventually paid by the institutions they audit. Thus public institutions have had to contract external audit firms to audit their books and then send the audit report to the AGO. Clearly, the arrangement is not tidy. External auditors are tempted to write



good reports about institutions they audit out of fear of not being engaged by such institutions in the future.

### The Ombudsman

In Ghana, the Commission for Human Rights and Administrative Justice (CHRAJ) functions as ombudsman. It was established in October 1993 “to foster a culture of respect for fundamental human rights and freedoms, as well as administrative justice and fairness in Ghana.”<sup>31</sup> Chapter 5 of the 1992 Constitution authorizes the Commission to investigate all complaints of human rights abuses and freedoms. CHRAJ performs the functions of three organizations: human rights organization, ombudsman, and anti-corruption agency. Under the constitution, CHRAJ is independent of the three arms of government. Acting in its capacity as ombudsman, CHRAJ pursues administrative justice and investigates complaints about maladministration; it is the guardian of the code of conduct for public officials.

CHRAJ plays the Ombudsman role in Ghana. The reasons for the low mean score on the ombudsman’s ability to fight corruption is not entirely different from the Auditor General. Financial resource constraints has made the institution ineffective in fighting corruption. Finances are needed to procure equipment and logistics for the commission’s work, hire adequate, efficient and qualified staff to assist in the commission’s work and mount a strong campaign against corruption. It receives several cases in a year but is able to respond to only a handful of them because of the limited staff size of the institution. Currently, even though their offices could be seen in the ten regions of Ghana, it doesn’t have offices in all the 275 districts of Ghana to investigate potential cases of corruption and administrative lapses in public institutions at the local level. The resource challenge has forced the Ombudsman in Ghana to priorities its focus and in many cases it favors human right issues at the expense of corruption because of the sensitivity of human right issues<sup>32</sup>.

Another equally important reason for the Ghanaian ombudsman’s inability to fight corruption is its inability to prosecute should investigations result in an adverse finding. The Ombudsman does not have prosecutorial powers to sanction public officials found to be corrupt. In most cases public officials found guilty are asked to abdicate their position as the only sanction meted to them. This is not strong and harsh enough to deter others. There is the need to give the ombudsman more teeth to bite should adverse findings be made.

Another challenge that hinders the fight against corruption is the mechanism used to appoint the ombudsman. The current system gives the President the privilege to nominate someone for the position of the Commissioner. Even though parliament vets

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<sup>31</sup> CHRAJ Mission Statement

<sup>32</sup> Interview with a Ghanaian MP.

the candidate, the Executive is at liberty to nominate a candidate it is “comfortable with” to occupy that position. Ghana’s has over the years just simply endorsed the President’s nomination. The position of Ombudsman is critical in the fight against corruption. A fair and rigorous mechanism will go a long way to select the right head to push the ant-corruption agenda far.

### Anti-Corruption Agency

A myriad of institutions including the police can play anti-corruption roles in Ghana. However, the main institution noted for anti-corruption is the Economic and Organized Crime Office (EOCO).<sup>33</sup> The institutions’ reputation in the fight against corruption has suffered a setback because of the constant interference of political elites in the activities of the institution. The independence of the institution has also come under question because of the selective manner in which the institution sometimes deals with cases.

Though the institution has been instrumental in some cases in the past, there are limitations bordering on the ability of political elites to influence the activities of the organization. A trend that has become so common in Ghana is the manner in which politicians are investigated by the organization. A trend where past government appointees become the subject of investigations when their party loses election has emerged. Even though a case for witch hunting could be made for this trend, it is important to note that the institution is barely able to investigate political figures when their party is in power. This is because, the head of EOCO is appointed by the President whose interest is usually protected by his appointee. Subjecting members of his government to investigations severely depresses his political ratings. The appointment of the head of the institution should be free from the manipulation of the Executive so as to guarantee the independence of the institution.

To sum up, the data on both internal and external tools of oversight provide a picture of retrogression rather than an improvement in the ratings of the Ghanaian Legislature in its oversight and accountability role. How can this be explained? That is the subject of the next section of the paper.

### **Section 3. Accounting for Parliament’s Poor Performance**

In analyzing oversight capacity in emerging legislatures, particularly in developing countries, apart from the tools that are at the disposal of Legislators, tools that give them the potential for oversight, it is important to emphasize the fact that there needs to be a 'conjunction of factors' as was the case in the United States, that can lead MPs to fulfill their oversight functions. Morgenstern and Manzetti (2000) argue that the

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<sup>33</sup> EOCO used to be called the Serious Fraud Office (SFO).

development of legislative oversight of the executive requires MPs who are motivated by:

- a) a public outcry for reform (which generally implies the existence of a free and independent press) and
- b) career or other interests in confronting, rather than supporting the executive.<sup>34</sup>

In addition to these two critical factors, the cause of oversight is advanced when there exists a critical mass of Legislators who are independent minded and not influenced by party leaders and party ideology. To pursue their interests, independent minded Legislators require means, which are a function of:

- a) a high level of professionalization of the legislature;
- b) a long-lived democracy to continue developing the institutions for vigilance among which an independent judiciary is paramount; and
- c) sufficient constitutional authority to pursue their interests.<sup>35</sup>

Constitutionally/legally, there are a number of factors which affect parliamentary effectiveness in Ghana. First, restrictions on Parliament's formal powers by Constitutional provisions (notably Articles 108<sup>36</sup> and 78<sup>37</sup>) have had the effect of making the Ghana Parliament a less-than-equal partner with the Executive in national policymaking.<sup>38</sup> Article 78 which requires the appointment of MPs as ministers gives the President the ability to 'reward' loyal MPs or 'neutralize' difficult MPs with ministerial appointment, thereby providing an incentive for MPs from the ruling party to want to please the executive rather than exercise their oversight authority over the executive.

Second, Parliament's *Standing Orders* do not facilitate the exercise of its oversight<sup>39</sup> functions and the inability of the House to review these orders despite efforts towards this in previous parliaments of the fourth republic suggests insufficient political will to do so. Under the current Rules of the House, a Committee of Parliament cannot commence investigation into a matter unless the matter has been referred to it by the

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<sup>34</sup> Scott Morgenstern and Luigi Manzetti, "Legislative Oversight: Interests and Institutions in the US and Argentina", Paper prepared for delivery at Notre Dame conference on Horizontal Accountability in New Democracies, May 2000.

<sup>35</sup> Ibid.

<sup>36</sup> Interpreted as preventing the introduction of any bill by MPs whose passage will result in a draw on public funds

<sup>37</sup> Which requires the majority of ministers to be appointed from parliament

<sup>38</sup> Strengthening Transparency, Accountability and Responsiveness in Ghana (STAR-Ghana), Political Economy Analysis (PEA) of the Parliament of Ghana, 2011

<sup>39</sup> Order 156 of the Standing Orders which deals with the Functions and Powers of Committees states among other things that "...Committees of the House shall be constituted and shall be assigned such functions as are specified in these Orders." Thanks to this provision, Committees are not able to proactively deal with matters within their jurisdiction unless those matters are referred to them by the House or the Speaker. Members of the PAC in Ghana have argued most times that this has limited their powers.

full House. Control of the Parliamentary majority and the Executive by the same party means the government can easily prevent Parliament from tasking a Committee to investigate a matter where the findings would embarrass government.

Third, Parliament has been unable to exercise effective scrutiny and control over the budget process. By dint of constitutional provision, the budget process begins too late in the year for detailed analysis, and Parliament lacks the resources and technical capacity for detailed, critical analysis. Even though there is a research department, its capacity is often overstretched. As a result, Parliamentary scrutiny tends to be “hurried, superficial and partisan”.

Thus, the Parliament of Ghana operates in a challenging context. It is dependent on the Executive for its institutional resources and its independence is compromised by the fact that the majority of Ministers are drawn from Parliament and appointed by the President. Its legislative and budget powers are limited by the Constitution and it lacks adequate research/technical support capacity.

In addition to the above, and closely related to Morgenstern and Manzetti’s argument, there are four critical factors that provide an explanation to the rather poor oversight performance of the Ghana Parliament. These are:

1. Executive co-optation of Parliament;
2. Executive dominance of Parliament;
3. An expanded space for corruption: Economic Incentives and the Role of the Oil and Gas Sector; and
4. Excessive partisanship.

### *Executive Co-optation of Parliament*

In 2015, Ghana ranked 7<sup>th</sup> out of 54 countries on the Mo Ibrahim Index of African governance (IIAG), but has been one of the worse performing countries when it comes to accountability and the fight against corruption. According to the report, The African average score for corruption is only 36.3 and shows a sizeable average decline of -14.4 score points since 2006. Of the 33 countries which Afrobarometer has surveyed for this measure and for which there is a ten-year trend available, 22 have declined in the last ten years and 12 of these by more than -20.0 score points. Large declines of -40.0 points or more are seen in Madagascar (-78.1), Sierra Leone (-63.0), **Ghana** (-51.1), Malawi (-48.3), South Africa (-44.0), Tanzania (-42.9) and Liberia (-42.0).<sup>40</sup>

Ghana’s system of government has created a situation of patronage where other branches of government have become “appendages” of the Executive. This is particularly the case when it comes to Executive-Legislative relations, thanks to

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<sup>40</sup> See 2016 IIAG: Index Report, p. 33 at [s.mo.ibrahim.foundation](http://s.mo.ibrahim.foundation)

article 78 of the 1992 constitution. It is worth noting that a key difference between the presidential system of government set out in the 1979 and 1992 constitutions relates to the appointment of ministers by the president. Whilst the 1979 constitution did not allow MPs to serve as Ministers, the 1992 constitution requires that the President appoints majority of Ministers from among MPs. The spirit behind this arrangement in the 1992 constitution was to foster cooperation between the executive and the legislature. This position was informed by an incident under the 1979 constitution, when Parliament voted to reject the President's initial budget submission. This unprecedented action by parliament was viewed negatively and as such the framers of the 1992 constitution sought to ensure that the constitution would not enable a recurrence. At the same time, they also did not want to return Ghana to a Westminster-style parliamentary system<sup>41</sup>, as had existed under the 1969 constitution, because that constitution had also resulted in a situation that was to be avoided. The Progress Party (PP) Government elected to power under the 1969 constitution had no ethnic Ewe among its MPs and since the constitution required that all ministers be MPs, there was no Ewe in the ministerial team of the government of the day. Requiring the President to appoint Ministers from among MPs, and from outside Parliament makes it possible to constitute a regionally or ethnically representative cabinet in situations where the President's party in Parliament is not sufficiently diverse. However, "This produces a hybrid political system, with elements of both presidential and parliamentary governance; a characteristic that institutionalizes executive dominance and which is of great significance for understanding the role and functioning of Parliament in Ghana"<sup>42</sup>.

According to Agyeman-Duah, a major challenge to oversight in Ghana is the constitutional limitations on horizontal accountability in executive-legislative relations. He notes that entrenched "executive dominance," as exemplified by the system of "executive-legislative fusion" where the President must appoint a majority of his cabinet from Parliament (Article 78) has rendered ineffectual Parliament's oversight of the executive. In his view, parliamentarians who are also Ministers find it difficult to balance their loyalty to the Executive and to Parliament. As a result, such potentially powerful committees as Finance, Public Accounts and Government Assurances stay timid in their duty to scrutinize executive power, actions and assurances. In effect, the robustness normally expected of legislative oversight has been lost.<sup>43</sup>

The effort to curb corruption and improve economic governance in Ghana is also hamstrung by the lack of credible institutional reforms. It is widely acknowledged that corrupt practices are endemic in weak and malleable systems and institutions that lack clearly defined lines of responsibility, transparency and accountability. Thus, any

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<sup>41</sup> Westminster-style parliamentary system requires all ministers to be Members of Parliament

<sup>42</sup> Parliamentary Strengthening and the Paris Principles, Ghana case study

<sup>43</sup> Baffour Agyeman-Duah, "Curbing Corruption and Improving Economic Governance: The Case of Ghana" Unpublished Manuscript, p. 4.

serious anti-corruption drive should necessarily include determined efforts to reform and improve the institutional and administrative frameworks.<sup>44</sup>

Restrictions on Parliament's formal powers by Constitutional provisions (notably Articles 108<sup>45</sup> and 78<sup>46</sup>) have had the effect of making the Ghana Parliament a less-than-equal partner with the Executive in national policymaking.<sup>47</sup> Article 78 which requires the appointment of MPs as ministers gives the President the ability to 'reward' loyal MPs or 'neutralize' difficult MPs with ministerial appointment, thereby providing an incentive for MPs from the ruling party to want to please the executive rather than exercise their oversight authority over the executive.

### ***Executive dominance of Parliament***

The relationship between the Executive and Parliament determines the behavior of national politics, the roles of public institutions and to an extent the political system of a country. The Executive controls resources and appoints the administrative heads to monitor and distribute resources to all the arms of government. The Executive quest to have more control and power usually ends up in a variety of tactical compensatory schemes to keep the other arms of government under its control and severely weaken them. The Executive branch of government has thus become too powerful and this is a public complain that cuts across most modern democracies. Indeed, the Executive in modern democracies significantly controls public services and exert significant influence on parliament and to some extent manipulate the judiciary. This undermines democracies and has the capacity to impede the principle of separation of powers and the effective workings of checks and balances that underpins democracy.

With respect to the executive dominance of parliament, the primary reason for choosing members in the legislature to serve in the executive in many democracies like in Ghana, is noble. First, it was envisaged that appointing members of the legislature to be part of the executive will promote government business by hastening the approval of bills and documents presented to the House. It also gives members in-depth knowledge on key government policies and programs so that they can effectively participate in debates on the floor of the House and foster collaboration between the Executive and the legislature. Irrespective of the nobility of these expectations, the phenomenon has been abused in many young democracies by the Executive and it has had serious implications on the effectiveness of the legislature as has been the case in Ghana.

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<sup>44</sup> Ibid.

<sup>45</sup> Interpreted as preventing the introduction of any bill by MPs whose passage will result in a draw on public funds

<sup>46</sup> Which requires the majority of ministers to be appointed from parliament

<sup>47</sup> STAR-Ghana PEA 2011

First the practice of appointing majority of members of parliament to serve in the Executive reduces the effectiveness of the House to hold the Executive in check. The phenomenon also strongly undermines debates on legislations introduced by the Executive since parliament could be seen as both a judge and a jury – most MPs are part of the Executive and thus propose draft laws and approve same into law at the same time. The chances that these laws will be passed without commensurate scrutiny is thus high.

Away from the legislative functions of the legislature, the oversight work is also severely impeded when the Executive dominates the house. Thus parliament encounters serious manpower challenges in finding competent critics for the full spectrum of specific sector policies and actions. Indeed, the oversight responsibilities are weakened to the extent that, some of the tools for oversight such as question time are directed to members of the House that are also part of the Executive. Even though at the moment of questioning they are seen to be representing the Executive, members, especially those that are part of the ruling party may not be able to ask critical questions on the floor because of familiarity and the fear of being sidelined by the Executive head for Executive appointment.

The representation function of parliament perhaps is the most abused function of the legislature when there is Executive dominance in parliament. Members when elected into the legislature, become the representatives of the people to scrutinize and demand accountability from all the arms of government on behalf of the people. By appointing these same members into the Executive, the will of the people becomes subverted by the Executive. Since appointed members become part of the Executive establishment, they unable to demand accountability and transparency on behalf of the people from themselves. Parliament's link of connecting the people to the government is thus broken and the Executive is left to operate according to its whims and caprices.

Away from the core duties of members, Executive dominance of parliament also manifests in the distribution and control of resources to the legislature. In most new democracies, the Executive controls a substantial amount of resources that are usually strategically manipulated to weaken the legislature. In Ghana, parliament does not autonomously determine its own budget. It depends on the Executive for resources to run its activities. An antagonistic relationship between the two arms of government fueled by extreme scrutiny of the Executive could result in substantial budget cuts thereby limiting what the legislature can do.

### ***An expanded space for corruption: Economic Incentives and the Role of the Oil and Gas Sector***

The discovery of oil is usually celebrated because of the high benefits of increased public revenue and the ensuing economic activities it generates. The expectation is that, the 'windfall' revenues from the oil will deliver substantial social, economic and

infrastructural improvement in the lives of citizens. The forgoing is informed by examples of countries that have leveraged on natural resources to develop. In the West for instance, countries such as Norway and Canada, have heavily relied on crude oil exploitation and production to efficiently develop their economies.

Nevertheless, the discovery of oil just as in the case of many natural resources comes with its own challenges which mainly stems from the increase in public revenues. Resource abundance is a two edged sword that can spur a nation to greatness or perpetual ruin. On the negative aspect of oil wealth, while the “Dutch disease” which has been extensively discussed in most academic literature comes up as the obvious, another major challenge relating to the burden of managing the improved public finances is corruption. The political science view of natural resources perhaps explains the corruption dimension of oil and gas booms and its associated impact on society.

The theory is built around the rentier state theory of government and accountability of the rulers of citizens which claims that, when a large percentage of a country’s revenues are not from domestic taxes, three things usually occurs, they usually tend to have weak state institutions, have weaker security systems and are usually less accountable to their citizens<sup>48</sup>. All these three occurrences one way or the other deepen corruption in society and practically makes it difficult to change the status quo.

The Executive arm of government in Ghana has come under the spotlight when corruption in the oil and gas sector is discussed. This is largely because, it is heavily engaged by the international oil companies (IOCs) in the licensing procedures, the development of wells and the production of oil and gas products from the various fields as well as the sale and usage of the final products. At each chain of the extraction, production and distribution process, the executive arm of government, through its agents in public institutions have contact with these IOCs that is in the public space and therefore any exploitation by the agents of government in the chain will likely be in the public domain.

The legislative arm of government is important in natural resource management. In Ghana, parliament gives the final approval for the award of oil blocks and other natural resource leases although the president must append his signature to any agreement with the private sector, the legislature will scrutinize it before it gets to the President. This right is given to the legislators as representative of the people to exert these contracts to rigorous scrutiny to defend the interest of citizens. But parliament’s scrutiny of these contracts is usually a subject of great concern. Oil discovery and development often subvert democratic processes in developing countries. The sector makes some of the important tenets of democracy such as transparency and

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<sup>48</sup> See < <https://www.mak.ac.ug/documents/EPRCUDICPaper.pdf>>



accountability virtually ineffective in dealing with issues in the sector and the legislature is not in any way insulated from it. That has been the experience in Ghana.

The role of the legislature in Ghana in the sector is usually not in the public spectacle even though its actions are supposed to be transparent in dealing with the IOCs and their agents. Parliamentary duties on natural resources are often concealed to the public<sup>49</sup> and this create room for cronyism and corruption in the sector. For example most of the oil blocks in Ghana that were sold were not advertised and subjected to competitive bidding and many Civil Society Organizations have criticized the process as highly secretive and one that lacks transparency.

There are also instances where the award of oil blocks contravenes parliamentary processes with members kept in the loop yet given complex oil contracts to analyze and approve in very short periods of time without furnishing them with enough information to debate the contracts. According to Rotberg, and Salahub (2013), the Ghanaian parliament has been ineffective to the extent that “the legislature has for the most part failed to exert itself over the allocation of permits for oil and gas drilling, the country’s recent resource bonanza”. Few members of parliament have devoted sufficient attention to the allocation and disbursement procedure owing to inadequate information and owing to often the personal benefits that they expect from their ‘lack of active participation and scrutiny.’

From the supply side, parliament’s role in corruption in the oil and gas sector is built on the large resources at the disposal of IOCs and their suppliers. The increasing strive and struggle for limited oil resources and the quest to make huge profits means that IOCs are prepared to go beyond healthy competition to induce members to secure resources at fiscal terms and conditions that do not inure to the benefit of the people. Owing to the huge resources at the disposal of these IOCs, members at the committee level are often subjected to treatments by the IOCs that one way or the other influences MPs’ decisions. The committee dealings usually lack transparency and exploit the loopholes in the Standing Orders of parliament to push through agreements with private entities.

The demand side of corruption in parliament is not only informed by the usual causal factors of corruption but also the need to raise funds to finance their political activities of members. Political campaigns in Ghana and the continent at large are influenced by private money. Since governments do not sponsor political parties and by extension their representatives at the constituency level, they (both incumbent and aspiring candidates) alike are compelled to raise money to finance their campaigns. Members in the House are thus compelled by their inability to raise legitimate finances to accept inducements from private entities and the executive alike and to do their bidding at the committee level. Former President Kuffour of Ghana soon after he was elected into office, pushed for a bi-partisan debate on political party funding. According to

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<sup>49</sup> See <http://www.graphic.com.gh/business/oil-gas/acep-cautions-government-over-oil-block-sale.html>

him state funding ‘will be the best guarantee to sustain multi-party democracy prescribed in the national Constitution to anchor democratic governance of the state,’<sup>50</sup>. Inevitably state funding will go a large extent to reduce corruption in the legislature and counter the influence of provide money, particularly from the oil sector in Ghana.

### ***Excessive Partisanship in parliament and oversight responsibilities***

Oversight is one of the principal functions of parliament that the legislature utilizes to scrutinize the Executive to make sure that they are implementing their strategies and policies in line with legislative intent. Thus the need to ensure that the laws made are being implemented in the way and manner as prescribed by the legislature is the bedrock on which oversight is built. Even though tools abound for the legislature to exercise this function, the degree of professionalism attached to it is as important as the function itself. A principal arena from which effective oversight takes place is at the committee level created to oversee the different agents and agencies established by the Executive to execute national projects and programs. These committees are mostly dedicated to cover all the ministries department and agencies in the executive. In as much as the core competencies of the legislature appointed to do the oversight in these committees are important, the level of discussion and by far cohesion among the members is critical. The legislature should be unified by a common objective of having the state at heart and having the working of all the arms of government in sight. But extreme partisanship could scatter the decorum and unison required for this function.

Partisanship in the legislature has existed in the past and continues to be present even in the advance democracies such as the U.S. congress and the U.K. Houses of Commons and Lords. This is primarily because in modern legislatures, especially those based on the Westminster parliamentary system, members of the legislature are elected to serve their constituent on the ticket of their affiliated parties. These parties have ideological inclinations that differ from each other. It is therefore reasonable to expect that members’ position on issues in the House may cling to these positions<sup>51</sup> and bring a divide in the House’s deliberations on issues. Schmitt, H. (2009) supports the forgoing view and argues that ideological differences and the political competition to a larger extent defines partisanship. Such divisions enrich debate and make decision making in the House more effective as members have a pool of options on the issues to vote on.

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<sup>50</sup> See

<[http://www.africanelections.org/ghana/news\\_detail.php?nws=7300&t=AEP%20Explainer:%20Political%20Party%20Funding%20in%20Ghana.](http://www.africanelections.org/ghana/news_detail.php?nws=7300&t=AEP%20Explainer:%20Political%20Party%20Funding%20in%20Ghana.)>

<sup>51</sup> See <Huang, K. P. Social and Ideological Sources of Partisanship>

While the forgoing is true, extreme partisanship during oversight has the propensity of letting the key issues elude the committee and greatly reduces the effectiveness of the committee. Partisanship in committee oversight is mostly witnessed in jurisdictions that employ the hybrid system. This is primarily because, members affiliated to the government whose party is in power see the particular agency or agent of the Executive being scrutinized as being from their government and that any revelation that embarrasses the government directly also embarrasses the party in power. In such circumstances, members affiliated to the ruling party mostly are compelled to shield the government and may prevent full scrutiny in some cases. They thus argue, based on party lines and reduce their effectiveness.

#### **Section 4: Conclusions and Implications for Policy**

This study confirms the notion that oversight potential does not necessarily translate into oversight. In other words, the fact that a legislature has at its disposal, oversight tools, does not always lead to effective oversight. Contextual factors are key. That is the case of Ghana.

A number of previous studies have been critical of the oversight performance of the Ghanaian legislature. In 2011, a government of Ghana established Constitutional Review Commission (CRC) concluded that despite the powers granted Parliament under the Ghanaian Constitution and despite the oversight tools at the disposal of the legislature, “Parliament has in practice not developed into that autonomous, independent and vital institution capable of asserting its authority and discharging its constitutional functions.” It further argues that “its [Parliament] oversight function for example, have been asserted only in minimal terms.”<sup>52</sup>

The conclusions of the CRC confirm earlier conclusions by analysts of the Parliament of Ghana. In assessing the Ghanaian legislature, Lindberg with Zhou (2009) lamented the law-making body’s weak status vis-à-vis the executive branch. They noted that it is disappointing that one of Africa’s most successful cases of democratization has a legislature that is not as potent an institution as the country deserves given its achievements on other dimensions of democratization. It is not unique, however, that a young democracy experience periods of executive dominance. Executive branches of government after all generally seek to extend their influence beyond their bounds not only in *emerging democracies* but also in established ones.<sup>53</sup>

Similarly, research conducted by the Parliamentary Centre leading to the development of the African Parliamentary Index (API) on oversight in 2013 made an interesting revelation on the Ghanaian Parliament. Ghanaian MPs confessed that even though

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52 Justice Srem-Sai, “Parliamentary Oversight in Ghana – A Brief Review”, paper for Friedrich Ebert Stiftung, Accra, Ghana.

53 Staffan Lindberg with Yongmei Zhou, “Co-optation Despite Democratization in Ghana”, in Joel D. Barkan, ed., *Legislative Power in Emerging AFRICAN Democracies*, Boulder, Lynne Rienner, 2009.

committees of Parliament had the power to obtain information from the Executive, they were not exercising this role effectively. Committees were sometimes compromised by sponsorship for their workshops or other oversight activities by the particular Ministries, Departments or Agencies. Parliamentary Committees could sometimes invite the minister in charge to appear before it. Again, Committees could write to persons in the ministry to provide some required information. However, these prerogatives were not exercised as often and in the ways that they should be. Usually responses to such requests were slow or even not forthcoming. The situation was summed up in a statement “How do you order your bread winner?” For instance, even though a Minister can be arrested by bench warrant, this power was not exercised.<sup>54</sup>

The data reviewed for this report as well as the conclusions reveal one critical issue that will need to be given attention if parliamentary oversight is to have any meaning within the Ghanaian context. It is clear that the lack of oversight in Ghana is not a result of the absence of legislative tools and constitutional powers. MPs in Ghana are driven more by private economic and political incentives than public goods provision.

The biggest challenge for policy is how to shift incentives from private/personal to public goods provision.

From the supply side, this will urgently require a reinvigoration of the current rule of law mechanisms, particularly those related to prosecution. There is the need for an effective investigative mechanism that will be able to ‘catch’ MPs driven by private/personal incentives, name, shame and prosecute them. This will create the strong deterrent that is needed to curtail impunity of the elite that is pervasive in Ghana. This will be a strong state instrument that requires the commitment and leadership of the Ghanaian state.

From the demand side, there is the need for a strong citizen led groups (particularly those dominated by professional associations) with strong incentives for public goods provision, to demand and exact accountability from duty-bearers, particularly MPs. In fact, there is an urgent need to increase civil society influence on parliamentary actions in Ghana in order to engender better accountability and responsiveness of first, Parliament and then government at large. This is premised on the notion that societies get the kind of government they tolerate.

Donors like DFID should be devoting a lot of resources to building innovative demand side accountability mechanisms. This will require mechanisms that will develop efficient and transparent mechanisms which can link civil society with and to the actions of government, traditional authorities, and private enterprise.

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54 African Parliamentary Index (API) at [www.parlcentafrica.org](http://www.parlcentafrica.org)

## References

Adomonline.com, “PAC retrieved Ghc20b of state cash in 2014 – Agyeman-Manu reveals”, 5 January 2015. Accessed November 12, 2016.

African Parliamentary Index (API), [www.parlcentafrica.org](http://www.parlcentafrica.org)

Afrobarometer.org

Alban S. K. Bagbin, “Decouple position of Minister of Justice from that of Attorney-General”, Daily Graphic, 31 January 2015.

Baffour Agyeman-Duah, “Curbing Corruption and Improving Economic Governance: The Case of Ghana” Unpublished Manuscript, p. 4.

Draman, Rasheed, “Oversight Guide for the National Assembly of Nigeria”, Unpublished, 2015.

Citifmonline.com, “*Speaker throws out motion to investigate Mahama’s Ford gift*”, Thursday 1st September, 2016. Accessed December 18, 2016.

Freedomhouse.org

Ghana News Agency – [gna.com](http://gna.com), “PAC Recovers 40m from public servants” November 5, 2008.

Ghana News Agency – [gna.com](http://gna.com), “*Recall not for impeachment of President – Majority*”, August 31, 2016. Accessed December 18, 2016.

Ghana News Agency – [gna.com](http://gna.com), “ Prof. Ayithey Blames Parliament for Corruption in Ghana”, November 7, 2013.

Institute of Economic Affairs, “List of Most Corrupt Ghanaian Institutions: Police, The Presidency, Parliament, All Feature Prominently”, [www.ieagh.org](http://www.ieagh.org).

Justice Srem-Sai, “Parliamentary Oversight in Ghana – A Brief Review”, paper for Friedrich Ebert Stiftung, Accra, Ghana.

Myjoyonline.com, “Parliament divided over \$60 million loan agreement”, November 2, 2016.

Myjoyonline.com, “Martin Amidu accuses previous Parliaments of ‘endemic corruption’”, January 10, 2017. Accessed 10 January, 2017.

ODI, “Parliamentary Strengthening and the Paris Principles: Ghana case study”, 2010.

Peacefmonline.com, “Parliament, Judiciary Deadlocked ...Over Right To Prosecute Public Officers For Financial Malfeasance” 21 April, 2015.

Pelizzo, Riccardo and Rick Staphenurst (2004) "Legislatures and Oversight: A Note", *Quaderni di Scienza Politica*, 11/1: 175-188.

Pelizzo, R., & Staphenurst. F. (2014), *Parliamentary Oversight Tools: A Comparative Analysis*, Routledge Research in Comparative Politics, Routledge

Pelizzo, R. & Staphenurst, R. (2008) Tools for Legislative Oversight: An Empirical Investigation, in; R. Staphenurst, R. Pelizzo, D.M. Olson, & L. von Trapp (eds.) *Legislative Oversight and Budgeting: A World Perspective*, pp. 9-28. (Washington DC: The World Bank Institute).

Pelizzo, R. (2010). "Public Accounts Committees in the Pacific Region", *Politics and Policy*, vol. 38, n. 1, pp. 117-137.

Scott Morgenstern and Luigi Manzetti, "Legislative Oversight: Interests and Institutions in the US and Argentina", Paper prepared for delivery at Notre Dame conference on Horizontal Accountability in New Democracies, May 2000.

Staffan Lindberg with Yongmei Zhou, "Co-optation Despite Democratization in Ghana", in Joel D. Barkan, ed., *Legislative Power in Emerging AFRICAN Democracies*, Boulder, Lynne Rienner, 2009.

Standing Orders of the Parliament of the Republic of Ghana.

Strengthening Transparency, Accountability and Responsiveness in Ghana (STAR-Ghana), "Political Economy Analysis (PEA) of the Parliament of Ghana", 2011.

The 1992 Constitution of the Republic of Ghana

2016 IIAG: Index Report, s.mo.ibrahim.foundation.

[www.ndi.org](http://www.ndi.org)

Pelizzo, R. (2010). "Public Accounts Committees in the Pacific Region", *Politics and Policy*, vol. 38, n. 1, pp. 117-137.

Pelizzo, Riccardo and Rick Staphenurst (2006) "Democracy and Oversight", Paper presented at the annual meeting of the American Political Science Association, Marriott, Loews Philadelphia, and the Pennsylvania Convention Center, Philadelphia, PA, Aug 31, 2006.

Staphenurst, R (2002). "Helping Parliaments Help the Poor" *Development Outreach* Vol. 4 No. 2 April 2002.

Staphenurst, R, R. Pelizzo and K. Jacobs (2014) *Following the Money: Comparing Parliamentary Public Accounts Committees* London: Pluto Press, 2014

Wehner, J. ( 2003) “Principles and patterns in financial scrutiny: public accounts committees in the Commonwealth”, *Commonwealth and Comparative Politics*, vol. 41, n. 3, pp. 21-36.

Wehner, J. ( 2006). “Assessing the Power of the Purse: an Index of Legislative Budget Institutions”, *Political Studies*, vol. 54, n. 4, pp. 767-85.

Wehner, J. (2010). *Legislatures and the Budget Process: the Myth of Fiscal Control*. London: Palgrave Macmillan.