



CONSTITUTION
REVIEW COMMITTEE
2025

REPORT OF THE
**CONSTITUTION REVIEW
COMMITTEE 2025**

PROPOSALS FOR AMENDMENT OF THE 1992 CONSTITUTION

PRESENTED TO HIS EXCELLENCY,
PRESIDENT OF THE REPUBLIC OF GHANA,
JOHN DRAMANI MAHAMA

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FREEDOM

Photo: Official Inauguration of the Constitution Review Committee



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Legend:

Centre: H.E. John Dramani Mahama, President, Republic of Ghana

5th from Right: H.E. Prof. Jane Naana Opoku-Agyemang, Vice-President, Republic of Ghana

4th from Right: Hon. Dr. Dominic Akuritinga Ayine, Attorney-General, Republic of Ghana

5th from Left: Prof. Henry Kwasi Prempeh, Chairperson

3rd from Right: Dr. Rainer Akumperigya, Member-Secretary

Extreme Left: Dr. Godwin Djokoto, Member

2nd from Left: Dr. Esi E. Ansah, Member

3rd from Left: Alhaji Ibrahim-Tanko Amidu, Member

4th from Left: Her Ladyship Justice (Mrs.) Sophia O. A. Adinyira, Member

2nd from Right: Ms. Charlotte Kesson-Smith Osei, Member

Extreme Right: Prof. Kwame Karikari, Member

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January 29, 2026

His Excellency
President John Dramani Mahama
Jubilee House, Accra.

Your Excellency,

We, the undersigned, whom you appointed on January 19, 2025, as a Committee to undertake a comprehensive review of the 1992 Constitution of the Republic of Ghana, have the honour to submit our Report.

Following our formal inauguration at a ceremony at Jubilee House on January 30, 2025, we subscribed to our oaths of office and immediately commenced our work. We are pleased to present to you the culmination of our efforts, our final Report, titled “Transforming Ghana: From an Electoral Democracy to a Developmental Democracy.”

We are profoundly grateful to you, Your Excellency, for the confidence reposed in us and for the opportunity to serve our nation in this important capacity. Your vision for a constitution review that would move Ghana from an electoral democracy to a developmental democracy provided the inspiration and direction for our work.

We also wish to express our appreciation to the Government of Ghana for providing the necessary resources and facilities to enable the Committee to carry out its work effectively and efficiently.

Your Excellency would recall that on December 22, 2025, the Committee submitted to you our preliminary set of recommendations. The Committee is pleased to submit to you our final Report containing our final set of recommendations, which supersede what we submitted in December 2025. We trust that our recommendations will meet with your approval and provide a solid foundation for the constitutional amendments and other measures necessary to propel Ghana into its next chapter of democratic consolidation and developmental success. We believe that the implementation of our recommendations will contribute significantly to deepening Ghana’s democracy, enhancing the effectiveness of our governance institutions, and ensuring that our constitutional framework serves as a powerful instrument for national development and the improvement of the material and non-material well-being of all Ghanaians.

Please be assured, Your Excellency, of our highest esteem and consideration.

Yours sincerely,

Signed:

Professor Henry Kwasi Prempeh
Chairperson



Dr. Rainer Akumperigya, Esq.
Member-Secretary



Her Ladyship Justice (Mrs.) Sophia O. A. Adinyira
Member



Ms. Charlotte Kesson-Smith Osei, Esq.
Member



Dr. Esi E. Ansah
Member



Professor Kwame Karikari
Member



Dr. Godwin Djokoto, Esq.
Member



Alhaji Ibrahim-Tanko Amidu
Member



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33. Nicholas Opoku, Esq.
34. Ms. Gifty Nti Konadu
35. Darlington Amofa, Esq.
36. Mr. Kay Codjoe
37. Ms. Adobea Addo-Ashong

List of Abbreviations

A

ACET: African Center for Economic Transformation

AEC: Anti-Corruption and Ethics Commission

AFRC: Armed Forces Revolutionary Council

AU: African Union

B

BoG: Bank of Ghana

C

CAG: Controller and Accountant-General

CDD-Ghana: Ghana Center for Democratic Development

CDS: Chief of Defence Staff

CEDAW: Convention on the Elimination of All Forms of Discrimination against Women

CEO: Chief Executive Officer

CHRAJ: Commission for Human Rights and Administrative Justice

CLCS: Commission on the Limits of the Continental Shelf

CPP: Convention People's Party

CRC: Constitution Review Committee

CRCC: Constitution Review Consultative Committee

CRC-1: 2010 Constitution Review Commission

CRIC: Constitution Review Implementation Committee

D

DACF: District Assemblies Common Fund

DAs: District Assemblies

DCE: District Chief Executive

D-DCE: Deputy DCE

DDPs: District Development Plans

DPSP: Directive Principles of State Policy

E

EC: Electoral Commission

ECOWAS: Economic Community of West African States

EIA: Environmental Impact Assessment

EOCO: Economic and Organised Crime Office

F

FPIC: Free, Prior and Informed Consent

FPTP: First Past the Post

FWSC: Fair Wages and Salaries Commission

G

GDP: Gross Domestic Product

GES: Ghana Education Service

GIFMIS: Ghana Integrated Financial Management Information System

GoG: Government of Ghana

GRA: Ghana Revenue Authority

H

HR: Human Resource

I

ICBs: Independent Constitutional Bodies

IDEG: Institute for Democratic Governance

IEC: Independent Emoluments Commission

IGF: Internally Generated Funds

IGP: Inspector General of Police

IMCC: Inter-Ministerial Coordinating Committee on Decentralisation

IMF: International Monetary Fund

INDECOM: Independent Commission of Investigations

IOPC: Independent Office for Police Conduct

IPID: Independent Police Investigative Directorate

IRRPC: Independent Registrar and Regulator of Political Parties and Campaigns

ISSOC: Independent Security Services Oversight Commission

ITLOS: International Tribunal for the Law of the Sea

IUU: Illegal, Unreported, and Unregulated

J

JSC: Judicial Service Commission

M

MDA: Ministry, Department, or Agency

MDAs: Ministries, Departments, and Agencies

MMDA: Metropolitan, Municipal, or District Assembly

MMDAs: Metropolitan, Municipal and District Assemblies, 388; Metropolitan, Municipal, and District Assemblies

MMDCEs: Metropolitan, Municipal and District Chief Executives

MP: Member of Parliament

MPs: Members of Parliament

MTEF: Medium-Term Expenditure Framework

MTFF: Medium-Term Fiscal Framework

N

NACOC: Narcotics Control Commission

NALAG: National Association of Local Authorities of Ghana

NCCE: National Commission for Civic Education

NDC: National Democratic Congress

NDP: National Development Plan

NDPC: National Development Planning Commission

NLC: National Liberation Council

NMC: National Media Commission

NPP: New Patriotic Party

NRC: National Reconciliation Commission, 439; National Redemption Council

NVDs: Non-Voting Districts

O

OASL: Office of the Administrator of Stool Lands

OSEs: Other State Entities

OSP: Office of the Special Prosecutor

P

PANAFEST: Pan African Historical Festival

PFM: Public Financial Management

PNDC: Provisional National Defence Council

PPP: Progressive People's Party

PPPs: Public-Private Partnerships

PR: Proportional Representation

PSC: Public Services Commission

PWDs: Persons with Disabilities

R

RCCs: Regional Coordinating Councils

RCMP: Royal Canadian Mounted Police

S

SDGs: Sustainable Development Goals

SIGA: State Interests and Governance Authority

SMC: Supreme Military Council

SOEs: State-Owned Enterprises

U

UNCLOS: United Nations Convention on the Law of the Sea

UNGA: United Nations General Assembly

V

VAT: Value Added Tax

VDs: Voting Districts

Title of Report:

Transforming Ghana: From an Electoral Democracy to a Developmental Democracy

Executive Summary

Purpose and Mandate

The Constitution Review Committee (CRC) was appointed in January 2025 to undertake a comprehensive review of Ghana's 1992 Constitution with the objective of identifying constitutional gaps, weaknesses, and design features that undermine effective governance, accountability, inclusion, and national development. Building on earlier review efforts, specifically the work of the 2010 Constitution Review Commission (CRC-1) and the 2023–24 Constitution Review Consultative Committee (CRCC), the Committee was tasked to assess implementation challenges, incorporate lessons from subsequent national experience, engage widely with the Ghanaian public, and propose actionable constitutional reforms that would strengthen democratic governance and support sustainable development.

The Committee adopted a problem-solving and evidence-based approach, informed by Ghana's constitutional history, comparative constitutional experience (with particular attention to African peers), extensive public and stakeholder consultations, Afrobarometer and other research data, and the lived experience of governance under the Fourth Republic. The Committee was guided throughout by the principle that constitutional reform should enhance democratic accountability, promote inclusion, reduce excessive concentration of power, strengthen public institutions, and align political incentives with long-term national development goals.

Core Finding: Electoral Success Without Developmental Payoff

The Committee's central finding is that Ghana has achieved notable success as an electoral democracy, marked by regular competitive elections, peaceful transfers of power, respect for presidential term limits, and sustained democratic stability over more than three decades. However, these achievements have not translated into commensurate improvements in governance quality, institutional performance, economic transformation, or broad-based improvements in citizens' well-being.

In the Committee’s assessment, Ghana’s constitutional framework, which sets the rules of the game for politics and governance, has demonstrated relatively strong rules of entry and exit – governing elections, term limits, and political competition – but weaker rules of play, in terms of how power is exercised between elections. These weaknesses have contributed to persistent structural problems, including excessive executive dominance, winner-takes-all politics, patronage-driven public administration, weak oversight institutions, rising fiscal stress and public debt, limited local government autonomy, declining public trust in state institutions, and persistent social and spatial inequalities.

The Committee therefore frames its reform agenda around a central proposition: Ghana must transition from an “electoral democracy” to a “developmental democracy” – one in which constitutional design supports accountable leadership, capable and effective public institutions, inclusive growth, fiscal and resource discipline, and tangible improvements in the quality of life of citizens.

Methodology and Public Participation

The CRC undertook extensive public engagements and consultations. This included targeted stakeholder engagements across eleven thematic areas, consultations with eminent constitutional officeholders and former leaders, ten zonal public engagements across the country, youth-focused digital engagements, and structured diaspora consultations. The Committee received over 820 written submissions and reached more than 114,000 citizens through digital platforms, in addition to over 2,400 in-person participants.

Across these engagements, citizens expressed strong support for democratic governance but growing dissatisfaction with governance outcomes. Recurring concerns included corruption, excessive executive power, the high cost of politics, weak accountability, environmental degradation, ineffective decentralisation, and the exclusion of women, youth, persons with disabilities, and other vulnerable groups from meaningful participation in public life. These perspectives significantly shaped the Committee’s diagnosis and recommendations.

The Reform Architecture: Nine Strategic Constitutional Pillars

The Committee’s recommendations are organised around nine interrelated constitutional pillars, each designed to address specific structural deficits in Ghana’s governance framework.

1. A More Focused, Accountable and Effective Presidency

The Committee finds that presidential power under the 1992 Constitution is excessively concentrated, encouraging patronage politics, politicised appointments, weakened checks and balances, and a winner-takes-all political culture. While the presidency is central to effective governance, its current scope of authority undermines institutional autonomy and accountability.

Key recommendations include extending the presidential term from four to five years to enhance policy continuity and accountability; maintaining the two-term limit; lowering the minimum age for presidential candidates to reflect Ghana's demographic realities; rationalising presidential appointment powers; capping the number of ministers; reducing overlap between Parliament and the Executive; reforming presidential emoluments and tax exemptions; and clarifying presidential powers during transitions. Collectively, these reforms seek to refocus the presidency on strategic national leadership rather than patronage-based governance.

2. A More People-Centred Democracy

The Committee identifies systemic weaknesses in campaign and party financing, parliamentary independence, election management architecture, internal party democracy, and political inclusion. The high cost of politics has distorted representation, weakened accountability, and excluded many capable citizens from public office.

Recommended reforms include regulating political party financing and campaign spending; establishing an independent regulator for political parties and campaigns; strengthening the independence of the Electoral Commission; improving internal party democracy; enhancing the representation of women, youth, and marginalised groups; and strengthening Parliament's oversight and institutional autonomy. These reforms aim to improve the integrity, inclusiveness, and responsiveness of Ghana's representative democracy.

3. Harnessing Ghana's Natural and Fiscal Wealth for Sustainable Development

Despite significant natural and fiscal resources, Ghana has struggled to translate resource wealth into sustained development. The Committee finds weak constitutional safeguards around natural resource governance, land management, development planning, and fiscal discipline.

Major recommendations include strengthening constitutional controls over natural resource management; embedding long-term national development planning within the constitutional framework; tightening fiscal responsibility and debt management rules; enhancing parliamentary oversight of public borrowing; and improving transparency and accountability in the use of natural resource revenues. The objective is to ensure that Ghana's wealth supports long-term national prosperity rather than recurrent fiscal crises.

4. Restoring Trust in Accountability and Justice Institutions

Public confidence in institutions of accountability and justice has eroded due to perceived politicisation, weak enforcement, and limited independence. The Committee therefore proposes reforms to strengthen judicial independence, both internally and from political actors; reform the Council of State; and establish an independent Anti-Corruption and Ethics Commission. These measures are intended to rebuild trust in the rule of law and strengthen accountability.

5. Building a Professional, Merit-Based and Capable Public Sector

The Committee finds excessive politicisation, weak meritocracy, and poor performance management across the public service and state-owned enterprises. To address this, it recommends strengthening constitutional protections for professional public administration; enforcing asset declaration and public officer ethics regimes; reducing partisan influence in public appointments; and introducing constitutional governance standards for state-owned enterprises. The goal is to build a results-oriented, efficient, and professional state and public sector capable of delivering development outcomes.

6. Advancing Social Justice, Inclusion and Human Rights

Persistent inequalities remain across gender, disability, youth, ageing populations, and access to social protection. The Committee recommends enhanced constitutional protections for vulnerable groups; stronger gender equality and affirmative action provisions; expanded socio-economic rights guarantees; and improved frameworks for disability inclusion and youth participation. These reforms aim to ensure that Ghana's democracy delivers fairness, dignity, and opportunity for all citizens.

7. Deepening Decentralisation: "All Development Is Local"

The Committee finds that Ghana's decentralisation framework remains politically centralised and fiscally constrained, limiting local development impact. Key reforms

include establishment of a local government Devolution Commission; the phased election of Metropolitan, Municipal and District Chief Executives; enhanced fiscal autonomy for local governments; stronger accountability of district assemblies to citizens; and a clearer constitutional role for traditional authorities in local governance. These measures seek to bring development closer to communities and strengthen grassroots accountability.

8. Securing Democratic Stability, Civil Liberties and National Security

Concerns persist regarding politicisation of security leadership, proliferation of security agencies, and human rights violations. The Committee recommends reforms to appointment procedures for the Inspector-General of Police; rationalisation of security agencies; strengthened civilian oversight; and enhanced safeguards against abuses. The aim is to secure democratic peace while protecting civil liberties.

9. Towards a Living and Adaptable Constitution

Finally, the Committee finds Ghana's constitutional amendment process overly rigid, limiting timely and necessary reforms. It proposes streamlining amendment procedures, differentiating thresholds based on subject matter, and encouraging periodic constitutional review mechanisms to ensure the Constitution remains responsive to national needs and democratic maturity.

Conclusion: A Coherent Blueprint for Democratic and Developmental Renewal

Taken together, the recommendations constitute a coherent and integrated reform package aimed at reducing excessive concentration of power, strengthening accountability, improving political inclusion, restoring fiscal and resource discipline, deepening decentralisation, and rebuilding public trust in state institutions. Implemented holistically, these reforms can provide a strong foundation for Ghana's transition to a more effective, just, and development-driven democratic state. The Committee emphasises that constitutional reform alone cannot resolve all governance challenges. Constitutional reform can realign incentives to reshape institutional behaviour and accountability, but it cannot substitute for responsibility; its success will depend on political leadership, institutional integrity, and sustained civic engagement.

A. INTRODUCTION TO THE REPORT

A1 Appointment, Membership and Mandate of the Constitution Review Committee

The Constitution Review Committee (CRC) was appointed by His Excellency John Dramani Mahama, President of the Republic of Ghana, on January 19, 2025, and sworn into office at a ceremony at the Jubilee House on January 30, 2025.¹ The eight-member Committee comprised the following persons:

1. Professor Henry Kwasi Prempeh (Chairperson) – Executive Director, Ghana Center for Democratic Development (CDD-Ghana).
2. Dr. Rainer Akumperigya, Esq. (Member-Secretary) – Founding Partner, Partners and Associates.
3. Her Ladyship Justice (Mrs.) Sophia O. A. Adinyira – Retired Justice of the Supreme Court of Ghana.
4. Professor Kwame Karikari – Retired Professor and former Director, School of Communications, University of Ghana, former Member, National Media Commission, and Founder, Media Foundation for West Africa.
5. Ms. Charlotte Kesson-Smith Osei, Esq. – Founder and Managing Consultant, Cyrus Law, former Chairperson, National Commission for Civic Education, and former Chairperson, Electoral Commission of Ghana.
6. Dr. Esi E. Ansah – Executive Director, Center for Leadership, Ashesi University
7. Alhaji Ibrahim-Tanko Amidu – Executive Director, STAR-Ghana Foundation
8. Dr. Godwin Djokoto, Esq. – Senior Lecturer, UG School of Law, University of Ghana.

Short biographies of the members of the Committee are attached to this Report as [Appendix C1](#).

The Committee's **Terms of Reference**, as stated in our letters of appointment, were, among others, to:

- (i) review the reports and other outputs of the 2010 Constitution Review Commission (CRC-1), the related Constitution Review Implementation Committee (CRIC), and the 2023-24 Constitution Review Consultative Committee (CRCC);

¹ The inherent authority of the President to appoint a committee or commission to undertake a review of the Constitution and advise the President with recommendations for possible amendments to the Constitution was affirmed by the Supreme Court of Ghana in *Asare v. Attorney-General* [2015] GHASC 101 (14 October 2015), in connection with the establishment in 2010 of a similar Constitution Review Commission by the late President John Evans Atta Mills.

- (ii) identify and address gaps and challenges with the implementation of the work done by these aforementioned bodies;
- (iii) engage the public and stakeholders to solicit their views and proposals for amendment of the 1992 Constitution; and
- (iv) make “actionable recommendations” for amendments to the Constitution that would “enhance democratic governance” and make for a “more inclusive, effective and forward-looking national governance framework.”

A2 Preparatory Meetings

The Committee held its first meeting online on February 4, 2025 and its first in-person meeting on February 11, 2025. These initial meetings and subsequent meetings held in February 2025 were devoted to organisational and housekeeping matters necessary to set up and operationalise the Committee properly.

A2.1 Quorum and Decision Rules

The Committee’s first order of business at its first in-person meeting was to agree on how it would conduct its business and arrive at decisions.

The Committee agreed to set the quorum for commencement of a scheduled meeting at five (5) members, including the Chairperson or Secretary. A meeting could be called at the request of any three members. Meetings could take place online or in-person, with members free to choose their preferred mode of participation.

Regarding decision-making, the Committee adopted deliberation and consensus as its default decision rule. However, where, after prolonged deliberation, consensus could not be reached on a matter, it was agreed that the matter would be decided by a majority vote of the members present, with the quorum for voting set at six (6) members. Where the vote on a matter was split evenly between members, it was agreed that the Chairperson would have a casting vote.

The Committee further agreed that, with respect to the final recommendations of the Committee, a member who disagreed with a specific recommendation had the right to have his or her dissenting or minority opinion included and identified as such in the final Report of the Committee.

A2.2 Guiding Principles

In line with its Terms of Reference and drawing inspiration from the Directive Principles of State Policy (Chapter Six) of the 1992 Constitution, the Committee agreed at the outset on a set of principles to inform and guide its work, including its deliberations and ensuing recommendations. Specifically, the Committee agreed to assess a proposal or recommendation by, among other things, the extent to which it contributed meaningfully to the realisation of one or more of the agreed principles. One cardinal principle agreed upon by the Committee was that no recommendation would be made that would have the purpose or effect of giving any particular person or political party an unfair political advantage.

The other Guiding Principles adopted by the Committee included the commitment to:

1. Preserving and strengthening the democratic gains made by the country so far;
2. Strengthening checks and balances in the exercise of official authority in all spheres and at all levels of government;
3. Enhancing respect for the rule of law;
4. Ensuring a more responsive and people-centred representative democracy;
5. Deepening decentralisation and accountability of local political officeholders to local communities;
6. Enhancing transparency and accountability of government and all public institutions;
7. Promoting professionalism and sound governance practices in the public services and state-owned enterprises;
8. Reducing partisanship in public administration and state institutions;
9. Strengthening the effectiveness of anti-corruption institutions;
10. Ensuring prudent and accountable use of the nation's resources and finances;
11. Enhancing public trust in state institutions;
12. Reducing the cost of politics and other barriers to effective citizen participation in the institutions of representative democracy;
13. Aiding the development of responsible, democratic and policy-oriented political parties;
14. Preserving and strengthening national unity and social cohesion;
15. Promoting a more equal and just society; and
16. Harnessing our natural resources and human capital to achieve sustainable development.

A2.3 Secretariat

To enable the Committee discharge its mandate and related activities effectively and efficiently, the Committee, with the approval of the Office of the Attorney-General, engaged a Project Coordinator, a Research Team made up of junior lawyers and law interns working under the supervision of a senior lawyer (Team Lead), a Digital Communications and IT Support Specialist, and two Administrative Assistants to constitute its Secretariat. Government supported the Committee and Secretariat with an appropriately furnished and equipped office space at the Office of the President Annex on Abdul Diouf Road, Ridge, Accra.

A2.4 External Communications and Public Outreach

The Committee launched its own website, www.constitutionreviewgh.org, in February 2025 to serve as the primary platform for disseminating information and interfacing with the public. Complementing the website, and with a youth audience in mind, the Committee also established an official presence on social media, with accounts on Facebook, Instagram, X (formerly Twitter), and YouTube under the handle @CRCGH25. These digital platforms were used to live-stream all of the Committee's public engagements and provide updates to the public.

Members of the public were directed and encouraged to submit written memoranda to the Committee via a form on the website or by email to submissions@constitutionreviewgh.org. A reply in the form of an automatic acknowledgement of receipt was generated for each submission sent by email. Submissions could also be delivered in hard copy to the Secretariat's Reception Desk at the Committee's offices during business hours.

A3 Committee's Approach

The Committee adopted a **problem-solving approach** to the execution of its substantive mandate. The Committee took the view that, given the ground already covered by CRC-1 and CRCC, an exhaustive clause-by-clause review of the 1992 Constitution would serve no useful purpose. Moreover, since the task before the Committee was a review, as opposed to a complete rewriting or replacement of an existing Constitution, the Committee was of the view that a more selective, problem-solving approach is what was called for implicitly by the Committee's Terms of Reference. The Committee understood its task, essentially, as one of finding and proposing appropriate solutions or remedies of a constitutional nature to those problems afflicting Ghana's democracy, governance, or

development that either emanated, directly or indirectly, from the text or operation of the Constitution or, if not emanating from the Constitution, could be ameliorated or remedied through constitutional amendment.

A4 Methodology

The Committee adopted a methodology that it believed would best complement its problem-solving approach. The methodology consisted of the following sequential steps:

1. Desk review, comprising a review of key documents and other documentary material;
2. Targeted stakeholder engagements;
3. Public engagements;
4. Review of written submissions and
5. Internal deliberations and decision-making.

The Committee had access to the following documents, among others:

1. CRC-1 Report (2011), the CRIC Report (2015), and the CRCC Report (2024);
2. Report of the Committee of Experts that produced the draft proposals for the 1992 Constitution;
3. Past Constitutions of Ghana;
4. Various published studies, commentaries and critiques of the 1992 Constitution and of democratic governance under the Fourth Republic of Ghana;
5. Supreme Court of Ghana case law relating to disputed provisions and interpretations of the 1992 Constitution;
6. Relevant parts of selected comparative constitutions, mostly from Africa and other regional and constitutional peers; and
7. Data from Afrobarometer and other opinion surveys on Ghana over the last several years.

Desk reviews of these secondary materials helped to isolate some of the critical problem areas in our national governance, along with pathways or proposals for reform identified by previous Committees or Commissions, as well as by scholars, researchers, and other commentators.

The Committee's targeted stakeholder engagements were designed to enable the Committee to tap into the reservoir of knowledge, expertise, and first-hand experiences

and insights of individuals and organisations that have experienced or closely studied the workings of various aspects of the Constitution. To achieve this, the Committee employed a triangulated approach to its targeted stakeholder engagements.

First, the Committee repackaged the 26 chapters of the 1992 Constitution into 11 thematic clusters. It published a calendar of thematic stakeholder engagements, devoting at least one working day (sometimes a day and a half or, in a few cases, two days) to a specific cluster of related issues. While these thematic stakeholder engagements were open to the public, the Committee also targeted specific participants by sending invitations to individuals, institutions, and organisations based on their known professional, career, or civic involvement with or expertise on the issues covered under a given thematic cluster. Where possible, the Committee invited one or two thematic area experts to deliver an opening presentation to anchor the ensuing discussions.

The eleven (11) thematic clusters that formed the basis of the Committee's first round of stakeholder engagements were:

1. Lands and natural resources;
2. Local government, decentralisation and chieftaincy;
3. Public services and state enterprises (including the code of conduct for public officers and the exercise of administrative discretion);
4. Independent constitutional bodies and the Council of State;
5. Political parties and elections;
6. The political branches of government (i.e., executive and legislature);
7. The judiciary;
8. Economy and public finance (including the National Development Planning Commission and the central bank);
9. Human rights, gender, and youth;
10. Anti-corruption; and
11. Citizenship.

Second, the Committee held a series of stakeholder engagements with identifiable groups. These groups were selected based on each group's well-known record of exceptional civic or professional involvement or interest in public affairs or matters of national governance. Unlike the thematic stakeholder engagements, each of which focused on a particular thematic area or cluster of issues in the Constitution, the identifiable group engagements were open-ended in terms of subject matter. The Committee was primarily interested in understanding which key social, economic, political, or civic groups perceived or experienced the country's governance challenges

from their respective vantage points – and how they believed these challenges could best be remedied through constitutional reform.

The Committee held engagements with the following identifiable groups:

1. The business community (including small and medium enterprises);
2. Academia and professional associations;
3. The military, police and other security services;
4. Media industry and media professionals;
5. Clergy and organised faith/religious groups;
6. Traditional authorities (National House of Chiefs); and
7. Organised labour (Trades Union Congress).

The Committee also granted requests for special engagement from the following organisations after satisfying itself that, in each case, the matters they wished to raise or present before the Committee were sufficiently weighty as to warrant the Committee's attention: State Interests and Governance Authority (SIGA), Narcotics Control Commission (NACOC), and Keywatch/Intersex Ghana.

The third category of targeted stakeholder engagements involved a class of persons and actors the Committee labelled as **eminent persons**: individuals and institutional players who occupy or have previously occupied key constitutional offices and roles within Ghana's governance system and, thus, whose first-hand experience of the inner workings of the Constitution has afforded them a unique appreciation of the challenges of governance in the Fourth Republic.

The Committee met with the following persons and institutional players in connection with its eminent persons engagements:

1. H.E. John D. Mahama – President of the Republic of Ghana.
2. H.E. John Agyekum Kufuor – former President (2001-2009).
3. H.E. Nana Addo Dankwa Akufo-Addo – former President (2017-2025) (with Mr. Godfred Dame, former Attorney General).
4. H.E. Dr. Mahamudu Bawumia – former Vice-President (2017-2025).
5. Rt. Hon. Alban Bagbin – Speaker of Parliament.
6. Prof. Mike Ocquaye – former Speaker of Parliament.
7. Her Ladyship Justice Sophia Akuffo – former Chief Justice.
8. Nana Otuo Siriboe II – former (two-term) Chairperson, Council of State (2017-2025).
9. The Chairperson and Members of the current Council of State.

10. The then Acting Chief Justice, His Lordship Justice Baffoe-Bonnie and a cross-section of the Judiciary, comprising selected Justices of the Supreme Court, Court of Appeal and High Court, and Judges and Magistrates of the Circuit Courts and District Courts.
11. Nana S.K.B. Asante – former Chair of the Committee of Experts for the 1992 Constitution.
12. Hon. Osei Kyei-Mensah Bonsu – former Majority/Minority Leader.
13. Hon. Mahama Ayariga (Majority Leader) and a section of the Majority Caucus in the 9th Parliament.
14. Hon. Osahen Alexander Afenyo-Markin and a section of the Minority Caucus in the 9th Parliament.
15. Professor Kwamena Ahwoi – former Minister of Local Government and Local Government Expert.
16. Justice Stephen A. Brobbey (Chieftaincy) – Retired Justice of the Supreme Court.
17. Mr. Sam Okudzeto – former member of the Council of State.

The Committee also drew on the first-hand knowledge and experience of three of its members who had held important independent constitutional offices during their public service careers: Retired Supreme Court Justice Mrs. Sophia Adinyira; Mrs. Charlotte Osei, former chair of the Electoral Commission (EC) and, before that, of the National Commission for Civic Education (NCCE); and Professor Kwame Karikari, a former member of the National Media Commission (NMC).

Nii Ayikoi Otoo, Esq., former Attorney-General (2005-2006), participated in most of our thematic stakeholder engagements, while Nana Ato Dadzie, Esq., former Chief of Staff to President Jerry John Rawlings, participated in our thematic engagement on the Council of State.

All targeted stakeholder engagements, except the eminent person engagements, were live-streamed.

While these engagements provided invaluable information and insights for the Committee, the targeted stakeholder engagements were, essentially, “high-level” engagements, as participation was drawn mainly from the national-level political and bureaucratic classes, Accra-based professionals, academics, and civil society leadership. To that extent, participants in these engagements were not representative of the general population.

To reach the wider Ghanaian public, the Committee embarked on a series of scheduled zonal public engagements that saw the Committee travel to ten locations across the length and breadth of the country to engage diverse communities of citizens: Chiefs, Queenmothers and other traditional leaders; local government politicians and bureaucrats; farmers; market women and small business owners; local NGO leaders, youth and community organizers; local journalists; teachers and students; retirees; persons with disabilities; health care providers; security service personnel; and various other persons drawn from communities across the relevant zone. These zonal engagements, held in popular local auditoriums, were organised with the assistance of regional NCCE staff and moderated either by the NCCE or a local media personality. Participants were free to speak in a local language. Local and sign language interpreters facilitated the discussions. In all, the Committee held ten **zonal public engagements** in the following locations:

1. Bolgatanga
2. Tamale
3. Wa
4. Koforidua
5. Ho
6. Accra
7. Cape Coast
8. Takoradi
9. Sunyani
10. Kumasi.

The Committee also held two special public engagements online: the first, an X-Space engagement targeting younger demographics and stakeholders - the “Gen Z” - social media cohort; and the other, a Zoom-mediated engagement with the Ghanaian Diaspora from across the globe. Please see [Appendix C3](#) for full details of the Committee’s engagements.

A5 Post-Engagement Deliberations and Decision-Making

With the exception of the Committee’s interactions with the eminent persons, which were not live-streamed, all of the Committee’s engagements were live-streamed and video-recorded by the Secretariat. Designated Secretariat staff also took contemporaneous notes of the discussions at the engagements, as did individual Committee members. At the conclusion of each engagement, our team of researchers produced a written report summarising the key issues and observations, points of contention, and reform proposals that emerged from the discussions.

Following a work plan agreed at the onset, the Committee scheduled a series of plenary meetings to organise, review, and deliberate on the outputs from the desk reviews and the targeted stakeholder and public engagements. For the ensuing plenary deliberations, the Committee, with assistance from the Secretariat, reorganised the large volume of research and engagement outputs into eight new thematic clusters. Each member of the Committee assumed lead responsibility for one cluster, assisted by two other members. This assignment plan, with each member serving simultaneously as the lead on one cluster of issues and as a supporting team member on other clusters, was designed to ensure that members worked collaboratively across multiple thematic clusters while being primarily responsible for reporting to the plenary on a specific cluster of issues. This division of labour ensured the active participation of all Committee members during the plenary discussions.

The initial set of plenary deliberations benefited from facilitation and technical assistance from a five-person team of constitution-making experts from International IDEA, an intergovernmental organisation based in The Hague, Netherlands, of which Ghana is a member, that works to support and strengthen democratic institutions and processes, including constitutional reform projects, worldwide. The Committee's first week of post-engagement deliberations produced agreement on a chart of the key issues for decision arranged by thematic cluster, a catalogue of tentative alternative proposals associated with the identified key issues, and a structure or framework for the draft Committee Report in the form of a draft table of contents. Subsequent plenary meetings of the Committee were devoted to debating and reaching agreement on various proposed recommendations.

A6 General Observations

A6.1 Public Participation

As earlier indicated, our Terms of Reference enjoined the Committee to engage stakeholders to solicit their views and proposals for amendment of the 1992 Constitution. We are satisfied and pleased to report that the Committee was successful in meeting this charge. Not only did the Committee's diverse modes and channels of engagement provide ample opportunity for all interested persons to participate in the Committee's activities, a significant number of Ghanaians did, in fact, take advantage of these opportunities both to inform themselves of the Committee's activities and to provide to the Committee both oral and written input on a wide range of pertinent issues.

The Committee's zonal public engagements, which took place between June and the end of August 2025, recorded a total in-person participation of 2,436 people across the country, while the targeted stakeholder engagements (excluding the eminent persons engagements) yielded in-person participation from a total of 835 people. The Committee's X-Space engagement targeting social media-active youth and its Zoom engagement with the Ghanaian Diaspora attracted participation from 21,000 live listeners and 135 people respectively. As of the end of September 2025, the Committee had also received 820 written submissions, of which 85 were hand-delivered to the Committee's offices.

Substantially more people followed the Committee's engagements and other communications on our various digital platforms. Between March and August 2025, the Committee's digital communications, including live-streaming of its public and stakeholder engagements, reached an estimated 114,433 people on Facebook, generated 8,388 YouTube views, and drew several thousand additional impressions and interactions across other platforms.

Traditional media also played an important role in expanding the Committee's public outreach and interactions. Through channels like the Ghana Broadcasting Corporation, Ghana News Agency, Joy News, Citi FM, ChannelOne TV, and various regional and community-based radio networks, the Committee disseminated information and fielded questions about its engagements and related activities by way of interviews, news bulletins, and talk shows.

Beyond the high participation rates, the stakeholder and public engagements, as well as the written submissions, provided the Committee with valuable knowledge and information, critical insights, and highly constructive ideas, including many reform-oriented proposals. The high degree of interest, civic commitment and constructive purpose that participants brought to both the elite and the public engagements, which was also reflected in the substance of many of the written memoranda received by the Committee, demonstrates a widespread yearning on the part of informed Ghanaians for transformative change in how and for whose benefit Ghana is governed. Expressions of frustration and dissatisfaction with the character and quality of our contemporary democratic politics and governance, including complaints of successive governments' apparent inability or "lack of political will" to address many perennial public problems and concerns (e.g., corruption, sanitation, urban blight, poor resource governance, illegal small-scale mining, also known as "*galamsey*"), were recurring themes at the Committee's engagements. The sentiments expressed at these engagements confirm recent Afrobarometer data showing that, while a strong majority of Ghanaians consistently say

they prefer democracy to any other form of government (and reject non-democratic alternatives like military rule or one-party systems), satisfaction levels with “the way democracy works” in Ghana have declined significantly in recent years.²

Across the country, participants expressed concern that public officials and institutions, including district assemblies, were not working to address the people’s problems. Some of the concerns and issues brought to the Committee’s attention at the zonal public engagements, though important and obviously strongly felt, were not matters of constitutional consequence; many citizens simply seized upon the Committee’s transitory presence in their communities as an opportunity to air everyday grievances for which they appeared to have no meaningful official avenue or outlet for airing or redress. The Committee observed that local communities across the country desire but apparently lack opportunities for regular effective engagement with their assemblies and Members of Parliament.

A6.2 Relevance and Value of the Committee’s Work

While participants generally expressed support for the constitution review exercise, many were sceptical about the eventual outcome or impact of the Committee’s work. Some questioned why this review exercise should be expected to be any different in consequence from its 2010-11 predecessor, referring to the inaction on the Report of CRC-1. A trust gap between citizens and government was discernible from the tenor of many of the contributions at these public engagements.

Some of the expressed scepticism was in relation to the value of the Committee’s assignment itself. The views in this regard were of two kinds. The first was to the effect that the 1992 Constitution, while not perfect, was fine or good enough as written, and that the “operators” of the Constitution, principally politicians and the people of Ghana, not the Constitution itself, were to blame for the problems with our democracy and governance. Proponents of this view opined that the Constitution review exercise was unnecessary because it focused on the wrong target. The second objection queried why it was necessary to appoint a new committee when the CRC-1 Report could simply be dusted off the shelves and implemented. As these questions went to the core of the Committee’s mandate, and because we saw these engagements also as an opportunity to educate the public about the Committee’s work, the Committee often felt compelled to provide some responses, including the following.

² Afrobarometer surveys indicate a substantial drop in satisfaction with democracy, with only 40-51% expressing satisfaction in the most recent periods (2021-2023), a decrease from much higher levels in earlier periods (e.g., over 80% in 2008).

As to the first, the notion that the 1992 Constitution could not be faulted for the problems of governance the country faces, the Committee was of the view that, regardless of where fault or blame for the problems in our governance, politics or development may be placed, the more relevant question, as far as the Committee's mandate was concerned, was whether appropriate amendments to specific parts of the Constitution could be considered among possible policy interventions to help remedy or mitigate some of these problems. In other words, the Constitution did not have to be a part of the problem for it to be a possible part of the solution.

Moreover, because "the Constitution" encompasses not only those matters that are expressly regulated or provided for in the text of the Constitution but also some that have been left unregulated in the text and are, thus, presumably permitted by default, identifying whether a problem emanates from the Constitution is not always a simple matter of pointing to an express or affirmative text in the Constitution as the source of the mischief; identifying and filling gaps and silences in the text are also a necessary part of the exercise.

As a constitution frames and defines the "rules of the game" –and thus functions as a structure of incentives—that shape the behaviour, decisions, and interactions of individuals, groups, and institutions in our democratic politics and governance, its role as a possible contributory factor in relation to a given governance or political problem cannot be dismissed merely as a matter of opinion. Numerous scholarly and expert studies and surveys of democracy and governance in Ghana's Fourth Republic point to an interplay of factors as explanations for a variety of political or governance problems, and the Constitution, unsurprisingly, often features as one of the causal explanations for some of the problems. In short, while a constitution, and, for that matter, a proposed constitutional amendment, may not be the silver bullet that solves a particular governance or developmental problem, what a constitution says does matter in so far it creates a framework that influences political behaviour and outcomes, which in turn affect the character and quality of governance and governmental performance. The Committee notes that many participants in our engagements indeed appreciated this point.

As to whether there is a need for the current constitution review exercise in light of the existing CRC-1 Report, the Committee notes that, some fourteen (14) years have passed since CRC-1 concluded its work. During this period, there have been many developments and experiences in the country's politics and governance, including in its constitutional law and practice, that simply could not be glossed over in a current effort to put

constitutional reform back on the national agenda. Among these intervening post-2011 developments, the Committee took particular note of the following:

- a. Succession in the presidency and in the position of Vice-President following a vacancy in the office of President caused by the death of a sitting President (2012);
- b. Two presidential election petitions, each adjudicated by the Supreme Court in favour of the candidate declared President-elect by the Electoral Commission (2013, 2020);
- c. Supreme Court rules that a provision of the Constitution stating that the President shall “act on the advice of the Judicial Council” in appointing a Justice of the Supreme Court did not impose an obligation on the President to act as advised (2016);
- d. Chairperson and two deputies of the Electoral Commission removed from office through a constitutional process following party turnover in government (2018);
- e. General elections produce a “hung” Parliament, with the government party securing a one-MP majority by co-opting an Independent MP but losing the Speakership to the candidate of the Minority party (2021-2024);
- f. Scheduled referendum to amend an entrenched provision of the Constitution aborted by the President due to failure to secure bipartisan consensus for the proposed amendment (2019);
- g. Under the auspices of the Ministry of Parliamentary Affairs, and with support from leaders of civil society, academia, and the professions, the constitutional review project is revived and organized under the banner of CRCC; the CRCC submitted its report to Government in December 2024;
- h. President directs Auditor-General to go on accumulated leave (2020); act later declared unconstitutional by Supreme Court (2023);
- i. Ghana defaults on its sovereign debt for the first time ever (2022);
- j. Chief Justice is removed from office through constitutional process following party turnover in government (2025);
- k. General elections produce a new government with a two-thirds (supermajority) in Parliament for the first time since the restoration of constitutional democracy in 1993 (2025);
- l. The rise of social media transforms the media and political landscapes, spawning a new generation of young, opinionated, engaged citizens and influencers; and
- m. The *coups d'etat* return to Ghana's immediate Economic Community of West African States (ECOWAS) neighbourhood, toppling fledgling elected governments in Mali, Guinea, Burkina Faso, and Niger, with widespread support from youth across the Region.

Given these and other notable developments over the course of the last 14 years, simply to have dusted off the CRC-1 Report and sought to implement its recommendations without a fresh opportunity to take on board new thinking, reflections and lessons from these intervening experiences would have been rather ill-advised. The Committee finds it instructive that, the CRCC, which carried out a limited constitutional review exercise at least some thirteen years after the CRC-1 Report, did not always agree with the CRC-1 in its recommendations. We believe that the Committee's Terms of Reference, which enjoined us to review the reports of CRC-1 and the CRCC while taking on board fresh input through a new round of public consultations and engagements, required us to give due consideration to developments since the CRC-1 Report.

B. MAIN REPORT - TRANSFORMING GHANA: FROM AN ELECTORAL DEMOCRACY TO A DEVELOPMENTAL DEMOCRACY

Overview

The Committee has titled this Report, *Transforming Ghana: From an Electoral Democracy to a Developmental Democracy*. In choosing this title, the Committee wishes to signal a continuity of purpose and effort between its assignment and the work of the CRC-1. The CRC-1 titled its Report “From a Political to a Developmental Constitution.” The Committee sees its task, essentially, as the last lap in a relay that began in 2010 with the work of CRC-1.

Beyond signalling continuity with CRC-1, the title we have chosen for our Report also sums up a key finding from our work: Ghana has made nontrivial gains in the “electoral” component of its constitutional journey; however, substantial and persistent weaknesses and gaps in its everyday *governance* (political, administrative, legal, economic) militate against the country’s transformation and development potential. The Report thus addresses a central challenge that has animated our work: Ghana’s record of orderly political turnover and stable democratic peace in over thirty years of the Fourth Republic has not translated into the desired socio-economic transformation or development citizens expect. As the Constitution supplies the rules of the game for the governance of the country, reform of the Constitution through a package of appropriate amendments is, in the Committee’s view, among the reforms that are critical to addressing some of the identified gaps and weaknesses in the country’s governance architecture.

Building on the rules-of-the-game metaphor, the Committee identified two different but interrelated sets of constitutional rules relevant to its assignment: *rules of entry and exit*--the rules governing which and how participants or players get to enter, join or leave the game--and *rules of play*--the rules governing how the game is played among the players. In the context of Ghana’s constitutional democracy, the rules of entry and exit include such things as the right to vote, the formation and operation of political parties, selection of candidates, the conduct and financing of election campaigns, term limits, and elections and election petitions, while the rules of play cover such matters as the allocation, distribution, exercise, and regulation of power and resources among the different political and institutional players (e.g. the President, Parliament, Council of State, the judiciary) and across different levels and spheres of the state (e.g., local government, the public services).

The Committee finds that, on the whole, the rules of entry and exit in Ghana's constitutional system have worked relatively (some, remarkably) well in the last 32 years, as evidenced by the regularity and competitiveness of elections, routine compliance with presidential term limits, and peaceful turnover in government following defeat of an incumbent. On the balance, it is mainly with the rules of play, with how the country and its resources are governed in the period between elections, with how public power is distributed, exercised and regulated or held to account, that we find significant development-inhibiting gaps, although we also note certain persistent gaps in the rules of entry and exit, notably the unregulated money in political campaigns and deficiencies in internal party democracy, and their adverse knock-on or downstream effects on the rules of play and overall governance outcomes. The Committee further notes that these weaknesses and gaps in the rules of the game have survived multiple party turnovers in government and remained relatively unchanged over time and across different presidential administrations, thus confirming their more or less structural character. The recommendations put forth in this Report are addressed, in the main, at these structural gaps and weaknesses in our governance framework.

The remainder of the Report is organised into nine chapters. Each chapter brings together under a common theme different domains or sections of the Constitution that speak broadly to the chosen theme for the chapter. In line with the Committee's problem-solving approach, the theme for each chapter is expressed positively in terms of a desired governance or development outcome.

Chapter One of the Report, titled *Towards a Focused and Effective Presidency*, is devoted to the central figure in the Ghanaian constitutional system: The President. The issues relating to the Presidency and, for that matter, the Executive, that are the subject of the Committee's recommendations in Chapter One include the length of the President's tenure; the appointment and number of the President's Ministers; other appointments of the President; the scheduling of presidential (general) elections; the emoluments, immunities and privileges of the President; and the President's powers during transitions. The overarching goal of the recommendations proposed in Chapter One is to unburden the Presidency by moving it away from the politics of patronage and, instead, refocus its energies on strategic leadership for national development, thereby enhancing the ability of the President to *govern* effectively and efficiently within a workable system of checks and balances.

Chapter Two is titled *Towards a People-Centred Democracy*. It focuses on the two key institutions that constitute the building blocks and pillars of representative democracy in Ghana's Fourth Republic (Parliament and political parties), together with those state

institutions (EC, NCCE, and NMC) that are charged constitutionally with working to ensure that the people are able to exercise meaningfully their right to elect, monitor, and hold accountable their representatives and representative institutions. The Committee's recommendations in this chapter address identified gaps that limit the quality of representation, participation, inclusiveness, and responsiveness of the country's key democratic institutions.

In Chapter Three of the Report, titled *Harnessing Our Collective Wealth for Sustainable Development*, the Committee addresses a bundle of issues that constrain the responsible and effective management of Ghana's natural and fiscal resources, these being issues central to the country's pursuit of sustainable development and prosperity. The management of lands and natural resources, national development planning, and public finances are the core issues dealt with in this chapter.

Titled *Restoring Trust in the Institutions of Accountability*, Chapter Four is devoted to the Council of State, the Judiciary, the Commission on Human Rights and Administrative Justice, and a proposed Anti-Corruption and Ethics Commission. The prosecutorial function of the Attorney-General is also addressed. The recommendations largely address ways to strengthen the independence and effectiveness of these institutions and, thereby, restore public trust in them.

Chapter Five, titled *Towards a Well-Governed, Capable and Effective Public Sector*, addresses issues that affect the capacity, professionalism, and performance of the public sector. The Committee's recommendations in this chapter are designed to ensure that Ghana's development journey is anchored on a well-governed, capable and effective State that ensures that government functions are carried out efficiently and in the public interest. The chapter covers the Public Services, Code of Conduct of Public Officers, including the regime of asset declaration. The chapter also, for the first time in Ghana's constitutional history, brings within the ambit of the Constitution the governance of State-Owned Enterprises (SOEs) to ensure appropriate oversight of the State's significant portfolio of commercial investments and assets.

In Chapter Six, under the theme *Leaving No One Behind: Towards a Just and Equitable Society*, the Report focuses on issues affecting the status and quality of rights enjoyed by various categories of persons within the polity. Focusing on persistent inequalities and gaps in the regime of rights and social protection for vulnerable citizens, the recommendations in this chapter aim to enhance the prospects for a more humane and inclusive society.

Chapter Seven of the Report focuses on longstanding gaps in the distribution of power and resources between central and local government. Titled *All Development is Local*, the chapter addresses issues of political and fiscal decentralisation, as well as the role of traditional authorities in local government. An Independent Devolution Commission, elected metropolitan and municipal chief executives, and representation and participation of chiefs in local government are among the new reforms proposed in this chapter.

Chapter Eight is titled *Securing and Safeguarding Our Democratic Peace, Freedoms and Stability*. Focusing on the security services and their collective role in safeguarding national security and public safety and the overall stability of the constitutional order, the chapter addresses, among other matters, concerns over the political selection of the Inspector-General of Police, proliferation of security agencies with policing functions, and the human rights abuses in security agencies' encounters with the public.

Finally, in Chapter Nine, which is titled *Towards a Living Constitution*, the Report addresses the problem of the relative rigidity of the 1992 Constitution's amendment procedure and offers recommendations to enable Ghanaians to make appropriate changes to the Constitution as necessary and, thereby, ensure that the Constitution remains relevant and responsive to the needs of the nation.

Each chapter opens with a chapter overview that describes, in essence, the problem(s) to be solved in relation to the subject matter or domains covered in the chapter and why addressing them matters. For each sub-chapter, we provide a brief introduction that highlights the importance of the subject matter and the overall concerns with it. Each sub-chapter is further disaggregated into a number of specific issues. Following the introduction, we take on each of the issues in that sub-chapter. These are the specific problems, concerns, grievances, or aspects of governance for which the Committee is invited to provide recommendations. For each issue, we describe or discuss the nature of the problem, the contending perspectives on the matter, if any, and the Committee's take on the issue. At the end of the discussion of each issue is the Committee's recommendation or set of recommendations.



CONSTITUTION
REVIEW COMMITTEE
2025



Chapter I: Towards An Effective, Focused Presidency

CRC25

Chapter I: Towards an Effective, Focused Presidency

Overview

1.1 The President is the fulcrum around whom politics in Ghana revolves. Both in style and substance, the President's leadership sets the tone for the country's governance, and his or her vision, policy priorities, and preferences define the direction of the government and the nation.

1.2 Similar to the 1979 Constitution, the 1992 Constitution establishes a President who is, at once, Head of State, Head of Government and Commander-in-Chief of the Armed Forces of Ghana. The Head of State role is a statesmanlike position in which the President is elevated above the political fray as the embodiment of the nation's unity. The Head of Government role, on the other hand, is a political position that places the President at the helm of the state's political administration, the person singularly responsible and accountable to the electorate for the country's day-to-day governance. The Commander-in-Chief role places the President at the apex of the military chain of command, highlighting democratic civilian control of the military as a central feature of the Fourth Republic.

1.3 The 1992 Constitution furnishes the President with the tools for carrying out his governing responsibilities by vesting in the office—and in that one office alone—the “executive authority” of Ghana. Like many constitutions, the 1992 Constitution does not provide a definition for the term “executive authority”. The full scope and content of the Ghanaian President's executive authority is best understood from a historical perspective. The Executive is the only authority under the Constitution that has been in continuous existence since the dawn of the colonial period, surviving every political and constitutional transition and regime change the country has experienced. This makes the Fourth Republican President the lineal descendant not only of the colonial Governor, from whom he has inherited the honorific “His Excellency”, but also of every officeholder or body, however so described, that has held and exercised the supreme executive authority of the State since Independence. This includes the Prime Minister (with the Governor-General) under the 1957 Constitution, the First President under the 1960 Constitution, the Prime Minister (with the President) under the 1969 Constitution, the President under the 1979 Constitution, and the Chairpersons and ruling Councils of the different military juntas (NLC, NRC, SMC-I, SMC-II, AFRC, PNDC) that, at different periods in our history, held and exercised the executive authority of the State.

1.4 Consequently, to appreciate the sheer breadth of the executive authority vested in the President in the Fourth Republic, one must look beyond the express terms or text of the 1992 Constitution to the volumes of statutes and other legal instruments that grant all manner of power to the President or his Ministers, a vast number of these laws predating the Fourth Republic.³ Upon the coming into effect of the 1992 Constitution, all these grants of executive authority contained in Acts and decrees became part of the “existing law” of Ghana. To this, we must add the thousands of statutes and statutory instruments that have been enacted since 1993, many of which have expanded the existing powers of the President and the Executive generally. In short, the President in the Fourth Republic possesses substantially more power, in the aggregate, than a literal perusal or reading of the text of the 1992 Constitution might suggest.

1.5 The powers vested in the Ghanaian President are arguably vastly in excess of what an effective President reasonably needs to execute his mandate. Such disproportionate power, concentrated in one office, undermines good governance in several ways. First, within our legal drafting tradition, laws that grant power to the President tend to be framed in overly broad and permissive language. As a result, the President is often left free to act largely by discretion, with little or no credible restraint on his or her power. This raises the risk of an authoritarian abuse of power. Second, the wide reach of the President’s power tends to enfeeble and undermine the autonomy and effectiveness of other institutions of State, including those institutions that are established as part of the constitutional system of checks and balances. Faced with a President who possesses vastly disproportionate power and political resources, many nominally countervailing State institutions often cower in submission, unable to perform their executive-checking functions. Third, it should not be forgotten that the Ghanaian President also wears the hat of *de facto* leader of his other political party. In that unofficial capacity, the President is often under intense partisan pressure to use the immense power and resources of the office to advance and underwrite the party’s agenda and interests, sometimes to the detriment of the national or public interest. The President’s vast control over patronage and other resources across large swaths of the State and economy thus positions him or her at the centre of a polarising “winner takes all” politics that has been identified as one of the most pernicious and structural defects of contemporary Ghanaian democracy.

³ The late Nigerian constitutional scholar Professor B.O. Nwabueze observed this pattern as characteristic of Commonwealth Africa generally: “The enhancement in the powers of the President has resulted not so much from increased ministerial responsibilities as from powers conferred by statute, much of which had been inherited from the Governor-General who had previously exercised them in the advice of the cabinet or sometimes of the Prime Minister alone.” B.O. Nwabueze, *Presidentialism in Commonwealth Africa*, p. 177 (St. Martin’s Press, N.Y.) (1974).

1.6 The party whose candidate wins the right to occupy the presidency effectively gets to govern the country solo. Short of “having their say” in Parliament, there is usually no meaningful governing role at any level of government – national, local, regulatory, or commercial – for the party that fails to win the presidency.⁴ Aside from the monopoly of governing, winning the presidency also gives the President and ruling party, virtually unrestrained access to a vast wealth of state-controlled opportunities, resources, and rewards. Not only can the President enlarge the state machinery and size of government by creating new districts and ministries at will, he or she is also free to appoint “such number of Ministers of State as may be necessary for the efficient running of the State”⁵ and also gets to appoint the chief executives (“mayors”) of all the administrative districts of the country, including those districts where the rival party is electorally more dominant. The President’s vast power of appointment extends across the entire public sector, including all statutory and other incorporated SOEs, regulatory bodies, and the security agencies. Routine and widespread use of the president’s patronage power to allocate scarce public resources and other economic opportunities (directorships, jobs, scholarships, contracts, etc.) through exclusive party networks has turned the public sector into more or less an avenue of material accumulation for the party of the President and its supporters. The outcome of Ghanaian presidential elections thus occasions a swift and often tumultuous change in personnel across the public sector, as well as in the fortunes and material circumstances of a large number of partisans on opposite sides of the divide.

1.7 The Committee notes that “the excessive powers of the President” was, unsurprisingly, the most common refrain heard among participants in our public and stakeholder engagements. The long, interfering hand – or, at other times, the accountability-shielding cover – of the President was singled out by many participants as a principal reason why the country seems unable to deal resolutely with a myriad of problems, from corruption to illegal small-scale mining (*galamsey*). The “excessive” appointment power of the President came up for particular mention, with Presidents said to apply partisan, rather than meritocratic, criteria in making many critical public appointments. This practice was blamed for undermining performance and accountability across the public sector. Another feature of the 1992 Constitution, in relation to the presidency, that received trenchant criticism during our engagements is the constitutional requirement that a majority of Ministers of State be appointed from Parliament – and, having been so appointed, continue to serve as Members of Parliament

⁴ While it is possible for general elections in Ghana to result in control of the presidency and parliament being divided between rival parties, a scenario that would give the majority parliamentary party an effective veto against the president’s legislative agenda, that eventuality has not quite materialized yet. The last (8th) Parliament was the closest the country came to realizing that scenario.

⁵ Article 78, clause 2, of the 1992 Constitution of Ghana.

(MPs). Ostensibly designed to promote cooperation between the executive and legislative branches, this arrangement is blamed for weakening parliamentary oversight and checks and balances between the Executive and Parliament. Other aspects of the office of President that generated spirited debate and proposals for constitutional amendment in our consultations include the ‘special arrangement’ for determining the emoluments of the President and other constitutional officeholders (the “Article 71” issue); the adequacy of the four-year presidential term; exemption of the President from payment of income tax; the mandatory minimum age that qualifies a person to be President; the absence of a ceiling on the number of the President’s Ministers; and a few more, including whether or not there is a need for a Prime Minister. These and other issues relating to the Executive, including presidential term limits, are the subject of this chapter. The ensuing recommendations are designed to reform the office of the President, focusing the President’s energies and resources on *governing* (as opposed to politicking) while diffusing responsibility and accountability, both horizontally and vertically, across the constitutional system for effective governance and checks and balances.

Term of Office of the President: Two-Term Limit

1.8 Surveys show that the one provision of the 1992 Constitution in relation to the President that enjoys consistently strong cross-party support among Ghanaians is Article 66(2): “A person shall not be elected to hold office as President of Ghana for more than two terms.”⁶ Unlike other countries in Ghana’s West African neighbourhood, where incumbent presidents have made both successful and unsuccessful attempts to extend or evade constitutional term limit provisions, Ghana’s Article 66(2) has elicited dutiful compliance from every President of the Fourth Republic, beginning with the late President Jerry John Rawlings in 2001. The Committee notes that widespread popular and elite support for the two-term limit on presidential tenure, including among the country’s main political parties, has made peaceful turnover and succession in the office of President a routine feature of Ghana’s democratic experience in the Fourth Republic. Throughout the Committee’s nationwide engagements, only a few isolated voices expressed a desire to have the presidential term limit provision tampered with.

1.9 Despite the solidity of the support enjoyed by Article 66(2), there is occasional controversy over its meaning. Some claim the provision is ambiguous, pointing to the fact that the text does not state explicitly whether the two-term limit means two consecutive terms or two terms in total, regardless of whether those two terms are consecutive or non-consecutive. In view of this, some of the submissions received by the

⁶ Afrobarometer data from 2008-2024 show that roughly seven in ten Ghanaians support limiting presidential tenure to a maximum of two terms.

Committee urged the Committee to propose an amendment to clarify and remove all ambiguity regarding the meaning of Article 66(2).

1.10 The Committee, however, is of the considered view that there is no ambiguity as to the meaning of Article 66(2): A person cannot be elected to hold office as President for more than two terms; it is immaterial whether those two terms occur consecutively or non-consecutively. The Committee notes that, in contrast to Article 66(2), Article 246(2) of the 1992 Constitution, relating to the term of office of a District Chief Executive (DCE), states that, “a person shall not hold office as a District Chief Executive for more than two consecutive terms.” Thus, if the two-term limit specified in Article 66(2) was intended to mean two *consecutive* terms, thereby leaving open the possibility of a third non-consecutive term for a President, Article 66(2) would have been rendered in language identical or similar to Article 246(2). The Committee is therefore satisfied that Article 66(2) is clear enough as written; a person who has been elected twice to the office of President and, thus, held office for two terms as President is not eligible to contest or hold that office again.

Recommendation

1.11 The Committee proposes no amendment to Article 66(2), as we find no ambiguity regarding its meaning and no need to extend the two-term limitation on the number of terms a person may be elected to hold office as President.

Term of Office of President: Length of a Term

1.12 In contrast to Article 66(2), opinion is divided as to the companion provision in Article 66(1), which stipulates the length of a President’s term as “four years beginning from the date on which he is sworn in as President.” The debate is over whether a four-year term is long enough for effective governance. The Committee received roughly three different answers to this question: Retain the existing four-year term; replace the existing four-year, two-term limit with a single non-renewable term of seven years; or extend the term from four to five years.

Proponents of a lengthier term argue that a four-year term within the Ghanaian context amounts to an effective governing term of a little over two years. They argue that a President spends roughly the first six months of a four-year term making appointments and putting together the administration, and the last year or so campaigning for re-

election or for the party's chosen successor. In rebuttal, defenders of the current four-year term have argued that the problem of inadequate time is a "managerial," not a constitutional one. They contend that inefficiencies in the management of a President's four-year tenure should be cured not through extending the length of the President's term, but through reforms like regulating the period for electioneering campaigns and unburdening the President by cutting down significantly the number of nonessential appointments a President must make.

1.13 The Committee agrees that too much of a President's time and energies are taken up by both the sheer load of the appointments that are thrust upon a President and by the demands of electioneering or political campaigning. Partly for this reason, the Committee makes recommendations elsewhere in this Report for a regulated campaign season and streamlined appointments system, reforms that should free up more time for a President to focus on *governing*.

1.14 The Committee nonetheless gave careful consideration to the proposed alternatives to the current four-year term. Regarding the proposal of a single non-renewable term of seven years, the argument proffered in support of it was that, an uninterrupted tenure of seven years without the prospect of re-election would focus the President's attention on governing and delivery. The Committee's primary concern with this proposal is the fact that the Presidential system of government provides voters with no regular "exit" option (beyond impeachment) during the entire term of the President. If a President proves incompetent or disastrous relatively early in his or her term, no recall or "vote of no confidence" opportunity exists to cut short the term of the President. The Committee finds, on that score alone, that a seven-year (or even a six-year) term could be politically destabilising. The Committee is also of the considered view that the absence of a re-election opportunity in a non-renewable term removes an important incentive or discipline on a President's conduct or performance in government. Based on these considerations, the Committee is unable to endorse the proposal of a single non-renewable term of seven years.

1.15 The Committee also carefully considered the case for a five-year term. The Committee notes a consistent pattern, since the start of the Fourth Republic, of every party government effectively being given an eight-year governing mandate through re-election at the end of the first four-year term. This pattern has repeated itself since 1992 and appears to reflect a voter tendency to grant administrations a second term, not necessarily on the basis of exceptional performance, but ostensibly to allow additional time for policy or programme implementation and delivery. This empirical reality suggests that voters themselves may not be persuaded about the adequacy of a four-year

term. While a five-year term extends a President's current term by only a year, it is likely to be perceived as more than enough in the Ghanaian context, thereby denying a President the excuse that he or she has not had enough time to govern or implement his or her policies or programmes. Voters may indeed be less willing to re-elect a President who has underperformed at the end of a first five-year term than one who has served a four-year term. The Committee thus anticipates that a five-year presidential term will strengthen democratic accountability by recalibrating performance expectations. With additional time to govern, administrations will be less able to attribute non-performance to limited tenure. Mandate renewal at the end of the first term is therefore likely to be premised on demonstrable and exceptional performance rather than on the inadequacy of the length of the term.

1.16 Proponents of a five-year term also cite cost savings from less frequent elections in justification of their proposal. Switching from a four-year to a five-year term means one less election every twenty years. By some estimates, assuming only a two-party contest, this translates into a savings of over \$650 million, representing one election cycle every twenty years.⁷ Beyond the direct fiscal costs, frequent election cycles also carry other costs, including economic and policy disruptions.

1.17 The Committee is mindful of the fact that determining the adequacy of the length of a President's term is not a science; the number, whether 4 or 5 or more, is almost necessarily arbitrary and often a matter of tradition. The Committee notes that, in presidential systems, the tradition of a four-year term of office for the President began with the United States Constitution and was subsequently copied by countries that followed the American constitutional model. The Committee notes further that, among elective presidential systems (and parliamentary systems with fixed terms), the contemporary global median is a five-year term. This is indeed the case among Ghana's regional peers. Namibia, South Africa, Cabo Verde, Cote d'Ivoire, Sierra Leone, Senegal, Zambia, Kenya, Malawi, Mozambique, Tanzania, Angola, Botswana, Democratic Republic of Congo, The Gambia, Uganda, and other sister African countries all have a 5-year presidential term. In the Economic Community of West African States (ECOWAS)

⁷ Cost of One Election Cycle:

- a. Actual EC's cost of 2020 elections: \$72,589,416 (Source: Ministry of Finance)
- b. Estimated NDC and NPP Presidential Candidates' cost of 2020 elections: \$200,000,000 (Source: CDD-Ghana)
- c. Estimated NDC and NPP Parliamentary Candidates' cost of 2020 elections: \$380,880,000 (Source: CDD-Ghana)
- d. The above excludes cost of presidential and parliamentary candidates of other political parties, as well as other social and economic cost of elections.

region, only Ghana and Nigeria have a four-year term for President – the shortest in the Region.

1.18 The Committee is of the considered view that, given the necessarily arbitrary nature of the choice of the length of a presidential term, comparative best practice offers a useful guide. Instructively, five years is also the median length of national development plans worldwide, thereby aligning the political calendar and electoral cycle with contemporary economic planning horizons. The Committee believes that the proposal for a five-year term of office for the President, with the prospect – but no guarantee – of a re-election, strikes a reasonable balance between democratic accountability and effective, long-term governance.

Recommendation

1.19 The Committee recommends an amendment to Article 66(1) to extend the length of a President's term from four years to five years.

Minimum Age Qualification to be President

1.20 Article 62 of the Constitution sets the minimum age for election as President at 40 years. The Committee received numerous submissions proposing a lowering of the minimum age to 30 or 35 years. Others argued in favour of setting the minimum age for the presidency at the same age as the minimum age for election as a Member of Parliament (21), while a few insisted that once a person was qualified to vote (at 18), they should be deemed similarly qualified to contest to get elected to any elective public office, including the presidency. While the proposals diverged on the appropriate minimum age, there was consensus that the current age of 40 for election as President is set too high.

1.21 The Committee concurs and notes that, under the Constitution of the First Republic (1960), the minimum age to contest for President was set at 35. The minimum age to qualify for election as President was raised to 40 in the 1969 Constitution. The Committee notes, however, that under the 1969 Constitution, the President was only a Head of State, not a Head of Government. Effective governing power under the 1969 Constitution resided with the Prime Minister (as Head of Government) and his Cabinet, all of whom, being first and foremost Members of Parliament, needed only to be 21 years of age.

1.22 The minimum age to be President of Ghana was maintained at 40 years in the 1979 Constitution, without taking due cognizance of the fact that under the 1969 Constitution, from which the 1979 Constitution had borrowed many of the provisions pertaining to the President, the holders of real executive power (the Prime Minister and Cabinet) qualified to hold those offices upon attaining a minimum age of 21.

1.23 The Committee notes that in general, the mandatory minimum age of Presidents in a presidential system tends to be set higher than the minimum age of Prime Ministers (called Presidents in some cases, e.g., Botswana and South Africa) in a parliamentary system. In Africa, the minimum age to be elected President is 35 in 18 countries, including Angola, Cabo Verde, Côte d'Ivoire, Senegal, Namibia, Uganda, and Zambia. Two countries (Gambia and Botswana) set the minimum age for President at 30, while Ghana is one of 8 African countries with 40 years as the minimum age for President. Notably, the minimum age for the President of Nigeria was reduced from 40 to 35 in 2018, when President Buhari signed the “Not Too Young to Run Bill” into law, thereby amending the constitution.

1.24 The Committee is of the considered view that a minimum age of 30 for the office of President is not unreasonable for Ghana. The Committee notes that a minimum age of 30 for the President translates into a gap of roughly 10 years between the minimum age for a Member of Parliament or Minister (21) and the minimum age for the presidency. This is comparable to presidential systems like Nigeria and the United States, where the minimum age for the House of Representatives is 25, a ten-year gap from the presidential minimum age of 35 in each instance. The Committee’s proposal also takes due cognisance of the fact that when Ghana’s Constitution set the minimum age for a President at 35 (in the 1960s), the percentage of the country’s population below the age of 35 was roughly 50%. Currently, based on data from 2024, a little over 70% of Ghana’s population is under the age of 35, with a median age of approximately 22.2 years.⁸ The Committee notes further that, beyond aligning with the country’s demographic trends, a minimum age of 30 to qualify for election as President is significant for its political symbolism: it signals that the youth are critical stakeholders in the country’s politics, governance, and future. In the end, it is for voters to assess a candidate’s suitability for the highest office of the land. Contesting the presidency at age 30 years – or at any age for that matter – does not guarantee success or victory for the candidate, but 30 years seems old enough for a person of ambition to put their ambition to the test.

⁸ GEO RANK, Ghana Demographics: Median age, gender, race, religion (updated 22 October 2025) <https://georank.org/demographics/ghana> accessed 25 December 2025

Recommendation

1.25 The Committee recommends an amendment to Article 62(b) to lower the minimum age a person must attain to qualify for election as President from forty (40) years to thirty (30) years.

Exemption from Tax

1.26 Article 68(5) of the Constitution exempts the President from paying tax on his salaries, allowances, and other emoluments. The Committee understands that, in practice, the exemption from tax extends to non-income taxes, such as import duties, although the constitutional authority for the latter tax exemption is unclear. The general sentiment among Ghanaians regarding the tax exemption for the President is negative. Ghanaians overwhelmingly oppose, mostly on fairness grounds, the idea of a President being exempt from payment of tax. Exempting the President from payment of tax also sends the wrong signal, particularly in a country where a habit of tax compliance has yet to take root among the people. It is argued that a tax-paying President would be better able to lead a campaign to get people to honour their tax obligations. The Committee finds no sound justification for exempting the President from tax of any kind and accordingly recommends abolition of the tax exemption.

Recommendation

1.27 The Committee recommends an amendment to Article 68(5) to provide that the salary, allowances and facilities payable to the President under clauses (3) and (4) of Article 68 shall be subject to tax in accordance with applicable law. The President shall similarly be subject to payment of indirect tax on goods and services, including import duty, on the same terms as every other person.

Emoluments of the President and Other Holders of Public Office: Article 71

1.28 Article 71 of the Constitution was easily the most unpopular provision of the Constitution during the Committee's public engagements. The Committee notes that, there is widespread support for the idea, first recommended by Constitution Review Commission, 2010 (CRC-1), of replacing the ad hoc Article 71 Committee with an

Independent Emoluments Commission (IEC), “with the responsibility for determining emoluments attached to all public offices”⁹ so as to “rationalize salary administration in the country, bring some equity into the remuneration regime and ensure the achievement of some level of relativity between the remuneration of public officers.”¹⁰

1.29 The Committee endorses this proposal. In fact, we received a written submission from the Fair Wages and Salaries Commission (FWSC), in which the FWSC indicated that it had both the desire and the capacity to take on the responsibility envisaged for the proposed Independent Emoluments Commission.

Recommendation

1.30 The Committee recommends an amendment to clauses (1) and (2) of Article 71 to provide that the salaries and allowances and the facilities and privileges available to persons holding public office generally, including the President and the holders of the other offices listed under clauses (1) and (2), shall be determined by the proposed Independent Public Emoluments Commission.

Immunities after Office: Article 57(5) & (6)

1.31 Article 57 of the 1992 Constitution insulates the President against civil and criminal proceedings while in office. The Constitution, however, allows civil and criminal proceedings to be brought against the President after he leaves office, but only within three years of the President’s departure from office. The Committee understands that a former President is entitled to enjoy a peaceful retirement once he or she leaves office and not be subjected to constant harassment or threat of prosecution in retirement. At the same time, as no criminal action or process could be brought against him while he was in office, lifting the immunity to allow the possibility of the President being held to account once he has left office for alleged crimes committed before or during his time in office is fair and necessary. To allow a President to carry into retirement the full extent of the immunity from criminal liability he or she enjoyed while in office would, effectively, place a President above the law for all time.

⁹ Paragraph 147, CRC-1 Report

¹⁰ Paragraph 147, CRC-1 Report

1.32 The question, then, is how long a window or period after leaving office should be allowed for criminal action to commence against a former President for an alleged crime committed while in office? It is not clear why there is the current three-year window. The Committee surmises that the post-tenure window for commencement of criminal action against a former President may have been set at three years to avoid the commencement of criminal prosecution being used for political mischief, as it would be timed to coincide with the next election. The Committee is of the considered view that, under the current four-year election cycle, a three-year window strikes a reasonable balance between the State's interest in pursuing post-tenure accountability and a former President's interest in not having allegations of criminality held over their head without action to charge or prosecute them. If the Committee's recommendation to extend the term of office of a President to five years is implemented, a corresponding extension of the 3-year window under Article 57 to four years in respect of criminal matters would not be unreasonable.

1.33 The Committee finds, however, that extinguishing a civil claim against a former President, including a claim that arose during the former President's tenure, unless it is brought within 3 years of his leaving office, would be unfair to the private claimant. Unlike the State that has substantial resources at its disposal to gather evidence and commence a criminal action within three years, the private claimant may not be as resource-rich as to be able to commence a lawsuit against a former President within three (or four) years after his term of office is over. Furthermore, concerns about an unduly long window for commencement of post-tenure criminal action being used for the political persecution of a former President do not arise in the civil context. A private party, for instance, with a contract or a tort claim against a former President, which arose while the President was in office, should not lose the opportunity of having their day in court simply for not being able to bring the case within 3 or 4 years of the President leaving office. In view of the foregoing, the Committee recommends as follows:

Recommendation

1.34 The Committee recommends an amendment to Article 57(6) to provide that (a) private civil proceedings may be instituted against a person at any time after he or she ceases to be President, subject only to the statute of limitations applicable to the claim in question, and (b) criminal proceedings may be instituted against a person within four years of ceasing to be President; in each case, in respect of anything done or omitted to be done by him or her in their personal capacity before or during the term of office.

Vice-President or Prime Minister?

1.35 The role and value of the Vice-President in the current constitutional set-up came up for discussion, particularly in our targeted stakeholder engagements, including, notably, in a few of our high-profile eminent person engagements. One proposal that emerged from these engagements was to abolish the office of Vice-President and replace it with a Prime Minister.

1.36 As currently established, the Vice-President has no constitutionally designated day-to-day function or role. The singular constitutional role of the Vice-President is to succeed to the position and exercise the duties of the President in the event of a temporary or permanent vacancy in the office of the President. Until such an eventuality occurs, the Vice-President has no formal share in the executive authority of the State; all of that authority is vested exclusively in the President. Thus, what day-to-day responsibilities or functions the Vice-President would perform is a matter left entirely to the discretion of the President. A President who is unwilling to assign his or her Vice-President a substantive role in the administration thus renders the Vice-President largely redundant.

1.37 One suggested remedy to this problem is for the Vice-President to be assigned specific substantive functions and commensurate powers directly in the Constitution. The Committee notes, however, that this suggested cure to the Vice-President's potential redundancy problem would mean, in effect, dividing Executive authority formally between the President and Vice-President. As the Vice-President enjoys the same fixed tenure as the President and, thus, does not serve at the pleasure of the President, a constitutional division of functions and powers between the two would sow the seeds of conflict at the highest levels of Government and invite needless constitutional crisis should the two disagree or fall out.

1.38 The Committee further notes that the problem of the redundant or under-utilised Vice-President is not peculiar to Ghana; it is common to presidential systems like Ghana's, where the President is elected on the same ticket with a handpicked Vice-President who enjoys the same fixed constitutional tenure as the President. The common practice in such political systems is for a Vice-Presidential candidate to be chosen primarily for their ability to enhance their Presidential candidate's electoral appeal to certain key demographic or political constituencies.

1.39 The Committee understands the appeal of a Prime Minister as enabling a President, once elected, to bring on board a person the President believes can best assist him or her

with the onerous responsibilities of day-to-day political administration—and who, importantly, serves at the pleasure of the President. The Committee notes, however, that nothing in the 1992 Constitution as currently designed prevents or forbids a President from appointing or designating a Cabinet-rank Minister as “Prime Minister” or assigning a Vice-President responsibility for running the day-to-day business of Government, including leading the Government’s business with Parliament or coordinating the work of all other Ministers on behalf of the President. We note that some Presidents in the Fourth Republic have, in fact, designated certain of their Cabinet Ministers as “Senior Minister” or “Minister for Presidential Affairs,” presumably with functions or roles similar to a traditional Prime Minister’s, though the Presidents in those cases did not explicitly describe the roles of those Ministers as Prime Ministerial in nature.

1.40 The Committee is of the view that the solution to the problem of a redundant or under-utilised Vice-President lies squarely with a President, not the Constitution. While the Committee appreciates the political need to choose a running mate who balances the presidential ticket electorally, this need is not inherently in tension with ensuring that the person selected as running mate is also capable of assisting the President in governing effectively once elected. In other words, if selected with both ticket-balancing and governance ability in mind, a Vice-President should be able to play a prime ministerial role for a President if the President feels the need for such a role.

1.41 The Committee notes that, replacing a Vice-President with a Prime Minister in a presidential system—a Francophone-style Prime Minister, in effect—would leave a gap in presidential succession, as such a Prime Minister, not having been elected on the ticket with the President and serving solely at the pleasure of the President, cannot step permanently into a vacancy in the office of President. The Committee was reminded that the formal absence of a Vice-President in the Ivorian constitutional system at the time of President Felix Houphouët-Boigny's death in 1993 precipitated a prolonged leadership succession crisis that eventually led the country into a civil war. The Committee believes that there is value to keeping the position of Vice-President, even if only as an insurance policy against an unanticipated vacancy in the Office of the President. The Committee, similarly, sees no need to explicitly provide under the Constitution that the President is indeed free to appoint or designate a Minister of State as “Prime Minister” or assign the Vice-President prime ministerial responsibilities, if the President so desires.

Recommendation

1.42 The Committee finds that the need for a seamless succession to the office of President in the event of a vacancy in the office justifies retaining the position of Vice-President.

The Committee is of the considered view that granting specified executive functions to or vesting specified powers in the Vice-President, as proposed by some persons, would not conduce to effective governance, as that would invite or provoke turf battles or interpersonal conflict at the highest levels of Executive authority.

The Committee further finds that there is no need to make specific provision in the Constitution to permit the appointment of a Prime Minister or a Minister performing similar functions, by whatever name he or she may be called, as nothing in the 1992 Constitution prevents or forbids a President from appointing or designating any member of his Cabinet, including the Vice-President, to perform functions similar to those ordinarily performed by a Prime Minister in a semi-presidential system.

Appointment of Ministers and Deputy Ministers from Parliament (Article 78(1))

1.43 Article 78(1) of the Constitution requires the President to appoint a majority of his or her Ministers from among Members of Parliament. Ministers appointed from Parliament retain their seats in Parliament. This feature of the 1992 Constitution, not uncommon in African presidential systems, has been blamed for enfeebling Parliament in the Fourth Republic. Indeed, the prospect of securing concurrent appointment as a Minister of State (or Deputy), with its access to greater political resources and prestige, has become a primary motivation for entering Parliament in the Fourth Republic. MPs who serve in the President's government naturally align with the interests of the Executive *vis-à-vis* Parliament, while the prospect of being offered a Ministerial office is often enough to buy the loyalty and support of "back-bencher" MPs for the President's legislative agenda. In consequence, legislative oversight of the Executive is weakened.

1.44 Article 78(1) has undermined legislative effectiveness in other ways. The daily demands of Ministerial work mean that Minister-MPs are often unavailable or unable to attend dutifully to the business of Parliament. This has often led to Parliament not having the minimum number of MPs present to commence or continue its business.

1.45 In general, criticism of the “hybrid” requirement has tended to highlight its adverse effect on Parliament. It is thus often assumed that the arrangement strengthens or works to the benefit of the President. The Committee believes, however, that the Constitution’s insistence that most of the President’s Ministers must come from Parliament also undermines presidential effectiveness in several ways. First, to force a President to pick a majority (or, for that matter, any number) of Ministers from among Members of Parliament is an unnecessary fetter on a President’s ability to choose those key persons with whom he or she must form and run the government. As the President alone is politically accountable to the electorate for the performance of executive functions, a constitutional limitation on where to choose one’s Ministers necessarily weakens, rather than strengthens, the President’s hand in putting together his or her administration. Besides, there is no necessary correlation between being a member of Parliament and one’s suitability to serve as a Minister of State; the two jobs require different competencies. A President constrained by Article 78(1) in the selection of Ministers would likely feel pushed politically to pick certain MPs as Ministers, whether or not he or she finds them suitable for a role in government. Second, a Parliament that is unable to keep effective oversight of Ministers due to the divided institutional loyalties of many of its members fails to assist the President in holding his/her Ministers to account. Third, the hybrid requirement has tended to cause the number of Ministers – and especially Deputy Ministers--to creep up beyond what might be considered necessary or desirable for the efficient running of the Government, as the President is forced to appoint certain MPs as Ministers or Deputy Ministers simply to satisfy the constitutional injunction that a majority of Ministers must be MPs. Fourth, compelling the President to choose a majority of Ministers from one particular political constituency – MPs – restricts the President’s ability to use Ministerial appointments to accomplish other important political goals, such as advancing gender diversity or ethno-regional balance in the government.

1.46 The Committee further notes that Article 78(1) is predicated on an assumption that a President and the Majority in Parliament would always belong to the same party. While Ghana’s concurrent scheduling of presidential and parliamentary elections increases the likelihood of the same party controlling both Parliament and the Presidency, the recent experience of the Eighth Parliament shows that the risk of Parliament and the President falling under the control of rival parties is not far-fetched. In fact, the risk of “divided government” in Ghana, with control of the Presidency and Parliament divided between two rival parties, is heightened by the electoral phenomenon of “skirt-and-blouse” voting as well as by the requirement of a run-off presidential election if the first round of voting fails to elect a President with a simple majority of the votes cast. The Committee is of the view that the operation of Article 78(1) could expose the nation to a constitutional crisis

or governmental paralysis should elections produce a parliamentary majority and a President from rival political parties. Is the President then going to form his Cabinet and government from the minority in Parliament? How workable and sustainable is that prospect in a sharply polarised two-party democracy like Ghana's?

1.47 The Committee notes that CRC-1 recommended an amendment to Article 78(1) to allow a President the freedom to determine the number of his or her Ministers, if any, he or she would like to choose from among Members of Parliament. In theory, under this formulation, we could have a situation where no Minister or only a small number or percentage of ministers serve concurrently as MPs. On the other hand, we could also end up at the other extreme, if a President decided to choose all or nearly all of his or her Ministers from Parliament. While the CRC-1's "neutral" option is appealing on the surface, the Committee is of the considered view that, so long as the President retains the power to appoint any number of MPs as Ministers, he or she will continue to come under intense political pressure from both the party and influential MPs to use that power to appoint as many MPs as possible as Ministers. Moreover, under the CRC-1 proposal, a President still has an incentive to appoint a number of MPs as Ministers as a way of rewarding, placating or neutralising powerful or "troublesome" MPs who might otherwise use their legislative power to check the Executive. Therefore, in the Committee's view, leaving it to the President to determine at his or her sole discretion whether there would be MPs in government and how many is unlikely to cure the problems associated with the current arrangement under Article 78(1). The Committee believes that the costs and risks to good governance associated with Article 78(1) in the Ghanaian context far outweigh any putative benefits. The Committee is thus inclined to shut the door firmly against any prospect of MPs holding office concurrently as Ministers. Furthermore, to avoid undue political gamesmanship and needless opportunistic by-elections, the Committee is of the view that a member of Parliament who resigns his or her seat should not be eligible for appointment as a Minister.

Recommendation

1.48 The Committee recommends an amendment to Article 78(1) to provide that no member of Parliament may be appointed a Minister of State, a Deputy Minister, or a Regional Minister. The Committee further recommends, as a companion amendment, that a member of Parliament who resigns from Parliament shall not be eligible for appointment as a Minister of State, a Deputy Minister or a Regional Minister. The ineligibility for appointment shall, however, be limited to the term of the Parliament to which he or she was elected.

Total Number of Ministers (Article 78(2))

1.49 The 1992 Constitution does not place a cap or restriction on the total number of Ministers or Deputy Ministers a President may appoint. Article 76(1) provides, however, that the number of Ministers of State that constitute the *Cabinet* shall not exceed 19.¹¹ Article 78(2) further empowers the President to “appoint such number of Ministers of State as may be necessary for the efficient running of the State.” Article 79(1) also empowers the President, “in consultation with a Minister of State and with the prior approval of Parliament,” to appoint “one or more Deputy Ministers to assist the Minister in the performance of his function.”

1.50 In short, the only possible check on the total number of Ministers and Deputy Ministers a President may appoint is the approval or disapproval of Parliament. However, in the history of the Fourth Republic, this approval power of Parliament has never been used—or even been understood to give Parliament the power—to deny a President the number of Ministers or Deputy Ministers he or she wishes to appoint.

1.51 The combined effect of Articles 78(2) and 79(1) is that each President determines for themselves how many Ministers and Deputy Ministers they feel comfortable with. Given the political pressures for appointment that an absence of restriction on the number of Ministers and Deputy Ministers naturally invites in Ghanaian politics, Presidents have often appointed unreasonably large numbers of Ministers or deputy Ministers, the total number exceeding 100 in some instances.

1.52 Unlike the 1992 Constitution, Ghana’s two previous constitutions had ceilings on the total number of Ministers. The 1979 Constitution capped “the total number of Ministers, including those in the Cabinet” at no more than 30,¹² with the number of Ministers in the Cabinet being no more than 19. The 1969 Constitution provided that “the total number of Ministers of State shall not at any time exceed twenty-one.”¹³

1.53 The Committee is of the considered view that an unrestricted number of Ministers or Deputy Ministers is untenable and not conducive to good governance, as it invites excessive ministerial appointments. The Committee believes, having due regard to the realities of Ghanaian politics and the experience in the Fourth Republic, that some

¹¹ Article 76(1) of 1992 Constitution

¹² Article 65(3) of 1979 Constitution

¹³ Article 61(5) of 1969 Constitution

reasonable restriction, preferably linked to the size of the Cabinet, should be placed on the total number of Ministers. The Committee thus recommends as follows:

Recommendation

1.54 The Committee recommends an amendment to Article 78(2) to provide that the total number of Ministers of State, including Deputy Ministers and Regional Ministers, shall not exceed three times the number of Ministers in the Cabinet. Pursuant to Article 76(1), the number of Ministers of State in the Cabinet is capped at no more than nineteen. This means the total number of Ministers of State, including Deputy Ministers and Regional Ministers, shall not exceed 57. Additionally, the Committee recommends that the President shall not appoint Deputy Regional Ministers.

The Committee further recommends that a President who desires to appoint a person as a Minister of State in excess of the stated ceiling shall furnish Parliament in writing with the specific reasons justifying the additional appointment and obtain a resolution of Parliament, supported by a majority vote of all the members of Parliament, to lift the ceiling to enable the additional appointment to be considered. The nominee will then undergo the normal process of parliamentary vetting and be appointed upon receiving the approval of Parliament.

Effect of Censure of a Minister: Article 82(5)

1.55 Under Article 82 of the Constitution, Parliament may, by a two-thirds vote of all Members of Parliament, pass a vote of censure against a Minister of State. However, unless the President chooses to revoke the Minister's appointment, a censured Minister is free to stay on as Minister notwithstanding the censure.

1.56 Given that a good working relationship between a Minister and Parliament is important for governmental effectiveness, censure of a Minister by at least two-thirds of the membership of Parliament simply makes the Minister's continued stay in office as Minister untenable. In the Committee's view, a censure vote against a Minister, if carried, should operate effectively as a removal of the Minister from office. Leaving it to the President to decide whether to revoke the appointment of a censured Minister places an unnecessary political burden on the President's shoulders. The Committee accordingly recommends as follows:

Recommendation

1.57 The Committee recommends an amendment to Article 82(5) to provide that the President shall revoke the appointment of a Minister against whom Parliament has passed a vote of censure pursuant to clause (1) of Article 82. The Committee further recommends, as a companion amendment, that a Minister whose appointment is revoked as a result of having been censured by Parliament shall not be eligible for re-appointment as Minister during the remainder of the President's or Parliament's term.

Article 70 and Other Appointments

1.58 The Constitution vests in the President the power to appoint persons to a long list of public offices. Provisions to this effect may be found in Articles 70, 74, 78, 79, 86, 183, 185, 189, 195, 202, 207, 212, 232, 243 and many more. The President's constitution-based appointment powers are further amplified by appointment powers contained in a large body of statutes establishing various public entities and related offices. Together, these extensive appointment powers give the President substantial control over large swaths of the Ghanaian public sector and economy.

1.59 In a limited number of instances, specifically appointments of Ministers and Deputy Ministers of State, the Chief Justice and Justices of the Supreme Court, the Constitution requires the nominees to secure the prior approval of Parliament. In making nearly all of the constitutional appointments, the President is required to act either "in consultation with" or "on the advice of" a specified body – for example, the Council of State, the Public Services Commission (PSC), the Judicial Council, or the "governing council" of the institution or organisation to which the appointment relates.

1.60 It was once assumed or understood that, in those instances where an appointment was to be made by the President "acting on" or "in accordance with" "the advice of" a designated body, as is the case of appointments under Articles 70 (2), 144(2), 193, and 232, the President was duty-bound to act in accordance with the advice tendered, thus making the President's role in the appointment process, essentially, nominal and the designated "advice"-tendering body the effective nominating or appointing body. On the other hand, where the President was to make an appointment acting "in consultation with" a designated body, it was generally understood that the nomination or appointment was ultimately the President's to make, but not until he had sought and considered the informed opinion of the consultative body. However, in *Ghana Bar Association v. Attorney-*

General & Judicial Council (2016)¹⁴, the Supreme Court rendered meaningless the distinction the 1992 Constitution draws between appointments the President must make “on or in accordance with the advice of” and those he or she must make “in consultation with” a designated body. In effect, regardless of the office involved, the only constraint on the President's appointing power (other than those appointments requiring the prior approval of Parliament) that now remains, as a matter of constitutional law, is a procedural one; the President must go through the process to seek the “advice” or opinion of the designated body involved in the appointment, but is not bound to follow it.

1.61 The Committee notes that, the distinct formulations in the appointment process for public officeholders found in the 1992 Constitution were first introduced into Ghana’s constitutional law by the Constitution of the Second Republic (1969) based on the recommendations of the Constitutional Commission appointed by the Government in 1966 to make proposals for a Constitution of Ghana (the “Akufo-Addo Commission”). The President, under the 1969 Constitution, was a non-executive President. “Real executive power” under that Constitution rested with the Cabinet led by the Prime Minister. However, although only a Head of State and not Head of Government, the President was nominally or formally vested with the “executive authority of Ghana” to be “exercised in accordance with the provisions of the Constitution.”

1.62 Article 38(1) of the 1969 Constitution clarified how the President was to exercise the executive authority and other functions entrusted to him under the Constitution:

“In the performance of his functions under this Constitution, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where he is required by this Constitution to act in accordance with the advice of any person or authority other than the Cabinet, or to act in consultation with any other person or authority or in his own discretion or without the advice or consultation of any person or authority.”

1.63 In sum, the President under the Second Republic exercised the functions of his office in one of four ways, depending on the function at hand:

- a. in accordance with the advice of Cabinet or a Minister acting under the general authority of Cabinet; or
- b. in accordance with the advice of a person or authority other than Cabinet; or
- c. in consultation with a designated person or authority; or
- d. in his own discretion.

¹⁴ Ghana Bar Association and Others v Attorney-General and Others [2016] GHASC 43 (20 July 2016).

1.64 In the area of appointments, the 1969 Constitution introduced certain innovations. Although not an executive President, the President was “not a purely ceremonial Head” either.¹⁵ The President under the Second Republic was *sui generis*: “Certain important functions normally associated with and vested in the Executive will be given to the President, sometimes assisted by the Council of State.”¹⁶ Membership of the Council of State included both the Prime Minister and Leader of the Opposition, but most of its members were appointed by the President “in his discretion”. As the Akufo-Addo Commission explained, the President would have “under his ‘control’ and ‘supervision’” those Departments and Agencies of the Government which need to be as independent as possible, it being desirable that they should be removed from the control of the Government of the day and to avoid the creation of ‘jobs for the boys’.”¹⁷

The Akufo-Addo Commission thus placed “under the umbrella of the President” those institutions of State “which in our view need to be kept away from the Government so as to ensure that political considerations do not interfere in matters like appointments and the running generally of such institutions.”¹⁸

1.65 The 1969 Constitution substantially followed through with the recommendations of the Akufo-Addo Commission on this issue, thus giving the Head-of-State President – not the Prime Minister or Government – power, “in consultation with the Council of State” (or, the Judicial Council, in the case of Superior Court Judges) to appoint persons to the following offices: Chief Justice and Justices of the Superior Courts, Electoral Commissioner, Ombudsman, the chair and members of the Public Services Commission, the chair and members of the Audit Service Board, the chair and two of five members of the Lands Commission; and the Chairperson and the other members of the governing body of state-owned media; in short, the independent offices in the 1969 Constitution. As to public offices that formed part of the Government or were not cloaked with similar independence under the 1969 Constitution, notably, Ministers of State, Ambassadors, and the Heads of the Police Service and Prisons, the officers were to be appointed by the President “in accordance with the advice of the Prime Minister”.

1.66 Unfortunately, the 1969 Constitution’s rational and systematic bifurcation of effective appointing power between a Head-of-State President and a Head-of-Government Prime Minister, with the former effectively in charge of appointment to independent offices and the latter in charge of Executive branch or government policy-

¹⁵ The Proposals of the Constitutional Commission for a Constitution for Ghana (1968), Page 90, Para 331

¹⁶ Ibid

¹⁷ The Proposals of the Constitutional Commission for a Constitution for Ghana (1968), Page 87, Para 318

¹⁸ Ibid, Page 88, Para 325

oriented appointments, became muddled in implementation once Ghana switched to an Executive President model in the 1979 (and 1992) Constitution. A second reason why implementation of the two-pronged appointments regime has strayed from its original intent after the Second Republic is the change in the composition of the Council of State in the 1992 (and 1979) Constitution. With a politician-President, as opposed to a statesman-President, now appointing most of the Council's members, the Council of State's original (1969) purpose as a more or less independent "check" on the executive's appointment power (in respect of independent offices) no longer holds.

1.67 The Committee notes that the current position of the law on this matter, in light of the Supreme Court decision in *Ghana Bar Association* (2016)¹⁹, effectively makes the President the sole appointing authority for practically all appointive public offices, regardless of the nature of the office involved. In practice, Presidents have often not even bothered to follow the minimal procedural steps required in making appointments. It has become standard practice, for example, for an appointment by the President to be announced pending consultation with or receipt of the advice of the responsible participating body.

1.68 The Committee finds the current state of affairs in the area of appointments by the President highly unsatisfactory. The Committee is of the considered view that the clear and principled distinction first articulated by the Akufo-Addo Commission and substantially followed in the 1969 Constitution represents the better position on this matter. The Committee believes that the scope of the discretion an Executive President should be entitled to in making an appointment to a public office and, for that matter, the structure of the nominating or appointing process, must depend on the nature of the public office involved.

1.69 To this end, the Committee finds it useful to classify appointive public offices into the following three categories: Purely Executive offices ("Executive" offices); Independent State offices ("Independent" offices), and Hybrid State offices ("Hybrid" offices). The Committee offers the following definitions or descriptions for each of these three types of public office:

- a. *Executive* offices are part of the political Executive (i.e., the Government) in a strict sense. The occupants of these offices exercise the President's delegated executive authority, assisting him or her in executing his or her political mandate. Holders of Executive public offices are properly subject to the President's command or directive in the day-to-day performance of their work, as they are, essentially, personal agents of the President, who alone remains politically accountable for

¹⁹ *Ghana Bar Association v Attorney-General* [2016] GHASC 43 [52]

their actions. Personal loyalty to the President is typically a primary consideration for appointment to these offices. The persons who occupy these offices are, essentially, politicians.

- b. *Independent* offices are established by law with specific mandates that must be carried out in accordance with standards and procedures specified in the law. Such offices are thus expected to discharge or perform their functions independently of political control. Professional or technical competence, rather than personal loyalty to the President, is consequently the primary qualification for these offices. The President bears no political accountability for the performance of the functions of such offices.
- c. *Hybrid* offices occupy a middle ground of sorts between Executive and Independent offices. Like independent offices, hybrid offices are either career offices or those that require specialised training or technical competence; their occupants are not (supposed to be) politicians. However, unlike independent offices, hybrid offices often involve a political element, as they require the exercise of judgment and policy choices, or the management of public resources, which carry political consequences. The government is, thus, justifiably interested in managing the policy interests or risks associated with these offices, while also ensuring that the functions of these offices are performed with the requisite professional competence and autonomy from day-to-day political micromanagement. Hybrid offices fall on a spectrum between independent and executive offices, some tending more towards the executive end of the spectrum ("Hybrid-Executive") while others lean more in the independent direction ("Hybrid-Independent") and still others fall somewhere in the middle ("mixed hybrid").

1.70 The Committee is of the considered view that the latitude a President enjoys in making appointments to public offices should vary depending on whether the office is Executive, Independent, or Hybrid – and in the case of hybrid offices, whether the office is more of a Hybrid-Executive or a Hybrid-Independent. Using the typology developed above, the Committee has classified various constitutional and other public offices *normatively* as follows:

a. Executive:

- i. Minister/Deputy Minister of State
- ii. Chief of Staff and other personnel of the Office of the President
- iii. Ambassadors and High Commissioners
- iv. District Chief Executives (under the existing local government system).

b. Independent:

- i. Council of State (as reformed)
- ii. The Judiciary
- iii. Chair and Deputy Chairs and Commissioners of the Electoral Commission
- iv. Auditor-General
- v. Chair and Deputy Chairs of the Commission for Human Rights and Administrative Justice (CHRAJ)
- vi. Chair and Deputy Chairs and Commissioners of the National Commission for Civic Education (NCCE)
- vii. National Media Commission (NMC)
- viii. Chair and Members of the Anti-Corruption and Ethics Commission (Proposed)
- ix. Chair and Members of the Independent Political Party and Campaigns Regulator (Proposed)
- x. Governor of the Central Bank
- xi. Government Statistician
- xii. Controller and Accountant-General
- xiii. National Development Planning Commission (NDPC)
- xiv. Vice Chancellors of public universities.

c. Hybrid

- i. Chief of Defence Staff (Hybrid-Executive)
- ii. Inspector-General of Police (Hybrid-Executive)
- iii. Chair and Members of Governing Council of Statutory Bodies (Mixed/Hybrid)
- iv. Local Government Devolution Commission (proposed) (Hybrid-Independent)
- v. Head of Civil Service (Hybrid-Independent)
- vi. Chair and Commissioners of Public Services Commission (Hybrid-Independent)
- vii. Chief Executive of SIGA (Hybrid-Executive)
- viii. Chief Executive Officers (CEOs) and management of State-Owned Enterprises (SOEs) and Other State Enterprises (OSEs) (Hybrid-Independent).

1.71 In the Committee's view, the President's power or discretion in making appointments to public offices should be strongest (virtually plenary) with respect to Executive offices, weakest (practically a-duty-to-appoint as advised) in the case of

Independent offices, and a power bounded by certain reasonable constraints in the case of Hybrid offices, with the constraints in the last category being both procedural and substantive in nature.

Recommendations

1.72 The Committee reasons that the nature and extent of the discretion enjoyed by a President in making an appointment to a public office established by or under the 1992 Constitution, including the offices listed in clauses (1) and (2) of Article 70, must depend on the nature of the office in question. In furtherance of this principle, the Committee proposes a classification of public offices based on the degree of independence or political detachment required for the effective performance of the office's functions. The Committee classifies appointments under the Constitution into four (4) categories, namely, executive offices, independent offices, Hybrid-Independent offices and Hybrid-Executive offices. For each classification, the Committee recommends an appropriate mode of appointment as follows:

- a. In respect of an appointment to an Executive office, the President shall have plenary power to select or choose the person to be appointed, subject, in limited instances, to the prior approval of Parliament (e.g., where the office involves enforcement of laws or is appropriately subject to direct parliamentary oversight). When making appointments in this category, the President acts in the capacity of Head of Government, seeking to assemble the team with which he or she will govern and execute his or her political mandate. Appointees to these offices are, essentially, politicians or political assistants to the President, exercising authority that is strictly derivative of the President's executive authority and who thus serve appropriately at his or her pleasure. Offices in this category include Ministers of State and persons appointed to serve at the Office of the President and Vice-President.
- b. In respect of an appointment to an Independent office, the President shall make the appointment acting in accordance with the nomination or nominations presented to him or her by an independent constitutional body following a competitive, meritocratic recruitment and selection process administered by that body (either alone or with the professional or administrative assistance of the Public Services Commission). The primary independent nominating body the Committee proposes for submitting nominations for appointment to independent constitutional offices is a substantially reformed Council of State (see Chapter IV) and, in the case of certain judicial appointments, a reformed

Judicial Council (Chapter IV). Depending on the office in question, nominating body shall present to the President a short list of ranked options (i.e., more than one qualified candidate) from which to select the nominee (e.g., NCCE); in other cases (e.g., EC, Auditor-General, Chief Justice), where the offices play a high-profile role in the constitutional system of checks and balances, the nominating body shall present to the President a single final candidate. The President's role in appointments in the Independent-office category is, essentially, a duty to appoint as advised. In effect, the President makes such appointments in his or her capacity as the Head of State (analogous to the President under the 1969 Constitution), not as the Head of Government. Subsequent to the nomination, the approval of Parliament is recommended for these Independent offices.

- c. In respect of an appointment to a Hybrid-Independent office, the President shall make the appointment acting in accordance with the advice of a relevant Nominating body or Governing Council, following a competitive, meritocratic selection process administered independently by that body or council. For example, with the appointment of chief executive officers of State-Owned Enterprises (SOEs) and Other State Entities (OSEs), which fall into the hybrid category, the policy-directing Governing Council will propose a nominee for appointment after a competitive, meritocratic recruitment and selection process based on stated qualifications and criteria. As the Government's interest in the entity is protected by a Government majority on the Governing Council or through an additional layer of oversight from a "SIGA" body (proposed in Chapter III), the President should be expected to rely on the sound judgment of the Governing Council or oversight body in confirming the appointment to these offices.
- d. In respect of an appointment to a Hybrid-Executive office, the President shall make the appointment acting in consultation with the relevant body that exercises policy responsibility or oversight over the office (i.e., the governing council for that office; e.g., Police Council in the case of the Inspector-General of Police, and the Armed Forces Council in the case of the Chief of Defence Staff). The constraint on the President's appointment power in this instance is partly procedural and partly substantive, as the appointment must follow a process of informed consultation between the President and the governing council based on the candidates' qualifications.

The foregoing recommendation, if adopted, will effectively bind the President to the advice of a named body when making an appointment 'acting on the advice of' that

body, for example the Judicial Council. Thus, this recommendation effectively overturns the decision of the Supreme Court in *Ghana Bar Association v Attorney General & Judicial Council* (2015)²⁰, which held that a provision of the Constitution that the President shall make an appointment “acting on the advice of” a named body (Judicial Council) does not oblige the President to follow the “advice” tendered.

The Committee makes the following companion recommendations to better secure the independence of Independent offices and Hybrid-Independent appointments:

- a. Persons appointed to Independent or Hybrid-Independent offices shall hold office for fixed, renewable, or non-renewable terms or until they have attained a prescribed retiring age, whichever is earlier. Additionally, the term of office of persons in this category shall not be coterminous with the term of office of the President.
- b. Where a vacancy occurs in an Independent or Hybrid-Independent office, the vacancy shall be filled with a substantive appointment within 90 days of the occurrence of the vacancy. This is to avoid vacancies being left open or filled by “acting” appointments of indefinite tenure.
- c. Where an appointment is required to be made “on the advice of” or “in consultation with” a named body, no appointment to the office in question, whether described as interim, acting or substantive, shall be made or announced in advance of or pending the completion of all the required steps in the appointment process.

Effect of Absence of President and Vice-President from the Country: Article 60(8) and (11)

1.73 Article 60(8) provides that “Whenever the President is absent from Ghana or is for any other reason unable to perform the functions of his office, the Vice-President shall perform the functions of the President until the President returns or is able to perform his functions.” Article 60(11) also provides that, “Whenever the President and the Vice-President are both unable to perform the functions of the President, the Speaker of

²⁰ Ghana Bar Association v Attorney-General [2016] GHASC 43 [52]

Parliament shall perform those functions until the President or the Vice-President is able to perform those functions or a new President assumes office, as the case may be.”

1.74 The phrasing of Article 60(8) – “Whenever the President is *absent from Ghana or is for any other reason unable to perform the functions* of his office” – would appear to suggest that the President is deemed “unable to perform the functions of his office” whenever he is absent from Ghana, regardless of the reason for his absence. The fact that the Vice-President must step in to perform the functions of the President when the latter is absent from Ghana lends additional support for the above interpretation. This, of course, leads to an absurdity where the President is absent from Ghana on official duties, as often happens particularly in the President’s role as Head of State, a role that entails representing the country abroad at international fora like the United Nations General Assembly (UNGA) or African Union (AU) or ECOWAS Summits of Heads of State and Government.

1.75 There are instances where a President, though alive and still in office, may not be able to perform certain functions of his office for a *temporary* period. This would include, for example, when the President is undergoing medical treatment. It would also include other instances where the President simply cannot perform a certain function in person. In such circumstances, it makes sense for the Vice-President to temporarily or briefly assume the role of President. However, providing that the Vice-President *shall* perform the functions of the President *whenever* the President is absent from the country, including when he or she is on official duties abroad, creates a risk of confusion or conflict specifically when there is a miscommunication or a breakdown of communication between the President and Vice-President, causing the Vice-President to take a certain action or perform a certain function in the name of the President but without the President’s full knowledge or informed approval. Since the President’s executive authority under Article 58(1) is exclusive and indivisible, a provision of the Constitution that purports to grant the Vice-President *express constitutional authority* to perform a function or perform an act in the name of the President while there is no real vacancy in the office of the President is a potential source of conflict between the two officeholders.

1.76 The current state of the law with regard to Article 60(11) compounds the problem further. In *Asare v. Attorney-General* (2004)²¹ (the “Speaker’s Swearing-in Case”), a case arising from the administration of the Presidential Oath to the Speaker of Parliament while the President and Vice-President were both temporarily outside the country (thus authorising the Speaker to perform the functions of the President during the period), the Supreme Court read Article 60(11) to mean, essentially, that the President and the Vice-

²¹ *Asare v The Attorney General*, [2003-2004] SCGLR 823

President are deemed “unable to perform the functions of the President” when both are physically away from the country.

1.77 The implications of this Supreme Court ruling are even more problematic than Article 60(8). Unlike the Vice-President, who is part of the President’s Cabinet, the Speaker is not a part of the Executive branch at all. Having the Speaker act as President when the President and Vice-President are only temporarily absent from Ghana, yet still able to perform the functions of President, thus creates the absurdity of vesting presidential authority simultaneously in the President and the Speaker of Parliament. What makes the latter scenario even more concerning is the risk of tensions arising when the Speaker comes from a political party that is different from the President’s party, as was experienced during the period from 2021 to the end of 2024.

Recommendation

1.78 The Committee recommends that each of Articles 60(8) and 60(11) be amended to provide that neither the President nor the Vice-President shall be deemed to be “unable to perform the functions of the President” by reason only of the fact that either is or both are physically absent from Ghana. This recommendation, if adopted, would effectively overturn the Supreme Court's decision in *Asare v. Attorney-General*²².

Presidential Succession Beyond the Vice-President: The Speaker of Parliament as Caretaker President

1.79 Under the current constitutional arrangement contained in Article 60(13) of the Constitution, the Speaker of Parliament is next in the line of succession in the event that both the President and Vice-President are permanently unable to perform the functions of the office of President. The Committee received submissions drawing attention to the potential pitfalls in this arrangement. While the Speaker assumes the position of President only in a caretaker capacity (i.e., temporarily) under this scenario until a presidential election is held within three months, opponents of the current arrangement argue that the Speaker is the wrong person to fill the void, however temporary. They argue that the Speaker’s position as the third in the nation’s and the Constitution’s order of precedence does not necessarily make him the most suitable person for purposes of presidential succession. Instead of the Speaker, it is suggested that succession to the office of President stay within the Executive, preferably with a senior member of the President’s

²² [2003-2004] SCGLR 823

Cabinet (Executive) during the three-month interregnum while fresh presidential elections are organised. This alternative arrangement, it is argued, will ensure stability and policy continuity in Government during the three-month interval. Bringing in the Speaker to take charge of a government or cabinet he was never a part of would be a recipe for confusion, disruption, and possible paralysis in Government. Moreover, as Ghana's experience from January 2021 to January 2025 demonstrates, the Speaker of Parliament may belong to the President's rival political party, thus making his choice as a caretaker President politically untenable. To ensure that the same party and Cabinet remain in control of Government as under the erstwhile President and Vice-President, a temporary successor from within the Cabinet is said to be a safer bet than a Speaker who comes from outside the Government.

1.80 The Committee finds great merit in this line of argument. The Committee notes that Article 60(13) of the 1992 Constitution traces its origin to Article 38(3) of the 1969 Constitution, which provided as follows:

38(3) "Whenever the President dies, resigns, is removed from office or is absent from Ghana or is, by reason of illness, unable to perform the functions of his office, the Speaker of the National Assembly shall perform those functions until the assumption of office of the President or the President is able to perform those functions."

1.81 The Committee notes, however, that the Speaker under the Westminster-style 1969 Constitution was always the choice of the Majority party in Parliament, which party also controlled the Government (Cabinet). Moreover, under the 1969 Constitution, the President, being a non-Executive President, was bound to act in all governmental (executive) matters in accordance with the advice of the Cabinet, as real executive power was wielded by the Cabinet, not the President. Therefore, even when the Speaker assumed the functions of the President, he was bound to act in accordance with the advice of the Cabinet. This posed very little problem to governance, as decision-making did not change even when the Speaker assumed the function of the President.

Recommendation

1.82 The Committee accordingly recommends as follows:

To ensure reasonable continuity in Government and forestall possible governmental dysfunction where the Speaker of Parliament is of a different political party than the Government's, the Committee recommends appropriate amendments to clauses (11), (12) and (13) of Article 60 to provide that Cabinet shall elect one of its number to succeed to the office of President for a caretaker period of three months in the event of vacancies occurring concurrently in the offices of the President and Vice-President.

The Committee reasons that while the Speaker of Parliament remains third in the constitutional order of precedence, succession to concurrent vacancies in the two highest offices of the Executive, albeit for a limited time, must be kept within the Executive (Cabinet) and the same political party for practical reasons.

Scheduling of the Presidential Election

1.83 The Committee received a number of submissions to the effect that the current scheduling of presidential and parliamentary elections in early December, with the inauguration of the next President only a month away on January 7 of the following year, makes for a rushed transition. When allowance is made for the possibility of a runoff presidential election during that same period, the effective transition period comes to less than a month.

1.84 The commonly proposed remedy to this problem is to hold general elections in early November, thereby allowing for a two-month transition period. The Committee endorses this proposal and accordingly recommends an amendment to Article 63(2)(a), as follows:

Recommendation

1.85 The Committee recommends an amendment to Article 63(2)(a) to provide that the election of the President shall be held on such date in the first week of November in an election year as the Electoral Commission shall, by constitutional instrument, specify. This recommendation, if adopted, would extend the period of transition between the

election of a President and the assumption of office by the newly elected President from one month to two months.

Presidential Election Petition

1.86 As a companion reform to changing the election timetable to the first week in November, several submissions, including those by participants in our public engagements, also suggested that the calendar for presidential election petitions be similarly reviewed. It is proposed that both the number of days after a Presidential Election within which a petition challenging the results must be filed and the number of days the Supreme Court shall take to adjudicate and resolve the petition must be substantially reduced. It is argued that specifying the calendar or timeline for adjudication in the Constitution would expedite the resolution of presidential petitions. Other suggested reforms include simplifying the procedural rules for hearing a Presidential Petition and clarifying the applicable legal standards.

1.87 The Committee is of the considered view that the length of time it takes to hear and conclude a Presidential Election in Ghana is unduly long by comparative standards. As the President of Ghana is vested exclusively with the executive authority of the State, prolonged delay or uncertainty as to the rightful occupant of the office carries enormous risks for the country. Moreover, a Presidential Election Petition that extends into the term of a newly-inaugurated President places all parties – the Supreme Court, the President, the Petitioner, and the country – in an untenable position. Time is therefore of the utmost essence in the adjudication and resolution of Presidential Election Petitions. To the extent possible, the risk of the petition continuing after the President-elect has been sworn into office should be avoided. The expeditious and transparent adjudication of presidential election petitions, in accordance with clearly stated legal principles and standards, should be considered a national security imperative.

The Committee accordingly recommends the following amendments to the Constitution:

Recommendation

1.88 A Presidential Election Petition shall be filed no later than 14 calendar days after the official declaration of the winner of the election. The Petition shall name the EC as the first Respondent. The EC shall furnish to the Court, the Petitioner, and any other party all relevant data pertaining to the results of the Election. The Petition shall be

heard and decided by the Supreme Court within 30 business days after it is filed. The legal standards to be applied by the Court in determining the matter shall be outlined with clarity in a statute or rules of procedure.

Restriction on Powers during Post-Election Transition Period

1.89 The 1992 Constitution does not place any restriction on a President's ability to exercise his or her executive authority at any time during their term of office. A President retains the full panoply of his constitutional powers until the very end of his term. This is fairly standard, comparatively speaking. Experience teaches, however, that this standard feature of presidential power is not without risk. For example, an outgoing President, particularly one who, or whose party, has just suffered electoral defeat, can proceed to exercise his authority as President in bad faith during the remainder of his term, creating difficulties for or tying the hands of his incoming (rival) successor in the process.

1.90 The Committee notes that, in Ghana's Fourth Republic, transitions following party turnover at the ballot box have often given rise to accusations of eleventh-hour appointments to key independent offices, mass recruitment and placement of party "foot soldiers" into various public services, public land and other asset grabs, public service wage increases, and self-dealing contracts by outgoing administrations. Efforts by incoming Presidents to reverse some of their immediate predecessors' last-minute decisions and actions have sometimes led to contract cancellations and ensuing "judgment debt" awards against the State.

1.91 The Committee's research yielded only a few comparative examples of constitutions that contain limitations on a President's powers or range of action during the twilight of their term. The Constitution of the Philippines, Article VII, section 15, provides that:

"Two months immediately before the next presidential elections and up to the end of his term, a President or Acting President shall not make appointments, except temporary appointments to executive positions when continued vacancies therein will prejudice public service or endanger public safety."

1.92 Kenya's 2010 Constitution goes further. From the first voting day in a presidential election until a newly elected President assumes office, Articles 134 (1)(a) and (2) of the Kenyan Constitution bar an incumbent President or any person temporarily acting in that capacity from appointing judges of the superior courts, other constitutional and statutory

offices, cabinet ministers, and ambassadors, and from exercising his power of mercy (pardon) or to confer national awards and honours.

1.93 The Committee finds the provisions of Article 134(1)(a) and (2) of the Kenyan Constitution quite salutary and recommends adoption of a similar provision in Ghana's Constitution. However, the Committee recommends that the bar against eleventh-hour presidential action be extended in the Ghanaian context to include execution of international commercial or natural resource agreements and transactions involving public lands and other public assets.

Recommendation

1.94 The Committee recommends an amendment to Chapter Eight of the Constitution by the introduction of a new provision to forbid or prevent the taking of certain specified actions by the President or a member of his or her Government or administration within the transition period commencing from the date of the presidential election to the date of the assumption of office of the next President, as follows:

- a. No appointment, nomination, or offer of employment to a public office may be made or extended to any person, the term of which would extend into the next administration.
- b. No new contract or commitment, including a salary or wage increase, may be granted or offered that is not already approved in the current year's appropriations.
- c. No transaction for the sale or purchase or grant of a leasehold interest in a public land or sale of any public asset to any person may be commenced or concluded.
- d. No bill may be introduced by a certificate of urgency.

Any action taken or purported to be taken, or transaction entered into or purported to be entered into, in violation of any of the above provisions shall be deemed to be void and would impose no obligation on the State in favour of any third party.



CONSTITUTION REVIEW COMMITTEE 2025



Chapter II: Towards a People-Centred Democracy

CRC25

Chapter II: Towards a People-Centred and Problem-Solving Representative Democracy

Overview

2.1 The focus of this chapter is on Parliament and political parties, the two principal institutions of popular representation at the national level of Ghana's democratic governance architecture. The chapter also reviews three independent bodies established under the Constitution to support Ghana's representative democracy by facilitating and regulating the models and channels of popular participation, civic discourse, and engagement in the democratic process: the EC, the NCCE, and the NMC.

A. Parliament

2.2 Parliament began its life in the Fourth Republic on a rather inauspicious note. The decision of the then-leading opposition party (NPP) to boycott the December 1992 parliamentary elections in protest against the outcome of the earlier-scheduled presidential elections meant that the First Parliament of the Fourth Republic was, in effect, a one-party parliament. However, since the NPP's return to Parliament in 1997, both the NPP and NDC have been strongly represented in Parliament, with control of the House oscillating between the two parties in eight-year intervals. In 2021, the results of the 2020 general elections gave Ghana its first experience of a so-called "hung Parliament." While the elections returned the NPP to power at the helm of the Executive, the government party lost the Speaker's gavel to the candidate of the NDC. However, the NPP managed to hold on to a tenuous one-person working majority in the House with the support of an independent candidate.

2.3 Overall, while Parliament has provided the opposition party a safe and visible forum where it gets to have "its say" and keep the government's feet to the fire, the zero-sum character of the partisanship between the two parliamentary parties has made Parliament in the Fourth Republic less effective as a check on the Executive. Except during the four-year term of the hung Parliament, the Executive has typically enjoyed the support of a pliant partisan majority in the House.

2.4 The role and performance of Parliament, and, for that matter, of Members of Parliament ("MPs") - in our governance system were among the most discussed issues at the Committee's engagements. The dominant public sentiment is that, while MPs have generally served the interests of their parties and, when in the majority, of the Executive quite well, they and Parliament generally have served the people's interests less well.

Participants in the Committee's engagements spoke of Parliament and MPs as generally distant from and inattentive to the everyday concerns of constituents and communities. Parliament, it appears, has not lived up to its billing as the "people's assembly". Important legislation is passed routinely on the blind side of the public, often in haste to meet deadlines imposed by the Executive. The Auditor-General's Reports repeatedly expose waste and abuse of public funds, triggering much drama at televised Public Accounts Committee hearings, but no further legislative action or follow-up occurs. Further, the vetting of nominees to essential offices of State is often performative and underwhelming.

In this section of the Report, we highlight the key issues and concerns of constitutional interest related to Parliament and MPs that came up during our engagements, research, and deliberations, and offer some reform proposals.

Size of the Membership of Parliament

2.5 The 1992 Constitution establishes a unicameral Parliament comprising not less than 140 members elected from single-member constituencies across the country. There is no prescribed upper limit to the membership of Parliament. The EC is granted the power to prescribe the number of constituencies into which the country shall be divided for the purposes of electing members of Parliament. To this end, the EC reviews the country's constituency map at intervals of not less than 7 years or within a year after the release of data from the latest national population census, which is typically held every ten years. Based on new census data, the EC may "alter the constituencies". Through this process of periodic review and "alteration" of constituencies by the EC, the membership of Parliament has grown from 200 in 1993 to the current number of 276. The Speaker of Parliament recently suggested that Parliament would need a new or enlarged chamber to accommodate anticipated growth in the number of MPs in the very near future.²³

2.6 The steady growth in the number of MPs in the Fourth Republic has elicited persistent criticism from Ghanaians. Critics note that the increase in numbers has not led to improved representation or legislative effectiveness. Capping the number of MPs is, therefore, a recurring and popular demand, one that was repeated at many of the Committee's engagements.

²³ Speaker Bagbin calls for new chamber for 276 MPs, raises concern over limited capacity (Graphic Online, 23 October 2025) <https://www.graphic.com.gh/news/general-news/speaker-bagbin-calls-for-new-chamber-for-276-mps-raises-concern-over-limited-capacity.html> accessed 12 November 2025

2.7 The Committee notes that an indefinite growth in the number of MPs (constituencies) is both impracticable and fiscally unsustainable. Population growth is a fact of life not only in Ghana but in countries across the world, particularly in Africa. Despite this demographic reality, a prescribed upper limit on the number of legislators, either in a statute or in the national constitution, is a common feature of parliaments worldwide.

2.8 The Committee notes further that, while it is standard practice for the boundaries of constituencies to be altered periodically in response to demographic shifts, this end is accomplished in many democracies without an increase in the total number of legislators. For example, the number of electoral districts – and, correspondingly, the number of voting members – of the U.S. House of Representatives has remained capped by law at 435 since 1911.²⁴ The 2010 Constitution of Kenya sets the maximum number of constituencies at 290²⁵; the Nigerian Constitution prescribes a fixed number of 360 federal constituencies for the House of Representatives²⁶; and the number of single-member constituencies in Zambia is set constitutionally at 156.²⁷

2.9 In each of these countries, as in other democracies where the law fixes the maximum number of constituencies, population changes are dealt with through periodic “boundary re-demarcation” or redistricting, whereby the physical boundaries of constituencies are redrawn to reflect demographic shifts and ensure balanced representation across the country without adding to the total number of constituencies. In Kenya and other African democracies, the independent election management body is responsible for this task.²⁸ In doing so, election management bodies typically apply defined criteria, rules, and methodologies that take into consideration a multiplicity of factors (in addition to population) designed to ensure the fair representation of all communities, including sparsely populated rural communities.

2.10 The Committee is of the considered view that a cap on the number of MPs that constitute Ghana’s Parliament is both necessary and desirable. The Committee notes that, under the Constitution of the Second Republic of Ghana (1969), the National Assembly had a minimum membership of 140 and a maximum of 150.²⁹ The 1979 Constitution, however, dispensed with a ceiling, and the 1992 Constitution followed suit.

²⁴ The population of the U.S. in 1911 was roughly 94 million; it is now about 347 million

²⁵ Constitution of Kenya 2010, art 89(1).

²⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 71.

²⁷ Constitution of Zambia (Amendment) Act 2016, art 68(1)(a) and First Schedule

²⁸ See Constitution of Kenya 2010, arts 88(4)(c) and 89.

²⁹ Constitution of the Republic of Ghana 1969, art 70.

2.11 Besides being fiscally unsustainable, Ghana's current approach of leaving the number of constituencies or MPs uncapped and, instead, allowing the EC to make periodic additions to the number of constituencies carries the additional risk of exposing the EC to improper political pressure. The decision on whether and where to add new constituencies is a politically weighty and consequential one, particularly in a highly competitive and polarising two-party political environment like Ghana's. The opacity surrounding the process in Ghana further fuels speculation that the EC tends to favour the ruling party or else attempts to even things out between the two main parties in the creation of new constituencies.

2.12 Like election management bodies elsewhere, Ghana's EC possesses the institutional capacity to undertake periodic boundary delimitation and the reconfiguration of the national constituency map that is the unavoidable outcome of capping the number of constituencies. The technical expertise, methodologies, and tools for performing the delimitation exercise without increasing the number of constituencies are readily available and well-established in the election management industry.

2.13 In view of the foregoing, the Committee recommends an amendment to article 93(1) (and other consequential amendments to article 47) to cap the number of MPs/constituencies at the current number of 276 as follows:

Recommendations

2.14 The Committee recommends an amendment to Article 93(a) to provide that Parliament shall consist of not more than two hundred and seventy-six elected members (276), thereby capping the number of members of Parliament at the present level.

The Committee recommends, as a companion amendment to the above, appropriate amendments to Article 47 to provide that the Electoral Commission shall, in reviewing the division of the country into constituencies after the publication of the enumeration figures following a census of the population of Ghana, apply such criteria, rules and methodology, including appropriate deviations from the population quota, as shall be prescribed in relevant legislation to ensure fair representation and prevent gross malapportionment among the constituencies.

Electoral System: Proportional Representation?

2.15 Many participants in the Committee’s public engagements expressed concern that Ghana’s democracy had turned into a polarising “winner-take-all” game played exclusively between two political parties, NPP and NDC. The Committee notes that politics and political life in the Fourth Republic have, in fact, been dominated from the onset by the NDC and NPP. The two parties have taken turns running the government since the restoration of democratic rule in January 1993. The competition between the NPP and NDC has intensified significantly since the first party turnover in government in 2001. Power changed hands between the two parties again in 2009, 2017, and, most recently, in 2025. While other parties continue to feature on presidential and parliamentary ballots, no third party has elected a member to Parliament since 2008. It is fair to say, to all intents and purposes, that electoral politics in Ghana has settled into a duopolistic party system.

2.16 Among the factors blamed for this state of affairs is Ghana’s use of a First Past the Post (FPTP) electoral system, where the candidate with the most votes (but not necessarily a majority of the total votes) among contestants in a constituency wins the seat. FPTP is blamed, in turn, for preventing the rise of third parties and leading to the under-representation in Parliament of women and other politically disadvantaged demographic groups.³⁰

2.17 Many informed participants who expressed dissatisfaction with the entrenchment of a party duopoly in Ghana’s contemporary politics proposed Proportional Representation (PR) as an antidote to the shortcomings of FPTP. The Committee notes that this emerging popularity of PR cuts across generational and other politically salient demographic lines.

2.18 The Committee supports PR in principle. We are, however, unable to recommend a switch from FPTP to PR at this time. Given the embeddedness of FPTP in Ghana’s electoral culture and history going back to the colonial period, its practical simplicity from a voter standpoint, and the dizzying array of PR design options on offer, the Committee is of the considered view that a decision by Ghana to switch from FPTP to PR must be based on a dedicated and comprehensive study and investigation of the issue. The Committee notes that the Committee of Experts chaired by Nana (Dr.) S.K.B. Asante,

³⁰ The Committee notes that women’s representation in Ghana’s Parliament has indeed been chronically low, even by African standards. The [41] women MPs in the Ninth Parliament, which is approximately 14.9% of the 276 total membership, is the highest number of female MPs in Ghana’s history – and that still falls far below the average of 26% women in parliaments across Sub-Saharan Africa.

whose *Proposals for a Draft Constitution of Ghana* formed the basis for the Consultative Assembly debates that led to the 1992 Constitution (the “SKB Asante Committee”), was similarly favourably disposed to PR yet stopped short of recommending its adoption at the time, concluding that “the PR method would require further study given its newness to the Ghanaian electorate.”³¹ CRC-1 also recommended in its Report that the PR system be subjected to further study for possible “deployment in the future.”³² The Committee notes with disappointment that no such study has been undertaken since 1992.

2.19 The PR models that were shared with the Committee by PR proponents were principally from countries with parliamentary systems of government. The Committee notes that PR has been combined and implemented successfully to produce multiparty (as opposed to two-party) legislatures alongside separately elected presidents in democracies like Chile and Costa Rica. The Committee believes that a dedicated study should help determine the feasibility of combining PR with presidentialism in the Ghanaian context.

2.20 The Committee notes that electoral system design aside, other structural barriers, notably the huge amounts of unregulated money in the country’s politics and the correspondingly high cost of running for elective office in Ghana, also operate to disproportionately disadvantage women, independent candidates, persons of moderate means, and smaller parties in Ghana’s electoral politics. The Committee has made recommendations elsewhere in this Report to address these other structural barriers to the effective participation of women and other politically disadvantaged groups in national politics.

Political Party Control and Selection of Caucus Leadership in Parliament

2.21 Ghana runs a presidential system of government, yet its political and parliamentary traditions appear deeply wedded to the Westminster system. A significant difference between the two systems—i.e., the parliamentary (Westminster) and the presidential systems — is with regard to party discipline in the legislature. In general, party discipline is significantly stronger in parliamentary systems than in presidential systems. There is a structural reason for this. The primary driver behind the strong political party discipline in the parliamentary system is the existence of the threat of a vote of no confidence in that system. In a parliamentary system, if ruling party MPs fail to vote together on certain key issues, the government can fall, leading to new elections with the associated risk that

³¹ *Proposals for a Draft Constitution of Ghana* (1992), p. 102

³² Report of the 2010 Constitution Review Commission, Page 157, Para 87
Ibid, Page 391, Para 244

some ruling party MPs (and other MPs) may lose their seats. The risk of losing power through a no-confidence vote creates significant pressure for party cohesion in Parliament, as members' legislative careers and their party's hold on power depend on unity in voting in Parliament. The threat of a vote of no confidence is, however, missing under presidentialism, as both the president and MPs in that system are elected separately, each for a fixed term of office.

2.22 Despite this critical difference between the two systems, members of Parliament in Ghana operate primarily from a Westminster logic, exhibiting a pattern of party-line voting behaviour that is typical of legislators in a parliamentary, as opposed to a presidential system. As a result, the constitutional architecture of separation of powers and checks and balances, which has Parliament keeping the Executive in check and holding it accountable during the period between elections, has not worked in Ghana as intended. While many commentators have blamed this failure as an effect of the constitutional requirement that a majority of the President's ministers be selected from Parliament, the strong control exerted by parties *outside* of Parliament on the actions and voting behaviour of their respective MPs *inside* Parliament offers an additional explanation.

2.23 Ghana's main political parties, particularly when they are government, have generally not allowed their MPs the freedom to vote their conscience in Parliament. While Article 97(1)(g) prohibits cross-party defection by MPs, parties have often gone beyond that constitutional guarantee of party stability in Parliament to impose *de facto* the party's will on the voting decisions of their MPs. The main conduit through which parties have exercised this extra-parliamentary control over their party MPs has been through the selection of the leadership of the party's caucus in Parliament. Parties claim the right to choose the leadership of their parliamentary caucus, as opposed to allowing the respective caucuses to select their own leadership, because the MPs were "sponsored" to Parliament on the party's ticket.

2.24 This narrow, party-exclusive view of the role of MPs in Parliament ignores the other equally important representational roles of MPs. The fact that party-identified MPs are sponsored and elected on their party's ticket does not justify party-exclusive claim to MPs' loyalty any more than the fact that a presidential candidate is sponsored and elected on the ticket of a party should subject the President, once elected, to the binding control of the party in the exercise of his or her executive power. The Committee notes that MPs are elected to represent multiple interests, among them, the interests of their constituents—the people, undifferentiated by party, who voted to send the MP to Parliament to represent and serve the community's interests. In short, party rules and

practices that intrude into the domain of Parliament to impose party preferences on MPs, notably in their voting behaviour and choice of caucus leadership, work not only to perpetuate partisanship and Executive dominance, they also undermine the ability of MPs to serve and balance the interests of their multiple constituencies, including, in some instances, the interest of the country as a whole.

2.25 The Committee is of the view that the benefits to governance and national development from the election of good calibre, independent-minded MPs are lost when the party-outside-Parliament is allowed free rein to dictate decisions to its MPs in Parliament. The Committee believes that a party's collective interest is sufficiently protected in Parliament by the anti-defection provision of Article 97(1)(g). While parties' traditional influence over MPs' legislative behaviour is a fact of political life that cannot be wished or legislated away, MPs must not be directly dictated to by party rules and practices as to how they must vote in Parliament or who they must select as their caucus leaders. The expected benefits from decoupling Ministers from membership of Parliament, which is one of the Committee's recommendations (see Chapter 1, *supra*), are unlikely to be realised so long as party control of MPs and its intrusion into the business of Parliament are institutionalised. The Committee is of the view that, at a minimum, members of Parliament must be free to choose the leaders of their respective party caucuses.

Recommendation

2.26 The Committee recommends an amendment by inclusion of a new provision to the effect that members of Parliament shall constitute themselves into Majority and Minority caucuses on the basis of the numerical strength of their respective political party representation in Parliament, and the members of each caucus shall elect from among their number, by secret vote, persons who shall constitute the leadership of their respective caucuses and hold the positions of Majority or Minority Leader, Deputy Majority or Deputy Minority Leader, Chief Whip and Deputy Chief Whip, as the case may be. A Leader, Deputy Leader, Chief Whip, or Deputy Chief Whip of a party caucus may be removed and replaced by the vote of an absolute majority of the members of the caucus in a special election called for that purpose, at the request of at least one-third of the members of the caucus.

Qualification to be a Member of Parliament (Eligibility of Dual Citizens)

2.27 Article 94(2)(a) disqualifies a person who “owes allegiance to a country other than Ghana” from becoming a Member of Parliament. This provision has been commonly understood, including by the courts, to preclude citizens of Ghana who hold “dual nationality” with another country from contesting an election to Parliament. The Committee is of the considered view that this exclusion is unjustified.

2.28 The Committee notes that “dual citizens” or Ghanaians who hold the citizenship of a second country are citizens of Ghana who already possess the right to participate in the political life of the Ghanaian community as voters and are, thus, able to vote to elect the President of Ghana and a member of Parliament. Therefore, if they must be excluded as citizens from holding a certain public office, that exclusion, in the view of the Committee, can only be reasonably justified if there was something peculiar or special about the office involved that created an incompatibility for a dual citizen to hold that office. The Committee finds little in the nature of the office of MP to justify excluding a Ghanaian who holds the passport of another country – which, in essence, is what this boils down to – from contesting an election to become an MP.

2.29 The Committee notes that, as it stands, a dual-citizen Ghanaian already qualifies to hold a wide range of public offices in Ghana, some of them with far greater individual authority and responsibility in the service of Ghana than is possessed by a single MP. Instructively, as the Supreme Court affirmed in *Francis Osei-Bonsu v Attorney General* (2024)³³, a dual-citizen Ghanaian qualifies under current law to be appointed to no less an office than the office of Chief Justice of Ghana. If a dual-citizen Ghanaian can occupy the office of Chief Justice, which is fourth in line in our nation’s constitutional order of precedence, what is the rational explanation why a community of Ghanaian voters must be prevented from electing one of their own who happens to be a dual citizen to represent their community as a member of Parliament?

2.30 The Committee finds it significant that dual citizens qualify to be elected to, and many actually sit in, the legislatures of some of the most influential democracies in the world, including the United Kingdom, Ireland, Canada, and the United States, without raising speculative doubt about divided “allegiance” or loyalty. Some of these dual-citizen MPs in foreign parliaments are, in fact, Ghanaians by birth. The irony is that if these same individuals were to return home to Ghana, they would be denied the opportunity to represent their home communities in Ghana’s Parliament solely because they are dual citizens. The Committee finds this position untenable.

³³ *Francis Osei-Bonsu v Attorney-General*, Writ No J1/18/2023 (SC, 24 April 2024).

2.31 The current prohibition of dual-citizen Ghanaians from serving as members of Parliament denies local communities the freedom to choose the citizen they believe is best qualified to serve them in Parliament. In the Committee's considered view, the only elective office in the land from which a dual citizen Ghanaian may justifiably be excluded is the office of President—and, for that matter, the Vice-President. Being first in our constitutional order of precedence and the one person who, as Head of State, Head of Government, and Commander-in-Chief of the country, embodies the nation's identity, projecting its face to the rest of the world, the President stands in a unique position. Requiring the President to hold no other citizenship besides Ghana's needs little justification.

2.32 For Ghanaians who have long travelled, been educated, settled, lived and raised families and successive generations abroad, acquiring dual citizenship is a practical necessity that facilitates access to various opportunities, work, business, and travel, including the ability to travel freely back and forth between Ghana and wherever else they may maintain familial or other significant ties. Holding the passports of their second home countries is not a complicated choice to make; in many cases, it is hardly a choice at all. There is no reasonable justification for Ghana to attach a disqualification to dual citizenship—with criminal consequences for a breach—of the kind currently contained in Article 94(2)(a).

Recommendation

2.33 The Committee recommends an amendment to Article 94(2)(a) to provide that a citizen of Ghana by birth who otherwise meets all other qualifications shall not be precluded from contesting for election to Parliament merely by virtue of holding the citizenship of another country, whether or not the second citizenship was acquired voluntarily or by operation of law, and shall therefore not be required to renounce the other citizenship either before contesting for election to Parliament or upon election as a member of Parliament. This recommendation is in line with the Committee's recommendation on Dual/Multiple Citizenship in Chapter VI (Paragraph 6.31) of this Report.

Ineligibility of Serving Public Officers to Contest Parliamentary Elections

2.34 The current state of the law on the eligibility of public officers to contest election for Parliament, and for that matter to participate in active party politics, divides public employees into two classes: Public employees listed under Article 94(3)(b) of the Constitution may not participate in active politics or seek election to Parliament without first resigning from their public employment,³⁴ while all other public employees are presumably free to do politics. This is the upshot of two separate decisions rendered by the Supreme Court on this matter.

2.35 In *CLOSSAG v Attorney General* (2017),³⁵ the Plaintiff, a trades union, argued that the Code of Conduct applicable to its members (public officers employed in the Civil Service and the Local Government Service) infringed their constitutional right to freedom of association, specifically their right to join political parties of their choice, by barring them from seeking political party office or contesting to be a party candidate in parliamentary elections. The Court rejected the plaintiff's claim, holding that, while a member of the Civil Service or Local Government Service has a right to join any political party of his or her choice, such a person does not have the right to participate overtly in political party activities whilst still a member of the Civil Service or Local Government Service. In addition to relying on the express restrictions contained in Article 94(3)(b), which bars members of the Civil Service, among others, from being elected to Parliament, the Court found the bar to be a necessary and proportionate restriction on the political rights of the Plaintiffs' members, having regard to the nature of their employment.

2.36 In contrast to *CLOSSAG*, in *Kwadjoga Adra v. Attorney-General*³⁶ (2015), the Supreme Court distinguished between "public servants" and "civil servants," holding that public servants whose employer-institutions are not listed in Article 94(3)(b) of the Constitution may participate in partisan politics without resigning their public employment. The defendants in that case were employees of the Ghana Education Service, which is a part of the "Public Services of Ghana" under Article 190(1) of the Constitution, and the Ghana Highways Authority.

³⁴ Article 94(3)(b) lists the following: a member of the Police Service, the Prisons Service, the Armed Forces, the Judicial Service, the Legal Service, the Civil Service, the Audit Service, the Parliamentary Service, the Statistical Service, the Fire Service, the Customs, Excise and Preventive Service, the Immigration Service, or the Internal Revenue Service

³⁵ *Civil and Local Government Staff Association of Ghana (CLOSSAG) v. the Attorney-General and others*, Writ No. J1/16/2017 (Supreme Court Judgment dated 14th June, 2017)

³⁶ *Kwadjoga Adra v. National Democratic Congress*, Writ No. J1/13/2014 (unreported Supreme Court Judgment dated 15th July, 2015)

2.37 The Committee is of the considered view that the difference between *CLOSSAG* and *Kwadjoga Adra*³⁷ turns unduly on the literal wording of Article 94(3)(b) and does not sufficiently address the broader principle, that public servants, regardless of the specific public employer they work for, must not pursue their personal partisan projects while in the pay of the State or mix their personal politics and partisan preferences with their overriding duty to serve the public interest and ensure impartial, non-partisan implementation of government policy or use or allocation of public resources. Indeed, public employees who are outside the Civil Service or not employed by an Article 94(3)(b) entity, such as those in public services like the Ghana Education Service and Ghana Health Service, as well as employees of state enterprises generally, often have under their control far greater public resources and power than their peers in the traditional Civil Service. Nonetheless, *Kwadjoga Adra*³⁸ would allow the managers and other employees of these state-owned enterprises (SOEs) and other public services to engage flagrantly in partisan politics, often using the very public resources entrusted to their care to advance partisan political projects. The gap in the law has thus legitimised the use by ruling parties of SOEs and other non-civil service public services as employment havens for their partisans.

2.38 The Committee is of the considered view that separating “public servants” from “civil servants” and treating the two classes of public employees differently with respect to their right to participate in party politics cannot be rationally justified in the Ghanaian context. No public interest is served by a policy or law that would allow an employee of, say, Ghana National Gas Company or Ghana Health Service to do partisan politics overtly or seek or hold party office or contest to become an MP on the ticket of a party while still in the service of their state employer, while a civil servant with, say, the Ministry of Agriculture or the Lands Commission is barred from doing the same.

2.39 The Committee believes that the distinction in the current law on this matter serves no useful public purpose and should be abolished. The Committee’s recommendation in this area also ensures policy coherence with other proposed reforms in the public sector generally that the Committee makes in this Report (see Chapter V). Those proposed reforms, like the recommendations we make here, are designed to regulate and reduce partisanship in our public administration and public sector generally, making our public sector more meritocratic and public employees more focused on and oriented toward the national interest and organisational missions than on party politics or partisan loyalty.

³⁷ *ibid*

³⁸ *ibid*

Recommendations

2.40 The Committee recommends an amendment to Article 94(3)(b) to provide that a member of the Armed Forces or the Police Service or any other security service organisation or any service that forms part of the Public Services of Ghana, or an employee of a state-owned company or corporation of a commercial or regulatory nature, whether established by statute or registered under the Companies Act, or an employee of any entity established solely or mostly with public funds to pursue a public purpose, shall not participate in active party politics, including holding or seeking to hold office in a political party or seeking or contesting for election as the candidate of a party in a national or local election, unless he or she first resigns from his or her public employment.

This proposed amendment also seeks to overturn the holding of the Supreme Court in *Kwadjoga Adra v. Attorney-General* (2015)³⁹ to the effect that “public servants” whose employer-institutions are not listed in Article 94(3)(b), as currently written, may participate in partisan politics without resigning their public employment.

The Committee recommends an additional amendment to Article 94(3)(b) to provide that public employees who resign their public employment shall observe a twelve-month “cooling-off” period before contesting national, parliamentary or party elections.

Tenure of Members of Parliament

2.41 To ensure consistency with our recommendation to increase the term of office of the President from four to five years, the Committee recommends that the term of Parliament be similarly increased to five years. The Committee further recommends that, since 1996, the practice of holding presidential and parliamentary elections concurrently be made constitutionally mandatory.

³⁹ *ibid*

Recommendation

2.42 In line with our recommendation in paragraph 1.2 in respect of the term of office of the President, the Committee recommends an amendment to clauses (1) and (2) of Article 113 to extend the term of Parliament from four years to five years.

The Committee further recommends an amendment to Article 112(4) to provide that the general election to elect members of Parliament shall be held on the same day as presidential elections.

Carpet Crossing

2.43 Article 97(1)(g) states as follows: “A Member of Parliament shall vacate his seat in Parliament if he leaves the party of which he was a member at the time of his election to Parliament to join another party or seeks to remain in Parliament as an independent member.” This anti-defection (or anti-carpet crossing) clause of the 1992 Constitution has a history in Ghana that dates back to the first decade after independence, when the ruling Convention People’s Party government, led by Prime Minister (later President) Kwame Nkrumah, deployed an array of methods, including defections among opposition party politicians, to degrade the number and strength of the Opposition in Parliament, eventually leading to a one-party state.

2.44 The Supreme Court’s disputed intervention in 2024 in a matter arising out of the Speaker’s ruling declaring certain seats vacated pursuant to Article 97(1)(g) led to a standoff between the Speaker and the Chief Justice that almost precipitated a constitutional crisis. In *Alexander Afenyo Markin v Speaker of Parliament and Attorney-General* (2024)⁴⁰, the Supreme Court held that a member of Parliament is deemed to have vacated his or her current seat in Parliament within the meaning of Article 97(1)(g) if he or she changes his or her party identity and affiliation in Parliament during a current term. Thus, an MP’s present expression of an intention to contest a future election under a different political party banner or as an independent candidate was not caught within the scope of Article 97(1)(g) of the Constitution.

Following the Court’s intervention, the Speaker issued a response outlining his concerns with the Supreme Court’s decision. He took the position that the action was premature

⁴⁰ *Alexander Afenyo Markin v Speaker of Parliament & Attorney-General* (Writ No J1/01/2025) [2024] GHASC 51 (12 November 2024).

and questioned whether it was supported by the requisite legal authority. These concerns centred on the timing of the intervention and its implications for the respective constitutional roles of the institutions involved.

2.45 In light of the high-stakes inter-party and inter-branch dispute that erupted over the matter of the interpretation and application of Article 97(1)(g) in the dying weeks of the Eighth Parliament, it was suggested during some of our engagements that this Committee recommend an amendment to Article 97(1)(g) to bring clarity to this issue. The Committee is, however, of the opinion that the controversy that surrounded the Supreme Court's intervention in the *Afenyo Markin*⁴¹ case was not so much over the substantive correctness of the Court's ruling as it was over the jurisdiction of the Supreme Court and the procedures adopted by the Court in intervening in the matter. It was alleged that, in intervening as it did, the Supreme Court had improperly seized for itself original jurisdiction that rightfully belonged to the High Court under Article 99(1)(a).

2.46 The Committee is of the considered view that, putting aside the jurisdictional controversy and other points of disputation over the Court's intervention, the substantive meaning and scope of Article 99(1)(a) is not much in doubt: It reaches only the current action of an MP in switching or changing parties or his or her partisan status in Parliament during the current term of Parliament, not an action contemplated in the next election or some other time in the future. A member of Parliament who changes party identity or status to Party B or Independent during the current term of Parliament after he or she has been elected by voters in the belief and knowledge that he or she belonged to Party A could be said to have misled or deceived voters about his or her real partisan affiliation to get elected. Causing an MP to vacate or lose their seat in that situation is a way of ensuring that they do not profit from their alleged or presumed act of voter deception. Similar concerns about voter deception do not arise, however, where the MP announces his or her intention to change party identity or status ahead of an election, which change would only be effective when the current term has ended. The latter MP puts voters on notice as to the MP's new party identity or status going into the elections.

The Committee does not think an amendment to Article 97(1)(g) is warranted under the circumstances.

⁴¹ *Markin v Speaker of Parliament & Attorney-General* [2024] GHASC 51.

By-Elections

2.47 The issue of the necessity for and cost of by-elections was raised in written submissions and at our public engagements. Currently, a by-election to fill a vacant seat is required to be held within thirty days of the occurrence of the vacancy. Only where a vacancy occurs within three months of an upcoming general election is a by-election waived.

The import of not holding a by-election in the latter instance is that it would be wasteful, given that the next general election is only a short three months away. Some participants felt similarly that where a seat becomes vacant within a “short period” following general elections, it would be wasteful to hold a by-election. The Committee was urged to consider other mechanisms or methods to fill such a vacancy without recourse to a by-election.

2.48 The Committee notes that growing public scepticism about the value of by-elections is borne out of experiences in the Fourth Republic. The obvious financial cost aside, by-elections, especially in competitive constituencies, because they occur in the electoral off-season, tend to invite a disproportionate investment of human and material resources, including party-affiliated ‘vigilante’ groups, from the contesting parties. This makes for an agitated security situation, with the Government often deploying substantial security resources as a show of force or in anticipation of violent or disorderly activity. By-elections have thus recorded some of the worst incidents of electoral disorder in the Fourth Republic.

2.49 The Committee understands the concerns of those who would like an alternative to a by-election for a vacancy that occurs “soon after” general elections. Under current law, a by-election would be obligatory even if a seat were to become vacant within 24 hours after an MP had been sworn into office. The first question, then, that arises from the search for a by-election alternative is how short a period after general elections would be considered fair or reasonable not to hold a by-election. The second is, if not through a by-election, how else is the vacancy to be filled without offence to democratic principles? There is no easy answer to either question.

2.50 As to the first question, the proposals range from three months to a year after the general elections. These numbers or timelines are necessarily arbitrary, but given that the current rule waives a by-election for a vacancy that occurs three months before general elections, a rule that would waive a by-election where the vacancy occurs three months *after* general elections would at least establish some symmetry between the two ends of a

legislative term. However, given that the full term of Parliament is four (or, as now recommended, five) years, a period of “no by-election” that extends from three months to even a year after general elections is not necessarily unreasonable.

2.51 As to the second question, the Committee received and considered a variety of options, including those from comparative sources. The most common alternative to a by-election is to allow the party that previously held the seat to nominate a replacement to serve the remainder of the term. The new member could be the runner-up in the party’s primary elections or chosen in fresh party primaries. This option is, however, not available when an independent MP held the vacated seat. In some jurisdictions, including Cameroon and Benin, a “substantive” candidate and an “alternate” candidate run together on the same party or independent ticket during a general election. If the elected substantive member’s seat becomes vacant for certain reasons (e.g., appointment to a ministerial position), the alternate immediately fills the vacancy for the rest of the term. In Cameroon, this alternative does not apply where the vacancy occurred due to the death of the substantive member. Another interesting proposal would be to retain the by-election for all vacancies; however, all by-elections that arise within any twelve-month period would be held on a common date to reduce costs and disruption.

2.52 Not being able to reach consensus or agreement on this matter, the Committee makes no recommendation for amendment. However, the Committee considers it essential to draw attention to the growing public concern and dissatisfaction with the frequency and management of parliamentary by-elections.

[Voting on Constitutional Amendment Bills](#)

2.53 Article 104(4) of the Constitution states: “Where Parliament is considering a bill to amend the Constitution, or where voting is in relation to the election or removal of any person under this Constitution or under any other law, voting shall be in secret.”

2.54 The principle of the secret vote or ballot, when extended to the legislative process, is designed to ensure that MPs can vote freely according to their conscience without fear of retribution, coercion, or punishment from their political parties or external forces. While the application of this principle to voting on a constitutional amendment may be defended as providing MPs the necessary confidentiality to apply their independent thinking in matters concerning changes to the nation’s fundamental law, such secret voting undermines legislator accountability. In particular, MPs could hide behind the shield of secrecy to block constitutional reforms that they see as not advancing their individual or collective interests. Conversely, as MPs are themselves gatekeepers of the constitutional amendment process, with the power to initiate or work with the Executive

to initiate a constitutional amendment, they could use the anonymity the secret vote provides them to push through constitutional changes that advance their interests as a political class.

2.55 The Committee is of the view that, unlike individual voters whose vote is personal to them, MPs act not merely in a personal capacity but, importantly, also in a representative capacity when they vote in Parliament. Thus, while individual voters need not be accountable to anyone else for their voting choices, MPs may rightfully be held to account by their constituents for the votes they cast in Parliament, including on matters of constitutional amendment. The Committee believes that the democratic benefits of open voting in Parliament, in terms of representation and accountability, outweigh any putative benefit of keeping MPs' votes secret in matters of constitutional amendment. The Committee believes that secret voting is more defensible in the other instance specified in Article 104(4), namely on issues relating to the election or removal of the Speaker or the impeachment of the President, where undue influence of a personal nature, including fear of personal reprisal, could be exerted to sway the vote.

Recommendation

2.56 The Committee recommends an amendment to Article 104(4) to restrict the use of secret voting in Parliament to "where the voting is in relation to the election or removal of any person under this Constitution or under any other law." Voting on a bill to amend the Constitution shall be open, recorded, and made public.

Certificate of Urgency

2.57 Article 106(13) of the Constitution allows a Bill to be passed that has not been put through the regular legislative process, if a committee of Parliament certifies that it is a bill of an "urgent nature" (thereby earning it a "certificate of urgency"). A Bill introduced under a certificate of urgency avoids all of the following requirements applicable to ordinary Bills: publication in the *Gazette* for at least 14 days before being laid in Parliament; referral to the appropriate committee for its detailed review, inquiry, and reporting back to Parliament; and debate on the floor of Parliament. In short, a certificate of urgency allows a Bill's sponsor to avoid putting the bill through both public and legislative scrutiny and deliberation. Typically, this would be a Bill sponsored and introduced by or in the name of the President.

2.58 The Committee notes that there are no constitutional or legislative standards for determining what constitutes an “urgency” or the matters or circumstances for which a certificate of urgency may be sought or granted. Under current practice, the certificate of urgency essentially allows the Executive to commandeer Parliament to accomplish the Executive’s legislative ends with practically no credible check or accountability from the public or the legislature. Successive parliaments in the Fourth Republic have, at the Executive’s behest, used certificates of urgency to expedite the approval of large loans, international transactions, and other agreements—all without the knowledge of the general public.

2.59 The Committee notes that, while there may be justification to expedite certain Bills in certain limited circumstances, Article 106(13) contains no safeguards whatsoever to check or prevent abuse of certificates of urgency.

Recommendations

2.60 The Committee recommends an amendment to Article 106(13) to include safeguards against misuse or abuse of the “certificate of urgency” as follows:

1. Definition of urgency: Parliament shall, either in its Standing Orders or by legislation, define the circumstances that qualify for a certificate of urgency, focusing on immediate and irreparable harm that would occur if normal procedures were followed. This would restrict its application to genuine emergencies (e.g., natural disasters, public health crises, immediate national security threats) rather than using it for routine government business.
2. Require robust justification: The authority requesting the certificate must provide a detailed, publicly accessible statement or statutory declaration explaining the specific grounds for urgency and why the matter “cannot wait.”
3. Mandatory Bipartisan Support: To proceed by a certificate of urgency, the request must receive cross-party approval and meet a higher threshold for approval.
4. Guaranteed Minimum Scrutiny Period: Parliament must establish an abbreviated timeframe for at least a committee review of the Bill.

5. Mandate Stakeholder input: Implementing measures to guarantee some form of public consultation, even in urgent cases. This could involve streamlined public hearings, online feedback mechanisms, or minimum time for relevant stakeholder and civil society review to ensure transparency and inclusion.
6. Exempt Certain Bills: Explicitly excluding certain types of Bills (e.g., those altering human rights or the constitution; natural resource agreements; other international business agreements) from the certificate of urgency process to ensure they receive full procedural debate.

Right to Public Participation in the Legislative Process

2.61 The Committee notes that the right to public participation in the legislative process has emerged as a key principle of modern democratic constitutionalism. The model of representative democracy as *delegative democracy*, where the public is reduced after elections to only a spectator role in the legislative process, with the business of legislating left in the hands of an insular legislature, is giving way to a model of *participatory democracy* that recognizes the right of the public to be carried along and included, *as a matter of right*, in the legislative process in the period between elections.

2.62 Ghana's 1992 Constitution, which allows public consultations or participation in the legislative process at the discretion of Parliament and its committees, reflects the old model of representation. The constitutions of South Africa (1996) and Kenya (2010) are among the modern constitutions that explicitly mandate a right to public participation in the legislative process.⁴²

2.63 Where it is constitutionally affirmed, a right to public participation operates not as a power to decide legislative outcomes directly, but as a constitutionally enforceable requirement for the legislature to provide a meaningful opportunity for input and to consider those views seriously. As defined by South African and Kenyan constitutional law jurisprudence,⁴³ the elements of a right to public participation include the following:

⁴² Article 118 (Parliament) and 196 (County Assemblies) of the Kenyan Constitution require legislative bodies to facilitate public participation in their business and committee sittings, which must be held in public. Article 119 also guarantees every person the right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation. South Africa's Constitution also entrenches the right to public participation, requiring national and provincial legislatures to facilitate public involvement in law-making (Sections 59(1), 72(1) and 118), thus allowing citizens to influence policy and legislation directly.

⁴³ See *Mogale and others v Speaker of the National Assembly and others* [2023] ZACC 14.; *British American Tobacco Kenya PLC v Cabinet Secretary for the Ministry of Health & 2 others*; *Kenya Tobacco*

- a. Public Notice: The legislature must inform the public about a Bill or issue requiring input. This typically involves media adverts, website publications, and engagement with civil society organisations.
- b. Sufficient Time: The public must be given adequate time to understand the proposed legislation, deliberate, and formulate their submissions.
- c. Accessibility of Information: Relevant information, such as the full text of a Bill, must be made accessible to the public to enable informed participation.
- d. Variety of Input Methods: Participation is facilitated through various channels:
 - i. Written submissions/memoranda: Citizens and groups can send formal comments.
 - ii. Public hearings and fora: These provide opportunities for face-to-face engagements, oral presentations, and an exchange of views with lawmakers and committees.
 - iii. Petitions: Citizens can formally petition Parliament on specific matters of concern.
- e. Consideration of Views: The legislature is obligated to consider the public's input in its deliberations. While not bound to follow public opinion, it must demonstrate a "preparedness to be guided" by the process and show how the input was considered in the final decision-making.
- f. Judicial Review: Courts (like the South African Constitutional Court) can review the *reasonableness* and adequacy of the participation process followed by the legislature. A failure to facilitate meaningful public involvement can lead to the invalidation of legislation.

2.64 The Committee is of the view that Ghana's democracy and the work and output of Parliament would be enriched by making the right to public participation constitutionally mandatory.

Recommendation

2.65 The Committee recommends an amendment to Chapter Ten of the Constitution to insert a new provision to guarantee a right to public participation in the legislative process with a corresponding obligation on Parliament, including its committees, to

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take affirmative steps to facilitate and ensure meaningful public and stakeholder consultation and participation in the legislative processes.

MPs Engagement with Constituents

2.66 A complaint that was repeatedly raised at our zonal and stakeholder engagements across the country was the absence of meaningful, regular contact and engagement between MPs and the communities they represent. Participants, including traditional leaders, complained that MPs limited their community presence and activities to selective attendance at informal social events, such as funerals, or else to interactions with their party networks within the constituency. Many participants pointed to the scheduled, interactive, nonpartisan “town hall” format of the Committee’s zonal engagements as the kind of engagement they believed communities deserved to have periodically with their MPs. The Committee indeed observed that very many of the concerns and questions participants felt our committee could address were matters that should be more appropriately directed at MPs (or assemblies).

2.67 The Committee is of the view that MPs should have structured, town hall-style engagements with their communities at periodic intervals. These engagements could be moderated by the NCCE, with the costs covered as part of the NCCE's or Parliament's operating budget, or both. The Committee accordingly recommends as follows:

Recommendation

2.68 The Committee recommends an amendment to Chapter Ten of the Constitution to insert a provision requiring Members of Parliament, during each recess, to hold at least one in-person town-hall style engagement open to all constituents within their respective constituencies.

The further Committee recommends that the cost of the proposed engagements be covered as part of the NCCE's or Parliament's operating budget, or both.

Conflict of Interest of MPs

2.69 Currently, the only conflict of interest provision that is explicitly addressed to MPs is Article 104(5). It precludes MPs from voting in matters relating to a contract where an MP is party to, or a partner of a firm that is a party to, the contract.

2.70 The Committee finds this conflict-of-interest provision relatively narrow in scope and, therefore, grossly inadequate. Article 104(5) leaves the field wide open for MPs to engage in all manner of conduct or take on various roles that present a conflict with an MP's broader oversight and other legislative responsibilities. For example, the provision does not prevent MPs from accepting remunerative appointments from the Executive branch or director or chairpersonship positions on the boards of SOEs or other state entities (OSEs)-- a widespread practice in Ghana's Fourth Republic that entangles MPs in the governance, transactional, and financial dealings of State bodies that are subject directly or through the appropriate Ministers to the oversight of Parliament. MPs who maintain active professional practices as lawyers also sometimes take on private representation, including the legal defence of persons facing criminal investigation or prosecution, where their clients' interests are adverse to those of the State for which the MP works full-time.

The Committee is of the considered view that, in its current rendition, Article 104(5) does not adequately address the real-life conflict-of-interest situations that confront the Ghanaian MP.

Recommendations

2.71 The Committee recommends an amendment to Article 98 to provide that a Member of Parliament shall not:

- (a) be eligible for appointment to a position on the management or governing council or board of directors, or to the procurement committee, of any entity funded wholly or partially from public funds or in which the Government of Ghana has an interest;
- (b) represent, or belong to a professional or business firm that represents a party in a matter, whether legal or commercial, in which that other party's interests are adverse to or on the opposite side of the interest of the Republic of Ghana;
- (c) accept or agree to accept, directly or through a third party, an offer of cash or in-kind gift of substantial value, benefit, inducement or reward from any person or entity with an interest in the outcome of a Bill, an investigation, a nomination, an

agreement or an appointment or a resolution that is before Parliament or a committee of Parliament for decision.

The Committee further recommends that no person or entity with an interest in the outcome of a Bill, an investigation, a nomination or an appointment or a resolution that is before Parliament or a committee of Parliament for decision shall offer cash or an in-kind gift, a benefit, inducement or reward to any member of Parliament or a staff of his or her office.

Private Member's Bill

2.72 Uncertainty continues to surround Article 108 of the Constitution and its effect on the ability of MPs to sponsor or introduce Private Member's Bills. The Speakers of the Seventh and Eighth Parliaments, reversing or relaxing rulings by earlier Speakers, issued rulings to the effect that MPs may introduce Private Member's Bills, notwithstanding arguments or claims that all such bills invariably have a financial impact on the State and are, therefore, impermissible under Article 108. Despite this recent change in parliamentary practice, uncertainty remains as to exactly which Private Member's Bills would offend Article 108 and which are permissible.

2.73 The Committee takes the view that previous Speakers' interpretations of Article 108 to disallow practically all Private Members' Bills went too far and did not do justice to the spirit, or even the letter of Article 108 and other provisions of the Constitution. The presence of a provision like Article 108, which attempts to define a range of Bills or motions emanating from outside Government that Parliament may not consider because of their purpose or effect in relation to taxation or public funds, suggests that some Bills that are not introduced by or on behalf of Government would be permissible under Article 108.

2.74 In the Committee's view, a Private Member's Bill that has an incidental or a tangential or *de minimis* effect on public spending is not the mischief Article 108 seeks to cure. Article 108 appears targeted at Private Member's Bills that are likely to cause some disruption to the Government's current or future fiscal plans, budgets or appropriations, such as a Bill that would create a new public office or introduce a new or recurring line of unbudgeted expenditure or trigger a funding need that might require the raising of new taxes or a supplemental appropriations Bill. Allowing individual MPs to introduce Bills of that nature risks disrupting or distorting the Government's spending or revenue projections or plans contained in already approved budgets.

2.75 The Committee believes there is a need to amend Article 108 to clarify its meaning and scope in a way that preserves for members of Parliament the right to introduce Private Member's Bills and, therefore, enable MPs to participate meaningfully in initiating legislative interventions to address public problems.

Recommendation

2.76 The Committee recommends an amendment to Article 108 to the effect that a Member of Parliament, either alone or in association with other Members of Parliament, may introduce to Parliament, on their own behalf a Bill or a motion ("Private Member's Bill") on, any matter within the legislative competence of Parliament except where the Bill has the purpose or effect of creating a new office or body or a line of recurring expenditure for which no appropriation has been made in the budget of the affected entity or would require the raising or imposition of a tax or levy.

Non-Implementation of Enacted Legislation (Laws without L.I.s)

2.77 During the Committee's zonal engagements, the attention of the Committee was drawn to instances where primary legislation to address a policy gap would be enacted with great fanfare. Yet, the necessary legislative instrument or other subsidiary legislation to operationalise the statute remained unenacted for prolonged periods, sometimes years or over a decade in some cases. For instance, the Committee received several submissions from persons with disabilities complaining about the absence of subsidiary legislation to operationalise the Persons with Disabilities Act, 2006 (Act 715), nineteen years after the Act was passed.

2.78 The Committee finds this situation highly unsatisfactory. Although responsibility for drafting and ensuring enactment of the necessary subsidiary legislation shifts from Parliament to the appropriate implementing agency or Ministry after the primary legislation has passed, the Committee is of the view that Parliament, as the body with continuing oversight of the implementation of its statutes, is best placed to ensure that the necessary follow-up regulations to implement the laws it passes are done and done on time.

Recommendation

2.79 The Committee recommends an amendment to Chapter Ten to introduce a new Article to provide that an Act of Parliament that requires the passage of Regulations for its effective implementation shall specify in the Act a time period, not later than twelve (12) months after the effective date of the Act, by which the necessary Regulations shall be prepared and laid before Parliament. In case of non-compliance, Parliament shall pass a vote of censure against the Minister responsible for preparing and laying the Regulations before Parliament.

Abuse of Contempt of Parliament

2.80 The Constitution defines contempt of Parliament as an act or omission which obstructs or impedes Parliament in the performance of its functions, obstructs or impedes an MP or officer of Parliament in the discharge of their duties, affronts the dignity of Parliament, or directly or indirectly produces any of these results.⁴⁴

2.81 On several occasions, Parliament has wielded the powers of its committees to summon witnesses to assist in its investigations into certain matters, to compel individuals it believes have committed contempt against an MP or the institution to hearings and to demand public retractions and apologies for allegedly offensive or defamatory statements or allegations made in the media.

2.82 This understanding and use of contempt of Parliament creates a chilling effect on media and public criticism of Parliament, undermining free public discourse about Parliament, a critical tool citizens must have to exact accountability from their elected representatives. Contempt of Parliament, in our view, may not be applied to punish media or public criticism of or allegations made against Parliament or an MP or MPs. If falsely accused or defamed, Parliament, an MP, or MPs should be free to lodge a complaint with the National Media Commission for appropriate redress. Individual MPs are similarly free to pursue remedies for defamation in appropriate circumstances.

⁴⁴ Article 122, 1992 Constitution of the Republic of Ghana.

Recommendation

2.83 The Committee recommends an amendment to Article 122 to clarify that the rights to freedom of speech and expression and freedom of the media guaranteed in Articles 21(1)(a) and 162 of this Constitution are not inferior or subordinate to the power of Parliament to punish for contempt; therefore, the contempt power of Parliament may not be invoked by Parliament or a Member of Parliament to punish or seek to punish a person or media organisation for expressing or publishing information, opinion, or commentary that Parliament or a Member of Parliament perceives to be unfair, untrue, critical, offensive or unflattering of Parliament or a member. Where a Member believes that he or she has been defamed, the appropriate remedy lies in a suit for defamation. In the case of Parliament, a complaint may be made to the National Media Commission for appropriate redress.

Payment of “Gratuity” to Members of Parliament

2.84 The payment of a “gratuity” to Members of Parliament at the end of each term of Parliament is arguably the most unpopular compensation practice in relation to MPs in the Fourth Republic. As the Committee discovered, it is also arguably among the least understood.

2.85 Authority for MPs’ entitlement to a gratuity derives from Article 114(1). The current provision is the result of a constitutional amendment that took effect in December 1996. It reads:

“A person who has served as a member of Parliament for any period of time shall, on his death or on his ceasing to be a member of Parliament in any circumstance . . . be eligible for the payment to his personal representative or to him such gratuity proportionate to his period of service as shall be determined by the President, acting in consultation with the Committee referred to in article 71 of this Constitution.”

The original (repealed) article 114(1) read as follows:

“A person who has served as a member of Parliament for a period of not less than four years shall be eligible, on ceasing to be a member or on his death, for the payment of such gratuity, as the case may be, as shall be determined by the President, acting in consultation with the Committee referred to in article 71 of the Constitution.”

2.86 Public understanding of what Article 114 means is generally inferred from the practice. The practice is that, at the end of every term of Parliament, MPs are paid a lump-sum amount as gratuity. The 1996 amendment changed the minimum period one must have served as an MP in order to entitle one to receive a gratuity. Before the passage of the amendment, an MP needed to serve a minimum of 4 years in Parliament before they could earn the entitlement to a gratuity. The 1996 amendment changed the minimum period from 4 years to “any period of time.” Thus, MPs with less than 4 years of service, such as an MP who was elected to Parliament by way of a by-election or died during the term of Parliament, are now entitled to gratuity “proportionate to his period of service.” Previously, such MPs were not entitled to gratuity.

2.87 Public objection to the payment of gratuity centres on the fact that MPs, regardless of how many terms or years they have served in Parliament, are each paid a specific lump sum as gratuity at the end of every term. The public understanding is that this payment is *ex-gratia*, implying it is an unearned benefit, akin to a gift or bonus. It is seen as grossly unfair for MPs to receive a gratuity as a matter of right at regular intervals during their parliamentary careers, while public employees are typically entitled only to a one-time lump-sum payment upon retirement, in addition to any contributory monthly pension.

2.88 A lack of clarity as to the exact character of the MPs’ gratuity continues to fuel public objection to the practice. The Committee notes that MPs were entitled to payment of gratuity under past constitutions. Pursuant to the National Assembly Act (1961), an MP in the First Republic was entitled to a salary and allowances and, “whenever he completes a period of five years’ service, to a gratuity,”⁴⁵ the amount of which was set at a fraction of the MP’s salary and allowances during the five-year period. Article 90(4) of the 1969 Constitution made any person who had served as MP for a period of not less than five *continuous* years eligible, “upon retirement or death,” for payment of a gratuity to him or his personal representative. (The term of Parliament under the 1969 Constitution was four years). The 1979 Constitution had an identical gratuity provision, requiring a minimum of five years’ service as an MP for eligibility.⁴⁶

2.89 From the contexts of these various provisions, it appears that gratuity for MPs is intended as a lump-sum retiring benefit in place of a pension. The difficulty with the practice, from the experience of the Fourth Republic, is that the amount is paid out at the end of every term of Parliament, not at the end of an MP’s career in Parliament, as the language of article 114 (“death or ceasing to be a member of Parliament”) or of antecedent

⁴⁵ Francis Bennion, *Bennion on Statutory Interpretation* (7th edn, LexisNexis 2017), p. 303

⁴⁶ Ghana Constitution 1979, art 95

provisions in previous constitutions (“death or retirement”) would appear to suggest. However, given that MPs are not term-limited, have no mandatory retirement age, and can return to Parliament even after a voluntary or involuntary break in their parliamentary careers, there are practical difficulties with timing the payment of their retiring benefits or gratuities upon retirement or the end of their careers as MPs.

2.90 The Committee believes that the use of the term “gratuity” in a context that suggests that it is meant as a retirement benefit, when MPs’ careers do not have a standard retirement cut-off, contributes to the widespread misunderstanding and confusion about the practice. MPs have themselves often contributed to public confusion by suggesting, despite the language of Article 114, that the lump sum paid to them at the end of each four-year term represents accumulated arrears from unpaid salary increases.⁴⁷ The Committee is of the considered view that this persistent confusion fuels public mistrust of Parliament. Accordingly, the Committee recommends as follows:

Recommendation

2.91 The Committee recommends an amendment to Article 114(1) to provide that, in lieu of the current system whereby gratuity is paid to members of Parliament at the end of each term of Parliament, the proposed Independent Public Emoluments Commission shall develop and determine, as part of its general mandate, an appropriate scheme of pension or retiring benefit or superannuation for members of Parliament.

⁴⁷ MPs receive gratuity, not ex gratia – Speaker of Parliament clarifies (MyJoyOnline, 12 July 2023) <https://www.myjoyonline.com/mps-receive-gratuity-not-ex-gratia-speaker-of-parliament-clarifies/> accessed 18 October 2025.

B Political Parties

Overview

2.92 The 1992 Constitution guarantees the freedom to form political parties.⁴⁸ It denies Parliament the power to enact a law establishing a one-party state⁴⁹ or to impose on the people of Ghana a common programme or a set of objectives of a religious or political nature.⁵⁰ Together, these provisions affirm the country's commitment to multi-party democracy.

2.93 Information from the EC shows that there were 16 registered political parties in Ghana as of December 2025.⁵¹ The Committee notes, however, that a combination of history and the workings of the first-past-the-post electoral system have produced a two-party dominant political system in the Fourth Republic, with the NDC and the NPP being the only two parties to have won control of the presidency and majorities in Parliament since the birth of the Fourth Republic.

2.94 The organisational strength and electoral competitiveness of these two major parties have helped to sustain the country's electoral politics over the last three decades. The intensity of the parties' electioneering and voter mobilisation campaigns has produced high voter interest and turnout during elections, while their respect for presidential term limits, peaceful concession of electoral defeat, and a willingness to prosecute disputed election results through the courts have ensured an orderly transfer of power whenever there has been party turnover at the polls.

2.95 Despite their important contributions to the consolidation of Ghana's electoral democracy, the two major political parties have drawn sharp criticism from Ghanaians for engaging in practices and a style of politics, both in and out of government, that have adversely impacted the quality of the country's democracy, governance, and development and often diminished public trust in the institutions of democratic representation.

2.96 Intense rivalry, mutual loathing, and non-cooperation between the two main parties are widely blamed for the inability or unwillingness of successive governments to deal with challenging public problems like illegal mining (*galamsey*) and corruption. Parties

⁴⁸ Constitution of the Republic of Ghana 1992, art 55(1).

⁴⁹ Constitution of the Republic of Ghana 1992, art 3(1).

⁵⁰ Constitution of the Republic of Ghana 1992, art 56.

⁵¹ Electoral Commission of Ghana <https://ec.gov.gh> accessed 18 December 2025.

and their partisans routinely rally in solidarity behind their co-partisans who are charged with or accused of corruption or other criminal acts, thus politicising and undermining criminal investigations and prosecutions and defending impunity for political insiders. Partisan polarisation has also fostered a general race-to-the-bottom in political behaviour and performance, with one party usually benchmarking its performance against that of its rival and habitually deflecting criticism of its unsatisfactory performance or actions by referencing or invoking comparisons with similar failings on the part of its rival party. The parties' do-or-die attitude and posture toward electoral competition have heightened tensions and security concerns, driving rival partisans to resort to inflammatory rhetoric, vote-buying, disinformation, and the use of violence or intimidation during electioneering and elections. The country is thus often "gripped by fear and apprehension in an election year".⁵²

2.97 The unrelenting rivalry between the two parties has created a schism in national politics that has permeated and polarised the broader Ghanaian polity as well as many state institutions. Virtually every public issue or controversy soon assumes a binary partisan dimension and framing, with the two parties and their party faithful taking predictably adversarial positions on the matter, their respective public positions often informed less by principle or ideology and more by a desire to score political points or gain political advantage at the expense of the other. The partisan polarisation at the centre of contemporary politics has thus frustrated efforts to build a credible and durable bipartisan consensus to drive sustainable reform or progress on critical national issues.

2.98 In the latest Afrobarometer round of surveys (Round 10, 2024)⁵³, about three in ten Ghanaians (29%) thought that Ghana's main political parties promote division and confusion, up from 18% in Round 5 (2012). Significantly, more than half of the respondents (52%) reported feeling no affinity with any political party—a 15-point increase from Round 5 (2012)—indicating growing partisan detachment among voters.⁵⁴ Trust in both ruling and opposition parties has also plummeted over the years. While 47% and 54% of Ghanaians expressed confidence in the ruling party and the opposition party, respectively, in Round 5 (2012), by 2024, only 23% said they trusted the ruling party, and 28% trusted the opposition party.⁵⁵

⁵² See Kofi Akpabli (ed), *Critical and Biographical Essays of Nana Dr S K B Asante: From an African Village to the Global Village and Back* (2022) 394.

⁵³ Afrobarometer, Ghana: Summary of Results — Afrobarometer Round 10 Survey in Ghana, 2024 (Afrobarometer, April 22, 2025, rev 1 Nov 2025) <https://www.afrobarometer.org/wp-content/uploads/2025/04/Ghana-summary-of-results-Afrobarometer-R10-22april25-rev-1nov25.pdf> accessed 12 November 2025.

⁵⁴ *ibid*

⁵⁵ *ibid*

2.99 The ensuing sections address dysfunction and gaps in political party regulation, campaign financing, internal party democracy, and related problems.

Registration and Regulation of Political Parties

2.100 The Constitution establishes the EC as an independent body with the mandate to conduct all public elections, register political parties, and regulate aspects of their operations and financing in accordance with legislation. Commentators note, however, that the EC has generally pursued its election administration mandate to the neglect of its other role as registrar and regulator of parties. This common view is summed up in this observation by the Institute of Democratic Governance:

“Since its inception, the EC has never found the right balance between the two [roles]. Somehow, directly election-related functions such as demarcating constituency boundaries, registration of voters, managing the electoral roll, and conducting the various elections have taken precedence over the registration of political parties and [internal] election of candidates. Political parties’ candidate elections, campaigns, financial expenditures and fundraising have gone largely unchecked and are not accountable to anybody. The kind of rule-based, well-regulated democratic electoral politics that Ghanaians expect is largely missing.”⁵⁶

2.101 Some have suggested that the EC’s relative neglect of its party regulator mandate could be due to funding constraints and the resulting need for the EC to manage its limited resource envelope to deliver on its most obligatory, non-waivable mandate, which is an up-to-date voters’ roll and general elections on schedule. Others have suggested that there is an inherent tension between the EC’s election administrator and party regulator mandates, as diligent or zealous regulatory action, specifically against delinquent or noncompliant big parties, could create perceptions or allegations of partiality or bias that could complicate the Commission’s duty to administer and deliver free, fair and impartial elections. Whatever may be the reason behind it, the EC’s passive or unenthusiastic attitude to its regulatory mandate has left a void which, in turn, has given rise to rampant waywardness in the conduct of parties and candidates, unregulated monetisation of campaigns, oligarchic control of parties, and a general *laissez-faire* party political environment.

⁵⁶ Institute for Democratic Governance (IDEG), Democratization of Authoritarian Local Government in Ghana: Proposals for Multiparty Democracy and Local Governance Reforms (Policy Brief PB1, January 2024) <https://ideg.org/wp-content/uploads/2024/01/PB1Democratisation-of-Authoritarian-Local-Govt-in-Gh.pdf> accessed 19 July 2025.

2.102 The Committee received submissions advocating the creation of an independent political party regulator separate from the EC. The Committee believes there is considerable merit to the idea of a separate, independent registrar and regulator for political parties and campaigns. Ghana's multi-party democracy must be based on rules, including rules that govern and regulate the conduct of the various players in the political game, notably political parties.

2.103 The current anything-goes, race-to-the-bottom political environment within which political parties in Ghana are embedded and operate can yield only adverse outcomes for the country's democracy and governance. The Committee is persuaded that combining the party regulator and election administrator roles in the EC contains the seeds of a potential conflict of interest. Carving out the party and campaign regulator mandate from the EC's constitutional and statutory mandate will bring focused regulatory attention to the activities of political parties and their impact on the health of Ghana's democracy.

Recommendation

2.104 The Committee recommends an amendment to Chapter Seven of the Constitution to provide for the establishment of an Independent Registrar and Regulator of Political Parties and Campaigns ("IRRPC"). The IRRPC shall be constituted in the same manner as the Electoral Commission ("EC") and other independent constitutional bodies. The IRRPC shall take over the functions and powers of the EC in respect of registration and regulation of political parties but have an expanded mandate with enhanced enforcement powers to regulate the conduct and activities of political parties and political campaigns generally, including monitoring and enforcing compliance and sanctioning noncompliance. The IRRPC, with parliament, shall develop laws governing political parties and campaigns, promulgate and enforce a Code of Conduct and proscribe specified anti-democratic activities of political parties, including vigilantism and vote buying. The IRRPC shall further develop and enforce compliance with agreed affirmative action benchmarks and milestones, and administer a proposed Democracy Fund to incentivize and support policy development, gender-inclusive initiatives, and other targeted, non-electioneering activities of parties.

Monetisation of Politics: Campaign Financing

2.105 There is no official data on how much it costs a candidate to run for national political office in Ghana. Independent research conducted by the Ghana Centre for Democratic Development (CDD-Ghana) and others estimates that, for a candidate of one of the two major parties, the cost of running for president is roughly \$150 million (2024), up from an estimated \$100 million in 2020. A successful run for Parliament in 2020, as estimated by a 2021 study by CDD-Ghana, was projected to cost, on average, about \$690,000.⁵⁷

2.106 There are several drivers behind these astronomical figures: high filing fees for internal party primaries; financially burdensome internal candidate eligibility requirements (e.g., constituency “nurturing”); competitive races, both internally and in general elections; open-ended, unregulated campaigning and electioneering season; no statutory expenditure limits; high cost of widespread voter inducements; labour-intensive campaigns with large “*footsoldier*” dependents; non-enforcement of financial disclosure requirements and source of funding rules; abuse of incumbency/public office to fund campaigns; and high return on investment and prospect of recovery through corruption, if successful. In general, candidates fund their own campaigns—and fund their parties, too, in the process.

2.107 Not only does the high cost of contesting national political office operate to exclude vast numbers of otherwise capable people from seeking elective political office, a 2022 joint CDD-Ghana/Westminster Foundation for Democracy study⁵⁸ found that unregulated and illicit funding, so-called “dirty money”, has seeped into campaign finance through channels linked to illegal activity (including *galamsey*), organized crime, procurement kickbacks, and foreign interference. Financiers, including business actors engaged in illicit activities, frequently provide cash and in-kind support with explicit expectations of government contracts, appointments, regulatory protection, or tax waivers.

2.108 The Committee notes that Article 55 of the Constitution and Act 574⁵⁹ contain some minimal campaign finance rules. However, the *de facto* regulatory void in this area has meant that even the bare-bones regulations are not enforced or complied with. The Committee is of the considered view that campaign financing rules are best detailed in

⁵⁷ Center for Democratic Development-Ghana, Understanding How Dirty Money Fuels Campaign Financing in Ghana (CDD-Ghana, 2 February 2022) <https://cddgh.org/2022/02/02/understanding-how-illicit-money-fuels-campaign-financing-in-ghana/> accessed 16 December 2025.

⁵⁸ Center for Democratic Development-Ghana (n 13)

⁵⁹ Political Parties Act 2000 (Act 574) (Ghana)

legislation. However, the Committee believes, in light of the severe gaps in the existing regime, that the Constitution should require Parliament to enact legislation regulating campaign and party financing. The Committee also finds value in the Constitution, which indicates some “minimum content” that must be reflected in any such campaign and political financing legislation.

Recommendation

2.109 The Committee recommends an amendment to Chapter Seven of the Constitution to provide that Parliament shall, within a specified period after the coming into effect of this proposed amendment, enact legislation or amend existing legislation, with implementing Regulations to be made by the IRRPC, to regulate the cost of electioneering and political campaigns as follows:

- a. restrict the period for electioneering and campaigning by a party or candidate to a specified number of days or weeks immediately prior to general elections (e.g., 120 days), before which time no electioneering or campaigning activity (as defined by the law) may be permitted;
- b. restrict the amount and kind of expenditure or spending a political party or candidate may incur in a campaign;
- c. subject to review and approval by IRRPC the amount of fees parties may charge aspirants and candidates in internal primaries to elect a candidate for parliamentary or presidential elections;
- d. compel disclosure and external audit of finances, spending, and financing sources of political parties and candidates;
- e. regulate and sanction abuse of incumbency for electioneering purposes;
- f. enforce violations, including through criminal prosecution by proposed Anti-Corruption and Ethics Commission.

Internal Party Democracy

2.110 Article 55(5) of the 1992 Constitution provides that “the internal organisation of a political party shall conform to democratic principles, and its actions and purposes shall not contravene or be inconsistent with this Constitution or any other law.” No minimum standards are specified in the Constitution, statute or any code of conduct for operationalising the principle of internal party democracy. However, the simple message conveyed by Article 55 (2) is that political parties in a democracy must reflect and apply the fundamental precepts and methods of democracy in the way they are organised and

operate, both internally and externally. This means, among other things, that members of a party must enjoy within the party essentially the same rights they enjoy as citizens of the State. In short, key decisions of the party, such as the selection of party leaders and candidates, should involve consultation with and participation of members, not just the party elite.

2.111 The Committee notes that currently Ghana's two main political parties allow all members in good standing to vote in internal elections to choose the party's local officers at the branch and polling station levels, which constitute the base of the party. However, elections for positions at higher levels of the party organisation, notably national officers, and for parliamentary and Presidential candidates, are conducted through a so-called "delegates" or electoral college system.

While the selection of party officers and candidates through an electoral college system is not necessarily inconsistent with democratic principles, Ghana's "party delegates" system has been associated with a range of malpractices, including routine bribery and corruption. The system is criticised for structurally favouring wealthier individuals, as candidates often require substantial financial resources to "buy" votes and influence the limited number of delegates.⁶⁰ Internal party contests have thus become auctions, where the "highest bidder" frequently prevails over arguably more capable contestants. This, in turn, creates a breeding ground for grand corruption,⁶¹ as elected candidates are driven to recover their campaign debts and expenses through illicit means from state resources. Moreover, because candidates primarily need to court only the relatively small number of delegates, their focus during the internal electioneering period is almost exclusively on the delegates, as opposed to the entire electorate, leading to a disconnect with the grassroots.

2.112 The Committee notes that, while the problems of corruption and monetisation of politics associated with the delegates system are well known and acknowledged, the delegates system persists as the standard mode of candidate selection in Ghana's political parties because it tends to favour or entrench the power of party elites at the expense of the general membership. While universal adult suffrage, which would allow all registered party members in good standing to vote in party primaries, has been proposed

⁶⁰ See Delegate system must be scrapped to curb political corruption – CDD (Citi Newsroom, 27 February 2024)

<https://citinewsroom.com/2024/02/delegate-system-must-be-scrapped-to-curb-political-corruption-cdd/> accessed 6 December 2025.

⁶¹ Delegate system breeds bribery, corruption; abolish it – NPP founding members in Ashanti Region (3News, 16 January 2025) <https://3news.com/news/politics/delegate-system-breeds-bribery-corruption-abolish-it-npp-founding-members-in-ashanti-region> accessed 6 December 2025.

as a more inclusive and less corruption-prone alternative, such internal democracy-enhancing reform, insofar as it diminishes the power of party elites and oligarchs, may not be readily forthcoming from any of the parties unless it is legislatively or constitutionally compelled. The Committee is of the considered view that party candidate selection based on the principle of one member, one vote, best advances the constitutional principle of internal party democracy

Recommendation

2.113 The Committee recommends an amendment to Article 55 to provide, in furtherance of the principle that the internal organisation of a political party shall conform to democratic principles, that all registered political parties shall afford their members in good standing as of a specified cut-off date before an internal election an equal opportunity to exercise their right to vote to elect their party's candidate for parliamentary and presidential elections.

Public Funding of Parties and Establishment of a Democracy Fund

2.114 Article 55 (11) of the Constitution requires the State to “provide fair opportunity to all political parties to present their programmes to the public by ensuring equal access to the state-owned media.” Except for this form of indirect state support for political parties, however, Ghana's constitution and laws do not currently provide for any direct public or state funding of political parties.

2.115 Various stakeholders have advocated for direct public funding of political parties over the years. This advocacy culminated in 2008 with the drafting of a Public Funding of Political Parties Bill by the Institute of Economic Affairs, in collaboration with political parties and various leading politicians. The draft bill proposed the creation of a Political Parties Fund, financed from a specified share of national tax revenues, to be managed by the Electoral Commission. It included a formula for allocating funding to cover both the cost of campaigning and the general administrative expenses of parties. It also included an affirmative action provision to distribute additional funding to parties that fielded more women candidates, especially in their strongholds. Despite drawing support from both former President Kufuor and his immediate successor, the late President Mills, the proposed bill met with fierce public opposition. A survey conducted in 2015 revealed that

nearly 9 out of 10 Ghanaians (87%) continued to oppose state funding for political parties, with 35% citing corruption by these parties as the primary reason for their opposition.⁶²

2.116 There have been some more recent attempts to revive advocacy for public funding of political parties. However, Ghanaians continue to have little appetite for direct state funding, particularly of parties' election campaigns. According to an Afrobarometer survey conducted in 2023, nearly 7 out of 10 (67%) Ghanaians think the government should not directly support political parties' election campaigns.⁶³ Even amongst the handful of Ghanaians who agree that the government should support election campaigns, close to two-thirds (64%) oppose paying a special levy or tax to fund this support. The Committee received only a handful of submissions in support of direct state funding of parties.⁶⁴

2.117 The Committee is mindful of the general public opposition to State funding for political parties and concurs with the position that the State should not directly fund or subsidise political party campaigns. The Committee has already recommended passing legislation to overhaul electioneering and political campaigns, aiming to reduce overall campaign spending substantially. On the revenue side, the Committee is of the view that Ghana's political parties should be encouraged or incentivised to levy and collect dues from their membership and be free to restrict the right to contest or vote in internal party elections or primaries to paid-up members only.

2.118 At the same time, the Committee believes that a blanket rejection of any notion of State or public funding for political parties is misplaced. The Committee notes that, while political parties are voluntary associations, they are not ordinary private associations and are not expected to operate as such. The fact that the Constitution devotes a significant portion of its text to political parties, including provisions to regulate their internal organisation, operations, and financing, attests to the unique constitutional status of parties among private associations. It is also instructive that the Directive Principles of State Policy, contained in Chapter Six of the Constitution, explicitly mentions political parties, alongside the Parliament, President, the Judiciary, the Council of State, and Cabinet, among those institutions that are mandated to implement through policy the

⁶² See generally E Kojo Sakyi, Kingsley Agomor & Daniel Appiah, [Title of the Working Paper] (IGC Working Paper, International Growth Centre 2015) <https://www.theigc.org/sites/default/files/2016/02/Sakyi-et-al-2015-Working-paper.pdf> accessed 18 January 2026

⁶³ Afrobarometer, AD808: Ghanaians oppose state support for political parties during election campaigns (Dispatch No 808, 29 May 2024) <https://www.afrobarometer.org/wp-content/uploads/2024/05/AD808-Ghanaians-oppose-state-support-for-political-parties-Afrobarometer-29may24.pdf> accessed 18 June 2025.

⁶⁴ Ibid.

vision, objectives and principles laid out in the Chapter. Political parties, then, should be seen, more appropriately, as “public-interest institutions obliged to pursue a constitutionally defined vision for Ghana.”⁶⁵

2.119 The fact that Ghana’s parties “function largely as electoral machines, mobilising resources to win power but lacking sustained research units, policy analysis teams, and institutionalised mechanisms for accountability and internal deliberation”⁶⁶ is a perversion of their intended constitutional purpose. The Committee believes that getting parties to return to their intended purpose will not come without some commitment and investment of public resources. In fact, deploying public resources to ensure effective regulation of political parties is an example of precisely such an investment. At the minimum, the State can offer incentives and rewards to parties that demonstrate and sustain a commitment to building their technical, policy-analytical, and bureaucratic capacities, developing and expanding opportunities for women leaders and youth candidates, implementing affirmative action reforms, and meeting regulatory and compliance benchmarks. In short, funding to support parties to fulfil their socially desirable developmental mission should be distinguished from funding for electioneering and campaigns. The Committee is of the view that some State or public funding in support of the former is justified in the public interest.

2.120 In this regard, the Committee endorses the idea of a Multiparty Democracy Fund (“Democracy Fund”). To be established by legislation and administered by the IRRPC. The proposed Democracy Fund could be modelled after a similar fund in South Africa. South Africa’s Political Representatives’ Fund, established through the Political Party Funding Act, 2018⁶⁷, prohibits parties from using the funds to directly or indirectly pay any remuneration, fee, reward or any benefit to any person; finance any matter which contravenes the code of ethics of parliament; finance any personal expenses; or finance acquisition of interest in a business or any immovable property. Grants from the proposed Democracy Fund should be similarly restricted and targeted to promote and support public-interest purposes.

⁶⁵ IDEG memo to the Commission

⁶⁶ IDEG memo to the Commission

⁶⁷ Political Party Funding Act 2018 (Act 6 of 2018) (South Africa).

Recommendation

2.121 The Committee recommends that the Constitution shall provide for the establishment of a Democracy Fund by an Act of Parliament. The legislation establishing the Fund shall make provision for the sources of funding for the Democracy Fund, which sources shall include fines levied by the IRRPC. The Committee recommends that a portion of the Fund shall be used to support specified activities of qualified political parties: research and development of policies; training and capacity-building to increase representation of women and Persons with Disabilities (PWDs) and other underrepresented groups. The Democracy Fund shall be administered by the IRRPC.

C. Electoral Commission

2.122 The Committee received a wide array of submissions and proposals regarding the structure, independence, and accountability of Ghana's Independent Constitutional Bodies (ICBs). Among the ICBs, the Electoral Commission (EC) generated the most interest, reflecting its central role in safeguarding the integrity of Ghana's electoral processes. The submissions on the EC focused on four critical areas: the appointment of the Chairperson and other members, the composition of the Commission, the tenure of office of its leadership, and, most notably, the procedures and grounds for the removal of the Chairperson and other commissioners.

2.123 The recurring theme in these submissions is the tension between ensuring the independence of the EC and the need for greater transparency, accountability, and public confidence in the EC's operations. Many participants were of the view that the current constitutional design, particularly in relation to the appointment and removal of Commissioners, does not adequately insulate the Commissioners from executive and partisan interference.

2.124 This section of the Report synthesises the views expressed during the consultations, situating them within the broader constitutional debate about the autonomy, integrity, and performance of the EC. It also addresses the ambiguities and institutional weaknesses in the current framework.

Composition of the Commission

2.125 The EC is established, pursuant to Article 43(1), as a seven-member Commission, comprising a Chairperson, two Deputy Chairpersons, and four other members. The Chair and two Deputies are full-time Commissioners and are prohibited from holding “any other public office” while serving on the Commission. The “four other members” are not subject to a similar limitation. Confirming the position of the other four members as non-full-time members, the Constitution does not guarantee the four the same secure terms and conditions of service as are provided to the Chair and two Deputies; instead, pursuant to Article 44(5), the four other members are to be paid “such allowances as Parliament may determine.”

2.126 The Committee is of the considered view that this composition invites improper Executive and political meddling in a body that already struggles, on account of other structural constraints, to earn or maintain the trust of the public as an independent and impartial referee. The Committee is of the opinion that the EC must comprise exclusively full-time Commissioners, all of them enjoying secure tenure and terms and conditions of service. The Committee is satisfied that a three-person commission comprising a Chairperson (or Commissioner) and two Deputies, modelled after the Commission on Human Rights and Administrative Justice (CHRAJ), meets the needs of the EC. As with the CHRAJ, the EC works with and has the power to appoint other officers and employees (acting in consultation with the Public Services Commission) to execute its mandate on a day-to-day basis. Keeping the constitutionally-appointed leadership of the Commission small also reduces opportunities for interpersonal conflict. The Commission notes that Ghana used to have one-person Electoral Commissioners. A three-person commission, with two Deputies, however, makes for institutional continuity in the event of a vacancy in the office of the Chairperson.

Recommendation

2.127 The Committee recommends an amendment to Article 43 to provide that the EC shall comprise a Commissioner and two Deputy Commissioners, thus removing the “four other members” from the composition of the Commission. The Committee reasons that, it is inconsistent with the independence of the EC to have on the Commission four members who are not full-time commissioners (and who may hold other offices) and whose tenure and conditions of service differ and are determined in a different manner from the rest of the Commission. The Committee is satisfied that, as with the Commission for Human Rights and Administrative Justice, which comprises

a Commissioner and two Deputies, the EC, supported by its public service establishment, can function effectively with a Commissioner and two Deputy Commissioners.

Appointment of Chairperson and Members of the Electoral Commission

2.128 Pursuant to Articles 43(2) and 70(1) of the Constitution, a vacancy in the position of Chairperson or either of the Deputies of the Commission shall be filled through an appointment made by the President, “acting on the advice of the Council of State.” As discussed in Chapter 1 of this Report, current Supreme Court caselaw holds that this formulation makes the President the effective appointing authority, as the “advice” of the Council on which the President “shall act” has been held to be non-binding.

2.129 All of the submissions the Committee received on this issue found this appointment process objectionable, having regard to the EC’s status and functions as a constitutionally independent body and referee of the country’s public elections. The Committee shares in this view. Recalling our earlier discussion in Chapter One on the appointing powers of the President, we are of the view that, as the EC is an independent body, an appointment to a vacancy in any of the three Commissioner positions on the Commission must be made pursuant to an open, competitive and meritocratic recruitment and selection process done under the authority of the Council of State (as restructured) with administrative support from the Public Services Commission. The candidate who emerges from this merit-based process will be submitted to the President, who shall forward the nomination to Parliament for its prior approval before the President confirms the appointment. In other words, the appointment process for the EC Chair and Deputies shall be identical to the appointment process recommended by the Committee for all other independent constitutional bodies, including CHRAJ, NCCE, the Auditor-General, the proposed Anti-Corruption and Ethics Commission (AEC) and the IPPCR.

2.130 The Committee notes further that the Constitution does not specify a minimum qualification for any of the positions on the EC. Article 44(1) only repeats the standard minimum (dis)qualification language used for virtually every position established under the Constitution, namely that a person is not qualified to be appointed to the Commission “unless he is qualified to be elected as a member of Parliament.”

2.131 The Committee finds the practice of using the minimum qualifications for MPs as the benchmark or standard (dis)qualification for non-legislative positions in the

Constitution to be quite unhelpful. The job requirements for an EC commissioner, as for leadership positions of an executive, administrative or managerial kind, generally are quite distinct from the minimum generic qualifications stated for MPs (which are stated in understandably generic terms because of the hard-to-define character of an MP's job). The Committee proposes that, in line with the shift from a "political" appointment model in favour of the competitive, meritocratic/professionalised appointment model we have recommended for all independent constitutional offices, the qualifications attached to the latter positions be more specifically defined in law, having regard to the job requirements of the positions in question. The Committee recommends, in this regard, that Parliament enact legislation to this effect, based on recommendations from the Public Services Commission.

2.132 The Committee further recommends that, for the EC, as for all independent constitutional bodies and offices, a person who holds an office at any level in a political party, or who held any such office within the last ten years, or who contested as a candidate in internal party primaries or a general election within the same period, shall not be eligible to be appointed a Commissioner or member of the Commission. The Committee notes that, currently, this non-partisanship rule applies only to appointments to the NCCE⁶⁸ – but, curiously, not to the EC or any other independent constitutional body.

Recommendation

2.133 The Committee recommends an amendment to Articles 217 and 70 to provide that the Commissioner and each of the Deputy Commissioners shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancies by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC). A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position. The PSC will undertake initial screening of applicants and provide the Council of State with a shortlist of qualified candidates, who shall then be interviewed or vetted by the Council until a final nominee is selected for submission to the President. The President shall then forward the nominee on to Parliament and,

⁶⁸ Article 232(4) of the 1992 Constitution of Ghana

upon receiving the approval of Parliament, the nominee shall be appointed by the President.

Tenure of the Chairperson and other Commissioners of the Electoral Commission

2.134 The 1992 Constitution currently benchmarks the tenure and other terms and conditions of service of holders of full-time independent constitutional offices against the tenure and terms and conditions of Justices of the Superior Court. This practice of using the terms and conditions of Superior Court judges as benchmarks for independent constitutional offices likely stems from the fact that, until the emergence of constitutionally established independent commissions, the judiciary was the only branch of government that was politically independent among the traditional three branches. The judiciary's independence had been secured through provisions guaranteeing security of tenure, irreducible salaries and retiring benefits, and removal safeguards. Once independent commissions emerged, it seemed natural to just extend the model of independence developed for the judiciary to the newer bodies.

2.135 The Committee notes, however, that the Ghanaian constitutional practice of extending the judicial model of independence to all other independent constitutional bodies is quite exceptional. In the case of election management bodies, fixed terms, either renewable or non-renewable, are far more common. Nigeria, Liberia, Senegal, Sierra Leone, Kenya, Malawi, and Zambia all have fixed terms for their electoral commission members, ranging from 5 years to 7 years.⁶⁹ In some instances, the term is non-renewable once. This is the case with Liberia (one 7-year) and Sierra Leone (one 7-year). Nigeria has a five year term that is renewable once, while Senegal's six year term is non-renewable. In Canada, the chief election officer is appointed for a single non-renewable term of 10 years.⁷⁰

⁶⁹ Nigeria: Independent National Electoral Commission (INEC) members – 5 years, renewable once. (Constitution of the Federal Republic of Nigeria 1999, s 153(4)); Liberia: National Elections Commission (NEC) members – 6 years. (Elections Law of Liberia, 1986, as amended); Senegal: Commission Électorale Nationale Autonome (CENA) members – 6 years. (Loi n° 2012-01 du 16 février 2012 portant Code électoral, art 16); Sierra Leone: National Electoral Commission members – 5 years, renewable. (The Constitution of Sierra Leone, 1991, art 32); Kenya: Independent Electoral and Boundaries Commission (IEBC) members – 6 years, non-renewable. (Constitution of Kenya 2010, art 250(2), Section 7 Electoral and Boundaries Commission Act, 2011. 2. Cap 7C); Malawi: Malawi Electoral Commission members – 4 years, renewable. (Constitution of Malawi 1995, art 75); Zambia: Electoral Commission of Zambia members – 7 years, non-renewable. (Constitution of Zambia 2016, art 229, Section 5 of Electoral Commission of Zambia Act 2016 (Act No 25 of 2016), as amended by Act No 5 of 2019 (Zambia))

⁷⁰ Canada Elections Act, S.C. 2000, c. 9

2.136 The Committee supports replacing the practice of benchmarking the tenure and other conditions of service of the chair and commissioners of EC and other Independent Constitutional Bodies (ICBs) against those of the judiciary with a fixed term. The traditional safeguards for judicial independence were developed centuries ago, with the judiciary and only the judiciary in mind. Notwithstanding the unlimited tenure of judges, the size and structure of the judiciary as an institution enable the ranks of judges to be continually refreshed. The Committee considers that the tenure provisions applicable to a large, multi-layered institution, such as the judiciary, are unsuitable for a small, three-member Commission. For a body as small as the EC, an unlimited tenure regulated only by a retirement age could raise concerns about the long-term entrenchment of Commissioners or Commission chairs who may have been appointed relatively young. The Committee is of the view that a term-limited tenure is preferable for EC Commissioners. The Committee believes that a single, non-renewable term eliminates the incentive for Commissioners to pander to the appointing authorities or incumbent parties to win reappointment or a tenure extension. A single, non-renewable term thus ensures that, once appointed, Commissioners focus on delivering their mandate within their defined term, rather than working strategically towards re-appointment. At the same time, a term-limited tenure allows for periodic renewal of leadership at the EC, providing an opportunity for fresh perspectives, improved operational efficiency, and adaptation to evolving electoral challenges. Finally, as mentioned previously, a term-limited tenure for EC Commissioner is in keeping with comparative best practice among election management bodies and independent commissions.

Recommendation

2.137 The Committee recommends an amendment to Article 223 to provide that the Commissioner and each of the Deputy Commissioners of the Commission shall hold office for a single, non-renewable term of ten (10) years or until the person attains the age of 65 years, whichever is earlier. A person who has held the office of Commissioner or Deputy Commissioner shall, upon retiring or resigning from the position, be ineligible for appointment to any other public office, until after a three-year cooling off period.

Removal of Chairperson and other Commissioners

2.138 The constitutional procedures for removing a Chair or other Commissioner of the EC generated a good deal of interest and commentary during the Committee's stakeholder and public engagements. This may have been due, in part, to the fact that Article 146 proceedings for the removal of the Chief Justice – the same article that governs the removal of Commissioners of the EC and other independent constitutional bodies – were ongoing during the time of the Committee's engagements. Participants also recalled that Article 146 had been used previously, after the party turnover in government in 2017, to remove the then Chair and deputies of the Electoral Commission. Most participants who engaged with the Committee on this issue were critical of Article 146, arguing that it did not provide sufficient protection against politically engineered removal. Virtually every phase of the process – from the submission of a removal petition to the constitution of the investigative panel or tribunal – came up for criticism. In particular, many found the involvement of the President at various stages of the process to be problematic, not least because it reinforces the perception that the process is politically driven.

2.139 The Committee is of the considered view that Article 146 needs an overhaul to safeguard the independence of those offices subject to it without compromising accountability. First, the grounds for the removal of a person under Article 146 should be tightened. Second, the Committee believes that the President's involvement in the removal process should be restricted to a nondiscretionary role at the conclusion of the process. Third, no current holder of a public office may be appointed to sit on the investigative panel or tribunal constituted to investigate and determine the petition. Fourth, the handling of the petition, from reception to its conclusion, should be placed in the hands of a politically neutral or independent body. The Committee proposes to entrust this role to a completely restructured Council of State.

Recommendations

2.140 The Committee recommends an amendment to Article 228 to provide as follows:

- a. The Commissioner or a Deputy Commissioner may be removed only on grounds of a wilful violation of law, dereliction of duty, or abuse of power.
- b. A petition seeking the removal of the Commissioner or a Deputy Commissioner shall be submitted to the Council of State; the petition shall state the grounds for removal and the relevant facts supporting the petition.

- c. Upon receipt of the petition, the Council of State shall constitute a subcommittee of its members to review the petition to assess whether the petition discloses on its face, grounds and facts requiring further investigation by the Council.
- d. If the preliminary review determines that the petition presents a case warranting further investigation, the Council shall constitute a five-person independent tribunal, with membership drawn from outside the Council, to conduct an investigation into the matter.
- e. The Commissioner or Deputy Commissioner who is the subject of the removal petition shall be accorded all appropriate due process, including representation by counsel and a right to interrogate and cross-examine the Petitioner. The hearing shall be held in-camera.
- f. Upon conclusion of its investigation, the tribunal shall submit its report containing its recommendation to the Council.
- g. The Council of State shall submit the report of the tribunal to the President, who shall act in accordance with the recommendation. A copy of the report shall be provided contemporaneously to the Commissioner or Deputy Commissioner who is the subject of the petition.

Death of a Presidential Candidate

2.141 The death of a presidential candidate less than two months before the 2024 general elections exposed a gap in the current provisions of Article 50 of the Constitution. Article 50 provides for a 10-day period for a party to nominate a new candidate to replace one who dies after the close of the nomination period for elections. That period may be sufficient for parliamentary candidates. However, based on the challenges the Ghana Freedom Party faced in replacing its flagbearer, replacing a presidential candidate is likely to prove more logistically challenging, both for the political party in question and the EC.

2.142 The Committee observed that the EC's logistics, public communications, and publication requirements are not calibrated to respond to a sudden, high-impact event such as the death of a presidential candidate after ballots have been printed.

2.143 The democratic space is particularly vulnerable to confusion and polarisation if the EC's responsibilities are not clearly defined. Discussions emphasised the operational and stakeholder engagement burdens the EC faces closer to election day, including technology deployments, procurement, and extensive coordination, under conditions where Parliament and political actors may exert pressure on the EC. Against that

backdrop, the absence of mandated nomination windows, standardised publication requirements, and public notice requirements following a candidate's death creates a risk of uneven voter information and manipulation of the electoral process. The Committee concluded that the Constitution must expressly authorise a reasonable nomination period based on proximity to election day.

Recommendation

2.144 The Committee recommends an amendment of Article 50 to provide that the EC shall publish, by Constitutional Instrument, the procedure for dealing with the untimely death of a presidential candidate ahead of a presidential election.

D. National Commission for Civic Education

2.145 The role and mandate of the National Commission for Civic Education (NCCE) are provided for in Chapter 19 of the Constitution. Public submissions received by the Committee reflect a broad consensus on the continued importance of the NCCE in promoting civic awareness and responsibility as well as constitutional literacy across the country. While some questioned the Commission's visibility and effectiveness, a significant number of contributors strongly affirmed its relevance and advocated for its strengthening.

2.146 In examining the NCCE, several key issues emerged, including the mode of appointment of the Chairperson and other Commissioners, the composition of the Commission, the procedure for the removal of its leadership, and the tenure of office of Commissioners. Concerns were also raised regarding the primary mandate of the Commission, and some calls were made to change its mandate from civic education to civic engagement. These concerns reflect a wider public interest in ensuring the independence, efficiency, and accountability of the NCCE in fulfilling its constitutional mandate.

Functions/Mandate of the Commission

2.147 The Committee received a considerable number of submissions regarding the mandate and effectiveness of the NCCE. A recurring theme in these submissions was the need to evolve the role of the Commission beyond its traditional “civic education” remit to encompass a more dynamic and participatory function in democratic governance, which includes facilitating sustained engagement between public and state leadership at all levels.

2.148 The proposed change is ultimately aligned with the principles of inclusive governance, transparency, and active citizenship. By adopting an expanded mandate and possibly renaming it to reflect that, the Commission should be better positioned to meet the evolving democratic needs of the nation and to serve as a vital link between citizens and the State.

Recommendations

2.149 The Committee recommends an amendment to Article 233 to provide that, in addition to the functions listed in that provision, the NCCE shall:

- a. Organize national presidential debates;
- b. Convene periodically civic fora and town hall-style meetings in local communities to facilitate engagements between the people and their local assemblies and members of Parliament.

The Committee proposes that, in line with its re-focus on civic engagement, the Commission should be renamed the National Commission for Civic Engagement.

Composition of the Commission

2.150 The Committee recommends a reformed structure similar to the proposed reforms relating to the EC.

Recommendation

2.151 The Committee recommends an amendment to Article 232(1) to provide that the NCCE shall comprise a Commissioner and two Deputy Commissioners, thus removing the “four other members” from the composition of the Commission. The Committee reasons that, it is inconsistent with the independence of the NCCE to have four members who are not full-time commissioners (and may hold other offices) and whose tenure and conditions of service differ and are determined in a different manner from the rest of the Commission. The Committee is satisfied that, as with the Commission for Human Rights and Administrative Justice, which comprises a Commissioner and two Deputies, the NCCE, supported by its public service establishment, can function effectively with a Commissioner and two Deputy Commissioners.

Appointment of Chairperson and Members of the Commission

2.152 For the reasons articulated in paragraphs 2.125 – 2.129, supra, the Committee proposes the same appointment process for the Chair and two deputies of the NCCE as for the EC.

Recommendations

2.153 The Committee recommends an amendment to Articles 232(2) and 70 to provide that the Commissioner and each of the Deputy Commissioners shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancy by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC).

A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position. The PSC will undertake initial screening of applicants and provide the Council of State with a shortlist of qualified candidates, who shall then be interviewed or vetted by the Council until a final nominee is selected for submission to the President. The President shall then forward the nominee on to

Parliament and, upon receiving the approval of Parliament, the nominee shall be appointed by the President.

Tenure and removal of the Chairperson and Members of the Commission

2.154 The Committee proposes the same provisions for tenure and removal of the chair and deputies of the NCCE as for the EC.

Recommendations

2.155 The Committee recommends an amendment to Article 235 to provide that the Commissioner and each of the Deputy Commissioners shall hold office for a single, non-renewable term of ten (10) years or upon or until he or she attains the age of 65 years, whichever is earlier. A person who has held the office of Commissioner or Deputy Commissioner shall, upon retiring or resigning from the position, be ineligible for appointment to any other public office, until after a three-year cooling off period.

The Committee recommends an amendment to Article 236 to provide as follows:

- a. The Commissioner and Deputy Commissioners may be removed only on grounds of a wilful violation of law, dereliction of duty, or abuse of power.
- b. A petition seeking the removal of the Commissioner or a Deputy Commissioner shall be submitted to the Council of State; the petition shall state the grounds for removal and the relevant facts supporting the petition.
- c. Upon receipt of the petition, the Council of State shall constitute a subcommittee of its members to review the petition to assess whether the petition discloses on its face grounds and facts requiring further investigation by the Council.
- d. If the preliminary review determines that the petition presents a case warranting further investigation, the Council shall constitute a five-person independent tribunal, with membership drawn from outside the Council, to conduct an investigation into the matter.
- e. The Commissioner or a Deputy Commissioner who is the subject of the removal petition shall be accorded all appropriate due process, including representation by counsel and a right to interrogate and cross-examine the Petitioner.
- f. The tribunal shall make its recommendation to the Council upon conclusion of its investigation.
- g. The Council of State shall submit the recommendations of the tribunal to the President, who shall act in accordance with the recommendation.

h. The hearing must be in-camera.

Financing

2.156 The Committee's engagements revealed that a major impediment facing the NCCE in the performance of its mandate is the inadequacy of resources. The NCCE still lacks a proper head office space, and most NCCE regional and district offices lack basic resources such as stationery, vehicles, and fuel. Given the vital role the Commission is tasked to perform in support of the country's political and constitutional development, there is a need to fund the Commission's operations adequately.

Recommendation

2.157 The Committee recommends that the NCCE should be entitled to receive subvention or grants from the proposed Democracy Fund to assist its work.

E. National Media Commission

2.158 The media environment in Ghana has undergone a remarkable transformation since the coming into effect of the 1992 Constitution. Starting with no private radio or television broadcaster, one state-owned broadcaster, and no internet-based digital media or social media, the country now boasts over 115 TV stations and nearly 500 radio stations.⁷¹ Internet usage has experienced rapid growth in the last decade, with an estimated 70% of Ghanaians using the internet in 2023, up from 8% a decade earlier.⁷²

2.159 In addition to the provisions of Article 21(1) guaranteeing the right to "freedom of speech and expression, which shall include freedom of the press and other media," the Constitution devotes its entire Chapter 12 to Freedom and Independence of the Media.

⁷¹ Media Foundation for West Africa & University of Ghana, The State of the Ghanaian Media Report 2023 (2025)

https://demo.mfwa.org/wp-content/uploads/2025/04/The-State-of-the-Ghanaian-Media-Report_2023-1-1-2.pdf accessed 7 July 2025.

⁷² International Telecommunication Union, ITU DataHub: Data for Ghana <https://datahub.itu.int/data/?e=GHA> accessed 18 January 2026.

Functions/Mandate of the National Media Commission

2.160 Article 166(1) provides for the establishment of a National Media Commission (NMC). Article 167 charges the NMC with a three-part mandate: First, a protective mandate, in terms of safeguarding the freedom and independence of the media (Article 167(a)); second, a regulatory mandate, in terms of ensuring “highest journalistic standards in the mass media” (Article 167(b)); and third, as guarantor of the independence of state-owned media (Article 167(c)).

2.161 The Committee notes that while the NMC is tasked with an expansive mandate, it lacks the tools, legal clarity, and resources required to fulfil it. Regarding its mandate to safeguard press freedom, the Committee notes that this mandate remains largely declaratory, as both the Constitution and the NMC’s enabling legislation offer no precise mechanisms for protection when media freedoms are threatened or violated. Notably, there are no explicit constitutional or statutory tools enabling the Commission to intervene proactively or remedially in the face of intimidation, censorship, coercion, or other forms of interference with journalistic activity. Similarly, the Constitution does not explicitly outline the full scope or content of NMC’s regulatory remit under Article 167(b), creating ambiguity around its authority and limiting its effectiveness. The Committee notes that an attempt by the NMC to regulate broadcasting standards in the absence of express constitutional authorization was blocked by the Supreme Court in *Ghana Independent Broadcasters Association (GIBA) v National Media Commission* (2017).⁷³ The Commission’s mandate as guarantor of the independence of state-owned media also appears limited to appointing the chairpersons and members of the board of state-owned media.

2.162 These challenges related to the operationalisation of the NMC’s mandate are compounded by the profound transformation of the media sector since the establishment of the Commission. Digital platforms, algorithmic amplification, citizen journalism, artificial intelligence, and the exponential growth of media outlets have radically altered how information circulates and how power is exercised through media. Traditional editorial gatekeeping has correspondingly weakened, and the public square has become more fragmented, faster-moving, and increasingly susceptible to manipulation. Without the right tools, the NMC is hard-pressed to keep pace with the changing media landscape.

2.163 The Committee is of the considered view that to fulfil its constitutionally assigned mandates meaningfully, the NMC must be expressly empowered with the necessary legal tools appropriate to each of its multiple mandates. For instance, to act as an effective

⁷³ *Independent Broadcasters Association (GIBA) v National Media Commission* [2017] GHASC 45

institutional defender and guardian of media freedom, the NMC needs clearly defined preventive, remedial, and enforcement-oriented powers, including precise legal mechanisms for safeguarding the rights, privileges, and safety of journalists who come under attack while performing their professional duties lawfully. Similarly, for it to be a credible regulator of the media space, the NMC must be cloaked with power to discharge a clearly defined and constitutionally grounded triad of responsibilities: standard-setting, monitoring, and enforcement, exercised in a manner that respects editorial independence and due process. To discharge its role as guarantor of the independence of state-owned media, the NMC must also have authority beyond the appointment of governing boards to enable it to exercise effective and continuous oversight over the governance, editorial independence, and operational autonomy of such institutions.

Recommendations

2.164 The Committee recommends appropriate amendments to Articles 167 and 173 and affected legislation to provide as follows:

- (a) To enable the Commission discharge effectively its mandate under Article 167(a), the Constitution and enabling legislation should provide that the Commission may:
 - i. receive complaints from journalists, media organisations, or members of the public concerning threats, attacks, or undue interference with media freedom, whether by state or non-state actors;
 - ii. initiate investigations on its own motion into alleged violations of press freedom, including harassment, unlawful arrests, seizure of equipment, censorship, intimidation, or economic coercion;
 - iii. summon persons, require the production of documents, and conduct hearings necessary for the effective investigation of such complaints;
 - iv. issue protective directives, compliance notices, or cease-and-desist orders to halt ongoing or imminent violations of media freedom, subject to judicial review;
 - v. facilitate mediation or dispute resolution between media institutions and public authorities where appropriate, without prejudice to the right of access to the courts; and
 - vi. institute or support legal proceedings, including constitutional enforcement actions, where systemic or grave threats to media freedom arise.

(b) To enable the Commission discharge effectively its regulatory mandate under Article 167(b), the Constitution and related legislation should clearly mandate the Commission to:

- i. set national journalistic and media standards, grounded in democratic values, accountable governance, professional ethics, and appropriate Ghanaian cultural norms, through consultative and transparent processes;
- ii. monitor compliance with those standards through proportionate, participatory, and non-intrusive mechanisms that avoid prior restraint while promoting professionalism and public accountability; and
- iii. enforce compliance through clearly defined procedures that respect natural justice, editorial independence, and the right to judicial review.

This mandate should explicitly include the authority to:

- i. develop, adopt, and periodically review codes of ethics, editorial guidelines, and professional standards applicable to journalists, media practitioners, and media enterprises;
- ii. issue interpretative guidelines to clarify the application of ethical and professional norms;
- iii. receive and adjudicate complaints relating to accuracy, fairness, balance, and ethical breaches;
- iv. require corrections, rights of reply, apologies, or other remedial measures as proportionate responses to established violations;
- v. impose graduated and constitutionally permissible sanctions, including public reprimands or mandatory corrective actions, while avoiding punitive excess; and
- vi. require professional training or capacity-building interventions as corrective, non-punitive measures where systemic deficiencies are identified.

(c) To enable the Commission discharge effectively its mandate under Article 167(c), the Commission should be empowered to:

- i. oversee or approve the appointment and removal of boards, chief executives, and editors of state-owned media, subject to clearly defined grounds and transparent procedures;
- ii. secure tenure protections for key office holders to prevent arbitrary or politically motivated removals;
- iii. investigate allegations of political, executive, or partisan interference in editorial or managerial decisions;

- iv. issue binding directives to safeguard editorial independence where interference is established;
- v. prohibit ministerial or partisan directives relating to editorial content or professional functions; and
- vi. review funding and budgetary arrangements to guard against indirect interference through financial pressure or resource manipulation.

For the NMC to function as a credible regulator, the Committee recommends that the Constitution clearly mandates it to:

1. set national media standards rooted in democratic principles and accountable governance, compatible with Ghanaian cultural values;
2. monitor compliance through transparent and participatory mechanisms, and;
3. enforce those standards with due process safeguards.

Legal Status and Governance of the Commission

2.165 The Committee learned that there is longstanding ambiguity as to the legal character or status of the “Commission” as constituted under Article 166, specifically, the nature of its relationship to the day-to-day operating organisation or establishment that is also commonly referred to as the NMC. The Committee understands that the members of the Commission specified in Article 166 consider themselves to be the Commission itself, in effect, both the board and the operating organisation. The Committee notes that the membership of the Commission, as outlined in Article 166, comprises nominees representing various institutions and organisations. The clear import of this structure or composition is that the members of the Commission are not intended to be full-time officers of the Commission. Instead, their role, collectively, is more appropriately, that of a governing board, with the day-to-day running of the Commission in the hands of an Executive Secretary or Chief Executive Officer. The Committee considers, in this regard, that the NMC is more analogous, as a commission, to the Lands Commission than it is to, say, the EC or NCCE. In the latter commissions, the Commissioners are full-time officers of the organisation, not just its governing board, while with the Lands Commission-style commission, the chair and members, all drawn from outside the organisation, more appropriately constitute a governing board made up of “outside” directors. The Committee notes that, unlike the composition of the Lands Commission, which, under Article 259(c), includes the Executive Secretary of the Commission, the Executive Secretary of the NMC is not included in the membership of the NMC. The Committee believes that the non-inclusion of the Executive Secretary of the NMC in Article 166 is

partly responsible for the confusion regarding who or which body constitutes the National Media Commission.

2.166 To ensure institutional clarity and effective governance, the composition of the Commission, as outlined in Article 166, should be amended to include the Executive Secretary as the Chief Executive Officer or Chief Administrator of the Commission.

Recommendation

2.167 The Committee recommends an amendment to Article 166 to:

- (a) include the Executive Secretary of the Commission as an ex-officio member of the Commission;
- (b) designate the body constituted under Article 166 as the governing council of the Commission, with responsibility for policy direction and oversight.

Composition of the Commission (Article 166)

2.168 The original composition of the National Media Commission, comprising eighteen (18) members, from different stakeholder groups, was a deliberate and commendable constitutional choice, grounded in the historical imperative to secure legitimacy through broad stakeholder representation at a time when media freedom itself required reassurance through broad representation and visible inclusion. The media regulatory context has, however, materially evolved since then. Contemporary communications governance is now shaped by technological convergence, digital platforms, data governance, regulatory economics, and complex questions of constitutional rights, such that an eighteen-member body appointed by multiple institutions without coordination has become increasingly unwieldy for timely, coherent, and technically grounded decision-making. A reduced membership of seven (7) permits intentional composition, guided by an articulated matrix of competencies essential to modern communications regulation, and better suited to the demands of effective constitutional oversight. Such a reform would reflect the maturation of Ghana's democratic order in which institutional legitimacy is secured more by institutional competence and constitutional protection.

Recommendations

2.169 The Committee recommends an amendment to Article 166 to provide for a Commission membership of seven (7), as opposed to the current membership of eighteen (18). The members of the Commission shall be nominated as follows: one person nominated by the President, a legal practitioner of at least eighteen (18) years' experience nominated by the President, two persons nominated by the Associations of media owners, one of whom shall be female, and two persons nominated by the Associations of professional journalists, one of whom shall be female.

The Committee further recommends an amendment to Article 166 to provide that, as the Commission membership is constituted by nominees of identifiable bodies, such members being necessarily part-time, the day-to-day running and performance of the functions of the Commission shall be vested in a chief executive officer who shall be designated as the Executive Secretary of the Commission and shall be an ex-officio member of the Commission. The Commission as provided in Article 166 is thus properly the governing council or board of the Commission, as opposed to the day-to-day operating entity itself.

Appointment and tenure of the Executive Secretary of the Commission

2.170 Unlike independent constitutional bodies like the EC, NCCE, and CHRAJ, whose "governing councils" also constitute the day-to-day management of the commission, the NMC's governing council, comprising outsider-nominees, has no direct executive role in the day-to-day management or operations of the Commission; that responsibility falls on the Executive Secretary of the Commission. Therefore, the independence of the NMC is expressed in practice through the degree of autonomy the Executive Secretary enjoys vis-à-vis the Government and other political authorities. Accordingly, the Committee is of the considered view that the appointment procedures and tenure of the Executive Secretary should be analogous to those of EC and NCCE Commissioners.

Recommendation

2.171 The Committee recommends an amendment to Chapter Twelve to provide for the appointment, tenure and removal of an Executive Secretary who shall be the Chief Executive Officer of the Commission as follows:

- a. Appointment: The Executive Secretary shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancy by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC). A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position. The PSC will undertake initial screening of applicants and provide the Council of State with a shortlist of qualified candidates, who shall then be interviewed or vetted by the Council until a final nominee is selected for submission to the President. The President shall then forward the nominee on to Parliament and, upon receiving the approval of Parliament, the nominee shall be appointed by the President.
- b. Tenure: The Executive Secretary shall hold office for a single, non-renewable term of ten (10) years or until he or she attains the age of 65 years, whichever is earlier
- c. The Executive Secretary shall be subject to removal on the same terms as the Commissioner or Deputy Commissioner of the other independent constitutional bodies.

Limitations on Media Freedom: Regulation of Media

2.172 Article 164 represents the Constitution's principal limitation on media freedom, permitting restrictions on grounds such as national security, public order, morality, and the protection of others' rights. However, its current formulation, which conflates the distinct tests of legality, necessity, proportionality, and legitimacy, creates scope for abuse and inconsistent judicial interpretation. To align with contemporary best practice and jurisprudence in relation to limitation clauses, Article 164 should be redrafted to clearly separate these elements, providing that any restriction on media freedom must:

- a. be based on a law;

- b. pursue a legitimate public interest, limited to national security, public order, public morality, or the protection of the reputations, rights, and freedoms of others; and
- c. be reasonably necessary and proportionate to the stated objective.

Recommendation

2.173 To align with international human rights standards, the Committee recommends that Article 164 be redrafted to separate the three steps clearly:

1. Restrictions must be based on law,
2. The law must be reasonably necessary, and
3. The objective must serve one of four legitimate public interests: (a) national security (b) public order (c) public morality or (d) protection of the reputations, rights and freedoms of others.

This reform would preserve the protective intention of Article 164 while improving its enforceability and reducing scope for judicial misinterpretation.

Media Capture, Monopoly and Concentration

2.174 Although the Constitution seeks to prevent state control over media, it did not anticipate the dangers of private media capture. Increasingly, ownership of media houses is concentrated in the hands of a few politically and economically powerful actors, creating a media oligopoly that poses a serious threat to media pluralism and democratic discourse. Unlike government control, private capture often evades public accountability.

Recommendation

2.175 To safeguard against this, the Committee recommends that the Constitution be amended to include anti-concentration provisions, limiting cross-media ownership and promoting transparency in media financing. A genuinely free press must not only be independent from the state but must also be protected from unregulated private owner/marketplace dominance.

Definition of “Media” in the Constitution

2.176 The 1992 Constitution predates the digital age and therefore does not adequately capture the realities of internet-based platforms, social media, algorithmic content curation, and artificial intelligence-driven dissemination. This omission has created regulatory gaps, particularly in relation to misinformation, hate speech, and emerging digital risks.

To address this deficiency, the Constitution should adopt a technology-neutral definition of “media” encompassing all forms of content dissemination, regardless of platform, format, or technological medium. Such a definition would future-proof the constitutional framework, empower the NMC to oversee emerging forms of media, and reduce the need for constant constitutional or statutory amendments in response to technological change.

Recommendation

2.177 To address this, the Committee recommends that the Constitution adopts a technology-neutral definition of “media”, covering all forms of content dissemination regardless of platform or format. This would empower the NMC and future regulators to oversee emerging forms of media without constantly chasing legal reform.

Funding of the Commission

2.178 The financial capacity and independence of the NMC are essential to its credibility, autonomy, and operational effectiveness. Currently, the Commission’s funding remains subject to executive discretion, making it vulnerable to political pressure and indirect interference.

In addition to direct subvention, the NMC should be eligible for funding support from constitutionally recognised sources such as the Democracy Fund.

The Committee recommends an appropriate amendment to Chapter 12 to guarantee the Commission the necessary operational resources commensurate with its regulatory mandate.

Recommendation

2.179 The budget of the NMC should be constitutionally ring-fenced, ensuring that it receives guaranteed resources insulated from executive control. This will enhance institutional resilience and enable the Commission to operate without fear of financial reprisal for taking unpopular but necessary actions. The Committee recommends that the NMC should receive subvention from the proposed Democracy Fund.



CONSTITUTION REVIEW COMMITTEE 2025



Chapter III: Harnessing Our Collective Wealth for Sustainable Development

CRC25

Chapter III: Harnessing Our Collective Wealth for Sustainable Development

Overview

3.1 This Chapter examines the constitutional foundations governing how Ghana mobilises, manages, and deploys its collective wealth – land, natural resources and public finances--in pursuit of sustainable development. The Committee approaches this chapter with the understanding that land, natural resources and public finance are profoundly political spaces in which power, exclusion, and intergenerational choice are negotiated. Decisions taken in these areas shape spatial development, environmental integrity, social cohesion, fiscal stability, and the lived experience of citizenship. Weak constitutional architecture in this domain, therefore, produces consequences that extend far beyond economics, affecting legitimacy, trust in public institutions, and democratic stability.

3.2 The 1992 Constitution contains necessary safeguards relating to property rights, compulsory acquisition, vesting of natural resources, parliamentary oversight of resource contracts, public finance management, and national development planning. However, these safeguards are dispersed across different chapters and provisions, and are often framed as permissive procedural requirements rather than as enforceable governance disciplines. In practice, this dispersion has weakened coherence and allowed critical decisions to escape sustained constitutional scrutiny.

3.3 The Committee's consultations and review of practice revealed a persistent structural pattern. Land allocation, compulsory acquisition, natural resource exploitation, revenue mobilisation, and public expenditure are frequently undertaken in institutional silos, with limited coordination and weak alignment to long-term development objectives. Decisions that should be mutually reinforcing often operate at cross purposes: land use decisions undermine environmental protection; extractive licences conflict with agricultural and water security; public budgets are disconnected from national development plans; planning instruments lack binding force over fiscal and investment choices; and public assets are managed and treated as political trophies without the purview of independent oversight and regulation.

3.4 A central concern running through this chapter is the erosion or absence of the public trust logic that must underpin the management of public assets and finances. Political discretion has expanded into areas where fiduciary responsibility should prevail. At the same time, oversight mechanisms have struggled to keep pace with the weight and complexity of contemporary Ghanaian politics and governance challenges.

3.5 The Committee observes that this erosion or absence of the principle of public trusteeship or stewardship in the management of the nation's treasures is not primarily the result of bad faith alone, but of a constitutional design logic in which power and authority are routinely donated to public agencies and officials for an ostensible public purpose without corresponding specification or prescription of the appropriate safeguards, constraints and principles that would assure prudential and responsible exercise of the delegated power in the public interest. Where fiduciary duties are implied rather than explicit, where coordination is assumed rather than mandated, and where planning lacks constitutional force, the system becomes vulnerable to short-termism, rent-seeking, and the normalisation of irregular practices.

3.6 This chapter is therefore guided by a unifying constitutional question: how should a democratic State organise its control over land, natural resources, and public finance so that development is sustainable, accountable, and inclusive across generations? The Committee's answer is grounded in a strengthened conception of stewardship, understood as a legally enforceable obligation to manage collective assets prudently, transparently, and in the long-term public interest.

3.7 This chapter addresses four interrelated domains that together form the backbone of Ghana's economic development architecture:

- a. the land regime, including ownership, administration, compulsory acquisition, tenure security, and customary governance;
- b. the governance of natural resources, including vesting, exploitation, environmental protection, community participation, and benefit-sharing;
- c. public finance, including the Consolidated Fund, accountability for public revenues, and safeguards against misuse and fiscal indiscipline; and
- d. The national development planning framework, including the authority, continuity, and enforceability of development plans.

3.8 The Committee does not propose to constitutionalise detailed economic policy choices. Instead, the focus is on supplying missing safeguards and strengthening enforceable procedures, fiduciary duties, and institutional effectiveness. The aim is to ensure that constitutional promises and expectations relating to property protection, resource stewardship, fiscal responsibility, and development planning are realised through systems that prevent abuse, compel transparency, and privilege long-term national interest over insider self-dealing or short-term expediency.

3.9 Comparative experience lends support to this approach. Countries that have achieved greater developmental outcomes and coherence have done so not by

centralising power unchecked, but by embedding clear principles of public trust, intergenerational equity, planning continuity, and institutional accountability within their constitutional and other binding legal frameworks. These principles structure incentives and operate as guardrails, shaping policy choice without substituting judicialized governance for democratic decision-making.

3.10 The Committee's objective is to reposition Ghana's constitutional framework so that land, natural resources and public revenues are treated explicitly as collective national assets, governed by enforceable fiduciary standards and integrated through binding planning frameworks. Development should no longer depend primarily on the discretion or goodwill of office holders, but on institutions and procedures that endure across political cycles. Against this backdrop, the discussions in this chapter seek to achieve four overarching outcomes:

- a. to clarify ownership and trusteeship in respect of land and natural resources, affirming popular ownership and fiduciary management;
- b. to strengthen transparency, accountability, and enforcement in public finance and resource governance;
- c. to align land use, resource exploitation, and fiscal decisions with national development plans and environmental sustainability objectives; and
- d. to entrench institutional designs that prioritise continuity, coordination, and intergenerational equity.

A. Land

3.11 The Committee observes that land remains one of Ghana's most valuable yet contested national assets. It is central to identity, livelihood, housing, agriculture, investment, urban development and social stability. Yet it is also one of the least efficiently governed sectors of the constitutional order. Persistent land disputes, insecure tenure, widespread encroachment, and the growth of informal settlements on public lands, along with opaque administration, overlapping authority, and weak enforcement, have imposed high social and economic costs on citizens, communities, and the State.

3.12 The Committee's consultations revealed widespread frustration with the existing land governance framework. Citizens describe a system characterised by uncertainty, informality, discretionary decision-making, poor record-keeping, fragmented institutional mandates and limited accountability. These weaknesses have undermined public confidence, discouraged productive investment, fuelled conflicts, and disproportionately affected vulnerable groups, including smallholders, customary landholding communities, women and urban residents.

3.13 At the constitutional level, Ghana's land regime reflects a complex historical compromise between public authority, customary ownership and private interests. While this pluralism is a defining feature of Ghanaian land law, the Committee finds that the current constitutional architecture does not sufficiently clarify fiduciary responsibility, accountability lines or enforceable governance standards. As a result, constitutional provisions intended to protect land rights and promote orderly administration have often served as broad statements of principle rather than effective tools to prevent abuse, mismanagement, or capture.

3.14 The 1992 Constitution provides robust protections for the right to private property, including interests in land. Article 18 guarantees the right of every person to own property either alone or in association with others, while Article 20 affirms that no property of any description shall be compulsorily taken possession of or acquired by the State except in accordance with law. Together, these provisions establish private property, including land, as a constitutionally protected interest, subject only to clearly defined and procedurally regulated limitations. The constitutional framework recognises land as both an economic asset and a source of social security, livelihood and cultural identity. It situates property rights within the broader guarantees of dignity, equality and legal protection.

3.15 At the same time, the Constitution embeds an intergenerational equity framework that constrains the permanent alienation of certain categories of land. Articles 267 and 266, read together with Article 257, limit the grant of freehold interests in stool, skin and family lands and restrict the duration of landholding by non-citizens to leaseholds not exceeding fifty years.

3.16 These provisions reflect a constitutional judgment that land constitutes a shared and enduring national resource, held in trust across generations, and that present interests must be balanced against the rights of future members of the community. By preventing the complete divestment of customary and communal land through unrestricted freehold transfers, the Constitution seeks to preserve long-term access and social stability, and to prevent mass land dispossession and associated landlessness.

3.17 The Constitution also sets out a structured framework governing deprivation of property. Article 20 permits compulsory acquisition only where it is necessary in the public interest and carried out under a law that provides for prompt payment of fair and adequate compensation. It further guarantees access to the High Court for the determination of the legality of the acquisition and the amount of compensation payable.

3.18 These safeguards are designed to ensure that State interference with property rights occurs only through lawful authority, is proportionate to a legitimate public purpose, and is accompanied by enforceable procedural and remedial protections. The constitutional scheme thus treats deprivation of property as an exceptional measure, regulated by law and subject to judicial oversight.

3.19 The Committee therefore approaches reform relating to land with the objective to strengthen management systems, clarify institutional roles, entrench fiduciary obligations, and constitutionalise transparent and enforceable procedures that ensure land is administered in the public interest and in accordance with the rule of law.

3.20 Guided by this approach, the Committee examines the constitutional vesting of public lands, the structure and accountability of the Lands Commission, the treatment of customary lands and revenues, compulsory acquisition and reversion rights, landholding by non-citizens, lease regimes, and protections for socially valuable land uses. Across these issues, the Committee consistently prioritises transparency, continuity, accountability and legal certainty as the foundations for a sustainable land governance system.

3.21 The recommendations in this sub-chapter are therefore designed to reposition land as a collective national resource held in trust for the people of Ghana and relevant communities, managed through constitutionally accountable institutions, and governed by clear, enforceable standards that balance development needs with social justice, customary legitimacy and long-term national interest.

Vesting of Public Lands and the Fiduciary Role of the Lands Commission

3.22 The Constitution vests public lands in the President on behalf of, and in trust for, the people of Ghana. Article 257(1) provides that all public lands and other public property shall be vested in the President, subject to the Constitution, to be held in trust for the people. Public lands are defined to include lands acquired by the State through compulsory acquisition, lands vested in the State by law, and lands declared to be public lands by statute. This vesting framework establishes the President as the formal constitutional trustee of public lands, rather than as beneficial owner, and situates the management of such lands within a fiduciary paradigm grounded in public trust.

3.23 The Constitution further contemplates that the administration and management of public lands will be exercised through institutional structures rather than through personal or discretionary control. Article 258 establishes the Lands Commission and

assigns to it the responsibility for managing public lands and other lands vested in the President by the Constitution or by law. In this structure, vesting in the President functions as a constitutional conduit for public ownership, while the operational authority over land administration is intended to be exercised through the Lands Commission and related statutory bodies. The constitutional scheme, therefore, separates formal vesting from day-to-day management, reflecting an intention to anchor public land governance within regulated institutional processes.

3.24 The Constitution also envisages a degree of institutional independence for the Lands Commission, reflected in its composition and tenure arrangements, which include representatives of traditional authorities, professional bodies and public institutions. This plural composition is designed to balance competing land interests, including public, customary and private claims, and to insulate land administration from narrow political influence.

3.25 At the same time, the constitutional framework preserves an inherent tension between vesting authority and managerial autonomy. While the Lands Commission is mandated to manage public lands, the ultimate vesting remains in the President, and certain executive actions relating to land acquisition, allocation and disposition continue to be exercised through ministerial or executive instruments. In effect, one can say that, in terms of the constitutional design, the Lands Commission functions as a buffer between formal vesting in the President and the day-to-day exercise of land management powers, ensuring that decisions affecting public lands are grounded in law, procedure, and public-interest considerations. This dual structure has shaped both the formal operation of land governance and the practical challenges that have emerged in ensuring that fiduciary obligations are consistently observed across all layers of public land administration.

3.26 While the formal vesting of public lands in the President was arguably intended as a constitutional mechanism to centralise stewardship and prevent fragmentation of public land management, the Committee's consultations revealed that this arrangement has generated significant governance challenges in practice. The concentration of formal vesting authority in the President has, over time, blurred the distinction between trusteeship and executive control. In administrative and public perception, vesting has often been treated as conferring proprietary discretion rather than fiduciary responsibility, weakening the constitutional understanding that public lands are held in trust for the people of Ghana. Unfortunately, this position has found acceptance in

judicial doctrine. In *Adjaye v. Attorney-General*,⁷⁴ a case involving an analogous vesting clause in the natural resource context, the Ghana High Court held that the vesting of natural resources (and public lands) “in the President on behalf of, and in trust for, the people of Ghana” did not create an enforceable trust or confer standing on a citizen of Ghana to bring a suit for enforcement.

3.27 A central concern is that presidential vesting has facilitated excessive executive influence over land allocation, disposition, and regularisation processes. Although the Constitution assigns advice and management functions to the Lands Commission, the textual vesting in the President has enabled parallel executive interventions, discretionary directives and politically mediated land transactions. This has undermined institutional coherence, created uncertainty about decision-making authority, and, in some cases, exposed public lands to patronage, speculative allocation and non-transparent grants that are difficult to reconcile with trust-based governance.

3.28 The Committee notes persistent and well-documented concerns regarding the administration of public lands, particularly the recurrent allocation, sale or long-term lease of high-value public lands to politically exposed persons and senior public officials at nominal or peppercorn rates. These transactions are frequently characterised by opaque processes, discretionary decision-making, absence of competitive valuation, and weak public disclosure. In many instances, lands initially acquired for public purposes, such as housing, education, transportation, or institutional development, are subsequently converted into private residential or commercial holdings without clear justification or demonstrable public benefit.⁷⁵

3.29 This pattern has fuelled public perception that public lands function as patronage assets rather than as collective national resources, undermining trust in land governance institutions and eroding the constitutional premise that public property is held in trust for the benefit of all. The concentration of allocation power within executive structures, combined with limited *ex ante* safeguards and weak *ex post* accountability, has created conditions in which public land is vulnerable to capture by political and economic elites, often to the long-term detriment of urban planning, affordability and intergenerational equity.

⁷⁴ *Adjaye and Others v. Attorney-General and Others*, Suit No. C144/94 (High Court of Ghana, 30 March 1994) (unreported)

⁷⁵ *Samuel Okudzeto Ablakwa and Edward Kofi Omane Boamah vrs The Attorney-General & Hon. Jake Otanka Obetsebi-Lamptey*, Writ No. J4/2010

3.30 The Committee also observed that the current vesting framework weakens accountability mechanisms. Considering that public land decisions are often traced back to presidential authority, it becomes institutionally and politically difficult to attribute responsibility for mismanagement, improper alienation or loss of public lands. Oversight by Parliament, audit institutions, and the courts is complicated when executive discretion operates alongside or overrides professional land administration processes.

3.31 Further concerns arise from the tension between presidential vesting and decentralised land administration. While land use, development pressures and customary interactions are inherently local, the constitutional vesting model reinforces centralised authority. This has constrained the effectiveness of regional and district land administration structures, delayed decision-making, and reduced the ability of local communities and customary authorities to engage meaningfully in the stewardship of public lands that affect their livelihoods and environments.

3.32 The Committee considers that the core challenge, from a constitutional design standpoint, is the absence of a clear, enforceable trust-based governance framework to regulate how those lands are held, utilised, managed and disposed of in the public interest. Addressing the weaknesses identified, therefore, requires a shift away from symbolic executive ownership toward a model that clearly affirms popular ownership, fiduciary management and institutional accountability.

3.33 First, the Constitution must clarify that public lands are owned by the people of Ghana and held in trust for both present and future generations. Vesting arrangements should no longer create the impression of proprietary executive control. Instead, constitutional language should emphasise stewardship, intergenerational equity, and non-alienation, except in accordance with transparent and law-bound procedures.

3.34 Second, the governance of public lands must be insulated from discretionary political control and micromanaging. This requires strengthening the independence, fiduciary character and operational authority of the Lands Commission as the primary constitutional trustee and manager of public lands. Executive involvement, where necessary, should be strictly defined, restricted to matters of policy, constrained by procedure and subject to review.

3.35 Third, the Constitution should impose clear fiduciary duties on all public bodies involved in land administration, including duties of loyalty to the public interest, transparency, reasoned decision-making and protection against waste, speculative

alienation and unjust enrichment. Breach of these duties must attract enforceable legal consequences, including judicial review and personal or institutional accountability.

3.36 Fourth, land governance must be anchored in transparent planning and continuity, rather than *ad hoc* allocations. Constitutional direction is needed to require that the management and disposition of public lands align with national development plans, spatial planning frameworks and environmental sustainability objectives, so that land is treated as a strategic national resource rather than an episodic asset.

3.37 Finally, meaningful oversight mechanisms must be strengthened. This includes mandatory public disclosure of public land transactions, routine audits by the Auditor-General and the Ethics and Anti-Corruption Commission, clearer parliamentary scrutiny of land administration systems, and accessible judicial remedies for citizens and communities affected by mismanagement of public lands.

Recommendations

3.38 The Committee recommends appropriate amendments to Chapter Twenty, as follows:

1. Article 257 should be amended to remove vesting of public lands in the President. Public lands should be expressly vested in the people of Ghana, to be held and managed in trust for present and future generations. The Constitution should affirm that no public office holder holds proprietary title over public lands, and that all authority over such lands is fiduciary and limited.
2. Article 258 should be revised to establish the Lands Commission as the primary constitutional trustee and manager of public lands, acting on behalf of the people of Ghana. The Commission's mandate should be explicitly grounded in fiduciary principles, including duties of loyalty to the public interest, transparency and reasoned decision-making, sustainability and intergenerational equity, and prevention of waste, speculative alienation and abuse. Constitutional safeguards should strengthen the institutional independence of the Lands Commission from executive control or political direction.
3. New Fiduciary Governance Clause (Public Lands). - A new constitutional provision should impose direct fiduciary obligations on all public authorities involved in land administration, including the Lands Commission, Ministries, Departments and Agencies. Breach of these fiduciary duties should be

constitutionally justiciable, with access to judicial remedies, including injunctions, nullification of transactions and accountability sanctions.

4. The new clause should provide that the Lands Commission in administering public lands as a fiduciary shall not sell, lease, allocate or otherwise dispose of any public land except in accordance with procedures prescribed by law that ensure transparency, fairness, value for money and demonstrable public interest.
5. As part of the accountability measures, the Committee recommends that the Lands Commission and the respective mineral resource commissions be required to report to Parliament annually on the state and management of all public lands, as well as mineral resources. The Committee recognises that public lands and minerals are critical to the development of a nation and, therefore, recommends the retention of the provision in Article 258(2) of the Constitution by which the Minister responsible for Lands and Natural Resources can give general policy directions, as opposed to specific transaction directions. The Committee, nevertheless, recommends that such general policy directions be addressed in writing solely to the Executive Secretary of the Lands Commission for implementation. This avoids situations where directions are given by the Minister responsible for Lands and Natural Resources to persons other than the Executive Secretary of the Lands Commission, complicating lines of responsibility and accountability.
6. A new clause should require
 - a. mandatory annual audits of public land administration by the Auditor-General,
 - b. public registers and disclosure of public land allocations, leases and disposals,
 - c. strengthened parliamentary oversight over public land governance, and
 - d. accessible remedies for citizens, communities and civil society to challenge mismanagement.
7. Parliament should, by law, revise existing laws and provide a comprehensive public lands governance statute to operationalise these constitutional reforms, including:
 - a. enforcement mechanisms,
 - b. sanctions for breach of fiduciary duty,
 - c. continuity safeguards aligned with national development planning, and protection of public lands as strategic national assets.

Composition and Independence of Lands Commission and Regional Lands Commission

3.39 The 1992 Constitution establishes the Lands Commission under Article 258 as the principal body responsible for the management of public lands and any lands vested in the President by the Constitution or by statute. The Commission is also tasked with advising the Government, local authorities, and traditional authorities on land policy, registration, and land-use planning.

3.40 Article 258(2) provides for the composition of the Lands Commission, which includes representatives nominated by the President, the House of Chiefs, professional bodies, and public institutions, alongside the Chairperson. The Constitution further contemplates the establishment of Regional Lands Commissions to decentralise land administration and bring land management closer to local communities. These Regional Lands Commissions operate as extensions of the National Commission, performing delegated functions within their respective regions.

3.41 In addition, the Lands Commission Act, 2008 (Act 767) consolidates previously separate land agencies and gives statutory detail to the Commission's composition, internal divisions, and regional structures. The Act reinforces the Commission's role as a multi-sectoral body, intended to reflect technical expertise, traditional authority interests, and State oversight in land governance.

3.42 Despite this constitutional and statutory architecture, the Committee observed persistent concerns regarding the effectiveness, independence and representativeness of both the national and Regional Lands Commissions.

3.43 First, the composition framework has not adequately insulated the Commission from executive influence. Although the Constitution envisages a plural, stakeholder-nominated board membership, presidential appointment power remains dominant in practice, particularly with respect to the Chairperson and key members. This has contributed to public perception that the Commission is insufficiently independent in matters involving politically exposed persons, public land allocations, or high-value transactions.

3.44 Second, the role of traditional authorities within the Commission's composition has remained ambiguous and, at times, contested. While representation from the House of Chiefs reflects the central place of customary land tenure in Ghana, the absence of clear fiduciary duties and conflict-of-interest safeguards has allowed overlapping roles to

emerge, particularly where individuals serve simultaneously as customary land custodians and as decision-makers within statutory land institutions.

3.45 Third, Regional Lands Commissions have not developed into robust, autonomous centres of land administration. In many regions, their composition reflects national-level weaknesses, characterised by limited technical capacity, inconsistent representation, and weak accountability mechanisms. This has undermined decentralised land governance and has contributed to uneven standards in land registration, dispute resolution, valuation and public land management across regions.

3.46 Fourth, the current framework does not sufficiently reflect the diversity of landholding systems beyond stool and skin lands. Family lands, clan lands, quarter lands, and indigenous systems, such as *Tindana* lands, remain underrepresented in institutional design, despite their significance in many parts of the country. This has reinforced perceptions that statutory land governance does not adequately align with lived land relations.

3.47 The Committee also noted that the composition framework has not kept pace with modern land governance needs. Gender equity and expertise in land economics, environmental sustainability, spatial planning, community land rights, and technology-enabled, data-driven land administration are not consistently embedded in either national or regional structures.

3.48 The Committee observes that the institutional weaknesses of the Commission flow directly from the way the Constitution structures the Lands Commission board itself. By constitutionally fixing the composition of the Commission and its regional counterparts, the existing framework prioritises formal representation over functional capacity and adaptability. While this approach was initially intended to safeguard independence and balance interests, it has had the unintended consequence of insulating the institution from periodic recalibration in response to evolving land governance challenges.

3.49 As land administration has grown more complex, requiring specialised expertise in tenure security, digitisation, dispute management, urban expansion and climate-sensitive land use, the constitutional rigidity of the Commission's composition has limited its ability to reorganise itself to meet these demands effectively.

3.50 The Committee was concerned that despite decades of reform, land tenure insecurity remains widespread, manifesting in multiple registrations, overlapping claims, protracted disputes, weak boundary certainty, and chronic delays in land

registration. The Committee considers that several of these failures are institutional in nature.

3.51 The Commission's composition has not consistently reflected the mix of technical, social, customary, environmental and data-driven expertise required to manage a rapidly evolving land economy marked by urbanisation, peri-urban expansion, digital cadastral systems, climate pressures and competing land uses.

3.52 The Committee observed that constitutionalising detailed membership structures has had the unintended effect of locking the institution into a static governance model, limiting adaptability over time. As land governance challenges have shifted, from consolidation of agencies to digitisation, from customary integration to dispute prevention, from registration to tenure security, the Commission's composition has remained essentially unchanged, even where new competencies are clearly required.

3.53 By contrast, the Constitution's approach to natural resource governance provides a practical institutional lesson. Rather than entrenching rigid membership structures, it allows Parliament to design commissions through legislation, enabling periodic recalibration of expertise, safeguards and representation in response to emerging risks and policy priorities. The Committee considers that land administration, like natural resource governance, requires institutional flexibility rather than constitutional rigidity.

3.54 The Committee considers further that the existing framework has also limited the Commission's ability to strengthen Regional Lands Commissions as effective frontline institutions for tenure security. Regional bodies remain uneven in capacity and expertise, in part because composition and authority are overly centralised and insufficiently responsive to regional land dynamics. This has weakened early dispute resolution, delayed registration processes, and undermined public confidence in formal land administration.

3.55 For these reasons, the Committee is of the view that while constitutional recognition of an independent land governance institution remains necessary, over-prescription of its composition at the constitutional level has become an obstacle rather than a safeguard, and should be reconsidered in favour of a more enabling statutory design.

3.56 The Committee considers that addressing the persistent weaknesses in land administration requires realigning constitutional design with functional governance needs. The Constitution should continue to secure the independence, fiduciary character, and public accountability of land administration bodies, but should not rigidly prescribe

institutional composition in a manner that impedes responsiveness, expertise, and operational efficiency.

3.57 In particular, the Committee is of the view that the composition of the Lands Commission and the Regional Lands Commissions should no longer be constitutionally fixed in exhaustive detail. Instead, the Constitution should establish the core mandate, fiduciary obligations, and independence of the Commission, while allowing Parliament to determine the composition, qualifications, and internal structure through legislation. This would enable the land administration system to evolve in response to changing land tenure dynamics, technological innovations, urbanisation pressures, climate considerations, and dispute-resolution needs.

3.58 The Committee further considers that reform must be directed toward strengthening tenure security, improving administrative efficiency and restoring public confidence in land governance. This requires enabling the Commission to incorporate specialised expertise in areas such as cadastral management, land valuation, digital land registration, customary land governance, dispute prevention, and environmental planning, which cannot be adequately anticipated or specified in the constitutional text.

3.59 At the same time, reform must ensure that flexibility does not translate into executive dominance or politicisation. Any legislative discretion over composition must therefore be constrained by clear constitutional principles of independence, merit-based appointment, security of tenure, transparency and accountability. The objective is not to weaken the constitutional protection of land governance institutions, but to strengthen it by ensuring that institutional design serves the function, integrity, and public interest, rather than being driven by formal rigidity.

Recommendation

3.60 The Committee recommends targeted constitutional reform affecting Articles 258 and 259 of the Constitution, together with consequential legislative authority vested in Parliament, as follows:

- a. Article 258, 259, 264 should be amended to remove the exhaustive constitutional prescription of the membership and composition of the Lands Commission; require that the composition, qualifications, appointment processes and internal structure of the Lands Commission be determined by Act of Parliament, subject to constitutional principles of independence, requisite expertise, merit, transparency, security of tenure and accountability and retain at the

constitutional level, only the core mandate of the Commission, its fiduciary responsibility to manage public lands and interests in land on behalf of the people of Ghana, and its independence from improper political or private influence.

- b. Articles 260 - 264 should be amended to eliminate rigid constitutional prescriptions governing the composition of Regional Lands Commissions and provide instead that the Regional Lands Commissions shall be established and structured in accordance with legislation enacted by Parliament, tailored to regional land tenure realities and administrative needs.
- c. A new clause shall be inserted in the Constitution to provide that, in exercising its legislative authority over the composition, structure, and internal organisation of the Lands Commission and Regional Lands Commissions, Parliament shall ensure institutional independence, professional competence, functional diversity, transparency, and protection against politicisation, and that no law enacted for this purpose shall permit executive control or dominance inconsistent with the fiduciary role of those bodies as trustees of land interests held on behalf of the people of Ghana.
- d. Parliament shall, within a specified period, enact comprehensive legislation governing appointment criteria and procedures, the inclusion of technical and customary land expertise, tenure security and safeguards against arbitrary removal, performance and accountability mechanisms, and transparent reporting obligations to Parliament and the public.
- e. The addition of a police officer not below the rank of a Commissioner of Police to the membership of the National Lands Commission and an officer not below the rank of Inspector of Police to the Regional Lands Commission serving in the region. Both appointments are to be made by the Inspector-General of Police, in consultation with the Police Council. These additions to the membership of the Lands Commission will result in amendments to Articles 259 and 261.
- f. The Committee recommends that military personnel not below the rank of Colonel with expertise in border demarcation and maritime delimitation be appointed as a member of the National Lands Commission. This appointment should be made by the Chief of Defence Staff in consultation with the Armed Forces Council.

Compulsory Acquisition of Land and Reversionary rights of original owners

3.61 Article 20 of the 1992 Constitution establishes the constitutional protection against deprivation of property and sets out the conditions under which the State may lawfully exercise powers of compulsory acquisition. The provision frames compulsory acquisition as an exceptional interference with property rights, permissible only where stringent substantive and procedural safeguards are satisfied.

3.62 Article 20(1) sets the substantive threshold for compulsory acquisition. It prohibits the compulsory taking or acquisition of property unless the acquisition is necessary in the interest of defence, public safety, public order, public morality, public health, town and country planning, or the development or utilisation of property in a manner that promotes the public benefit. In addition, the Constitution requires that the necessity for the acquisition be clearly stated and that such necessity provides reasonable justification for the hardship imposed on persons with interests or rights in the property. This clause, therefore, demands both a legitimate public justification and a proportionality assessment linked to the hardship caused.

3.63 Article 20(2) establishes the procedural safeguards that must accompany any compulsory acquisition. It requires that compulsory acquisition be effected only under a law that provides for the “prompt payment” of “fair and adequate compensation” and guarantees a right of access to the High Court for any person with an interest in or right over the property. This right of access applies whether the claim is brought directly or on appeal from another authority, and extends to both the determination of proprietary interests and the quantum of compensation payable.

3.64 Article 20(3) addresses the social consequences of compulsory acquisition involving land. Where acquisition or possession results in the displacement of inhabitants, the State is placed under a constitutional obligation to resettle the displaced persons on suitable alternative land. The resettlement must take into account the economic well-being of affected persons as well as their social and cultural values, recognising the non-economic dimensions of land, particularly in customary contexts.

3.65 Article 20(5) introduces a substantive limitation on the use of compulsorily acquired property. It provides that any property taken or acquired in the public interest or for a public purpose must be used only for that public interest or public purpose. This clause constitutionally restricts the State from diverting acquired land to purposes unrelated to the original justification for the acquisition.

3.66 Article 20(6) establishes the constitutional basis for reversionary rights of original owners. Where property compulsorily acquired is not used in the public interest or for the purpose for which it was acquired, the owner immediately before the acquisition is entitled to the first option to re-acquire the property. Upon re-acquisition, the former owner is required to refund the whole or part of the compensation paid, or such other amount as reflects the value of the property at the time of re-acquisition, as provided by law. This provision is intended to deter speculative acquisition and to preserve fairness where public purpose fails.

3.67 Taken together, Article 20 creates a constitutional framework for compulsory acquisition that is anchored in necessity, proportionality, compensation, judicial oversight, social protection, purpose limitation, and reversionary justice. In principle, it seeks to ensure that compulsory acquisition remains a narrowly tailored power exercised strictly in the public interest and subject to enforceable safeguards for affected owners and communities.

3.68 That framework is complemented by the Lands Act, 2020 (Act 1036), which now provides the comprehensive statutory framework governing compulsory acquisition, compensation, management of State-acquired lands, and reversionary interests. The Act consolidates and replaces earlier land statutes, setting out detailed procedures for the initiation of compulsory acquisition, assessment and payment of compensation, management of acquired lands by the Lands Commission, and the exercise of reversionary rights in cases where the intended public purpose is not fulfilled.

3.69 Despite the safeguards articulated in Article 20, the Committee observes that the compulsory acquisition regime in practice has been one of the most problematic areas of land governance in Ghana. Persistent deviations from constitutional standards have undermined property rights, tenure security, and public confidence in State land administration. Rather than operating as a narrowly tailored power exercised strictly in the public interest, compulsory acquisition has often been applied in ways that entrench insecurity, inequity, and institutional abuse.

3.70 Although Article 20(1) requires that compulsory acquisition be necessary for clearly defined public purposes and that such necessity be clearly stated, acquisitions are frequently undertaken based on vague, generic, or speculative public interest claims. In many instances, acquisition instruments fail to demonstrate why compulsory acquisition, rather than a negotiated purchase or limited possession, is necessary. The constitutional requirement that the stated necessity reasonably justify the hardship imposed on affected

owners is rarely subjected to rigorous scrutiny, resulting in acquisitions that exceed actual public need.

3.71 The Committee further observes a longstanding pattern of the State acquiring land far in excess of what is needed or required for the stated public purpose. Large tracts of land are compulsorily acquired for projects that either do not materialise or occupy only a fraction of the acquired area. This has resulted in significant land hoarding by the State, prolonged sterilisation of land from productive use, widespread encroachment, and heightened insecurity for original owners and surrounding communities.

3.72 Of particular concern is the increasing use of compulsory acquisition to advance private commercial interests rather than essential public purposes. In such cases, the state's coercive power is deployed to acquire land that is subsequently transferred, leased, or otherwise made available to private commercial interests, often with close ties to political power. This approach circumvents the willing-seller, willing-buyer principle and substitutes market negotiation for State coercion, allowing private actors to benefit from land acquired through extraordinary public power. The Committee considers this practice fundamentally inconsistent with the constitutional logic of compulsory acquisition.

3.73 Closely related to this concern is the vesting of compulsorily acquired land in private hands, which effectively extinguishes the reversionary interests of original owners under Article 20(6). Once land acquired through State coercion is transferred to private actors, the possibility of reversion becomes illusory. This outcome strongly suggests that the Constitution did not contemplate compulsory acquisition as a mechanism for private land assembly or commercial speculation. Where land is required for private development, acquisition through voluntary market transactions, rather than compulsory State action, is the constitutionally appropriate route.

3.74 Notwithstanding the requirement under Article 20(2) for prompt payment of fair and adequate compensation, compensation processes are frequently delayed for years or even decades. In some cases, compensation is never paid. Where payments are eventually made, they are often contested as inadequate, outdated, or disconnected from prevailing land values. Given that compulsory acquisition already constitutes a significant intrusion into property rights, prolonged non-payment compounds injustice, fractures livelihoods, and destabilises families and communities.

3.75 The Committee is further concerned that compulsory acquisitions are often initiated without compensation funds being secured and appropriated in advance. This practice

exposes affected owners to prolonged uncertainty and deprivation. In the Committee's view, compulsory acquisition should not proceed unless compensation has been fully assessed, secured, and time-bound. To dispossess individuals or communities of land without guaranteed compensation transforms a constitutionally regulated power into an open-ended expropriation.

3.76 In addition, the prevailing approach to assessing "fair and adequate compensation" remains unduly narrow and market-centric. Compensation frequently reflects only the market value of land or improvements, without sufficient regard to the permanent deprivation involved, the loss of livelihoods, the dislocation of economic and social systems, or the extinguishment of generational patrimony. For customary landholders in particular, land embodies ancestry, identity, and intergenerational security, dimensions that are inadequately captured by conventional valuation methodologies. The Committee considers that constitutional adequacy must be assessed in this broader sense.

3.77 While Article 20(2) guarantees access to the High Court, practical barriers significantly limit the effectiveness of judicial protection. Compensation litigation is often protracted, costly, and procedurally complex, placing it beyond the reach of many customary landholders and rural communities. Delays in adjudication further compound hardship, leaving affected persons without land, compensation, or timely remedies.

3.78 The Committee also notes widespread non-compliance with Article 20(3), which requires the resettlement of displaced inhabitants on suitable alternative land with due regard to their economic, social, and cultural well-being. In practice, displacement is often treated as a residual issue, with resettlement plans inadequately planned or absent. This has resulted in the loss of livelihoods, social dislocation, and long-term impoverishment, particularly in areas where customary landholding is prevalent.

3.79 Although Article 20(5) restricts the use of compulsorily acquired land to the public purpose for which it was acquired, acquired lands are often left idle for extended periods, repurposed without transparency, or subsequently allocated to private commercial interests. These practices erode the constitutional justification for compulsory acquisition and weaken public trust in State land governance.

3.80 Despite the clear recognition of reversionary rights under Article 20(6), these rights are rarely realised in practice. There is no automatic mechanism to trigger reversion, no systematic audit of unused or underutilised acquired lands, and limited awareness among affected owners of their constitutional entitlement. As a result, reversionary rights

remain largely theoretical while land remains permanently alienated from its original owners.

3.81 The Committee is concerned by the absence of a comprehensive, accessible, and up-to-date inventory of compulsorily acquired lands. Inadequate record-keeping makes it difficult to track the purpose, utilisation status, compensation history, or reversion eligibility of acquired lands. This opacity facilitates misuse, weakens oversight, and frustrates efforts by original owners to assert their rights. The cumulative effect of these failures has fallen most heavily on customary landholding communities, where compulsory acquisition has disrupted communal land systems without adequate compensation, resettlement, or restitution, exacerbating poverty, social tension, and distrust of State institutions.

3.82 The Committee considers that what is required is a fundamental re-anchoring of compulsory acquisition within its original constitutional logic as a narrowly defined and exceptional power exercisable only for genuine, immediate, and clearly articulated public purposes, and subject to strict, enforceable safeguards. The routine or opportunistic use of compulsory acquisition must be brought to an end, and the power restored as a measure of last resort, to be deployed only where voluntary acquisition, negotiated purchase, or other less intrusive mechanisms are demonstrably inadequate.

3.83 The use of compulsory acquisition as a mechanism for assembling land for private commercial ventures must be expressly prohibited. Where land is required for private development or commercial activity, acquisition must occur through voluntary market transactions. This limitation is necessary to preserve the reversionary logic of Article 20 and to prevent the permanent extinguishment of the rights of original owners through indirect private vesting.

3.84 The public purpose or public interest requirement under Article 20 must be tightened and operationalised. Any exercise of compulsory acquisition should be supported by a clear, specific, and project-linked statement of necessity demonstrating why the acquisition is required, the precise extent of land needed, the public authority responsible for delivery, and a defined implementation timeline. Acquisition of land in excess of demonstrable and immediate need should be constitutionally impermissible, and failure to commence the stated public use within a prescribed period should trigger automatic review and reversionary safeguards.

3.85 The framework must also be explicitly designed to guard against abuse by politically exposed persons who may deploy the coercive power of the State to acquire

land for which there is no genuine public need, retain such land within State control for a period, and later ensure that it reverts or is transferred in ways that ultimately benefit private or connected interests. Compulsory acquisition must not function as a speculative holding mechanism or as an indirect means of converting public power into private land advantage. Reversionary processes must therefore be transparent, rule-based, and insulated from executive discretion, with independent oversight and public disclosure to ensure that neither acquisition nor reversion operates to the benefit of private actors through abuse of State authority.

3.86 Compulsory acquisition should not be initiated unless compensation has been fully assessed, secured, and appropriated in advance. The constitutional requirement for prompt payment must be translated into binding timelines, with acquisition rendered void where compensation is not paid within the prescribed period. Given that compulsory acquisition already represents a serious intrusion into property rights, it is constitutionally indefensible to compound that intrusion through prolonged non-payment that fractures lives, livelihoods, and communities.

3.87 The concept of “fair and adequate compensation” must be clarified and expanded beyond narrow market-value assessments. Compensation must account not only for market value but also for the permanent deprivation of land, loss of livelihoods, disruption of economic systems, the extinguishment of generational patrimony, and social and cultural dislocation, particularly in customary landholding contexts. Valuation methodologies must therefore reflect the full constitutional harm occasioned by compulsory acquisition.

3.88 Judicial protection must be made practical and effective. Procedural reforms are necessary to ensure that disputes related to purpose, compensation, resettlement, and reversion are resolved expeditiously and at a reasonable cost. Access to justice must not depend on prolonged litigation that advantages the State through delay and resource asymmetry.

3.89 Resettlement obligations under Article 20(3) must be treated as mandatory and integral to compulsory acquisition, not as discretionary afterthoughts. Resettlement planning must precede acquisition and be enforceable against acquiring authorities, with clear standards governing the suitability of alternative land, livelihood restoration, and protection of social and cultural ties.

3.90 Reversionary rights under Article 20(6) must be strengthened to operate as a genuine right of buy-back, rather than as a discretionary or symbolic entitlement.

Reversion should occur at the prevailing market value at the time of reversion, taking into account appreciation attributable to general market forces as well as any value added through State investment following compulsory acquisition. Treating reversion as a market-value buy-back option preserves fairness to the public purse, prevents windfall gains, and removes incentives for corrupt or speculative acquisition followed by engineered reversion.

3.91 Finally, the State must establish and maintain a comprehensive, publicly accessible register of all compulsorily acquired lands, detailing the purpose of acquisition, compensation status, utilisation, timelines for use, and any reversionary action. Mandatory periodic audits of such lands should be instituted. Without transparency, record-keeping, and independent oversight, the constitutional safeguards governing compulsory acquisition cannot be meaningfully enforced, and public confidence in State land governance will remain eroded.

Recommendation

3.92 The Committee recommends that Article 20 of the Constitution be amended as follows:

- a. Article 20 should be harmonised with the revised vesting framework to ensure that compulsory acquisition and use of land strictly serve a defined “public purpose”, comply with the principles of necessity, proportionality, and fairness, preserve reversionary rights where the public purpose fails, and cannot be used as a mechanism for indirect private capture of public land.
- b. The Committee recommends that where there is a change in the purpose for which land is compulsorily acquired and for which reason the pre-acquisition owners cannot exercise their right of pre-emption, the pre-acquisition owners should be entitled to receive some financial compensation from the government or any entity which is granted the land to undertake the redevelopment or to execute the changed purpose.
- c. Article 20(1) be amended to require that compulsory acquisition may be undertaken only where land is required for a clearly defined, specific, and immediate public purpose, supported by a written statement of necessity demonstrating that the acquisition is a measure of last resort and that no reasonably less intrusive alternative is available.

- d. A new clause be inserted in Article 20 to provide that land compulsorily acquired by the State shall not be transferred, leased, or otherwise vested in private persons or entities for commercial or profit-making purposes, and that compulsory acquisition shall not be used as a mechanism for land assembly for private development.
- e. Article 20(2) be amended to provide that compulsory acquisition shall not take effect unless funds for the full payment of compensation have been assessed, secured, and appropriated in advance, and that compensation shall be paid within a constitutionally prescribed period, failing which the acquisition shall be void.
- f. In order to give prominence to the new arrangement in this regard, the Committee recommends that the statutory provisions in Section 238 of the Land Act, 2020 (Act 1036) which provides that before the State compulsorily acquires land, money for compensation and other cost associated with the compulsory acquisition must be provided and kept in an escrow account or evidence of Cabinet approval and budgetary allocation must be provided, should be elevated to constitutional status to prevent this provision from being easily changed by Parliament in the future.
- g. A clause be inserted to clarify that “*fair and adequate compensation*” includes not only market value, but also compensation for permanent deprivation of land, loss of livelihoods, disruption of economic systems, extinguishment of generational patrimony, and social and cultural dislocation, particularly in respect of customary landholding communities.
- h. Article 20(3) be amended to require that resettlement planning be completed and approved prior to compulsory acquisition, and that resettlement obligations be enforceable against the acquiring authority as a condition precedent to taking possession of land.
- i. Article 20(5) be amended to require that compulsorily acquired land be used exclusively for the stated public purpose within a defined period, and that failure to commence such use within that period shall trigger mandatory review and reversionary procedures.
- j. Article 20(6) be amended to provide that reversionary rights operate as a legally enforceable right of buy-back in favour of the original owner or successors-in-title, exercisable at the prevailing market value at the time of reversion, taking into account appreciation arising from general market forces and any value added through State investment.

- k. A new clause should be inserted to prohibit the acquisition of land not required for immediate public use, to prevent speculative holding of compulsorily acquired land by the State, and to guard against the abuse of compulsory acquisition for corrupt, political, or private advantage. Article 20 be amended to require the maintenance of a comprehensive, publicly accessible register of all compulsorily acquired lands, including the purpose of acquisition, compensation status, utilisation, and reversionary action, subject to periodic independent audit.

Office of the Administrator of Stool Lands

3.93 The administration of stool lands under the 1992 Constitution is governed primarily by Article 267, which establishes the Office of the Administrator of Stool Lands (OASL) as a constitutional office with responsibility for the financial management of stool land revenues.

3.94 Under Article 267(1), all stool lands in Ghana are vested in the appropriate stool on behalf of, and in trust for, the subjects of the stool in accordance with customary law and usage. Ownership of stool lands is therefore recognised as customary and communal, with the stool holding the land as a trustee rather than as a beneficial owner.

3.95 Article 267(2) creates the OASL and assigns to it the function of collecting and disbursing all rents, dues, royalties, revenues and other payments derived from stool lands. The Constitution requires that these revenues be paid into a designated account and distributed in accordance with a constitutionally prescribed formula.

3.96 Article 267(6) provides that stool land revenues, after deduction of administrative expenses, shall be disbursed as follows: ten percent to the OASL to cover administrative costs. The remaining 90% is reconstituted in full percentage terms and distributed as follows. Twenty-five percent to the stool through the traditional authority for the maintenance of the stool; twenty percent to the traditional authority; and fifty-five percent to the District Assembly within whose area of authority the stool lands are situated, for development purposes.

3.97 The OASL is therefore constitutionally positioned as a fiduciary revenue-management institution, rather than as a land management or land allocation authority. It does not exercise powers relating to the grant, registration, or regulation of land

interests, which remain governed by customary authorities and by statutory land administration bodies.

3.98 The Constitution further requires that Parliament enact legislation to give effect to Article 267. In fulfilment of this mandate, Parliament enacted the Office of the Administrator of Stool Lands Act, 1994 (Act 481), which provides for the administration, staffing, accounting procedures and operational structure of the Office. Act 481 elaborates the mechanisms for revenue collection, record-keeping and disbursement, and affirms the Office's obligation to operate in accordance with the constitutional revenue-sharing framework.

3.99 In institutional terms, the OASL operates separately from the Lands Commission established under Article 258. While both institutions engage with aspects of land governance, their constitutional mandates are distinct: the Lands Commission is responsible for the management of public lands and advisory functions on land policy, while the OASL is responsible for the financial administration of stool land revenues.

3.100 The constitutional framework also limits the Office's mandate to stool lands, without extending it to other customary landholding arrangements recognised under Ghanaian customary law, including family lands, clan lands, quarter lands and lands held by *Tindana* or earth priests. These other forms of customary land ownership are not expressly addressed within Article 267.

3.101 This framework reflects the Constitution's effort to preserve customary land ownership while ensuring that revenues derived from stool lands are centrally collected and equitably distributed for local development and traditional governance purposes.

3.102 Despite the constitutional recognition of the OASL as a fiduciary institution for managing stool land revenues, the Committee observes that the current framework has generated several persistent structural and operational challenges.

3.103 The constitutional separation between land administration and stool land revenue management has produced institutional fragmentation within the broader land governance system. While the Lands Commission is responsible for land management, registration and advisory functions, and customary authorities exercise control over land allocation, the OASL operates in parallel with a narrow financial mandate. In practice, this separation has weakened coordination across institutions involved in customary land governance, resulting in gaps between land transactions, revenue collection, record-keeping and local accountability.

3.104 Further, concerns were raised during consultations about the transparency and traceability of stool land revenues. While the Constitution prescribes a clear revenue-sharing formula, stakeholders reported persistent difficulties in tracking collections, disbursements and actual utilisation of funds by beneficiary institutions. In some cases, District Assemblies, traditional authorities, and community members lack timely access to reliable information on amounts collected, administrative deductions, and the application of funds for development purposes.

3.105 The Committee observes that the Office's constitutional positioning as a stand-alone body has limited institutional adaptability. Because its core mandate and existence are entrenched in the Constitution, opportunities to recalibrate its functions, integrate its operations with broader land administration reforms, or expand its scope to reflect evolving customary land realities are constrained. This rigidity has become more pronounced in the context of ongoing land sector reforms aimed at improving tenure security, digitisation, dispute resolution and integrated land management.

3.106 The Committee notes persistent fiduciary and accountability concerns in relation to the use of stool land revenues. Although the Constitution contemplates that revenues allocated to traditional authorities and District Assemblies should support development and the maintenance of the stool, enforcement mechanisms to ensure compliance with these purposes remain weak. While the OASL is required to account annually to Parliament, the beneficiaries of stool land revenue are not subject to reciprocal accountability obligations to the Office. District Assemblies, which receive the largest share of stool land revenue, are not legally required to report to the OASL on how these funds are utilised. In practice, once revenues are released to District Assemblies or traditional authorities, the OASL has no effective power to compel accountability, recover misapplied funds, or prosecute breaches of fiduciary obligations. As a result, stool land revenues are often absorbed into general expenditure without a transparent linkage to development outcomes in land-origin communities.

3.107 Further, a fundamental challenge affecting the work of the OASL is the absence of reliable land records and clearly demarcated stool boundaries. In many areas, stool lands lack surveyed boundaries, updated registers, or comprehensive data on land users. This situation makes it challenging to identify revenue payers, accurately assess rent obligations, and enforce compliance. Boundary disputes between stools further complicate revenue attribution and frequently result in under-collection or contested claims. The Office is therefore required to operate in a context of legal and spatial uncertainty that weakens systematic revenue administration.

3.108 The Committee notes further that the OASL operates within a fragmented land administration system characterised by weak coordination among key institutions, including the Lands Commission, District Assemblies, traditional authorities, and Customary Land Secretariats. Information sharing is limited, mandates often overlap, and institutional responsibilities are poorly synchronised. This fragmentation results in inconsistent land records, duplication of processes, and inefficiencies that undermine revenue mobilisation and oversight. The absence of an integrated land governance architecture significantly constrains the OASL's ability to function as an effective central trustee of stool land revenue.

3.109 The Committee is of the view that the persistent structural, fiduciary, and coordination failures in the administration of stool land revenues stem fundamentally from the institutional separation between land administration and stool land revenue management under the current constitutional framework. The continued existence of the OASL as a stand-alone constitutional body with a narrow financial mandate has entrenched fragmentation within the land governance system, limiting the State's ability to achieve coherent customary land administration. What is therefore required is a structural integration of the stool land revenue administration into the broader land governance framework.

3.110 The Committee considers that the constitutional mandate currently assigned to the OASL should be transferred to, and exercised by, the Lands Commission. The Lands Commission already serves as the central constitutional and statutory authority responsible for managing public lands, land registration, and providing technical advice on land policy. Assigning responsibility for stool land revenue administration to the Lands Commission would consolidate land transaction data, tenure information, and revenue assessment within a single institutional framework, thereby closing the current gaps between land allocation, documentation, and revenue collection.

3.111 Further, the integration of stool land revenue administration into the Lands Commission would enable a unified approach to land governance that aligns revenue collection with land tenure security objectives. Under the current framework, the OASL operates independently of land registration and boundary management processes, limiting its ability to address indeterminate stool boundaries, overlapping claims, and undocumented land use. Vesting the stool land revenue mandate in the Lands Commission would allow revenue administration to be directly informed by verified land records, cadastral data, and customary land secretariats, strengthening both revenue integrity and tenure certainty.

3.112 The Committee is also of the view that fiduciary accountability for stool land revenues would be significantly enhanced by placing this mandate within the Lands Commission. As an institution with established governance structures, technical capacity, and oversight mechanisms, the Lands Commission is better positioned to enforce reciprocal accountability obligations on District Assemblies and traditional authorities. This would enable legally enforceable reporting requirements, systematic auditing of stool land revenue utilisation, and a more explicit linkage between revenue flows and development outcomes in land-origin communities.

3.113 Similarly, integrating the stool land revenue function into the Lands Commission would reduce institutional duplication and administrative inefficiencies. Currently, multiple institutions are involved in the same land transactions at various stages, often without effective coordination. A consolidated institutional framework would enhance information sharing, eliminate inconsistencies in land and revenue records, and facilitate the development of integrated digital land administration systems that track land interests from allocation through registration to revenue generation and disbursement.

3.114 The Committee considers that the Lands Commission is better positioned to absorb and address the operational weaknesses currently affecting the OASL. The Lands Commission's nationwide presence, technical departments, and access to land sector reform initiatives provide a more sustainable platform for addressing logistical constraints, professional staffing shortages, and capacity gaps. Integrating the stool land revenue function would allow for shared infrastructure, pooled expertise, and more efficient deployment of resources across land administration functions.

3.115 The Committee emphasises that integrating stool land revenue administration into the Lands Commission does not diminish the constitutional recognition of stools as trustees of communal land, nor does it transfer land ownership or allocation powers to the State. Instead, it repositions the stool land revenue administration within a coherent land governance architecture that better reflects the interconnected realities of land tenure, land use, and revenue generation. The constitutional objective of equitable revenue distribution, as outlined in Article 267, can be preserved while its implementation is strengthened through institutional coherence, accountability, and effectiveness.

Recommendation

3.116 The Committee recommends that:

- a. Article 267(2) should be amended to remove the Office of the Administrator of Stool Lands as a separate constitutional office and to vest responsibility for the collection, management, and disbursement of stool land revenues in the Lands Commission.
- b. The Committee recommends that the Office of the Administrator of Stool Lands (OASL) should be made a Division of the Lands Commission with an additional mandate to collect revenue from family lands, clan lands, quarter lands and Tindana lands. It is further recommended that this change should come with a change in its name, and the name 'Rent Management Division' is recommended.
- c. A new provision be inserted to provide that the Lands Commission shall be responsible for the collection, accounting, management, and disbursement of all rents, dues, royalties, revenues, and other payments derived from stool, family, clan, quarter and Tindana lands, in accordance with this Constitution and any Act of Parliament.
- d. Article 267 be amended to expressly provide that the Lands Commission, in exercising stool land revenue functions, acts as a fiduciary on behalf of stools, skins, and communities, and shall have authority to require periodic reporting, auditing, and verification of the use of stool land revenues by all beneficiaries.
- e. That consequently Article 258 be amended to include, among the functions of the Lands Commission, responsibility for the financial administration of stool land revenues and the integration of such revenue administration with land registration, boundary demarcation, and customary land information systems.
- f. Article 267(6) be retained, subject to minor consequential amendments, to preserve the existing stool land revenue-sharing formula, with references to the Office of the Administrator of Stool Lands replaced by references to the Lands Commission.
- g. A new clause be inserted to require District Assemblies, traditional authorities, and any other beneficiaries of stool land revenue to submit annual reports to the Lands

Commission on the receipt and utilisation of such revenues, in a manner prescribed by Parliament.

- h. A new article be inserted to empower the Lands Commission or the Auditor General to take remedial action, including surcharge, recovery of misapplied funds, and referral for prosecution, in respect of any misuse or misapplication of stool land revenues.

Land Interest of Non-Citizens and Joint Ownership with Citizens

3.117 The grant of interests in land to non-citizens in Ghana is governed primarily by Article 266 of the 1992 Constitution, supported by statutory regulation under the Lands Act, 2020 (Act 1036). This framework reflects a deliberate constitutional choice to protect Ghanaian control over land while permitting regulated access to land for foreign participation in the economy.

3.118 Article 266 establishes an explicit constitutional limitation on foreign landholding. It prohibits the grant of a freehold interest in land to a person who is not a citizen of Ghana, thereby preventing the permanent alienation of land to non-citizens. The constitutional rationale is rooted in treating land as a finite national resource with economic, social, and intergenerational significance, requiring long-term stewardship within Ghanaian ownership.

3.119 While freehold ownership is constitutionally barred, Article 266 permits non-citizens to hold leasehold interests in land, subject to a constitutionally prescribed maximum duration. This approach allows non-citizens to access land for residential, commercial, and investment purposes on a time-bound basis, without conferring perpetual or indefinite proprietary rights. The framework, therefore, seeks to strike a balance between openness to foreign investment and the preservation of national control over land.

3.120 The Lands Act, 2020 (Act 1036) gives statutory effect to Article 266 by regulating the creation, registration, and duration of land interests held by non-citizens. The Act affirms the constitutional prohibition on freehold grants to non-citizens, renders any such purported grant void, and governs the registration and administration of leasehold interests in favour of non-citizens. It further assigns oversight responsibilities to the Lands Commission to ensure compliance with constitutional and statutory requirements.

3.121 Within this framework, the Lands Commission, established under Article 258 of the Constitution, plays a central administrative role in implementing Article 266 through land registration and title management processes. Through these mechanisms, the Commission is expected to prevent the registration of prohibited interests and to ensure that interests granted to non-citizens conform to constitutional duration limits and formal requirements.

3.122 In principle, the existing constitutional and statutory framework is designed to protect Ghana's long-term land interests while maintaining an investment-friendly regime.

3.123 The Committee observes that while Article 266 establishes a clear constitutional restriction on the grant of freehold interests in land to non-citizens, aspects of its design and implementation have produced uncertainty, rigidity, and avoidable disruption in land transactions.

3.124 Article 266(2) provides that an agreement, deed, or conveyance that purports to grant a freehold interest in land to a non-citizen is void. While this provision affirms the constitutional prohibition, its practical effect has often been to invalidate entire transactions, including those entered into in good faith, with significant economic and social consequences. The automatic nullification of such agreements creates legal uncertainty, disrupts investment, and may unfairly penalise parties where the underlying intention was to grant a permissible interest. The Committee is concerned that the sanction of absolute voidness may be disproportionate to the constitutional objective and may not be the most effective means of securing compliance with Article 266.

3.125 The Committee further notes that Article 266(4), which limits the duration of leasehold interests in land granted to non-citizens, does not specify the legal consequence where a lease exceeds the constitutionally permitted maximum period. This omission has created ambiguity in practice, with uncertainty as to whether such leases are void in their entirety, void only as to the excess term, or enforceable by judicial intervention. The absence of a clear constitutional consequence weakens enforcement and encourages drafting practices that push beyond constitutional limits in the expectation that excess terms may nonetheless be tolerated.

3.126 A further concern arises in relation to joint ownership of land between citizens and non-citizens. The Constitution does not expressly address the legal consequences of co-ownership arrangements in which a non-citizen acquires an undivided interest in land

alongside a citizen. In practice, such arrangements can be used to circumvent Article 266 by allowing non-citizens to exercise effective control over land through shared ownership structures that closely resemble freehold interests. At the same time, the absence of constitutional clarity creates significant practical difficulties for bona fide family and marital arrangements, particularly where spouses of different nationalities seek to acquire residential property jointly. The current uncertainty exposes such transactions to legal risk, complicates conveyancing, and places an undue burden on families acting in good faith. This dual effect undermines both the protective purpose of Article 266 and the need for certainty and fairness in ordinary domestic property arrangements.

3.127 The Committee notes that CRC-1 suggested that where there is joint ownership of land between a Ghanaian and a non-Ghanaian, private international law should be applied to determine the extent of land that the joint enterprise can own.

3.128 Taken together, these issues reveal gaps in the design of Article 266 that undermine its effectiveness. The current framework relies heavily on invalidation as a compliance mechanism, yet fails to provide proportionate, predictable, and self-executing consequences that preserve lawful transactions, protect constitutional objectives, and reduce incentives for circumvention.

3.129 The Committee considers that there is an urgent need for a clarification and rationalisation of Article 266 that preserves its core constitutional objective of preventing the permanent alienation of land to non-citizens, while accommodating legitimate family, marital, and bona fide co-ownership arrangements and eliminating unnecessary rigidity and uncertainty.

3.130 The Committee is of the view that agreements that purport to grant a freehold interest in land to a non-citizen should no longer be rendered entirely void. Instead, such agreements should automatically convert by operation of law into the maximum constitutionally permissible leasehold interest of not more than fifty (50) years at a time. This approach preserves the prohibition on freehold ownership by non-citizens while avoiding the disruption and inequity caused by absolute nullity.

3.131 Similarly, the Constitution should expressly provide that any leasehold interest in land granted to a non-citizen that exceeds the constitutionally permitted duration shall automatically be reduced to the maximum allowable term of not more than fifty (50) years at a time. This would remove ambiguity, discourage overreaching, and ensure consistent enforcement of Article 266.

Recommendation

3.132 The Committee recommends that Article 266 of the Constitution be amended as follows:

- a. Article 266(2) be amended to provide that any agreement, deed, or conveyance that purports to grant a freehold interest in land to a non-citizen shall not be void, but shall by operation of law be deemed to confer a leasehold interest for a period of 50 years at a time.
- b. Article 266(4) be amended to expressly provide that where a leasehold interest in land granted to a non-citizen exceeds the constitutionally permitted duration of 50 years, the lease shall automatically be reduced to the maximum allowable term, with the excess duration rendered of no legal effect.
- c. The Committee is of the opinion that the statutory provisions prescribed by the Land Act, 2020 (Act 1036) in relation to joint ownership between a Ghanaian and a non-Ghanaian citizen are pragmatic and our recommendation is to elevate the provisions of Section 10(9) and (10) of the Land Act, 2020 to constitutional status. Section 10(9) provides that the restrictions imposed in land acquisition by non-Ghanaian citizens in subsections (1), (2), (3) and (7) of Section 10 shall not be affected by the marriage of that person to a citizen of Ghana or by the entry of that person into a partnership with a citizen of Ghana. Section 10(10) of Act 1036 explains that: “For the purpose of this section, a company or corporate body is not a citizen if more than forty percent of the equity shareholding or ownership is held by non-citizens.”

In essence, a company or corporate body incorporated in Ghana but with a foreign shareholder holding more than 40% is not a citizen of Ghana and cannot acquire land in excess of 50 years at a time. However, if the Ghanaian shareholding in a Ghanaian incorporated company has 60% or more, and a foreigner owns the rest, then such a company is classified as a Ghanaian company and, therefore, can acquire proprietary interests in land which exceeds 50 years. Where the shareholding between Ghanaians and non-Ghanaians is equal, then it cannot acquire an interest in land longer than 50 years at a time. In the case of marriage (or any form of partnership) between a Ghanaian and a non-Ghanaian, the fact of this relationship by itself should not enable the non-Ghanaian to acquire an interest in land exceeding 50 years at a time.

Modernising Constitutional Language on Stool Land Beneficiaries

3.133 Article 267(1) of the 1992 Constitution provides that all stool lands in Ghana vest in the appropriate stool on behalf of, and in trust for, the subjects of the stool, in accordance with customary law and usage. This formulation reflects historical customary governance structures in which political authority, allegiance, and landholding were intertwined, and where the relationship between the stool and the community was expressed in terms of subjecthood.

3.134 Further, Article 295 provides that "stool land" includes any land or interest in, or right over, any land controlled by a stool or skin, the head of a particular community or the captain of a company, for the benefit of the *subjects* of that Stool or the members of that community or company.

3.135 The Committee's principal concern in relation to Article 267(1) and 295 is the continued use of the term "*subjects*" to describe the beneficiaries of stool land under a republican constitutional order. The Committee is concerned that the term "*subjects*" carries normative and symbolic implications that may reinforce hierarchical conceptions of customary authority, which are inconsistent with the fiduciary character of stool landholding. Under Article 267, stools hold land in trust for the community, and not as beneficial owners exercising dominion over persons. The use of language that implies subjection risks obscuring this trustee relationship and may inadvertently legitimise practices or attitudes that treat community members as subordinate to traditional authority rather than as beneficiaries of a trust arrangement.

3.136 There is also concern that the continued use of the term "*subjects*" may generate interpretive ambiguity within the constitutional framework. As customary law evolves and interacts with statutory land administration, courts, administrators, and communities may differ in their understanding of who qualifies as a "*subject*" of a stool, particularly in contexts involving migration, urbanisation, inter-stool affiliations, and long-term residence. This uncertainty has the potential to complicate land governance, benefit-sharing, and accountability.

3.137 The Committee further notes that constitutional language has an educative and normative function. The terminology used in the Constitution shapes the public's understanding of authority, belonging, and rights. Retaining language that evokes subjugation or unequal status risks entrenching outdated conceptions of power and belonging that are misaligned with contemporary democratic values and may undermine

efforts to promote accountability, inclusion, and participatory governance within customary land systems.

3.138 The Committee is of the view that the Constitution should replace the term “subjects” with language that reflects membership within a constitutional community rather than subordination to authority. Such a change would affirm that persons for whose benefit stool lands are held are citizens and community members, not subjects in a political or hierarchical sense. This adjustment would better reflect the fiduciary nature of stool landholding, in which stools act as trustees for the collective benefit of their communities.

3.139 The Committee considers that updating constitutional language in this manner serves an important normative and educative function. It signals that customary institutions operate within a republican constitutional order and that their authority is exercised in trust for community members who are equal participants in the constitutional system.

Recommendation

3.140 The Committee recommends that Article 267(1) and 295 of the Constitution be amended to replace the term “subjects of the stool” with “members of the stool community” or “members of the stool”, so that the provision affirms that stool lands vest in the appropriate stool on behalf of, and in trust for, the members of the stool community, in accordance with customary law and usage.

The Nature of the Trust under Article 267

3.141 Article 267 of the Constitution establishes a constitutional trust in respect of stool lands. Under Article 267(1), all stool lands vest in the appropriate stool on behalf of, and in trust for, the members of the stool community in accordance with customary law and usage. The vesting of stool lands in the stool does not confer beneficial ownership on the occupant of the stool. Instead, it positions the stool as a trustee holding land for the collective benefit of the community.

3.142 This fiduciary character is reinforced by Article 267(2) - (6), which removes the direct control of stool land revenues from traditional authorities and assigns their

collection and disbursement to the Office of the Administrator of Stool Lands under a constitutionally prescribed formula. This framework reflects the constitutional intention that stool land revenues are communal resources held in trust, rather than personal or proprietary entitlements of traditional authorities.

3.143 The Lands Act, 2020 (Act 1036), has further elaborated the fiduciary obligations inherent in stool landholding. The Act affirms that stools, skins, families, and clans that hold customary land do so in a fiduciary capacity and imposes duties relating to transparency, accountability, and responsible management. It requires customary landholders to exercise their powers in the interest of their communities, prohibits self-dealing and abuse of authority, and recognises the obligation to manage land in a manner consistent with intergenerational equity and sustainable use.

3.144 Act 1036 also strengthens record-keeping, disclosure, and accountability obligations, including through the recognition and regulation of Customary Land Secretariats. These statutory provisions represent a significant step in translating the constitutional trust under Article 267 into enforceable governance obligations and in aligning customary land administration with contemporary fiduciary standards.

3.145 The constitutional trust under Article 267 therefore operates as a composite framework, drawing on constitutional principles, statutory elaboration under the Lands Act, and customary law norms governing community membership, land allocation, and stewardship.

3.146 Despite the statutory elaboration of fiduciary obligations under the Lands Act, the Committee observes that significant challenges remain in translating the trust character of stool landholding into consistent practice. While Act 1036 articulates fiduciary duties, enforcement mechanisms remain weak, uneven, and largely dependent on the initiative of beneficiaries who often lack the resources or institutional support to assert their rights.

3.147 A persistent concern is the continued blurring of the distinction between trusteeship and beneficial ownership. In practice, some occupants of stools exercise powers of allocation, disposal, and revenue use in ways that suggest proprietary dominion rather than fiduciary stewardship, notwithstanding the constitutional and statutory framework. This undermines the communal and intergenerational objectives of the trust and weakens public confidence in customary land governance.

3.148 The Committee also notes that although Act 1036 articulates fiduciary standards, it does not fully resolve the constitutional ambiguity surrounding the consequences of

breach of trust by traditional authorities. There remains limited clarity on remedies available to community members, the role of State institutions in enforcing fiduciary obligations, and the circumstances under which State intervention is justified to protect beneficiaries.

3.149 Another concern arises from the interaction between customary norms and statutory fiduciary duties. While Act 1036 seeks to harmonise customary landholding with modern governance standards, not all customary practices align neatly with fiduciary principles such as transparency, avoidance of conflict of interest, and collective benefit. The absence of clear constitutional guidance on how to reconcile these tensions can result in uneven application and selective compliance.

3.150 The Committee further observes that the constitutional design of Article 267 has tended to prioritise revenue management over broader dimensions of trusteeship. Although Act 1036 expands the scope of fiduciary obligations beyond revenue, institutional focus remains heavily skewed towards financial flows, with less attention to land use planning, protection of communal access rights, environmental stewardship, and long-term land security.

3.151 The Committee is of the view that the constitutional trust established under Article 267 should be strengthened so that its fiduciary character operates as a practical constraint on the exercise of customary authority, rather than merely as a formal description of landholding. Although the Lands Act, 2020 (Act 1036) has articulated fiduciary duties in statutory terms, the Constitution itself should more clearly affirm that the occupant of a stool holds land strictly as a trustee and not as a beneficial owner.

3.152 There is a need for more explicit constitutional recognition of the standards governing trusteeship of stool lands. The exercise of powers relating to the allocation, disposal, and management of stool lands should be expressly subject to duties of loyalty, good faith, accountability, and intergenerational equity. Embedding these principles at the constitutional level would reinforce the trustee relationship and provide a stronger normative foundation for statutory enforcement.

3.153 Greater emphasis should also be placed on the rights of beneficiaries of the trust. Members of stool communities should enjoy clear constitutional standing to demand transparency and accountability in the management of stool lands and revenues, including access to information and effective remedies for breach of fiduciary duty. Without such enforceable rights, the trust framework risks remaining largely aspirational.

3.154 Finally, the interaction between customary law and constitutional fiduciary obligations should be clarified. While customary norms governing landholding and authority remain recognised, they should operate within the bounds of the trust created by Article 267. Where customary practices conflict with fiduciary duties or constitutional values, the obligation to act in the collective interest of the community should prevail.

Recommendation

3.155 The Committee recommends that Article 267 be amended to:

- a. expressly provide that the stool, acting through the occupant of the stool and the relevant traditional authority, holds stool lands in a fiduciary capacity and not as a beneficial owner, and that all powers exercised in relation to stool lands are subject to duties of loyalty, good faith, accountability, and intergenerational equity;
- b. clarify that the fiduciary obligations of the stool extend beyond revenue management to include the allocation, use, protection, and long-term stewardship of stool lands, and that such obligations shall be exercised for the collective benefit of the members of the stool community;
- c. recognise the right of members of stool communities to enforce the fiduciary obligations arising under the constitutional trust, including the right to seek information, challenge mismanagement or abuse of authority, and pursue appropriate remedies for breach of trust before a court of competent jurisdiction;
- d. provide that while customary law and usage continue to govern stool landholding, such customary norms shall operate subject to the fiduciary obligations and constitutional values embodied in Article 267, and that where there is inconsistency, the fiduciary duty to act in the collective interest of the stool community shall prevail; and
- e. require Parliament to provide by law for clear consequences and remedies for breach of fiduciary duty by traditional authorities, including restitution, recovery of misapplied benefits, removal or suspension from land administration functions, and other appropriate sanctions consistent with customary governance structures and constitutional principles.

B. Natural Resources in the Constitution

3.156 Natural resources occupy a central place in Ghana's constitutional, economic, and developmental framework. The Constitution vests ownership and control of minerals, petroleum, and other natural resources in the State on behalf of the people of Ghana, reflecting a commitment to collective ownership, intergenerational equity, and national sovereignty over strategic assets. This framework recognises natural resources not merely as economic commodities, but as public trust assets whose exploitation must serve the broader public interest.

3.157 Since the adoption of the 1992 Constitution, the governance of natural resources has been shaped by a combination of constitutional provisions, sector-specific legislation, regulatory institutions, and contractual arrangements with private actors. While this framework has enabled significant resource extraction and revenue generation, it has also exposed deep structural tensions between constitutional ideals and lived outcomes. Persistent concerns have arisen around environmental degradation, inequitable benefit sharing, weak accountability, displacement of communities, and the limited developmental impact of resource extraction in many affected areas.

3.158 The constitutional design reflects an implicit trust model, under which the State exercises control over natural resources as a custodian for present and future generations. However, the practical operation of this trust has often been undermined by opaque decision-making, discretionary licensing, and asymmetries of power between the State, multinational corporations, and local communities. In many cases, resource governance has prioritised short-term fiscal gains over ecological sustainability, community livelihoods, and long-term national development.

3.159 At the same time, Ghana's natural resource regime operates within a global political economy characterised by volatile commodity markets, investor pressure, and complex international contractual and regulatory norms. These external dynamics have influenced domestic policy choices and, in some instances, constrained the State's ability to fully realise constitutional objectives relating to environmental protection, equitable development, and popular participation.

3.160 The Committee's interest is therefore to examine the constitutional treatment of natural resources, the institutional and legal frameworks governing their exploitation, and the key challenges that have emerged in practice. It seeks to identify gaps between constitutional principles and operational reality, and to lay the groundwork for reforms that strengthen accountability, protect affected communities, safeguard the environment,

and ensure that natural resources are managed as actual public trust assets for the benefit of Ghanaians.

Prescription of Basic Principles of Natural Resources in the Constitution

3.161 The 1992 Constitution does not contain a single, consolidated set of express principles governing the ownership, management, and exploitation of natural resources. Instead, constitutional guidance on natural resources is dispersed across multiple provisions, articulated through vesting clauses, procedural safeguards, directive principles, and institutional arrangements. Together, these provisions imply a framework of governance norms, but they do not explicitly codify a coherent set of foundational tenets to guide natural resource decision-making.

3.162 The principal constitutional anchor is Article 257(6), which vests minerals in their natural state, water resources, and other specified natural resources in the President on behalf of, and in trust for, the people of Ghana. This provision establishes collective ownership and a trustee relationship between the State and the people, signalling that natural resources are not proprietary assets of the State but public trust resources. However, the Constitution does not elaborate further on the content of this trust, the standards governing its exercise, or the obligations arising from it.

3.163 Procedural oversight is introduced through Article 268, which requires parliamentary ratification of transactions, contracts, or undertakings involving the grant of rights for the exploitation of natural resources. This provision implies a principle of democratic accountability and legislative control over strategic resource decisions. Yet the Constitution does not articulate the objectives that parliamentary scrutiny is intended to secure, nor the substantive criteria against which such transactions should be assessed.

3.164 Environmental considerations appear in the Directive Principles of State Policy, particularly Article 36, which obliges the State to take appropriate measures to protect and safeguard the national environment. Complementary duties are imposed on citizens under Article 41 to protect and preserve the environment. While these provisions introduce sustainability and environmental stewardship into the constitutional landscape, they are framed at a high level of generality and are not expressly linked to natural resource extraction, depletion, or benefit-sharing.

3.165 The Constitution also contains provisions relevant to decentralisation, development, and social justice that indirectly bear on natural resource governance. Articles concerning local government, development planning, and equitable distribution

of national resources suggest an expectation that natural resource exploitation should contribute to national development and local benefit. However, these expectations remain implicit and are not integrated into a unified constitutional framework for resource governance.

3.166 As a result, Ghana's constitutional treatment of natural resources is principle-laden but principle-light. The Constitution recognises collective ownership, trusteeship, oversight, and environmental responsibility. However, it does so in a fragmented manner, without articulating an explicit set of governing principles such as intergenerational equity, benefit-sharing, transparency, precaution, community participation, or sustainability in resource extraction.

3.167 In the absence of expressly articulated constitutional principles, natural resource governance has often been driven by sectoral statutes, executive discretion, and fiscal imperatives, rather than by a coherent constitutional vision for managing natural resources in the public interest.

3.168 The Committee therefore considers it necessary to examine whether the Constitution should move beyond implied norms and expressly prescribe a set of fundamental principles governing natural resources. Such principles would serve as interpretive guides for legislation and contracts, benchmarks for parliamentary and judicial oversight, and normative anchors for balancing economic exploitation with environmental protection, community rights, and intergenerational justice.

3.169 Comparative constitutional experience shows a clear movement away from treating natural resources solely as assets vested in the State and towards recognising them as public trust resources governed by express constitutional principles. South Africa's Constitution does not vest minerals in the President. Rather, it constitutionalises environmental and intergenerational principles that directly constrain resource exploitation. Section 24 guarantees everyone the right to an environment that is not harmful to health or well-being and requires the State to secure ecologically sustainable development while promoting justifiable economic and social development. This has enabled courts to treat mining and resource exploitation as constitutionally reviewable against substantive principles such as sustainability, precaution, and community impact, rather than as purely legalistic matters. The lesson for Ghana is that even where ownership and control lie with the State, constitutional principles can meaningfully discipline extraction decisions.

3.170 Kenya's 2010 Constitution explicitly declares natural resources to be held by the State in trust for the people. It goes further to prescribe principles of sustainable exploitation, equitable sharing of benefits, public participation, and protection of communities. Article 69 imposes clear obligations on the State regarding environmental protection and natural resource management, while Article 71 mandates parliamentary approval of natural resource agreements based on defined public-interest considerations.

3.171 Colombia's Constitution recognises the State's ownership of subsoil and non-renewable natural resources but subjects exploitation to strong constitutional principles of social and ecological function. Colombian constitutional jurisprudence has developed doctrines that require consultation with affected communities and strike a balance between economic exploitation and environmental and social rights. This experience shows how constitutional principles, even when initially broad, can be progressively elaborated by courts to protect communities and ecosystems without halting resource development altogether. Similarly, the Bolivian and Ecuadorian constitutions embed natural resources within a framework of collective ownership, sovereignty, and intergenerational responsibility, and in Ecuador's case, recognise rights of nature.

3.172 An essential lesson from the comparative practice is the value of linking resource governance to environmental protection, community participation, and intergenerational equity. Constitutions that explicitly integrate these principles have enabled more balanced approaches to extraction, recognising that short-term economic gains must be weighed against long-term ecological integrity and social stability. Even in jurisdictions that retain strong State control over subsoil resources, constitutional principles have been used to require consultation with affected communities, safeguard livelihoods, and impose sustainability constraints on exploitation.

3.173 The Committee considers that the Constitution should move beyond implicit and fragmented treatment of natural resources and expressly articulate a set of basic governing principles to guide their ownership, management, and exploitation. While existing provisions establish vesting, trusteeship, and procedural oversight, they do not provide a clear normative framework capable of disciplining decision-making, guiding parliamentary scrutiny, or informing judicial review. The absence of such principles has left natural resource governance overly dependent on executive discretion and sectoral legislation.

3.174 There is a need to constitutionalise core principles that give substantive content to the State's trustee role over natural resources. These should include collective ownership, public trusteeship, intergenerational equity, sustainability, transparency, and

accountability. Explicit recognition of these principles would clarify that natural resource exploitation is not an end in itself, but must demonstrably serve the long-term public interest of the people of Ghana.

3.175 The constitutional framework should also recognise the position of affected communities as stakeholders in natural resource governance. Principles relating to meaningful participation, protection of livelihoods, equitable benefit-sharing, and environmental stewardship should be expressly linked to natural resource exploitation. This would address the persistent disconnect between national-level decision-making and the social and environmental costs borne by local communities.

3.176 In addition, clearly articulated constitutional principles would strengthen parliamentary and judicial oversight. Parliament's ratification role under Article 268 would be anchored in substantive constitutional benchmarks rather than procedural formality. At the same time, courts would be equipped with clearer standards against which to assess the legality and constitutionality of resource-related decisions.

3.177 The Committee is of the view that prescribing basic principles at the constitutional level would not displace existing statutory and contractual frameworks, but would operate as an interpretive and normative anchor for them. Such principles would guide legislation, inform contract negotiations and approvals, and constrain administrative actions, ensuring that Ghana's natural resources are managed consistently with constitutional values and in trust for present and future generations.

3.178 The Committee proposes that ultimately the framework for natural resources management should recognise these resources to be public trust assets vested in the people, governed by enforceable fiduciary principles, constrained by meaningful community participation realised through Free, Prior and Informed Consent (FPIC) and sustainability, and managed for the benefit of present and future generations.

3.179 The Committee further observes that a persistent structural weakness in Ghana's natural resource governance has been the tendency to authorise extractive activities at a scale and pace that exceeds the State's institutional capacity to regulate, monitor and enforce compliance with environmental, social and rehabilitation obligations. Licensing decisions have frequently prioritised revenue expectations, investment attraction or political expediency, without a corresponding assessment of whether regulatory agencies possess the technical personnel, logistical resources, data systems and enforcement authority required to oversee such activities effectively.

3.180 This mismatch between the scale of exploitation and the State's governance capacity has contributed directly to environmental degradation, regulatory capture, weak compliance with environmental permits, and the erosion of public confidence in natural resource institutions. Where monitoring is inadequate and enforcement sporadic, constitutional and statutory safeguards become mainly symbolic, and the costs of extraction are externalised onto affected communities, ecosystems, and future generations.

3.181 The Committee therefore considers that responsible resource governance requires not only substantive environmental standards, but also restraint in authorising exploitation beyond the State's demonstrated capacity to govern it. Exploitation that cannot be effectively monitored, audited and enforced is inconsistent with fiduciary stewardship, intergenerational equity and the precautionary principle. A constitutional framework that emphasises sustainable development must recognise that restraint, sequencing and institutional readiness are integral components of lawful resource exploitation.

3.182 Accordingly, the Committee is of the view that the Constitution should articulate a governing principle that conditions the scale and pace of natural resource exploitation on the State's capacity to ensure compliance with constitutional and statutory obligations. This would shift resource governance away from "extract-first, regulate-later" approaches, and towards a model in which institutional capacity, environmental protection and long-term national interest are treated as threshold considerations rather than afterthoughts.

Recommendation

3.183 The Committee recommends that:

1. The provisions vesting natural resources be amended to align expressly with the proposed public trust framework applicable to public lands. In this regard, the Committee recommends that Article 257(6) be amended to provide that all minerals in their natural state, water resources, and other natural resources vest in the people of Ghana, and are held in trust by the various natural resources commissions for the benefit of present and future generations.
2. The incorporation of a new article or clause setting out the basic principles governing natural resources which shall guide the interpretation and application of

all laws, contracts, policies, and administrative actions relating to natural resources. These principles shall include:

- a. collective ownership and public trusteeship;
- b. fiduciary responsibility
- c. intergenerational equity;
- d. sustainability and environmental stewardship;
- e. equitable and reasonable utilisation
- f. precautionary principle
- g. public benefit and national development;
- h. transparency and accountability;
- i. democratic and parliamentary oversight;
- j. meaningful community participation realised through access to information, Free, Prior and Informed Consent (FPIC) and equitable benefit-sharing
- k. obligation to restore and rehabilitate
- l. climate compatibility; and
- m. justiciability and enforceability of the public trust.

3. Article 268 be aligned with the new principles framework by providing that parliamentary ratification of natural resource transactions shall be exercised with reference to the prescribed constitutional principles.

4. A capacity-conditioned resource exploitation provision should be inserted in the Constitution which recognizes that as part of the basic principles:

- a. The State shall not authorise the exploitation of natural resources at a scale or intensity that exceeds its demonstrable capacity to effectively regulate, monitor, audit and enforce compliance with environmental, social and rehabilitation obligations prescribed by law.
- b. In granting, renewing or expanding rights for the exploitation of natural resources, the relevant authority shall have regard to –
 1. the adequacy of regulatory and enforcement capacity;
 2. the availability of technical, financial and institutional resources for monitoring compliance; and
 3. the risk of irreversible or cumulative environmental harm.

Where such capacity is inadequate, the State shall take measures to strengthen institutional capability or defer, limit or phase exploitation in accordance with the precautionary principle.

Legal consequences of non-ratification of natural resource agreements, transactions, and undertakings

3.184 Article 268 of the 1992 Constitution governs the grant of rights or concessions relating to the exploitation of Ghana's natural resources. It provides that any transaction, contract, or undertaking involving the grant of a right or concession for the exploitation of minerals, water resources, or other natural resources shall be subject to parliamentary "ratification". The provision is framed in mandatory terms and establishes parliamentary approval as a constitutional requirement for the lawful exercise of executive authority in this domain.

3.185 The effect of Article 268 is to prescribe a constitutionally mandated mode of conduct. The executive power to grant or authorise the exploitation of natural resources is not autonomous or complete upon negotiation or execution of an agreement. Instead, it is constitutionally conditioned on parliamentary approval. Until such ratification occurs, the constitutional (legal) process for granting resource rights is incomplete.

3.186 Although Article 268 does not expressly state the legal consequence of non-ratification, the Constitution operates on the basis that acts done in contravention of mandatory constitutional requirements are unlawful and without constitutional authority. The validity of executive action is therefore contingent on its compliance with the procedures and conditions outlined in the Constitution.

3.187 In *Republic v the High Court, General Jurisdiction 6, Accra: Ex Parte Attorney-General (Exton Cubic Group Limited-Interested party)*⁷⁶, the Supreme Court held that the non-ratification of a bauxite concession by Parliament made the concession invalid. In the opinion of the Supreme Court, the bauxite (natural resource) belongs to the people of Ghana and, therefore, the ratification by Parliament, the people's assembly, was essential to give validity to any such mineral concession. In the words of the Court:

"The intention of subjecting any transaction involving the exploitation of any mineral to Parliamentary ratification was to ensure that such a transaction had received the approval of the actual owners of the mineral, the people of Ghana, such approval expressed through their representatives in Parliament, as engineered by the Constitution. We wonder the essence of Article 268 in the Constitution, if it was not intended that mining leases shall only become valid upon Parliamentary ratification. We are of the considered opinion, therefore, that without Parliamentary ratification, a mineral lease granted by the Executive arm of Government shall be invalid. In other words, we hold that pursuant to Article 268 (1) every mineral lease granted

⁷⁶ Civil motion No. J5/40/2018 31ST JULY, 2019 (SC)

pursuant to the Minerals and Mining Act, Act 703, requires the ratification of Parliament to be valid."

3.188 Despite this clear legal position, the Committee observes that administrative and contractual practices have evolved in a manner that departs from constitutional discipline. In practice, natural resource agreements have often been negotiated, executed, and treated as operational before being ratified by Parliament. In some cases, licences have been acted upon, exploration or exploitation activities commenced, and regulatory approvals granted based on agreements that had not yet received parliamentary approval.

3.189 Parliamentary ratification has often occurred after substantial implementation has already taken place, or after the State has assumed contractual obligations. In other instances, agreements have been performed for extended periods without ever being formally ratified. Notwithstanding this, such agreements have continued to be relied upon by private actors as though they conferred lawful authority to exploit natural resources.

3.190 This practice has had the effect of treating parliamentary ratification as a procedural formality rather than as a constitutional condition governing legality. It has inverted the constitutional sequence by allowing executive action to precede, and in some cases pre-empt, legislative oversight. This weakens Parliament's role under Article 268 and undermines the fiduciary framework under which natural resources are held in trust for the benefit of the people of Ghana.

3.191 The Committee is concerned that the continued operational reliance on unratified agreements has normalised unconstitutional conduct. It creates legal uncertainty regarding the validity of resource rights, exposes the State to financial and legal risk, and complicates accountability for environmental and social impacts arising from resource exploitation. It also diminishes the ability of citizens and affected communities to challenge resource activities that have not complied with constitutional requirements.

3.192 In the Committee's view, these challenges do not stem from any deficiency in the constitutional text, but from persistent non-compliance and the gradual entrenchment of practices that disregard the constitutional order. Restoring constitutional discipline in natural resource governance, therefore, requires confronting and correcting these practices, rather than reframing the Constitution as inadequate.

3.193 There is a need to restore constitutional discipline in the operation of Article 268 by affirming, in express terms, the legal effect of parliamentary approval in relation to natural resource agreements. Parliamentary approval must be understood and applied as a condition governing legality, rather than as a procedural step that can be deferred or retrospectively regularised.

3.194 To stem the normalisation of unconstitutional practice, the Constitution should be amended to make explicit that natural resource agreements, transactions, or undertakings have no legal effect unless and until they comply strictly with the constitutional requirement for parliamentary approval. This clarification would reinforce the existing constitutional requirement and remove any scope for treating unratified agreements as operationally valid.

3.195 The Committee acknowledges that the purpose of parliamentary ratification is to ensure public oversight of natural resource agreements through elected representatives. While the Committee seeks to strengthen the ratification process, it also recognises the importance of involving Parliament at the outset, before any agreement is finalised, and of enabling public engagement in the scrutiny of proposed agreements. Accordingly, the Committee recommends that, prior to the signing of any natural resource agreement, the proposed terms be submitted to Parliament for approval. In considering the proposed terms, Parliament may invite the relevant sector minister and heads of pertinent institutions to provide explanations and answer questions, and may consult widely on the proposed agreement.

3.196 Once Parliament grants its approval, the agreement shall be concluded in accordance with the approved terms. After execution, the agreement shall be laid before Parliament for confirmation to verify that the executed agreement conforms to the terms previously approved. Where the executed agreement departs from the terms approved by Parliament, confirmation shall be withheld, and the agreement shall be null and void.

3.197 The Committee therefore proposes a two-stage parliamentary control mechanism, consisting of prior parliamentary approval before execution and post-execution parliamentary confirmation. Prior approval operates as a democratic authorisation of the proposed terms and confers constitutional authority on the Executive to sign the agreement. Execution of the agreement, however, does not of itself confer legal or operational effect. Legal and operational validity arises only upon post-execution parliamentary confirmation, which functions as a verification of conformity with the terms earlier approved by Parliament.

3.198 There is also a need to prohibit the commencement of exploration, exploitation, or other operational activities under a natural resource agreement before Parliamentary approval. Regulatory authorities should be constitutionally barred from issuing, recognising, or acting upon licences, permits, or approvals founded on unapproved agreements, except in respect of limited preliminary activities expressly authorised by law.

3.199 In addition, parliamentary approval should not be capable of operating retrospectively to validate acts done or obligations assumed in breach of Article 268. Where losses or liabilities arise from reliance on unratified agreements, such consequences should not be borne by the people of Ghana. This would deter executive actors and private counterparties from proceeding in disregard of constitutional requirements.

Recommendation

3.200 The Committee recommends that Article 268 be amended to require prior parliamentary approval before natural resource concessions or grants are made. For emphasis, this prior approval should precede the signing of any agreement, concession or grant by the Executive. The signed agreement must then be returned to Parliament for confirmation, to ensure that the agreement, concession, or grants made by the Executive conform to the terms approved by Parliament. This process will ensure the full participation of the people of Ghana, through their elected representatives, both before and after natural resource concessions and grants are made.

The new Article 268 should, therefore, provide as follows:

1. A transaction, contract, or undertaking involving the grant of a right or concession for the exploitation of minerals, water resources, or other natural resources shall have no legal effect unless and until it has been approved by Parliament prior to the execution of the agreement and subsequently confirmed by parliament after execution.
2. No licence, permit, authorisation, or operational approval may be issued, recognised, or acted upon on the basis of an unapproved and unconfirmed natural resource agreement.

3. Any exploration, exploitation, or other operational activity carried out pursuant to an unapproved and unconfirmed natural resource agreement shall be unlawful and shall not create enforceable rights or obligations against the State.
4. Parliamentary approval and confirmation shall not operate retrospectively to validate acts done or obligations assumed in contravention of Article 268.
5. Any loss, damage, or liability arising from reliance on an unapproved and unconfirmed natural resource agreement shall not be borne by the people of the Republic of Ghana.
6. Any transaction, contract, or undertaking involving the grant of a right or concession for the exploitation of natural resources shall be laid before Parliament for approval within a minimum of three (3) months and a maximum period of six (6) months before execution. After execution, the Agreement shall be laid before Parliament within 21 days and Parliament shall consider the Agreement for confirmation within two (2) months after laying the Agreement before Parliament.
7. Expressly designate the Minister responsible for Lands and Natural Resources as the primary public officer responsible for ensuring that all natural resource agreements, transactions, and undertakings are duly laid before Parliament for approval and confirmation within the prescribed time. However, if after six (6) months, the Minister has failed to carry out this obligation, the concessionaire shall have the liberty to apply to the High Court for an order directing the Minister to submit the agreement, transaction or undertaking to Parliament for either approval or confirmation.
8. Insert a clause providing that Parliament enact legislation criminalising any exploration, exploitation, or commercial utilisation of natural resources undertaken without parliamentary approval and confirmation as required under this article, including the aiding, abetting, authorising, or facilitating of such activities by any public officer, authority, or private person. This provision shall empower Parliament to prescribe offences, penalties, personal liability of responsible officers, and ancillary sanctions, including forfeiture and restoration, for any exploitation of natural resources carried out in breach of the constitutional ratification requirement.

Natural Resources Commission

3.201 The 1992 Constitution provides for the establishment of specialised public commissions to regulate and manage specific natural resources. This framework is principally anchored in Article 269, which mandates Parliament to enact legislation establishing commissions responsible for the regulation and management of particular natural resources.

3.202 Article 269 reflects a sectoral approach to natural resource governance. Under this framework, distinct commissions and authorities are established to oversee specific resource categories, such as minerals, forestry, wildlife, fisheries, energy-related resources, and other extractive or natural assets. These commissions operate pursuant to enabling legislation and exercise regulatory, advisory, and administrative functions within their respective areas of responsibility.

3.203 The constitutional logic underlying Article 269 is to insulate natural resource management from undue political interference by vesting regulatory authority in specialised, technically competent bodies. These Commissions are generally expected to operate with a degree of independence, subject to policy direction by the executive and oversight mechanisms provided by law.

3.204 In addition to Article 269, the Constitution also establishes resource-specific governance arrangements through other provisions, including Article 257 on vesting of natural resources, Article 268 on parliamentary ratification of natural resource agreements, and relevant Directive Principles of State Policy concerning development, environmental protection, and decentralisation. Together, these provisions form a multi-institutional framework for the governance of natural resources.

3.205 However, the Constitution does not provide for a single overarching body responsible for coordinating, harmonising, or integrating the work of the various natural resource commissions established under Article 269. Each commission operates primarily within its own statutory and institutional silo, with mandates defined by sector-specific legislation.

3.206 As a result, Ghana's constitutional architecture for natural resource governance is characterised by plurality rather than harmonization or consolidation. Policy, regulation, oversight, licensing, environmental protection, revenue administration, and community engagement are distributed across multiple commissions, ministries, agencies, and authorities, each exercising discrete powers under separate legal regimes.

3.207 Article 269 therefore establishes a constitutional basis for specialised natural resource commissions, but does not itself prescribe mechanisms for inter-commission coordination, integrated resource planning, or unified oversight across the natural resource sector as a whole. The Constitution presumably leaves questions of coordination, hierarchy, and integration to legislation, administrative practice, and executive direction.

3.208 The Committee observes that while sectoral specialisation has advantages, the absence of an overarching coordinating authority has resulted in fragmented and siloed natural resource governance. Decisions relating to the exploitation of one resource are frequently taken without sufficient consideration of their impacts on other natural resources, environmental systems, or national development priorities.

3.209 A recurring concern raised during consultations pertains to the mining sector. Mining concessions are often granted with limited consideration for integrating water resource protection, forest conservation, agricultural land use, and food security. In practice, mining activities may impinge on river systems and water bodies, overlap with forest reserves, encroach upon farmlands, or undermine national agricultural policies, including those related to cocoa production and other critical food security sources. These outcomes are not necessarily the result of illegality within any single sector, but rather the absence of a coordinating mechanism capable of assessing cumulative and cross-sectoral impacts before concessions are granted.

3.210 The Committee notes that similar coordination challenges arise across other resource sectors. Forestry decisions may affect water catchment areas; land allocations may undermine conservation objectives; and infrastructure or extractive projects may conflict with long-term environmental, climate, or agricultural strategies. Without a central coordinating authority, each institution tends to act within its statutory remit, even where the combined effect of multiple lawful decisions produces unsustainable or harmful outcomes.

3.211 This fragmentation has also weakened strategic planning and public accountability. No single institution is currently responsible for ensuring that natural resource decisions align with national development plans, climate commitments, food security objectives, or environmental sustainability goals. As a result, natural resource governance often becomes reactive and project-specific, rather than strategic and integrated.

3.212 The Committee is further concerned that the lack of an omnibus coordinating authority limits effective enforcement of the public trust and fiduciary principles governing natural resources. Where multiple institutions exercise overlapping or adjacent authority, responsibility for adverse outcomes are diffused, making it challenging to attribute accountability or enforce constitutional standards consistently.

3.213 In the Committee's view, the current constitutional framework under Article 269 has enabled functional specialisation. However, it has not adequately addressed the need for horizontal coordination, cumulative impact assessment, and strategic oversight across natural resource sectors. This institutional gap has contributed to policy incoherence, environmental degradation, and avoidable conflicts between extractive activities, environmental protection, and national development priorities.

3.214 There is a clear need to strengthen coordination, coherence, and constitutional discipline within Ghana's natural resource governance architecture. To address this, the Committee considers it necessary to introduce a central coordinating mechanism within the natural resources sector, capable of ensuring coherence across institutions, aligning sectoral decisions with national development priorities, and safeguarding the constitutional principles governing natural resources. Such a mechanism would not displace existing commissions or regulators, but would serve as a coordinating, supervisory, and integrative authority.

3.215 One option is the establishment of a Natural Resources Coordinating Authority, modelled on the State Interests and Governance Authority (SIGA) framework. Under this model, the coordinating authority would have responsibility for setting cross-sectoral governance standards, ensuring alignment with constitutional principles such as sustainability, intergenerational equity, public trust, and FPIC, and facilitating structured coordination among resource-specific regulators. It would serve as a guardian of the basic principles governing natural resources, ensuring that sectoral decisions are consistent with constitutional obligations and national development priorities. Additional benefits of this model include reduced duplication, improved information-sharing, stronger strategic planning, and clearer accountability for cross-cutting resource governance failures.

3.216 An alternative approach would be the creation of an omnibus Natural Resources Commission, under which existing bodies established under Article 269 would be reorganised as departments or sub-units within a single consolidated institution. The principal merit of this approach lies in its structural integration, which can eliminate overlapping mandates, streamline decision-making, and facilitate unified data systems

and planning processes. However, this approach carries significant risks. It would require substantial institutional restructuring, could undermine the independence and specialised expertise of existing commissions, and may concentrate excessive regulatory power in a single body, raising concerns about governance and accountability.

3.217 By contrast, the SIGA-like coordinating authority model offers a more proportionate and constitutionally sensitive solution. It preserves the functional independence and technical specialisation of existing natural resource commissions while addressing the central weakness of the current system: the absence of effective coordination and constitutional guardianship. It allows for incremental reform, avoids institutional disruption, and reinforces constitutional principles without collapsing sectoral expertise into a monolithic structure.

3.218 The Committee therefore expresses a preference for the establishment of a Natural Resources Coordinating Authority, analogous to SIGA, mandated to coordinate, harmonise, and oversee natural resource governance across sectors, and to act as a constitutional sentinel for the basic principles governing natural resources. Such an authority would strengthen coherence, reduce conflict between competing land and resource uses, and ensure that Ghana's natural resources are managed in an integrated, principled, and sustainable manner consistent with the Constitution.

3.219 The Constitution should therefore provide a clear directive for Parliament to enact legislation establishing such a coordinating authority, defining its mandate, composition, and powers, and ensuring its independence, technical capacity, and accountability. This would strengthen coherence in natural resource governance, reduce conflict between sectoral decisions, enhance long-term planning, and reinforce the fiduciary obligations of the State as trustee of the nation's natural resources.

Recommendation

3.220 The Committee recommends that the Constitution be amended to:

1. Insert a new provision under Article 269 to provide that Parliament shall enact legislation establishing a coordinating authority for natural resources, mandated to promote coherence, coordination, and compliance with the basic constitutional principles governing natural resources across all sectoral institutions and regulatory bodies.

2. Provide that the coordinating authority shall have responsibility for ensuring alignment of decisions relating to minerals, forests, water resources, fisheries land use, agriculture, and environmental protection, and for safeguarding adherence to constitutional principles governing natural resource governance.

Clarify that the establishment of the coordinating authority shall not, of itself, abolish or diminish the mandates of existing commissions or authorities under Article 269, except as may be provided by law.

Participation of traditional authorities and local communities in mineral licensing and the share of benefits from local mineral exploitation

3.221 Under the 1992 Constitution, the ownership and control of mineral resources are constitutionally centralised. Article 257(6) vests all minerals in their natural state in the President, acting in trust for the benefit of the people of Ghana. This provision establishes the State as the ultimate legal custodian of mineral resources, regardless of the customary or private ownership status of the land on which such minerals are located.

3.222 Pursuant to Article 257(6), Parliament is empowered under Article 268 to regulate the exploitation of minerals, including the grant of mineral rights, through legislation. The principal statutory framework is provided by the Minerals and Mining Act, 2006 (Act 703), as amended. Act 703 vests authority in the Minister responsible for mines, acting on behalf of the President, for the granting, renewal, suspension, and cancellation of mineral rights. Mineral rights, including reconnaissance, prospecting, and mining leases, are granted through administrative processes managed by the Minerals Commission, subject to parliamentary ratification in some instances.

3.223 The statutory framework does not confer decision-making authority on traditional authorities or local communities in relation to the grant of mineral rights. While chiefs and traditional councils are recognised under customary law as custodians of stool and skin lands, their role within the mineral licensing process is indirect. Where mineral rights are granted over stool or skin lands, the consent of the relevant traditional authority is not a legal prerequisite for the issuance of a mineral right. Instead, customary landowners and occupiers are entitled to compensation for disturbance, loss of use, or property damage, as provided under Act 703 and related legislation.

3.224 Participation of traditional authorities and local communities is more formally incorporated at the environmental permit stage. Under the Environmental Protection

Authority Act, 2025 (Act 1124), and the Environmental Assessment Regulations, 1999 (L.I. 1652), mining projects that are likely to have significant environmental impacts are required to undergo Environmental Impact Assessment (EIA) processes. These processes include public notice and opportunities for public comment, and in practice may involve consultations with affected communities and traditional authorities. However, such consultations occur after mineral rights have already been granted in principle, and do not operate as *veto* or consent mechanisms. Their legal function is advisory rather than determinative.

3.225 With respect to benefit-sharing, the Constitution and statute establish a revenue framework centred on royalties and other fiscal payments. Article 267 governs stool land revenue, including mineral royalties, and requires that such revenue be paid into designated accounts with the Office of the Administrator of Stool Lands (OASL). Of the revenue collected, a constitutionally prescribed formula applies: ten per cent is retained by the OASL for administrative expenses, while the remainder is disbursed among traditional authorities and district assemblies, with allocations to stools, traditional councils, and District Assemblies within the area of authority where the stool land is situated.

3.226 Royalties payable by mining companies are prescribed by statute and regulations made under Act 703. These royalties are collected by the State and paid into the Consolidated Fund, after which the constitutionally mandated portions are transferred through the OASL distribution mechanism. The law does not earmark mineral revenues for specific community development projects, nor does it require that royalty allocations be directly tied to mitigating mining-related impacts. District Assemblies receive a share of royalties as part of their general revenue, to be applied in accordance with local government budgeting processes.

3.227 In addition to statutory royalties, Act 703 contemplates compensation and resettlement obligations where mining operations displace lawful occupiers or interfere with customary land use. Compensation is assessed primarily based on disturbance, crops destroyed, or loss of use, rather than long-term livelihood disruption or environmental externalities. Negotiations over compensation are typically conducted between mining companies and affected persons, with recourse to administrative or judicial processes where disputes arise.

3.228 The Minerals Commission, established under Article 269 of the Constitution and the Minerals Commission Act, 1993 (Act 450), serves as the principal regulatory and advisory body in mineral governance. Its mandate includes advising the Minister on

mineral policy, coordinating regulatory functions, and monitoring compliance. The Commission includes representation from traditional authorities in an advisory capacity, but this representation does not translate into binding decision-making power over licensing or benefit distribution.

3.229 A central issue arising from the current constitutional and statutory framework is the structural disconnect between mineral ownership vested in the State and the lived realities of mineral exploitation at the local level. While the Constitution vests mineral resources in the President in trust for the people of Ghana, submissions consistently highlighted that the operationalisation of this Trust is experienced as highly centralised and technocratic. The absence of constitutionally recognised participatory rights for traditional authorities and host communities has led to the perception that mineral resources are extracted primarily for national benefit, with insufficient regard for the local social, environmental, and economic costs borne by affected communities.

3.230 This disconnect is most evident in the mineral licensing process itself. Under the existing framework, mineral rights are granted through centralised administrative procedures without a legal requirement for prior consultation, consent, or concurrence by customary land custodians or local communities. Traditional authorities and residents often encounter mining projects as *faits accomplis*, with engagement occurring only after licensing decisions have been finalised, particularly at the environmental permitting stage. Submissions emphasised that this sequencing reinforces feelings of exclusion and weakens the local legitimacy of mining operations.

3.231 Although environmental assessment processes provide formal avenues for public participation, concerns were raised about the limited legal effect of these consultations. Stakeholders observed that such mechanisms are largely procedural and informational rather than deliberative. Communities may comment on proposed projects, but they lack the power to influence core decisions relating to project approval, scale, or location, or to withhold consent when anticipated impacts are severe. As a result, consultation is perceived as an administrative formality rather than a meaningful avenue for community agency.

3.232 The benefit-sharing regime was also identified as a significant source of concern. While mineral royalties are constitutionally and statutorily shared through the OASL and allocations to District Assemblies (DAs), submissions questioned whether the existing distribution formula adequately compensates host communities for the disruptions associated with mining. The pooling of revenues into general fiscal flows, rather than

targeted or traceable development investments in affected areas, was viewed as weakening the visible link between mineral extraction and local benefit.

3.233 These structural features have cumulatively undermined confidence in the mineral governance system at the community level. Public debate and submissions linked the absence of meaningful participation in licensing and weak benefit-sharing to persistent mistrust, resistance to mining projects, and recurrent disputes between mining companies and host communities. These tensions were presented not as isolated incidents, but as symptoms of a deeper legitimacy deficit within the current framework.

3.234 Within this broader context, illegal small-scale mining, commonly referred to as *galamsey*, was widely framed as more than a law-enforcement challenge. Submissions characterised *galamsey* as a socio-economic and governance response to exclusion from formal mineral rights and benefit-sharing arrangements. In communities where mining activity is visible but improvements in livelihoods, infrastructure, or economic opportunity are absent, illegal mining is often locally rationalised as an informal claim to participation in mineral wealth rather than as conduct divorced from structural causes.

3.235 Stakeholders further observed that the licensing regime for both large-scale and small-scale mining offers limited pathways for local incorporation. Lawful mineral exploitation is often perceived as being dominated by external actors with access to capital and regulatory processes, while local populations are confined to compensation negotiations or informal economic activities. In this context, *galamsey* serves as a parallel mechanism in the public narrative, through which excluded communities seek economic agency in the absence of formal inclusion.

3.236 The issue of underdevelopment in mining communities featured prominently as a recurring illustration of state neglect. Submissions highlighted that many mineral-rich areas continue to experience high poverty levels, degraded environments, weakened agricultural livelihoods, and limited social infrastructure. The contrast between the scale of mineral extraction and persistent deprivation has become a powerful symbol in public discourse, reinforcing perceptions that national mineral wealth does not translate into tangible local development.

3.237 These development deficits carry significant social and political implications. Where communities perceive themselves as bearing environmental and social costs without commensurate benefits, resentment towards both the State and mining companies can harden. Submissions noted that such resentment may manifest in resistance to operations, obstruction of access, disputes over land and compensation, or

tacit community support for illegal mining activities. Underdevelopment thus operates not only as a socio-economic condition, but also as a catalyst for instability and conflict.

3.238 The cumulative effect of exclusion from licensing decisions, weak incorporation into benefit-sharing arrangements, and persistent underdevelopment has been the entrenchment of conflict-prone relationships between mining companies and host communities. Mining companies operate within legally granted rights but face sustained contestation on the ground; communities experience mining as disruptive yet unavoidable; and the State is perceived as distant, reactive, or primarily aligned with corporate and revenue interests. These dynamics have become a defining feature of Ghana's mining landscape.

3.239 Historical perspectives offered during engagements suggested that these tensions reflect an unresolved transition from a post-colonial model of centralised resource control to a more participatory and decentralised governance framework. While centralisation was initially justified as necessary to safeguard sovereignty and ensure orderly exploitation, stakeholders argued that contemporary democratic norms and decentralisation policies demand greater recognition of local agency, consent, and benefit. The persistence of *galamsey* and recurrent community-company conflict were presented as symptoms of a mineral governance system that has not fully adapted to these evolving constitutional and social expectations.

3.240 The Committee is of the view that addressing persistent conflict, illegal mining, and community resistance requires a governance model that integrates participation, distributive justice, and long-term local development into the core architecture of mineral licensing and benefit-sharing.

3.241 In this regard, the Committee notes the need for defining constitutional principles governing mineral exploitation, which must be operationalised in a manner that gives practical effect to community participation. The Committee has already recommended that the exploitation of natural resources be guided by the principle of FPIC. This requires Parliament to move beyond consultative models that are informational or procedural and to incorporate FPIC as a substantive requirement in the statutory processes for granting mineral rights, particularly where customary land, livelihoods, or environmental integrity are directly affected. FPIC is necessary not only as a rights-based safeguard, but as a conflict-prevention mechanism that anchors mineral development in local legitimacy.

3.242 Further, the Committee is of the view that the distributive framework governing mineral revenues must be restructured to create a visible, predictable, and development-oriented link between extraction and local benefit. Submissions before the Committee demonstrated that the existing royalty-sharing arrangements, while constitutionally recognised, are too diffused and indirect to address the cumulative social, environmental, and economic costs borne by host communities. A more targeted approach is required, one that treats host-community development and environmental remediation as integral components of mineral exploitation rather than as residual or discretionary outcomes.

3.243 In this regard, the Committee finds merit in the proposal that a defined percentage of gross mineral revenue be allocated directly to host communities for infrastructure, human development, and environmental remediation. The use of gross revenue, rather than net revenue, is intended to safeguard distributive equity and transparency within the mineral governance framework. Gross revenue provides a clear, objective, and verifiable base that is less susceptible to cost inflation, transfer pricing, and other accounting practices that may significantly reduce the distributable pool under a net-revenue model, particularly in the context of multinational extractive operations. Anchoring community benefit to gross revenue ensures predictability, limits opportunities for revenue erosion, and strengthens public confidence that local development entitlements are not diminished through opaque cost structures. At the same time, constitutional recognition of such allocation insulates community benefits from annual budgetary discretion and administrative volatility, reinforcing the State's trustee obligation to ensure that mineral exploitation yields tangible and equitable outcomes for affected communities.

3.244 Further, environmental harm arising from mineral exploitation must be addressed through forward-looking, institutionally protected mechanisms rather than reactive compensation. The Committee considers it essential that a portion of mineral revenue attributable to host communities be explicitly ring-fenced for environmental remediation and rehabilitation. This approach recognises that ecological damage may manifest gradually or persist beyond the life of a mine, and that affected communities require a secured financial mechanism to respond to such challenges without resort to prolonged litigation or ad hoc state intervention.

3.245 The Committee also considers it necessary that the management of any community-based environmental or development fund be entrusted to a representative body reflecting national planning expertise, regulatory oversight, local government, traditional authority, and community constituencies, including youth, women, and persons with disabilities. This structure is designed to strike a balance between technical

competence and democratic inclusion, ensuring that decision-making reflects both national standards and local priorities.

3.246 Finally, the Committee considers that these reforms must be embedded in law through a clear parliamentary mandate. Constitutional recognition of participation and benefit-sharing principles must be accompanied by detailed statutory provisions governing revenue allocation, fund management, accountability, and transparency. Parliament must therefore be obliged to enact legislation that gives effect to these principles, ensuring that mineral governance evolves from a centrally administered revenue model into a constitutionally grounded system of shared benefits, local inclusion, and long-term stability.

Recommendations

3.247 The Committee recommends that a percentage of gross revenue (to be determined by legislation) generated from natural resource extraction be granted to communities where the natural resources are exploited for infrastructural needs, human developmental needs as well as for dealing with environmental challenges that might arise from natural resource extraction. The management of this fund should be under the control of a committee or board of trustees, membership of which should include a representative of the National Development Planning Commission, a representative from the Commission regulating the utilisation of the natural resource, a representative of the District Chief Executive, a representative of the highest traditional authority in the District where the natural resource is exploited, a representative of the youth, women and persons with disabilities. The Committee also recommends that Parliament should be obliged to enact detailed provisions to give effect to this recommendation.

Protection of the environment against ecocide

3.248 The Committee received several representations and submissions to curb the high incidence of illegal mining for gold in Ghana, with its associated risks of pollution of land, riverine bodies, the oceans and the ecology generally. The Committee takes note of the fact that illegal mining methods in Ghana have led to high levels of exposure to mercury, arsenic, and many other heavy metals in Ghana's environment. Recent scientific studies have established the presence of high concentrations of these heavy metals in arable soil, plants, and food produce. The evidence is also grave in relation to the impact on human

life. Stillbirths and children born with congenital and neurological deformities have become a real problem in most of these mining areas. The evidence also points to the wanton and unbridled destruction of huge forests and other vegetation by illegal miners who continue to pillage the environment in search of gold. The evidence further shows that farmlands have been taken over by illegal miners, which has grave repercussions for food security and the right to food of all persons in the realm. The Committee notes that the menace of illegal mining is a clear and existential threat, requiring urgent and compelling action to halt it.

3.249 The current law regulating the sanctioning of illegal mining is the Minerals and Mining Act, 2006 (Act 703), as amended by the Minerals and Mining (Amendment) Act, 2019 (Act 995). This law prescribes a minimum of 15 years' imprisonment and a maximum of 25 years' imprisonment for Ghanaians involved in illegal mining. For non-Ghanaians, the law prescribes a minimum term of 20 years and a maximum term of 25 years' imprisonment. Section 99(4) also provides that: *"Where a non-Ghanaian who is liable on summary conviction under subsection (3) is a person liable to deportation under section 35 of the Immigration Act, 2000 (Act 573), that foreigner shall, where sentenced to a term of imprisonment, serve the full sentence before deportation in accordance with subsection (3) of section 37 of Act 573."*

3.250 The Committee is of the view that the gravity and scale of the ecological harm inflicted by illegal mining rise to the level of an ecocide. Many countries now include the distinct crime of ecocide in their national laws. In these legal systems, ecocide is generally defined as the mass destruction of flora and fauna, or the contamination of air, water, or soil, that leads to an ecological catastrophe. Article 94 of the Belgian Penal Code defines ecocide as "deliberately committing an unlawful act causing serious, widespread and long-term damage to the environment knowing that such acts cause such damage." By all accounts, the ecological harm and destruction caused by *galamsey* qualify as ecocide. The Committee is of the considered view that Ghanaian law must include the distinct crime of ecocide.

Recommendation

3.251 The Committee recommends that Parliament take steps to strengthen the legal framework for the protection of the environment, including the criminalisation of severe and large-scale environmental harm. In this regard, the Committee recommends that Parliament enact an amendment to the Criminal Offenses Act to include the crime of ecocide.

Ocean resources and blue economy

3.252 The ocean plays a vital role in the socio-economic and cultural life of Ghanaians. Ghana has a coastline of 550 kilometres (342 miles) and an extended continental shelf of 235,391 square kilometres. Therefore, Ghana's ocean space is just about the same size as its land territory, which is estimated to be 238,533 square kilometres.

3.253 It is essential to highlight that since the coming into effect of the 1992 Constitution, Ghana has encountered various experiences related to ocean governance under international law. These experiences underscore the necessity for the nation to be vigilant regarding its activities in the realm of ocean governance. First, Ghana discovered hydrocarbons in commercial quantities for the first time seaward within areas of its national sovereignty and sovereign rights, including areas of the continental shelf. Second, Ghana initiated legal proceedings against Côte d'Ivoire before the International Tribunal for the Law of the Sea (ITLOS) for the delimitation of the maritime boundaries between the two countries, specifically regarding overlaps in the territorial sea, exclusive economic zone, and continental shelf, including the outer limits of the continental shelf. Indeed, Ghana still has unresolved maritime boundary disputes with Togo, Benin and Nigeria. Third, Ghana invoked the provisions of the United Nations Convention on the Law of the Sea (UNCLOS) of 1982 to delineate its extended continental shelf beyond the 200-nautical-mile limit before the Commission on the Limits of the Continental Shelf (CLCS), thereby expanding its maritime domain. Fourth, Ghana has been dragged before the ITLOS for violating the law of the sea by detaining the Argentine warship *Fragata Ara Libertad*.

3.254 Apart from the above interactions with the international law of the sea, it must be noted that the benefits that Ghana as a coastal state enjoys and stands to enjoy from the ocean are enormous and significant. The ocean provides us with half of the oxygen we need for survival; it also acts as a considerable heat buffer, protecting us from the harsh and adverse effects of heat, and serves as a carbon sink by absorbing excess carbon dioxide. The oceans also play a critical role in meeting our nutrition and health needs; hydrocarbons and petroleum and gas are exploited in the continental shelf with substantial economic and social potential; development of tourism; the provision of livelihoods for many who have depended and would continue to depend on the ocean; shipping and our participation in international trade and the laying of telecommunication and fibre optic cables to facilitate communication, trade, security and safety of navigation.

3.255 Ghana's oceans have been subjected to many adverse pressures, which, if not checked, could compromise or undermine the benefits the country stands to gain from its ocean resources. Some of these adverse pressures include Illegal, Unreported, and Unregulated (IUU) fishing; pollution of marine and coastal environments; rising sea temperatures; ocean acidification; and many other adverse consequences.

3.256 The Committee notes that when the 1992 Constitution was promulgated over 32 years ago, there was limited awareness and recognition of the importance and value of the Blue Economy. Much has changed in the intervening years, and the Committee is of the view that our Constitution must affirm this new reality in its provisions on natural resources.

Recommendation

3.257 The Committee recommends the provision of an Article to be dedicated to Ocean Governance and the Blue Economy which shall focus on at least 5 areas including imposing an obligation on the State to:

- a. sustainably manage the ocean and ocean resources;
- b. ensure the security of Ghana's maritime domain (either directly or in concert with other States and competent international organisations);
- c. identify, delimit, protect, and secure our maritime frontiers;
- d. cooperate with other States in the sustainable management of living and non-living resources of the ocean and the maintenance of a healthy ocean;
- e. ratify relevant marine environment-related international conventions that are determined to be in the national interest.

C. Public Finance

3.258 The 1992 Constitution devotes its entire Chapter 13 to matters of public finance and macroeconomic management. Other provisions relating to public finance, notably Article 108, are found in the chapter on the Legislature. Together, these provisions, which cover taxation, the budget process, the establishment and operation of public funds, authorisation of spending and withdrawals from public funds, and the audit of public funds, provide the minimum constitutional framework for Public Financial Management (PFM) in Ghana.

3.259 Despite the constitutional status of public financial management and a litany of prescriptive legislation in the same vein, Ghana has been bedevilled by persistent fiscal challenges since the beginning of the Fourth Republic. Since 1992, the country has experienced a pattern of poor fiscal outcomes characterised by recurring large fiscal deficits and debt build-ups with associated large debt service costs and sharply reduced public investment.

3.260 Ghana's long history of fiscal crises points to chronically weak fiscal discipline. Recurring fiscal deficits reflect both low domestic revenue mobilisation and chronic challenges with expenditure management. The Government of Ghana has consistently struggled to raise sufficient revenues to fund its budget. A lack of sustained economic growth, an outsized, hard-to-tax informal sector, limited revenue from the extractives sector, overall weak tax collection, high tax exemptions, tax evasion and other forms of revenue leakages, including corruption among revenue-collecting agencies, are among the primary reasons the government has been unable to raise adequate amounts of revenue to fund its annual budgets. The Committee notes that Ghana significantly underperforms relative to its peers in sub-Saharan Africa and the developing world in terms of the total government revenue-to-GDP ratio. While total government revenue as a ratio of Gross Domestic Product (GDP) stands at 15.8% in Ghana,⁷⁷ averages for sub-Saharan Africa and all developing countries are 20.5% and 22.6% respectively.⁷⁸

3.261 Contributing to the recurring high fiscal deficits on the expenditure side are an unsustainably large public sector compensation bill and related compensation practices

⁷⁷ International Monetary Fund DataMapper, 'Government revenue, total (% of GDP) – rev@FPP: Ghana' (IMF DataMapper) <https://www.imf.org/external/datamapper/rev@FPP/GHA> accessed [date accessed].

⁷⁸ Peter Quartey and others, *Ensuring Fiscal Responsibility in Ghana: Drawing Lessons from Challenges and Outcomes (1992–2021)* – Ghana Compact Technical Background Paper (May 2023) <https://ghanacompact.com/wp-content/uploads/2023/06/Ghana-compact-Fiscal-Responsibility-technical-paper-working-draft.pdf> accessed 19 December 2025.

(such as extension of “retirement on salary” packages for certain categories of public employees and upward benchmarking of benefits among different segments of the public and security services), high debt service burden, other fiscal rigidities associated with a proliferation of statutory earmarked funds, and a pattern of fiscal populism and profligacy during election years. Three spending items alone—public sector compensation, interest payments and statutory transfers—account for 70% of total public spending.⁷⁹

3.262 Successive governments in the Fourth Republic have followed a pattern of procyclical spending behaviour. In good or “boom” times, instead of building surpluses or paying down debt, the government tends to engage in more discretionary (over)spending, fuelling inflationary pressures and leading to fiscal imbalances. During periods of economic downturn, the resulting reduced spending capacity, often a carryover from prior overspending, limits the government’s ability to stimulate the economy.

3.263 The country’s perennial fiscal fragility has defied episodic interventions and quick fixes. “Sudden macroeconomic stops and crises have led the country to request a record 17 programs with the International Monetary Fund (IMF), remaining under active IMF programs for 40 out of its 68 years of history.”⁸⁰ In 2022, unable to meet its mounting external debt obligations (which had skyrocketed to 92.6% of GDP⁸¹) in the wake of the post-COVID economic downturn, the government was forced to announce a sovereign debt default for the first time in Ghana’s history.

3.264 The Committee notes that Ghana boasts a string of legislation and related administrative and institutional interventions that, taken together, suggest, at least on paper, the existence of a strong legal and institutional framework for public financial management. These include the Financial Administration Act, 2003, the Internal Audit Agency Act, 2007, Ghana Integrated Financial Management Information System (GIFMIS) (2010), the Medium-Term Expenditure Framework, Public Procurement Act (Revised, 2016), the Fiscal Responsibility Act (2018), and the Public Financial

⁷⁹ World Bank, Ghana Public Finance Review: Building the Foundations for a Resilient and Equitable Fiscal Policy Volume 2 – Detailed Analysis (World Bank, Washington, DC, December 2024) <https://documents1.worldbank.org/curated/en/099060325070540442/pdf/P180112-410495b2-c759-49e7-9ebf-d382144bbec7.pdf> accessed 19 December 2025

⁸⁰ World Bank, Transforming Ghana in a Generation (World Bank, Washington DC, 2025) <https://documents1.worldbank.org/curated/en/099506109222528534/pdf/IDU-a33bc71b-5b6d-4fdb-aded-9fda6978153c.pdf> accessed 15 December 2025.

⁸¹ IMF, Ghana: Fourth Review Under the Arrangement Under the Extended Credit Facility, IMF Country Report No 25/175 (2025) p.6, <https://www.elibrary.imf.org/view/journals/002/2025/175/article-A002-en.pdf> accessed 16 December 2025.

Management Act (2016) (recently amended in 2025). However, noncompliance (such as failure on the part of covered public entities to use GIFMIS and the Treasury Single Account, in breach of the PFM Act) and the non-enforcement of sanctions undermine the effectiveness of these laws and measures. This underscores the fact that, while a strong PFM system is often viewed as a technical issue, it is more fundamentally a political and institutional issue.

3.265 The Committee further notes that the provisions of Chapter 13 of the Constitution have generally not had much of an effect on public sector fiscal behaviour. This is due, at least partly, in the Committee's view, to the generally enabling or permissive, as opposed to regulatory or constraining, character of the relevant provisions. The provisions of Chapter 13 generally authorise or permit action; they do not constrain them. Furthermore, Chapter 13 is not sufficiently comprehensive in scope, as it does not cover or address several key aspects of sound public management and does not incorporate some of the modern fiscal rules and tools relevant to the Ghanaian context. Given Ghana's persistent struggles with fiscal discipline, and considering that legislative and other institutional rules have often yielded to short-term political discretion, the Committee is of the view that more constitution-based fiscal rules and restraints, some of which could be elevated from existing legislation, are warranted.

3.266 In the remainder of this sub-chapter, the Committee isolates elements of the current constitutional framework for public financial management for review.

Tax Exemptions

3.267 The Committee notes that tax exemptions represent a significant source of revenue loss for the State. In 2021, tax exemptions were estimated to have cost the country 3.9% of GDP, with Value Added Tax (VAT) exemptions alone accounting for 1.9% of this total.⁸² Import duty exemptions, which are typically granted by Parliament to specific taxpayers, also represent a significant fiscal burden, costing 0.2% of GDP in 2022.

3.268 While there may be sound, investment-promoting reasons for granting certain taxpayers or classes of taxpayers certain exemptions from tax, there are genuine concerns that the exemptions, authorised and approved by Parliament pursuant to Article 174(2), may be excessive in scale or susceptible to widespread abuse and corruption, particularly

⁸² World Bank, Ghana Public Finance Review: Building the Foundations for a Resilient and Equitable Fiscal Policy, Volume 2 – Detailed Analysis (December 2024, The World Bank) <https://documents1.worldbank.org/curated/en/099060325070540442/pdf/P180112-410495b2-c759-49e7-9ebf-d382144bbec7.pdf> accessed 16 January 2026.

in light of the often individualised, case-by-case nature of the grant of such exemptions and the lack of full disclosure or reporting surrounding them. The high fiscal cost of tax exemptions underscores the need for better oversight and rationalisation.

Recommendations

3.269 To inject transparency and ensure integrity and accountability in the grant of tax exemptions, the Committee recommends the introduction of new provisions in Article 174 as follows:

1. Any tax exemption, waiver, relief, concession or variation shall be counted as a tax expenditure, and the Minister responsible for finance shall set an annual ceiling to tax exemptions in the Appropriations Bill, subject to the approval of Parliament.
2. The Minister responsible for finance shall submit to Parliament, as part of the annual budget reading, an Annual Tax Expenditure Statement, which shall contain estimates of all exemptions and special regimes by sector and beneficiary class that it proposes to provide. The statement shall also include an analysis of the tax expenditure given out over the past five years and the gains or benefits derived from them.
3. A contemporaneous public record shall be maintained of each tax exemption, waiver, relief, or variation that is granted and the reasons or justifications for such grant, and such record shall be made available to Parliament and submitted to the Auditor-General in a manner prescribed by law.
4. No public officer or class of public officers shall be entitled to or granted a tax exemption, waiver or variation by virtue only of the public office or position they hold.

Extra-Budgetary Funds: Internally-Generated Funds and Special Purpose Statutory Funds

3.270 The Committee notes that despite a string of legislative and institutional reforms designed to strengthen fiscal discipline, significant implementation, compliance, and coverage gaps continue to weaken and undermine Ghana's PFM system. One problem area is the maintenance and operation of various public funds and related spending

outside the Consolidated Fund and the budget – and, thus, often outside the purview of the Ministry of Finance.

3.271 Public entities that rely principally on Internally Generated Funds (IGF) routinely operate outside of the Treasury Single Account, thus limiting the Finance Ministry's ability to monitor and control cash flows and spending across the broader spectrum of government activities. Weak transparency and oversight of IGF and other extra-budgetary spending also mean that the government is unable to optimise its cash resources, with the result that, for example, while the government accumulates arrears in certain areas, profligate spending continues elsewhere in the public sector. The proliferation of special-purpose or earmarked statutory funds outside the Consolidated Fund also compounds fiscal rigidities in the area of expenditure management and, thus, contributes to narrowing the government's fiscal space.

3.272 While, as indicated, efforts have been made to address the problem of extra-budgetary spending through various legislation, digitalisation and other administrative measures, the Committee is of the view that given the relative ease with which governments with legislative majorities can set aside good PFM laws and regulations or escape parliamentary scrutiny or sanction for politically-motivated non-compliance, institutionalisation of some of sand practices is best achieved through embedding them in the constitution. As the entire Chapter 13 of the Constitution is not entrenched, constitutionalising specific fiscal rules essentially means cloaking them with supermajority parliamentary protection, thus making them generally difficult to set aside without bipartisan agreement, yet not unduly onerous to amend (because they would not require a national referendum) if there was a real need to do so.

Recommendations

3.273 In light of the foregoing, the Committee recommends that Article 176 of the Constitution be amended by the insertion of the following provisions:

With respect to internally generated funds (IGF)

1. the amount of internally generated funds that a public entity may retain for operational or administrative purposes shall be authorised annually by Parliament through the Appropriation Act.
2. All amounts of internally generated funds retained by a public entity shall be reported to Parliament during the financial year in a manner prescribed by law

3. Authorisation for an entity to retain internally generated funds shall be granted conditionally, subject to full compliance by the beneficiary entity with all applicable fiscal/PFM measures and rules, failing which the beneficiary entity's status as an IGF-qualified entity shall be suspended or revoked on the directive of the Minister responsible for finance in accordance with law.

As to earmarked statutory funds

1. Parliament shall by law cap the aggregate yield of earmarked taxes as a share of total tax revenue.
2. Parliament shall by law set an aggregate macro-cap on earmarked funds as a percentage of total tax revenue and specify conditions under which an earmarked fund may be temporarily consolidated.
3. Earmarked funds set up for specific purposes under Article 176(2)(a) and any new levy imposed for a specific purpose shall have sunset clauses stipulated in the legislation establishing the fund.
4. An earmarked fund shall lapse upon the expiration of its sunset period unless renewed by Parliament for a further specified term upon a reasoned request by the Minister responsible for Finance.

Contingency Fund

3.274 The Committee is of the view that there is a need to tighten the provisions relating to funding and operation of the Contingency Fund. As currently provided for under Article 177(a), there is no lower or upper limit to how much money may be voted annually by Parliament to be paid into the Contingency Fund.

Second, the provision for approval or authorization for advances to be made from the Contingency Fund, which vests such authority in the committee in Parliament responsible for "financial measures" if it is "satisfied that there has arisen an urgent or unforeseen need for expenditure for which no provision exists to meet the need," is too open-ended and does not provide a sufficient discipline or checks against abuse of or improper recourse to the Fund.

Third, the provision for a supplementary estimate to be presented to Parliament "as soon as possible" to replace an amount advanced from the Contingency Fund is similarly too

open-ended and does not impose a firm enough deadline and duty on the Minister responsible for finance.

Recommendations

3.275 In order to remedy the above-mentioned gaps, the Committee recommends amendments to Article 177 as follows:

1. “Urgent and unforeseen” shall be defined to mean:
 - a. the circumstance could not have been reasonably anticipated through routine risk assessment, intelligence gathering, or expert analysis before its occurrence; and
 - b. the circumstance presents a clear, imminent, and grave threat to (i) national security; (ii) public health and safety; or (iii) the economic stability of the nation, threatening severe and widespread hardship.
2. The money voted by Parliament to be paid annually into the Contingency Fund shall not be less than one per cent and not more than three per cent of the total expenditure of the budgetary allocations as presented by the Minister responsible for finance during that fiscal year.
3. A request for a withdrawal or advance from the Contingency Fund shall be made, accompanied by appropriate justification, by the Minister responsible for Finance to the committees of Parliament responsible for financial measures and public accounts, which committees shall jointly review and approve the request within 5 business days if they are satisfied it meets the terms of clause (1) of article 177.
4. Where an advance is made from the Contingency Fund, a supplementary estimate to replace the amount advanced shall be presented for approval by Parliament within thirty (30) days of the advance being made.

Withdrawal from Public Funds: Commitments Control by Controller and Accountant-General

3.276 The Committee notes that clauses (1) and (2) of Article 179, while minimally adequate to prevent the withdrawal of money from the Consolidated Fund that is not

covered in the current budget or authorized by existing law, do not avoid circumvention through the incurrence of a commitment that does not involve or require a current expenditure of money but gives rise to the accrual of a future payment obligation or liability. The accumulation of arrears through the present incurrence of unauthorised commitments or financial obligations is a significant problem plaguing Ghana's PFM system.

3.277 The Committee further notes that while the Constitution establishes the Consolidated Fund and other public funds and provides for how payments into and withdrawals from such funds may lawfully be made, it fails to recognize, designate or cloak with appropriate authority, responsibility, and independence an officer of constitutional stature who shall maintain secure custody of and manage such funds in accordance with the law.

Recommendations

3.278 To ensure prudent management of the Consolidated Fund and other public funds and enforce appropriate commitments control, the Committee recommends the addition of the following new provisions as amendments to Article 178:

1. There shall be a Controller and Accountant-General (CAG) who shall be appointed by the President, acting in accordance with the advice of the Council of State, and, with the approval of Parliament.
2. The CAG shall hold office for a single, non-renewable term of 10 years or upon attaining the age of 65, whichever is earlier.
3. The CAG, who shall be the chief accounting officer of the Government, shall be responsible for the custody, management and accounting of the Consolidated Fund and all other public funds and accounts, authorizing and approving withdrawals from and commitments made against such public funds, and ensuring compliance with applicable financial regulations.
4. No moneys shall be withdrawn from, and no commitments shall be incurred against, the Consolidated Fund or any other public fund unless the withdrawal or commitment has received the prior approval of the CAG.

5. The CAG shall not approve any withdrawal from or commitment against a public fund unless he or she is satisfied that the requested withdrawal or commitment is authorized by law.
6. Where a requested withdrawal or commitment is in compliance with law, the CAG may not unreasonably withhold or delay the necessary approval. The Minister responsible for finance may direct the CAG in writing to approve a requested withdrawal if the Minister is satisfied that the refusal of the CAG to approve the request is not in compliance with applicable law.
7. The CAG shall submit to Parliament, not later than the thirty-first day of March in each year, an annual report covering the preceding financial year, detailing withdrawals and commitments made against public funds, comparing such withdrawals and commitments with parliamentary appropriations, and explaining any material variances, and Parliament shall exercise oversight over the performance of the Controller and Accountant-General through its relevant committees, in accordance with law.

[Annual Estimates and Medium-Term Budget Framework: How do we connect the annual budget to the National Development Plan by the NDPC?](#)

3.279 A key criticism of the current constitutionally mandated budget or appropriations process laid out in Article 179 is that there is no requirement for the proposed annual budget or estimates of revenues and expenditures of the Government to be anchored on or aligned with a Medium-Term Fiscal Framework (MTFF). MTFFs have emerged as a crucial component of a robust PFM system, providing a structured framework to align annual budgets with multi-year fiscal strategies and related development goals. An MTFF includes a fiscal strategy, medium-term projections of key macroeconomic variables (such as GDP growth rate and inflation rate), fiscal aggregates (including revenue, expenditure, balance, and debt), and total expenditure ceilings over a three- to five-year period that guide subsequent annual budgets. The MTFF thus operates as a top-down constraint, ensuring fiscal discipline in line with fiscal rules or other fiscal targets and translating these into annual budgets. It introduces a medium-term planning perspective to the budgeting process, thereby helping policymakers assess the sustainability of current policies, weigh trade-offs, and adjust spending decisions in line with national goals.

3.280 The Committee notes that Ghana has used a variant of the MTFF, the Medium-Term Expenditure Framework (MTEF), as part of its budget planning and preparation toolkit since 1999. However, MTEF appears to be used more as an in-house technocratic tool than as a binding constraint enforceable through parliamentary scrutiny and oversight. Proponents of elevating either an MTEF or MTFF to a constitutional mandate argue that doing so would transform it from a government policy into an effective parliamentary oversight and accountability mechanism, thereby enhancing its impact on fiscal discipline. This, in turn, would have the *ex ante* effect of improving the rigour of the medium-term framework.

3.281 The Committee is of the view that it would be inappropriate to lock in a particular kind of medium-term budgetary framework (whether MTEF, MTFF, or some other) as a constitutional mandate, as the forms of PFM instruments evolve with time. However, the Committee believes that the idea of anchoring the government's annual budget in a forward-looking, budget-relevant framework document that sets fiscal goals (e.g., debt-to-GDP ratios, budget deficits, and expenditure ceilings) over a three- to five-year period is a salutary one, as it compels, in turn, more strategic, longer-term, outcome-oriented budget planning and execution. The Committee believes that a constitutional provision requiring such a medium-term budget-relevant framework to be approved by Parliament and in place before the presentation of the annual budget would provide a crucial check and balance, holding the government to a higher standard of accountability for its budget performance.

Recommendations

3.282 The Committee recommends that Article 179 of the Constitution be amended by the insertion of the following provisions:

1. That the President shall cause to be prepared and laid before Parliament, at least two months in advance of the laying before Parliament of the budget for the following year, a medium-term economic framework, however so described, covering a period of not less than the following three years which shall include (1) medium-term projections for macroeconomic variables, including GDP growth rates, debt-to-GDP ratios, and rate of inflation; (2) projections for revenues, expenditures, deficits or surpluses, and debt; and (3) a fiscal strategy that sets fiscal policy objectives and targets over the medium term.

2. Parliament shall, by resolution, approve the medium-term economic framework before proceeding to the consideration of the Appropriation Bill for the relevant financial year.
3. That accompanying the introduction to Parliament of the annual estimates of revenues and expenditures for a given year, the Minister responsible for finance shall present a statement showing how the annual estimates are aligned or consistent with the adopted medium-term framework and explaining any deviations or inconsistencies between them.

Independent Fiscal Council

3.283 The question of whether Ghana needs a Fiscal Council written into the Constitution is a subject of ongoing debate among experts and policymakers, with strong arguments on both sides. The arguments in favour of establishing a fiscal council in the Constitution include the following:

- (i) Enhanced Independence and Credibility: Proponents argue that entrenching the Fiscal Council in the Constitution would provide a stronger legal shield against political interference compared to an ordinary act of Parliament. This would boost the Council's credibility and investor confidence in its ability monitoring of public finances.
- (ii) Long-Term Discipline: A constitutionally mandated council could enforce long-term fiscal discipline and prevent the "recurrence of past mismanagement that contributed to macroeconomic instability." Constitutional fiscal anchors can reduce borrowing costs and strengthen investor confidence, thereby protecting vulnerable citizens from the negative impacts of economic mismanagement, such as high inflation and the erosion of savings.

3.284 On their part, those who oppose establishing a fiscal council in the Constitution argue that the council's effectiveness ultimately depends on a genuine political commitment to respect its independence, rather than the specific legal framework that establishes it. There is also public scepticism that oversight bodies in Ghana remain vulnerable to political influence, regardless of their formal mandate, pointing to challenges faced by other supposedly independent institutions, such as the Bank of Ghana. Some also argue that constitutionalization could limit the flexibility needed to adapt fiscal policies to changing economic conditions or crises, although the current legal framework allows for suspending rules with parliamentary approval.

3.285 The Committee notes that a new Fiscal Council is to be established pursuant to the Public Financial Management (Amendment) Act, 2025. This legislation includes fiscal rules and sanctions for non-compliance. The Committee notes further that the first Fiscal Council, established in 2018, was established by the President in exercise of his executive authority. Establishing the new Fiscal Council by legislation is, therefore, a progressive development.

Recommendation

3.286 The Committee is of the view that the new Fiscal Council established by legislation be given time to work. Rather than establish the Fiscal Council and provide for its workings directly in the Constitution, we believe it is more appropriate to authorize or allow Parliament to establish one by legislation. While it is not unusual for countries to embed general fiscal rules or principles in the Constitution (e.g., Denmark, Brazil), a specific, dedicated Fiscal Council is typically established by statute.

Borrowing and Public Debt: Debt Anchor, Ceiling?

3.287 As with the Fiscal Council, there is strong expert advocacy for Ghana to enshrine a debt ceiling or debt anchor in law to maintain debt sustainability and curtail uncontrolled borrowing and spending, particularly during election cycles. A debt anchor provides a legally mandated limit or target for the debt-to-GDP ratio.

Recommendation

3.288 The Committee recommends that the Constitution be amended as follows:

1. Parliament shall enact legislation establishing a public debt management framework, including the adoption of one or more debt anchors or fiscal sustainability rules, for the purpose of ensuring prudent, transparent, and sustainable public borrowing, without prescribing any specific debt management tool in the Constitution.
2. The Minister responsible for Finance shall submit to Parliament, at such intervals and in such form as prescribed by law, comprehensive information relating to public debt, including:

(a) the terms, amounts, maturity profiles, and purposes of all loans and guarantees contracted or issued by the State; and

(b) any material variation, restructuring, or assumption of public debt obligations.

3. All contingent liabilities of the State shall be disclosed to Parliament, including fiscal risks arising from guarantees, indemnities, public-private partnerships, and the obligations, liabilities, or exposures of State-Owned Enterprises and State-controlled joint ventures. Such disclosure shall be made in a manner sufficient to enable Parliament to exercise informed oversight and to assess the fiscal risks and potential impacts of those liabilities on the public finances.

International Business Transactions

3.289 Article 181 of the Constitution provides for Parliamentary approval of loan agreements to which the Government is a party. An elaborate procedure is prescribed for the government to raise a loan on its own behalf or on behalf of a public agency. Reference can be made to Article 181 (3) and (4) of the Constitution and the Loans Act, 1970 (Act 335). Regarding the grant of a loan to the Government, the Constitution requires approval by a resolution of a majority of all members of Parliament.

3.290 Article 181 (5) stipulates that Article 181 “shall, with the necessary modifications by Parliament, apply to an international business or economic transaction to which the Government is a party as it applies to a loan.” Article 181 has its antecedents in the 1969 and 1979 Constitutions. However, both previous Constitutions dealt only with the granting or raising of a loan; the extension to “international business or economic transactions” was introduced in the 1992 Constitution.

3.291 Nana (Dr.) S.K.B. Asante, Chair of the Committee of Experts that first included the new constitutional requirement in its Proposals on the 1992 Constitution, has provided this rationale for the provision:

“The intention of the Committee of Experts...was to provide for Parliamentary scrutiny of additional, but entirely different, categories of important transactions, where the public interest would be served by subjecting the transactions to transparent scrutiny and rigorous evaluation. This constitutional intent was informed by Ghana’s own history of various transactions, which,

*inter alia, left a legacy of crippling indebtedness and also a litany of disastrous projects. It also drew on international experience in this regard.”*⁸³

*“The Committee took cognizance of the economic reality that international business transactions such as major construction contracts, power contracts, petroleum contracts and mining agreements, joint ventures and procurement contracts, which cannot be classified as “loan agreements” or “financial” transactions could be particularly disastrous for the political, economic and social welfare of the country, if they were not competently negotiated and handled transparently. There is no logical basis for submitting “loans” to parliamentary scrutiny, whilst exempting critical development contracts from such a process.”*⁸⁴

3.292 Although article 181(5) has generated substantial litigation and related case law before the Supreme Court,⁸⁵ Parliament has not enacted the expected legislation to introduce the modifications envisaged under Article 181(5) to address all aspects of the requirements of Parliamentary approval of international business transactions (IBTs), such as the definition of such transactions and the modalities for their approval on the lines of the Loans Act. Worse still, the Government (the Executive) has often failed to submit relevant transactions to which it is a party to Parliament for approval. Instead, having failed to comply with Article 181(5), the Government has turned round to invoke the absence of Parliamentary approval as a basis for challenging the validity of the transaction – a claim the Ghana Supreme Court has generally granted.

3.293 Nana Dr Asante has identified several structural defects in the current practice of international contracting in Ghana’s public sector. Under the current regime, he observes that “there are no laid-down procedures for negotiating international business transactions.”⁸⁶ Although officials in individual ministries, departments, or agencies may be competent negotiators, he notes that “there is no effective system for coordinating negotiations or for bringing an interdepartmental perspective to bear on them.”⁸⁷

⁸³ Critical and Biographical Essays of Nana Dr S K B Asante: From an African Village to the Global Village and Back (2022), Page 337, Para 3

⁸⁴ Critical and Biographical Essays of Nana Dr S K B Asante: From an African Village to the Global Village and Back (2022), Page 337, Para 4

⁸⁵ 1. Felix Klomega v Attorney-General and Others [2013] SC (Ghana), Writ No J1/10/2012 (19 July 2013).

2. Attorney-General v Faroe Atlantic Co Ltd

Attorney-General v Faroe Atlantic Co Ltd [2005–2006] SCGLR 271 (SC).

3. Amidu (No 1) v Attorney-General; Waterville Holdings (BVI) Ltd; Woyome

Amidu (No 1) v Attorney-General and Others [2013–2014] 1 SCGLR 152 (SC).

4. Attorney-General v Balkan Energy and Others

Attorney-General v Balkan Energy and Others [2012] 2 SCGLR 998 (SC).

⁸⁶ Nana Dr S K B Asante: Article 181 5 of the 1992 Constitution, n.d. (unpublished)

⁸⁷ Nana Dr S K B Asante: Article 181 5 of the 1992 Constitution, n.d. (unpublished)

He further highlights the absence of any interdepartmental review mechanism, stressing that “there is no interdepartmental mechanism for reviewing or scrutinising negotiated agreements prior to Cabinet approval and, ultimately, parliamentary approval.” While such a mechanism previously existed in the form of the Public Agreements Review Board, it was abolished after the coming into force of the 1992 Constitution on the mistaken view that article 181(5) rendered it redundant – an abolition he describes as “ill-advised,” since it deprived the Executive of “an essential institutional safeguard.” In his view, “the reinstatement of the Board would significantly improve the international contracting process.”

Finally, he argues that Parliament “lacks staff with the requisite technical expertise to review or scrutinise international business transactions prior to approval,” and that Members of Parliament “do not have the institutional capacity to undertake such analysis themselves.” Parliamentary debate, he concludes, “is an unsuitable forum for the detailed technical critique and amendment of such transactions,” with the result that the constitutional requirement of parliamentary approval is rendered “largely ineffectual.”

3.294 The Committee finds the current state of affairs in respect of Article 181(5) untenable. We are of the considered view that the remedy lies in framing Parliament’s obligation under Article 181(5) in more strict and affirmative terms.

Recommendation

3.295 The Committee recommends an amendment to Article 181(5) to provide as follows:

Parliament shall, within a stipulated time period after coming into force of this amendment, enact legislation which shall provide for the following:

- (a) a definition of the term “international business or economic transaction” or the classes of transactions which come within the scope of Article 181(5), relying on relevant case law of the Supreme Court of Ghana on the matter;⁸⁸ Parliament may also extend this legislation to regulate natural resource agreements which qualify as international business or international economic transactions within the meaning of Article 181(5).
- (b) spell out various steps to be taken towards the effective scrutiny and approval of such transactions by Parliament, including

⁸⁸ *AG v Faroe Atlantic Limited* [2005-2006] SCGLR 271

- i. Procedures for the negotiation of the transaction
- ii. Procedures for the clearance of the transaction by the Ministry of Finance, the Attorney-General and the Cabinet.
- iii. Procedures for the submission of the transaction to Parliament
- iv. Relevant considerations or criteria for the approval of the transaction by Parliament.
- v. Procedures for the scrutiny and approval of the transaction by Parliament
- vi. Procedures for the coming into operation of the transaction

The Committee endorses the additional proposal by Nana S.K.B. Asante that Parliament should establish an Inter-Ministerial Committee for the review of international business transactions that would be charged with reviewing all public agreements i.e., agreements negotiated by MDAs, statutory corporations and municipal authorities, prior to cabinet approval. Such a review would ensure beneficial transactions and also generate a comprehensive repository of all transactions affecting all aspects of the economy.

The Central Bank

3.296 The primary objective of the Bank of Ghana (BoG) as stated in the Bank of Ghana Act, 2002 (Act 612), as amended by Act 918 (2016), is to maintain stability in the general level of prices and support the general economic policy of the Government and promote economic growth and effective and efficient operation of banking and credit systems in the country, independent of instructions from the Government or any other authority.

Some have argued that the Central Bank's primary objective of price stability is in tension with its mandate to support the government's general economic policy, especially where the government prioritises short-term growth through expansionary fiscal measures or deficit financing. Indeed, monetary financing through the BoG overdrafts has been a significant cause of fiscal slippages in Ghana. The consistent lesson from Ghana's most recent IMF engagements (16th Programme – April 2015 to March 2019, and 17th Programme – May 2023 to August 2026) is that macroeconomic instability is driven by fiscal dominance when the Government's financing needs (especially in stress periods) begin to dictate central bank actions. In Ghana's institutional setting, where the BoG is the Government's banker, the Executive has often had strong practical influence over the policy environment despite the manifest "independent of instructions from the Government or any other authority" in the Bank's core mandate. Executive influence typically manifests as pressure for direct advances/overdrafts, primary-market support,

or other forms of monetary financing that often blur the boundary between fiscal and monetary policy.

3.297 The IMF's diagnosis under the 16th IMF-supported programme (2015 Extended Credit Facility)⁸⁹ and various other empirical studies explicitly link monetary financing of the budget to Ghana's 2013–2014 macroeconomic deterioration—high inflation, cedi depreciation, and weakened external buffers. The Fund recommended a deliberate strategy to “tie the hands” of fiscal policy by forcing a change to the rules that central bank financing was to be strictly capped (through an MoU with the Ministry of Finance limiting BoG budget financing to 5 per cent of the previous year's revenue in 2015) and then progressively eliminated. There were also other legal/institutional reforms to strengthen BoG autonomy.

3.298 Also, as the IMF noted⁹⁰ on May 17, 2023 in its report accompanying Ghana's latest (17th) programme, *“Large external shocks in recent years have exacerbated Ghana's pre-existing fiscal and debt vulnerabilities, resulting in a loss of international market access, increasingly constrained domestic financing, and reliance on monetary financing of the government.”* The Fund noted that “acute financing constraints translated into heavy reliance on monetary financing... [with] BoG overdraft reaching 7.2 percent of GDP in 2022 [about GHS 38 billion]”.⁹¹

The Committee is of the view that appropriate amendments to Articles 183 and 184 could emplace additional safeguards or constraints against monetary financing and, thereby, mitigate fiscal dominance.⁹²

Recommendation

⁸⁹ International Monetary Fund, Ghana: Request for a Three-Year Arrangement Under the Extended Credit Facility; Staff Report; Press Release; and Statement by the Executive Director for Ghana, IMF Country Report No 15/103 (IMF, Washington DC, March 2015), pp. 14,17
<https://www.imf.org/external/pubs/ft/scr/2015/cr15103.pdf> accessed 15 December 2025.

⁹⁰ International Monetary Fund, ‘IMF Executive Board Approves US\$3 Billion Extended Credit Facility Arrangement for Ghana’ (Press Release No 23/151, 17 May 2023)
<https://www.imf.org/en/news/articles/2023/05/17/pr23151-ghana-imf-executive-board-approves-extended-credit-facility-arrangement-for-ghana> accessed 15 December 2025.

⁹¹ International Monetary Fund, ‘IMF Executive Board Approves US\$3 Billion Extended Credit Facility Arrangement for Ghana’ (Press Release No 23/151, 17 May 2023)
<https://www.elibrary.imf.org/downloadpdf/view/journals/002/2023/168/002.2023.issue-168-en.pdf>, at para 8, p 6 accessed 17 December 2025

⁹² See Section 30 of the Bank of Ghana Act, 2002 (Act 612), as amended by the Bank of Ghana (Amendment) Act, 2016 (Act 918)

3.299 The Committee accordingly recommends amendments to Article 183 and 184 as follows:

a. The Bank of Ghana shall not carry out a directive to grant direct advances or credit to Government or a public entity, unless the directive (i) is in writing from the Minister responsible for finance, (ii) is authorised under an emergency clause contained in applicable law; and (iii) Parliament, upon being fully notified, votes to approve the request made in the directive by at least a 60% majority vote.

b. The Committee of Parliament responsible for finance shall monitor and be granted access upon request to the foreign exchange receipts and payments or transfers of the Bank of Ghana in and outside Ghana and shall report on them to Parliament once every quarter, as opposed to once every six months.

Government Statistician

3.300 The Committee is of the considered view that the operational independence of the national Statistical Service is critical to assure the integrity of government statistics. Currently, the head of the Statistical Service, the Government Statistician, does not enjoy secure tenure. Government Statisticians are routinely replaced and, thus, forced into retirement when a new government (President) is elected into office.

Recommendation

3.301 The Committee recommends an amendment to Article 185 to provide as follows:

The Government Statistician shall be redesignated as the State Statistician. The State Statistician shall be appointed by the President in accordance with the advice of the Council of State and hold office for a single, non-renewable term of 10 years or until attaining the age of 65 years, whichever is earlier.

Auditor-General

3.302 The Committee is of the view that the current tenure arrangements pertaining to the Auditor-General, including the retiring age of 60 years (subject to discretionary contract extension), do not give the Auditor-General sufficient security of tenure and independence.

Recommendation

3.303 The office of Auditor-General, being an independent constitutional office, the Committee recommends an amendment to Article 187 as follows:

1. The Auditor-General shall be appointed by the President acting in accordance with the advice of the Council of State. The person nominated by the Council of State for appointment as Auditor-General shall be a qualified professional accountant with the commensurate professional experience as an auditor as prescribed by the Public Services Commission.
2. The Auditor-General shall hold office for a single, non-renewable term of 10 years or until he or she attains the age of 65 years, whichever is earlier. The Auditor-General may not be removed from office except upon the grounds and in accordance with the processes specified under article 146 (as amended).

Public Wage Bill: The Independent Public Emoluments Commission

3.304 Ghana's public sector wage bill accounts for roughly one-quarter of government expenditure. The political difficulty of reducing or freezing public employment or making salary adjustments makes the public sector wage expenditure relatively inflexible, with significant implications for fiscal capacity. Moreover, compared to its peer countries, Ghana has a high wage bill in relation to government revenues, which also raises concerns about its sustainability. According to the World Bank, the available data show that Ghana's public sector is not oversized or bloated; the problem appears to lie more with wage design and various wage practices.

3.305 The Committee learned from its engagements and various submissions made to it that a growing practice of cross-service benchmarking of salaries, allowances, and

benefits, including retiring pay and benefits, has taken root across the public sector, including the security services, over the course of the Fourth Republic, with far-reaching fiscal implications. Notably, there has been an increase in the category of public employees who now retire on their salaries. This practice, which may have originated from the Constitution's automatic benchmarking of the emoluments and retirement benefits of all independent constitutional offices against those of the judiciary, is perverse and unsustainable.

Recommendation

3.306 The Committee's recommendations pertaining to independent constitutional offices, including EC, NCCE, CHRAJ, and the like, propose a delinking of the tenure and other conditions of service of independent constitutional office holders from those of the judiciary, leaving in place only the removal safeguards.

The Committee further recommends, in concurrence with CRC-1, that an Independent Public Emoluments Commission (IPEC) be established by an Act of Parliament and given a broad mandate to determine and rationalise pay and benefits across the public sector, including for so-called Article 71 officeholders. The practice of retiring on salaries must be phased out and replaced with an appropriate pension scheme.

D. National Development Planning

3.307 National development planning and the role of the National Development Planning Commission (NDPC) featured prominently in the Committee's consultations with citizens, experts, and key stakeholders. Discussions on this subject were guided by Article 87 of the 1992 Constitution, which establishes the NDPC as an entrenched constitutional body responsible for advising the President on development planning, policy, and strategy. The Committee also took account of relevant laws, including the National Development Planning Commission Act, 1994 (Act 479), the National Development Planning (Systems) Act, 1994 (Act 480), and the Local Governance Act, 2016 (Act 936), which together provide the statutory framework for development planning in Ghana.

3.308 The Committee notes, however, that discussions concerning national development planning cannot be divorced from the Directive Principles of State Policy (DPSP) of Chapter Six of the Constitution, which, in the Committee's view, provides the

appropriate constitutional starting point for development planning and the proper normative anchor for a national development plan. While debates on the DPSP have often been confined to questions of justiciability – namely, whether and how they may be enforced through the courts – this narrow legalistic focus overlooks the more profound and consequential question of how the DPSP can and should be enforced politically and institutionally through the actions of Parliament, the President, the Cabinet, political parties, and other bodies responsible for the formulation and implementation of national development policy.

3.309 Chapter Six of the 1992 Constitution makes clear that the DPSP is addressed not only to the Judiciary, but to all branches and organs of government. Their overall purpose is to guide the establishment of a just, free, and prosperous society. Although predating the United Nations Sustainable Development Goals (SDGs), the DPSP, in essence, represents Ghana’s own homegrown SDGs; they represent a constitutional blueprint for inclusive, equitable, and sustainable development. Hence, they are not mere declarations of principle, but constitutionally rooted developmental benchmarks that must shape public governance, policy formulation, and resource allocation.

3.310 It is therefore the Committee’s view that the DPSP should serve as the foundation and guiding framework for the formulation, implementation, and monitoring of Ghana’s national development planning system. Moving the DPSP from political obscurity and placing them at the centre of national political discourse and action is critical to redirecting Ghana’s politics toward long-term developmental objectives rather than short-term electoral considerations.

3.311 Under the Constitution, the NDPC is mandated to provide a comprehensive framework for national development and to ensure that government strategies, policies, and programmes promote sustainable improvements in the welfare of Ghanaians. In practice, however, the Commission’s role remains largely advisory and subordinate to the Office of the President. The NDPC lacks the institutional authority and independence required to ensure continuity, coherence, and long-term discipline in national development planning.

3.312 Stakeholders who engaged with the Committee consistently expressed concern that successive governments under the Fourth Republic have introduced development agendas largely reflective of ruling party manifestoes rather than a shared national vision. As a result, development planning has often been characterised by partisanship, fragmentation, and short-termism. When political power changes hands, existing plans

are frequently abandoned or replaced, interrupting progress and undermining policy continuity.

3.313 Many participants in the Committee's consultations identified this pattern as a principal reason Ghana has struggled to achieve sustained structural transformation and inclusive development. Experts, civil society organisations, and citizens across the regions strongly supported the view that meaningful national transformation requires a long-term, strategic, and binding National Development Plan (NDP) that transcends electoral cycles and binds successive governments. This position is consistent with the recommendation of the first Constitutional Review Commission (CRC I), which proposed a constitutional requirement for the preparation of a long-term, enforceable national development plan.

3.314 Concerns were also raised regarding the implementation of national development plans. Under the National Development Planning (Systems) Act, 1994 (Act 480), responsibility for implementation rests primarily with Ministries, Departments, and Agencies (MDAs) and Metropolitan, Municipal, and District Assemblies (MMDAs), which are expected to align their plans with national development objectives. However, many stakeholders expressed dissatisfaction with the NDPC's limited coordinating and monitoring role, its perceived proximity to the Executive, and its inadequate resources and institutional capacity.

3.315 The Committee notes that the absence of binding alignment mechanisms between national development plans, annual budgets, presidential reporting, and political party programmes has weakened accountability and rendered the DPSP largely aspirational in practice. Parliamentary debate alone has proven insufficient to ensure coherence between long-term national goals and short-term policy decisions.

3.316 The Committee further notes that Ghana's national development planning process must be more inclusive and participatory to engender greater cross-party buy-in. The Committee finds much to commend about the process of development planning in Mongolia, which has roles for Parliament as well as ruling and opposition parties.⁹³

⁹³ International Institute for Democracy and Electoral Assistance (International IDEA), State of Democracy Summary: Mongolia (International IDEA, Ulaanbaatar, 2006) <https://www.idea.int/sites/default/files/pictures/SOD-Mongolia-FINAL.pdf> accessed 17 December 2025. The Law of Mongolia on Development Policy, Planning and Its Management (revised and approved in May 2020) serves as the primary legal framework for Mongolia's strategic development. This legislation was introduced to provide continuity and consistency in national planning, preventing frequent policy changes between government administrations. The law establishes a hierarchy of development documents based on duration and scope:

Recommendations

3.317 In light of the foregoing, the Committee recommends that the Constitution be amended to strengthen the binding force, coherence, and operational enforcement of the DPSP and the operationalization of the NDP through the following measures:

- a. require Parliament to enact framework legislation governing national development planning. Pursuant to this framework, a long-term or medium-term national development plan—ideally spanning not more than twenty-five (25) years—with clearly defined objectives, targets, and milestones shall be prepared and periodically reviewed by the NDPC for the progressive realisation of the goals and objectives set out in the DPSP. Any such plan, or revision thereof, shall be laid before Parliament and shall not take effect unless approved in accordance with this Constitution.
- b. Article 87 shall be amended to affirm that the NDPC shall serve as the central coordinating, monitoring, and evaluation body for the National Development Plan, while responsibility for implementation shall remain with MDAs and MMDAs acting within their respective mandates.
- c. Articles 34(2) and 67 shall be strengthened to require the President to submit to Parliament an annual written report on progress made towards the achievement of the policy goals and objectives set out in the DPSP and the NDP. Such report shall demonstrate measurable progress, challenges encountered, and corrective measures adopted, whether or not incorporated into the State of the Nation Address.
- d. The Constitution shall require the Minister responsible for Finance to present an annual budget and related fiscal instruments that expressly indicate how proposed expenditures, revenues, and fiscal priorities advance the goals and objectives of the DPSP as reflected in the NDP approved by Parliament. The annual budgets and operational plans of all MDAs and MMDAs shall be drawn from, and aligned with, the National Development Plan.

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- a. Long-term (up to 30 years): Known as "Vision," currently embodied by Vision-2050, which sets the ultimate goals for national sovereignty, human development, and environmental balance;
 - b. Mid-term (5–10 years): Includes "Development Target Programs" (10 years) and "Five-Year Development Guidelines" (5 years), which align sector-specific and local goals with long-term vision; and
 - c. Short-term (Annual): The "Annual Development Plan of the State," which must be finalised with the state budget to ensure financial backing for planned projects. Article 5 of the law outlines several mandatory principles that apply to all development planning.

- e. Article 34(1) shall be given operational effect by requiring political parties and presidential candidates, not later than six (6) months before a general election, to prepare, publish, and submit to the NDPC a programme or manifesto setting out the legislative, administrative, and policy measures they propose to adopt in the progressive fulfilment of the DPSP as embodied in the NDP. Such programmes or manifestoes shall include indicative cost estimates and proposed sources of funding.
- f. To preserve political neutrality, the NDPC shall not express an opinion on the merits of any party's or candidate's programme or manifesto, but shall be required only to certify formal consistency with the NDP and the DPSP. Any certification or notification of inconsistency or deviation shall be factual and technical in nature and shall be made public to inform democratic debate, while leaving substantive policy choice and electoral judgment to the electorate.

Nature and Ownership of the National Development Plan

3.318 Stakeholders were also of the view that the NDP must be comprehensive, addressing both the “hard” and “soft” aspects of national progress. The plan should encompass key sectors, including the economy, natural resources, agriculture, infrastructure, the environment, information and communication technology, education, health, and youth development. In addition, it should make provision for the inclusion of marginalised groups, particularly persons with disabilities, the aged, and the poor. Many contributors emphasised the need for the plan to promote innovation, consumer protection, tourism, and cultural advancement, while also ensuring good governance, national orientation, and social cohesion. The Committee agrees with these perspectives and believes that a truly national development plan must reflect both the material and moral dimensions of development, with a focus on building a just, inclusive, and sustainable society.

3.319 In the process of developing the national development plan, many submissions emphasised the need for a participatory and decentralised approach. The Committee notes that the current law, particularly the Local Governance Act, 2016 (Act 936), already provides a sound legal basis for such participation. Under this Act, District Assemblies serve as planning authorities within their jurisdictions, preparing District Development Plans (DDPs) for submission through Regional Coordinating Councils to the NDPC. The law also requires public hearings on proposed plans, ensuring community participation and transparency. In principle, this framework allows for a bottom-up approach to

national development planning. However, the Committee found that public awareness of these processes is low, and participation remains limited in practice.

Recommendation

3.320 To ensure legitimacy and broad-based ownership of the national development plan, the Committee recommends that the plan should not become effective merely upon submission to the President. Instead, it should be approved by Parliament by two-thirds of all members before implementation. Parliamentary approval will strengthen accountability and ensure that the plan reflects the will of the people through their elected representatives. The Committee also recommends that the NDPC be required to widely publish the plan through print and electronic media and in public spaces across communities to increase citizen awareness and participation.

Amendment of the National Development Plan

3.321 Another key issue that arose during consultations concerned the amendment of the national development plan. Stakeholders were divided on how frequently and by whom the plan should be revised. While some called for strict limits to prevent frequent political interference, others emphasised the need for flexibility in a rapidly changing global environment. The Constitution currently provides no clear process for amending the national plan.

Recommendation

3.322 The Committee recommends that the Constitution be amended to provide that the National Development Plan may be amended only in accordance with the procedure prescribed below:

- a. An amendment to the NDP may be proposed by a Metropolitan, Municipal, or District Assembly (MMDA), a Ministry, Department, or Agency (MDA), or the NDPC, and every proposed amendment shall be submitted to the National Development Planning Commission for technical review before being submitted to Cabinet and laid before Parliament.
- b. No proposed amendment to the NDP shall be laid before Parliament unless it is accompanied by a written statement setting out the purpose of the amendment,

the deficiency or change in circumstance it seeks to address, and its implications for national development coherence.

- c. An amendment to the NDP shall not take effect unless it has been published for public notice and consultation and approved by Parliament by a resolution supported by not less than two-thirds of all the Members of Parliament.

Composition of the National Development Planning Commission

3.323 In relation to the composition and independence of the NDPC, the concerns expressed in the submissions received by the Committee related to the composition of the NDPC with the relevant technical expertise and wide and relevant representation. Under Article 86(2) of the Constitution, the Commission is made up of:

- a. a Chairman who is appointed by the President in consultation with the Council of State;
- b. the Minister responsible for finance and such other Ministers of State as the President may appoint;
- c. the Government Statistician;
- d. the Governor of the Bank of Ghana;
- e. one representative from each region of Ghana appointed by the Regional Coordinating Council of the Region; and
- f. such other persons as may be appointed by the President, having regard to their knowledge and experience of the relevant areas and roles pertaining to development, economic, social, environmental, and spatial planning.

The Constitution categorically provides that the NDPC shall be responsible to the President.⁹⁴ The National Development Planning Commission Act, 1994 (Act 479) adds a Vice-Chairman and a Director-General to the membership of the Commission.⁹⁵

3.324 The Committee finds that, considering that there are 16 Regions of Ghana, the presence of 16 members of the Commission who are not required to have expertise in development, economic, social, environmental, and spatial planning weakens or detracts from the technical nature of the Commission as one would have envisioned. Second, the Committee believes that the absence of chiefs and traditional authorities detracts from the valuable wealth of resources that a body such as the NDPC must have. Third, the entrenched prescription that the NDPC shall be responsible to the President lends the

⁹⁴ Constitution of the Republic of Ghana 1992, art 96(3).

⁹⁵ National Development Planning Commission Act 1994 (Act 479) s 3.

Commission a political colouration, which does not make the Commission's work attractive to non-party members or sympathisers. Fourth, the open-ended nature of the persons whom the President may appoint appears unbridled, and the same should be limited.

Recommendations

3.325 The Committee recommends that Article 87 of the Constitution be amended to provide that the membership of the NDPC shall include (but not limited to) –

- a. The Minister responsible for Finance and Economic Planning;
- b. The Governor of the Bank of Ghana;
- c. The Government (State) Statistician;
- d. The Head of the Land Use and Spatial Planning Authority;
- e. The Head of the Environmental Protection Authority;
- f. One academic or established professional with recognised expertise in economic planning;
- g. One person with recognised expertise in social planning;
- h. One representative nominated by the National House of Chiefs with demonstrable knowledge or experience in matters relating to development or economics;
- i. Two representatives of organised labour and civil society organisations, as prescribed by law;
- j. The Director-General of the Commission, who shall serve as Executive Secretary; and
- k. A professional engineer nominated by the Council of State through a competitive process administered by the Public Services Commission.

The Committee further recommends that appointments under paragraphs (f), (g), (h), and (i) of this part be made in a manner that prioritises and ensures professional competence, independence, and balanced representation, in accordance with criteria prescribed by law.



CONSTITUTION REVIEW COMMITTEE 2025



Chapter IV: Restoring Trust in the Institutions of Accountability

CRC25

Chapter IV: Restoring Trust in the Institutions of Accountability

Overview

4.1 Beginning with the 1969 Constitution, Ghana's Constitutions have cloaked the judiciary with independence and constitutional review and enforcement powers and created a host of so-called "fourth branch" institutions as part of a constitutional architecture of checks and balances. In Chapter II of this Report, the Committee reviewed three of these bodies established under the 1992 Constitution to play important roles in facilitating and protecting the expression of citizens' vote and voice in our representative democracy: the Electoral Commission (EC), National Media Commission(NMC), and National Commission for Civic Education(NCCE). This chapter focuses on another set of institutions: the Council of State, the Judiciary, and two offices with complementary roles in fighting corruption, specifically the Commission on Human Rights and Administrative Justice (CHRAJ) and the Attorney-General. The mandates of these organs make them especially pivotal in the constitutional scheme of accountability and the rule of law. Surveys show, however, that these state institutions enjoy generally low public trust. Doubts about the independence and effectiveness of these state organs point to structural weaknesses and gaps in their constitutional design. The Commission's proposed reforms relating to these institutions are, therefore, aimed at strengthening their independence, accountability, and effectiveness. In the anti-corruption area, this includes a proposal to transfer the anti-corruption mandate of CHRAJ to a proposed Anti-Corruption and Ethics Commission (AEC) with prosecutorial powers.

A. The Council of State

4.2 First introduced in the 1969 Constitution,⁹⁶ the Council of State draws inspiration from Ghana's traditional chieftaincy institution, where the monarch or chief typically governs with the advice of a council of elders comprised of the heads of the various lineages and influential groups within the community. The idea of a Council of State as part of Ghana's constitutional architecture was first formally proposed by a faction of the nationalist class in the lead-up to independence. In their *Proposals for a Federal Constitution for an Independent Gold Coast and Togoland*,⁹⁷ the coalition describing itself as the "Movement and Parties Other than the Convention People's Party", proposed a "Council of State" that was to "advise the Governor-General in the exercise of all the functions assigned to him in the Constitution." The proposed Council, which was to be chaired by the Governor-General, was to include among its membership the Prime Minister and the

⁹⁶ Constitution of the Republic of Ghana 1969, art 53.

⁹⁷ *Proposals for a Federal Constitution for an Independent Gold Coast and Togoland* (s.n., 1955).

Traditional Heads of the Regions. The proposal failed to win acceptance from the CPP Government and, therefore, did not make it into the 1957 Constitution. However, the idea was revived by the Akufo-Addo Commission and incorporated into the 1969 Constitution.

4.3 The character and composition of the Council of State have changed significantly between the 1969 Constitution and the present. Under the 1969 Constitution, the Council of State was established as “part of the Office of the President” to “aid and counsel the President” in the performance of certain of his functions.⁹⁸ Notably, the President under the Second Republic was neither an Executive President nor a party politician. Consistent with the Westminster-style parliamentary system, real executive or governing power under that constitution resided with the Prime Minister and his Cabinet. However, the President’s role was not all ceremonial. The 1969 Constitution entrusted certain appointments and other related decisions to the President, rather than to the Cabinet or the Prime Minister, mainly to safeguard the independence of the affected constitutional offices and functions. These included the appointment of the Chief Justice, the Auditor-General, the Electoral Commissioner, and the Ombudsman. The President was required to make all of those appointments “in consultation with the Council of State.”⁹⁹ The salaries of the Justices of the Superior Courts and other independent constitutional officeholders were also to be determined by the President “acting in consultation with the Council of State on the recommendations of a committee appointed on that behalf by the President acting in consultation with the Council of State.”¹⁰⁰ The President also exercised his prerogative of mercy “in consultation with the Council of State.”¹⁰¹ In short, the Council of State, as conceived under the 1969 Constitution, counselled the President in the exercise of those special functions entrusted to him in his capacity as a non-partisan Head of State.

4.4 The framers of the 1969 Constitution also envisioned the Council of State as a body for fostering “consensus”, “compromise”, and “moderation” amidst the everyday rivalry and conflict of partisan politics. This was reflected in the composition and membership of the Council. Apart from the President, who served as its Chairperson, the Council had three categories of members. The first group comprised *ex officio* members: the Prime Minister, the Speaker of the National Assembly, the Leader of the Opposition, and the President of the National House of Chiefs.¹⁰² The second category comprised not more than four persons appointed by the President from a restricted pool of former holders of

⁹⁸ Proposals for a Federal Constitution for an Independent Gold Coast and Togoland (s.n., 1955).

⁹⁹ Constitution of the Republic of Ghana 1969, art 48.

¹⁰⁰ Ibid, art 52.

¹⁰¹ Ibid, art 50.

¹⁰² Ibid, art 53, above n 1.

the office of President, Chief Justice or Speaker, while the third category comprised not more than eight persons, including not more than four chiefs and at least two women, appointed by the President at his discretion.¹⁰³

4.5 The 1979 Constitution replaced the parliamentary system of the 1969 Constitution with a Presidential form of government, doing away with the non-executive, non-partisan President in the process. However, the framers of the 1979 Constitution retained the Council of State but transformed both its mandate¹⁰⁴ and its composition.¹⁰⁵ Not only did it now have its own separate chapter in the Constitution, but the Council was also no longer attached to the President's office or chaired by the President; it elected its own chair from among its members. Moreover, the Council's mandate to "aid and counsel" the President in the performance of his functions now extended to include Parliament. Thus, under the 1979 Constitution, the Council of State had the power to consider and propose changes to a bill that had been published in the *Gazette* or passed by Parliament before receiving presidential assent, including a bill passed under a certificate of urgency.¹⁰⁶

4.6 In contrast to the 1969 Constitution, which required the President to make all appointments to independent offices "in consultation with" the Council of State, the 1979 Constitution required the President to make appointments to such independent offices, including the Auditor-General, Electoral Commissioners, members and chair of the Press Commission, "in accordance with the advice of" the Council of State. The President's appointments of Ambassadors and High Commissioners were, however, to be made only "in consultation with" the Council. The different formulations used with the various classes of appointments—"in accordance with the advice of" versus "in consultation with"—suggests that the framers of the 1979 Constitution, taking account of the switch from a non-Executive to an Executive President, intended to preserve a stronger role for the Council of State in appointments to independent offices than in appointments to executive branch or Hybrid-Executive offices.

4.7 The composition of the Council of State was expanded under the 1979 Constitution to include up to eight persons appointed by the President from "recognised professional bodies" and at least one member from each Region.¹⁰⁷ The pool of ex-officeholders from which the President could pick other members of the Council (up to five) was also expanded to include a former Chief of Defence Staff (CDS), IGP, Governor of the Bank of

¹⁰³ Constitution of the Republic of Ghana 1969, art 53, above n 1.

¹⁰⁴ Constitution of the Republic of Ghana 1979, art 107-108.

¹⁰⁵ *Ibid*, art 106.

¹⁰⁶ *Ibid*, art 107.

¹⁰⁷ *Ibid*, art 106, above n 10.

Ghana, Vice Chancellor, Cabinet Secretary, or Head of Civil Service. In all, this composition resulted in a potentially larger and more diverse Council than under the previous Constitution, although the number of the President's discretionary appointments also increased.

4.8 The relatively short lifespans of both the 1969 and 1979 Constitutions did not provide a reasonable enough opportunity or experience for a fair assessment of the workings and effectiveness of the Council of State under either Constitution.

4.9 The Council of State established under the 1992 Constitution is modelled mainly after its predecessor body in the 1979 Constitution, specifically concerning its mandate. Like its Third Republic predecessor, the Council of State's mandate extends beyond providing "counsel" to the President in the performance of his functions to considering and advising the President in respect of appointments required by the Constitution or other law to be made "in consultation with" or "in accordance with the advice of" the Council, and considering and proposing amendments to bills or other matters before Parliament.¹⁰⁸

4.10 The Council of State has a current membership of thirty-one (31), comprising eleven members appointed by the President at his discretion, sixteen regional representatives elected by regional electoral colleges, the President of the National House of Chiefs, and three persons, one each of whom must have previously held office as Chief Justice, IGP, and CDS.

4.11 The Council of State came up for sharp criticism both in the Committee's engagements and in several written submissions. The Council was criticised as adding no demonstrable value to the country's governance architecture. Its composition was seen as generally lacking in political detachment or independence from the President and ruling party. Many critics painted the Council as an extension of the ruling party. Recent incidents of disorderliness associated with the indirect elections for regional representatives to the Council have further marred the Council's image, with many participants expressing concern that the rancorous rivalry associated with our partisan elections had seeped into these regional elections, thereby tainting the Council.

4.12 Regarding the Council's mandate, public criticism centred mainly on the non-binding nature of the Council's advice, in particular in relation to the President's appointments to independent constitutional bodies. The Supreme Court's decision in

¹⁰⁸ Constitution of the Republic of Ghana 1992, art 90-91.

*Ghana Bar Association v. Attorney-General*¹⁰⁹ was seen as a regressive step in this regard. Critics questioned why taxpayers should be burdened with the cost of maintaining a coterie of advisors whose advice, however meritorious, the President was not obligated to accept. The general opacity surrounding the Council's activities also drew criticism from many participants. It was further argued that, as a President has no shortage of formal or informal sources from which to seek or obtain advice, including the Cabinet and various specialised advisory bodies and offices (e.g., National Security Council, the Attorney-General, or advisers at the Presidency), there was no need for a constitutional body of advisers. Many who argued along these lines called for the abolition of the Council of State.

4.13 The Committee also received suggestions to convert or expand the Council of State into a second chamber. This proposal, however, was generally short on detail. Amidst the diversity of opinion on the Council of State, a common theme emerged: general dissatisfaction with the Council's role or performance in the Fourth Republic. Even among those who felt the Council should be retained, none wanted it to stay in its current form, whether in terms of its function, structure or interface with the public.

[Abolish, Retain, Reform, Second Chamber?](#)

4.14 The Committee is of the considered view that abolition of the Council of State is ill-advised, as it will amount to little more than throwing the baby away with the bathwater. The Committee agrees with critics of the Council of State that, as currently purposed and designed, the Council indeed adds little demonstrable value to governance. The Committee believes, however, that, with appropriate reforms to its mandate (functions, powers) and composition, the Council of State can be transformed to play a meaningful and credible role in national governance. The Committee is of the view that the problem with the Council of State is not that there is no need for the functions or role assigned to it; rather, it is that the Council is not currently designed or appropriately empowered to make its role impactful or credible. The Committee notes that the original conception of the Council of State, as contained in the Report of the Akufo-Addo Commission, envisioned an essential role for the Council in safeguarding the independence of certain constitutional offices and organs. The Committee considers that in a polarised, structurally two-party political system such as Ghana's, a non-partisan Council of State could play an important "protective" role in the appointment and removal processes relating to independent constitutional officeholders, thereby helping to restore credibility to itself as well as the independent institutions. Such a body could also help mediate or

¹⁰⁹ *Ghana Bar Association and others v Attorney-General and others* [2016] GHASC 43 (20 July 2016).

facilitate the settlement of conflicts within the political system that may not lend themselves to judicial resolution.

4.15 The Committee is not persuaded that the solution to the problems associated with the Council of State is to replace, expand or convert it into a second chamber of Parliament. The reformed Council of State, the Committee envisions, will have the right to participate meaningfully in the work of Parliament by reviewing and proposing amendments to certain categories of bills for consideration by both Parliament and the President. The Committee is also of the considered view that balanced regional representation on the Council of State, together with representation for influential social, professional and economic groups, can accommodate and give voice to regional and other socio-economic interests without the additional cost of maintaining a second chamber. The Committee also considers that the unitary State of Ghana is not sufficiently differentiated into organic, regionally distinct constituent units to warrant a second chamber of the kind commonly associated with federal or highly devolved States. The Committee is concerned that a second chamber, if not carefully constructed, may simply reproduce at the “upper” level the partisan divisions characteristic of the popularly elected chamber of Parliament.

Recommendation

4.16 The Committee recommends that the Council of State should be maintained and substantially reformed by appropriate amendments to its mandate, composition, and transparency in Chapter Nine of the Constitution. The Committee is of the view that there is no need for a second chamber of Parliament. The mandate of the reformed Council of State will include reviewing and proposing amendments to certain bills.

Functions and Mandate

4.17 The Committee is of the considered view that the Council of State should be repurposed to play a key role in safeguarding the independence of constitutionally independent bodies and officers. The Committee notes that modes of appointment and removal tend to be mutually reinforcing; a weak appointment process, that is, one that is easily susceptible to partisan political control or manipulation, tends to tempt or invite strategic, politically motivated removal efforts. Safeguarding the independence of independent constitutional offices thus means, among other things, establishing a process that protects both appointments and removals from easy political manipulation.

4.18 The current mode of appointment to independent constitutional offices essentially vests a partisan Executive President with plenary power to single-handedly originate and finalise the appointments. This arrangement undermines the perceived independence of such officeholders and related offices. The Committee believes that the Supreme Court's ruling in *Ghana Bar Association* has blurred the crucial distinction between appointments that the President must make “in consultation with” a particular body and those the President must make “in accordance with the advice” of that body. This ruling significantly undermines the ability of the Council of State to protect the independence of certain offices through the appointment process. To truly reform and empower the Council of State to play a credible role in appointments to independent constitutional offices, it would be necessary to overturn *Ghana Bar Association*.

4.19 The Committee also notes that the current mode of removal of independent constitutional officeholders, which, again, involves a partisan Executive President in a discretionary role at various points along the process, similarly undermines the independence of such offices. The Committee thus proposes to repurpose the Council of State to replace the President in some of these removal-related roles, thereby restoring public confidence in the impartiality of the removal processes pertaining to independent officeholders. Importantly, the current role of the President as the first point of contact in the removal process, the one to whom a removal petition must be directed for further action, often fuels a perception of presidential or partisan complicity in the removal process. The Committee believes that a reformed Council of State is better placed to assume that responsibility and shepherd the remainder of the removal process.

4.20 Outside of the areas of appointment and removal, the Committee is of the view that a reformed Council of State can and should play a “second opinion” role in the legislative process. The Council of State can also continue to play the roles it currently plays in advising the President in the exercise of his power of pardon or the prerogative of mercy, as well as in making National Awards.

Recommendations

4.21 The Committee recommends appropriate amendments to Articles 70, 72(1), 90 and 91(1) to provide for the following functions for the Council of State:

1. Recruit, select and submit to the President a nomination or nominations, as the case may be, for appointment of qualified persons to vacancies in the following offices:
 - a. Chief Justice, subject to the approval of Parliament

- b. EC (Chair and Commissioners), subject to the approval of Parliament
- c. NCCE (Chair and Commissioners), subject to the approval of Parliament
- d. Auditor-General, subject to the approval of Parliament
- e. Controller and Accountant General, subject to the approval of Parliament
- f. State Statistician
- g. CHRAJ Chair and deputies, subject to the approval of Parliament
- h. Public Services Commission Chair and members, subject to approval of Parliament)
- i. Lands and Natural Resource Commissioners and Chair
- j. Anti-Corruption and Ethics Commissioners, subject to the approval of Parliament
- k. Members of the Independent Political Party and Campaigns Regulator, subject to the approval of Parliament
- l. Commissioners of the proposed Independent Emoluments Commission, subject to the approval of Parliament
- m. Members of the Devolution Commission, subject to the approval of Parliament.

The President shall act in accordance with the nomination or recommendation submitted by the Council of State in connection with the aforementioned offices. The Council of State shall constitute a committee of the Council consisting of not more than 10 members of the Council to handle the recruitment, vetting and selection of nominees for vacancies in the aforementioned constitutional offices. The Council of State shall perform its nomination-related functions with the assistance of the Public Services Commission.

2. Receive written petitions (with sworn affidavit under penalty of perjury) for the removal of an identified independent constitutional officeholder and determine if the petition on its face alleges facts and grounds sufficient to warrant further investigation and action and, if so, set up an independent tribunal to investigate and make appropriate findings and recommendation to the Council for onward transmission to the President for obligatory action.

3. In consultation with the Prisons Council, advise the President on the grant of pardons or the exercise of the prerogative of mercy.

4. Advise the President on conferment of National Awards and Honours.

5. Review and submit to Parliament an opinion or advice on proposed international agreements and natural resource contracts; Parliament shall be obligated to consider but not bound to accept the recommendation(s) of the Council of State before action on the proposed legislation or agreement.

6. Mediate or facilitate the mediation or settlement of conflicts referred to it by the President, the Speaker or the National House of Chiefs or initiate mediation to settle conflicts.

7. Offer non-binding advice to the President or Cabinet on any matters of State, with or without request.

Composition and Qualification of Members

4.22 The redefined mandate of the Council of State, as outlined in the immediately preceding paragraph, demands a Council of State whose composition and membership affirm the Council's independence from both the President and active party politics. Critics of the current composition of the Council of State point to the fact that the Chief in our traditional governance system does not get to choose his council of elders; the elders who constitute the council owe their membership of the council to statuses or offices they hold in traditional society independently of the chief. The Committee is of the view that members of the Council should comprise:

- a. a small number appointed by the President from a specified pool of candidates defined by their previous public offices.
- b. an even smaller number nominated by the Speaker of Parliament from among retired members of Parliament no longer active in partisan politics
- c. the President of the National House of Chiefs
- d. a past National Best Farmer still active in agriculture;
- e. members nominated by recognised trade, professional, industry, faith-based, academic, or civil society bodies; and
- f. a member each nominated to represent their respective Regions.

The composition of the Council should be such that the overwhelming majority of its members will consist of persons who do not owe their membership to discretionary appointment by the President. The Committee is of the view that, as chiefs are constitutionally barred from participating in active politics, it is fair and appropriate to provide a national forum of elevated stature where their voices could be sufficiently represented. The Council of State is ideally suited to provide that forum. The Committee

considers that a competitive elective process, with its tendency to degenerate into partisan conflict, as has happened recently, is not a suitable mode of selecting regional representatives to seats on a non-partisan Council of State. The Committee believes that regional electoral colleges based on Regional Houses of Chiefs, but enlarged to include Queen mothers and other women leaders, as the case may be, are well-suited to nominate persons (a chief, a queen mother or a woman leader, or a notable from the Region) to represent the Region on the Council.

Recommendations

4.23 The Committee recommends that an appropriate amendment be made to article 89(2) to reconstitute the Council with 33 members as follows:

1. Ex-Officeholders (5):
 - a. The President to appoint any three (3) persons who are able and willing to serve from among the following list: a former President or a former Vice-President; a former Speaker of Parliament; a former Chief Justice; a former Head of Civil Service; a former Chief of Defence Staff; a former Inspector-General of Police; in each case, other than the immediate past occupant of the office.
 - b. Plus, two (2) former members of Parliament nominated by Parliament/Speaker not belonging to the same party, at least one of whom shall be a woman; Term: single non-renewable term.
2. President of the National House of Chiefs (1) as an *ex officio* member.
3. A past National Best Farmer who is still active in agriculture (1)
4. Interest Group Nominees chosen through a democratic process specified in an Act of Parliament by recognised associations and groups representing the following (10):
 - a. Industry and Commerce (2, at least one woman);
 - b. Organised labour (2, private/public);
 - c. Faith-based Organisations (2);
 - d. Professional Associations (2, at least one woman);
 - e. Academia (1);
 - f. Civil society (1).

Term: May be re-nominated for a final, second term.

5. Regional representation (16):

A Chief or Queenmother or other notable citizen residing in the Region who is nominated by a Regional Nominating Body (RNB) comprising the Regional House of Chiefs plus an equal number of citizens of the Region, including Queenmothers or Women Leaders, with the composition to be prescribed in an Act of Parliament.

Term: May be re-nominated for a final, second term.

6. The Chairperson of the Council shall be elected by the Council from among its members.

7. The Council may invite persons as guests or engage persons as consultants to assist it with its work.

Transparency

4.24 The lack of transparency regarding the Council's activities, including in the performance of its nomination or other obligatory advice function, was among the main complaints levelled against the Council. The Committee notes that both the Council of State Act, 2020¹¹⁰, and the 1992 Constitution¹¹¹ require members of the Council to take an oath of secrecy at their first meeting. This legal requirement obligates them not to disclose any matters that come to their knowledge during their official duties, except as needed for those duties or as permitted by law. Holding meetings *in-camera* is, in fact, a general rule for the Council. It is argued that this encourages members to provide honest, robust, and apolitical advice without fear of public criticism or political repercussions.

4.25 The Committee observes that secrecy may be justified with regard to advice that the Council renders upon a request made confidentially by the President. The Committee is, however, of the view that secrecy is unwarranted where the President is required to "act in accordance with" the "advice" rendered by the Council, such as where the Council submits to the President a nomination that the President must carry through. The Committee reasons that, in those instances, transparency is necessary to ensure that each

¹¹⁰ Council of State Act 2020 (Act 1037), sch, s 4(3) (Ghana)

¹¹¹ Constitution of the Republic of Ghana 1992, art 89(4).

of the parties—the Council and the President—has indeed performed its legal duty. The Committee is also of the considered view that, while secrecy of the Council's internal deliberations is warranted to promote honest and frank discussions, similar secrecy is less justified where, as is now proposed, the Council must vet candidates for nomination to a constitutional or other public office. The Committee believes, in effect, that the proposed new mandate of the Council of State—to vet and nominate candidates for appointment by the President—can and should be performed transparently, as is done with vetting in Parliament.

4.26 The Committee also considers that the Council should report regularly on its range of activities.

Recommendation

4.27 The Committee recommends appropriate amendments to Chapter Nine to provide as follows:

The internal deliberations of the Council of State shall be held *in-camera*, but a record of Council decisions, including advice and recommendations made, shall be a matter of public record and shall be made public, except as to non-binding advice sought by or provided confidentially to the President. The Council shall submit an annual report to Parliament and shall publish same for public access.

Emoluments

Recommendation

4.28 The Committee notes that membership of the Council of State is not a full-time position. Members will be paid such allowances as may be determined by the proposed Independent Public Emoluments Commission.

Tenure

4.29 The Committee notes that, under the current arrangement, the term of the Council of State is coterminous with the term of the President and Parliament. This reinforces public perception that the Council is an appendage of the Presidency and ruling party.

The Committee believes that prolonging the term of the Council by at least a year past the term of the President and Parliament will help strengthen the Council's newly proposed independence. The Committee further observes that it often takes time for a new Council to be constituted once a new President has assumed office. This has usually led to delays in getting the new Government off the ground, particularly as certain appointments the President must make may require consultation with or the nomination from the Council of State. A Council of State that is still in place when a new President takes office would facilitate a smooth transition without undue delay.

Recommendation

4.30 The Committee recommends appropriate amendments to article 89(5) to provide as follows:

1. The tenure of members of the Council of State shall not be coterminous with that of the President. The term of the Council of State shall be one year longer than the term of office of the President. Members, other than those appointed by the President and those appointed by Parliament or the Speaker, shall be eligible to serve a maximum of two terms, which need not be consecutive.
2. The Committee recommends no change to clause (6) of Article 89. However, where a vacancy occurs in the membership of the Council, it shall be filled within 60 days of its occurrence.

B. The Judiciary

4.31 The Judiciary occupies a central position within Ghana's constitutional architecture as the primary guardian of constitutional supremacy, the rule of law, and the peaceful resolution of political and social conflict. Under the 1992 Constitution, the courts are entrusted with mediating relations between citizens and the State, policing the limits of public power, and giving authoritative meaning to disputed constitutional provisions. This role reflects both Ghana's historical experience of executive dominance and the deliberate post-transition choice to vest the Judiciary with strong formal independence as a stabilising counterweight within the constitutional system.

4.32 At the same time, the Judiciary is not a monolithic institution. It is a complex, multi-tiered system of courts, administrative structures, appointment and disciplinary mechanisms, and financial arrangements that together determine how judicial power is structured and exercised in practice. The effectiveness and legitimacy of the Judiciary therefore depend on both the formal guarantees of independence and the coherence of its internal design, the balance of authority within and across courts, and the credibility of the processes through which judges are appointed, administer justice, and held accountable.

4.33 While the 1992 Constitution succeeded in insulating judges from overt political interference, it also concentrated significant authority in a small number of institutional nodes, particularly at the apex of the judicial system. Over time, this concentration has generated structural pressures: an overburdened Supreme Court exercising an unusually expansive mix of jurisdictions; appointment and removal processes that remain heavily executive-facing; administrative arrangements that vest extensive operational control in the office of the Chief Justice; and a financial framework that, while formally protective, leaves room for executive mediation. These features have interacted to produce concerns about efficiency, predictability, perception of independence, and long-term institutional resilience.

4.34 Drawing on workload data, comparative constitutional practice, prior reform processes, and submissions received, the Committee examined how judicial authority is allocated, exercised, and constrained across the system. It considers the jurisdiction of the Supreme Court, the size and composition of the superior courts, the appointment, tenure, and removal of judges, the distribution of administrative powers, the position of the Judicial Secretary, and the financial autonomy of the Judiciary.

4.35 These issues, in the Committee's view, are interconnected elements of a single constitutional challenge: how to preserve a strong, independent Judiciary while ensuring that its internal structures promote efficiency, transparency, accountability, and public confidence. The proposed reforms aim to recalibrate the institutional balance, clarify mandates, and strengthen procedural safeguards, with the overarching goal of enhancing the Judiciary's legitimacy as a neutral, competent, and trusted arbiter within Ghana's constitutional democracy.

Jurisdiction of the Supreme Court: Existing Constitutional Framework

4.36 The Supreme Court exercises several distinct but interconnected forms of jurisdiction under the 1992 Constitution. The Constitution confers on the Court original, appellate, supervisory, review, reference, and national security jurisdiction.

4.37 With respect to its original jurisdiction, the Court has exclusive jurisdiction in all matters relating to the interpretation and enforcement of the Constitution under Article 130(1), reinforced by Article 2, which permits any person to invoke the Court's authority where a constitutional violation is alleged. In addition, the Court exercises reference jurisdiction under Article 130(2), where a constitutional question arises in proceedings before another court. In such cases, the lower court must stay proceedings and refer the constitutional question to the Supreme Court for determination. This mechanism operates as a specialised channel of the Court's original jurisdiction, ensuring that constitutional questions are resolved authoritatively and uniformly.

4.38 The Supreme Court also has appellate jurisdiction under Article 131, including appeals from final judgments and interlocutory decisions of the Court of Appeal. The Court's appellate jurisdiction also extends to appeals from the Judicial Committee of the National House of Chiefs, with leave of the Committee or the Court. The Court also has appellate jurisdiction to the exclusion of the Court of Appeal to determine matters relating to the conviction or otherwise of a person for high treason or treason by the High Court.

4.39 The Supreme Court also holds supervisory jurisdiction under Article 132 over all lower courts and adjudicating authorities. However, in practice, the Supreme Court primarily exercises this supervisory role over only the High Court and the Court of Appeal.¹¹² Unlike other courts, the Supreme Court also has a review jurisdiction under Article 133, which allows it, in specific and exceptional situations, to reconsider its own decisions to prevent any manifest injustice.

4.40 Finally, the Court is vested with a distinct and exclusive national security jurisdiction under Article 135, empowering it to determine whether disclosure of information or evidence would prejudice the security of the State, and to regulate disclosure accordingly.

¹¹² See *Yeboah v J H Mensah* [1998–99] SCGLR 492 (SC); *Republic v High Court*; *Ex parte IFDC* [2003–2004] SCGLR 348 (SC).

4.41 A central concern identified by the Committee relates to the institutional workload of the Supreme Court arising from the breadth of its constitutionally mandated jurisdiction and the structure of appellate access under the Constitution. While each head of jurisdiction serves a distinct constitutional purpose, their cumulative effect has been to place an extensive and demanding caseload on a single apex court.

4.42 The open availability of appeals to the Supreme Court significantly intensifies this burden. Under Article 131, appeals lie, either as of right or with leave, from decisions of the Court of Appeal, including interlocutory decisions, except in the limited category of parliamentary election petitions, which terminate at the Court of Appeal. As a result, the Supreme Court functions not only as a constitutional court and court of final appeal in exceptional cases, but also as a routine appellate forum across a wide range of civil, criminal, administrative, and constitutional matters.

4.43 The Committee notes that this appellate structure has structural consequences for judicial efficiency and constitutional adjudication. The absence of a leave or certification requirement means that the Supreme Court is required to entertain appeals that do not necessarily raise issues of constitutional importance, public significance, or jurisprudential consequence. This dilutes the Court's capacity to prioritise matters that implicate constitutional interpretation, institutional balance, or the evolution of the law, and risks converting the apex court into a routine forum for prolonged litigation.

4.44 The Committee's attention was drawn to a brief prepared by a former Chief Justice of Ghana, which presented detailed administrative data on the workload of the Supreme Court, drawn from Judicial Service records covering the 2018/2019 to 2022/2023 legal years, with some data extending into 2024. The brief showed that the Supreme Court received between approximately 500 and 700 new cases annually during the period under review. For example, in the 2021/2022 legal year,¹¹³ approximately 578 new matters were filed, while only 385 matters were concluded, resulting in 409 cases pending at the end of the year, compared to 216 at the beginning. A similar pattern persisted in the 2022/2023 legal year,¹¹⁴ when more than 500 new matters were filed but only 344 were disposed of, resulting in a further increase in the backlog to nearly 600 pending cases. The data further indicated a steady decline in the Court's overall rate of conclusion, from approximately

¹¹³ Ghana News Agency, 'Reasons for increase in Supreme Court judges compelling – CJ' (8 July 2024) <https://gna.org.gh/2024/07/reasons-for-increase-in-supreme-court-judges-compelling-cj/> accessed 15 September 2025.

¹¹⁴ Judicial Service of Ghana, Analysis of Civil Cases and Criminal Offences for 2022/2023 Legal Year (Judicial Service of Ghana 2024) https://judicial.gov.gh/jsfiles/CASES_AND_OFFENSES_REPORT_2022_2023.pdf accessed 14 September 2025.

75–77 per cent in earlier years to below 40 per cent, and in later aggregate summaries to around 30 per cent. When disaggregated by jurisdiction, civil appeals pending at the Supreme Court increased from about 51 cases at the start of the 2018/2019 legal year to approximately 178 cases by the end of the 2022/2023 legal year, with the rate of conclusion in civil appeals falling from about 58 per cent to below 30 per cent. Review cases showed a similar trend, with conclusion rates declining from over 80 per cent to approximately one-third over the same period.¹¹⁵

4.45 The Committee notes that the problem is further compounded by developments in the “lower” courts. Significant expansion in the number of District and Circuit Courts, the creation of new regions, and the expansion of the Court of Appeal have increased the volume of appeals and supervisory matters flowing upward. This means that without a corresponding increase in Supreme Court capacity, productivity or efficiency, systemic reforms aimed at ensuring broader access to justice below the apex court paradoxically intensify congestion at the top.

4.46 The cumulative workload pressure has further implications for timeliness, deliberative depth, and institutional focus. The Supreme Court’s role as the final arbiter of constitutional meaning requires sufficient time and institutional space for careful reasoning and coherence. Where the Court is inundated with routine appeals, interlocutory matters, and jurisdictional disputes, there is a risk that constitutional adjudication becomes compressed within an over-extended docket, with adverse consequences for legal certainty and public confidence.

4.47 The Committee also notes that comparative constitutional practice increasingly distinguishes between apex courts as courts of last resort and constitutional courts as guardians of constitutional order, often through filtering mechanisms such as leave requirements, certification thresholds, or jurisdictional differentiation. The Ghanaian model, by contrast, places the Supreme Court at the centre of nearly all ultimate adjudication, without sufficient procedural mechanisms to manage inflow or prioritise cases by type.

4.48 Taken together, these features create a systemic risk of institutional overload. An apex court burdened by excessive routine appeals may struggle to discharge its primary role as the steward and authoritative interpreter of the Constitution. The Committee

¹¹⁵ Judicial Service of Ghana, Analysis of Civil Cases and Criminal Offences for 2022/2023 Legal Year (Judicial Service of Ghana 2024) https://judicial.gov.gh/jsfiles/CASES_AND_OFFENSES_REPORT_2022_2023.pdf accessed 14 September 2025.

therefore considers that the existing appellate architecture, while grounded in an understandable commitment to access to justice, requires recalibration to preserve the Supreme Court's institutional capacity and constitutional focus.

4.49 The Committee notes that the CRC-1, after extensive public consultations and comparative analysis, directly confronted the concern that the automatic right of appeal to the Supreme Court in most matters had contributed to congestion, delay, and an over-extension of the Court's appellate role.¹¹⁶ The CRC-1 observed that while there is no uniform comparative model, many jurisdictions deliberately restrict access to their apex courts to preserve their capacity to develop constitutional doctrine and resolve questions of national importance. Although recognising Ghana's unitary constitutional tradition and the importance of access to justice, the CRC-1 concluded that the Supreme Court was handling too many appeals to function optimally, particularly interlocutory appeals that interrupt proceedings in the lower courts.¹¹⁷ It therefore recommended a constitutional amendment to exclude interlocutory appeals from automatic progression to the Supreme Court, requiring such appeals to terminate at the Court of Appeal, while preserving the Supreme Court's role in final judgments and matters involving substantial questions of law or public interest.¹¹⁸

4.50 For its part, the CRCC recommended a targeted constitutional amendment to Article 131 to address the burden placed on the Supreme Court by interlocutory appeals.¹¹⁹ Specifically, the CRCC proposed the insertion of a new clause, Article 131(2a), to provide that, notwithstanding the general appellate rights under Article 131(1) and (2), there shall be no right of appeal to the Supreme Court from a judgment, order or decision of the Court of Appeal on an interlocutory matter, except where the interlocutory issue raises a constitutional question.¹²⁰ This recommendation is intended to preserve the Supreme Court's role as the apex constitutional court, prevent procedural abuse and delay arising from interlocutory litigation, and enable the Court to focus its resources on matters of constitutional interpretation, enforcement and issues of broad public importance.

4.51 The Committee considers that there is a clear need to reduce routine appellate congestion at the Supreme Court, particularly in respect of interlocutory matters. The

¹¹⁶ Constitution Review Commission, *From a Political to a Developmental Constitution* 230-231

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ Constitution Review Consultative Committee, *Report of the Constitution Review Consultative Committee* (2024) 198.

¹²⁰ Constitution Review Consultative Committee, *Report of the Constitution Review Consultative Committee* (2024)

evidence before the Committee confirms that interlocutory appeals, often pursued as of right, significantly interrupt proceedings in lower courts, prolong litigation, and consume scarce judicial time at the apex level without necessarily raising issues of constitutional or public significance. Filtering such matters at the level of the Court of Appeal would protect the Supreme Court's docket for questions that genuinely require final constitutional resolution.

4.52 The Committee considers that reforms to the Supreme Court's jurisdiction should preserve the Court's exclusive authority over constitutional interpretation and enforcement. Any adjustment to appellate rights must therefore be carefully crafted to ensure that constitutional questions, whether arising directly or incidentally in interlocutory proceedings, continue to reach the Supreme Court where necessary. The Committee emphasises that constitutional supremacy requires an accessible pathway for resolving constitutional disputes, even as ordinary appellate traffic is rationalised.

4.53 The Committee also considers that administrative and institutional measures should complement constitutional reform. These include strengthening the Court of Appeal's capacity to serve as an actual terminal appellate court in non-constitutional interlocutory matters, enhancing case management systems, and ensuring adequate research, clerking, and technological support for the Supreme Court. Structural recalibration without institutional support would risk merely redistributing, rather than resolving, systemic delay.

Recommendations

4.54 The Committee recommends introducing comprehensive measures to streamline the appellate workload of the Supreme Court and to reposition it primarily as a court of constitutional interpretation and authoritative statement of law or legal principle, rather than a general court of error correction.

1. In particular, the Committee recommends amending Article 131 to provide that, subject to the Constitution, the Court of Appeal shall be the final appellate court in all civil and criminal matters. Accordingly, all appeals arising from decisions of the District Court and Circuit Court shall terminate at the Court of Appeal, and no right of appeal or application for leave to appeal shall lie to the Supreme Court in respect of such matters. This reform will reduce the volume of routine appeals reaching the Supreme Court and enhance the finality and efficiency of litigation.

2. The Committee further recommends that all appeals arising from interlocutory decisions or orders of any court shall terminate at the Court of Appeal and shall not be subject to appeal or review by the Supreme Court. Where, however, an interlocutory decision raises a question of constitutional interpretation or enforcement within the meaning of Article 130, the constitutional question may be referred to the Supreme Court in accordance with the Constitution.

3. With respect to matters originating from the High Court, the Committee recommends that appeals shall likewise terminate at the Court of Appeal. However, a party aggrieved by a decision of a three-member panel of the Court of Appeal in such matters may, in accordance with law, apply for a review of that decision by a full bench of the Court of Appeal, constituted by not fewer than five Justices of the Court of Appeal.

This review mechanism shall apply only to matters originating from the High Court and shall not be available in respect of appeals from the District Court or Circuit Court as of right. However, the Court of Appeal may grant leave to review a matter arising from the District Court or Circuit Court.

4. The Committee recommends the introduction of a limited and discretionary mechanism by which a party dissatisfied with a final decision of the Court of Appeal in a matter originating from the High Court may apply to the Supreme Court for leave to invite the Court to determine a question of law or constitutional interpretation arising from the decision of the Court of Appeal.

5. Under this mechanism, the Supreme Court shall not exercise appellate jurisdiction or rehear the appeal. Leave shall be granted only where the Supreme Court is satisfied that the proposed question(s):

- a. reveals inconsistent principles of law arising from decisions of different courts;
or
- b. raises a general principle of law arising for the first time; or
- c. requires resolution in the public interest to ensure certainty and coherence in the law.

6. Where leave is granted, the Supreme Court shall determine only the certified question. It may affirm the legal position adopted by the Court of Appeal, vacate the judgment in whole or in part, or remit the matter to the Court of Appeal for final disposition in accordance with the determination of the Supreme Court. Where the

matter is remitted to the Court of Appeal, the Court of Appeal shall conclude the matter and grant any consequential orders as may be necessary.

7. To ensure efficiency and effective case filtering, the Committee recommends that applications for leave under this mechanism be determined by a panel of three Justices of the Supreme Court, rather than the full bench.

Size of the Supreme Court and other Superior Courts

4.55 The 1992 Constitution establishes the Superior Courts of Judicature under Article 126 as comprising the Supreme Court, the Court of Appeal, and the High Court. The Constitution does not prescribe a fixed numerical size for any of the Superior Courts. Instead, it adopts a minimum-threshold approach, leaving the determination of overall size, arguably to legislation pursuant to Parliament's residual power under Article 298 or, as has become the accepted practice, to constitutional appointment processes and administrative planning. Under Article 128, the Supreme Court consists of the Chief Justice and at least nine other Justices, with no constitutional limit on the total number of Justices.

4.56 Similarly, Article 136 provides that the Court of Appeal shall consist of the Chief Justice and not less than ten Justices of the Court of Appeal. The Constitution again sets no maximum number, allowing the Court of Appeal to expand in response to appellate caseloads, regional distribution, and administrative needs.

4.57 Article 139 governs the composition of the High Court, providing that it shall consist of the Chief Justice and not less than twenty Justices of the High Court, together with such additional Justices as may be appointed. The High Court exercises original jurisdiction in civil and criminal matters, as well as supervisory jurisdiction over lower courts. It serves as the principal gateway through which cases enter the superior judicial system.

4.58 With respect to the Supreme Court, the Committee identified a distinct and sensitive constitutional risk arising from the absence of any upper limit on the number of Justices. The central concern is not numerical adequacy *per se*, but the potential for perceptions of executive manipulation of the apex court through appointments. In a constitutional system where the Executive has traditionally played a decisive role in judicial appointments, an uncapped Supreme Court creates the structural possibility, and public perception, that the composition of the Court may be altered to influence outcomes in

politically salient or constitutionally contentious matters. Even where no improper motive exists, the absence of a constitutional ceiling exposes the Court to suspicions of “court expansion” for strategic ends, particularly during periods of political contestation.

4.59 The Committee emphasises that these concerns must be understood within Ghana’s constitutional history and political culture. Ghana’s democratic order has been shaped by periods of executive dominance and institutional instability, and public confidence in constitutional adjudication remains acutely sensitive to signals of political influence. In such a context, perceptions matter as much as formal legality. An apex court whose size may be expanded at will risks undermining public trust in judicial independence, even if appointments are formally compliant with constitutional procedures. The Committee therefore considers it constitutionally prudent to design safeguards that pre-empt reasonable apprehensions of executive overreach, rather than relying solely on assurances of good faith.

4.60 At the same time, the Committee acknowledges the countervailing argument that workload pressures at the Supreme Court have prompted calls for an increase in the number of Justices. As previously noted, the Court currently exercises multiple heads of jurisdiction and has experienced sustained growth in its caseload. Proponents of expansion argue that increasing the number of Justices is necessary to improve efficiency, reduce backlog, and ensure timely delivery of justice at the apex level.

4.61 The Committee, however, is not persuaded that numerical expansion of the Supreme Court is the most appropriate or constitutionally sound response to workload pressures. It observed that a significant portion of the Court’s caseload arises not from its core constitutional role, but from the structure of appellate access, particularly the automatic right of appeal in a wide range of matters. Addressing workload by expanding the size of the Court without first recalibrating jurisdiction risks entrenching a model in which the Supreme Court functions as a routine appellate forum rather than as a constitutional court of last resort.

4.62 The Committee therefore considers, and has made recommendations to ensure that workload concerns are more effectively and sustainably addressed through jurisdictional reform, improved appellate filtering, and administrative strengthening, rather than through unlimited expansion of the Court’s membership. Once the Supreme Court’s docket is more clearly aligned with matters of constitutional interpretation, enforcement, and issues of exceptional public importance, the need for continual numerical expansion diminishes significantly.

4.63 The issues raised in relation to the size of the High Court and the Court of Appeal differ materially from those applicable to the Supreme Court. Unlike the apex court, these courts are not primarily exposed to concerns of constitutional manipulation through strategic expansion. Their core function is the routine administration of justice across a wide and growing range of civil, criminal, administrative, and very limited constitutional matters. The principal concern in relation to their size is therefore institutional capacity rather than institutional legitimacy.

4.64 In the case of the High Court, the Committee observed that numerical flexibility is essential to effective justice delivery. The High Court exercises original jurisdiction in the vast majority of serious civil and criminal matters, carrying a substantial supervisory and constitutional workload. Increasing the number of judges at this level allows for the creation and strengthening of specialised divisions, enables simultaneous hearing of matters across subject areas, and reduces systemic delay. A rigid constitutional cap would constrain the judiciary's ability to respond to population growth, increased litigation, and the expansion of the lower courts, thereby undermining access to justice and timely adjudication.

4.65 The Committee further notes that adequate numerical strength at the High Court level has downstream benefits for the entire judicial system. The Committee considered that when the High Court divisions are adequately staffed and resourced, cases are concluded more efficiently, interlocutory disputes are better managed, and the volume of fragmented appeals is reduced.

4.66 With respect to the Court of Appeal, the Committee's concerns were similarly oriented toward capacity, but with an additional constitutional dimension. The proposals advanced in this chapter envision an enhanced role for the Court of Appeal as the primary forum for appellate adjudication within the judicial system. Strengthening the Court of Appeal through flexible composition allows it to sit in multiple panels concurrently, develop more profound appellate expertise, and absorb a greater share of final appellate responsibility in non-constitutional and interlocutory matters.

4.67 This enhanced appellate role is integral to the broader recalibration of the Supreme Court's jurisdiction proposed elsewhere in this Report. By ensuring that the Court of Appeal has sufficient numerical strength and institutional capacity, appeals can be resolved authoritatively and efficiently at that level, without routine escalation to the apex court. This strengthens appellate coherence, shortens litigation timelines, and reinforces the Court of Appeal's constitutional standing as a robust and credible final arbiter in most disputes.

4.68 The Committee, therefore, considers that flexibility in the size of the High Court and the Court of Appeal is a necessary complement to the proposed streamlining of the Supreme Court. While constitutional restraint is warranted at the apex to protect legitimacy and independence, adaptability at the intermediate and trial levels better serves the objectives of access to justice, efficiency, and systemic balance. The differentiated approach reflects a functional understanding of judicial roles and responds directly to the distinct risks faced at each level of the superior courts. The Committee is of the view that, for all courts other than the Supreme Court, any cap must be set by an Act of Parliament, thereby allowing needed expansion to occur without recourse to a constitutional amendment.

Recommendation

4.69 In line with the Committee's earlier recommendation to streamline the appellate jurisdiction of the Supreme Court, thereby reducing its workload, the Committee proposes the following constitutional reforms:

1. Amend Article 128(1) to provide that the Supreme Court shall consist of the Chief Justice and not more than fourteen (14) Justices. The prescription of an upper limit will preserve appointment flexibility while safeguarding against excessive expansion of the Court.
2. There should be no numerical constitutional cap imposed on the Court of Appeal and the High Court, to allow for periodic adjustments in their composition in response to population growth, increased caseloads, and evolving demands of justice delivery. However, Parliament shall provide for a cap by legislation, with the cap adjustable by Parliament upon request and justification provided by the Chief Justice acting on the advice of the Judicial Council.

Qualification and Appointment of Chief Justice and other Justices of the Superior Courts

4.70 The appointment of the Chief Justice and other Justices of the Superior Courts of Judicature is governed by Chapter Eleven of the 1992 Constitution, principally Articles 144 and 128. These provisions establish the constitutional framework for judicial

appointments and define the respective roles of the President, the Judicial Council, the Council of State, and Parliament.

4.71 Under Article 144(1), the Chief Justice is appointed by the President acting in consultation with the Council of State and subject to the approval of Parliament. Upon appointment, the Chief Justice becomes the head of the Judiciary and presides over the Judicial Council, in addition to performing judicial functions as part of the Supreme Court.

4.72 Article 144(2) provides that Justices of the Supreme Court other than the Chief Justice are appointed by the President acting on the advice of the Judicial Council, in consultation with the Council of State and with the approval of Parliament.

4.73 Justices of the Court of Appeal and of the High Court and Chairmen of Regional Tribunals are under Article 144(3) appointed by the President acting on the advice of the Judicial Council.

4.74 The Judicial Council, established under Article 153, is mandated to advise the President on judicial appointments and related matters. Its advisory role is intended to support the selection of persons qualified to hold judicial office within the Superior Courts.

4.75 Parliament exercises an approval function in respect of all appointments to the Supreme Court. This approval is typically conducted through parliamentary vetting processes, after which Parliament votes to approve or reject the nominee.

4.76 The Constitution prescribes minimum professional qualifications for appointment to the Superior Courts. Under Article 128(4), a person qualifies for appointment as a Justice of the Supreme Court if that person has been a lawyer of not less than fifteen years' standing and meets a character or moral fitness test.

4.77 Comparable minimum experience requirements apply to appointment to the other Superior Courts. Under Article 136(3), a person qualifies for appointment as a Justice of the Court of Appeal if that person has been a lawyer of not less than twelve years' standing. Under Article 139(1), a person qualifies for appointment as a Justice of the High Court if that person has been a lawyer of not less than ten years' standing.

4.78 The Committee notes that a central concern raised before it was the prominence of the executive in the appointment and elevation of Justices of the Superior Courts, and the constitutional implications this carries for judicial independence. Although the Constitution establishes a multi-institutional process, the President's decisive role at key stages of nomination and appointment has generated persistent concerns about patronage, perceived indebtedness, and the possibility of executive influence over judicial careers. Even where no actual interference occurs, the appearance of executive dominance in appointments risks undermining public confidence in the judiciary as an independent arbiter, particularly in politically sensitive or constitutionally significant cases.

4.79 Closely related to this concern is the limited institutional weight accorded to the Judicial Council under the existing framework. While the Council is constitutionally recognised as the body responsible for judicial administration and discipline, its “advice” in judicial appointments is not binding on the President. This has led to the perception that the Council’s involvement is procedural and inconsequential. The Committee notes that this imbalance exacerbates concerns about executive patronage and limits the system’s capacity to insulate judicial appointments from political considerations.

4.80 The Committee also engaged with debates surrounding the adequacy of years at the bar as a proxy for judicial quality. While experience is undoubtedly relevant, submissions to the Committee questioned whether seniority or years since admission to the bar alone is a sufficient proxy for analytical depth, ethical judgment, constitutional literacy or judicial temperament. This concern is heightened by the relatively low level of systematic law reporting and accessible judicial performance data in Ghana, which constrains the ability to assess candidates based on the substance, consistency and influence of their legal reasoning. In this context, excessive reliance on years of practice risks privileging duration over demonstrated excellence.

4.81 Further concerns were raised about the narrowness of the candidate pool implicitly favoured by current appointment practices. The Committee observed that processes centred almost exclusively on the Judicial Council, which is predominantly composed of sitting judges, may unintentionally expose candidates to internal patronage pressures while also limiting the visibility of qualified candidates outside the conventional judicial career path. In particular, accomplished legal academics, practitioners in specialised fields, and Ghanaian lawyers practising in foreign jurisdictions are often insufficiently considered, despite the potential value they could bring to constitutional adjudication, comparative reasoning and jurisprudential development.

4.82 The absence of a transparent and open application process was also identified as a structural weakness. Without public advertisement, clear criteria and opportunities for eligible candidates to apply or be considered for each judicial vacancy, the recruitment and appointment system remains opaque and vulnerable to perceptions of exclusivity and informal influence. The Committee noted that openness in judicial appointments is not inconsistent with judicial dignity; rather, it enhances legitimacy, widens the pool of talent, and reinforces merit-based selection.

4.83 The Committee notes that under the 2010 Constitution of Kenya, primary responsibility for judicial appointments is vested in an independent Judicial Service Commission (JSC), a plural body comprising judges, representatives of the legal profession, a public representative and the Attorney-General.¹²¹ Vacancies in the Superior Courts are publicly advertised, and candidates apply through an open process. The JSC conducts transparent assessments, including public interviews, before nominating a single candidate for each position. The President's role is limited to the formal appointment of the JSC's nominee, without discretion to substitute or reject the choice.

4.84 The Kenyan Constitution prescribes minimum experience thresholds while avoiding an exclusive reliance on seniority at the Bar. Appointment to the Supreme Court requires at least fifteen years' experience as a judge, legal practitioner or distinguished academic; appointment to the Court of Appeal and the High Court requires at least ten years' professional experience. Notably, legal academia and relevant foreign practice are expressly recognised as qualifying pathways, reflecting a broader understanding of merit that goes beyond length of practice alone.¹²²

4.85 The Committee notes also that in South Africa, the Constitution deliberately restructures judicial appointments to minimise executive discretion and enhance transparency, diversity and public legitimacy. Under Section 174 of the 1996 Constitution, judicial appointments are driven by the Judicial Service Commission (JSC), a broadly representative body comprising judges, legal practitioners, academics, members of Parliament and presidential appointees. Vacancies are publicly advertised, candidates apply openly, and the JSC conducts rigorous public interviews before recommending nominees to the President. While the President formally appoints judges, that role is constitutionally constrained by the JSC's recommendations, particularly for the Constitutional Court and other Superior Courts.

¹²¹ Kenya Constitution 2010, art 166

¹²² Ibid, art 166.

4.86 Importantly, the South African framework rejects seniority at the Bar as the sole or dominant proxy for merit. Section 174 emphasises that appointees must be “appropriately qualified” and “fit and proper,” allowing professional excellence, intellectual contribution, judicial temperament, and integrity to be assessed holistically. Academic distinction and specialised legal expertise are expressly recognised, enabling the judiciary to benefit from a wider pool of talent. Ethical standing is considered foundational, and an adverse disciplinary history weighs heavily against appointment.

4.87 The Committee considers that reform of the qualification and appointment framework for Justices of the Superior Courts must be directed at managing three interrelated risks: executive overreach, perceived patronage, and a narrow conception of merit. While the 1992 Constitution seeks to balance independence and accountability, the current architecture places disproportionate weight on presidential discretion, with advice-rendering bodies whose recommendations are not binding. This creates both real and perceived vulnerabilities, particularly in a political culture where judicial appointments and elevations are often read through a partisan lens. What is required is a recalibration that preserves democratic legitimacy while visibly insulating judicial selection from political influence.

4.88 The Committee further considers that the appointment framework must consciously guard against intellectual closure within the judiciary. Law is not a static craft; it is a reformative and interpretive discipline that must respond to evolving social realities, constitutional demands and democratic expectations. Where appointment processes implicitly favour excessive judicial conservatism or institutional conformity, the system risks excluding reform-minded lawyers, critical scholars, and practitioners whose engagement with the law has been shaped by rights advocacy, public interest litigation, or principled critique of existing legal orthodoxies. If such voices are systematically filtered out, whether through informal bias, institutional caution or political discomfort, the judiciary is deprived of creative, rigorous and forward-looking legal reasoning essential to constitutional development.

4.89 The Committee therefore emphasises that safeguarding judicial independence does not require insulating the bench from intellectual diversity or reformist thought. On the contrary, a resilient constitutional judiciary must be capable of accommodating jurists who have demonstrated independence of mind, courage in legal reasoning, and a willingness to interrogate entrenched doctrine, provided they meet standards of competence, integrity and professional discipline. Appointment processes that fail to recognise this risk entrenching interpretive stagnation, narrowing constitutional

imagination and weakening the judiciary's capacity to act as a living guardian of the Constitution rather than a custodian of inherited restraint.

4.90 In this regard, the Committee is of the view that the Constitution should more clearly entrench merit, integrity and professional competence as the central determinants of judicial appointment, rather than relying predominantly on length of practice as a proxy for quality. Years at the Bar remain relevant, but they should not operate as a blunt threshold divorced from demonstrable legal reasoning, judicial temperament, intellectual contribution and ethical standing. This is especially important in a system where weak law reporting and limited access to judicial performance data mean that longevity can obscure meaningful assessment of judicial quality. A reformed framework must therefore explicitly require consideration of track record, integrity and competence, including the absence of disciplinary sanctions.

4.91 Further, the appointment process must be opened up and rendered more transparent. The Committee considers it necessary to move away from closed, discretionary processes towards a structured system in which vacancies are publicly announced, eligible candidates may apply or be nominated, and assessment criteria are clearly articulated. This would reduce opacity, widen the pool of potential candidates, and ensure that qualified persons in academia, specialised practice areas, and the Ghanaian legal diaspora are not structurally excluded. An open process also diminishes informal patronage pressures by subjecting selection to public and institutional scrutiny.

4.92 In addition, the role of the Judicial Council must be recalibrated to strengthen its evaluative function while reducing the risk of internal coercion. While judicial input into appointments is essential, excessive dominance by serving judges in the selection process can place undue pressure on judges seeking elevation and may subtly compromise decisional independence. The Committee considers that judicial participation should therefore be balanced with broader institutional perspectives, and that the Council's role should be clearly defined as evaluative and merit-based rather than discretionary or hierarchical. This balance is necessary to protect both individual judges and the collective integrity of the judiciary.

Recommendation

4.93 The Committee recommends a revised appointment framework incorporating processes such as advertisement of vacancies, defined merit benchmarks, Judicial Council scorecards, application to the Judicial Council, as well as public vetting.

Qualification and Appointment of the Chief Justice

Recommendation

4.94 The Committee recommends the following:

Qualification

The Committee recommends that to qualify for appointment as a Chief Justice, a person must be a citizen of Ghana. Additionally, the person must be either a serving Justice of the Supreme Court or a distinguished legal practitioner with proven expertise in law and at least fifteen (15) years of post-qualification experience at the Bar without any disciplinary sanctions.

Appointment procedure

The Committee recommends that, upon a vacancy in the office of Chief Justice:

- a. A public notice shall be issued by the Judicial Council inviting applications from eligible persons;
- b. The Judicial Council shall receive, review, and shortlist qualified applicants. The shortlist shall be submitted to the Council of State;
- c. The appropriately designated committee of the Council of State shall conduct in-camera interviews and, in consultation with the Judicial Council, recommend two candidates, ranked in order of merit;
- d. The President shall nominate one candidate from the shortlist and submit the nomination to Parliament;
- e. Parliament shall, by simple majority, approve the nominee after a transparent vetting process;
- f. The President shall formally appoint the nominee as Chief Justice upon approval;
- g. Upon a vacancy, a new Chief Justice must be appointed within 90 days.

If the nominee is rejected, the President may nominate again, within 10 days from the remaining names in the shortlist from the Council of State.

Qualification and Appointment of Other Justices of the Superior Courts

Recommendation

4.95 Qualification

The Committee recommends the following regarding the qualification of Justices of the Superior Courts:

Other Justices of the Supreme Court

For the other Justices of the Supreme Court, aside from the Chief Justice, the Committee recommends that qualification should be restricted to a practising lawyer or legal academic or a sitting Justice of the Court of Appeal, in each case, with at least 15 years of post-qualification experience at the Bar.

Justices of the Court of Appeal

The Committee recommends that to qualify for appointment to the Court of Appeal, the appointee must be a judge of the High Court or a practising lawyer or a legal academic, in each case, with at least 12 years of post-qualification experience.

Justices of the High Court

The Committee recommends that a person appointed to the High Court must be a judge of the Circuit Court, a practising lawyer or a legal academic, in each case, a lawyer with at least 10 years of post-qualification experience.

Appointment Process for Other Justices of the Superior Courts

The Committee recommends the following appointment process for Justices of the Superior Courts

Other Justices of the Supreme Court

The Committee recommends that when a vacancy arises, the Judicial Council will advertise for applications. The Judicial Council, in consultation with the Council of

State, considers all qualified candidates. The Judicial Council recommends two names for every vacancy to the President. The President nominates one candidate and submits the nomination to Parliament. Parliament approves the nominee by simple majority, after which the President makes the formal appointment

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Justices of the Court of Appeal and High Court

The Committee recommends that when a vacancy arises, the Judicial Council call for nominations and expressions of interest. In consultation with the Judicial Committee of the Council of State, the Judicial Council shall screen the applicants and submit its nominee(s) to the President. The President appoints the nominee(s), subject to parliamentary approval by a simple majority vote.

The Committee recommends that the Judicial Council identify and evaluate eligible candidates for the position. The Council recommends qualified candidates to the President. The President appoints based on the advice of the Judicial Council.

Control of the Administrative Powers of the Chief Justice

4.96 Under the 1992 Constitution, the Chief Justice occupies a uniquely central position within Ghana's judicial architecture. The office combines judicial leadership, administrative authority, and significant influence over the internal functioning of the courts. As head of the Judiciary, the Chief Justice is responsible for presiding over the Supreme Court and also for the general administration and supervision of all courts and judicial officers. This concentration of functions places the Chief Justice at the apex of both adjudicative and administrative control within the judicial system.

4.97 In institutional terms, the Chief Justice exercises wide-ranging administrative powers that affect case allocation, empanelment of Justices and Judges, deployment and transfer of judicial officers, and oversight of registries and court administration. These powers are exercised across multiple levels of the court system, including the Supreme Court, the Court of Appeal, and the High Court. In addition, by constitutional design, the Chief Justice is formally a member of the Supreme Court, the Court of Appeal, and the High Court, reinforcing the office's presence across the entire judicial hierarchy.

4.98 The administrative authority of the Chief Justice is further amplified by the absence of clearly defined, legally binding limits on the manner in which these powers are exercised. While many administrative functions are operationally supported by registrars and subject to general institutional norms, the Constitution itself does not prescribe

detailed rules governing empanelment, internal court management, or the distribution of judicial work. As a result, significant aspects of judicial administration remain dependent on the discretion and personal authority of the Chief Justice. In fact, the conventional view within the judiciary is that the administrative discretion of the Chief Justice, including in the controversial area of empanelment, is “absolute”.

4.99 This concentration of administrative power in the hands of a Chief Justice has critical systemic implications. The empanelment of courts, including even at the appellate level, plays a crucial role in shaping the trajectory of cases, the development of jurisprudence, and public confidence in the neutrality of adjudication. Where transparent, pre-established rules do not govern empanelment and case allocation, there is an inherent risk that administrative decisions may be perceived as outcome-influencing, even in the absence of actual impropriety. In constitutional and politically sensitive cases, such perceptions can be especially acute.

4.100 The Committee notes that the late English legal scholar Patrick Atiyah, described as “disturbing” a similar power once held by the Lord Chancellor “of allocating appeal cases to differing panels in the Court of Appeals, or even in the House of Lords.” As Atiyah observed, “*The power to choose, in effect, which judges will hear which cases is plainly one which can be misused, because it will often be knowledge that a certain judge has at least a prima facie view of the point of law to be decided on appeal.*”¹²³ The Committee associates itself with the concern expressed by the distinguished common law jurist.

4.101 The Chief Justice’s simultaneous membership of multiple superior courts also raises structural questions about hierarchy and institutional autonomy. Judges of the Court of Appeal and the High Court are formally subordinate to the Supreme Court in the judicial hierarchy, yet the presence of the Chief Justice as a member of those courts blurs institutional boundaries. This arrangement can create uncertainty regarding the decisional independence of judges at lower levels in relation to administrative oversight, promotion prospects, and future elevation, particularly when the same authority exercises influence across both adjudicative and administrative domains.

4.102 At the operational level, the current model places heavy demands on a single office. The Chief Justice is expected to perform adjudicative functions at the Supreme Court, oversee nationwide judicial administration, chair or influence key judicial governance bodies, and respond to institutional, political, and public pressures. The scale and diversity of these responsibilities raise questions about sustainability, efficiency, and

¹²³ P.S. Atiyah, *Law and Modern Society* (Oxford, 2d ed., 1995)

the optimal allocation of administrative authority within a modern, multi-tiered judiciary.

4.103 The Committee notes that these features of the existing constitutional design reflect structural characteristics that generate institutional risk. The issue is not whether administrative powers have been exercised improperly by any particular person, but whether the concentration of authority can and has created vulnerabilities relating to perception, accountability, predictability, and institutional balance.

4.104 Against this background, the Committee treated the control and distribution of administrative powers within the Judiciary as a question of constitutional design relating to how to preserve effective judicial leadership while ensuring that the adjudicative independence of peer or subordinate judges, institutional autonomy at each court level, and transparency in judicial administration are structurally safeguarded.

4.105 The Committee considers that the current constitutional arrangement governing the administrative powers of the Chief Justice requires recalibration to address the structural risks identified. The objective is to preserve strong judicial leadership while reducing the concentration of administrative authority in a single office and the risk that poses to judicial independence and accountability and to public confidence in the judiciary.

4.106 The Committee takes the view that there is a need to clarify and rationalise the relationship between adjudicative authority and administrative control within the Judiciary. Where the same office simultaneously exercises decisive influence over case assignment, court composition, and judicial administration across multiple levels of the court system, institutional boundaries become blurred. Constitutional design should ensure that judges at each level of the hierarchy can discharge their functions without real or perceived dependence on a central administrative authority whose influence can potentially extend into adjudicative outcomes.

4.107 In addition, administrative functions should be structured in a manner that distributes responsibility across clearly defined institutional offices rather than vesting them predominantly in the Chief Justice. Decentralised administrative leadership within the superior courts would allow for more context-sensitive management of caseloads, staffing, and scheduling, while reducing the systemic burden placed on a single office. Such an approach also enhances accountability by aligning administrative responsibility with institutional proximity and operational knowledge.

4.108 Further, the process of empanelment and case allocation must be placed on an objective and transparent footing. Predictable rules governing these functions are essential to safeguarding both the reality and perception of judicial independence. Administrative discretion, even when exercised in good faith, should be constrained by pre-established criteria approved through collective judicial governance structures rather than personal authority.

4.109 Finally, the internal organisation of the Supreme Court itself requires greater structural clarity. Differentiating between the Court's original constitutional role and its appellate functions would enable more efficient use of judicial time and expertise, reduce administrative bottlenecks, and enhance institutional coherence. Such internal structuring also supports transparency and consistency in the Court's work, while preserving the Chief Justice's leadership role within a more rule-based administrative framework.

Recommendation

4.110 The Committee recommends the following checks on the powers of the Chief Justice:

1. Amendment of the Composition of the Superior Courts

The Constitution should be amended to remove the Chief Justice as a member of the Court of Appeal and the High Court. The Chief Justice should remain a member of, and preside over, the Supreme Court only. This amendment will preserve the hierarchical integrity of the courts and ensure that judges at each level exercise their functions free from real or perceived interference.

2. Creation of Divisions within the Supreme Court

The Committee recommends the establishment of two permanent divisions of the Supreme Court:

- a. The Original Jurisdiction Division, which shall hear all matters invoking the Court's original jurisdiction under the Constitution; and
- b. The Appellate Jurisdiction Division, which shall hear appeals from the Court of Appeal and other matters within the Court's appellate jurisdiction.
- c. The Chief Justice shall be a member of both divisions and may preside over either division as necessary. To enhance transparency and predictability, the Chief Justice shall, at the beginning of each legal year, publish a list of Justices assigned to each division. This list, which shall be prepared by the Chief Justice

acting in consultation with other Justices of the Supreme Court, shall remain in effect throughout the legal year and may only be altered with the approval of the Judicial Council in exceptional circumstances.

3. Decentralisation of Judicial Administration

To reduce the over-concentration of administrative powers in the office of the Chief Justice, the Committee recommends that each of the Superior Courts, other than the Supreme Court, should have its own administrative head as follows:

a. Court of Appeal

There shall be a President of the Court of Appeal, who shall be the most senior Justice of the Court of Appeal. The President, together with the next two most senior Justices of the Court and the Registrar, shall be responsible for empanelling Justices and the general administration of the Court.

b. High Court

There shall be a Supervising High Court Judge in each region, appointed by the Judicial Council. The Supervising Judge shall oversee the administration and operations of the High Courts within the region, ensure the equitable distribution of cases, supervise judges and magistrates, and maintain standards of judicial efficiency and discipline.

c. For all courts:

The empanelment of Justices and judges shall be carried out in accordance with objective, pre-established rules approved by the Judicial Council and administered by the Registrar of the Court, and shall not be subject to the discretion of any individual judge or person.

Tenure of Chief Justice and Justices of the Supreme Court

4.111 The tenure of the Chief Justice and other Justices of the Superior Courts is governed primarily by Article 145 of the 1992 Constitution. These provisions establish the duration of judicial office and the conditions under which a Justice may retire, remain in office, or have tenure extended.

4.112 Under Article 145, a Justice of the Superior Court may retire voluntarily at any time after attaining the age of sixty years and shall vacate his office, in the case of the Chief Justice and all other Justices of the Supreme Court and the Court of Appeal on attaining the age of seventy (70) years. In respect of a Justice of the High Court, the Constitution requires that they retire compulsorily on attaining the age of sixty-five years.

4.113 The Committee's attention was drawn to concerns with the absence of a fixed constitutional tenure for the office of the Chief Justice. Under the current framework, the tenure of a Chief Justice is determined solely by age-based retirement, without any limitation on length of service in office. This creates the possibility of prolonged incumbency, particularly where a Chief Justice is appointed relatively younger, with consequential implications for institutional concentration of authority, influence over judicial administration, and long-term control over key governance levers within the Judiciary.

4.114 A central concern raised during engagements was the risk that indefinite tenure of the Chief Justice may heighten perceptions of excessive power accumulation within a single office. The Chief Justice exercises extensive administrative, supervisory, and representational authority over the Judiciary, including influence over empanelment, assignments, promotions, discipline, and judicial policy. Where such authority is exercised over an extended period, especially without fixed temporal limits, it risks entrenching institutional hierarchies, inhibiting internal renewal, and creating dependency dynamics within the judicial system.

4.115 The Committee further notes that the absence of a defined tenure creates vulnerabilities to political calculation at both the point of appointment and towards the end of a Chief Justice's service. Where tenure is open-ended but tied to retirement age, incentives may arise for strategic timing of appointments, perceived expectations of loyalty, or informal pressure relating to post-tenure considerations.

4.116 In contrast, the Committee observed that the tenure of other Justices of the Superior Courts does not raise the same concentration-of-power concerns. Their authority is exercised collectively, constrained by panel decision-making, and does not carry the same administrative centrality as the office of the Chief Justice. As such, the security of tenure of these Justices, until they attain the constitutionally prescribed retirement age, remains essential to their judicial independence and decisional autonomy, and any attempt to impose term limits on them would risk weakening that independence.

4.117 The Committee also considered concerns about continuity and institutional memory. While a fixed tenure for the Chief Justice could raise concerns about the loss of experience, the Committee found that this risk is mitigated by allowing a former Chief Justice whose tenure ends before retirement age to continue serving as a Justice of the Supreme Court. This preserves judicial expertise while separating adjudicative continuity from prolonged administrative dominance.

Recommendation

4.118 The Committee recommends the following tenure for Justices of the Superior Courts:

Chief Justice

The Committee recommends that the Chief Justice should hold the position for a single, non-renewable term of 10 years or upon attaining the age of 70, whichever is earlier. The Chief Justice retires with full entitlements of the office. A Chief Justice whose tenure ends before attaining 70 years could elect to continue sitting as a Justice of the Supreme Court.

Other Justices of the Superior Courts

The committee recommends that all Justices of the Superior Courts should hold their tenure until retirement, death or resignation, whichever comes first. For Justices of the Supreme Court and Court of Appeal, the mandatory retirement age should remain 70 years. For High Court Justices, the mandatory retirement age should remain 65 years.

Process for Removal of the Chief Justice and Justices of the Superior Courts

4.119 The removal of the Chief Justice and other Justices of the Superior Courts is governed by Article 146 of the 1992 Constitution. Article 146 establishes both the exclusive grounds upon which a Justice may be removed from office and the mandatory procedure that must be followed.

4.120 Under Article 146(1), a Justice of the Superior Court shall not be removed from office except for stated misbehaviour, incompetence, or inability to perform the functions of office arising from infirmity of body or mind. Article 146(2) further provides that removal may only occur in accordance with the procedure specified in the article, thereby excluding any alternative process.

4.121 Where a petition is presented for the removal of a Justice of a Superior Court other than the Chief Justice, Article 146(3) requires the President to refer the petition to the Chief Justice. The Chief Justice is mandated to determine whether a prima facie case has been established.

4.122 If the Chief Justice determines that a prima facie case exists, Article 146(4) requires the Chief Justice to establish a committee to investigate the petition. The committee shall consist of three persons who are Justices of the Superior Courts, appointed by the Judicial Council, and two other persons who are not members of the Council of State, not members of Parliament, and not lawyers, appointed by the Chief Justice acting on the advice of the Council of State.

4.123 Under Article 146(5), the committee so constituted is required to investigate the complaint and make recommendations to the Chief Justice, who shall forward the recommendations to the President.

4.124 Where the petition concerns the removal of the Chief Justice, Article 146(6) provides a distinct procedure. In such cases, the President, acting in consultation with the Council of State, appoints a committee consisting of two Justices of the Supreme Court, one of whom shall be appointed chairman by the President, and three other persons who are not members of the Council of State, not members of Parliament, and not lawyers.

4.125 Under Article 146(7), the Committee appointed to inquire into a petition against the Chief Justice is required to investigate the matter and recommend to the President whether the Chief Justice ought to be removed from office.

4.126 Article 146(8) provides that all proceedings under the article shall be held in camera. The Justice or Chairman against whom the petition is made is entitled to be heard in his defence, either personally or through a lawyer or other expert of his choice.

4.127 Under Article 146(9), the President is required, in each case, to act in accordance with the recommendations of the committee.

4.128 Pending the conclusion of the proceedings, Article 146(10) empowers the President to suspend the Justice concerned. In the case of the Chief Justice, suspension shall be effected by the President acting on the advice of the Council of State. In the case of any other Justice of a Superior Court, suspension shall be effected by the President acting on the advice of the Judicial Council. Article 146(11) provides that the President may, at any time, revoke a suspension effected under the article.

4.129 Submissions received by the Committee, presentations made during stakeholder engagements, and prior constitutional review processes highlighted several concerns regarding the operation of Article 146 of the Constitution governing the removal of the Chief Justice and other Justices of the Superior Courts. These concerns have also been a

prominent feature of public debate, particularly during periods when removal proceedings have been initiated or contemplated.

4.130 A recurring concern raised in submissions relates to the extent of executive involvement at multiple stages of the removal process. Although the Constitution requires the President to act in accordance with the recommendations of the committee established under Article 146, the President remains the initial recipient of petitions, plays a role in the constitution of investigative committees, and exercises the power of suspension pending the outcome of proceedings. Stakeholders noted that the cumulative effect of these functions, even where exercised strictly within constitutional bounds, creates a perception that the removal process is executive-facing rather than institutionally insulated. This concern was also reflected in earlier discussions during the CRC-1 process, which identified the need to minimise the appearance of political influence in judicial discipline mechanisms.

4.131 Submissions also drew attention to the power of suspension before a determination on the merits of a petition. It was noted that suspension, particularly in high-profile cases, may have immediate reputational and institutional consequences for the affected Justice. Contributors expressed concern that, in practice, suspension can be perceived by the public as a punitive measure rather than a procedural safeguard, especially where proceedings are prolonged or where the petition ultimately does not result in removal. This issue has featured in public commentary and has been cited as having potential implications for judicial independence and morale within the judiciary.

4.132 Another issue raised during engagements concerns the role of the Chief Justice in proceedings involving other Justices of the Superior Courts. Under Article 146, the Chief Justice is required to determine whether a *prima facie* case exists and to play a central role in constituting the investigative committee. Submissions noted that this dual role may place the Chief Justice in a position of institutional tension, particularly where the Justice concerned is a colleague within the same court or subject to the administrative authority of the Chief Justice. It was observed that this arrangement can give rise to perceptions of hierarchical pressure within the judiciary, even in the absence of actual impropriety.

4.133 The in-camera nature of proceedings under Article 146 was also identified as an area of concern. While many submissions acknowledged the importance of protecting judicial dignity and preventing undue politicisation, others argued that the absence of structured public disclosure contributes to opacity and fuels speculation. Stakeholders noted that limited public explanation of outcomes, combined with the confidentiality of

proceedings, makes it difficult for the public to assess whether the process has been fair, proportionate, and free from extraneous influence. Similar concerns regarding transparency were raised during the CRC-1 consultations.¹²⁴

4.134 Concerns were further expressed about the composition and appointment of investigative committees. While the inclusion of non-lawyers was generally welcomed as a means of broadening perspectives, submissions questioned whether the current appointment structure sufficiently assures independence from both executive influence and intra-judicial dynamics. It was suggested that the existing framework does not clearly articulate objective criteria or safeguards to reinforce public confidence in the impartiality of such committees.

4.135 The Committee notes that the CRC-1, after reviewing submissions and comparative practice, concluded that the existing constitutional grounds for removal of Justices of the Superior Courts under Article 146 did not, in themselves, compromise judicial independence. However, it identified procedural vulnerabilities in the removal process, particularly at the stage of determining whether a petition discloses a *prima facie* case. In respect of the removal of Justices of the Supreme Court other than the Chief Justice, the CRC-1 recommended a constitutional amendment to require that the Chief Justice, when determining whether a petition discloses a *prima facie* case, should do so in consultation with the Council of State, rather than exercising that discretion alone.¹²⁵

4.136 In relation to the removal of the Chief Justice, the CRC-1 recommended that the Constitution be amended to expressly require the establishment of a *prima facie* case by the President acting in consultation with the Council of State before the commencement of removal proceedings, thereby codifying the requirement recognised in judicial precedent and ensuring procedural symmetry across removal processes.¹²⁶ The CRC-1 further recommended that detailed rules governing the practice and procedure of removal committees under Article 146 be prescribed by law to enhance clarity, predictability, and institutional confidence in the process.¹²⁷

4.137 The Committee considers that there is a need to fine-tune the constitutional framework governing the removal of Justices of the Superior Courts to strengthen judicial independence, enhance procedural legitimacy, and reduce the risk and perception of politicisation while preserving accountability. In a context of heightened political

¹²⁴ Constitution Review Commission, *From a Political to a Developmental Constitution* 244

¹²⁵ Constitution Review Commission, *From a Political to a Developmental Constitution* 246.

¹²⁶ *Ibid* 254

¹²⁷ *Ibid*.

contestation and public scrutiny of judicial processes, the current structure has proven insufficient to command sustained public confidence.

4.138 In this regard, the Committee takes the view that the grounds for removal must be clarified, harmonised, and expressly codified for all Justices of the Superior Courts. While the Constitution presently refers to misbehaviour, incompetence, and infirmity, the absence of a precise and exhaustive formulation has generated uncertainty and contestation. Similarly, the preliminary filtering of petitions must be insulated from both executive and intra-judicial dominance. Determining whether a petition discloses a *prima facie* case is a critical threshold decision with significant consequences for judicial independence and public perception. That function should be lodged in an institution capable of acting as a neutral constitutional buffer, rather than resting with a single office-holder or a body closely aligned with the executive or the judiciary alone.

4.139 Further, the composition of investigative tribunals must be restructured to reflect a balanced, multi-institutional constitutional design. Removal proceedings engage not only the rights of the affected Justice but also the integrity of the judicial system as a whole. A tribunal model that draws membership from multiple constitutional bodies and limits the dominance of any single branch of government is necessary to ensure independence, credibility, and public trust in the outcome of such proceedings.

4.140 Further, timelines and procedural clarity must be constitutionally anchored. Prolonged or indeterminate removal processes undermine both the authority of the courts and the rights of the Justice concerned. Clear timelines for *prima facie* review, investigation, and reporting are required to prevent abuse of process, manage uncertainty, and ensure that accountability mechanisms operate with discipline and predictability.

4.141 Finally, the Committee considers that confidentiality and due process safeguards must be preserved while ensuring institutional accountability. Removal proceedings should remain in camera to protect judicial independence and reputational integrity. However, such proceedings must be conducted under clearly defined constitutional and legal rules that guarantee fairness, representation, and reasoned outcomes. The overall objective is to design a removal framework that deters misconduct and incapacity without exposing the judiciary to intimidation, manipulation, or erosion of public confidence.

Recommendation

4.142 The Committee recommends the following grounds and process for removal from office of Justices of the Superior Courts:

Grounds

The Committee recommends that the grounds for removal should be the same for all justices. The grounds for removal should include mental or physical incapacity, incompetence, gross misconduct, violation of the judicial code of conduct, or bankruptcy.

Removal Process

Chief Justice

- a. An aggrieved person may submit a confidential petition for the removal of the Chief Justice to the Council of State.
- b. Within 7 days of receipt, the Council shall refer the petition to a committee to determine its *prima facie* merit. If insufficient grounds are found, the petition shall be dismissed. If sufficient, the Council shall notify the President and the Speaker of Parliament.
- c. The President shall suspend the Chief Justice pending investigation.
- d. The Council of State shall appoint a 5-member tribunal. The tribunal shall be made up of one person appointed by the President who shall not be a lawyer or currently holding any public or party office; one person appointed by the Speaker of Parliament who shall be a former MP, not currently holding any public or party office; one person appointed by the Public Service Commission; one person appointed by the National House of Chiefs; and a former Justice of the Supreme Court appointed by the Judicial Council. The Committee shall be chaired by the former Justice of the Supreme Court.
- e. The tribunal shall conduct its hearings *in-camera* and submit its report containing its findings and recommendation within 60 days. The Council of State shall, upon receiving the report of the tribunal, forward the report to the President, who shall act on its recommendations. The Chief Justice, as the subject of the removal petition, shall be entitled to a copy of the report.

Other Justices

- a. An aggrieved person may submit a confidential petition to the Council of State seeking the removal of a Justice of the Superior Court.

- b. The Council refers the petition to its judicial committee within 7 days to assess its *prima facie* merit. If the petition is without merit, it is dismissed. If it meets the threshold, the Council notifies the President, Speaker of Parliament, and Chief Justice.
- c. The President shall suspend the Justice pending the outcome of the inquiry.
- d. The Council of State appoints a five-member tribunal with two former Superior Court Justices (nominated by the Judicial Council), a non-lawyer (nominated by the President), one person nominated by the Public Services Commission, and a nominee from the National House of Chiefs. The Committee shall be chaired by the most senior of the two former Superior Court Justices. *In-camera* hearings are conducted, and the tribunal submits a report containing its findings and recommendations within 60 days. The Council of State shall, upon receiving the report of the tribunal, forwards it to the President, who shall act upon its recommendation. The Justice who is the subject of the removal petition shall be entitled to a copy of the report.

Regional Tribunals

4.143 Regional Tribunals are established under Chapter Eleven of the 1992 Constitution as part of the Superior Courts of Judicature. Article 142 provides for the establishment of a Regional Tribunal in each region of Ghana, and Article 126(1) classifies the Regional Tribunals, together with the High Court, as Superior Courts. The Constitution envisages Regional Tribunals as courts with criminal jurisdiction in respect of serious offences and such other matters as Parliament may prescribe.

4.144 Each Regional Tribunal is constitutionally required to be presided over by a Chairman who is qualified to be appointed as a Justice of the High Court, with other members appointed in accordance with constitutional and statutory provisions. Appeals from decisions of a Regional Tribunal lie to the Court of Appeal, and the Chairman of a Regional Tribunal is accorded the same tenure, protections, and removal procedures as a Justice of the Superior Courts.

4.145 Notwithstanding their continued constitutional recognition, Regional Tribunals are not currently in operation. The Committee learned that this state of affairs has persisted for well over a decade. In practice, the intended jurisdiction and case load of the Regional Tribunals have been absorbed by the High Court, particularly within its criminal divisions. No Chairmen or members of Regional Tribunals are currently appointed, and no proceedings are being conducted under this constitutional framework.

The judicial functions originally contemplated for Regional Tribunals are therefore being discharged entirely within the Superior Court structure, without recourse to the tribunal system provided for under Article 142.

4.146 As a result, Regional Tribunals exist today as a constitutional institution in form, but not in operation, within Ghana's judicial system.

4.147 CRC-1 examined the place of Regional Tribunals within Ghana's judicial structure under the broader question of whether their continued existence served the effective administration of justice.¹²⁸ The CRC-1 situated the issue historically, noting that the 1992 Constitution introduced Regional Tribunals as successors to the Public Tribunals established during the PNDC era. While the Public Tribunals had operated as parallel courts intended to dispense expedited justice, particularly in economic and criminal matters, the 1992 Constitution abolished those tribunals. It sought to integrate their functions into the orthodox court system by creating Regional Tribunals with equivalent status to the High Court.

4.148 In its assessment of submissions received, the CRC-1 recorded divergent views. Some submissions supported the retention of Regional Tribunals, arguing that they could complement the traditional courts, reduce case backlogs, and contribute to faster justice delivery. Other submissions questioned their continued relevance, describing the Tribunals as largely defunct, institutionally weak, and symbolically associated with Ghana's period of military rule. These submissions raised concerns that the Tribunals were incompatible with constitutional guarantees of due process and risked subjecting citizens to parallel systems of criminal adjudication, depending on prosecutorial choice.

4.149 In its findings, the CRC-1 observed that international standards, including principles reflected in the United Nations Declaration on the Independence of the Judiciary, emphasise the right of persons to be tried by ordinary courts applying established legal procedures. Although the Constitution and the Courts Act required Regional Tribunals to apply the same rules of evidence and procedure as the High Court, the CRC-1 found that the practical integration of the Tribunals into the mainstream judicial system had not been successful.¹²⁹ The Tribunals had suffered from chronic institutional deficits, including inadequate staffing, lack of qualified personnel, and procedural irregularities. The CRC-1 further noted that perceptions of diminished credibility surrounding the Tribunals, arising mainly from its association with a bygone era, posed a risk to public confidence in the Judiciary as a whole.

¹²⁸ Constitution Review Commission, *From a Political to a Developmental Constitution* 259

¹²⁹ Constitution Review Commission, *From a Political to a Developmental Constitution* 260

4.150 Following deliberations at the National Constitution Review Conference, the CRC-1 reported that there was unanimous support for the removal of Regional Tribunals from the court structure. On this basis, the CRC-1 recommended the abolition of Regional Tribunals and the incorporation of their jurisdiction into the regular courts, with sitting Chairmen to be absorbed into the High Court.¹³⁰ The recommendation was framed as a structural reform intended to strengthen judicial coherence, eliminate parallel adjudicatory tracks, and reinforce confidence in the unified administration of justice under the ordinary courts.

4.151 The submissions received, the broader public discourse, and the findings of earlier constitutional review processes point to a persistent misalignment between constitutional form and institutional reality in relation to Regional Tribunals. The continued constitutional entrenchment of Regional Tribunals, notwithstanding their effective dormancy, weak institutional footprint, and historical stigma, creates unnecessary complexity within the judicial architecture and detracts from clarity, efficiency, and public confidence in the administration of justice.

4.152 There is therefore a need to rationalise the court structure by removing obsolete institutions from the Constitution while preserving flexibility within the ordinary legislative framework. The High Court has, in practice, assumed responsibility for the jurisdiction that Regional Tribunals were designed to exercise, without any demonstrable deficit in adjudicatory capacity. Strengthening the regular courts that are operational and professionally resourced presents a more coherent and sustainable approach than attempting to revive tribunals that have failed to integrate meaningfully into the judicial system.

4.153 At the same time, the constitutional dis-establishment of Regional Tribunals need not foreclose the State's ability to create specialised adjudicatory bodies where policy needs arise. Parliament already exercises this competence through the establishment of specialised courts and tribunals by statute, including in areas such as taxation, electronic communications, and sector-specific regulation. Retaining the power to create tribunals through ordinary legislation enables institutional experimentation, policy responsiveness, and periodic review, without locking particular adjudicatory bodies into the Constitution, irrespective of their continued relevance or effectiveness.

4.154 Accordingly, reform should proceed on two parallel tracks. First, the Constitution should be amended to remove Regional Tribunals as a permanent feature of the judicial structure, thereby simplifying the constitutional court hierarchy and eliminating

¹³⁰ *Ibid* 260

redundant institutions. Second, Parliament should remain empowered to establish specialised tribunals by law, subject to constitutional guarantees of independence, due process, and judicial review, where functional necessity so requires. This approach preserves constitutional clarity while ensuring that the justice system retains sufficient flexibility to respond to evolving governance and regulatory demands.

Recommendation

4.155 The Committee recommends that Regional Tribunals be dis-established from the Constitution. The Committee notes that the High Court has been handling the caseload of the Regional Tribunals. The resources to be committed to resuscitating the moribund Regional Tribunals could be channelled to resource the High Court, as well as the Circuit and District Courts that the Committee now proposes to make part of the regular judiciary. Moreover, the jurisdiction of the Circuit Courts could be expanded to take on some of the cases that the Regional Tribunals would ordinarily hear.

Integration of the “Lower Courts” into the Judiciary

4.156 Article 126 of the 1992 Constitution creates a two-tier judiciary comprising the Superior Courts and the Lower Courts. The Superior Courts, comprising the Supreme Court, the Court of Appeal, and the High Court, are established by the Constitution, while Parliament establishes the Lower Courts through legislation. Currently, the Lower Courts comprise the Circuit and District Courts.

4.157 Although creatures of statute, the District and Circuit Courts have become a permanent part of the judiciary since their creation in the early post-independence period. Forming the base of the judicial system, the District and Circuit Courts are the backbone of the justice delivery system. Records from the judicial service show that, in 2024, out of a total of 443 members of the judiciary, there were 101 Circuit Court judges and 183 District Court Magistrates, representing about 64% of Ghana’s judiciary. The Lower Courts also handle by far the largest volume of cases within the justice system. Official records show that, between July 2022 and June 2023, a total of 525 new cases were filed at the Supreme Court, 1,879 at the Court of Appeal, and 14,568 at the High Court.¹³¹ During the same period, 22,291 cases were filed at the Circuit Courts, while 89,920 were

¹³¹ Judicial Service of Ghana, Annual Report 2022–2023 (Judicial Service of Ghana 2025) <https://judicial.gov.gh/jsfiles/annualrep20222023.pdf> accessed 19 October 2025.

filed at the District Courts across the country.¹³² Thus, between them, the two Lower Courts handle well over 85% of the cases across the country.

4.158 District Courts are situated in nearly every district capital, while Circuit Courts are found in regional capitals and large district capitals. Together with their broad civil and criminal jurisdiction, including small-claims civil cases, the more localised geographic distribution of District and Circuit Courts makes them indispensable to ensuring access to justice for the average Ghanaian, including vulnerable urban and rural populations.

4.159 The bifurcation of the judiciary into Superior and Lower Courts is essentially a legacy of the British colonial system that has been retained since independence. During the Committee's consultations, widespread concerns were expressed by members of the public and key stakeholders regarding the continued utility of this bifurcation. It was observed that the dual structure has, over time, produced unintended inequities within the judiciary. Judges of the Lower Courts are often subjected to less favourable conditions of service and treated as peripheral actors within the judicial hierarchy, despite their critical role in justice delivery. Notably, while Justices of the Superior Courts enjoy superior, constitutionally protected conditions of service, Circuit Court Judges and District Court magistrates, who are considered "judicial officers" and part of the Judicial Service, enjoy significantly inferior conditions of service, resulting in substantial disparities in remuneration, career progression, and institutional recognition. These gaps have often made the recruitment of lawyers into the ranks of the Lower Courts difficult, leading to significant understaffing of the Lower Bench and corresponding backlogs and delays in the administration of justice.

4.160 The Committee notes that, historically, the Lower Benches were staffed by persons who did not possess the professional legal training and qualification required for appointment to the Superior Court. Over time, however, this gap has substantially disappeared as a result of the professionalisation of both District Magistrates and Circuit Court Judges. Maintenance of a bifurcated judiciary thus produces perverse effects, as qualified lawyers prefer to wait for an opportunity to join the Superior Courts directly, rather than enter the bench through the Lower Courts, where career progression is often chancy. Magistrates and judges in the Lower Bench are also subject to improper influence from the top of the judicial hierarchy, as their tenure and progression on the bench depend on the good graces of their judicial superiors and, in particular the Chief Justice.

¹³² *Ibid.*

4.161 The Committee is of the view that the longstanding bifurcation of the judiciary and associated marginalisation of the Lower Courts is no longer justified. The bifurcation, with its associated marginalisation and inferior treatment of the Lower Bench, also sustains the perception that the parts of the judicial system that serve and deliver justice to the vast majority of everyday Ghanaians, the courts where most citizens' encounters with the justice system begin and end, are not nearly as important as the Superior Courts that serve relatively better off and elite sections of the population. The Committee considers that, though created by statute, the District and Circuit Courts have become permanent and indispensable parts of the judicial system and warrant establishment by and in the Constitution, as is the case with the Superior Courts.

Recommendation

4.162 The Committee recommends appropriate amendments to Articles 126, 148, 149, 150, 151 and 152 to provide as follows:

1. The Judiciary shall consist of –
 - (a) The Superior Courts of Judicature comprising
 - (i) The Supreme Court;
 - (ii) The Court of Appeal, and
 - (iii) The High Court
 - (b) The Primary Courts comprising
 - (i) The Circuit Courts
 - (ii) District Courts; and
 - (c) Such lower courts or tribunals as Parliament may establish by an Act of Parliament.
2. The Committee recommends that, having been established directly by the Constitution, the Circuit and District Courts should be referred to collectively as the “Primary Courts”, the term “lower courts” being reserved for those other courts established or to be established by legislation. Accordingly, District and Circuit Court Judges will no longer be classified as “judicial officers,” as that term is used in Articles 148 to 151. Instead, being members of the Judiciary, they shall be referred to as Judges and subject to the protections and terms and conditions specially applicable to Judges of their rank under the Constitution and as determined by the Independent Emoluments Commission.

Judges of the Circuit and District Courts

4.163 Judges of the District and Circuit Courts, formerly referred to as lower courts, are appointed under Articles 148 to 151 of the 1992 Constitution. Taken together, Articles 148 to 151 establish a distinct constitutional regime for the appointment, tenure, and discipline of judges of the primary courts, characterised by a strong role for the Chief Justice and the Judicial Council, and earlier retirement ages. This framework reflects the historical treatment of these courts as subordinate tiers within the judicial hierarchy, while still recognising their integral role in the administration of justice.

4.164 Article 148 vests the power of appointment in the Chief Justice, acting on the advice of the Judicial Council and subject to the approval of the President. This framework places primary responsibility for identifying and recommending candidates on the Judicial Council, while retaining a formal role for the executive through presidential approval.

4.165 The Constitution does not itself prescribe detailed qualification thresholds for appointment to judicial office at these levels. Instead, it adopts an enabling approach, allowing professional standards, experience requirements, and suitability criteria to be developed through institutional practice and statutory regulation under the supervision of the Judicial Council. This has supported a career-based judicial structure in which appointments are informed by legal qualification, professional competence, and internal assessment.

4.166 Article 149 governs the conditions of service of judicial officers. It provides that salaries, allowances, facilities, privileges, and other benefits shall be determined by the President acting on the advice of the Judicial Council.

4.167 Article 150 addresses retirement and resignation. A judicial officer may retire voluntarily after attaining the age of forty-five years and is required to vacate office upon attaining the age of sixty years. The Constitution also permits resignation at any time through a written notice addressed to the Chief Justice. These provisions establish a comparatively shorter tenure horizon for judicial officers at this level, when contrasted with Justices of the Superior Courts.

4.168 Removal of judicial officers is regulated by Article 151. A judicial officer may be removed from office by the Chief Justice on grounds of stated misbehaviour, incompetence, or inability to perform the functions of office arising from infirmity of body or mind. Such removal must be supported by a resolution of not less than two-

thirds of all members of the Judicial Council. The affected officer is constitutionally entitled to be heard in defence, either personally or through legal or other expert representation.

4.169 Submissions to the Committee consistently highlighted concern about the absence of clearly articulated constitutional or statutory qualification thresholds for appointment to the District and Circuit Courts. While Articles 148 to 151 vest appointment authority in the Chief Justice acting on the advice of the Judicial Council, the lack of minimum experience requirements has meant that entry into these courts has depended mainly on internal administrative discretion. This has generated unease about uneven standards of competence, preparedness, and maturity among judicial officers exercising coercive authority over citizens at the most immediate levels of the justice system.

4.170 A related concern raised during engagements was the perception that appointments to these Primary Courts are insufficiently transparent and overly insular. The current framework does not require public advertisement of vacancies, competitive assessment, or independent testing of candidates' legal reasoning, temperament, or ethical judgment. As a result, the appointment process has been criticised for being opaque, susceptible to patronage pressures, and inaccessible to a broader pool of qualified practitioners, including those practising outside dominant professional networks or in specialised areas of law.

4.171 The Committee also received submissions expressing concern that the current appointment model places disproportionate influence in the hands of a small group of institutional actors, particularly the Chief Justice and the Judicial Council, without adequate external checks. While institutional independence is vital, it was argued that excessive concentration of gatekeeping authority risks creating conformity pressures, discouraging diversity of legal thought, and reinforcing hierarchical dependence rather than professional confidence at the lower levels of the judiciary.

4.172 With respect to discipline and removal, concerns were raised about the adequacy and clarity of existing processes under Article 151. Although the requirement of a two-thirds majority of the Judicial Council offers a measure of protection, submissions highlighted uncertainty regarding procedural safeguards, investigatory standards, and the proportionality of sanctions. There was particular concern that disciplinary processes are not sufficiently structured to distinguish between misconduct, poor performance, and capacity-related challenges, which could potentially undermine both accountability and fairness.

4.173 The Committee further noted public unease regarding the conditions of service of judges of the Primary Courts. Under the current constitutional framework, their remuneration and benefits are determined differently from those of Justices of the Superior Courts, despite their central role in adjudicating the bulk of criminal and civil matters. This disparity was cited as a factor affecting morale, independence, and institutional parity within the judiciary.

4.174 Finally, submissions emphasised that judges of the District and Circuit Courts exercise the most direct and frequent coercive power over citizens, including decisions affecting liberty, property, and livelihood. In this context, the absence of explicit, merit-based qualification standards, open appointment procedures, and clearly articulated disciplinary processes was viewed as a structural weakness with direct implications for public confidence in the administration of justice.

4.175 The Committee considers that reform of the lower judiciary must begin with the articulation of clear, merit-based standards governing entry, progression, discipline, and conditions of service. Given that District and Circuit Courts are the primary interface between the judiciary and the public, the constitutional framework must ensure that persons with demonstrable legal competence, professional maturity, and ethical standing exercise judicial authority at these levels.

4.176 In addition, minimum qualification thresholds must be expressly defined to promote consistency, quality, and public confidence. Judicial appointment to the District and Circuit Courts should be grounded in verifiable post-qualification experience, rather than left to broad administrative discretion. Such thresholds would establish a baseline of professional exposure and practical judgment commensurate with the gravity of judicial power exercised at these levels.

4.177 In addition, the appointment process must be opened up and structured to ensure transparency, competitiveness, and independence. Vacancies should be publicly advertised, and selection should be based on objective assessment rather than informal nomination. Incorporating independent evaluation mechanisms, including examinations and interviews conducted by a body with experience in merit-based public recruitment, would reduce perceptions of patronage and insularity while broadening the pool of eligible candidates.

4.178 Further, while preserving judicial independence, the governance framework must avoid over-concentration of appointment and disciplinary authority within a narrow institutional circle. The Judicial Council should retain a central role, but its functions

should be exercised within a process that is rule-bound, procedurally transparent, and informed by independent assessment. This would strengthen legitimacy while reducing internal pressures that may inhibit professional independence or diversity of legal thought.

4.179 Similarly, disciplinary and removal procedures must be clarified and strengthened to ensure accountability without undermining security of tenure. Clear investigative standards, fair hearing guarantees, and proportionate sanctions are necessary to distinguish misconduct from incapacity or performance deficiencies. This would enhance both public trust and institutional fairness.

4.180 Finally, the Committee is of the view that the determination of the conditions of service for judges of the Primary Courts should be harmonised with those of the Superior Courts. Given their central role in justice delivery and exposure to comparable pressures and risks, the determination of remuneration and benefits must take into account the same indices necessary to reinforce independence, morale, and institutional coherence across the judiciary.

Qualification of Judges of the Primary Courts

Recommendation

4.181 The Committee recommends the following qualification for Judges of the Primary courts:

1. Circuit Court

The Committee recommends that a person be qualified to be a Circuit Court Judge if the person possesses a minimum of five years of demonstrable post-qualification experience as a lawyer.

2. District Court

For the District Court, the Committee recommends that a Judge of the District Court should have a minimum of three years of demonstrable post-qualification experience as a lawyer.

Appointment Process for Judges of the Primary Courts

Recommendation

4.182 The Committee recommends the following appointment process for Judges of the Primary courts:

When a vacancy arises in the Primary Courts:

- a. The Judicial Council will issue a public notice to inform interested lawyers of the opportunity to apply.
- b. Upon receiving the applications, the Judicial Council shall, with the assistance of the Public Services Commission, conduct an initial screening to identify candidates who meet the eligibility criteria.
- c. The qualified candidates will undergo interviews and an examination conducted by the Judicial Council.
- d. The Judicial Council will rank the candidates according to their performance on the examination and interviews and recommend the successful candidates for appointment. The President shall make the appointments as advised.

Removal from office of Judges of the Primary Court

Recommendation

4.183 The Committee recommends the following process for the removal from office of Judges of the Primary courts:

- a. A petition for the removal of a Judge of a District Court or Circuit Court may be submitted to the Judicial Council.
- b. Upon receiving such a petition, the Judicial Council will assess whether it warrants further investigation.
- c. If the Council determines that the issues raised in the petition require additional examination, it will conduct a hearing.
- d. During this hearing, the concerned Judge is entitled to present their defence, either personally or with the assistance of a lawyer or expert of their choosing.

- e. Following the conclusion of the hearing, the Judge may be removed or otherwise sanctioned if a resolution is passed by the Judicial Council, with at least two-thirds of the members voting in favour of the decision.

Conditions of Service

Recommendation

4.184 The Committee recommends that the process and institutional framework for determining the conditions of service of Judges of the Primary Courts be harmonised with that applicable to the Justices of the Superior Courts. Accordingly, salaries, allowances, benefits, and related entitlements for Judges of the Primary Courts should be determined through the same constitutional and institutional mechanisms (Independent Public Emoluments Commission), and by reference to comparable indices of responsibility, independence, security of tenure, and exposure to professional risk, in order to promote coherence, equity, and judicial independence across the judiciary.

Position of the Judicial Secretary

4.185 The office of the Judicial Secretary is established under the 1992 Constitution as part of the administrative architecture of the Judiciary. The Judicial Secretary is appointed by the President, acting on the advice of the Judicial Council, and serves as the principal administrative officer of the Judicial Service. Although the Constitution does not comprehensively define the scope of the office, the Judicial Secretary operates as the central coordinating authority for the non-judicial functions of the Judiciary.

4.186 In practice, the Judicial Secretary is responsible for the management of the Judicial Service's administrative machinery, including personnel administration, budgeting and financial management, logistics, procurement, records management, and general institutional coordination. The office functions as the link between the Judiciary and other arms of government on administrative and financial matters, particularly in engagements with the Ministry of Finance, the Public Services Commission, and other state institutions relevant to public administration.

4.187 The Judicial Secretary operates under the general supervision of the Chief Justice, whom the Constitution designates as the administrative head of the Judiciary. As a result, the Judicial Secretary's authority is largely exercised within a hierarchical framework in which ultimate administrative control is concentrated in the office of the Chief Justice. The Constitution does not expressly designate the Judicial Secretary as the Chief Accounting Officer of the Judiciary, nor does it clearly delineate the boundaries between the administrative authority of the Judicial Secretary and that of the Chief Justice.

4.188 Notwithstanding this limited constitutional elaboration, the Judicial Secretary has evolved into a critical institutional actor in the day-to-day functioning of the Judiciary. The effectiveness of court administration, staff deployment, financial discipline, and operational efficiency across the courts depends substantially on the capacity, independence, and clarity of the office's mandate. However, the absence of an explicit constitutional definition has meant that the role, authority, and accountability of the Judicial Secretary are shaped primarily by convention, administrative practice, and internal directives rather than by clearly articulated constitutional norms.

Recommendation

4.189 The Committee makes the following recommendations:

- a. The Committee recommends that the Constitution should expressly provide for the office of the Judicial Secretary as the Chief Registrar and Chief Accounting Officer of the Judicial Service. Beyond this, the Constitution should explicitly delineate the functions of the Judicial Secretary. The Judicial Secretary should be responsible for the day-to-day administration, management of funds, and coordination of all non-judicial functions of the Judiciary. Matters relating to administration, finance, human resource management, and logistics shall fall within the purview of the Judicial Secretary, while the Chief Justice shall continue to exercise overall policy and judicial leadership.
- b. The Committee recommends that the Judicial Secretary be appointed through a transparent and merit-based process. The Judicial Council should make the appointment upon a public advertisement of the vacancy, vetting of applicants by the Public Services Commission, and final appointment by the Judicial Council.
- c. Finally, the Committee recommends that to qualify for appointment as Judicial Secretary, the person must demonstrate experience in administration, management,

or public service leadership, and be without disciplinary sanctions. Qualification as a lawyer should be an added advantage but not a requirement.

d. The Judicial Secretary shall not, while he or she continues in office as Judicial Secretary, hold any judicial office.

Composition of the Judicial Council

4.190 The Judicial Council, as currently constituted under Article 153 of the Constitution, has a membership of 18. Of this number, six, including the Chief Justice, are drawn from various levels of the bench; seven, including the Attorney-General, are either directly appointed by the President at his sole discretion or are officers within Armed Forces or Police, and for that matter, associated with the Executive branch of government; two are senior lawyers nominated by the bar; and the rest include a chief nominated by the National House of Chiefs and a representative of the staff of the Judicial Service.

4.191 The Committee is of the view that the size of the Judicial Council is too large and includes too many persons appointed by the President or employed within the Executive Branch. There is a need to streamline the Council's membership, taking into account its functions and mandate. Given the role played by or envisaged for the Judicial Council in nominating persons for appointment to the Judiciary, and its primary role in judicial self-governance and discipline, the Executive influence or representation on the Judicial Council should be reduced to the barest minimum necessary to facilitate high-level inter-branch exchange on policy issues relating to the administration of justice. The Committee also considers that the Judicial Council would benefit from representation from one segment of the legal fraternity that is not currently represented on the Council but whose research-informed and scholarly perspectives on the administration of justice should be of interest to the judicial leadership; this is the legal academy. Considering the Judicial Secretary's role as chief registrar and chief accounting officer of the courts, the Committee believes it is necessary to include the Judicial Secretary on the Council.

Recommendation

4.192 The Committee recommends an amendment to Article 153 to change the membership and composition of the Judicial Council as follows:

- (a) The Chief Justice who shall preside over the meetings of the Council;
- (b) a Justice of the Supreme Court nominated by the Justices of the Supreme Court;

- (c) the President of the Court of Appeal;
- (d) the Chief Judge of the High Court;
- (e) the Minister responsible for Justice;
- (f) the Judicial Secretary who shall be the Secretary to the Council;
- (g) One judge selected by Judges of the District and Circuit Courts from among their number;
- (h) Two practising lawyers, not of the same gender, nominated in accordance with the process prescribed in the statute referred to in paragraph 9.76 of this Report;
- (i) One legal academic nominated by the Deans of the Law Faculties;
- (j) A member of the Judicial Committee of the National House of Chief nominated by the National House of Chiefs; and
- (k) The Chairperson of the Legal Aid Commission.

Financial Independence of the Judiciary

4.193 The financial position of the Judiciary under the 1992 Constitution is principally governed by Article 127. Article 127(1) affirms the institutional independence of the Judiciary. In contrast, Article 127(4) provides a specific financial safeguard by stipulating that the administrative expenses of the Judiciary, including salaries, allowances, gratuities, and pensions payable to judges and judicial officers, shall be charged to the Consolidated Fund. This arrangement is designed to insulate the Judiciary from financial dependence on the Executive and to ensure stable funding as a constitutional entitlement, rather than a matter of executive discretion.

4.194 Under Article 127(4), the Judiciary is empowered to prepare and submit its estimates of administrative expenditure directly, reflecting its institutional needs for the effective administration of justice. Once charged to the Consolidated Fund, such expenditure is not subject to the ordinary vote-by-vote approval processes applicable to ministries, departments, and agencies, thereby recognising the Judiciary as a co-equal branch of government whose functioning should not be contingent upon annual bargaining within the Executive-controlled budgetary framework.

4.195 However, this constitutional design operates alongside Article 179, which regulates the national budgetary process. Article 179(5) provides that the President shall cause to be prepared and laid before Parliament estimates of the revenues and expenditures of the Government of Ghana for the following financial year. In practice, this provision has been interpreted to confer authority on the President to revise or adjust

budget estimates submitted by constitutional bodies, including those submitted pursuant to Article 127(4), before they are presented to Parliament.

4.196 The combined effect of Articles 127(4) and 179(5) is that, while the Constitution recognises the Judiciary's right to have its administrative expenses charged on the Consolidated Fund, the transmission of those estimates to Parliament remains mediated through the Executive. As a result, the Judiciary's financial autonomy exists within a broader constitutional framework in which the President retains a central role in presenting all public expenditure estimates to Parliament.

4.197 Concerns were raised about operational consequences. Inadequate or unpredictable funding affects court infrastructure, staffing, case management systems, research capacity, and the welfare of judges and judicial officers. These constraints contribute to delays, backlogs, and uneven quality of justice delivery. Submissions stressed that a judiciary that must negotiate or defend its resource needs within the Executive branch is structurally disadvantaged in planning, prioritisation, and long-term institutional development.

4.198 The Committee heard that the current arrangement is conceptually inconsistent with the separation of powers. While parliamentary approval of public expenditure is essential for democratic accountability, Executive alteration of judicial estimates before parliamentary consideration was viewed as an avoidable intrusion into judicial autonomy. Comparative experience cited in submissions suggests that stronger models of judicial financial independence require that judicial estimates, once prepared through constitutionally recognised processes, reach Parliament in their original form, leaving Parliament to exercise its oversight role transparently and independently.

4.199 These concerns informed the Committee's view that the constitutional architecture governing judicial finance requires recalibration to give practical effect to Article 127(4) and to insulate the Judiciary from both real and perceived financial dependence on the Executive.

Recommendation

4.200 The Committee recognizes that while Article 127(4) guarantees financial independence of the Judiciary, its effect is weakened by Article 179(5), which grants the President discretion to revise the Judiciary's budget estimates. Article 179(5) should be

amended to require that the estimates submitted under Article 127(4) be laid before Parliament by the President without revision or alteration.

C. Attorney-General and the Prosecution of Corruption

4.201 Article 88 of the 1992 Constitution establishes the Attorney-General as the principal legal adviser to the Government and vests in that office prosecutorial authority on behalf of the Republic. Under Article 88(1), the Attorney-General is designated both as a Minister of State and as the chief legal adviser to the Government, embedding the office firmly within the Executive arm of government.

4.202 Article 88(3) confers on the Attorney-General the power to initiate and conduct criminal prosecutions for offences against the laws of Ghana. This authority extends to prosecutions before any court, other than a court-martial, and may be exercised either personally or through officers acting under the Attorney-General's direction. The provision establishes the Attorney-General as the central prosecutorial authority within the criminal justice system.

4.203 In addition to the power to initiate prosecutions, Article 88(4) grants the Attorney-General authority to take over and continue any criminal prosecution that has been instituted by another person or authority, as well as the power to discontinue any criminal proceedings at any stage before judgment is delivered. This discontinuance power, commonly exercised through the entry of a *nolle prosequi*, may be invoked without the need for judicial approval or the provision of reasons on the record.

4.204 Article 88(5) provides that the Attorney-General's prosecutorial powers shall be exercised with due regard to the public interest, the interest of the administration of justice, and the need to prevent abuse of the legal process. However, the Constitution does not define these standards in operational terms, nor does it establish an external mechanism for reviewing compliance with them. As a result, the exercise of prosecutorial discretion under Article 88 has historically been broad, centralised, and largely insulated from direct institutional oversight.

4.205 Taken together, Article 88 constructs a prosecutorial model in which initiation, control, and termination of criminal proceedings are concentrated in a single constitutional office, which office is simultaneously political and legal in character. The Committee notes that, while the power to initiate and conduct criminal prosecutions is

vested exclusively in the Attorney-General, the Attorney-General serves at the pleasure of the President.

4.206 The submissions and public discourse considered by the Committee consistently highlighted the structural conflict of interest inherent in the Attorney-General's constitutional position. As both a politician/member of the Cabinet and the chief legal adviser to the Government, the Attorney-General is frequently required to represent, defend, or advise political actors and institutions whose conduct may simultaneously be the subject of legal contestation or criminal scrutiny.

4.207 This dual role has generated concern in circumstances where different arms of government, constitutional bodies, or independent institutions are compelled to rely on the Attorney-General in court despite holding divergent or opposing legal positions. In such cases, the Attorney-General's monopoly over state representation and prosecution creates tension between institutional autonomy and centralised executive control of legal action.

4.208 A related concern arises from the dependence of constitutionally and statutorily independent agencies on the Attorney-General to prosecute offences, even when those agencies possess the technical expertise, investigative capacity, and subject-matter competence to pursue enforcement action effectively. Submissions noted that this dependency can delay proceedings, dilute institutional accountability, and expose enforcement decisions to extraneous political considerations unrelated to the case's merits. The result is a system in which functional capacity exists across the State, but prosecutorial authority remains bottlenecked within a single executive office.

4.209 In the sphere of corruption and corruption-related offences, these concerns have been especially pronounced. Public debate and prior reform efforts have repeatedly highlighted the challenges of securing credible and impartial prosecution when the Attorney-General is a politician, participates in Cabinet deliberations, and may be required to prosecute individuals who are political colleagues, allies, or predecessors.

4.210 The creation by statute of the Office of the Special Prosecutor was widely understood as an institutional response to this perceived deficit, intended to mitigate concerns about selective enforcement, political shielding, and the limits of prosecutorial independence within the existing Article 88 framework. Notwithstanding this intervention, submissions observed that the Special Prosecutor operates within a constitutional environment that still recognises the Attorney-General as the ultimate repository of prosecutorial authority. This has perpetuated uncertainty over

prosecutorial hierarchy, created overlapping mandates, and left unresolved the deeper constitutional question of whether corruption prosecutions can be effectively insulated from executive influence while remaining subject to the Attorney-General's powers of initiation, takeover, or discontinuance. These issues collectively framed the Committee's consideration of whether a more fundamental constitutional reallocation of corruption-related investigative and prosecutorial powers is necessary to restore public confidence, institutional coherence, and the integrity of the anti-corruption framework.

Recommendation

4.211 The Committee recommends appropriate amendments to article 88 (3), 88(4) and 218(b) and 218(e) to remove the Attorney-General's authority to prosecute corruption and corruption-related offences and CHRAJ's authority to investigate corruption and vest all such powers of investigation and prosecution in an independent Anti-Corruption and Ethics Commission (AEC). The Committee further proposes, in this regard, that the AEC take over the anti-corruption mandate of the CHRAJ and merge that with the legislatively-established Office of Special Prosecutor to create a one-stop shop for all corruption and corruption-related prosecutions. The Attorney General, through its Director of Public Prosecutions, will continue to handle all other criminal offences, in addition to the Attorney-General's other responsibilities. The Committee also recommends that the Attorney-General or any person exercising prosecutorial authority may not discontinue a commenced prosecution without leave of court.

New Article for the Anti-Corruption and Ethics Commission

Recommendation

4.212 The Committee recommends establishing an independent Anti-Corruption and Ethics Commission (AEC) under the Constitution. The Commission shall consist of a Commissioner and two Deputy Commissioners appointed by the President acting in accordance with the nomination submitted by the Council of State, subject to the prior approval of Parliament. Each of the Commissioner and Deputies shall hold office for a single, non-renewable term of 10 years or until the age of 65 years, whichever is earlier. The Commission would have the power to investigate allegations of corruption and corruption-related offences, and exclusive power to prosecute such offences.

In the performance of its duties, the Commission shall not be subject to the direction or control of any person or authority.



CONSTITUTION
REVIEW COMMITTEE
2025



Chapter V:
Towards a Well-
Governed, Capable &
Effective Public Sector

CRC25

Chapter V: Towards a Well-Governed, Capable and Effective Public Sector

Overview

5.1 Development is anchored on a well-governed and effective State, which, in turn, rests on a capable, well-functioning public sector. The public sector – defined broadly to include the civil service and other public services, regulatory bodies, and state-owned enterprises – drives economic growth and social well-being by delivering essential services (health, education, infrastructure), collecting taxes and other public revenues, enforcing regulations, managing public assets, implementing government policies, and fostering a stable environment for private investment. Evidence consistently shows that an efficient, meritocratic and professional public sector is an indispensable agent for national development and a prerequisite for a stable and prosperous society. In particular, extensive research has demonstrated a strong positive correlation between the high quality of public service and the success of East Asian developmental States, such as South Korea, Taiwan, and Singapore. Being the public-facing half of government, the public sector’s effectiveness and efficiency in serving the public, including the private sector, is crucial to building or strengthening the social contract and the legitimacy of government.

5.2 A recent World Bank report describes Ghana’s public sector as “relatively capable and stable through political cycles.”¹³³ Ghana’s public sector workers are rated among the best educated and best compensated in the region.¹³⁴ “Yet, public sector outcomes are underwhelming.”¹³⁵ Political interference, corruption (particularly in public procurement), weak enforcement of otherwise adequate laws, regulations and policies (reflecting weak commitment), and low productivity (including low deployment of technology and innovation), are cited among the principal factors why Ghana’s public sector underperforms despite its relatively high capacity and strong laws and policies.¹³⁶ Political interference is blamed, for example, for the public sector’s inability to respond resolutely to a major environmental crisis such as *galamsey*.¹³⁷

5.3 Poor public sector outcomes translate into relatively low trust in the State among Ghanaians. Recent Afrobarometer data (2023) show that only 34 per cent of Ghanaians

¹³³ World Bank, 2025 Policy Notes: Transforming Ghana in a Generation, p. 132

¹³⁴ Ibid. According to the World Bank, approximately 63% of public sector workers have a tertiary education.

¹³⁵ Ibid.

¹³⁶ Ibid. See also Government of Ghana, National Public Sector Reform Strategy 2018-2023; Joseph Atsu Ayee, Six Decades of the Public Sector in Ghana: Issues and Prospects, IDEG: Policy Brief, LGR/001/19.

¹³⁷ World Bank (n1). p 138.

have trust in key public institutions, compared to an average of 45 per cent across Sub-Saharan Africa. Notably, peer countries such as Tanzania (78%), Niger (67%), and Burkina Faso (61%) outperform Ghana on this metric. A similar picture emerges regarding corruption. Although Ghana is credited with having a strong institutional framework (agencies and laws) to deter and fight corruption compared to its peers, perceived corruption in public institutions is significantly higher in Ghana than among such regional peers as Kenya, Senegal, Burkina Faso and Benin.¹³⁸ These shortcomings in the quality of public institutions and the corresponding low public trust in the State further weaken the government's ability to mobilise domestic revenue or implement tough but necessary reforms.

5.4 Ghana has witnessed a litany of public sector reform programmes and projects, both comprehensive and sector-specific since the start of the Fourth Republic. According to Ghanaian public administration scholar Professor J.A. Ayee, “None of these reforms has, however, brought significant change or transformation in the performance of the public sector, which continues to perform poorly...”¹³⁹ He identifies political failures and “institutional bottlenecks of a technical nature,” including some “constitutional deficits,” among them the President’s extensive control over appointments in the public services, as the main factors behind the generally low success rate of public sector reforms in Ghana.¹⁴⁰

5.5 Against this backdrop, depoliticising and professionalising the public sector, notably in the area of recruitment and staffing, are identified as critical to building a “fit-for-purpose” public sector in Ghana. The Constitution’s exclusion of SOEs from its coverage is another notable deficit. Equally significant are matters relating to the code of conduct for public officers. Persistent concerns about corruption, conflicts of interest, the inadequacy of asset declaration and disclosure regimes, and the handling of unexplained wealth, highlight weaknesses in existing safeguards.

Reforms in these areas are crucial for establishing a professional, impartial, and accountable public service. Strengthening codes of conduct, improving institutional management, and ensuring merit-based appointments will help create a capable State machinery that delivers effectively on Ghana’s democratic and developmental aspirations.

¹³⁸ World Bank (n1). p 134

¹³⁹ Ayee *supra* n 4, p. 16

¹⁴⁰ *Ibid*

A. The Public Services

Fragmentation of the Public Services

5.6 The 1992 Constitution devotes the entire Chapter Fourteen to “The Public Services” and names, in Article 190(1), fourteen existing public services plus “public corporations other than those set up as commercial ventures,” “public services established by this Constitution” (i.e., the Commissions) and “such other public services as Parliament may by law prescribe”, as constituting the Public Services of Ghana. The result has been a seemingly never-ending proliferation and fragmentation of public service, with no centralised or coordinating institution. Although the Constitution establishes a Public Services Commission (PSC), the Commission primarily performs a Human Resource (HR) management function for the public services. The Head of Civil Service, another office established by the Constitution, also oversees only the “Civil Service,” which, under Article 190(1), does not include the Education Service, the Health Service, the Statistical Service or the Audit Service. Indeed, not only does the Civil Service not cover some of the key MDAs, its functional scope also remains vulnerable to further shrinkage as additional public services are carved out of it or established by Parliament.

5.7 The proliferation and fragmentation of the public services is compounded by a dizzying array of legal forms and corresponding nomenclatures into which public entities are organised or classified: Agency, Authority, Board, Centre, Commission, Council, Office, Secretariat, Scheme, et cetera. It is not clear what each of these entity forms means in terms of the powers or responsibilities of a particular public body. However, the fact that public entities clamour for re-designation from, say, Commission or Agency to Authority, suggests that these names have more than nominal significance.

5.8 While the creation and re-naming of public service entities may be justified on grounds of specialisation or greater responsibility or powers, it is not clear to what extent the proliferation or reclassification of these public entities has improved service delivery or performance. The widespread opinion is that this trend of fragmentation of public service institutions is primarily driven by insider agitation for better salaries and benefits treatment.

Recommendation

5.9 Parliament should enact a framework legislation to provide for the process by which a decision to create a new public service, or otherwise merge or reorganise an existing service, shall be made. The statutory process should include a comprehensive study undertaken by an independent committee to assess the merits and implications of the proposed re-organisation for the effective and efficient functioning of public service and the implementation of policy. Legislation setting up a new public entity must demonstrate why the functions or objects to be performed by the new body cannot be performed by any existing body.

Mandatory Governing Councils for Statutory Bodies (Article 190(3)(a))

5.10 Under Article 190(3)(a) of the 1992 Constitution, every public service entity established by statute is required to have a “governing council” or board. A question that arose in the Committee’s stakeholder engagements is whether every statutory public service organisation in fact needs a board or “governing council”, regardless of its function. It was queried, for example, why the Office of the Special Prosecutor (OSP) or the Economic and Organised Crime Office (EOCO), each of which is a statutory body responsible for investigating crimes, needs a “governing council” or board. The fact that a body like CHRAJ, performing roughly similar functions, can do without a governing council separate from the Commissioner and the two Deputies is instructive and was cited to support the point that not every public entity needs a governing council. It was argued that, whether or not a statutory body needs a governing council should be determined on a case-by-case basis, having regard to the function to be performed by the particular body and the extent to which the performance of its functions is subject to executive or judicial oversight. The Committee concurs. A rule making it mandatory for every statutory body to have a governing council will simply multiply patronage opportunities and associated costs without a demonstrable contribution to governance. An unnecessary board is also likely to meddle in the operations of the statutory body.

Recommendation

5.11 The Committee recommends an appropriate amendment to Article 190(3) to provide that an Act of Parliament establishing a new public service entity pursuant to clause (1) of Article 190 shall state whether and why the entity shall have or shall not have a governing council.

Protection of Public Officers from Political Interference and Non-participation in Partisan Politics

5.12 Article 191 protects a member of the public services from being “victimised” or “discriminated against” for having discharged his duties faithfully “in accordance with this Constitution”. Additionally, a member of the public services may not be “dismissed or removed from office or reduced in rank or otherwise punished without just cause.” Together with Articles 23 and 296 of the Constitution, which guarantee a right to administrative justice for all persons, the provisions of Article 191 provide security of tenure for public officers.

5.13 The Committee is of the view that the PSC should be placed under a constitutional duty to make appropriate regulations establishing an administrative mechanism and procedure to enable public officers who feel their Article 191 rights or protections have been violated to seek administrative redress. Although such aggrieved public officers may have recourse to the CHRAJ, the Committee is of the view that such persons should be offered an internal mechanism and opportunity to exhaust their administrative remedies before having recourse to CHRAJ or the courts.

5.14 The Committee is also of the considered opinion that, Article 191 should clarify that, while a public officer may not be victimized or discriminated against for partisan reasons, it is incompatible with one’s status as a member of the public services for one to manifest partisanship or participate in active politics while employed as a public officer. Breach of this anti-partisanship rule should be grounds for discipline or dismissal or removal from office pursuant to Article 191(b).

Recommendation

5.15 The Committee recommends appropriate amendment to Article 191 to provide that the Public Services Commission shall make regulations by Constitutional Instrument to elaborate on the protections of clauses (a) and (b) and provide for administrative procedures and processes, including time limits, for resolving complaints or grievances, with a right of recourse to CHRAJ.

The Committee also recommends the insertion of a clause to the effect that no member of the public services shall participate in active party politics or manifest or demonstrate open partisanship or partisan affiliation while employed in the public services.

Appointment, Qualification, and Tenure of Head of Civil Service (Article 193(1), (2))

5.16 Article 193(1) provides for the appointment by the President “of a public officer” as Head of Civil Service, acting in accordance with the advice of the Public Services Commission. The Committee finds that this provision narrows the pool from which the President may appoint the Head of Civil Service by restricting the choice to a serving “public officer.” The Committee further notes that the position of Head of Civil Service falls within the Committee’s hybrid-Independent classification described in Chapter One of this Report. Accordingly, an appointment to that office should be made by the President in accordance with a nomination submitted by the Council of State acting in consultation with the Public Services Commission.

Recommendation

5.17 The Committee recommends an amendment to Article 193(1) to provide that:

- a. The Head of Civil Service shall be appointed by the President on the advice of the Council of State based on the outcome of an open, competitive, meritocratic search process administered on behalf of the Council by Public Services Commission.
- b. Qualifications for appointment should state educational level (at least advanced, postgraduate education or professional training), number of years of seniority, rank

or experience as a public officer or other alternative career path: international public service, academia, consulting, or corporate public sector.

- c. The Head of Civil Service shall be appointed to a single non-renewable term of ten (10) years or upon attaining the age of 65 years, whichever is earlier.

Public Services Commission: Composition, Appointment, Tenure, and Powers

5.18 As the body entrusted with overseeing appointments, promotions, and discipline within the Public Services, the PSC plays a pivotal role in promoting meritocracy and safeguarding the independence and quality of the public administration. Its own independence is thus fundamental to the independence of the Public Services. Currently, the Constitution provides for a commission comprising a chairperson, vice-chairperson, three other full-time members of the Commission, plus “such other members” as Parliament may by law prescribe. The President appoints the chair, vice-chair and each of the other Commissioners in consultation with the Council of State.

5.19 The Committee is of the view that, as with the EC, CHRAJ and NCCE, the PSC, being an independent Commission, should have only full-time Commissioners. Furthermore, to ensure coherence with the appointment framework proposed for independent commissions, the Committee suggests that the appointment of PSC members be made in accordance with the advice of the Council of State, based on stated qualifications and a competitive recruitment process.

Recommendation

5.20 The Committee recommends an amendment to Article 194(2) to provide as follows:

- a. The Public Services Commission shall consist of a Chairperson, a Vice-Chairperson and no more than five other members, all of whom shall be full-time Commissioners.
- b. Each Commissioner shall be appointed by the President in accordance with the advice or nomination of the Council of State, based on the outcome of an open, competitive, meritocratic search process administered on behalf of the Council by the Head of Civil Service.
- c. Term: Each Commissioner, including the Chairperson and vice-chairperson, shall hold office for a single non-renewable term of ten (10) years or until they attain

the age of 65 years, whichever is earlier. The appointment of Commissioners shall be staggered so that they do not assume office simultaneously.

Power to Appoint Public Officers (Article 195)

5.21 Article 195(a) provides as follows: “Subject to the provisions of this Constitution, the power to appoint persons to hold or act in an office in the public services shall vest in the President, acting in accordance with the advice of the governing council.” Given the Supreme Court’s ruling in *Ghana Bar Association* (2015), this provision effectively makes the President the sole appointing authority for every office in all the public services – except in an institution of higher learning or research, as provided under clause (3) of Article 195.

5.22 The Committee notes that, the provision in Article 195(a) of the 1992 Constitution has its origins in Article 140(1) of the 1969 Constitution. The Committee notes, however, that the President under the 1969 Constitution was a non-politician, non-Executive President, who was charged with protecting and safeguarding the independence of key independent bodies, including the PSC. In other words, vesting the power to appoint public officers in the non-Executive President under Article 140(1) of the 1969 Constitution meant withholding that power from the Government (or Prime Minister), thereby securing the independence of personnel of the public services. In the Committee’s view, the literal reproduction of Article 140(1) of the 1969 Constitution in the 1979 and 1992 Constitution, without regard to the fundamental nature of the change from a non-politician, non-Executive to a politician, Executive President, has yielded a perverse outcome in the sense that, a constitutional provision that was originally intended (under the 1969 Constitution) as a protection against politicisation of appointments to the public services has now become, in the hands of a politician Executive President, a danger to the political neutrality of the public services. The Committee is of the considered view that, to preserve the political neutrality of the public services and its members, the President under the 1992 Constitution, being a politician and an Executive President, ought to be denied the power to appoint a member of the public services, including management staff. Instead, such power must be vested in the governing council of the appropriate public service organisation. However, regarding the governing council itself, the Committee believes that, in keeping with sound corporate governance practices, it is appropriate for its members to be appointed by the President, acting in accordance with the advice of the PSC.

Recommendations

5.23 The Committee recommends appropriate amendments to Article 195 as follows:

1. The power to appoint persons to the governing council of a public service or statutory body (not of a commercial nature) shall reside in the President or a Minister designated by the President, and such appointment shall be made, subject to meeting specified qualifications, in consultation with the Public Services Commission.
2. The power to appoint the chief executive officer and other senior management of a public service, however so described, shall reside in the governing council or board, which shall exercise such power based on the outcome of an open, competitive, meritocratic or qualification-based process administered by the governing council in consultation with the PSC. It is further recommended that no current holder of an office in a political party or political campaign shall be eligible to be appointed to any office within the public service or related entity.
3. The power to appoint a member, employee, or staff member of the public service below the chief executive officer and his or her direct reports shall vest in the governing council and management of the public service organisation, exercised in accordance with the regulations of the PSC.

Form of exercise of power by PSC (Article 197)

5.24 Article 197 of the Constitution mandates that the Commission shall exercise its powers and perform its functions in accordance with a Constitutional Instrument (CI) made with the prior approval of the President. The Committee notes that, as with Article 195(1), Article 197 originates from the 1969 Constitution, specifically Article 140(6) of that Constitution. Given that the President under the current Constitution is different in character from the “protective” non-Executive President of the 1969 Constitution, requiring the PSC to obtain the prior approval of an Executive President before making Regulations to operationalize the Commission’s powers and functions would invite improper political meddling and micro-managing in the performance of the functions of the Commission and undermines its independence and that of members of the public services.

Recommendation

5.25 The Committee recommends an amendment to Article 197 to remove the requirement that the PSC obtain the prior approval of the President to make Regulations by Constitutional Instrument for the effective and efficient performance of its functions under this Constitution or any other law.

Retiring Age (Article 199)

5.26 The Committee received divergent proposals on the matter of the retiring age for public officers. Some, including youth groups, advocated maintaining the retirement age at 60 years, while others proposed raising the compulsory retirement age to 62 or 65 years. In defence of maintaining the status quo, the Committee received data indicating that Ghana's life expectancy currently stands at 64.5 years, with only 3.62% of the population aged 65 years or older. Of all adults who reach 60 years, 71% do not reach their 65th birthday.

5.27 The Committee takes the view that, other than those holders of constitutionally established independent offices whose retiring ages are specifically provided for in the Constitution, the general retiring age for public officers should be kept out of the Constitution and left for Parliament to determine from time to time by statute. The Committee reasons that the actuarial data and other relevant factors for setting the retirement age are matters that change over time, making it inappropriate to establish a fixed retirement age in the Constitution. An Act of Parliament enables greater flexibility in response to changing data and circumstances.

Recommendation

5.28 The Committee recommends an amendment to Article 199 to provide as follows:

1. Except as otherwise provided for in this Constitution, the mandatory retiring age for a holder of public office shall be determined by an Act of Parliament.
2. Parliament may, by an Act of Parliament, vary the retiring age upwards or make special dispensation for different occupational categories of public officers, such as for public tertiary educational institutions or persons with disabilities. However, the retiring age shall not exceed seventy (70) years for any appointive public office.

B. Code of Conduct for Public Officers

Overview

5.29 The framers of Ghana's 1992 Constitution sought to embed ethical governance at the heart of the constitutional framework by including in the Constitution a chapter on the Code of Conduct for Public Officers.

5.30 The Committee notes that the Constitution envisions a public service ethos grounded in the concept of stewardship; that those who hold public office do so not for private gain but as fiduciaries of the people. The Committee recognises, however, that effective operationalisation of the Code of Conduct, including, notably, its provisions on asset declaration by public officers, has been lacking. Over three decades of constitutional practice have demonstrated that the provisions of Chapter Twenty-Four have remained operationally under-developed and under-enforced.

5.31 The constitutional Code of Conduct is, however, not a mere administrative guideline; it is a mechanism for realising the principles of probity, transparency, and accountability enshrined in the Preamble and Article 35(8) of the Constitution, which enjoins the State to take steps to eradicate corruption and abuse of power. The Code, therefore, serves as a constitutional tool for protecting public resources and promoting the rule of law.

5.32 The Committee is of the view that the Code of Conduct should be elevated from a narrow regulatory instrument into a comprehensive constitutional framework that embodies minimum standards of ethical behaviour applicable to all public officers.

Conflict of Interest and Standards of Conduct

5.33 Article 284 establishes the general prohibition against public officers placing themselves in situations where their personal interests might conflict with the responsibilities of their office. The constitutional text does not, however, stipulate a process for avoiding or handling a conflict of interest where it arises, nor does it prescribe the consequences of participation in a decision tainted by an undeclared conflict. Furthermore, Ghana's constitutional framework does not currently outline a comprehensive suite of positive ethical obligations or minimum standards that extend beyond conflict avoidance to guide day-to-day official conduct.

5.34 During consultations, one strand of opinion maintained that the existing conflict of interest clause would suffice if enforcement were improved administratively. Another view, which the Committee considered more persuasive, urged that the Constitution itself should be explicit about the duties owed by an officer who is conflicted, namely, immediate disclosure and recusal, and about the legal effect of non-compliance. A broad consensus also emerged that the Constitution should articulate non-exhaustive, minimum standards of conduct for all public officers, ensuring that the ethical expectations of public office are neither uncertain nor left to fragmented policies.

5.35 Comparative practice within the common law community is instructive. For instance, the Barbados Constitutional Reform initiative has proposed the entrenchment of values and principles of public service within the constitutional text. These approaches move beyond a singular focus on conflict of interest to a more comprehensive articulation of minimum, enforceable standards. Chapter Six of the Constitution of Kenya (2010) is exemplary in this regard. It explicitly mandates standards of conduct, including discipline, impartiality, and patriotism. Ghana's constitutional Code of Conduct must similarly outline the minimum rules, principles, and standards of behaviour expected or required of public officers, taking into account the responsibilities entrusted to them and their duty to serve the government and the public. These must go beyond mere avoidance of conflict of interest to include professionalism, non-partisanship, anti-corruption, and other ethical benchmarks and prohibitions.

Recommendations

5.36 The Committee recommends appropriate amendments to Chapter Twenty-Four to provide as follows:

1. The insertion of a specific sub-clause to Article 284 (or the placement of an equivalent clause within a new Chapter on Conduct in Public Life) to the following substantive effect: where a public officer is confronted with a conflict of interest, that officer shall immediately disclose in writing, the nature of the conflict to the competent authority and shall refrain from participating in any discussion, deliberation, recommendation, decision or other official act in relation to the matter that gives rise to the conflict. The provision should further stipulate that failure to make such disclosure and to recuse renders any ensuing decision or act invalid for constitutional impropriety, without prejudice to any disciplinary or other sanction(s) provided by law. This formulation gives the conflict rule operational meaning and attaches a concrete legal consequence to non-compliance.

2. To ensure that ethical governance is not confined to conflict of interest alone, the Committee recommends that the Constitution should declare, in express terms, that the Chapter on the Code of Conduct extends beyond the rule against conflict of interest and sets out minimum, non-exhaustive standards of conduct applicable to all public officers. The text should then articulate, in narrative form, the content of those standards.

- a. First, professionalism: a public officer shall carry out the functions of office in a professional manner, with competence, diligence and impartial judgment, and with due regard to maintaining public confidence in the integrity of the office.
- b. Second, compliance with law and respect for rights: a public officer shall act in accordance with the Constitution and the law and shall give due respect to the fundamental rights and freedoms and the related duties specified in Chapter Five.
- c. Third, position of trust: public office is a fiduciary position; accordingly, an officer shall employ the authority, information and assets entrusted by virtue of office solely to advance the interests of the State and shall not convert any such authority, information or assets to private benefit.
- d. Fourth, non-interference with the administration of justice: no public officer shall, directly or indirectly, use the influence or prestige of office to intervene on behalf of any person in an investigation, prosecution or adjudication of a matter so as to influence its outcome.
- e. Fifth, prohibition of improper enrichment: a public officer shall not use their office to improperly enrich themselves or others, or solicit or accept benefits in connection with the performance of official functions other than those permitted by law.
- f. Sixth, stewardship of State property: a public officer shall take all reasonable steps to protect property entrusted to their care or for official use and shall ensure that such property is not misused, misapplied or misappropriated.
- g. Seventh, political neutrality: a person appointed to a public office shall not manifest or display partisanship or allow partisan considerations to influence the discharge of his or her official duties.

- h. Eighth, truthfulness to the public: a public officer shall not knowingly provide false or misleading information to members of the public or to any public authority.
- i. Ninth, prohibition on acting for foreign interests: a public officer shall not, in a manner adverse or detrimental to the national interest of the Republic of Ghana, act as or be an agent for, or otherwise further the interests of, any foreign government, organisation or individual.

3. The Constitution should state explicitly that these standards constitute minimum, non-exhaustive expectations, and that nothing in the list limits Parliament from prescribing additional standards consistent with the Constitution.

4. For the standards to be effective, the Committee further recommends an enforcement architecture entrenched in the Constitution. The text should require the Anti-Corruption and Ethics Commission to make Regulations, by Constitutional Instrument, to give effect to the Code of Conduct, including the specification of investigative procedures and the prescription of appropriate administrative and civil sanctions for breach. In the alternative, or in addition, the Constitution should impose a duty upon Parliament to enact, within a defined period following commencement, a Public Ethics Act that elaborates upon the Code and attaches sanctions in accordance with guiding principles stipulated in the Constitution.

This dual pathway ensures that the Code is not merely aspirational but immediately enforceable while allowing Parliament to develop a comprehensive legislative framework.

Declaration and Disclosure of Assets by Public Officers

5.37 Although Article 286 establishes an asset-declaration regime, its coverage is incomplete, and its operation lacks transparency and verification. The list of public officers specifically named as covered by the asset declaration requirement of Article 286(5) does not include public officers in the military, police, or other security services. Nor does it specifically mention independent constitutional officeholders (other than CHRAJ and judges) or members of statutory regulatory bodies, such as the SOEs, Minerals Commission, Lands Commission, Ghana Revenue Authority (GRA), or Metropolitan, Municipal and District Chief Executives (MMDCEs). While these and other

categories of public officers may be covered by statute, it is best, given the level of their positions or status, that they be expressly named in the Constitution as covered, leaving the residual category for other public officers. The declarant must be required to include assets of members of their immediate household, including spouse and unmarried children. Under the current regime, declarations submitted to the Auditor-General remain sealed, with no explicit constitutional requirement to open them, confirm completeness, or verify accuracy; nor is there a stated duty upon the declarant to cooperate, or upon request from the public or other public bodies, to assist in verifying submitted declarations. These deficiencies diminish deterrence and create opportunities for concealment.

5.38 Some stakeholders emphasised privacy concerns and warned against the publication and politicisation of declarations. Others argued that the constitutional purposes of probity and accountability cannot be realised unless declarations are capable of verification and are comprehensive in scope. The latter view also called for the inclusion of assets of immediate family members to prevent the use of proxies as concealment devices.

5.39 The Committee is persuaded that verification is indispensable to an effective asset declaration regime. Including assets of members of the declarant's immediate household is necessary to frustrate concealment of assets. A time-bound verification duty, accompanied by cooperation obligations and inter-agency assistance, will give substance to Article 286.

Recommendations

5.40 The Committee recommends appropriate amendments as follows:

1. There should be an amendment to Article 286(5) expressly identifying, in addition to existing categories, public officers in the military, the police and other security services; independent constitutional officeholders beyond CHRAJ and judges; members of statutory regulatory bodies such as the Minerals Commission and the Lands Commission, and DCEs, as subject to the asset-declaration provision. The Constitution should retain a residual category for coverage by statute to ensure adaptability over time. This textual clarification removes doubt about coverage and affirms that those occupying positions of exceptional trust are subject to the highest standards of transparency.

2. To ensure that declarations capture the true financial position of officeholders, the Constitution should require the declarant to include the assets and liabilities of members of the immediate household, specifically the spouse and unmarried children. This requirement is a proportionate measure aimed at preventing concealment through related persons and reflects comparative practice.

3. The Committee further recommends amending Article 286(2) to authorise and require the Auditor-General to unseal a declaration in the presence of the declarant at the time of submission for the limited purposes of confirming identity, completeness and internal consistency. Where information is incomplete or missing, the Auditor-General shall require a supplemental filing within a prescribed period.

4. Verification should be expressly mandated. Within sixty (60) days of receiving a declaration, the Auditor-General must verify the truth of the matters contained in the declaration. The Constitution should impose a duty upon the declarant to cooperate fully with the verification process and should mandate the Auditor-General to invite or request the assistance of the public and of relevant public agencies as necessary to verify the declarations. Upon completion, the Auditor-General shall issue a verification audit report within fifteen (15) days, and a copy shall be submitted to the President and to the Anti-Corruption and Ethics Commission for any further action in accordance with law. The Auditor-General should be authorised to publish a list of all covered public officers who have complied with their asset declaration obligations and whose declarations have been verified and confirmed.

Post-Declaration Increase in Net Worth (“Unexplained Wealth”)

5.41 Article 286(4) states a strong constitutional presumption in support of the illegality of unexplained wealth: following a prior declaration, any subsequent increase in a declarant’s net worth that is not reasonably attributable to income, gift, loan, inheritance or another reasonable source is deemed to have been acquired in contravention of the Constitution. Despite its clarity, the provision has not been meaningfully enforced because institutional actors lack explicit authority and procedures to investigate and act upon unexplained wealth, including the use of lifestyle audits and calibrated evidentiary rules.

5.42 Some legal commentators raised concerns about fairness where evidentiary burdens are shifted. Others argued that corruption frequently involves concealment and that, with proper safeguards and judicial oversight, a reverse onus limited to unexplained-wealth

proceedings is both constitutionally permissible and practically necessary. Stakeholders broadly supported the provision of explicit investigative powers to the Auditor-General and the proposed Anti-Corruption and Ethics Commission to give effect to Article 286(4).

5.43 Comparative integrity frameworks authorise lifestyle and unexplained wealth audits and treat substantial wealth discrepancies as triggers for civil recovery or other proceedings, often with modified evidentiary rules. These regimes incorporate judicial supervision and procedural safeguards to preserve fairness while ensuring effectiveness. The Barbadian Good Governance Act provides for a dedicated Commission to verify declarations and investigate breaches, with clear sanctions.¹⁴¹ In Kenya, the Anti-Corruption and Ethics Commission is explicitly empowered by statute to conduct investigations into unexplained assets. The use of unexplained wealth laws and reverse burden of proof clauses is an established feature of international anti-corruption frameworks, such as the UN Convention against Corruption.

5.44 The Committee considers that Article 286(4) should be operationalised in a manner that both vindicates the Constitution's anti-corruption purpose and respects due process. Granting explicit investigative and enforcement authority to the Auditor-General and an independent integrity body, coupled with a constitutional obligation upon Parliament to enact the necessary procedural and evidentiary rules within a defined period, will permit the presumptive illegality of unexplained wealth to function as intended.

Recommendations

5.45 The Committee makes the following recommendations:

1. Article 286(4) creates a presumption that, following a prior asset declaration, any subsequent increase in the declarant's net worth that is "not reasonably attributable to income, gift, loan, inheritance or any other reasonable source" is "deemed to have been acquired in contravention of this Constitution." This is a clear constitutional statement in support of the presumptive illegality of "unexplained wealth". Moreover, the fact that the Constitution grants the state enforcement authority, the benefit of a "presumption" that any unexplained wealth has been unlawfully acquired, supports the idea of a "reverse burden of proof" in corruption cases. The Constitution must go further to expressly empower the Auditor-General and the Anti-Corruption and Ethics Commission to employ lifestyle and unexplained-wealth audits and associated enforcement tools for the purpose of giving effect to Article 286(4) and to their wider

¹⁴¹ Good Governance Act, 2020, Act No. 2020-01, Laws of Barbados, Part III

anti-corruption mandates. The constitutional text should clarify that where a significant increase in net worth is not reasonably explained by lawful sources, proceedings may be instituted in which a calibrated reverse burden of proof applies, subject to judicial oversight and to safeguards prescribed by law.

2. To ensure legal certainty and embed safeguards, the Constitution should further require Parliament to enact, within a specified period, legislation that gives effect to this provision. Such legislation should set out investigative powers (including access to relevant financial and property records), the evidentiary standards and thresholds for invoking a reverse burden of proof, the roles of the Auditor-General and the proposed Anti-Corruption and Ethics Commission, procedures for asset recovery and confiscation, and protections for the rights of affected persons. This framework will render the constitutional presumption effective while maintaining fidelity to principles of fairness.

3. A public officer who is subject to the asset declaration requirement of Article 286(2) shall submit the first such declaration within 15 days of taking office, and subsequently in one-year intervals, with a terminal declaration to be made 30 days after the end of the term or tenure of that officeholder.

Sanctions for contravention of Code provisions

5.46 Current provisions in Article 287 have several drawbacks. First, enforcement action for a violation of a provision of the Code is triggered by a third-party complaint or “allegation.” This severely limits enforcement. Second, no sanction is specified for a violation, including for making a false declaration (Article 286(2)) or for “unexplained wealth” (Article 286(4)). Particularly in light of Article 19(11) which provides that “No person shall be convicted of a criminal offence unless the offence is defined and the penalty for it is prescribed in a written law”, the failure to specify the offence or prescribe a sanction for a violation of a provision of this chapter restricts the ability of the enforcement authorities to apply sanctions of a criminal nature.

5.47 While some favoured leaving sanctions to administrative discretion, most stakeholders urged that penalties be clearly prescribed, differentiated by the nature and gravity of the violation, and anchored either in the Constitution or in a dedicated Act or both. There was broad support for distinguishing between ethical breaches of the Code under Article 284 and the more serious declaration-related violations under Article 286.

5.48 Jurisdictions with mature integrity systems deploy tiered sanctions: administrative or civil measures for ethical violations and criminal penalties, including removal from office and confiscation, for serious financial integrity offences. This bifurcated approach promotes proportionality and clarity while maintaining strong deterrence.

5.49 The Committee is satisfied that a dual-track, prescribed sanctions regime best serves legality, proportionality and effectiveness. Embedding the framework in the Constitution or, at a minimum, in a dedicated Act of Parliament, will resolve uncertainty, guide institutional practice and strengthen public confidence.

Recommendations

5.50 The Committee makes the following recommendations:

1. The Committee recommends that sanctions for specified violations within this chapter be expressly prescribed, either directly in the Constitution or in an Act of Parliament enacted pursuant to the Constitution. The framework should distinguish between (a) violations of Article 284, being breaches of the Code of Conduct, and (b) violations associated with Article 286, namely false declarations and unexplained wealth. For Article 284 violations, the regime should provide for administrative and other civil measures, including reprimand, restitution, suspension without pay for a defined period, and disqualification from holding public office for a specified term, imposed in accordance with due process.
2. For Article 286 violations, the regime should provide for stiffer sanctions proportionate to the gravity of the misconduct, including removal from office, criminal penalties as Parliament may prescribe, and, where appropriate, confiscation and pecuniary penalties. The adoption of a prescribed, calibrated regime will ensure uniformity of treatment, reinforce deterrence, and bring the sanctions architecture into full conformity with constitutional requirements.
3. Sanctions must be authorized in the Constitution and prescribed in an appropriate Act of Parliament for specified violations of the provisions of this chapter, according to the nature of the violation: Administrative and other civil sanctions may be appropriate for Code violations under article 284, while stiffer sanctions, including removal from office, asset recovery, and criminal sanctions, would be more appropriate for article 286 violations (false declarations; unexplained wealth).

C. State-Owned Enterprises

Constitutional Status of State-Owned Enterprises

5.51 In defining the public entities that constitute the “Public Services of Ghana,” Article 190(1) includes “public corporations *other than those set up as commercial ventures*.” On the strength of this provision, public corporations established to operate commercially, meaning state-owned enterprises and other commercial ventures in which the State has a controlling interest (“SOEs”), are not covered by the provisions of Chapter 14 of the Constitution. The only aspect of SOEs the 1992 Constitution currently governs is the appointment of “the governing bodies of public corporations,” which, pursuant to Article 70(1)(iii), is to be made by the President “acting in consultation with the Council of State.” All other aspects of the SOE sector are not governed directly by the Constitution. Currently, a mix of statutes govern the sector. These include the Statutory Corporations (Conversion to Companies Act, 1993 (Act 461)), pursuant to which some 32 statutory corporations were converted into companies limited by shares in accordance with the Companies Act; the Presidential (Transition) Act, 2012 (Act 845), which provides, *inter alia*, that persons appointed to the boards of statutory corporations cease to hold that office upon the assumption of office of a new President; the Public Financial Management Act, 2016 (Act 921) and related L.I. 2378; the Companies Act, 2019 (Act 992); the Enabling Acts of Statutory Corporations; and the State Interests and Governance Authority (SIGA) Act, 2019 (Act 990).

5.52 The case for excluding SOEs from constitutional regulation is, however, hard to fathom. Neither the “commercial” nature of state enterprises nor the fact that many are now registered as limited liability entities under the Companies Act justifies their exclusion from constitutional regulation. The Constitution appropriately captures within its orbit matters of fiscal and broader economic consequence (e.g., borrowing, contracting, international business transactions), notably in its chapters on Finance and Natural Resources. There is, thus, no justification for excluding a segment of the State and economy as far-reaching in its fiscal and economic impact as the SOE sector.

5.53 The total assets of SOEs as captured in the consolidated National Accounts amounted to GH¢395.20 billion for 2024. In terms of contribution to GDP, SOE revenues accounted for 3% of GDP in 2020, 10% in 2022, and were close to 23% as of early 2025. Even more significant is the fact that chronic poor performance in the SOE sector exposes the Government to substantial contingent liabilities. Moreover, some of the SOEs operate in strategic sectors, such as the energy sector, and their poor performance represents a systemic risk to the economy. According to the 2024 State Ownership Report published

by the State Interests and Governance Authority (SIGA), the ten largest SOEs made a net loss of GH¢3,394.60 million in 2023, with only two SOEs paying dividends to the Government (of only GH¢6.2 million) that year. Instructively, the companies in which the Government of Ghana held only a minority interest contributed 71.89% of all dividends received by the Government in 2023.

5.54 The fact that SOEs are, by virtue of their commercial character and objects, different in character from the entities that constitute the Public Services under Chapter Fourteen of the Constitution makes the case for different constitutional treatment, not for their exclusion from the Constitution altogether. The case for constitutionalising SOE governance and regulatory oversight is strengthened by the fact that the historical underperformance of Ghana's SOEs has been attributed largely to political interference. Political interference in SOEs is pervasive and longstanding. From the appointment of management to general staffing, procurement, and operational decisions, critical decisions affecting the commercial health of SOEs have often been made based on political and partisan criteria than on sound commercial principles. Indeed, capture of SOEs has become one of the most coveted partisan prizes in Ghana's winner-take-all politics, with top management and other employment and procurement opportunities in the state commercial entities routinely awarded to partisans of the ruling party.

5.55 The Committee notes that, while the 1979 Constitution also excluded public corporations set up as commercial ventures from the category of Public Services, Article 154(1) of that Constitution made provision for a separate "Public Corporations Service" to cover the portfolio of state corporate bodies set up as commercial ventures. The State Interests and Governance Authority (SIGA), the successor to the State Enterprises Commission, currently plays that role; however, it is a statutory, not a constitutional body. The Committee is of the considered view that elevating SIGA to a constitutional body will enhance its authority as a central oversight body for SOEs, particularly *vis-à-vis* some of the longer-established, more powerful statutory corporations.

5.56 Constitutional recognition would establish SIGA as the central body that exercises the state's ownership and oversight responsibility—a kind of "super-board"—for the SOEs. Cloaking SIGA with constitutional authority would ensure institutional independence and continuity, and strengthen accountability in the management of state commercial assets.

5.57 Under its constitutional mandate, SIGA would act as the holder of government interests in commercial state entities. It would advise the government on the establishment, restructuring, or divestiture of such entities. SIGA would also advise the

President and relevant Ministers on the appointments to boards. It would support boards in the recruitment, selection, retention, and appraisal of chief executives and senior management. In addition, SIGA would develop and enforce performance contracts for individual enterprises. It would regularly assess their performance and submit reports to Parliament and the Government.

Recommendations

5.58 The Committee recommends appropriate amendments to Chapter Fourteen of the Constitution to provide as follows:

1. Regulation and governance of SOEs, including commercial ventures in which the Government of Ghana has a controlling interest, should be treated separately under a new section of Chapter Fourteen. Chapter Fourteen should be retitled Public Services and State Enterprises.

2. SIGA should be established as a constitutional body—as the primary central oversight body responsible for holding and exercising on behalf of the Government of Ghana the ownership interests and related governance rights and prerogatives relating to SOEs and other ventures in which GoG has a controlling interest.

3. SIGA’s role will be similar to a “State Enterprises Commission”.

SIGA’s functions should include:

- a. advise GOG on establishment/ divestiture of a commercial state entity;
- b. advise President/Minister on appointment of boards of state enterprises;
- c. support operating company (SOE) boards with recruitment, selection, retention, appraisal of CEOs and top management;
- d. develop and enforce performance contracts for CEOs and management of individual SOEs;
- e. regularly appraise performance of SOEs and submit reports to Parliament and Government.

Corporate Governance of SOEs

5.59 There is the need for a uniform legal regime to govern SOEs. Most SOEs in Ghana have traditionally been created through specific pieces of legislation. These laws typically outline the purpose of the SOE, its management, and the entity responsible for its control. However, in more recent times SOEs have been registered under the Companies Act (“the Act”) as either private or public limited liability companies.

5.60 For corporate governance purposes, it is important to note whether an SOE is registered under the Companies Act or established by its own law. When an SOE is registered under the Companies Act, it must follow the governance rules set out in that Act. On the other hand, when a special statute creates an SOE, its governance is determined by the provisions of its own establishing law.

5.61 Unfortunately, most of these special establishing statutes in Ghana do not deal with corporate governance matters as comprehensively as the Companies Act does. Typically, these laws outline the objectives of the SOE, confirm its legal status as a limited liability entity, and establish a governing board with specific membership requirements. However, unlike the Companies Act, they rarely outline important issues such as the duties of directors, whether those directors have fiduciary obligations, or to whom such duties are owed.

5.62 The Committee believes that these inconsistencies in the legal and governance framework for SOEs need to be addressed. While the Companies Act provides general corporate governance rules applicable to SOEs, there should be clear, harmonised, specifically codified standards for all SOEs in Ghana, regardless of how they were created.

5.63 The Committee proposes that the new law must mandate Parliament to insist on seeing, in a timely fashion, the annual audited financial statements of all SOEs. For SOEs that continue to depend on government for annual budget support, the Committee recommends that Parliament withhold budget allocation for any such SOE that has not met its financial audit and reporting obligations. In addition, Parliament must use the opportunity of the annual Auditor-General’s reports to initiate investigations or recommend action to remedy any malfeasance or other deficiencies that such reports may reveal about a particular SOE.

Recommendations

5.64 The Committee recommends that:

1. Parliament enacts, within six (6) months of this amendment, a comprehensive law establishing a uniform governance framework for all SOEs, regardless of their mode of incorporation.
2. The law should standardise director liability, ultra vires transactions, contracting and procurement, recruitments, financial reporting and disclosures;
3. All SOEs must submit audited financial statements annually to Parliament, the Auditor-General, the responsible Minister, and the public, with sanctions imposed on officers or directors who fail to comply; and
4. Parliament should withhold budget allocations from non-compliant SOEs and utilise Auditor-General reports to investigate or recommend remedial actions in cases of malfeasance or governance deficiencies.

Appointment and Accountability of Directors, Chief Executive Officers and Other Management of SOEs

5.65 Appointments to the boards of SOEs in Ghana have historically been treated less as instruments of sound governance and more as political currency. Party functionaries and loyalists and political financiers are often “rewarded” with board positions once their party assumes power. This practice strikes at the very core of corporate governance and undermines the principles of public accountability.

5.66 Keeping political considerations completely out of the governance of SOEs may be impossible because their core purpose, ownership structure and legal standing are fundamentally intertwined with the state’s political and social goals. SOEs often operate in strategic sectors (e.g., energy, water, infrastructure) and are tasked with meeting or serving certain public policy goals rather than solely maximising profits, making them natural vehicles for political decision-making. At the same time, minimizing or controlling political interference in the governance of SOEs is critical to ensure that they fulfil their mandates, operate efficiently, and do not generate undue fiscal risks.

5.67 Professionalising the board and management will promote good corporate governance and enhance performance. The common practice in Ghana is for the same appointing authorities that pick the directors and chairpersons of the SOE boards to also handpick the Chief Executive Officer or Managing Director. This practice undermines both the autonomy and the accountability architecture of SOEs. Good corporate governance requires that the board, once properly constituted, exercises the power to appoint and, where necessary, remove the CEO. This is not merely a bureaucratic ritual, but the cornerstone of effective oversight. When both the board and the CEO derive their mandate from the same political source, the reporting hierarchy collapses, and the board becomes an ornamental appendage rather than an oversight body.

5.68 Another violation of sound corporate governance principles is the appointment of sitting Ministers and MPs to boards of SOEs. This practice breaches fundamental corporate governance principles, creating severe conflict of interest, obscuring accountability, and hindering operational efficiency. The Minister is generally responsible for regulating the sector. If the Minister sits on the board of an SOE in that sector, they are effectively regulating themselves. The board is meant to hold management accountable, while the Minister holds the board accountable. If the Minister is on the board, this chain of accountability is broken, leading to confused decision-making. Politicians often operate within election cycles, whereas SOEs require longer-term strategic planning. A Minister may push for short-term fixes to avoid political fallout, compromising long-term viability. A Minister's presence on the board stifles independent commercial decision-making by other board members, as they may feel compelled to align with the Minister's political agenda. It is best to maintain an arm's-length relationship where the Minister sets the policy but the board implements the policy. A similar conflict of interest emerges with appointing a Member of Parliament to an SOE board. MPs are tasked with overseeing SOEs, including reviewing their financial performance and investigating mismanagement. An MP sitting on the board of an SOE cannot objectively investigate or hold that same institution accountable, as they are part of the management decision-making body. The arrangement also creates a culture of mutual protection, where parliamentary committees may fail to properly scrutinize underperforming SOEs because they are chaired or governed by their colleagues.

5.69 The Committee recognises the hybrid character of SOEs and, for that matter, the impracticability of divorcing political considerations completely from the governance of SOEs. However, Government's legitimate policy interest can be satisfied by having the President, or a designated Minister, appoint a majority of the SOE Board, preferably in consultation with SIGA, based on specified minimum meritocratic qualifications. A minority of the Board could be nominees of relevant professional or stakeholder groups.

The Board, in turn, should appoint the CEO and top-line management, acting in consultation with SIGA, and in accordance with a competitive recruitment process based on specified, meritocratic criteria and qualifications.

5.70 Directors on the boards of Ghanaian SOEs are seldom held personally liable for mismanagement occurring during their tenure. Such chronic lack of accountability undermines effective governance in the public sector.

5.71 In theory, some statutes could be applied to hold directors accountable in appropriate circumstances. Notably, Section 179A of the Criminal Offences Act, 1960 (Act 29) on “wilfully causing financial loss to the State” could be applied to sanction certain acts or omissions of directors or officers of SOEs. Beyond criminal sanctions, Article 284 of the 1992 Constitution provides that a public officer must not place their personal interests in conflict, or likely conflict, with the duties of their office.

5.72 The Committee believes that directors of SOEs must be recognised, both individually and collectively, as fiduciaries of their respective companies, with the same baseline fiduciary duties applicable to directors under the Companies Act and common law. These duties must seek to ensure fairness, transparency, good faith, and reasonable care, particularly in dealings with the SOE. Directors must be expressly prohibited from benefiting themselves or their associates, directly or indirectly, in transactions involving the SOE.

Recommendation

5.73 The Committee recommends amendments to appropriate parts of the Constitution to provide as follows:

- a. No Minister of State, Deputy Minister, or Member of Parliament may be appointed a director or chairperson of the governing council or board of an SOE.
- b. Appointments to the governing boards of SOEs shall be made on the basis of demonstrated competence, professional experience, integrity, and relevant expertise. Political affiliation or partisan considerations shall not be a factor in such appointments.
- c. The governing board of an SOE, once duly and properly constituted in accordance with law, shall have the exclusive authority to appoint, supervise, and, where

necessary, remove the chief executive officer and other senior management, subject to applicable law and performance requirements.

- d. The appointment processes for members of governing boards and chief executive officers of SOEs shall be guided and coordinated by SIGA to ensure fairness, professionalism, transparency, and compliance with sound corporate governance principles.
- e. Where an appointment is required to be made in consultation with or on the advice of a designated body, the process of consultation or rendering of the advice must be deemed a condition precedent to the making and publication of the appointment. If it is necessary to appoint a person in a temporary capacity to act in the position while the required advice or consultative processes are pending for a substantive successor or appointee, the person named to act temporarily in the vacant position must be the person next in line in authority or seniority within the organisation.
- f. SIGA shall prescribe minimum qualifications for appointment to the governing boards and senior management positions of SOEs, including relevant professional training, expertise, and demonstrable managerial experience, and a record free from adverse findings of misconduct, mismanagement, or abuse of office.
- g. A person shall not be appointed or serve as a director, chairperson, chief executive officer, or senior manager of an SOE if that person holds office at any level in a political party, participates in the organisation or conduct of a political campaign, or is a current or immediate past candidate for elective political office.
- h. Parliament shall enact a law governing the duties, liabilities, and accountability of directors and officers of SOEs and State-controlled Joint Ventures, and vest enforcement authority in the SIGA Directors. Officers of SOEs and State-controlled Joint Ventures shall be fiduciaries of the State and shall owe duties of loyalty, good faith, transparency, fairness, and reasonable care in the performance of their functions, comparable to those applicable under company law and the common law.

- i. A director or officer of an SOE or State-controlled Joint Venture shall not, directly or indirectly, derive any personal benefit from any transaction, decision, or arrangement involving that enterprise, except as expressly permitted by law.
- j. The legislation enacted under this article shall provide for both direct and derivative actions to enable accountability and redress for breach of fiduciary duty, misconduct, or abuse of office by directors or officers of SOEs and State-controlled Joint Ventures.
- k. An institutional nominee serving on the governing board of an SOE or State-controlled Joint Venture shall remain accountable to the nominating institution for any breach of fiduciary duty or misconduct committed in the course of that service.
- l. A person who successfully institutes a public-interest or derivative action in respect of misconduct by a director or officer of an SOE or State-controlled Joint Venture shall be entitled to recover reasonable legal costs and such compensation as may be determined in accordance with law from the offending director or officer.

Tenure

5.74 The Committee examined the issue of tenure for members of the boards and management of SOEs and recognises the need to align appointment practices with both constitutional principles and corporate governance standards. The Committee is of the view that government appointees to SOE boards should serve terms that are coterminous with the President's term of office. This approach is consistent with the Supreme Court's decision in *Theophilus Donkor v. Attorney-General*¹⁴² and accords with the provisions of the Presidential Office Act, 1993 (Act 463), which link certain appointments to the presidential term of office. Such alignment ensures that government appointees are accountable to the elected administration whose policy interests they represent.

5.75 However, the Committee considers it equally important to preserve institutional continuity and professional independence within SOE boards. Accordingly, members of the board who are nominated by institutions or professional bodies should be appointed for fixed, non-renewable terms that are not coterminous with the President's term of

¹⁴² [2019] GHASC 52 (Writ No J1/08/2017, 12 June 2019).

office. This measure would prevent undue politicisation of institutional representation and promote stability in the governance of SOEs across political cycles.

5.76 Similarly, in order to ensure that the CEO and managers of SOEs are focused on long-term strategic planning, as opposed to short-term political considerations linked to the election cycle, the Committee is of the view that tenure of the CEO should not be automatically coterminous with the Government's term. If CEOs are replaced every time a new government takes power, it destroys institutional memory and causes a vicious cycle of instability, disrupting long-term planning and performance. CEOs should have their contracts terminated based on misconduct or failing to meet agreed performance indicators, rather than political changes.

Recommendations

5.77 The Committee recommends the following in relation to tenure of SOE Board, CEO and Management:

1. Tenure of SOE Board: Government appointees to the board may be appointed to a term coterminous with the term of President; however, institutional nominees should be appointed to a fixed, non-renewable term - not coterminous with the term of the President.
2. Tenure of SOE CEO and management must be specified in their contracts of employment approved by the board acting in consultation with SIGA. It must be a renewable term, subject to meeting key performance indicators, as determined by the board and SIGA and specified in the contracts of appointment. The grounds for removal must also be specified in the contracts and shall include failure to meet agreed key performance indicators (KPIs).



CONSTITUTION REVIEW COMMITTEE 2025



Chapter VI: Leaving No One Behind: Towards a Just and Equitable Society

CRC25

Chapter VI: Leaving No One Behind: Towards a Just and Equitable Society

Overview

6.1 The 1992 Constitution was conceived with the expectation that constitutional governance would break decisively with the authoritarian excesses that characterised earlier political eras. It was therefore intended to establish a framework of government that would better protect fundamental rights, broaden opportunities, and dismantle the social and legal hierarchies that have long excluded large segments of the population from the full benefits of citizenship.

6.2 As the Preamble confirms, it was hoped that the commitments embedded in the constitutional text would “secure for ourselves and posterity the blessings of liberty, equality of opportunity and prosperity,” with the Constitution functioning as an instrument capable of guiding the nation toward that more equitable, inclusive and just society. It was, in essence, to be a constitution that leaves no one behind.

6.3 More than thirty years on, the lived experience of Ghanaians reflects both the achievements of this constitutional vision and the persistent gaps that prevent many from thoroughly enjoying its promise. While the 1992 Constitution has provided a stable democratic framework and expanded the space for rights discourse, structural inequalities, discriminatory administrative practices, and uneven access to justice continue to limit the practical enjoyment of citizenship for many groups. These gaps reveal that constitutional guarantees require not only committed and sustained implementation, but also deliberate refinement to realise their ambitions, and address social realities, evolving conceptions of justice, and the expectations of new generations who seek a society organised around fairness, dignity and equal respect.

6.4 During the Committee’s consultations and deliberations, it became clear that certain features of the constitutional design, though well-intentioned at the time of drafting, no longer adequately address the exclusion experienced by women, children, persons with disabilities, minorities, and other marginalised groups. In some cases, constitutional silence has allowed outdated statutory or administrative practices to persist; in others, constitutional provisions have been interpreted or operationalised in ways that dilute the spirit of equality and undermine the accessibility of rights. The Committee’s work also revealed the unevenness with which those rights and constitutional promises of fairness, dignity and inclusiveness are realised across different communities and circumstances.

6.5 Ensuring that no one is left behind requires that we strengthen the mechanisms through which existing rights can be accessed, enforced, and meaningfully enjoyed. Where disparities arise in the treatment of citizens, or where administrative or social practices blunt the effect of constitutional guarantees, the task is to reinforce the constitutional framework so that its promises hold equally for all.

6.6 This chapter is organised around three domains where the Committee identified the most pronounced gaps between constitutional aspiration and social experience: citizenship, fundamental human rights, and access to justice. These domains are deeply interconnected. Citizenship defines who belongs and on what terms; human rights determine the scope of protection and the conditions for equal dignity; and access to justice ensures that constitutional promises are enforceable and not hollow. Together, they form the core of a just and equitable constitutional order.

6.7 The Committee's recommendations therefore focus on strengthening the practical operation of the Constitution in ways that enhance fairness, deepen inclusion and ensure that its protections are applied consistently across the population. They seek to modernise aspects of the constitutional framework, resolve points of longstanding ambiguity, and address administrative and legal arrangements that have produced unjustifiable disparities.

6.8 Where constitutional provisions have been applied unevenly, interpreted narrowly or rendered ineffective by outdated procedures, the Committee has sought to restore their full intended scope. In the Committee's view, ensuring clarity reduces uncertainty in enforcement, coherence enhances the internal harmony of the constitutional framework, and equal effect safeguards the fundamental principle that no individual or group should enjoy diminished access to the protections the Constitution promises.

A. Citizenship

6.9 Chapter 3 of the Constitution establishes the basic legal architecture of Ghanaian citizenship. It sets out who is recognised as a citizen by birth, the circumstances under which citizenship may be acquired through registration, and the limited grounds on which citizenship obtained other than by birth may be revoked. The provisions cover citizenship by descent, protections for children whose parentage is unknown, citizenship through adoption, and pathways for spouses married to Ghanaian citizens to acquire citizenship. They also confirm the power of Parliament to enact legislation governing the acquisition and loss of citizenship, which is not covered in the Constitution.

6.10 Citizenship by registration under Article 7 of the Constitution provides a pathway for certain categories of non-citizens to become citizens of Ghana based on marriage or relationship to a Ghanaian citizen. It establishes that a woman married to a Ghanaian man, or a man married to a Ghanaian woman, may apply to be registered as a citizen in the manner prescribed by Parliament. The provision extends to widows or widowers whose deceased spouses would have retained citizenship under Article 6. Once registered, the foreign spouse acquires Ghanaian citizenship and maintains that status unless and until it is voluntarily renounced or revoked under Article 9.

6.11 The Constitution, however, requires that, where a man applies for registration, he must be permanently resident in Ghana. It empowers the authority responsible for citizenship matters to examine the genuineness of the marriage, and to decline registration where it appears that the marriage was contracted primarily for the purpose of acquiring Ghanaian citizenship. In such cases, the authority may request evidence that the marriage was entered into in good faith before effecting registration.

6.12 This framework thus imposes burdens that fall disproportionately on the foreign male spouses of Ghanaian women and reflects a gender disparity in treatment that is difficult to justify today. The differential residency requirement for the spouses of Ghanaian women, coupled with the heightened scrutiny of their motives, rests on outdated assumptions about women as dependants and men as potential abusers of the citizenship regime. These provisions, therefore, embed an unsubstantiated gender bias into the Constitution itself, creating two unequal pathways to citizenship based solely on the applicant's gender.

6.13 In addition to these foundational rules, Chapter 3 incorporates specific limitations and conditions that were shaped by the social and political context of the early 1990s. The dual citizenship clause, introduced through an amendment, allows Ghanaians to hold multiple nationalities but imposes restrictions on dual citizens holding certain public offices. These restrictions reflected the policy concerns of their time, particularly the fear that dual nationals might possess competing allegiances or divided loyalties in matters touching national security and high executive responsibility. As a result, the Constitution and subsequent legislation placed categorical limitations on the eligibility of dual citizens to hold specified public offices, including key security-sector and executive appointments. While these provisions were intended to safeguard the integrity of public service, they also created a differentiated class of citizens whose access to leadership roles is constitutionally curtailed solely on account of their possession of an additional nationality.

6.14 Further, over the past three decades, Ghana's social landscape has evolved considerably. Patterns of mobility, marriage and diaspora engagement have shifted, creating new forms of belonging that are not always fully accommodated within the current constitutional framework. At the same time, administrative practices in certain areas of public life have generated differential treatment among citizens that does not align with the Constitution's commitment to equal citizenship.

6.15 In its consultations, the Committee encountered strong and consistent concerns about how the citizenship framework operates in practice. Dual citizens expressed frustration at restrictions that exclude them from key public offices, despite their full legal status as citizens. Women and men married to Ghanaian citizens reported unequal treatment in pathways to citizenship for foreign spouses. Members of the diaspora, including descendants of enslaved Africans, emphasised the absence of a clear and dignified constitutional route to recognising Ghanaian heritage citizenship. Citizens from Zongo and other historically marginalised communities, such as Fulbe citizens, described administrative barriers and social perceptions that undermine their equal standing as Ghanaians. Together, these elements point to a citizenship framework that requires careful updating to reflect Ghana's current social landscape and to ensure that the constitutional promise of equal citizenship is realised in practice for all persons.

6.16 Three core considerations, therefore, guided the Committee's approach in this sub-chapter. These are:

- a. Citizenship must operate as a principle of equal belonging, not as a hierarchy of access.
- b. Evolving social realities require constitutional and legislative pathways that are coherent, principled, and respectful of Ghana's obligations toward all its citizens.
- c. Administrative systems should reinforce, rather than dilute, the constitutional promise that every citizen stands equal before the law.

6.17 Against this backdrop, the Committee identified four areas within the citizenship framework where these outdated assumptions produce concrete and recurring inequities. First, the scope of public office exclusions for dual citizens remains broader than is constitutionally necessary and has resulted in unjustifiable barriers to political participation for Ghanaians with deep ties to the country. Second, aspects of the foreign-spouse registration regime continue to generate gender-differentiated consequences and reflect an outdated view of marriage, mobility and family life. Third, the Constitution does not provide a coherent pathway for recognising the citizenship claims of persons of Ghanaian heritage, including descendants of enslaved Africans who trace their ancestry to Ghana. Fourth, certain administrative classifications related to "hometowns" and

indigeneity operate in ways that disadvantage citizens from Zongo and other historically marginalised communities, undermining the ideal of equal national belonging. These shortcomings highlight the need for a modernised citizenship framework grounded in equality, fairness and a contemporary understanding of Ghana's diverse society.

Dual (Multiple) Citizenship and Public Office Restrictions

6.18 Following an amendment in 1996, the 1992 Constitution recognises the possibility of multiple citizenship and permits Ghanaians to hold the citizenship of another State without forfeiting their Ghanaian nationality. At the same time, Article 8(2) lists public offices from which dual/multiple citizens are disqualified from holding, including Ambassadors or High Commissioners, Secretaries to the Cabinet, heads of the security services, and any additional office that Parliament may specify by law. These restrictions were introduced at a time when multiple citizenship was a relatively new phenomenon within Ghanaian society and when concerns about allegiance, national security, and administrative coherence shaped the debate.

6.19 The Committee found, however, that the operation of these disqualifications has produced consequences far broader than their drafters likely anticipated. Successive public discussions have revealed persistent conflicts regarding the scope of the exclusions and the categories of officers to whom they apply. In particular, the constitutional term “holds the citizenship of another country” has often been collapsed into the separate constitutional concept of “allegiance to a country other than Ghana” (Article 94(2)(a)), leading to multiple citizenship being treated as equivalent to divided allegiance for purposes of parliamentary eligibility. This conflation has been used as a basis to disqualify Ghanaian citizens holding citizenship of other countries from standing for or serving in Parliament, even though Article 8 does not expressly extend its prohibitions to membership of the Legislature.

6.20 In other words, the restrictions have been interpreted expansively, with some administrative bodies and political actors treating them as a generalised bar on the participation of multiple citizens in public life rather than a narrowly tailored limitation linked to specific constitutional functions. This has excluded qualified Ghanaians from contributing to public service, even where the relevant office has no bearing on national security or the formulation of core executive policy.

6.21 The Committee also notes that the global, economic and social context has evolved significantly since the introduction of these restrictions. Ghana now has a large and engaged diaspora, many of whom hold dual citizenship by circumstance. Many of these

citizens continue to maintain strong ties to Ghana, invest in the economy, support extended families, and play key roles in national development. The existing constitutional prohibitions, however, disproportionately affect this group by limiting their opportunities for leadership in public institutions, with no corresponding evidence that multiple citizenship impairs the performance of most public functions.

6.22 The Committee also notes concerns that the effect of the current approach is to narrow the pool of talent available for national service unnecessarily and to perpetuate a two-tier conception of citizenship that is inconsistent with the Constitution's equality guarantees.

6.23 Ghana's comparative peers, such as Kenya, Tunisia and Côte D'Ivoire, with dual citizenship regimes generally restrict eligibility only for a minimal set of offices directly implicated in national security or the constitutional identity of the state. The dominant global trend is the steady dismantling of multiple-citizenship restrictions. In many newer and older democracies, including those in Africa and Latin America, multiple citizens are now permitted to serve in Parliament, the Cabinet, and most senior public offices, with any remaining exclusions narrowly confined to a few security-sensitive positions. Even in those limited cases, the modern preference is to rely on security clearance, vetting, conflict-of-interest rules and oath-taking, rather than using nationality as a proxy for loyalty.

6.24 Further, States with large diasporas have actively facilitated the political participation of multiple citizens as a development asset. Taken together, these approaches reflect a growing international consensus that multiple citizenship, by itself, is not a reliable indicator of divided allegiance, and that inclusive citizenship regimes better serve democratic legitimacy, state capacity and global engagement.

6.25 The Committee considers that there is no compelling necessity for an expansive range of multiple-citizenship exclusions, particularly where questions of loyalty, accountability and public trust can be effectively addressed through ordinary legislation, robust vetting processes and conflict-of-interest regimes. We are also concerned that additional exclusions through legislation, without any substantive grounds, may be used to create tiers of citizenship or treat multiple citizens as a permanently diminished class of nationals.

6.26 The Supreme Court's decision in *Prof. Kwaku Asare v Attorney-General* (2012) supports the Committee's approach. The Court in *Asare* rejected the proposition that Parliament may, by ordinary legislation, expand the category of offices from which

multiple citizens are disqualified beyond those expressly listed in Article 8 of the Constitution. The Court held that the Constitution deliberately confined such exclusions to a narrow class of security-sensitive and core executive offices, and it expressly disapproved of legislative or administrative attempts to extend these prohibitions to the Chief Justice, Chief Executives of public corporations, and other senior statutory officeholders. The Court stated that to do so would amount to a substantive alteration of the constitutional text without recourse to the entrenched amendment procedure.

6.27 The Court further warned that permitting Parliament to enlarge these exclusions through statute would undermine the stability of constitutional citizenship and convert civic eligibility into a fluctuating privilege. It held that citizenship status and eligibility for public office cannot be made contingent on political discretion or shifting notions of loyalty constructed through ordinary law. This authority squarely supports the Committee's position that multiple-citizenship disqualifications must remain strictly confined to the narrowly defined offices expressly set out in the Constitution, and that any attempt to widen that list through legislation would be constitutionally impermissible and corrosive of the principle of equal civic belonging.

6.28 Accordingly, the Committee recommends that the constitutional limitations on multiple citizens holding public office be substantially narrowed and confined exclusively to the two apex constitutional offices whose functions directly implicate the core authority, unity, and constitutional identity of the State.

6.29 The offices to which the multiple citizenship limitations shall apply are:

- a. President; and
- b. Vice-President.

6.30 The President, as Head of State and first in the constitutional order of precedence, uniquely combines ultimate executive authority, command responsibility over the armed forces, leadership of international relations, and final responsibility for the direction of Government. The Vice-President is included because he or she might succeed to the presidency. These two offices represent the narrowest core of the Executive and thus excluding multiple citizens may be justified.

Recommendation

6.31 The Committee recommends targeted constitutional reform affecting Articles 8 and 94 of the Constitution, together with consequential harmonisation across all political eligibility provisions, as follows:

1. Article 8 (Dual Citizenship)

Article 8 should be amended to:

1. Confine constitutional disqualifications arising from multiple citizenship exclusively to the offices of President and Vice-President.
2. Affirm that multiple citizenship shall not, by itself, constitute a ground for exclusion from any other elective or appointive public office under the Constitution.

2. Article 94 (Qualification for Membership of Parliament)

Article 94 should be amended to:

1. Remove multiple citizenship as a disqualification for membership of Parliament.
2. Affirm that every citizen of Ghana by birth, regardless of multiple nationality status, is eligible to stand for election to Parliament, subject only to neutral competence, age and integrity-based qualifications applicable to all citizens equally.

3. Mandatory Legislative Duty on Parliament

The Constitution should expressly require that:

1. Parliament shall, by law, establish integrity, conflict-of-interest, security vetting, and disclosure regimes applicable to all public office holders or applicants for public office in specified areas of public service.
2. Such legislation shall ensure that questions of loyalty, accountability and public trust are addressed through transparent, non-discriminatory and proportionate mechanisms, rather than through categorical exclusion.

Gender Discrimination in the Treatment of Foreign Spouses

6.32 The Constitution establishes a registration pathway through which a foreign spouse of a Ghanaian citizen may acquire citizenship. Under Article 7(1), both a woman married to a Ghanaian man and a man married to a Ghanaian woman may, upon application in the manner prescribed by Parliament, be registered as a citizen of Ghana. This provision is extended to surviving spouses under Article 7(2), and safeguards are included to preserve the citizenship status of a woman whose marriage is annulled after registration,

as well as reaffirming the citizenship of children born of such a marriage under Article 7(3) and (4).

6.33 In the case of a man applying for citizenship based on the citizenship of his spouse, the Constitution further requires that he must be permanently resident in Ghana. It also empowers the authority responsible for citizenship matters to examine the genuineness of the marriage and to decline registration where it appears that the marriage was contracted primarily for the purpose of acquiring Ghanaian citizenship.

6.34 The structure of these provisions reveals a differentiated regulatory burden based on gender, with an additional residency requirement only on male foreign-spouse applicants. This differentiation reflects outdated assumptions about migration, dependency and household formation in which women were more likely to be viewed as trailing spouses and men as independent economic migrants. The effect is that the Constitution itself encodes a differential standard of access to citizenship based on the gender of the Ghanaian spouse.

6.35 The Committee also noted concerns expressed during its consultations that the effect of the provision is to embed a gender-biased suspicion that operates most directly against Ghanaian women. By imposing an additional residency requirement only where the foreign spouse is a man, the Constitution implicitly treats marriages entered into by Ghanaian women to foreign men as more suspect, exploitative, or instrumental than marriages entered into by Ghanaian men to foreign women.

6.36 The Committee also considers that this asymmetrical regulatory design is incompatible with Ghana's international obligations under instruments such as the African Charter on Human and Peoples' Rights, the Protocol to the African Charter on the Rights of Women in Africa and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), all of which require equal treatment in matters of nationality and family status.

6.37 The Committee therefore finds that, while the State has a legitimate interest in safeguarding the integrity of its citizenship regime and preventing fraudulent marriages, retaining a gender-differentiated constitutional standard is neither necessary nor proportionate to the protection of that interest.

Recommendation

6.38 The Committee recommends that Article 7 be amended to establish an entirely gender-neutral spousal citizenship regime by removing the permanent residency requirement that currently applies only to male applicants, applying marriage-verification safeguards equally to all applicants regardless of gender, and mandating Parliament to align all citizenship and immigration legislation and administrative practice with the principle of substantive gender equality so that no Ghanaian woman is indirectly disadvantaged in the transmission of citizenship.

Heritage Citizenship

6.39 Representations made to the Committee urged that Ghana's constitutional identity, rooted in Pan-African solidarity, anti-colonial history and the legacy of the transatlantic slave trade, should find clearer expression within the citizenship architecture itself, beyond symbolic or programmatic engagement.

6.40 Ghana's constitutional citizenship architecture is built predominantly on descent, birth, adoption, registration and naturalisation. While this framework secures a coherent national citizenship regime, it does not address the claims of belonging asserted by descendants of the transatlantic slave trade and other historic African dispersions whose connection to Ghana is rooted not in easily provable lineage but in shared history, identity and moral affiliation.

6.41 There is, nevertheless, no denying that, for many members of the African Diaspora, bonds of birth, ancestry and historical origin do in fact exist, even if the violence of slavery, displacement, forced migration and colonial record-keeping has rendered those links exceptionally difficult, and in most cases impossible, to trace through formal documentary proof. The constitutional framework's strict reliance on provable descent, therefore, unintentionally excludes categories of historical belonging that are real in substance but inaccessible in formal legal terms.

6.42 The Committee notes that, over several decades, Ghana has positioned itself, both domestically and internationally, as a cultural and historical home for the African Diaspora. State initiatives, such as the Pan African Historical Festival (PANAFEST) and the "Year of Return", as well as subsequent diaspora engagement programs, reflect a

sustained public policy commitment to fostering reconnection between Ghana and communities of African descent worldwide.

6.43 This policy orientation has been reinforced at the highest level of the Ghanaian state through sustained reparative justice advocacy by successive Presidents, including John Dramani Mahama and Nana Akufo-Addo, both of whom have publicly advanced Ghana's leadership in global efforts to secure recognition of slavery as a crime against humanity and to press for reparations for Africa and peoples of African descent, thereby situating diaspora reconnection within a broader framework of justice, dignity, and historical redress.

6.44 However, these initiatives operate primarily at the level of cultural diplomacy, tourism, and investment promotion, without a parallel constitutional or juridical framework through which belonging may be expressed in civic terms.

6.45 The Committee notes that Ghanaian law already contains limited statutory recognition of diasporic connection through the Right of Abode regime established under sections 17 to 19 of the Immigration Act, 2000 (Act 573). Under this regime, the Minister, with the President's approval, may grant right of abode status to a person of African descent in the Diaspora who satisfies specified conditions relating to character, criminal record, independent means, developmental contributions, and age. Holders of the status are entitled to reside indefinitely in Ghana, enter without a visa, and work without a permit; however, they do not acquire Ghanaian citizenship, except through the naturalisation procedure.

6.46 While this statutory framework reflects an essential acknowledgement of Ghana's relationship with the African Diaspora, the Committee observes that it remains an immigration privilege grounded in executive discretion rather than a rights-based civic status. The criteria for eligibility include subjective assessments, particularly with respect to "substantial contribution to the development of Ghana", and the ultimate grant of status depends on ministerial and presidential approval.

6.47 As a result, the regime does not operate as a structured pathway to civic membership but rather as a conditional residence status that can be withdrawn. Moreover, the right of abode does not establish a clear, independent constitutional route to citizenship, regardless of the length of residence, leaving beneficiaries in a position of permanent legal dependency rather than complete constitutional belonging.

6.48 At the same time, the Committee is mindful of the need to preserve the coherence, integrity and stability of Ghanaian citizenship. Heritage citizenship cannot be framed in a manner that destabilises the existing citizenship regime, dilutes civic obligations, or introduces indeterminacy into the constitutional concept of the Ghanaian people. Any heritage-based framework must therefore be carefully structured, legislatively regulated, and grounded in clear principles of accountability, public interest and national cohesion.

6.49 Such an approach can situate heritage return and civic incorporation within a democratically accountable constitutional and legislative framework while preserving flexibility in design. The Constitution would expressly mandate Parliament to establish a dedicated heritage-based pathway to Ghanaian citizenship, operating alongside the existing routes of registration and naturalisation, and governed by clear, objective statutory criteria. Anchoring this power in the Constitution prevents heritage belonging from being reduced to a purely discretionary executive policy and affirms it as a legitimate constitutional route into Ghana's civic community.

6.50 The Committee considers that such a legislated heritage-citizenship framework would enhance legal certainty for diaspora communities who currently operate within fragmented and revocable immigration classifications. It would also strengthen Ghana's global engagement strategy by converting symbolic diasporic affiliation into a structured legal relationship governed by rights, duties and democratic oversight.

Recommendation

6.51 The Committee recommends that Article 8 of the Constitution be amended to expressly recognise a right of abode for persons of African descent in the Diaspora, exercisable in accordance with conditions to be prescribed by Parliament.

This right of abode should further mature, upon satisfaction of clearly defined statutory requirements, into an entitlement to apply for Ghanaian citizenship through a dedicated heritage-based pathway.

Parliament shall by law regulate the qualifying criteria, procedures and safeguards applicable to both the right of abode and the heritage-citizenship pathway.

Administrative Hometown-Based Discrimination Against Citizens from Zongo Communities and Historically Mobile Groups

6.52 During the Committee’s nationwide consultations, repeated concerns were raised about the everyday administrative experiences of citizens whose ethnicity, religion, language, or settlement history does not conform to dominant notions of local indigeneity. These concerns were expressed most strongly by residents of Zongo communities and by members of historically mobile and transnational groups, including the Fulbe.

6.53 Many participants described enduring patterns of suspicion, differential treatment and procedural obstruction in their interactions with public institutions. These accounts revealed a persistent gap between constitutional guarantees of equal citizenship and the lived experience of belonging.

6.54 The Committee examined the continuing use of “hometown” and related notions of indigeneity within parts of Ghana’s public administration as informal proxies for determining belonging and, in some instances, for testing claims to citizenship. Although these concepts have no direct constitutional or statutory basis, the Committee found that they are routinely incorporated into administrative forms and verification processes, thereby shaping access to public employment, public services, land administration, health insurance, security processes, educational placements, and local political participation.

6.55 During the consultations, many citizens from Zongo communities and historically mobile groups reported being drawn into administrative limbo when their personal or family histories did not neatly align with hometown expectations. In such cases, their citizenship is questioned, delayed, or subjected to repeated verification across multiple state interfaces, including access to passports, birth certificates, national identification cards and health insurance. More troublingly, some individuals reported that health officials have, without their consent or knowledge, recorded foreign nationalities on birth certificates of their children, deepening stigma and creating subsequent documentation barriers.

6.56 The Committee found that Zongo communities are structurally the most affected by these practices because of the way “hometown” has come to function as a proxy for ancestral origin rather than for civic belonging.

6.57 The Committee notes that the Zongos emerged historically as settlements for migrant traders, itinerant workers and trans-Saharan communities, including but not limited to Fulbe (Fulani), Hausa, Wangara, Mossi and other trans-Saharan groups, whose economic roles placed them outside indigenous landholding structures in many host towns. Many of these communities have been present in Ghana – and the Gold Coast before it – for generations, often for centuries, contributing to commerce, agriculture, security services, and religious life across the country. Yet, their histories of mobility, trans-border movement, and non-landholding settlement patterns have rendered them particularly vulnerable to being administratively constructed as “outsiders”, even where they are Ghanaian by birth.

6.58 Over time, this spatial separation hardened into an administrative distinction, with Zongo residents often treated as permanent settlers rather than as full indigenes of the municipalities in which they were born, raised and taxed. Because Zongo populations are ethnically diverse and include Fulbe, Hausa, Wangara and other mobile groups, they are more readily labelled as “non-local” within bureaucratic systems that improperly equate citizenship with indigenous ancestry.

6.59 The Committee emphasises that the 1992 Constitution establishes a unitary and equal conception of Ghanaian citizenship. It does not recognise gradations of belonging based on ethnicity, settlement history, religion, language or migratory heritage. Administrative practices that reproduce such distinctions therefore operate in direct tension with the Constitution’s guarantees of equality, dignity and equal protection of the law.

6.60 The Committee concludes that administrative hometown-based discrimination represents one of the most enduring yet least formally acknowledged barriers to equal citizenship in Ghana. It finds that these administrative practices produce systemic constitutional harm by allowing informal notions of ancestry, migration history and locality to operate as gatekeeping criteria for access to state services. The Committee accordingly treats administrative hometown-based discrimination as a direct threat to unitary citizenship and equal civic belonging, requiring decisive constitutional correction.

Recommendation

6.61 The Committee recommends the insertion of a new constitutional provision requiring that Parliament enact legislation to prohibit the use of “hometown”, indigeneity, ancestral origin, ethnicity, religion, language and settlement history as criteria for determining a citizen’s access to public services, civil documentation, public employment, political participation, or the enjoyment of any civic right or obligation. Such legislation shall also prescribe uniform, objective and non-discriminatory procedures for civil registration, national identification and service access, with enforceable sanctions for officials who substitute ethnic, religious or settlement-based criteria for legal citizenship.

B. Fundamental Human Rights

6.62 Chapter 5 of the 1992 Constitution establishes Ghana’s framework of fundamental human rights and freedoms, while Chapter 6 sets out the Directive Principles of State Policy that shape the social, economic and governance environment in which those rights are to be realised. Together, these Chapters articulate the constitutional vision of dignity, equality, liberty, participation and social justice. Beyond civil and political freedoms, Chapters 5 and 6 also directly address questions of protest, labour beyond formal employment, educational rights, property relations between spouses, access to healthcare, and the treatment of vulnerable persons.

6.63 The Constitution also regulates how these guarantees operate in practice. Article 12 defines the scope of application of rights and identifies the actors bound by them. The Constitution permits limitations on rights under specified conditions and entrusts the courts with interpreting both the content of rights and the validity of constraints.

6.64 The practical operation of these guarantees depends not only on judicial interpretation, however, but also on administrative practices, access to legal services, and the effective functioning of public institutions. Together, these rules and practices shape the everyday experience of rights protection within the criminal justice system, public order management and administrative governance.

6.65 During the Committee’s consultations, a wide range of issues and concerns were raised about how these constitutional guarantees are experienced in practice. Participants

consistently pointed to uncertainty about the scope of rights in private settings, the frequent reliance on limitations and restrictions, persistent challenges in pre-trial detention and bail administration, obstacles to peaceful protest, gaps in economic and social protections, religious coercion in public schools, weaknesses in the protection of women, children, intersex persons and persons with disabilities, and recurring barriers in accessing justice and legal services. These concerns form the basis of the sections that follow, which examine the practical operation of constitutional rights and related State obligations across the key thematic areas of this Chapter.

Scope of Applicability of Fundamental Human Rights

6.66 The scope of applicability of fundamental human rights under the 1992 Constitution is principally governed by Article 12. The provision establishes that the rights and freedoms guaranteed in Chapter 5 are binding on the Executive, the Legislature, the Judiciary, and all organs of government, as well as their agencies. It further provides that these rights are, “where applicable,” also binding on natural and legal persons. The Constitution, thus, contemplates that fundamental rights operate not only in the public sphere but, in appropriate circumstances, within private relations as well. This formulation reflects a hybrid constitutional design.

6.67 On the one hand, it affirms the traditional vertical application of rights against the State. On the other hand, it recognises that certain rights may also regulate relationships between private persons, corporations, religious bodies, employers, schools, and other non-state actors. The courts have, over time, been called upon to determine when rights apply in private contexts and the extent to which private conduct must conform to constitutional standards.

6.68 At the same time, the qualifying phrase “where applicable” leaves significant room for interpretive uncertainty. It does not expressly define which rights apply horizontally, to what extent, or under what conditions. Thus, in practice, the horizontal reach of constitutional rights remains unevenly understood and significantly underutilised.

6.69 This is particularly evident in the context of chieftaincy institutions and customary authority structures. Throughout the Committee’s consultations, numerous instances were highlighted where chiefs and traditional leaders imposed various sanctions. This included banishment, restrictions on movement, forced relocations, public shaming, and penalties enforced by community vigilante groups. Although these actions clearly implicate rights to dignity, freedom of movement, fair hearing and protection from

arbitrary punishment, they are often defended as matters of “custom” and insulated from constitutional scrutiny in practice.

6.70 The same tension appears in the routine enforcement of communal bans, including bans on noise-making, curfews imposed by traditional authorities, and restrictions on social activity enforced through local sanctions. While such practices may pursue legitimate social objectives, their operation is rarely assessed through the proportionality and necessity standards required by the Constitution. Instead, they tend to persist as parallel systems of regulation operating largely outside constitutional discipline.

6.71 At the private level, the Constitution is often underused as a direct means of enforcing rights. In areas such as employment, education, family relationships, housing, healthcare, religious institutions, and commercial activities, instances of violations regarding dignity, equality, due process, and freedom of expression are typically addressed through tort law, contract disputes, or internal grievance procedures, rather than being framed as constitutional issues. Political parties similarly exercise substantial coercive power over their members through disciplinary procedures that often affect political participation, speech, and association; yet, constitutional standards are rarely invoked as the primary normative frame. As a result, the protection of rights within private and quasi-private spheres remains fragmented, mediated through ordinary law and uneven statutory enforcement, rather than being consistently anchored in constitutional obligation.

6.72 The cumulative effect is that significant zones of social power remain only partially constitutionalised. Where both customary authority and private institutional power operate without a clear and shared understanding that constitutional rights bind their actions, the practical protection of dignity, equality and liberty becomes inconsistent. The Constitution thus risks being perceived as a shield only against formal state power, rather than as the supreme normative framework governing all relationships of authority that affect the lives of citizens. This under-enforcement of horizontal application weakens accountability, deepens vulnerability for marginalised groups, and blunts the full emancipatory potential of the constitutional rights framework.

6.73 The Committee is therefore of the view that the existing constitutional formulation has not succeeded in embedding a clear, affirmative and universally understood obligation that fundamental rights bind all centres of power in society, whether public, private, political, customary or commercial. The continued use of the qualifying phrase “where applicable” has allowed constitutional rights to remain peripheral in spheres where coercive authority is exercised outside the formal structures of the State.

6.74 There is accordingly a need for a more explicit constitutional articulation that affirms the direct applicability of Chapter 5 across all relationships of power and subordination, so that constitutional rights become the primary normative reference point for accountability in chieftaincy systems, political party governance, private establishments and other non-state domains that materially affect the lives, dignity and freedoms of citizens.

Recommendation

6.75 The Committee recommends that Article 12(1) be reformulated to expressly establish a clear constitutional presumption that the fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all other governmental actors and their agencies and by all persons, institutions, and authorities exercising power over others, including traditional authorities, political parties and private entities whose conduct affects the dignity, liberty, equality or legal protection of another person.

Limitation Clause

6.76 The 1992 Constitution contains two central provisions that frame how fundamental rights may be limited. Article 12(2) provides that every person in Ghana is entitled to the fundamental rights and freedoms in Chapter 5, “but subject to respect for the rights and freedoms of others and for the public interest”. This operates as a general limitation formula, signalling that rights are not absolute and may be balanced against competing rights and public interest considerations.

6.77 In addition to Article 12(2), several specific rights provisions import their own internal limitation language. Article 21 on general fundamental freedoms is the most explicit. It guarantees freedoms of expression, thought, religion, assembly, association, information and movement. The freedoms mentioned are made “subject to such qualifications and laws as are necessary in a free and democratic society” (Article 21(1)(f), 21(3)). The text outlines specific grounds on which laws can legitimately limit the freedom of movement, including considerations for defence, public safety, public health, public order, and the protection of national symbols (Article 21(4)). These restrictions must pass the test of being “reasonably justifiable in terms of the spirit of this Constitution.”

6.78 Several core rights are framed with embedded exceptions that function as limitation clauses within the right itself. For example, the right to life in Article 13 prohibits intentional deprivation of life, but permits it in execution of a court sentence and in specified circumstances where force is “reasonably justifiable” for defence, arrest, riot control or crime prevention (Article 13(2)). Articles 14, 17, 19, 20, 24, and 26 all have their own similar internally-embedded limitations.

6.79 Although Chapter 6 does not contain express limitation clauses in the manner of Chapter 5, its judicial treatment has operated in practice as a significant restraint on enforcement. For a considerable period, the Directive Principles of State Policy were treated as non-justiciable, insulating large areas of economic, social and developmental policy from judicial scrutiny. Although the Supreme Court has more recently articulated a presumption of justiciability, this doctrinal shift has remained cautious and uneven in application. The lingering uncertainty over enforceability continues to function as a practical limitation on the transformative reach of the Directive Principles, constraining their capacity to generate binding obligations and blunting their potential as a driver of progressive constitutional change.

6.80 Taken together, the structure and drafting of the limitation architecture across Chapters Five and Six create an unusually restrictive rights regime within the Constitution. Rather than being concentrated in a single, clearly structured general limitation clause, limitations are dispersed across multiple rights provisions and framed in broad, open-ended language such as “public interest”, “public safety”, “public order”, “morality”, and what is “reasonably justifiable”. These formulations are not consistently anchored to the principles of apparent necessity, proportionality, or the least restrictive means standard. As a result, the limitation framework does not operate as a narrowly tailored exception to rights, but as a parallel and often dominant regulatory regime that runs alongside the rights themselves.

6.81 In practice, this drafting approach has produced an interpretive environment in which restrictions are easily invoked and rarely subjected to rigorous constitutional scrutiny or discipline. Executive and administrative action is frequently justified through generalised appeals to public order or security, without a structured demonstration that the specific restriction is strictly required, proportionate to a pressing social need, or the least intrusive means available. Since the Constitution does not consistently require such a high level of justification, courts often find themselves without clear textual direction on how strictly they need to police limitations.

6.82 The cumulative effect is that many constitutional rights are experienced in practice not as stable entitlements held against the State, but as interests whose enjoyment is persistently contingent on shifting administrative judgments. Where limitation language is broad and internally diffuse, the burden of protecting the substance of rights shifts decisively from the constitutional text to judicial discretion and uneven statutory safeguards. This weakens legal certainty, enables fragmented enforcement across sectors, and heightens the risk that rights protection becomes dependent on institutional culture, disregarding the supremacy of constitutional rights. Over time, such an arrangement tends to normalise restriction rather than treating it as exceptional, thereby altering the practical balance between liberty and authority within the constitutional order.

6.83 What this pattern reveals is that the Constitution's current limitation architecture does not sufficiently discipline the exercise of restrictive power. Every purported limitation of a right thus risks being read in the old "clawback clause" fashion as a blanket authority for diminishing the right, rather than as a check on the restriction itself, one designed to protect and preserve the essence of the right by keeping the restriction within narrowly circumscribed boundaries. As a result, decision-makers often proceed directly from the invocation of public order, security, morality or administrative convenience to the limitation of rights, without a rigorous examination of whether the interference is truly necessary, narrowly tailored, proportionate or supported by objective evidence. This weak structuring of justification has allowed restrictions that must be exceptional and limited in purpose, scope, and effect to become routine applications. If constitutional rights are to function as real constraints on power rather than imperfect aspirations, the limitation framework must be recalibrated so that restriction becomes a genuine last resort, not the default regulatory response.

Recommendation

6.84 The Committee recommends the removal of the multiple, specific and dispersed limitation phrases currently attached to individual rights provisions in Chapter Five, including references to public order, public morality, public safety, national security and similar formulations. In their place, the Constitution should adopt a single, general limitation clause applicable to all fundamental rights. Under this approach, any restriction on a constitutional right, regardless of its legislative source or policy justification, must be strictly justified under a unified standard of legitimacy, proportionality and necessity. This would ensure that no restriction is automatically validated merely by invoking broad public-interest language, and that all limitations

are subjected to the same rigorous constitutional test of necessity, least-restrictive means and proportionality in a free and democratic society.

The following draft clause is proposed to give constitutional effect to the Committee's recommendation that all limitations on fundamental rights be subjected to a single, strict and judicially enforceable standard of justification:

General Limitation of Rights

(1) A fundamental right or freedom guaranteed by this Constitution may be limited only in accordance with this article.

(2) Any law, act, decision or measure that limits a fundamental right shall bear the burden of strict justification.

(3) A limitation shall be constitutionally valid only where the person or authority seeking to uphold it demonstrates that:

(a) The limitation is authorised by law;

(b) The limitation pursues a legitimate constitutional objective;

(c) The limitation is strictly necessary in a free and democratic society;

(d) The limitation is proportionate to the objective pursued; and

(e) No less restrictive means are reasonably available to achieve that objective.

(4) A limitation shall not be upheld merely based on assertions of public order, public safety, public morality, national security or economic necessity, unless such claims are specifically and strictly justified under clause (3).

(5) In determining whether a limitation is constitutionally valid, a court shall interpret this article in a manner that gives the fullest possible effect to the enjoyment of fundamental rights.

(6) Any limitation that does not satisfy the requirements of this article is void to the extent of the inconsistency.

Pre-trial Detention

6.85 Pre-trial detention under Ghana's constitutional framework is principally governed by Article 14, which guarantees personal liberty and permits deprivation of that liberty only in strictly limited circumstances and in accordance with procedures permitted by law. The Constitution mandates that anyone arrested on suspicion of committing a criminal offence must be promptly informed of the reasons for their arrest and their right to legal representation. Additionally, they must be brought before a court within forty-eight hours. Where a trial does not take place within a reasonable time, the Constitution further requires that the person be released either unconditionally or upon reasonable conditions designed only to secure appearance at a later stage of the proceedings. Read together, these provisions reflect a clear constitutional architecture in which arrest is temporary, detention is exceptional, and liberty remains the governing presumption.

6.86 In practice, however, the Committee observes a persistent and systemic departure from this constitutional design. In the hands of the police and other law enforcement agencies, pre-trial detention has become a routine feature of criminal justice administration rather than an exceptional measure of last resort. Persons are frequently detained before investigations have even commenced or advanced, rather than as the culmination of a completed investigative process. Additionally, arresting and prosecutorial bodies often fail to present persons detained during their investigations to the court within the constitutionally sanctioned forty-eight hours, citing administrative challenges. Where State institutions comply with the forty-eight-hour rule, the utility of the rule is often rendered hollow by reflexive bail denials, repeated adjournments without inquiry into investigative diligence. Bail, which the constitutional scheme implicitly treats as the default position in non-capital matters, is routinely opposed by prosecutors and frequently denied by courts on formulaic grounds, without a rigorous assessment of "flight risk", risk of interference with evidence, or risk to public safety. As a result, judicial remand is increasingly used as a substitute for investigative capacity.

6.87 The Committee further notes that detention is sometimes employed as a coercive tool within law enforcement practice. Arrest and continued remand are used to compel confessions, force cooperation, or demonstrate administrative decisiveness in high-profile matters before the evidentiary foundation has been established. Even more troubling are reports of patterns in which individuals are detained, charges are subsequently abandoned or struck out, and the same individuals are later re-arrested on substantially identical factual allegations, thereby restarting the forty-eight-hour clock and rendering constitutional safeguards into procedural formalities devoid of

substantive protection. This practice directly undermines the constitutional requirement that deprivation of liberty be strictly justified and proportionate.

6.88 The Committee also observes that pre-trial detention is structurally unequal in its effects. Those with financial resources, stable addresses, and access to competent legal representation are far more likely to secure police inquiry bail or court bail at an early stage. By contrast, economically vulnerable persons, informal-sector workers, migrants, and persons without political connections experience significantly higher rates of prolonged remand. In these circumstances, remand custody becomes a form of socio-economic punishment before adjudication. The constitutional presumption of innocence is thus eroded both in principle and in lived reality.

6.89 The cumulative effects of these practices are severe. Prolonged pre-trial detention contributes directly to prison overcrowding, weakens public confidence in the justice system, disrupts livelihoods and family structures, and exposes unconvicted persons to conditions of confinement designed for convicted offenders. It also distorts prosecutorial incentives, reducing pressure for timely investigation and disciplined case preparation.

6.90 The Committee further observed a growing and constitutionally troubling practice in which arresting bodies, particularly within the police and other security agencies, impose administrative or police bail conditions and then treat a suspect's inability to meet those conditions, rather than any judicial finding, as a basis for continued detention outside court supervision. In effect, bail is being converted from a judicial safeguard into a mechanism of indirect detention, allowing arresting authorities to prolong control over persons without presenting them before a court within the constitutionally required time. In several cases brought to the Committee's attention, suspects were kept under rolling bail requirements, repeated extensions, or continued custody under the pretext of "failure to meet bail conditions" without ever being formally charged. This practice directly subverts Article 14, weakening judicial oversight over personal liberty and entrenching administrative detention by default rather than through lawful judicial order.

6.91 The Committee therefore characterises the current pre-trial detention landscape as one in which constitutional safeguards exist in form but are systematically diluted in operation, producing a gap between the textual guarantee of liberty and the everyday experience of criminal process.

6.92 Taken together, the patterns identified in relation to pre-trial detention reveal a deeper structural distortion in the relationship between liberty, investigation, and adjudication. What was constitutionally designed as a narrow and temporary

interference with freedom has evolved in practice into a routine administrative instrument of criminal process.

6.93 Although the Constitution affirms personal liberty as a foundational right, the absence of a coherent, modern and enforceable statutory framework has allowed fragmented practices, institutional inertia and discretionary abuse to dominate the field. What is therefore required is a comprehensive re-ordering of the legal regime governing arrest, bail, remand and pre-trial custody, anchored in enforceable time limits, automatic judicial supervision, and direct accountability for abuse. Without such systemic reform, constitutional protections will remain formally intact but functionally hollow in everyday criminal procedure.

Recommendation

6.94 The Committee recommends the introduction of the following new constitutional provision as an amendment to Article 14:

- (1) A person who is arrested or detained shall be presumed entitled to bail, and shall not be remanded in custody except where the prosecution establishes, on clear, specific and credible grounds, that detention is strictly necessary to prevent
 - (a) flight from justice, or
 - (b) interference with witnesses or evidence.
- (2) In the case of misdemeanours and non-violent offences, bail shall be automatic, and shall not be denied except in the exceptional circumstances set out in clause (1).
- (3) Parliament shall by law provide for a comprehensive framework governing arrest, bail, remand and pre-trial detention, and that framework shall
 - (a) impose strict and enforceable time limits on police remand and prosecutorial case review;
 - (b) require automatic and periodic judicial review of all pre-trial detention; and
 - (c) establish effective remedies and accountability, including immediate release, enforceable compensation, disciplinary sanctions, and personal liability for public officers responsible for unlawful, excessive, or unjustified detention.

(4) Pre-trial detention shall operate only as an exceptional measure of last resort, and shall not be used as a routine instrument of investigation, coercion or administrative convenience.

(5) Arrest and detention of any person by the military or any security institution in guardroom or any detention facility beyond 48 hours shall be unconstitutional. The military should not detain civilians in guardrooms; civilians should be transferred to police custody.

Fair Trial

6.95 The Constitution establishes an extensive and detailed architecture of fair trial guarantees, anchored principally in Article 19 but reinforced across the broader rights framework. These protections include the presumption of innocence, the right to be informed promptly and in detail of the charge in a language understood, adequate time and facilities to prepare a defence, the right to legal representation of one's choice, the right to examine prosecution witnesses and to call defence witnesses on equal terms, the right to free interpretation where required, and the prohibition of retrospective criminal liability.

6.96 The framework also entrenches public hearings by independent and impartial adjudicating bodies, protection against double jeopardy, and the requirement that criminal offences and penalties be defined in written law. In design, these provisions reflect a strong commitment to due process as a cornerstone of constitutional democracy.

6.97 In practice, however, the Committee observed that systemic weaknesses in the administration of criminal justice have undermined the formal strength of these safeguards. Long delays remain endemic across the trial process, driven by investigative inefficiencies, prosecutorial congestion, inadequate judicial resources and frequent adjournments. These delays often render the substance of the right to be tried within a reasonable time non-existent and ineffective, and when combined with expansive remand practices, create a pipeline in which accused persons experience prolonged loss of liberty before adjudication. The presumption of innocence is further weakened by public commentary by officials, media spectacle around arrests, and informal punitive measures imposed through bail conditions, all of which operate before any judicial finding of guilt.

6.98 Although the Constitution guarantees that every person charged with a criminal offence shall be tried within a reasonable time, the Committee found that systemic delay has become one of the most serious structural threats to the practical enjoyment of the right to fair trial.

6.99 Where trials are unduly delayed, the presumption of innocence is gradually hollowed out by the practical realities of stigma, economic hardship, disrupted family life and restricted movement. For accused persons held on remand, delay becomes a form of unadjudicated punishment. Even for those on bail, repeated court appearances, prolonged uncertainty, and the inability to bring matters to final resolution operate as significant deprivations of liberty in substance, even if not formally characterised as detention.

6.100 Addressing systemic delay requires a shift from treating time as an administrative inconvenience to recognising it as a core constitutional variable. The right to be tried within a reasonable time must be translated from an abstract guarantee into an enforceable operational standard that binds investigators, prosecutors and courts alike. This requires the construction of a justice process in which delay is constitutionally visible, institutionally monitored and met with clear procedural consequences. Without this shift, protections against prolonged prosecution will continue to depend on judicial discretion and ad hoc intervention rather than on a predictable constitutional discipline that actively prevents trials from stagnating.

Recommendation

6.101 The Committee recommends an amendment of article 19 that recognises the following:

1. Every person charged with a criminal offence shall have the right to be tried and have the charge determined within a strictly reasonable time.
2. Parliament shall by law prescribe binding time limits for the investigation, prosecution and determination of criminal cases, taking into account the seriousness and complexity of the offence.
3. Where an accused person is not tried within the time limits prescribed by law, and the delay is not attributable to that person, the court shall grant such effective remedies as are just and proportionate, including dismissal of the charges, exclusion of evidence, or reduction of sentence.
4. A public officer whose unjustified acts or omissions cause or materially contribute to unconstitutional delay in criminal proceedings commits a constitutional

violation and shall be subject to personal liability, disciplinary sanction and such further consequences as may be prescribed by law.

Legal Aid

6.102 Ghana's legal aid framework is anchored both in the Constitution and in statute. Article 294 of the 1992 Constitution expressly guarantees that any person who has reasonable grounds for initiating, defending or participating in proceedings for the enforcement of the Constitution is entitled to legal aid in connection with those proceedings. The Constitution further mandates Parliament to regulate the grant of legal aid by legislation and permits Parliament to extend legal aid beyond constitutional litigation to other categories of cases. For constitutional purposes, legal aid is defined broadly to include representation by a lawyer and all assistance incidental or preliminary to proceedings, including compromise and settlement processes.

6.103 Pursuant to this constitutional mandate, Parliament enacted the Legal Aid Commission Act, 2018 (Act 977), which establishes the Legal Aid Commission as the institutional mechanism for delivering publicly funded legal assistance. The Commission is responsible for providing legal representation primarily to indigent persons in criminal cases and in specified categories of civil matters, subject to eligibility screening based on financial means. The Act authorises the Commission to operate through staff lawyers, partnerships with private practitioners, paralegals, and civil society organisations, as well as a nationwide office structure intended to decentralise service delivery.

6.104 Under the current framework, therefore, legal aid operates as a constitutionally recognised but selectively applied right: automatic and direct in constitutional enforcement proceedings, and regulated, conditional and means-tested in criminal and civil matters under statute. The system is designed as a publicly administered safety net intended to complement, rather than replace, private legal services, with a focus on protecting vulnerable persons and ensuring minimum access to legal representation within available state resources.

6.105 Despite its constitutional foundation and statutory architecture, the practical operation of Ghana's legal aid system is marked by severe structural and capacity constraints that significantly limit its reach and effectiveness. Across multiple regions, the demand for legal aid vastly outstrips available supply. Persistent underfunding, inadequate staffing levels, and limited logistical resources have led to chronic case backlogs, lengthy waiting periods for representation, and the exclusion of large numbers

of eligible individuals from timely legal assistance. In several districts, the absence of functional Legal Aid Commission offices has left entire populations dependent on sporadic outreach or informal support from civil society.

6.106 The criminal justice system bears the heaviest burden of these deficiencies. Many accused persons, particularly in remand custody and at the early stages of arrest and interrogation, continue to appear before courts without legal representation despite the high constitutional stakes involved. Delays in assigning counsel frequently result in prolonged pre-trial detention, uninformed plea decisions, and weak procedural safeguards. In practice, legal aid is often activated only after critical stages of investigation and charging have already passed, blunting its protective function.

6.107 Access failures are also pronounced in civil and administrative justice. Although Parliament is constitutionally empowered to extend legal aid beyond constitutional and criminal matters, the scope of civil legal aid remains narrowly defined and inconsistently implemented. Large categories of disputes that directly affect livelihood, housing, family relations, labour rights, documentation, land security and administrative justice fall outside adequate legal aid coverage. As a result, many structurally vulnerable persons face the courts, public institutions and powerful private actors without legal support, notwithstanding the profound consequences of these proceedings for their rights and welfare.

6.108 Previous constitutional review bodies have consistently identified the structural weaknesses of Ghana's legal aid regime. Both the 2010 Constitution Review Commission and the 2024 Constitutional Review Consultative Committee recommended elevating legal aid to an expressly guaranteed constitutional right, establishing a genuinely independent and adequately funded Legal Aid Commission, and expanding legal aid coverage to include civil, family, and public interest matters.

6.109 Stakeholder consultations conducted by the Committee strongly echoed these concerns. Participants repeatedly observed that, in practice, access to justice in Ghana remains heavily conditioned by economic status. There was broad support for mandatory pro bono obligations, the development of digital legal aid platforms, and the strengthening of legal services for vulnerable groups, particularly women, children, older persons and persons with disabilities.

6.110 The Committee also considered comparative experiences from jurisdictions such as Kenya, South Africa, India and Canada, where explicit constitutional or robust

statutory guarantees of legal aid have been instrumental in improving fairness, early access to counsel and the overall integrity of the justice system.

6.111 The Committee, therefore, concludes that Ghana must entrench the right to legal aid at the constitutional level and secure the institutional independence and sustainable funding of the Legal Aid Commission. These reforms are necessary to transform legal aid from a discretionary welfare intervention into a core component of equal access to justice and to reinforce Ghana's democratic and human rights commitments.

Recommendation

6.112 The Committee recommends the amendment of Article 294 to make provision for the following:

- (1) Parliament shall by law establish and maintain an independent Legal Aid Commission with secure financial autonomy, adequate and predictable funding, and nationwide institutional presence to provide legal aid for defendants in criminal matters who lack sufficient means to secure or retain legal representation.
- (2) Legal aid shall include legal advice, representation by a lawyer, and all assistance reasonably required for the fair initiation, conduct and resolution of proceedings.
- (3) Parliament may by law provide for:
 1. mandatory pro bono obligations for legal practitioners;
 2. legal aid by clinical experience under the supervision of a lecturer who is a lawyer/practitioner;
 3. digital, community-based and decentralised delivery of legal aid services; and
 4. specialised legal aid services for women, children, persons with disabilities and other vulnerable or marginalised groups.

The Death Penalty

6.113 The 1992 Constitution affirms the right to life as a fundamental and inviolable right, while at the same time preserving the death penalty as a constitutionally permitted punishment following conviction for specified offences (Article 13).

6.114 Despite Article 13, the practical operation of the death penalty in Ghana has been fundamentally altered by recent legislative developments. Parliament has enacted reforms that have replaced the death penalty with life imprisonment for all offences previously punishable by death under ordinary criminal legislation. As a result, capital punishment now subsists only in respect of those offences for which it is expressly preserved by the Constitution itself, namely high treason and treason (Articles 3 and 19(2)).

6.115 The combined effect of this constitutional–statutory interaction is that the death penalty has been abolished across the criminal justice system, leaving only a narrow constitutional residue. This divergence between constitutional retention and legislative abolition has created an internal tension within the rights framework, in which the Constitution formally authorises a punishment that the ordinary criminal law has largely repudiated.

6.116 The CRC-1 described the death penalty as inconsistent with Ghana’s human rights framework and recommended its abolition and replacement with life imprisonment. The CRCC reaffirmed this position, citing moral, religious, and human rights considerations as well as broad public support. National opinion surveys further indicate that most Ghanaians now view capital punishment as incompatible with the right to life and dignity.

6.117 Comparative constitutional practice confirms that Ghana’s evolving domestic position is consistent with broader global and regional trends. Across Africa, a clear majority of states have either abolished the death penalty in law or have ceased its use in practice. Countries such as South Africa, Namibia, Mozambique, Rwanda, Sierra Leone and Zambia have constitutionally or legislatively abolished capital punishment, grounding their decisions in the inviolability of human life, the irreversibility of execution, and the risk of wrongful convictions.

6.118 Against this legal, moral and comparative backdrop, the Committee considers that the continued constitutional preservation of the death penalty in respect of a narrow class of offences is untenable. What is now required is a coherent constitutional alignment that

brings the supreme law into full conformity with the practical abolition of capital punishment, the doctrine of human dignity, and Ghana's democratic identity as a rights-respecting state.

Recommendation

6.119 The Committee recommends targeted constitutional reform affecting Articles 13, 3, 19, 72 and 94 of the Constitution, together with mandatory consequential legislative adjustments, as follows:

1. Article 13 (Right to Life)

Article 13 should be amended to:

- a. Delete all language that permits the intentional deprivation of life pursuant to a sentence of a court.

2. Article 3 (High Treason and Treason)

Article 3 should be amended to:

- a. Remove all constitutional implications that high treason or treason may attract capital punishment.
- b. Delink the protection of the constitutional order from the availability of the death penalty as a punitive instrument.

3. Article 19 (Fair Trial and Criminal Justice)

Article 19 should be amended to:

- a. Remove all procedural provisions that presuppose the possibility of capital punishment as a sentencing outcome.
- b. Ensure that all fair trial guarantees operate within a constitutional framework that excludes the death penalty entirely.

4. Article 72 (Prerogative of Mercy)

Article 72 should be amended to:

- a. Remove all textual references that presuppose the existence of death sentences within the criminal justice system.
- b. Reframe the prerogative of mercy solely in relation to non-capital criminal penalties.

5. Article 94 (Qualifications for Membership of Parliament)

Article 94 should be amended to:

- a. Remove all disqualifications that are triggered exclusively by sentences linked to capital offences.
- b. Align eligibility rules with a post-death-penalty constitutional criminal justice framework.

6. Principle on Constitutional Silence as to Criminal Punishment

The Constitution should be expressly structured so that:

- a. No criminal penalties are prescribed or implied within the Constitution itself.
- b. All punishments shall be determined exclusively by Parliament through ordinary legislation.

Right to Food

6.120 The 1992 Constitution does not expressly recognise a justiciable right to food. Instead, issues of food security and nutrition are addressed indirectly through the Directive Principles of State Policy, particularly Articles 36 and 37, which enjoin the State to manage the economy to secure the basic necessities of life and to pursue a social order founded on equality, justice and human dignity. Growing threats to food security, including the rapid loss of farmland to urban and peri-urban sprawl and *galamsey*, were among the issues of concern raised at some of the Committee's public engagements. There were calls for the government to intervene with traditional authorities to stem the disappearance of farmland.

6.121 However, while the provisions of Articles 36 and 37 establish significant policy obligations directed at government and the policymaking classes generally, they do not confer a directly enforceable individual entitlement to access to sufficient, safe and nutritious food. The right to food cannot be directly claimed or enforced by individuals. This leaves the enjoyment of such a basic necessity structurally dependent on shifting policy priorities, fiscal capacity, and administrative discretion, rather than being anchored in a stable, rights-based obligation owed to every person.

6.122 The constitutionalisation of a general right to food raises complex questions of institutional capacity, justiciability and fiscal responsibility, however. Unlike civil and political rights, access to adequate food implicates policy choices regarding agricultural production, land use planning, social protection, subsidies, public procurement, and budgetary prioritisation. There is, therefore, a legitimate concern that framing a broad and immediately justiciable right to food could draw courts into continuous supervision

and determination of economic policy and resource allocation in ways that strain the separation of powers and risk uneven enforcement.

6.123 Be that as it may, the Committee is of the view that there are narrow and clearly definable circumstances in which a right to food can be recognised without generating the institutional and fiscal complexities associated with a general socio-economic entitlement. One such context is where a person is lawfully deprived of liberty and placed wholly under the control of the State. In such circumstances, the individual's capacity to secure food through personal means is entirely extinguished, and the State assumes exclusive responsibility for survival needs. The obligation to provide adequate nutrition in detention, therefore, arises not as a matter of social policy choice, but as a direct incident of custody, human dignity and the prohibition against inhuman and degrading treatment.

6.124 The Committee's consultations revealed persistent concerns about the quality, quantity and regularity of meals provided in police cells, remand facilities and prisons. Detainees frequently depend on relatives, lawyers or charitable organisations for basic sustenance, with those without external support exposed to hunger, malnutrition and indignity. In some instances, the availability of food is treated as a discretionary welfare matter rather than as a binding legal obligation arising from lawful custody. This practice undermines both the constitutional guarantee of human dignity and the presumption of innocence, particularly for remand prisoners who have not been convicted of any offence.

6.125 The Committee, therefore, considers that, even if the broader constitutionalisation of a general right to food remains complex, the minimum obligation of the State toward persons in its lawful custody must be made explicit, justiciable and non-derogable. Where the State exercises coercive control over the liberty of an individual, it assumes a direct and continuous duty to ensure that such a person is provided with adequate, nutritious and regular meals sufficient to preserve health, dignity and life. This obligation must no longer rest on administrative discretion, family support or charitable intervention. Instead, it should be anchored in clear legal standards, enforceable oversight mechanisms and budgetary responsibilities that bind all custodial agencies.

6.126 The Committee further emphasises that the decision not to constitutionalise a general and freestanding right to food at this stage should not be read as constraining the legislative authority of Parliament to expand socio-economic protections over time. On the contrary, Parliament remains fully empowered to develop statutory frameworks that progressively recognise, define and enforce food-related entitlements for broader categories of persons, including vulnerable households, children, and persons facing

extreme deprivation. The absence of an express constitutional right therefore preserves legislative flexibility rather than foreclosing future expansion, while ensuring that immediate and non-derogable obligations toward persons in custody are firmly secured.

Recommendation

6.127 The Committee recommends targeted constitutional reform affecting Articles 14, 15 and 30 of the Constitution, together with the insertion of a new standalone custodial rights provision, as follows:

1. Article 14 (Protection of Personal Liberty)

Article 14 should be reinforced to:

- a. Explicitly recognise that no deprivation of personal liberty shall operate to suspend or diminish a person's entitlement to the basic necessities of life, including adequate food.
- b. Affirm that conditions of detention are subject to direct constitutional scrutiny as part of the protection of personal liberty.

2. Article 15 (Respect for Human Dignity)

Article 15 should be expanded to:

- a. Expressly recognise that the denial of adequate, safe and nutritionally sufficient food to a person in custody constitutes a violation of human dignity.
- b. Affirm that custodial hunger, intentional starvation or nutritionally degrading detention conditions amount to cruel, inhuman or degrading treatment.

3. Article 30 (Rights of the Sick and Vulnerable Persons)

Article 30 should be expanded to:

- a. Recognise that persons whose liberty has been lawfully restricted are constitutionally entitled to enhanced protection of their basic survival needs, including food, water and essential nutrition.

- b. Require that institutional custody triggers a heightened constitutional duty of care by the State.

4. New Standalone Article: Right to Food in Custody

A new constitutional provision should be inserted to provide that:

- a. Every person who is arrested, detained or imprisoned shall have an immediate and enforceable right to adequate, safe and nutritionally sufficient food for the entire duration of such custody or detention.
- b. This obligation shall rest directly on the State and shall admit of no limitation based on resource constraints, administrative convenience or security classification.
- c. Any denial of adequate food to a person in custody shall constitute a direct violation of the Constitution and of the inherent dignity of the human person.
- d. This right shall be directly justiciable and enforceable by the courts, including through immediate relief and compensation.

Right to Housing

6.128 The 1992 Constitution does not expressly recognise a justiciable right to housing. Housing appears only indirectly within the Directive Principles of State Policy, particularly Articles 36 and 37, which oblige the State to secure the basic necessities of life and to pursue social conditions founded on equality, justice and human dignity. While these provisions establish essential policy duties, they do not confer a direct, enforceable constitutional entitlement to housing for individuals.

6.129 Comparative constitutional practice reflects two dominant models. A first group of constitutions expressly guarantees a justiciable right to housing, often framed in terms of the progressive realisation of this right. For example, the Constitution of South Africa recognises the right of everyone to have access to adequate housing. It imposes a duty on the State to take reasonable legislative and other measures, within available resources, to achieve its progressive realisation. Similar express guarantees are found in the constitutions of Kenya, Brazil, and Ecuador. A second group, to which Ghana presently belongs, does not constitutionalise a general right to housing but protects existing housing interests indirectly through property rights, dignity, social welfare directives

and targeted statutory schemes. Even within systems that guarantee a right to housing, courts have adopted restrained, reasonableness-based enforcement models to avoid assuming general direct responsibility for housing delivery.

6.130 The Committee finds that Ghana is presently experiencing a deep and multi-layered housing crisis affecting urban, peri-urban and rural communities alike. Rapid urbanisation, population growth, rising construction costs, stagnant real incomes and weak public housing delivery have combined to produce a severe shortage of affordable housing, particularly for low-income and middle-income households.

6.131 Current national data confirms the scale and precarity of Ghana's housing crisis. According to the Ghana Statistical Service, approximately 29.5 per cent of all households, representing an estimated 4.8 million people, reside in slums or informal settlements characterised by overcrowding, insecure tenure and inadequate services. The 2021 Population and Housing Census further recorded that about 8 per cent of all structures nationwide are uncompleted and without roofs. In addition, other national estimates indicate that as many as 6.2 million persons, nearly one-fifth of the population, may be living in uncompleted buildings or in highly temporary structures, such as containers, kiosks, and wooden shacks. These figures reveal not only a quantitative housing deficit but also a widespread condition of structurally insecure shelter that directly impacts health, dignity, and social stability.

6.132 In addition, the national housing deficit is currently estimated at over 1.8 million housing units and continues to widen annually. This persistent structural deficit has entrenched chronic overcrowding, inflated rental prices and the proliferation of informal settlements across major urban centres, placing sustained pressure on household incomes and deepening patterns of urban poverty and spatial inequality.

6.133 The shortage of affordable housing has also produced extreme pressures within the rental market. For most tenants, access to housing is conditioned on the prior payment of two to three years' rent in advance, a requirement that bears little relation to average household incomes. This practice forces many families into cycles of debt, asset liquidation, educational disruption and economic insecurity to secure temporary shelter.

6.134 Although the law formally prohibits excessive rent advance, weak enforcement and the imbalance of power within a constrained housing market have rendered these protections largely ineffective. Property owners, faced with slow judicial processes and limited practical remedies against default, increasingly rely on rent advance as their

primary risk-management tool. The consequence is a rental system that structurally favours landlords and systematically disadvantages tenants.

6.135 The Committee further observes that housing insecurity has become a driver of broader social vulnerability. Homelessness, forced informal occupation, extended family overcrowding, and periodic eviction have become common survival strategies for many households. These conditions place particular strain on women, children, students, persons with disabilities and the elderly.

6.136 The housing crisis also exerts downward pressure on labour mobility, productivity and social stability. Where citizens cannot secure stable and affordable shelter, access to employment, education and healthcare becomes distorted, and urban inequality deepens. In this sense, housing insecurity has moved beyond a sectoral concern and now operates as a systemic constraint on social and economic development.

6.137 The Committee is of the view that the persistence of this crisis reflects not merely budgetary limitations but a more profound constitutional and institutional weakness. In the absence of any enforceable constitutional obligation regarding housing, State action has remained fragmented, discretionary, and insufficiently coordinated. Housing policy has fluctuated across political cycles, without binding commitments and standards of performance, continuity or accountability.

6.138 The Committee therefore considers that Ghana's housing challenges are no longer adequately addressed through policy commitments alone. The scale, duration and social impact of the crisis point to the need for a stronger constitutional and legal framework capable of anchoring long-term public responsibility, market regulation and enforceable protection for affected citizens.

6.139 The Committee recognises that constitutionalising a general right to housing presents inherent design and enforcement challenges. This is because housing is resource-intensive, structurally complex, and deeply interconnected with land administration, urban planning, private markets, financial systems, and infrastructure development. A fully justiciable right to housing, if framed without precision, risks creating judicial mandates that the institutional and fiscal architecture of the State is not presently equipped to discharge.

6.140 At the same time, comparative constitutional practice demonstrates that these design challenges are not insurmountable. Several jurisdictions have successfully balanced enforceability with institutional realism by framing housing not as an

immediate entitlement to a dwelling, but as a progressively realisable right subject to reasonableness, equity and available resources. Courts in such systems have focused on preventing arbitrary evictions, ensuring access to emergency shelter, protecting against retrogressive State action, and requiring governments to adopt coherent, credible and adequately funded housing strategies. This approach preserves democratic control over policy choices while still providing meaningful constitutional protection against structural neglect and administrative abuse.

6.141 South Africa illustrates how a constitutionally recognised right to housing can be enforced without collapsing into judicial control of housing delivery. Under sections 26(1) and 26(2) of the South African Constitution, courts have consistently rejected any interpretation that guarantees an individual an immediate right to a house on demand. Instead, the Constitutional Court has developed a reasonableness-based model of review, under which the State is required to adopt and implement coherent, inclusive and adequately funded housing programmes, prioritise the most vulnerable, prevent arbitrary evictions, and ensure emergency accommodation in cases of displacement. Judicial remedies have focused on compelling planning, fairness, non-discrimination and non-retrogression, rather than prescribing budgets or construction targets. This jurisprudence demonstrates that a right to housing can be constitutionally anchored in a manner that strengthens accountability while respecting institutional competence and fiscal realities.

6.142 In light of these challenges and comparative experience, the Committee considers that Ghana requires a more transparent constitutional and legislative framework that treats housing as a matter of enforceable obligation, while remaining sensitive to institutional and fiscal constraints.

6.143 Drawing on this approach, the Committee considers that Ghana should move towards a constitutional framework that combines a general, progressively realisable right of access to adequate housing with specific, immediate duties in clearly defined situations of heightened vulnerability. At the constitutional level, this would require the State to take reasonable legislative, budgetary and administrative measures, within available resources, to expand access to adequate housing over time. At the same time, where the State or any person acting under statutory or administrative authority causes displacement through compulsory acquisition, clearance, redevelopment, or disaster management measures, there should be an immediate and non-derogable obligation to ensure that affected persons are not rendered homeless and are provided with suitable alternative accommodation consistent with dignity.

6.144 The Committee considers that Ghana's housing crisis cannot be resolved through fragmented projects, isolated flagship developments or ad hoc public announcements that lack a binding legislative foundation. A statutorily anchored national housing delivery system, capable of mobilising sustained public financing, private capital, pension funds, and structured Public-Private Partnerships (PPPs) within a predictable legal framework, is required. PPPs must be explicitly directed toward low-cost and affordable housing at scale, with clear controls on pricing, allocation, tenure security and resale to prevent speculative capture. Housing delivery must shift from episodic political initiatives to a coherent, multi-year, rights-aligned housing programme established by an Act of Parliament, supported by planning law, infrastructure coordination, housing finance regulation and transparent beneficiary allocation mechanisms. Only a legally mandated framework of this nature can ensure continuity across governments, protect affordability over time, and convert housing policy from a promise to an enforceable public obligation.

6.145 To give practical effect to these constitutional duties, Parliament would need to enact an integrated legislative framework that: clarifies minimum procedural and substantive safeguards against arbitrary eviction; provides a phased plan for upgrading informal settlements and improving basic services; reforms rent regulation and enforcement to protect tenants from exploitative advance rent practices; and establishes transparent criteria and participatory processes for resettlement in cases of public projects or disasters. This framework should include clear institutional responsibilities, time-bound targets, reporting duties to Parliament, and accessible remedies for individuals and communities, so that the right to access adequate housing becomes a measurable and enforceable component of Ghana's social and economic policy, not merely an aspirational directive.

Recommendation

6.146 The Committee recommends targeted constitutional reform affecting Articles 20 and 36 of the Constitution, together with mandatory consequential legislative duties imposed on Parliament, as follows:

1. Article 20 (Protection from Deprivation of Property and Compulsory Acquisition)

Article 20 should be expressly reinforced to entrench:

- a. A direct constitutional duty to prevent homelessness arising from State action, including compulsory acquisition, forced eviction, urban redevelopment, slum clearance and disaster-induced displacement.
- b. An immediate obligation that where displacement occurs through any exercise of State power, the State shall ensure suitable alternative accommodation consistent with human dignity.
- c. A prohibition against rendering any person homeless as an incident of compulsory acquisition or development activity.

This reform shall convert housing protection in displacement contexts from a discretionary welfare response into a justiciable constitutional obligation.

2. Chapter Five (Fundamental Human Rights) – Progressive Right of Access to Housing

A new Article should be inserted within Chapter Five to recognise:

- a. A progressively realisable right of access to adequate housing, requiring the State to take reasonable legislative, budgetary and administrative measures, within available resources, to expand access over time.
- b. This right shall be subject to judicial review on standards of reasonableness, equity, transparency and non-retrogression.

3. Article 36 (Economic Objectives) – Mandatory Legislative and Planning Duty

Article 36 should be reinforced to impose a binding housing governance obligation on the State by requiring that:

Parliament shall, by law, enact a legislative framework that shall:

- a. establish annual statutory housing delivery targets,

- b. require a medium- and long-term national housing roadmap with measurable milestones,
- c. regulate informal settlement upgrading as a primary housing strategy,
- d. provide binding tenant protection and rent regulation mechanisms,
- e. prescribe clear resettlement, consultation and compensation standards for displaced communities, and
- f. mandate annual reporting to Parliament on housing delivery, eviction, resettlement and upgrading outcomes.

Right to Education

6.147 The 1992 Constitution guarantees both the right to education (Article 25) and freedom of thought, conscience, belief and religion (Article 21(1)(b)–(c)). These rights coexist as parallel and coequal entitlements within the constitutional framework. The Constitution does not establish a hierarchy between them; instead, it anticipates that they must be interpreted in a mutually reinforcing manner, ensuring that access to public education never comes at the expense of freedom of conscience, and religious freedom never undermines equal access to public goods. The constitutional vision is therefore one of civic belonging in which both education and freedom of belief remain foundational to democratic participation and human dignity.

6.148 Central to this architecture is Ghana’s distinctive model of secular statehood. Secularism in the Ghanaian context is not understood as the withdrawal of the State from matters of religion or State hostility to religious manifestation in public life. Ghana is a deeply religious society, and through its Constitution, the State acknowledges and embraces the significance of faith, spirituality and religious institutions in national life. Secularism in Ghana, therefore, functions as a constitutional method for managing religious diversity and interfaith comity, not as a rejection or marginalisation of religion. It requires the State to remain non-discriminatory as between the different religious traditions in the administration of public authority, while still enabling an environment in which religious expression may flourish.

6.149 This pluralistic understanding is reinforced historically by a deliberate shift in Ghanaian constitutionalism after the First Republic. The 1960 Constitution made no reference to religion in its Preamble. However, the Preambles of the 1969 Constitution (“In the Name of the Almighty God from whom all authority is derived and to whom all action both of men and states must be referred”), the 1979 Constitution (“In the Name of the Almighty God”), and the 1992 Constitution (“In the Name of the Almighty God”) explicitly articulate the spiritual grounding of the constitutional order. This evolution reflects a conscious national choice to acknowledge the religious character of Ghanaian *society*, while still organising the Ghanaian *state* and public power around principles of equality, neutrality and universal rights. The constitutional State is therefore not irreligious; it is a religiously conscious State with a secular mandate.

6.150 The Supreme Court has also affirmed this constitutional character in decisions by recognising that the State may promote religion as a social good and as part of its responsibility to foster national cohesion within a religiously diverse society.¹⁴³ This

¹⁴³ Bomfeh v. Attorney-General (2019)

jurisprudence reflects a pluralistic and cooperative model: the State acknowledges and embraces religious life as integral to Ghana's social fabric, yet must exercise its regulatory and administrative powers without preference, discrimination, coercion or sectarian alignment.

6.151 This cooperative pluralism embraces the value of religion in national life and permits structured State engagement with religious institutions. This choice carries benefits for social cohesion, but it heightens the constitutional duty to protect minorities, non-dominant faiths and those with no religious belief.

6.152 For this reason, the Committee emphasises that Ghana's constitutional model requires a careful and continuous balancing act. If the State assumes any form of guardianship over the nation's religious patrimony, the boundary between facilitation and coercion becomes thin. Without clear constitutional guardrails, majority faith traditions may unintentionally exert disproportionate influence in State-regulated spaces, and institutional practices may drift from voluntary religious expression into de facto compulsion, with negative consequences for social cohesion. The more the State acknowledges religion as a public good, the weightier the burden of responsibility it incurs and the more vigilant it must be in ensuring that no citizen's conscience is overshadowed or repressed by institutional religious authority.

6.153 This is particularly important because the Constitution protects individuals and conscience, not institutional doctrine. Notably, Article 56 prohibits Parliament from enacting a law to establish or authorise the establishment of a body or movement with the right or power to impose a common programme or a set of objectives of *a religious* or political nature on the people of Ghana. In a society marked by deep faith commitments, the risk is not that the State will become anti-religious, but that it may inadvertently allow institutional religion to shape public administrative practice in ways that marginalise or repress minority groups or those who are religious.

6.154 These constitutional principles form the necessary analytical foundation for evaluating contemporary tensions at the intersection of education and religion. They require a reaffirmation that, within State-regulated institutions, the rights of learners to equality, dignity and freedom of conscience must remain central, even as Ghana continues to honour its history of mission-led education and its constitutional embrace of religious pluralism. It is this balance between the nation's spiritual identity and its democratic commitment to individual freedom that the present constitutional review must responsibly and thoughtfully preserve.

6.155 Within this framework, the Committee recognises that mission schools occupy a unique historical and constitutional position. Before the expansion of State-administered education, missionary bodies established the earliest and most extensive networks of formal schooling across the Gold Coast. They pioneered literacy, offered civic and moral formation, trained generations of public administrators and clergy, and expanded educational opportunity far beyond what the colonial administration was willing or able to provide. Much of Ghana's intellectual, political and professional leadership across the twentieth century emerged from mission-founded institutions. Ghana's educational story cannot be told apart from this mission-led foundation.

6.156 As the State gradually assumed a larger role in basic and secondary education, it did so by entering an ecosystem already shaped by mission initiative and institutional culture. Government assistance was introduced to widen access, maintain standards, and support national development, but it was never intended to erase the denominational identity of these schools or to convert them into strictly secular establishments. Sponsoring bodies have historically retained a legitimate interest in the identity, ethos, governance traditions, and moral formation framework of their institutions, even as the State has come to regulate staffing, admissions, curriculum, and financing. This dual character is not an anomaly but a product of Ghana's own educational evolution.

6.157 At the same time, the constitutional order imposes limits that mission schools, once they operate as government-regulated institutions, must respect. Public funding, public staffing, public curriculum and testing, and State-regulated admissions bring these schools squarely and appropriately within the domain of public authority. Their continued denominational character does not displace the Constitution, nor can mission ethos override the rights of students admitted through public systems who enter these schools as citizens rather than as adherents. Ghana's secularism, properly understood as pluralistic neutrality rather than religious indifference, requires that mission identity coexist with, rather than supersede or disregard, the constitutional guarantees of equality and freedom of conscience.

6.158 This balance is delicate. The Committee recognises the social good that religion contributes to public life, and Ghanaian society continues to value the moral and civic instruction that mission schools provide. Yet, constitutional protection must ensure that voluntary religious expression within these institutions does not drift into compulsion, indirect exclusion, or subtle and not-so-subtle forms of discrimination. The legitimacy that sponsoring bodies enjoy rests on a shared understanding that denominational heritage is expressed through an educational ethos, moral orientation, pastoral care, and

the cultivation of values, rather than through imposing religious observance on students whose beliefs differ or who hold no beliefs at all.

6.159 The Committee also recognises that today's mission-assisted schools are the product of a longstanding partnership between the State and religious bodies, one that predates independence and has shaped Ghana's educational landscape for over a century. In this collaborative arrangement, the State provides funding, staffing, regulatory oversight and nationwide placement. At the same time, missions preserve a distinctive moral, cultural and denominational ethos that many Ghanaian families continue to value. Nothing in the constitutional order requires erasing this heritage. Their denominational character is therefore legitimate, historically rooted, and socially valuable. At the same time, once a school operates as a publicly funded institution within the national system, its ethos cannot displace the Constitution. Mission identity must co-exist with, and not override, students' equal rights to access, dignity, and freedom of conscience guaranteed under Chapter Five. The Constitution ordains just this kind of "live and let live" accommodation between these two sets of rights and interests.

6.160 The Committee notes that these tensions have confronted Ghana since independence, and they are not new to our constitutional discourse. The 1968 Akufo-Addo Constitutional Commission addressed these issues with striking clarity. After noting that Ghana had "happily... escaped the religious wars that have been a feature of religious worship in other climes,"¹⁴⁴ the Commission warned that, in the words of Harold Laski, "A State Church is bound to receive privilege in some shape or form; and no citizen enjoys genuine freedom of religious conviction until the State is indifferent to every form of religious outlook, from Atheism to Zoroastrianism."¹⁴⁵ Affirming the moral significance of religion in Ghanaian society, the Commission nonetheless stressed that "every individual has a natural and inalienable right to worship or not to worship as he likes and to act within the law in accordance with the dictates of his own conscience."¹⁴⁶

6.161 Turning specifically to education, the Akufo-Addo Commission observed that "there still persists in Ghana a certain amount of discrimination by educational institutions established by religious organisations with regard to the admission of pupils who are not members of the religious denomination controlling that institution or to subject those admitted to the religious beliefs of that organisation."¹⁴⁷ Recognising that "the education of our children is the greatest investment we can make for the future of

¹⁴⁴ Ghana Constitutional Commission, *The Proposals of the Constitutional Commission for a Constitution for Ghana* (State Publishing Corporation 1968) 62, para 227.

¹⁴⁵ *ibid*

¹⁴⁶ *Ibid* 63, para 228

¹⁴⁷ *Ibid* 63, para 230

Ghana,” the Commission insisted that “religious beliefs alone should [not] be the criterion for admission into any educational establishment.”¹⁴⁸ It proposed constitutional protections ensuring that “no person attending any place of education should be required to receive religious instruction or take part in or attend any religious ceremony or observance...other than his own,” while affirming that religious communities must retain the freedom to provide instruction for their adherents.¹⁴⁹

6.162 The contemporary challenges examined by this Committee mirror those identified more than fifty years ago, underscoring how persistent and complex the balance remains between preserving Ghana’s rich mission-school heritage and upholding constitutional guarantees of equality, dignity and freedom of conscience in State-funded education.

6.163 The Committee considers that resolving the long-standing tensions between religious ethos and constitutional rights in public and mission-assisted schools requires a clarifying constitutional and statutory framework that preserves Ghana’s educational heritage while affirming the primacy of students’ rights under Chapter Five. The objective is not to secularise mission-assisted schools in the narrow or irreligious sense, but to ensure that their operation as State-regulated institutions does not result in coercion, exclusion or discrimination.

6.164 First, there is a need for clear statutory guidance affirming that all educational institutions in Ghana, whether public, mission-assisted or purely private religious schools, remain bound by the basic rights in Chapter Five.

6.165 Parents may choose a school with a religious ethos, but this choice cannot license practices that would be impermissible if imposed by the State, particularly where minors are involved. Schools, whether private or government-assisted, may therefore organise their moral and religious environment, but only in ways consistent with constitutional guarantees, including neutrality in compulsory activities, the right of students to opt out of doctrinal observance, and safeguards against discriminatory admissions or treatment.

6.166 Second, private denominational schools offering general education must be distinguished from seminaries and ministerial training institutions. Seminaries do not exist to deliver general education to children or the broader public; they exist to provide intensive doctrinal formation to those who voluntarily seek to enter religious vocation. Admission to such institutions is premised on explicit consent to a confessional

¹⁴⁸ *Ibid*

¹⁴⁹ Ghana Constitutional Commission, *The Proposals of the Constitutional Commission for a Constitution for Ghana* (State Publishing Corporation 1968), para 231

curriculum, spiritual discipline and institutional authority. Because seminary education is not part of the State's basic or secondary education system, and because entrants are typically adults or near-adults who freely choose religious formation, the constitutional constraints applicable to children in ordinary schools do not apply to seminaries. While seminaries remain bound by general constitutional norms, compulsory religious observance within them does not raise the same concerns of coercion, discrimination or unequal access that arise in State-regulated basic and secondary education. This distinction clarifies that Ghana can protect freedom of conscience in schools without undermining the autonomy of religious institutions dedicated to vocational religious training.

6.167 Third, and consequentially, constitutional and statutory guidance must affirm that maintaining a denominational ethos is permissible, but cannot entail compulsion. Mission bodies may preserve their symbols, values, chaplaincy, and religious environment, but participation in worship, devotions, doctrinal instruction, or faith-based disciplines must be genuinely voluntary and not coerced. The Constitution must not be interpreted as extinguishing religious identity within mission-assisted schools. Yet, it must be understood as protecting every student's right not to be coerced into religious observance.

6.168 Fourth, the legal framework should clarify that admission, boarding access, discipline, student leadership and participation in opportunities within public mission-assisted schools must be governed by non-discriminatory criteria.

6.169 Fifth, there is an urgent need for statutory and regulatory mechanisms to translate constitutional rights into enforceable procedures within the educational sector. This includes clear grievance channels for students and parents, protections against retaliation, structured oversight mechanisms within the Ghana Education Service, and defined remedies and sanctions where schools impose religious coercion or discriminatory practices under the guise of institutional culture. Also, guidance on managing diversity, preventing stigma, and balancing ethos with rights can be integrated into teacher training programmes and Ghana Education Service (GES) directives.

6.170 Finally, the broader constitutional framework should reinforce Ghana's long-established model of religion-friendly secularism. The State may recognise and support religious expression as part of national cohesion. However, it must do so from a position of neutrality, ensuring that no public institution treats any student as less Ghanaian on account of conscience or belief. A refined constitutional articulation of this principle

would help reconcile Ghana's mission-school heritage with its constitutional commitment to equality and pluralism.

6.171 Taken together, these measures would honour the historic partnership between missions and the State, protect the denominational character of mission-assisted schools, and at the same time ensure that every child in a public educational institution enjoys the complete protection of the Constitution without coercion, discrimination or fear of exclusion.

6.172 The Committee recognises that many mission-assisted schools consider collective religious activities such as chapel services, morning devotions and faith-based assemblies to be central to their traditions of discipline, cohesion and moral formation. During consultations, some sponsoring bodies and school authorities expressed the view that allowing students of minority faiths, other denominations or no religion to opt out of these activities would undermine uniformity, weaken authority and compromise the school's disciplinary culture.

6.173 The Committee considers these concerns legitimate and rooted in long-standing educational practice. However, they do not justify limiting constitutional rights in a manner that imposes religious observance on students contrary to Article 21(1)(b)–(c). Comparative jurisprudence and practice from peer jurisdictions in Africa¹⁵⁰, as well as empirical experience from Ghanaian schools that already operate diverse religious environments, show that school discipline does not depend on enforced religious conformity, but rather on the consistent application of non-religious behavioural standards, institutional clarity, and fair administrative structures.

6.174 To address the legitimate concerns of school authorities while protecting constitutional rights, the Committee identifies several least-restrictive mechanisms:

- a. Schools may provide structured alternatives to worship. For instance, schools may organise supervised, non-disruptive alternative sessions (such as reading periods, study hall, moral education modules, or counselling access) for students who decline religious observance. The Committee finds that a civic education component, grounded in constitutional values, national identity, integrity and mutual respect, can provide a unifying moral foundation without forcing doctrinal alignment. These alternatives maintain order while avoiding idleness or unsupervised dispersal.

¹⁵⁰ E.g., *Philip Okoth v Board of Mgt. St. Annes Primary School*, Court of Appeal (2023)

- b. The mission schools could also establish clear codes of conduct that are independent of religion. This would ensure that discipline is grounded in neutral, secular behavioural standards, such as punctuality, cleanliness, honesty, respect for authority, academic integrity, decorum, and responsibility, which apply equally to all students regardless of their beliefs. Additionally, opt-outs can be managed through straightforward administrative procedures, ensuring that students who decline participation are accounted for and assigned to designated supervised spaces.
- c. Further, the Committee finds that mission schools can retain their symbols, chaplaincy, values and heritage as part of their ethos, provided these do not translate into coercion.

Recommendations

6.175 The Committee recommends that:

Similar to the proposal of the Akufo-Addo Commission, Article 25 (Right to Education) should be amended to:

- a. Insert a clause providing that educational institutions are required to comply fully with the rights in Chapter Five, while retaining the freedom to maintain a denominational identity and ethos that do not infringe the rights of students.
- b. Include an explicit guarantee that no student shall be compelled to participate in religious worship, instruction or observance in any educational establishment.
- c. State that admission, boarding access, discipline, student leadership and participation in school activities shall not be subject to direct or indirect religious discrimination in any educational institution.

Article 21 be amended to clarify that no person shall be disadvantaged or discriminated against by reason of religion, belief or non-belief, and the State shall not adopt any practice that coerces, presumes, or promotes adherence to any religious or belief system. Similarly, the State shall maintain equal regard for all faiths, beliefs and non-belief, and shall not, in the exercise of any public power, function or resource, adopt, privilege or advance the institutional interests of any religious or belief community

Parliament should be required to enact a statute pursuant to Articles 21 and 25:

- a. Expressly confirming that all educational institutions offering education to the general public, whether publicly funded, mission-assisted, or privately operated,

are bound to respect the constitutional rights of learners under Chapter Five. This should include guarantees that participation in religious observance is voluntary, that students may opt out without penalty, and that admissions, discipline, academic opportunity and compulsory school activities are conducted on neutral and non-discriminatory terms.

- b. Clarifying that parental choice of a school with a religious ethos does not diminish the constitutional protections owed to learners. Private providers may maintain their religious identity, symbols, chaplaincies and moral environment, but these may not take the form of coercive religious exercises or discriminatory practices.
- c. Acknowledging, without creating exemptions, that some educational institutions serve specialised purposes distinct from ordinary schooling. Seminaries and ministerial training institutions exist to offer intensive doctrinal formation to persons who voluntarily choose such paths, typically as adults or near-adults. These institutions remain bound by constitutional norms, yet because participation is based on informed consent and their purpose is not general public education, compulsory doctrinal activities within them do not raise the coercive concerns that arise where minors or compulsory basic education are involved.
- d. Establishing a voluntary religious participation framework recognizing
 - 1. That Mission-assisted schools may maintain chaplaincies, symbols and ethos.
 - 2. Participation in worship, devotions or doctrinal instruction must be voluntary, with no academic, disciplinary or social penalties for non-participation.
 - 3. Prohibition of religious discrimination in:
 - a. admissions and placement
 - b. boarding access
 - c. discipline
 - d. student leadership
 - e. allocation of student opportunities.
 - 4. Establishing neutral codes of conduct and discipline
 - a. That govern behaviour through non-denominational standards of respect, punctuality, honesty and decorum.
 - b. That mandate that schools provide supervised and non-stigmatising alternatives to worship (e.g., study hall, library sessions, civic or constitutional education modules).

- e. Establishing oversight and accountability mechanisms, such as a structured complaints mechanism in every school, anti-retaliation protections for students and parents, Ghana Education Service (GES) oversight audits focused on compliance with constitutional religious-freedom standards and sanctions for coercive practices or discriminatory policies.
- f. Incorporating training on freedom of conscience, religious pluralism, and constitutional neutrality into teacher preparation programmes and chaplaincy guidelines.

Rights of Children

6.176 The 1992 Constitution accords a dedicated place to children's rights under Article 28, reflecting an intention to treat children as holders of enforceable constitutional entitlements. The provision guarantees special care, assistance and maintenance necessary for a child's development, applies equally to children born in and out of wedlock, and affirms the paramountcy of the child's best interests in parental care and upbringing. It further protects children from exploitative labour, torture and degrading treatment, and prohibits the denial of medical treatment, education or social benefit on religious grounds. These protections are reinforced by Ghana's obligations under the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child, and other international instruments that inform constitutional interpretation under Article 33(5).

6.177 In formal terms, Ghana already operates within a child-centred constitutional framework that recognises vulnerability, evolving capacities, and the need for heightened protection. Article 28 expressly anticipates legislative elaboration by Parliament, and this mandate has been substantially realised through a developed body of statutory protections, including the Children's Act, the Juvenile Justice Act, the Labour Act and related enactments governing child protection, trafficking, child labour, education, care, supervision and welfare services.

6.178 Notwithstanding this framework, serious protection gaps persist in practice. The Committee observed that certain categories of children remain insufficiently visible within the existing constitutional framework. Where children are exposed to medical decision-making and institutional custody, constitutional protection frequently operates indirectly and only after harm has already occurred. This weakness is most pronounced in contexts involving irreversible bodily or psychological harm, where general child

protection provisions do not provide sufficiently specific guidance to decision-makers, families, medical professionals and regulators.

6.179 The Committee's consultations and expert submissions revealed that intersex children occupy a particularly vulnerable position within Ghana's child protection framework. Intersex children, whose physical sex characteristics are generally indeterminate or not distinguishably male or female at birth, are frequently subjected to non-consensual, medically unnecessary surgical and hormonal interventions during infancy or early childhood. These interventions are often carried out to conform the child's body to socially preferred sex norms, rather than to address an immediate threat to life or health.

6.180 As the Committee learned from medical professionals with first-hand knowledge of this experience, such procedures can result in irreversible physical consequences, including sterilisation, chronic pain, trauma and long-term psychological harm. They are typically performed before the child is capable of expressing informed consent, and often without any independent review of necessity, proportionality or long-term welfare. In many cases, decisions are driven by social stigma, parental anxiety, institutional routines and compliance with administrative convention rather than by the child's best interests.

6.181 Although Article 28 prohibits torture and cruel, inhuman or degrading treatment and affirms the paramountcy of the child's best interests, the Constitution does not currently provide explicit guidance for issues of bodily autonomy and consent in medical contexts affecting children, nor does it address the unique ethical and constitutional risks posed by irreversible "normalising" interventions on intersex minors.

6.182 The Committee considers that Ghana's constitutional framework must now expressly recognise bodily integrity and protection from irreversible harm as central pillars of children's rights, particularly in medical and institutional contexts. While general protections against torture, degrading treatment and exploitation remain foundational, they are not sufficiently precise to regulate contemporary biomedical interventions affecting intersex children.

6.183 There is therefore a need for targeted constitutional clarification that (i) affirms the right of every child to bodily integrity and autonomy appropriate to their evolving capacities, (ii) prohibits non-consensual, medically unnecessary and irreversible interventions on children where no urgent health risk exists, and (iii) requires that all medical decisions concerning children be governed by independently verifiable best-interest standards rather than parental preference, social stigma or institutional routine.

6.184 This approach does not prevent medically necessary treatment, emergency intervention, or therapeutic care. Instead, it constitutionally distinguishes life-preserving treatment from socially motivated bodily modification, and ensures that irreversible interventions are deferred until the individual is capable of informed participation in the decision.

Recommendation

6.185 The Committee recommends targeted constitutional reform affecting Articles 28, 15 and 30 of the Constitution, together with mandatory consequential legislative duties imposed on Parliament, as follows:

1. Article 28 (Children's Rights)

Article 28 should be expressly reinforced to entrench:

- a. The right of every child to bodily integrity, including freedom from irreversible, non-consensual medical or surgical interventions that are not strictly necessary to preserve life or prevent serious and immediate harm.
- b. An explicit requirement that the best interests of the child shall override social, cosmetic, cultural or expediency-based justifications for invasive medical procedures.
- c. Special constitutional protection for intersex children, recognising their distinctive vulnerability to medically unnecessary "normalising" interventions carried out before they have reached an age where informed consent is possible.

2. Article 15 (Human Dignity)

Article 15 should be harmonised with the reinforced Article 28 to:

- a. Explicitly recognise that non-consensual, non-therapeutic medical alteration of a child's body constitutes a prima facie violation of human dignity.
- b. Strengthen the constitutional basis for civil, disciplinary and institutional accountability for violations of bodily integrity in medical and institutional settings.

3. Article 30 (Rights of the Sick and Persons with Disabilities)

Article 30 should be expanded to:

- a. Recognise that children requiring specialised medical care, including intersex children, are entitled to enhanced constitutional protection against coercive or irreversible treatment.
- b. Require heightened consent safeguards, independent medical review and rights-based clinical standards where long-term bodily consequences arise.

4. Mandatory Legislative Duty on Parliament

A new constitutional obligation should require that:

Parliament shall enact specialised legislation regulating medical and surgical decision-making affecting minors, including:

1. Independent pre-procedure review mechanisms,
2. Strict necessity thresholds,
3. Informed consent standards adapted to evolving capacity,
4. Mandatory documentation and transparency,
5. Enforceable civil and criminal remedies for violations.
6. Provision for a state office of Special Guardian *ad litem* who will be an appropriately qualified and experienced professional representing the best interests of the child or other persons who cannot care for themselves and who shall provide, on a case by case basis, after a comprehensive assessment, the requisite informed consent in situations where there is no parent, guardian or other responsible person to provide the necessary consent for a child or other covered persons, for example, in relation to the provision of medical or surgical interventions, or where there is disagreement between parents and health practitioners as to the provision of critical medical or surgical needs.

Rights of the Youth

4.186 Ghana's 1992 Constitution was adopted at a moment of democratic renewal, with a strong emphasis on fundamental human rights, equality before the law, and participatory governance. These protections apply to all citizens, including young people. However, more than three decades later, demographic, economic, and social realities raise the question whether the Constitution sufficiently recognises and protects the youth as a distinct group with particular vulnerabilities, capacities, and developmental needs. The constitutional framework within which youth are recognised has direct implications for governance, security, social cohesion, and inter-generational equity.

4.187 Ghana's National Youth Policy sets the age for 'youth' between 15 and 35. The 1992 Constitution does not contain an explicit provision on the rights of the youth. Youth protection is instead derived indirectly from general rights and directive principles of state policy. Provisions such as equality and non-discrimination, the right to education, freedom of association and expression, and the right to work, apply to young people as citizens. However, the Constitution does not recognise youth as a distinct constitutional category or articulate youth-specific state obligations. It does not provide a constitutional basis for addressing structural challenges that disproportionately affect young people, such as youth unemployment, exclusion from decision-making, or barriers to economic participation.

4.188 Where youth appear in Ghana's governance architecture, it is primarily through policy and statutory mechanisms—for example, youth-focused ministries, agencies, or programmes created by ordinary legislation. While valuable, these mechanisms remain vulnerable to shifts in political priorities and lack the permanence and normative force of constitutional recognition. The result is that youth concerns are mainly treated as policy issues, rather than as matters of constitutional principle or rights-based accountability. Demographic change and contemporary governance challenges prompt reflection on whether the Constitution adequately addresses the realities of a youthful population.

4.189 Globally and within Africa, constitutions tend to approach youth rights in three broad ways. First, some constitutions implicitly protect youth by guaranteeing general rights, such as equality, education, association, political participation, and freedom from discrimination. Under this model, youth are treated no differently from other citizens, and their protection flows from universal rights provisions. Second, more recent constitutions recognise youth as a special group requiring targeted protection and support. In these cases, youth are explicitly named alongside women, children, persons with disabilities, and other groups whose social position may expose them to systemic

disadvantage. Third, a smaller but growing number of constitutions frame youth not only as beneficiaries of protection, but as agents of national development, with a constitutional mandate for participation in political, economic, and social life. African constitutional practice is increasingly reflecting the second and third approaches, influenced by demographic realities and continental instruments, such as the African Youth Charter.

4.190 Across much of the world, the concept of “youth” is defined narrowly, often ending in the early to mid-twenties. For example, the United Nations adopts a statistical definition of youth as persons aged 15 to 24. Many African states and continental bodies have adopted a wider youth age bracket, typically extending into the mid-thirties. This divergence reflects not arbitrariness, but structural realities specific to African societies and economies. The rationale for this broader bracket lies in the nature of Africa’s demographic transition, labour markets, education systems, and pathways to economic and social adulthood.

4.191 First, in economies dominated by informal work and limited high-productivity sectors, the attainment of stable income—traditionally associated with adulthood—is frequently delayed until the early or mid-thirties. In settings where access to credit, housing, and stable employment is limited, young adults often remain economically dependent on family networks for more extended periods. The broader youth bracket reflects this reality, acknowledging that social adulthood is shaped by material conditions, not merely chronological age.

4.192 In many African countries, access to political office, senior public service roles, and leadership positions is shaped by age hierarchies, patronage systems, and long incumbencies. As a result, individuals in their thirties—despite education and professional experience—may still be systematically excluded from meaningful participation in governance and decision-making. The wider youth bracket captures this extended period of political marginalisation.

4.193 The continent is experiencing a sustained growth in its youth population, with large cohorts of young people entering adulthood each year. Institutions such as the African Development Bank and the United Nations Economic Commission for Africa have repeatedly noted that whether this demographic reality becomes a dividend or a destabilising force depends on how effectively states integrate young people into economic and civic life. A broader definition of youth allows governments to plan for and respond to these pressures more effectively.

4.194 Finally, the African approach reflects a functional rather than biological understanding of youth. Youth is treated not simply as a phase of life defined by age, but as a condition shaped by access to opportunity, voice, and security. In this sense, the broader bracket is less about extending dependency and more about recognising delayed transitions produced by structural conditions beyond the control of individuals.

4.195 In sum, the approach adopted by the African Union and reflected in Ghana's policy framework is best understood as a pragmatic response to prevailing conditions, rather than a normative statement about an ideal length of youthhood. Importantly, constitutional or legislative recognition of youth should not freeze current structural deficiencies in time, but instead create an obligation for the State to reduce the conditions that prolong youth vulnerability.

4.196 Kenya's 2010 Constitution represents a deliberate departure from the implicit treatment of youth to an explicit provision—Article 55—dedicated to the rights of the youth. Under this provision, the State is constitutionally required to take measures to ensure that youth have access to relevant education and training, are protected from harmful cultural practices and exploitation, have employment opportunities, participate in political, social, and economic life, and develop morally and ethically.

4.197 The explicit inclusion of youth rights is significant for three reasons. First, it makes youth constitutionally visible as a rights-bearing group. Second, it imposes affirmative obligations on the State, rather than merely restating general freedoms. Third, it provides a basis for judicial interpretation, legislative alignment, and policy coherence across electoral cycles. This approach does not guarantee outcomes, but it does constitutionalise the duty to act in respect of youth inclusion and development.

4.198 In Ghana's context, constitutional recognition of youth rights would complement existing general rights without undermining them, provide a durable foundation for youth-focused legislation and policy, strengthen youth participation in governance and national development and signal a commitment to intergenerational justice consistent with Ghana's democratic values. Such recognition would not constitutionalise specific programmes or quotas, but instead establish guiding principles and state obligations, leaving implementation to legislation and policy.

Recommendation

4.199 The Committee recommends the insertion of a new provision on the rights of the youth as follows:

1. The youth of Ghana shall have the right to develop to their full physical, intellectual, social and economic potential and to participate fully in the life of the nation.
2. The State shall have due regard to the interests of the youth as a vital resource for national development and democratic governance. The State shall take appropriate measures to:
 - a. ensure that the youth have access to relevant and quality education, skills development, and training;
 - b. promote employment opportunities and sustainable livelihoods for the youth;
 - c. protect the youth from exploitation, abuse, harmful practices, and all forms of discrimination;
 - d. facilitate the participation of the youth in political, economic, social, and cultural life; and
 - e. promote the values of integrity, civic responsibility, and national service among young people.
3. Parliament shall enact such laws as may be necessary to give effect to this article.

Women's Rights

6.200 Article 27 of the 1992 Constitution establishes the core constitutional guarantees relating to women. It provides that special care shall be accorded to mothers during a reasonable period before and after childbirth, and that working mothers shall be granted paid leave during such periods. The provision further directs that facilities shall be provided for the care of children below school-going age to enable women, described in the text as having the traditional responsibility for childcare, to realise their full potential.

6.201 Article 27 also guarantees women equal rights to training and promotion without impediments from any person. These guarantees operate in conjunction with the general

equality and non-discrimination provisions in Article 17, which prohibit discrimination based on gender and mandate equal protection before the law.

6.202 Beyond Chapter Five, the DPSP reinforce gender equality through Articles 35 and 36. These provisions require the State to promote just and reasonable access to public facilities and services, ensure equality of economic opportunity, and take necessary steps to secure the full integration of women into the mainstream of Ghana's economic development. The constitutional framework, therefore, situates women's rights across both enforceable rights provisions and guiding policy commitments.

6.203 Although Article 27 provides an explicit constitutional foothold for the protection of women, its scope reflects a narrow and historically contingent conception of women's roles and vulnerabilities. The provision is framed predominantly around maternity and childcare, and in doing so, it implicitly situates women's constitutional protection within a reproductive and domestic paradigm rather than as full economic, political and civic actors across all sectors of national life. This framing risks reinforcing, rather than dismantling, the very structural inequalities the Constitution seeks to overcome.

6.204 The language of Article 27(2), which refers to women as having the "traditional care for children," embeds gendered assumptions into the constitutional text itself. While intended to justify enhanced social support, the formulation risks entrenching caregiving as a naturally assigned female role rather than as a shared social responsibility. In practice, this has contributed to policy approaches that focus on protective or welfare-based measures for women, without addressing the deeper structural barriers that affect access to employment, leadership, property, capital, and political representation.

6.205 In addition, Article 27 does not expressly address several categories of rights that have become central to women's lived experiences of inequality. The Constitution does not explicitly recognise freedom from gender-based violence, sexual violence, workplace harassment, or structural economic exclusion as distinct constitutional concerns. While such matters are addressed through ordinary legislation, their absence at the constitutional level may be seen as weakening the normative force of gender equality, resulting in uneven protection across sectors and regions.

6.206 The Committee's consultations further revealed persistent patterns of disadvantage in political participation, public appointments, access to productive resources, inheritance, land ownership, and labour market security. Women remain significantly under-represented in elective and appointive office, and are disproportionately concentrated in informal, precarious and low-wage employment.

These outcomes persist notwithstanding the formal guarantee of equality under Article 17, demonstrating that abstract equality alone has not been sufficient to dismantle entrenched gender hierarchies.

6.207 Finally, the existing constitutional framework does not contain any clear affirmative or corrective obligation on the State to adopt proactive measures to achieve substantive gender equality in public life. While the Directive Principles encourage integration and economic participation, they are framed at a general level and have not generated binding numerical, institutional or representational benchmarks capable of transforming women's participation in governance, decision-making and economic power.

6.208 The Committee is of the view that the constitutional framework on women's rights must move beyond its current protective and welfare-oriented posture and be recalibrated toward a model that affirms women as full and equal political, economic and civic actors. While maternal protections remain essential, they cannot continue to define the constitutional imagination of women's place in society. The Constitution must instead foreground substantive equality, autonomy, representation, economic power and bodily security as central organising principles of women's constitutional status.

6.209 First, the constitutional language on women must be modernised to eliminate embedded gender stereotypes. References that frame women primarily in terms of "traditional care" roles should be replaced with gender-neutral formulations that recognise caregiving as a shared social function and affirm women's equal standing in public and private life. Constitutional text should reflect women not as dependants or protected subjects, but as rights-bearing citizens with equal claims to power, opportunity and leadership.

6.210 Second, the Constitution must shift from a purely formal conception of equality to one that expressly authorises and mandates affirmative measures to correct historic and structural disadvantage. A constitutional foundation is therefore required to legitimise targeted and outcome-oriented measures that accelerate women's inclusion in decision-making and resource control.

6.211 Third, women's freedom from violence, coercion and harmful practices must be elevated from a purely statutory concern to a matter of constitutional protection. Gender-based violence, sexual violence, economic coercion, harmful customary practices and workplace harassment are not marginal social issues but structural barriers to equality,

dignity and participation. The absence of explicit constitutional recognition weakens institutional accountability, allowing enforcement to remain fragmented and uneven.

6.212 Fourth, the economic dimensions of women's inequality require constitutional attention. Women's disproportionate location in informal labour, unequal access to land, capital, inheritance and credit, and vulnerability to unpaid care burdens continue to undermine their economic autonomy. The Constitution should therefore move beyond generic equality guarantees to require concrete measures that secure women's equal access to productive resources, decent work, social protection and entrepreneurship.

6.213 Finally, the Committee considers it necessary to embed measurable representational standards within the constitutional framework to address chronic underrepresentation in elective and appointive office. Without explicit benchmarks, progress remains discretionary, inconsistent and easily reversible. A constitutional signal is required to shift gender parity from a policy aspiration into a binding democratic objective.

Recommendation

6.214 The Committee recommends targeted constitutional reform affecting Articles 17, 22, 27, 35 and 36 of the Constitution, with consequential legislative duties imposed on Parliament, as follows:

1. Article 27 (Women's Rights)

Article 27 should be substantively reformulated to shift from a predominantly welfare-based approach to a framework of substantive equality. In particular:

- a. The language of "traditional care for children" should be removed and replaced with gender-neutral caregiving responsibilities.
- b. A new clause should expressly guarantee women's equal autonomy, economic independence and political participation.
- c. A specific constitutional obligation should be introduced imposing a duty on the State to prevent and respond to gender-based violence, including domestic violence, sexual violence, harmful traditional practices and workplace harassment.

2. Article 17 (Equality and Non-Discrimination)

Article 17 should be amended to:

- d. Provide an explicit constitutional foundation for temporary special measures and affirmative action aimed at achieving substantive gender

equality in political representation, public appointments, education, employment and economic participation.

3. Article 35(6) (Political Objectives)

Article 35(6) should be strengthened to:

- a. Convert the existing aspiration of regional and gender balance in public appointments into a binding constitutional obligation.
- b. Support the introduction of a mandatory gender parity rule in appointive public offices, such that not more than two-thirds of the members of any appointive public body shall be of the same gender.

4. Article 36 (Economic Objectives)

Article 36 should be amended to:

- a. Impose a specific constitutional duty on the State to secure women's equal access to land, credit, capital, inheritance, employment opportunities and entrepreneurship support.
- b. Mandate targeted public policies for the economic protection of women in informal and vulnerable labour sectors.

5. Article 22 (Property Rights of Spouses)

Article 22 should be reinforced to:

- a. Constitutionally affirm equal ownership, control and inheritance rights of spouses within marriage and upon dissolution, including protection against indirect economic disinheritance of women.
- b. Require Parliament to enact comprehensive legislation governing matrimonial property regimes, spousal consent protections and equitable division of marital assets.

Persons with Disabilities (PWDs)

6.215 Article 29 of the 1992 Constitution establishes the foundational framework for the protection of the rights of persons with disabilities. It affirms their right to live with family or foster parents, protects them from discriminatory treatment in matters of residence, guarantees humane conditions where institutional care is required, and prohibits exploitation, abusive or degrading treatment. The Article further requires procedural accommodation in judicial proceedings, mandates accessibility to public places “as far as practicable”, provides for special incentives for economic participation, and imposes a duty on Parliament to enact legislation to give effect to these guarantees.

Pursuant to this constitutional mandate, Parliament enacted the Persons with Disability Act, 2006 (Act 715), which provides a statutory framework for the protection of the rights of persons with disabilities in the areas of education, employment, healthcare, transportation, accessibility, and social protection. The Act also established the National Council on Persons with Disabilities as the coordinating body for disability policy and the administration of the Disability Common Fund.

6.216 The Committee notes that the constitutional language employed in Article 29, which repeatedly uses the formulation “disabled persons”, reflects an outdated impairment-centred conception of disability. Contemporary human rights jurisprudence, including under the United Nations Convention on the Rights of Persons with Disabilities, has shifted decisively toward a person-first and social-model understanding of disability. Disability is now recognised not as a personal defect but as the product of interaction between impairments and social, environmental and attitudinal barriers. Constitutional language is not merely descriptive but norm-setting. The continued use of impairment-focused terminology subtly reinforces a medical or welfare model of disability and risks entrenching exclusionary assumptions in law, policy and institutional practice. Modernising this language is therefore not symbolic but foundational to reshaping how dignity, equality and participation are operationalised across the constitutional system.

6.217 A central concern emerging from the Committee’s review relates to the persistent failure to implement the accessibility requirements under Act 715. The Act required that public buildings, roads, transport facilities and public service infrastructure be made accessible to persons with disabilities within ten years of its enactment. That statutory compliance period expired in 2016. The Committee’s consultations and field observations indicate that the vast majority of public infrastructure across the country remains non-

compliant, with minimal enforcement action and no systematic national retrofit programme.

6.218 The Committee further notes that persons with disabilities continue to face structural barriers in education, healthcare, transportation, employment and participation in public life. Infrastructure deficits, shortages of trained personnel and limited adaptive learning resources constrain access to inclusive education. Healthcare access is undermined by physical inaccessibility of facilities, communication barriers for persons with sensory impairments and limited availability of assistive devices. Public transportation systems remain largely inaccessible. Employment discrimination persists despite existing policy incentives, and political participation remains constrained by physical, administrative and informational barriers.

6.219 Institutionally, the Committee finds that the enforcement architecture remains weak. The National Council on Persons with Disabilities is constrained by limited resourcing and operational authority, and the administration of the Disability Common Fund is marked by delays, uneven disbursement and weak accountability at the district level. The monitoring and enforcement of compliance with Act 715 by public and private institutions has been limited, and prosecutions for violations remain rare.

6.220 The Committee also received evidence of heightened vulnerability among specific disability groups. Persons with albinism were reported to face persistent stigma, targeted violence and severe health risks. Women with disabilities experience compounded discrimination in access to justice, healthcare and economic participation, alongside elevated exposure to sexual and gender-based violence. Children with disabilities remain particularly exposed to exclusion, institutional neglect and limited access to inclusive child protection services.

6.221 The Committee further finds that although disability access is nominally recognised in both the Constitution and the Persons with Disability Act, publicly funded infrastructure has largely escaped effective compliance oversight. In practice, major state-funded projects in transportation, education, healthcare, housing, and urban redevelopment continue to be designed and executed without mandatory disability access audits and without systematic post-construction compliance verification. As a result, enormous volumes of public investment have produced infrastructure that is structurally exclusionary from inception. The absence of a constitutionally grounded obligation requiring disability access audits as a condition for public financing, procurement approval and occupancy certification has rendered accessibility standards episodic, discretionary and weakly enforced. The Committee is of the view that this

regulatory gap must now be cured through explicit constitutional and statutory reinforcement.

6.222 Taken together, the Committee finds that while Ghana's constitutional and statutory architecture formally recognises the rights of persons with disabilities, the protection of those rights is constrained by weak enforcement, limited institutional capacity, inadequate budgetary prioritisation and outdated statutory standards. The gap between formal legal recognition and lived experience remains substantial.

6.223 The Committee is of the view that Ghana's disability framework requires targeted constitutional modernisation, institutional strengthening and enhanced enforceability to close the persistent gap between formal legal recognition and lived experience. First, the Constitution itself must be linguistically and conceptually updated to reflect a person-centred, rights-based understanding of disability, consistent with contemporary international human rights standards.

6.224 Second, the current constitutional guarantees require stronger direct enforcement mechanisms. Disability rights must operate not only as programmatic obligations of the State but also as clear, justiciable entitlements capable of grounding direct remedies where access barriers, discrimination or neglect occur. This requires strengthening the constitutional footing for accountability across public infrastructure, education, employment, healthcare and justice administration.

6.225 Third, the Committee considers it necessary to constitutionalise minimum accessibility and inclusion standards, so that access to public buildings, transport systems, information, communication technologies and public services is no longer treated as discretionary policy but as a legally binding constitutional obligation.

6.226 Finally, the Committee finds that the institutional enforcement architecture must be constitutionally anchored and strengthened. The operational weaknesses of the National Council on Persons with Disability, including fragmented funding and the absence of effective sanctions, have severely constrained implementation. A more explicit constitutional mandate is required to guarantee independence, adequate resourcing, regulatory authority and enforcement capacity.

6.227 In sum, moving forward requires a shift from declaratory protection to structurally enforceable disability rights, supported by modern constitutional language, binding accessibility duties, strengthened remedies and empowered enforcement institutions.

Recommendation

6.228 The Committee recommends targeted constitutional and legislative reform affecting Article 29 of the Constitution, together with strengthened mandatory duties imposed on Parliament and all public authorities, as follows:

1. Modernisation of Constitutional Language and Conceptual Framework

Article 29 should be amended to replace the formulation “Rights of Disabled Persons” with “Rights of Persons with Disabilities,” in line with contemporary human rights standards and the social model of disability reflected in the UN Convention on the Rights of Persons with Disabilities. The Constitution should explicitly affirm that disability arises from the interaction between impairment and structural, social and environmental barriers, and not merely from individual condition.

2. Elevation of Accessibility from a Discretionary to a Binding Constitutional Duty

The current language in Article 29(6), which subjects accessibility to the qualifier “as far as practicable,” should be strengthened to impose a clear, enforceable constitutional obligation on the State to ensure accessibility in all public spaces, services and infrastructure, subject only to narrowly defined and demonstrably justified limitations.

3. Mandatory Disability Access Audits for Public Infrastructure

The Constitution should impose an express duty requiring that all publicly funded infrastructure and public-private partnership projects be subjected to:

- a. Pre-construction disability access audits,
- b. Mandatory compliance certification before occupancy or use, and
- c. Periodic post-completion accessibility reviews.
- d. No public funds should be lawfully disbursed for infrastructure that fails to meet minimum constitutional accessibility standards.

4. Strengthened Enforcement and Remedies

Article 29 should be reinforced to require Parliament to create effective complaint, inspection, sanction and compensation mechanisms for violations.

5. Mandatory Legislative Alignment and Review

Parliament shall be under a continuing constitutional duty to:

- a. Review and harmonise the Persons with Disability Act and all related legislation with the revised Article 29; and

- b. Ensure adequate and predictable funding for enforcement institutions.

Rights of Older Persons

6.229 The Constitution enshrines a broad framework of fundamental human rights and freedoms in Chapters Five and Six, including dignity, equality, freedom from discrimination, the right to personal security and the State's duty to promote the welfare of the people through appropriate social services and public facilities. While these provisions ideally serve as a foundational safeguard for all persons, they do not expressly recognise older persons as a distinct group with specific rights and protections tailored to the realities of ageing. As a result, protections for older persons in Ghana have primarily been realised through policy frameworks and legislation rather than direct constitutional mandate.

6.230 Across Africa and in other regions, constitutions increasingly recognise older persons as a distinct group requiring explicit legal protection, reflecting an understanding that ageing, while a universal and natural stage of life, often exposes individuals to heightened social, economic, and cultural vulnerabilities that general rights guarantees alone may not adequately address. At the continental level, there is advocacy that argues and calls for ratification/assent to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, a demonstration of the importance of the matter.

6.231 A review of some constitutional texts reveals several common elements. First, older persons are consistently recognised as bearers of dignity and equality before the law, deserving of respect and protection against discrimination. Second, many constitutions explicitly prohibit abuse, neglect, and exploitation, acknowledging that older persons may face heightened risks of harm, including social isolation and dependency. Third, there is a recurring emphasis on access to healthcare, social protection, and support services tailored to the realities of ageing. Finally, several constitutions affirm the right of older persons to participate in family, community, and public life, rejecting narratives that frame ageing solely in terms of decline or dependency.

6.232 The Constitution of Kenya, in Article 57, explicitly recognises "older members of society" and obligates the State to take measures to ensure that they live in dignity and respect, are free from abuse, participate fully in society, pursue personal development, and receive reasonable care and assistance. This provision is notable for framing older

persons not merely as recipients of welfare, but as rights-holders entitled to inclusion, protection, and continued participation in social and economic life. Similarly, the Constitution of Zimbabwe contains in Section 82, a dedicated and detailed provision on the rights of elderly persons. Importantly, the Zimbabwean approach combines recognition of vulnerability with affirmation of dignity and agency, thereby grounding elder protection firmly within a rights-based constitutional framework. These constitutional examples demonstrate that recognising the rights of older persons is neither novel nor exceptional. Instead, it reflects an emerging consensus—that constitutional texts must respond to demographic change and social reality by ensuring that ageing is accompanied by dignity, protection, inclusion, and respect.

6.233 In practice, older persons in Ghana confront a range of age-related risks that go beyond general human rights harm, including age-based discrimination, elder abuse and neglect, economic insecurity in old age, and gendered vulnerabilities such as the stigmatisation and abuse of older women, including accusations of witchcraft. Such harms are not abstractions; they are lived realities that undermine the human dignity of a growing segment of Ghana's population.

6.234 Systemic and institutional challenges include poor accessibility of public infrastructure. Given that older persons may live with mobility challenges, recommendations by the Committee on the Rights of Persons with Disability also address the complex challenges faced by older persons who are equally vulnerable. All public spaces and services must reflect the principles of *universal design*, enabling access for all individuals, including those with visual, auditory, cognitive, or mobility impairments.

6.235 A constitutional mandate facilitates the enactment of specific legislation criminalising all forms of elder abuse, neglect, and exploitation. It empowers law enforcement agencies, welfare-related agencies and courts to address elder abuse cases promptly and effectively. Without explicit recognition, these protections lack the clarity and enforceability that constitutional status confers. Constitutional recognition of older persons provides a clear normative foundation for safeguarding their rights, guiding public policy and resource allocation, strengthening accountability, and ensuring that ageing is approached not as a burden, but as a stage of life deserving of dignity, participation, and protection within the framework of a just and inclusive society.

Recommendation

6.236 The Committee recommends the explicit inclusion of Older Persons as a vulnerable group within Chapter Five. A new provision to that effect should provide as follows:

“Rights of Older Persons”

Parliament shall enact such laws as are necessary to ensure that –

- a. Older persons live with dignity, free from discrimination, neglect, abuse or exploitation.
- b. Every older person shall have access to adequate healthcare, social protection, and support services.
- c. The State guarantees the full inclusion of older persons in social, economic, cultural, and political life.
- d. For the purposes of this article, “older person” means a person sixty years and above.

Right to Health

6.237 The 1992 Constitution does not expressly guarantee a freestanding, justiciable right to health within Chapter Five. Instead, health-related protections are addressed indirectly through a combination of civil rights guarantees and the Directive Principles of State Policy. Article 30 protects individuals who are unable to consent to medical treatment from being denied care due to religious or other grounds. More broadly, Article 36 imposes a general duty on the State to manage the national economy in a manner that secures the basic necessities of life. In contrast, Article 37 obliges the State to pursue a social order founded on equality, justice and human dignity. Article 34 further requires the President to report annually on steps taken to realise “the right to good health care” as part of national policy objectives.

6.238 Under the existing constitutional design, therefore, health is framed primarily as a governance objective and policy responsibility, rather than as a directly enforceable individual entitlement. While aspects of health protection may become justiciable through related civil rights, including dignity (Article 15), personal liberty (Article 14), and administrative justice (Article 23), the Constitution itself does not establish a clear right to access healthcare services, essential medicines, or minimum standards of medical treatment as enforceable claims against the State.

6.239 In practice, Ghana’s health governance system is structured mainly through statute and executive policy. Key instruments include the Public Health Act, the National Health Insurance Act, and sectoral policies governing primary healthcare, reproductive health, mental health and emergency care. These frameworks have significantly expanded access to health services over time. However, their legal force remains statutory rather than constitutional, and their scope, funding and enforcement remain vulnerable to budgetary constraints, administrative discretion and shifting political priorities.

6.240 The most fundamental structural gap in Ghana’s constitutional health framework is the absence of an explicit, justiciable right to health within the enforceable rights architecture of Chapter Five. As a result, individuals who suffer denial of essential medical care, delayed emergency treatment, refusal of services due to inability to pay, or breakdowns in public health systems often lack a direct constitutional cause of action through which to vindicate their claims.

6.241 The Committee’s consultations confirmed persistent disparities in access to healthcare across geography, income, gender and disability. Rural communities, informal

workers, persons with disabilities, the elderly, pregnant women and persons in detention face disproportionate barriers to timely and adequate care. Although the National Health Insurance Scheme has significantly expanded coverage, gaps remain in real access to medicines, diagnostics, specialist care and emergency services, particularly outside major urban centres.

6.242 Because health is currently grounded mainly in statute and policy, its protection fluctuates with budgetary priorities and administrative capacity. Funding constraints, delayed reimbursements under the National Health Insurance Scheme, shortages of essential medicines and industrial action by health workers routinely disrupt access to care. In the absence of constitutional minimum standards, the State's obligation to guarantee access to life-preserving health services remains weakly bounded and insufficiently insulated from fiscal volatility.

6.243 The Committee identified particularly acute failures in custodial and detention settings. Persons in police custody, remand homes, prisons and psychiatric institutions frequently experience delayed or denied access to medical treatment, emergency care, mental health services and essential medication. In many instances, access to care is contingent upon families bearing the transport costs or seeking external intervention. These failures expose a critical constitutional gap in the protection of health where the State exercises complete control over the physical liberty of individuals.

6.244 Where gross failures occur in the delivery of public healthcare, including preventable deaths, medical negligence in public institutions, or systemic denial of critical services, avenues for accountability remain fragmented and complex to pursue. Administrative justice remedies are slow, professional disciplinary processes are limited in reach, and civil litigation is often inaccessible due to cost. The absence of a clear constitutional right to health weakens the legal foundation for systemic accountability.

6.245 The COVID-19 pandemic revealed significant uncertainty about the legal scope of State obligations during public health emergencies. While emergency powers exist under the Constitution, the absence of defined constitutional standards for access to testing, treatment, protective equipment and vaccination created inconsistencies in protection and distribution. This exposed the fragility of relying solely on executive discretion during large-scale health crises.

6.246 The Committee also received evidence that mental health services remain severely under-resourced, with limited access to care outside a small number of specialised facilities. Similarly, the growing burden of non-communicable diseases places an

increasing strain on a health system initially configured around the control of communicable diseases. Without constitutional recognition of some minimum health entitlements, these emerging health burdens risk remaining structurally marginalised.

6.247 The Committee recognises that constitutionalising the right to health presents distinct structural and interpretive challenges. As the Committee has similarly noted in connection with the Right to Food, unlike civil and political rights, the realisation of health entitlements depends heavily on available resources, infrastructure, personnel, logistics and long-term fiscal planning. Health systems operate across complex chains of delivery involving procurement, staffing, regulation, and decentralised administration. There is therefore a legitimate concern that framing health as an absolute and immediately enforceable entitlement without precise constitutional calibration could generate obligations that are difficult for the State to fulfil and for the courts to administer in a manner that is predictable, equitable and fiscally sustainable.

6.248 At the same time, the Committee emphasises that these design complexities do not justify the exclusion of health from the constitutional protection framework. Instead, they require careful constitutional craftsmanship that distinguishes between minimum core obligations that must be guaranteed immediately, and progressive duties that unfold over time within available resources. Comparative constitutional practice demonstrates that well-designed health rights provisions can strengthen accountability without collapsing into judicial overreach or fiscal paralysis. The task, therefore, is not whether health can be constitutionalised, but how to structure the right in a manner that is justiciable, realistic and institutionally balanced.

6.249 Comparative constitutional practice demonstrates a clear global trend toward recognising the right to health as a constitutionally protected entitlement, structured through a combination of immediately enforceable minimum guarantees and progressively realisable obligations. The Constitution of South Africa expressly guarantees the right to access healthcare services. It requires the State to take reasonable legislative and other measures, within available resources, to progressively realise this right. Other jurisdictions, including Colombia, have entrenched health as a justiciable constitutional right, with courts enforcing minimum core obligations relating to emergency care, maternal and child health, and protection against the arbitrary denial of treatment. These systems do not treat the right to health as an unqualified guarantee of all possible medical services, but rather as a disciplined constitutional framework that anchors accountability, prioritises essential care, and compels the State through legislation to expand access rationally and equitably over time.

6.250 The Committee considers that Ghana's constitutional framework on health must be strengthened to move beyond indirect policy commitments toward a rights-based structure that enhances accountability while respecting institutional competence and resource constraints. The Constitution should articulate a core, immediately enforceable minimum content of the right to health, focused on basic access to essential healthcare services, emergency treatment, maternal and child healthcare, and protection against arbitrary denial of care. At the same time, it should impose a clear progressive obligation on the State to expand access to comprehensive healthcare over time through reasonable legislative, budgetary and administrative measures.

6.251 In addition, the Committee considers it necessary to clarify that the right to health applies across both public and private healthcare providers, given the extensive role played by private facilities in Ghana's health system. Regulatory obligations, minimum service standards, affordability controls and non-discrimination guarantees must therefore be constitutionally anchored.

6.252 Finally, the Committee is of the view that constitutional recognition of the right to health must be structurally linked to transparency in health financing, enforceable duties relating to National Health Insurance coverage, and access to effective remedies where systemic failures or unlawful denials of care occur. The objective is to ensure that health protection is not merely an aspirational policy, but a coherent constitutional obligation operating within a disciplined and workable accountability framework.

Recommendation

6.253 The Committee recommends targeted constitutional reform to strengthen the protection and enforceability of the right to health through amendments affecting Articles 30, 36 and 37 of the Constitution, together with a new justiciable health rights provision, as follows:

1. New Justiciable Right to Health (Chapter Five)

A new article should be inserted in Chapter Five to provide that:

- i. Every person has the right to have access to basic and essential healthcare services, including emergency medical treatment, mental healthcare, maternal and reproductive healthcare, child healthcare, geriatric healthcare, essential medicines, and preventive public health services.

- ii. No person shall be denied emergency medical treatment on any ground, including inability to pay.
- iii. The State shall take reasonable legislative and other measures to achieve the realisation of this right, guided by principles of equity, priority to vulnerable groups, and non-discrimination.

This provision should establish a minimum core obligation that is immediately enforceable, alongside a progressively realisable dimension for broader access to healthcare.

2. Reinforcement of Article 30 (Rights of the Sick)

Article 30 should be strengthened to:

- i. Explicitly affirm that no person shall be denied medical care on grounds of religious belief, disability, poverty, detention status, or social condition.
- ii. Extend protection to include timely access to essential treatment where delay would result in serious harm, long-term disability, or death.
- iii. Harmonization with the Directive Principles (Articles 36 and 37)

Articles 36 and 37 should be aligned with the new justiciable right to ensure that:

- i. Public health financing, infrastructure development and workforce planning are treated as constitutional governance obligations.
- ii. The State's duty to ensure healthcare access is interpreted as a continuous constitutional responsibility, subject to parliamentary oversight and judicial review where minimum core obligations are violated.

4. Mandatory Legislative Duty on Parliament

A new constitutional obligation should impose on Parliament the duty to:

Enact a comprehensive Public Health Framework Act to give effect to the right to health, including:

- a. Clear definition of the minimum core health package;
- b. National standards on emergency treatment, affordability and geographic access;
- c. Accountability mechanisms for wrongful denial of care;
- d. Special protection for persons in custody, pregnant women, children, older persons and persons with disabilities.
- e. The Law should expressly provide that:

Any person whose minimum core right to health is violated shall be entitled to immediate judicial relief, including mandatory treatment orders, compensation and structural remedies where systemic failure is established.

Right to Privacy (Digital Rights Gap)

6.254 Article 18 of the 1992 Constitution establishes the right to privacy of home, property, correspondence and communication as a fundamental right. Article 18(1) affirms the right to own property either alone or in association with others. In contrast, Article 18(2) protects every person from interference with the privacy of the home, property, correspondence or communication except in accordance with law and where such interference is necessary in a free and democratic society in the interests of public safety, economic well-being, public order, public morality, public health, or the protection of the rights and freedoms of others. The Constitution does not, however, define the scope of privacy beyond these general formulations, nor does it expressly address emerging domains such as digital communications, personal data, biometric information, surveillance technologies or metadata.

6.255 Beyond the Constitution, Parliament has enacted statutory frameworks that engage aspects of privacy protection. These statutory frameworks include the Electronic Transactions Act, 2008 (Act 772), the Cybersecurity Act, 2020 (Act 1038), and the Data Protection Act, 2012 (Act 843). Notably, the Data Protection Act regulates the collection, processing, storage and use of personal data, establishes the Data Protection Commission, and imposes obligations on data controllers and processors. Sector-specific statutes also permit interception and surveillance under defined conditions, particularly in areas such as national security, criminal investigation, and telecommunications regulation. These statutory regimes operate alongside Article 18 but are not constitutionally entrenched as specific standards of privacy.

6.256 Judicial interpretation of Article 18 has traditionally focused on physical searches, seizure of property, interception of correspondence and traditional communications. The courts have generally affirmed that privacy is not absolute and may be limited where statutory authorisation exists, and public interest is established. However, constitutional jurisprudence on digital privacy, mass surveillance, biometric identity systems, algorithmic profiling and cross-border data flows remains limited and underdeveloped.

6.257 Despite the formal recognition of privacy under Article 18, the Committee finds that the constitutional framework has not kept pace with the scale, intensity and

technological character of contemporary intrusions into private life. The dominant architecture of Article 18 is rooted in physical conceptions of privacy, such as the home, property, and correspondence. In contrast, modern privacy risks now primarily arise from digital surveillance, biometric identification systems, telecommunications interception, platform data extraction, and algorithmic profiling.

6.258 This has left significant areas of everyday private life regulated almost entirely by ordinary legislation without firm constitutional guardrails.

6.259 A major structural issue lies in the breadth of the limitation language in Article 18(2). The permitted grounds of “public safety,” “public order,” “public morality,” “economic well-being”, and the “protection of the rights and freedoms of others” are framed in open-ended terms. In practice, this has enabled broad discretionary surveillance, interception, and data collection powers across security, telecommunications, and regulatory institutions, often with weak thresholds for necessity, proportionality, and independent authorisation. The constitutional text does not expressly require prior judicial authorisation, strict necessity, data minimisation, time limits, or post-surveillance accountability.

6.260 The Committee further observes a growing asymmetry between the power of the State and private corporations on one hand, and the informational vulnerability of individuals on the other. Biometric registration systems, SIM card registration, financial surveillance, health data platforms, and digital identity databases create dense webs of personal data. Yet, the Constitution does not expressly recognise informational privacy, data autonomy, or protection against mass or unapparent surveillance. The individual’s ability to control, correct or challenge the use of personal data is therefore mediated almost entirely through statutory institutions rather than originating from a clear constitutional entitlement.

6.261 Another concern arises from the increasing role of private actors in privacy intrusions. Telecommunications companies, digital platforms, financial institutions, schools, religious bodies and employers now routinely collect, analyse and transmit personal data at scale. While Article 18 is textually applicable to “all natural and legal persons where applicable,” constitutional claims against private power remain underutilised. Most disputes continue to be framed in contract or tort rather than as violations of constitutional privacy, resulting in uneven protection and limited structural accountability.

6.262 The Committee also notes the weak integration between privacy and other fundamental rights such as dignity under Article 15, personal liberty under Article 14, and freedom of expression under Article 21. Surveillance practices increasingly chill protest, political participation, journalism, and association; yet, the constitutional framework treats privacy in isolation rather than as structurally connected to democratic freedoms. This fragmentation weakens the Constitution's capacity to respond to subtle but pervasive forms of rights erosion in the digital public sphere.

6.263 Finally, access to remedies remains uneven. While the Data Protection Act provides administrative and criminal enforcement mechanisms, constitutional litigation on privacy remains rare, slow and technically complex. Many forms of surveillance and data abuse occur invisibly, making violations difficult for affected individuals to detect, prove, or challenge in real-time. This creates a structural rights deficit in which interference occurs routinely, but enforceability lags behind operational reality.

6.264 The Committee considers that the constitutional right to privacy must be recalibrated to function as a modern, enforceable shield against both State and private power in an era of digital surveillance, biometric identification and mass data processing. This requires moving beyond a narrow, spatial conception of privacy focused on the home and physical property, toward an explicit recognition of informational privacy, data autonomy, communications privacy, and protection against unjustified surveillance, profiling, and data exploitation.

6.265 Consistent with the Committee's proposed reform of the general constitutional limitations framework, any interference with privacy under Article 18 must be subjected to strict legality, necessity, proportionality and demonstrable justification. As noted in our previous discussion recommending a General Limitation Clause, open-ended administrative reliance on public safety, morality, or economic well-being can no longer suffice as stand-alone grounds for intrusion. Surveillance and data interception must operate only as constitutionally controlled exceptions, subject to prior independent authorisation, traceable accountability and effective post-interference remedies.

6.266 The Committee further finds that constitutional privacy protection must be strengthened to address the growing power of private actors. Telecommunications companies, financial institutions, employers, schools, religious bodies and digital platforms now exercise extensive control over personal data and private communications. The Constitution must therefore impose horizontal obligations more clearly, allowing individuals to frame direct constitutional claims against both State and non-state actors whose conduct threatens privacy, dignity, and personal autonomy.

6.267 Privacy must also be understood as structurally linked to democratic rights. Surveillance practices that chill speech, journalism, political participation, association and protest should be treated as constitutional injuries to democratic life itself, and not merely as isolated intrusions into private space.

6.268 Finally, the Committee finds that adequate privacy protection requires enforceable remedial architecture. The Constitution must guarantee access to personal data, as well as rights to correction and deletion, notification of unlawful surveillance, independent regulatory oversight, and enforceable compensation. Without these structural safeguards, privacy risks remain declaratory rather than real.

Recommendation

6.269 The Committee recommends targeted constitutional reform affecting Article 18 of the Constitution, together with mandatory consequential legislative duties imposed on Parliament, as follows:

1. Article 18 (Right to Privacy of Home, Property, Correspondence and Communication)

Article 18 should be expanded and modernised to expressly entrench:

- a. The right to informational privacy and personal data protection, including control over the collection, processing, storage, use and disclosure of personal data.
- b. Explicit constitutional protection for digital privacy, biometric information, metadata, financial data and communications in all electronic forms.
- c. A clear guarantee against mass surveillance, profiling, interception and tracking, except where strictly authorised under the Constitution.
- d. Recognition that privacy violations may arise from both State and non-State actors, and that privacy is enforceable horizontally.

Article 18 should further be harmonised with the reformed constitutional limitations framework so that:

- a. Any restriction of privacy shall be lawful, strictly necessary, proportionate and demonstrably justified.
- b. Surveillance, interception and data access shall require prior independent authorisation, except in narrowly defined emergency circumstances subject to prompt judicial review.

- c. General references to public safety, morality, economic well-being or security shall not, without strict proof, justify privacy intrusions.

2. Mandatory Legislative Duty on Parliament (Data, Surveillance and Privacy Governance)

A new constitutional obligation should require that:

1. Parliament shall by law enact a comprehensive data protection, surveillance and communications interception framework consistent with Article 18, providing for:
 - a. Independent pre-authorisation of surveillance,
 - b. Transparent warrant procedures,
 - c. Data minimisation and retention limits,
 - d. Rights of access, correction, erasure and objection,
 - e. Mandatory notification of unlawful or unjustified surveillance,
 - f. Enforceable civil remedies, administrative sanctions and institutional accountability.

3. Democratic and Dignity Safeguard Clause

The Constitution should further provide that:

1. Any form of surveillance, data exploitation or privacy intrusion that chills freedom of expression, media freedom, political participation, association or protest shall constitute a compounded constitutional violation.
2. Intrusions into privacy that degrade personal autonomy, intimacy or identity shall be treated as violations of Article 15 (Human Dignity) as well as Article 18.

The Right to a Clean, Healthy and Sustainable Environment

6.270 Over the past decade, environmental degradation has emerged as one of the most serious threats to Ghana's constitutional order, public health, economic sustainability, and intergenerational equity. This is evidenced by the widespread destruction of water bodies, forest reserves, and farmlands, particularly through illegal and poorly regulated mining activities (such as *galamsey*), which has demonstrated the limitations of policy-based and statutory responses in the absence of a clear, justiciable constitutional right. The Committee is of the considered view that environmental protection can no longer be treated solely as a matter of administrative discretion or developmental policy; it must be elevated to the level of a constitutional guarantee.

6.271 Under the current 1992 Constitution framework, environmental protection is addressed indirectly through the Directive Principles of State Policy, notably Article

36(9), which enjoins the State to take appropriate measures to protect and safeguard the national environment. Additionally, Article 41(k) imposes a civic duty on citizens to protect the environment. While these provisions reflect an important normative commitment, their placement outside the chapter on fundamental human rights has significantly weakened their enforceability. In practice, this has limited the ability of citizens and civil society to compel decisive governmental action or to hold public authorities and private actors accountable for environmental harm.

6.272 Comparative constitutional practice strongly supports the codification of an explicit right to a healthy environment. Across Africa, constitutions such as those of South Africa (section 24) and Kenya (Article 42) recognise the right of every person to an environment that is not harmful to health or well-being and impose positive obligations on the State to prevent pollution, promote conservation, and secure sustainable development. These provisions have proven instrumental in strengthening environmental governance, enabling public interest litigation, and compelling executive and legislative action where environmental degradation threatens fundamental rights.

6.273 Globally, constitutional recognition of environmental rights has become a defining feature of modern constitutionalism. Increasingly, jurisdictions in Latin America, Europe, and parts of Asia increasingly entrench the right to a clean or healthy environment, reflecting the understanding that environmental integrity is a precondition for the enjoyment of rights to life, dignity, health, food, water, and housing. This trend has been reinforced at the international level by the United Nations Human Rights Council and the United Nations General Assembly, which have formally recognised the right to a clean, healthy, and sustainable environment as a human right and called on States to take deliberate steps to realise it through domestic legal and institutional frameworks.

6.274 For Ghana, the case for constitutional codification is particularly compelling. The persistence of *galamsey* and other environmentally destructive activities reveals a governance deficit that cannot be resolved solely through piecemeal statutes and discretionary policy initiatives. The absence of a constitutionally protected environmental right weakens regulatory enforcement, dilutes institutional accountability, and deprives affected communities of a clear legal basis to seek redress. A constitutional right to a healthy environment would therefore serve as a normative anchor for environmental protection, transforming environmental stewardship from a discretionary policy objective into a binding constitutional obligation.

Recommendation

6.275 The Committee recommends the inclusion of an explicit, justiciable right to a healthy environment in the chapter on Fundamental Human Rights and Freedoms of the Constitution. Such a provision should, at a minimum:

1. Affirm that every person has the right to a clean, healthy, and sustainable environment that is not harmful to their health, well-being, or livelihood.
2. Require the State to take reasonable legislative, administrative, and other measures to:
 - a. Prevent environmental degradation and pollution;
 - b. Regulate and monitor activities, including mining and extractive operations, that pose risks to the environment;
 - c. Promote conservation, sustainable use of natural resources, and ecological restoration.
3. Ensure that the right is enforceable before the courts, with appropriate standing rules to allow individuals, communities, and public interest actors to seek remedies for actual or threatened environmental harm.
4. Recognise the duty of the State to protect the environment for the benefit of present and future generations, thereby aligning constitutional governance with principles of sustainability.

New Article: Right to a Clean, Healthy and Sustainable Environment

Recommendation

6.276 The Committee recommends the following under a new Article in the Constitution:

1. Every person has the right to an environment that is clean, healthy, and sustainable and that is not harmful to that person's health, well-being, or livelihood.
2. The right under clause (1) shall include the right to have the environment protected, preserved, and improved for the benefit of present and future generations through reasonable legislative, administrative, and other measures.
3. The State shall, in particular, take measures to —
 - a. Prevent environmental degradation and pollution;
 - b. Promote conservation and the sustainable use of natural resources; and
 - c. Regulate activities, including mining and extractive operations, that are likely to endanger the environment.



CONSTITUTION REVIEW COMMITTEE 2025



Chapter VII: “All Development is Local”

CRC25

Chapter VII: “All Development is Local”

Overview

7.1 Ghana’s decentralisation framework is anchored in Chapter Twenty of the 1992 Constitution, which establishes local government as a key feature of the State and declares that Ghana “shall have a system of local government and administration which shall, as far as practicable, be decentralised.”¹⁵¹

7.2 Currently, the country’s system of decentralised local government is organised around a network of two hundred and sixty-one (261) Metropolitan, Municipal and District Assemblies (MMDAs) spread across the sixteen (16) Regions. These MMDAs constitute the principal subnational administrative and political units below the regional level and are the primary vehicles through which local governance, planning, and basic service delivery are intended to be realised. Of the number, thirteen (13) are Metropolitan Assemblies, which govern Ghana’s largest urban centres; one hundred and twenty-four (124) are Municipal Assemblies, typically covering urban or semi-urban areas with significant concentrations of population and economic activity; and one hundred and twenty-four (124) are District Assemblies, which largely serve rural and smaller population centres.

7.3 Each MMDA, generically called a District Assembly, is established by executive instrument under the Local Governance Act, 2016 (Act 936), but derives its constitutional authority from Chapter Twenty of the 1992 Constitution. Together, the district assemblies embody the formal architecture of local government, with mandates to formulate and execute development plans, mobilise local resources, enact by-laws, and administer a range of public services tailored to the needs of their respective communities.

7.4 The Committee notes that the current constitutional design contemplates the progressive transfer of functions, powers, responsibilities, and resources from the Central Government to subnational units, and obliges Parliament to enact legislation to give effect to this objective. The stated purposes of the system include enhancing local participation in governance, building the administrative capacity of local authorities, ensuring a sound financial base for local government, and promoting accountability to residents within defined territorial jurisdictions.

7.5 Structurally, the Constitution designates the district as the primary unit of political decentralisation. Each district is governed by a District Assembly, which is expressly

¹⁵¹ Constitution of the Republic of Ghana, 1992, Article 240(1),

described as the “highest political authority in the district”¹⁵² and is vested with “deliberative, legislative and executive powers”. District Assemblies are empowered to formulate and execute development plans, mobilise resources, levy and collect local taxes and fees, and provide municipal and social services. They are set up as corporate bodies capable of owning property, contracting, and borrowing. A majority of Assembly members are elected by universal adult suffrage on a non-partisan basis, while up to thirty percent are appointed by the President in consultation with traditional authorities and local interest groups. The District Chief Executive, appointed by the President with Assembly approval, serves as both the political head of the Assembly’s executive committee and the chief representative of the Central Government in the district.

7.6 At the regional level, governance is organised through Regional Coordinating Councils (RCCs), whose functions are primarily administrative and coordinative in character. The RCCs bring together the Regional Minister, District Chief Executives, Presiding Members, and regional heads of decentralised departments to facilitate the harmonisation of government programmes and oversight of district-level implementation. They do not exercise independent legislative authority, do not possess autonomous taxing powers, and do not operate as corporate bodies capable of owning property or borrowing in their own right. In practice, their role is limited to coordination, supervision, and liaison between the central government and the districts. Consequently, at the subnational level, effective decision-making power, resource mobilisation authority, and direct political accountability are concentrated at the district level rather than at the regional tier.

7.7 The operational framework for this constitutional design is provided principally by the Local Governance Act, 2016 (Act 936). The Act elaborates the legal personality, powers, and responsibilities of District Assemblies; establishes sub-district structures including urban, town, area councils and unit committees; creates mechanisms for participatory governance; and sets out planning, budgeting, procurement, and accountability procedures.

7.8 The Act further establishes the Local Government Service to professionalise and administer the decentralised bureaucracy and provides for a system of fiscal transfers, including a District Assemblies Common Fund established under Article 252(1) of the Constitution, into which not less than five percent of national revenue is to be paid annually for distribution to districts.

¹⁵² Article 241(3)

7.9 Taken together, the Constitution and Act 936 create a formal architecture that combines political representation, administrative authority, and fiscal responsibility at the district level. In legal terms, the framework aspires to a system of devolution in which locally elected bodies exercise real decision-making power over development planning, service delivery, and local resource mobilisation, subject to general national policy guidance.

7.10 Notwithstanding the breadth of the constitutional and statutory commitment to decentralisation, submissions and stakeholder engagements consistently indicated that the constitutional intention has not translated into a coherent or fully realised system of devolved governance in practice. A central difficulty identified is that while Chapter Twenty declares decentralisation as a constitutional objective, it does not define or state with clarity the institutional form, scope, or minimum content of that decentralisation. Scholars and experts in the field identify at least three different meanings or manifestations of decentralisation, namely, de-concentration, devolution, and delegation.¹⁵³ The Constitution, however, speaks only generically of “decentralisation” or “decentralized system of government”. Nowhere in the Constitution is the term “devolution” used, nor does it indicate which form or type of decentralisation it envisions, specifically at the district level. Furthermore, the Constitution requires that powers and resources be transferred from the Central Government to subnational units “as far as practicable,” but leaves the mechanics, pace, and extent of decentralization largely to political discretion. In the absence of clarity on what form of decentralisation the Constitution envisages for local government, different administrations have adopted differing and sometimes inconsistent approaches, oscillating between devolution, delegation, and de-concentration, giving rise, in the process, to policy incoherence and uneven implementation across governmental functions or sectors and political administrations.

7.11 A related concern arises from the allocation of political authority at the district level. Although the District Assembly is described as the highest political authority in the district, the chief executive authority in each district, the District Chief Executive (DCE), is appointed by the President and may be removed at will by the President. Submissions observed that this arrangement creates a structural tension within the system. The political functionary responsible for day-to-day executive and administrative functions is accountable primarily upward to a national appointing authority rather than downward to the local electorate or Assembly. The DCE’s dual role, as both head of the local executive and representative of the Central Government in the district, blurs lines

¹⁵³ Dennis A. Rondinelli, *Government Decentralization in Comparative Perspective: Theory and Practice in Developing Countries*, *International Review of Administrative Sciences*, Vol. 47, No. 2 (1981), pp. 133–145.

of responsibility and accountability and weakens the autonomy ordinarily associated with devolved governance. In practice, this has been perceived as limiting the ability of districts to act independently or to assert local priorities where these diverge from national political direction.

7.12 Stakeholders also consistently highlighted the absence of a clearly designated institutional driver of decentralisation at the national level. Responsibility for policy direction and implementation has shifted over time among ministries, inter-ministerial committees, and the Office of the Administrator of the District Assemblies Common Fund, without any single entity possessing clear and sustained authority, responsibility or accountability for the coherence or momentum of the reform agenda. This diffusion of responsibility has meant that decentralisation, although constitutionally mandated, is often treated as an ancillary administrative function rather than as a strategic state-building project requiring long-term planning and sustained commitment. In practice, the transfer of functions, personnel, and resources from central government to local authorities has proceeded unevenly and inconsistently, dependent more on political will and discretion than on a plan-driven, deliberately sequenced framework. The absence of a national-level driver-in-the-seat with continuous institutional stewardship of the decentralisation agenda has resulted in piecemeal reforms, weak inter-sectoral coordination, and delays in implementing agreed policies, thereby undermining the predictability and credibility of the decentralisation process.

7.13 A visible manifestation of this institutional leadership vacuum has been the proliferation and fragmentation of districts, often without regard to economic viability, administrative capacity, or service delivery efficiency. From 110 MMDAs in 1998, the number of districts has grown to 261. Submissions noted that the proliferation and fragmentation of districts has often been driven by short-term political considerations rather than coherent decentralisation strategy. While often defended in the name of subsidiarity or bringing government closer to the people, this degree of territorial fragmentation has, in many instances, produced districts with limited population bases, weak economic viability, and insufficient administrative capacity. Not only is the runaway growth in the number of districts unsustainable, it also defeats the underlying development logic behind Ghana's decentralisation agenda. Smaller and less viable units often struggle to mobilise local revenue, attract qualified personnel, or sustain essential services, thereby undermining the very developmental objectives decentralisation seeks to achieve. District fragmentation has often led to inter-district boundary conflicts, as splintered districts, faced with a contraction in the sources of internally generated funds, stake rival claims to previously common revenue-generating facilities such as markets and lorry stations. Fragmentation especially complicates city governance. As one

commentator has observed, in reference to Accra: “The capital is fragmented across multiple assemblies, each with its own budget and political incentives. No single authority is responsible for the city as [an] [integrated] functioning whole. Transport does not align. Waste management fragments. Housing sprawls without coordination.”¹⁵⁴ Rather than deepening devolution, this fragmentation has multiplied administrative overheads, intensified dependence on central transfers, and diluted scarce resources across an expanding number of units. In the absence of a technically grounded national institutional steward to set and apply standards, evaluate sustainability, and sequence reforms, district creation risks becoming an instrument of political expediency rather than a tool for strengthening local self-government, thereby compounding the very structural weaknesses that decentralisation is intended to address.

7.14 At the sub-district level, the gap between formal design and operational reality is even more pronounced. Although the Constitution and statute provide for town councils, area councils, and unit committees as the governance structures closest to citizens at the community level, many of these bodies remain under-resourced or inactive. Submissions described them as existing largely on paper, with limited staffing, minimal budgets, and little practical authority. As a result, the level of government intended to facilitate direct citizen participation and everyday service delivery is frequently the weakest link in the local government system. In practical terms, this has meant that many communities experience little or no functioning public authority at the very level where governance is most immediately required. Basic responsibilities such as local planning, minor infrastructure maintenance, sanitation oversight, and community mobilisation are left either unattended or informally assumed by traditional leaders, political party intermediaries, or ad hoc arrangements without clear legal mandate or accountability. This institutional vacuum not only reduces opportunities for meaningful grassroots participation but leaves significant portions of civic space effectively ungoverned, shifting even routine concerns upward to already constrained district administrations and undermining the credibility of decentralisation as a mechanism for bringing government closer to the people.

7.15 Fiscal arrangements were repeatedly identified as another significant constraint on effective decentralisation. While the Constitution mandates the establishment of a sound financial base for local government and creates the District Assemblies Common Fund as a guaranteed source of development financing for local government, the practical reality is that the overwhelming share of district resources continues to derive from central

¹⁵⁴ Re-Imagine Ghana with Dr. H. Aku Kwapong: Why local government structure fails the places where people actually live, <https://thebftonline.com/2026/01/26/re-imagine-ghana-with-dr-h-aku-kwapong-building-a-coherent-governance-architecture-from-village-to-city/>

government transfers. In most districts, internally generated funds account for only a small fraction of total revenue, leaving local authorities structurally dependent on allocations determined at the centre.

7.16 This dependence is compounded by the manner in which transfers are administered. Submissions noted that disbursements from the Common Fund and other central grants are frequently delayed, released irregularly, or tied to centrally determined programmes and expenditure lines. Earmarking and administrative controls thus often restrict the ability of district assemblies to allocate resources according to locally identified priorities or to respond flexibly to emerging needs. As a consequence, district budgeting tends to be reactive and compliance-oriented rather than strategic and developmental, with local plans shaped less by community preferences than by the conditions attached to external funding.

7.17 At the same time, the capacity of districts to mobilise their own revenues remains constrained or underdeveloped. Although the legal framework authorises assemblies to levy rates, fees, licences and other local taxes, the underlying tax base in many districts is narrow, reflecting limited formal economic activity, widespread informality, and persistent underdevelopment. Outdated property registers and valuation systems, weak tax collection capacity, misaligned incentives (e.g., assembly tax collection staff are paid from Central Government funds), and political reluctance to enforce local taxation further depress collections. The combination of low yield and high collection costs has meant that internally generated funds rarely provide a reliable platform for autonomous governance, even in the large metropolitan areas that have potentially tax-rich local economies and taxable properties. Without predictable and discretionary resources, local authorities cannot plan credibly, invest in long-term infrastructure or be held meaningfully accountable by residents for development outcomes.

7.18 Taken together, these challenges point to a systemic pattern where the formal architecture of decentralisation exists in law, but key elements necessary for genuine devolution - namely a clear constitutional trajectory, locally accountable leadership, coherent national institutional stewardship, viable districts, empowered sub-district structures, and predictable fiscal autonomy - remain either underdeveloped or unevenly realised.

7.19 Accordingly, the Committee's focus in this Chapter is on the reforms necessary to convert decentralisation from a largely administrative arrangement into a predictable and durable system of devolved governance. The Committee examines measures to clarify constitutional direction and competences, strengthen democratic accountability at

the local level, rationalise territorial organisation, secure fiscal autonomy, and establish permanent institutional stewardship through a proposed Independent Devolution Commission. Collectively, these reforms are intended to ensure that authority, resources, and responsibility genuinely reside where development outcomes are experienced, at the local level.

7.20 The guiding premise of the Committee's approach is that decentralisation must be anchored in effective and sound institutional design. The transfer of authority to the local level must be accompanied by clear mandates, technical standards, professional administration, and objective decision-making processes that prioritise functionality over political expedience. Local governance structures should be created, resourced, and evaluated on the basis of viability, capacity, and measurable performance rather than political symbolism or short-term considerations. In this respect, decentralisation is not merely a question of proximity to the people, but of building capable institutions that can plan competently, manage resources prudently, and deliver services reliably. The Committee therefore views institutional coherence, technical competence, and evidence-based decision-making as essential conditions for translating decentralisation into improved development outcomes.

7.21 The Chapter proceeds as follows: It first clarifies the constitutional and institutional gaps that have limited the effective rollout of decentralisation, and then sets out targeted reforms aimed at strengthening the foundations of the system. These include proposals to streamline national coordination through the establishment of an Independent Devolution Commission; rationalise the creation, merger, and upgrading of districts based on objective technical criteria; deepen democratic accountability within Metropolitan, Municipal and District Assemblies; revitalise sub-district governance structures; and reform the inter-governmental fiscal framework to secure predictable and autonomous financing for local authorities. The Committee seeks to replace a fragmented and discretionary approach with a rules-based, performance-oriented, and institutionally coherent model of decentralised governance.

[Streamlining National Decentralisation Efforts:](#) [Establishment of an Independent Devolution Commission](#)

7.22 As highlighted above, the Constitution establishes decentralisation as a key part of Ghana's governance architecture but fails to establish a unitary or national institutional authority responsible for designing, directing, rolling out, and overseeing its systematic implementation. Instead, the Constitution leaves it generally to Parliament to determine by legislation how, when, whether or by whom decentralization will be implemented.

Following a typical pattern, Parliament has vested that power in the Executive arm of government. The resulting legal framework thus distributes responsibility for territorial organisation, administration, staffing, financing, accountability, and performance management across multiple actors, including Parliament, the President, the Ministry responsible for Local Government, the Local Government Service, the Office of the Administrator of the District Assemblies Common Fund, the Inter-Ministerial Coordinating Committee on Decentralisation (IMCC), and, in specific respects, the Electoral Commission. While each of these institutions performs discrete statutory functions, the system as a whole operates without an overarching body charged with ensuring coherence, sequencing reforms, or stewarding decentralisation as a unified constitutional project.

7.23 At the level of territorial organisation, Article 241 of the Constitution empowers Parliament to provide for the redrawing or reconstitution of districts. Parliament, in turn, has enacted the Local Governance Act, 2016 (Act 936), which vests the formal authority to create, alter, or name districts in the President by Executive Instrument. Before exercising this power, the President is required to direct the EC to make recommendations based on prescribed criteria, including population thresholds, geographical contiguity, and economic viability. Following these recommendations, the EC undertakes the demarcation of electoral areas and the organisation of elections for newly constituted Assemblies. Although this process introduces technical input, ultimate control remains with the Executive. No independent institutional mechanism is mandated to undertake comprehensive territorial planning, assess long-term administrative sustainability, or manage district restructuring within a coherent national decentralisation strategy.

7.24 Beyond territorial configuration, responsibility for the administration and management of Metropolitan, Municipal and District Assemblies (MMDAs) is similarly dispersed. The Constitution does not designate any independent authority to develop or enforce national standards or performance benchmarks for the establishment and operation of Assemblies and their sub-structures. Instead, the Ministry responsible for Local Government (the Ministry) issues policy directives and administrative guidelines, while the Local Government Service oversees staffing, postings, and day-to-day administrative supervision. These arrangements are largely executive and policy-driven rather than statutory and independently regulated, resulting in uneven application of standards across districts.

7.25 Institutional capacity development follows the same pattern of fragmentation. The Local Government Service manages recruitment and training of staff, sector ministries

retain operational control over decentralised departments, and the Ministry coordinates periodic training initiatives. No single body is mandated to conduct system-wide assessments of MMDA institutional capacity or to design integrated programmes addressing deficits in planning, budgeting, procurement, or service delivery. Capacity-building efforts therefore tend to be episodic, project-based, or donor-supported rather than continuous and strategically managed.

7.26 Fiscal arrangements are governed principally by Article 252, which establishes the District Assemblies Common Fund (DACF) and guarantees not less than five percent of national revenue to District Assemblies. The Office of the Administrator of the DACF manages the distribution of these funds in accordance with a formula approved by Parliament, while additional grants and transfers flow through sector ministries. Although these mechanisms provide funding channels, the Administrator's mandate is limited to managing the Fund itself and does not extend to oversight of the broader inter-governmental fiscal framework. Issues relating to transfer predictability, conditionality, equity, and long-term fiscal sustainability are handled across multiple institutions without unified coordination.

7.27 At the local level, Assemblies are constitutionally empowered to levy and collect taxes, rates, fees, and charges as Internally Generated Funds (IGF). In practice, however, revenue mobilisation remains weak due to narrow tax bases, inconsistent valuation systems, uneven enforcement capacity, and misaligned incentives. The law provides no dedicated national mechanism to modernise local revenue systems, support innovation in revenue mobilisation, or systematically strengthen fiscal autonomy. As a result, most districts, including metropolitan areas, have been unable to develop or realise their fiscal potential and, thus, remain heavily dependent on central transfers.

7.28 Performance monitoring and service delivery assessment are undertaken sporadically by sector ministries and the Ministry responsible for Local Government. However, there is no comprehensive, statutory, and publicly accessible national performance framework that systematically measures and compares MMDA effectiveness across indicators such as service delivery, fiscal management, citizen participation, or local economic development. Existing evaluations therefore function primarily as administrative tools rather than enforceable accountability mechanisms.

7.29 Finally, coordination of decentralisation policy at the national level has not been anchored in a stable institutional home. Responsibility has shifted over time between the Ministry responsible for Local Government and the IMCC. The IMCC was originally conceived as a high-level executive coordination mechanism, chaired at the Presidency,

with the intention of mobilising cross-sector compliance and ensuring that sector ministries transferred functions and resources in line with the decentralisation agenda. In that form, it carried the practical authority of the Presidency and was positioned to compel inter-ministerial action.

7.30 Subsequently, however, the IMCC was provided for under the Local Governance Act and situated within the ministerial framework. While this gave it statutory recognition, it effectively repositioned the Committee as an adjunct of the Ministry rather than a supra-ministerial coordinating authority. As a result, its capacity to direct or enforce compliance across powerful sector ministries has diminished, and its effectiveness now depends largely on administrative persuasion and the priorities of the incumbent Minister rather than an independent institutional mandate. Stakeholders observed that this shift has weakened its convening power and reduced its ability to drive whole-of-government reform.

7.31 Unlike other major constitutional functions such as elections, auditing, or public service management, which are anchored in specialised independent bodies with permanence, technical capacity, and institutional authority, decentralisation remains without a comparable national steward. The absence of such a constitutionally grounded directing and coordinating institution has contributed to uneven implementation, policy reversals, and fragmented accountability across the decentralisation framework.

7.32 Decentralisation requires continuous planning, sequencing, and oversight across diverse functions including territorial organisation, administrative restructuring, fiscal transfers, staffing, and service delivery. Under the current constitutional arrangement, no one institution is charged with ensuring alignment between these elements or with monitoring whether decentralisation objectives are being realised in practice. The result is a system in which reforms are episodic and reactive rather than strategic and cumulative.

Recommendations

7.33 The Committee recommends appropriate amendments to Chapter Twenty of the Constitution as follows:

Establishment of an Independent Devolution Commission

To guide and inform the direction and content of legislation, policy, and implementation in relation to decentralisation, the Constitution should state clearly that the goal is devolution or a devolved government at the District level.

The Committee recommends the establishment of an Independent Devolution Commission (Devolution Commission) as the central institutional mechanism responsible for the design, coordination, oversight, and continuous implementation of Ghana's decentralisation framework. The Commission shall serve as the principal technical and regulatory authority for matters relating to local government structure, capacity, performance, and inter-governmental relations. To safeguard its autonomy and ensure stability of operations, the funding of the Commission shall be charged on the Consolidated Fund.

Mandate and Functions of the Devolution Commission

7.34 The Committee considers that the proposed body must be permanent, independent, and technically specialised in character. Decentralisation is not a time-bound programme or a discretionary policy initiative, but a continuing constitutional obligation that requires sustained design, sequencing, and oversight. Its effective implementation cannot depend on shifting ministerial priorities, administrative arrangements, or the tenure of particular officeholders. A dedicated Commission would provide continuity of leadership, technical focus, and institutional memory, insulated from ministerial turnover and short-term political cycles, thereby ensuring that decentralisation proceeds as a structured and cumulative reform process rather than as intermittent or episodic efforts.

7.35 The Commission should not function as a department of a ministry or be subject to day-to-day ministerial direction. Its independence is necessary to ensure credibility, professional judgment, and continuity; its technical composition is necessary to ensure evidence-based decision-making; and its constitutional or statutory entrenchment is

necessary to protect the decentralisation agenda from shifting political priorities. In the Committee's view, only an institution with these attributes can provide sustained stewardship of decentralisation as a long-term constitutional project.

7.36 Further, in the Committee's assessment, the consolidation of key decentralisation functions within an independent Commission would directly address the fragmentation that characterises the current framework. By vesting responsibility for national standards-setting, territorial restructuring of districts, institutional capacity assessment, fiscal coordination, and performance monitoring in one body, the system would move from a collection of parallel initiatives to an integrated programme. The Commission would provide coherence across sectors, ensure that reforms are sequenced and mutually reinforcing, and maintain institutional memory beyond electoral cycles or ministerial changes.

7.37 The Committee considers that certain functions, particularly the creation, merger, and elevation of districts, require objective technical judgment insulated from partisan considerations. Locating these responsibilities within an independent Commission, rather than within the ordinary structures of the Executive, would promote decisions based on population thresholds, economic viability, service delivery capacity, and administrative efficiency. In this way, the Commission would introduce predictability and transparency into territorial reorganisation and reduce fragmentation, as well as the perception or reality of political expediency in district formation.

7.38 In fiscal matters, the Committee's view is that the Commission would serve as the coordinating authority for the inter-governmental finance system. In practical terms, this would require the integration of the Office of the Administrator of the District Assemblies Common Fund into the institutional structure of the Commission, with the Administrator operating as a specialised arm of the Commission responsible for fund management and disbursement. This consolidation would align the administration of the Common Fund with broader fiscal policy, capacity-building, and accountability objectives, eliminating fragmentation between funding decisions and system-wide planning.

7.39 Further, the inter-governmental fiscal framework requires integrated oversight. Beyond managing funding disbursements, the Commission will be responsible for ensuring the transparency, equity, and predictability of transfers to local authorities, supporting improvements in internally generated revenue, and promoting sustainable fiscal autonomy at the local level.

7.40 The Committee also envisages the Commission as the system's technical engine for institutional strengthening. By conducting regular assessments of the administrative and human resource capacity of Metropolitan, Municipal, and District Assemblies, and by designing targeted programmes to address identified gaps, the Commission would assist the MMDA's move capacity building away from episodic interventions toward a functional and effective local government service. The objective is to ensure that decentralisation is supported by functional capability at the local level.

7.41 To reinforce accountability, the Commission would establish and administer a comprehensive performance and benchmarking framework for all local government units. Through publicly accessible indicators on service delivery, financial management, citizen participation, and development outcomes, the Commission would enable Parliament, citizens, and oversight bodies to evaluate the effectiveness of local governance in a systematic manner.

7.42 The Committee further considers that the establishment of the Commission would enable decentralisation to be managed as a coherent, performance-oriented system rather than as a collection of administrative units operating without comparable standards. The Commission would be mandated to design and administer a comprehensive and publicly accessible performance assessment framework for all MMDAs, measuring and benchmarking indicators relating to financial management, service delivery, citizen participation, and local economic development. Regular evaluation and publication of results would institutionalise transparency, strengthen accountability to both citizens and Parliament, and provide an empirical basis for targeted support, corrective intervention, and evidence-based policy refinement.

7.43 Finally, the Commission would address the operational vacuum that persists at the grassroots level, particularly the chronic institutional weakness of town councils, area councils, and unit committees. As the Committee has observed, although these sub-district structures are constitutionally and statutorily recognised as the primary interface between citizens and the state, in practice many exist only nominally, with limited staffing, minimal budgets, irregular meetings, and little practical authority over service delivery or local problem-solving. As a result, the tier of government intended to anchor participatory governance and everyday accountability is often the least functional, leaving routine community concerns either unattended or escalated unnecessarily to already overburdened District Assemblies. This gap has contributed to a pattern in which decentralisation appears structurally present but substantively absent in the places where people actually live their lives.

7.44 The Commission would therefore assume responsibility for systematically revitalising this foundational layer of local governance. This would include developing and gazetting clear national standards on the establishment, staffing, financing, and minimum operational requirements of sub-district bodies; prescribing predictable budgetary allocations or formula-based support; and ensuring that these structures are integrated into district planning, budgeting, and reporting systems. By monitoring compliance with these standards and publishing performance data, the Commission would move sub-district governance away from *ad hoc* or symbolic existence toward defined, enforceable functionality. In addition, the Commission could support targeted capacity-building and civic engagement programmes to strengthen the ability of these bodies to convene communities, manage local initiatives, and provide early resolution of local disputes and service gaps.

7.45 Overall, the Committee is convinced that the establishment of such a Commission is necessary to transform decentralisation from a collection of fragmented administrative measures into a structured, coherent, and predictable system of governance. By providing independent stewardship, technical competence, and sustained strategic direction, the Commission would anchor decentralisation within a stable institutional framework, ensure consistency in implementation across sectors and political cycles, and strengthen the capacity of local authorities to function as effective, accountable centres of governance. In this way, the Commission would give practical and durable effect to the Constitution's objective of bringing government closer to the people and enabling local institutions to deliver development outcomes at the community level.

Oversight of the Devolution Commission

7.46 The Committee recognises that decentralisation within the context of a unitary democratic state, particularly one with a long tradition of centralised government, is an unavoidably political issue. Accordingly, the Committee is of the considered view that the Devolution Commission, while it must be strictly nonpartisan in its work, should be subject to political accountability.

Recommendation

7.47 The Committee recommends that the Commission be subject to political accountability through the following means:

- (a) Where the Commission proposes to create a new district, redraw district boundaries, or upgrade a district, it shall make its proposals by means of a Constitutional Instrument which shall be laid before Parliament; the proposed changes shall not come into effect until they have passed the appropriate parliamentary process.
- (b) Both the President and Parliament shall have a role in the appointment of the Chair and Vice Chairpersons of the Commission: The President shall nominate persons to the position of Chair and Vice Chairperson in accordance with the recommendations of the Council of State and, upon receiving the prior approval of Parliament, confirm their appointments.
- (c) Parliament shall prescribe the full composition of the Commission as well as the qualifications of the chairperson and vice chairpersons of the Commission.
- (d) The Commission shall report annually to Parliament on its activities.

Composition of the Commission

7.48 The Committee recommends that the Devolution Commission be constituted as follows:

- a. A Chairperson and two vice-chairpersons, all of whom shall be full-time members of the Commission; and
- b. such other members, who shall not be full-time, not exceeding nine (9) in number as Parliament shall by law prescribe, including:
 - i. a representative of the National Development Planning Commission
 - ii. a representative of the National Association of Local Authorities of Ghana (NALAG);
 - iii. a representative of the National House of Chiefs;
 - iv. a representative of the Civil and Local Government Service Staff Association of Ghana.
 - v. the Director of the Institute of Local Government Studies

Appointment of Chairperson and Vice-Chairpersons of the Commission

7.49 The Committee recommends that the Chair and each of the Vice Chairpersons of the Commission shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancy by the Council of State, subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC). A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position as prescribed by Parliament. The PSC will undertake initial screening of applicants and provide the Council of State with a shortlist of qualified candidates, who shall then be interviewed or vetted by the Council, which shall submit a ranked list of three final candidates to the President. The President shall then nominate one candidate and forward the nomination to Parliament, and upon receiving the approval of Parliament, the nominee shall be appointed by the President.

Tenure of office of the Chairperson and Vice Chairpersons of the Commission

7.50 The Committee recommends that the Chairperson and each of the Vice Chairpersons shall hold office for a single, non-renewable term of ten (10) years or until they attain the age of 65 years, whichever is earlier. The other (non-full-time) members of the Commission shall be nominated by their respective institutions to serve for a term of four-years, renewable for a maximum of two more terms in total.

Removal of the Commissioner or the Deputy Commissioner

7.51 The Committee recommends that the grounds and procedure for removal of the Chair and Deputy Commissioners of the Electoral Commission be applicable to the Chair and Vice Chairpersons of the Devolution Commission.

Election of DCEs: Dimensions of the Issue

7.52 The Committee observed generally strong support for the idea that DCEs must be elected by their respective local communities or assemblies, as opposed to the current system of appointment by the President with the approval of the Assembly. The Committee's consultations revealed, however, that there are many different dimensions and implications to the issue of electing DCEs that often escape scrutiny. Some of the pertinent questions that the idea of electing DCEs gives rise to include: whether all (261) districts should be entitled to elect their DCEs in the same manner all at once; what qualifications should be prescribed for a person seeking to become DCE; whether political parties should be permitted to sponsor candidates for DCE election; and many others.

The Right of a District to Elect its District Chief Executive

7.53 As currently designed, the District Assembly is a mixed, part-elective, part-appointive body. The members representing the various local electoral areas that constitute the district, who make up at least 70% of the Assembly's membership, are popularly elected from their respective electoral areas. The District Chief Executive (DCE), who is an ex-officio member of the Assembly is "responsible for the day-to-day performance of the executive and administrative functions of the District Assembly," and is appointed by the President of Ghana with the prior approval of not less than two-thirds majority of the members of the Assembly present and voting. The remaining 30% of the members of the Assembly are appointed by the President "in consultation with the traditional authorities and other interest groups in the district." In practice, it is the local leadership of the President's party that determines which persons are appointed to the 30% reserved seats.

7.54 The one issue pertaining to reform of local government about which there is a strong national consensus is local election of DCEs. Local election of DCEs would be a historic step for Ghana, as no local community in the country, dating back to the colonial period,

has ever had the opportunity to elect its local political or administrative head. Many are of the view that Ghana's much vaunted democracy would remain incomplete until local communities are able to elect not only their electoral area representatives to the District Assembly but also their District Chief Executive or Mayor. The Committee shares generally in this sentiment.

7.55 However, consensus on the desirability or necessity of local communities electing their DCEs does not resolve or answer the many questions or issues that necessarily arise from a decision to elect DCEs. The one immediate question that arises is whether the right of a local community to elect its DCE (if such a right is recognised) should extend automatically or unconditionally to every existing district, regardless of its population size or economic capacity.

7.56 In general, the Committee takes the view that in the area of local government, partly because of the novelty and, for that matter, the experimental nature of many of the proposed reforms, neither a "revolutionary" approach nor a "one-size-fits-all" approach is advisable. The Committee believes that, as all districts are not currently equal or similarly situated with regard to the relevant variables (such as population size, economic viability, and administrative capacity), a phased or gradualist approach to implementing the proposed reforms would be most appropriate. In the same vein, given the varying states and situations of different districts, a reasonable degree of asymmetrical devolution can be expected. What is essential is to ensure that any differential treatment among districts, in terms of the pace or nature of reform, is principled, fair, and based on objective criteria. In other words, the fact that a district currently exists does not mean it must be extended or accorded the same treatment or rights as every other district. The relevant test is whether it satisfies or meets the objectively defined criteria for granting or acceding to it the treatment accorded to other districts materially or substantially.

Recommendation

7.57 In relation to the issue of election of DCEs, the Committee recommends a phased and asymmetrical approach.

- a. The Committee is of the considered view that the right of a district to elect its DCE is not an isolated reform; it is intended as part of a package of reforms. Notably, the Committee envisions voting to elect one's DCE must come with certain consequences, implications or obligations, such as an assumption of financial responsibility for certain local recurrent expenditures currently borne

by the central government. Therefore, a district that, for example, currently lacks the objective capacity to assume or bear such a responsibility need not be granted voting rights merely for the sake of it. Elections for election sake is not the goal; rather, the election of DCEs, like the other reforms proposed or envisioned by the Committee, must help advance the broader objectives of the decentralisation and devolution agenda.

- b. Moreover, the right of a local community to elect its DCE is a right that, once granted, would be extremely difficult to take back, at least politically. It is, thus, a step that must not be taken casually. Particularly in light of the Committee's observation that the current number of districts is excessive and many districts have been created in disregard of the prevailing statutory criteria for the creation of districts, to automatically confer on all existing districts the right to advance to the next phase of the devolution agenda is to compound the effect of past mistakes.
- c. The Committee notes that the incremental and asymmetrical approach it proposes concerning the local election of DCEs, is entirely consistent with the vision of political decentralization articulated in Article 240(2)(e), which provides that "to ensure the accountability of local government authorities, people in particular local government areas shall, as far as practicable, be afforded the opportunity to participate effectively in their governance."
- d. The Committee further notes, for purposes of comparative learning, that devolution in a long-established unitary democracy like England, including the right of communities to elect their Mayor, has followed a similar systematic, incremental approach, guided by well-articulated principles, criteria, and milestones, with the ultimate, long-term goal being to have all communities led by elected mayors.

Which Districts Should Elect Their DCEs?

7.58 The Committee recommends that, as a start, all existing districts should be divided into Voting Districts (VDs) and Non-Voting Districts (NVDs), with the right to elect DCEs granted, initially, only to VDs. The division of local government areas into VDs and NVDs for purposes of electing DCEs cannot, however, be done arbitrarily. The Committee believes that the responsibility for developing and applying the criteria to guide and determine which Districts are voting districts and which are non-voting belongs properly to the proposed Independent Devolution Commission.

7.59 The Committee recommends that the Devolution Commission be responsible for implementing the phased election of DCEs. In so doing, the Commission should be guided by certain considerations and principles to be outlined either in the Constitution or in a relevant statute. The Committee offers some of these considerations below.

- a. The Committee proposes that the base criterion for designating a district as a VD should be that the district (i) is or forms part of a regional capital or (ii) meets a prescribed population threshold expressed as a percentage of the total national population. The prescribed population threshold for a district to qualify as a VD should be such that the aggregate population of all VDs is not less than a specified majority (e.g., 70%) of the total population of Ghana. The idea is to ensure that, from the start, the overwhelming majority of Ghanaians will have the opportunity to vote in their respective districts to elect their DCE.
- b. As envisioned by the Committee, districts that do not get to directly elect their DCEs from the start would graduate to VD status upon meeting the prescribed national population ratio. However, considering current demographic trends, certain districts may never meet the threshold to qualify to elect their DCEs directly. For such districts, which are likely to be mostly rural, population-losing districts, the Committee proposes an alternative path to VD: a lower national population ratio may be set for them, or adjoining NVDs in the same Region could be permitted to apply to merge or consolidate to meet the prescribed population threshold and be granted VD status by the Devolution Commission. This alternative pathway to VD status would provide a bottom-up, organic progression to VD status for many otherwise small districts.
- c. Notwithstanding the distinction made here between VDs and NVDs, the Committee proposes that in all cases, the DCE shall be elected. However, while the Committee proposes the direct popular election of DCEs based on universal adult suffrage in VDs, we recommend that, in NVDs, the DCE be elected indirectly by a two-thirds majority of all members of the District Assembly from a list of pre-qualified candidates. We propose that the Devolution Commission, with assistance from the Public Services Commission (PSC), oversee the pre-qualification process.

Qualification of DCEs

7.60 The 1992 Constitution does not stipulate specific qualifications for appointment or election to the position of DCE. With Ghanaians anticipating the election of DCEs, the question of the minimum qualification for the office generated a fair amount of discussion during the Committee's consultations.

7.61 The Committee notes that, without prescribing minimum meritocratic qualifications beyond the standard ones required for legislative office, it might be difficult to manage the number of likely candidates, particularly if, as the Committee recommends, DCE elections are organised on a no-party basis. But beyond its value in winnowing down the number of possible DCE candidates, prescribing meritocratic qualifications for DCE candidates is necessary in view of the fact that the job of a DCE involves substantial managerial responsibility

7.62 Participants at the Committee's engagements who voiced support for merit-based qualifications for DCEs also emphasized the need to prescribe qualifications that are inclusive and not unduly biased toward academic qualifications.

Recommendation

7.63 The Committee recommends that, since the DCE is an executive/management position, candidates for DCE must possess additional qualifications beyond basic qualifications to be MP. The Committee is of the view that Parliament or the Devolution Commission is best placed to prescribe minimum meritocratic qualifications for persons seeking to contest election to the office of DCE.

On the issue of inclusivity, the Committee recommends a formulation of the qualifications criteria along the following lines:

- a. bachelor's degree or professional qualification with at least 8 years post-qualification experience, including at least 3 years in a leadership or management position in the public sector, private sector or civil society/community development sector; or
- b. advanced degree with at least 3 years' experience in leadership or management in the public sector, private sector or civil society/community development sector; or
- c. at least high school/post-high school with at least 12 years' experience in business or community development.

Participation or Exclusion of Political Parties from Local Government Elections

7.64 The question of whether political parties should participate in Ghana's local government elections has long been a subject of intense national debate. Since the country's decentralisation system was introduced in 1988, local government elections have been conducted on a non-partisan basis, in accordance with Article 248(1) of the 1992 Constitution. This arrangement was designed to foster grassroots participation, unity, and development-oriented leadership at the community level, free from the divisive influence of partisan politics.

7.65 However, over the years, Ghanaians have questioned whether the current "non-partisan" model truly reflects political reality. It is common knowledge that, despite the constitutional prohibition, local assembly elections are *de facto* partisan, as candidates often receive both direct and indirect support from political parties. As a consequence, the party leanings or affiliations of elected Assembly members is usually an open secret.

7.66 The debate as to whether political parties should be permitted to sponsor candidates for DCE elections resurfaced prominently during the Committee's public engagements across the country, with citizens expressing sharply divided views on the issue. Proponents of partisan participation argued that involving political parties will enhance accountability, transparency and policy coherence between local and national governments. They submitted that political parties possess the organisational capacity and resources needed to strengthen local governance. Additionally, political parties, because of their generally national orientation, were said to be better able to manage locally sensitive issues like candidates' ethnicity. On the other hand, defenders of nonpartisan local elections warned that overt party involvement in DCE elections will intensify partisan polarisation at the community level, undermine local cohesion, and distract from local development concerns and priorities.

7.67 The Committee notes that, while the party affiliations of Assembly members elected on a non-partisan basis are often widely known, a significant majority of Ghanaians, in survey after survey, continue to support local government elections conducted on a nonpartisan basis. Local communities have sometimes defended the preference for non-partisan local elections on the grounds that the exclusion of parties from participation in local government elections creates a less tense electoral atmosphere and also makes for less costly campaigns. Advocates of no-party DCE elections believe it would attract a larger pool of qualified candidates, instead of a partisan elections which is likely to end up as another two-way contest between NDC and NPP. They further argued that open party involvement in DCE elections would likely "nationalise" what

should be a largely local affair focused on local priorities and concerns. The Committee supports the view that local government elections must have a substantively different focus from elections for MPs and for the president. To make all of those three elections partisan would rob local communities of the opportunity to have at least one competitive election that focuses on the everyday needs and concerns of the District and local communities.

Recommendations

7.68 The Committee recommends that the election of MMDCEs, whether directly or indirectly, shall proceed on a non-partisan basis.

The Committee recommends that the Independent Political Party and Campaigns Regulator (IPPCR) publish regulations to govern the conduct of campaigning and electioneering in relation to DCE elections, while the NCCE should provide platforms for candidates to engage local voters.

Term Limits for MMDCEs

7.69 The question of whether elected MMDCEs should serve with or without term limits generated some interest and divergent views during the Committee's engagements. Contributors who favoured doing away with term limits for DCEs argued that, the danger of authoritarian entrenchment that an unlimited term represents for a President at the national level does not necessarily apply to DCEs, as a DCE is subject to numerous national regulatory constraints of a kind a President is not typically subject to. On their part, proponents of term limits for DCE argued that DCEs could also use incumbency to entrench themselves in office. Term limits was defended as opening doors of opportunity for fresh faces and talent to emerge within the local political space. Overall, the majority sentiment on this issue was strongly in favour of term limits, with many supporting a two-term limit of 5 years for each term.

Recommendation

7.70 The Committee recommends an amendment to Article 246(b) to limit a DCE to no more than two terms of five (5) years, regardless of whether they occur consecutively or non-consecutively.

Grounds for removal

7.71 Switching from an appointive to an elective DCE raises the question whether there should be additional grounds for removal beyond defeat at a re-election and the exhaustion of one's term. Obviously a DCE would be subject to the ordinary laws of the land on equal terms with any other person. Thus, conviction for a crime would ordinarily be grounds for removal. What about a DCE against whom, say, adverse findings have been made by the Auditor-General? The Committee is of the view that, other than conviction for a crime, impeachment for cause by the District Assembly should be the appropriate route for removing a DCE.

Recommendation

7.72 The Committee recommends that the DCE be subject to removal:

(a) by the President, if the DCE is convicted of a crime; or

(b) by impeachment (for cause) by the District Assembly, if, following investigations for alleged gross misconduct, the allegations are sustained and at least 75% of all of the members of the District Assembly vote to impeach the DCE.

The Committee recommends that Parliament or the Devolution Commission may prescribe additional grounds and mechanism for removal of an elected DCE for cause.

Deputy DCE

7.73 Replacing an appointive DCE with an elected one also means anticipating and making provision for the possibility of a vacancy occurring in the office due to resignation, death, incapacity, or removal of the incumbent. To avoid a by-election and ensure continuity in the office at all times, it was suggested that provision be made for a Deputy DCE (D-DCE). The candidate for D-DCE could either run on the same ticket as the main DCE candidate or be appointed to that position by the DCE (with the approval of the Assembly) after being elected DCE. The prospect of having a Deputy DCE also triggered the proposal that the opportunity could be used to advance gender-based affirmative action by mandating that the DCE and Deputy cannot be of the same sex.

Recommendation

7.74 The Committee recommends that provision be made for the position of Deputy DCE. The Deputy DCE, who shall not be of the same sex as the DCE, shall contest and be elected together with the DCE on the same ticket. The qualifications for the Deputy DCE shall be the same as for the DCE.

Election of the Presiding Members of the District Assembly

7.75 One issue concerning the political organisation of the District Assembly that engaged the attention of the Committee was the current mode of electing the Presiding Member of the Assembly. The Constitution sets out distinct voting thresholds for the election of key local government officials, notably under Articles 243(1) and 244(2). While Article 243(1) provides that the DCE shall be approved by not less than two-thirds of members of the Assembly present and voting, Article 244(2) stipulates that the Presiding Member shall be elected by not less than two-thirds of all the members of the Assembly.

7.76 This makes the election of the Presiding Member far more stringent and more difficult to accomplish than the approval vote for the DCE. The Committee learned that, in a number of instances, the absolute supermajority required to elect a Presiding Member has been impossible to secure after multiple rounds of voting, causing the position of Presiding Member to lie vacant for prolonged periods and frustrating the business of the Assembly in the process.

Recommendation

7.77 The Committee recommends an amendment to Article 244(2) to provide that the Presiding Member shall be elected by a simple majority of all the elected Assembly members.

Appointive Seats on the District Assembly

7.78 Article 242(d) mandates that up to 30 per cent of Assembly members shall be appointed by the President “in consultation with traditional authorities and other interest groups in the district.” The idea of the provision was to afford Government the opportunity to bring unto the Assembly professionals and other persons whose expertise and experience could assist the Assembly and help raise the quality of its Assembly's deliberations and outputs. The Government could also use these appointments to raise the representation of women and other historically under-represented social groups. Since Chiefs would not participate in elective politics, even of a nonpartisan kind, this was also an avenue to give them formal representation and voice in the structures of local government.

7.79 The Committee learned that the intentions and expectations behind setting aside 30% of the Assembly seats for Government appointees have proven to be idealistic. In practice, the reserved slots have been captured by local executives and influential partisans of the ruling party. During the Committee's zonal engagements, chiefs complained not only about lacking representation on the Assembly, they also were routinely denied the courtesy of customary consultation in the making of appointments to the Assembly.

7.80 The main issue for the Committee in relation to the 30% reserved seats was whether they should be retained and, if so, for what classes of persons. While some participants and submitters wanted the reserved seats abolished in favour of an all-elected Assembly, the majority of the contributions to this debate supported retaining the appointive seats but not reserving the appointments for the President or Government. Instead, it was proposed that the reserved seats be allocated to specified groups in the district and, further, that the breakdown of the allocation be prescribed in the Constitution or a statute. The Committee is well aligned with this position.

Recommendation

7.81 The Committee recommends an amendment to Article 242 to provide that thirty (30) per cent of all the members of the Assembly shall be appointed based on the following allocation of seats, reconstituted into 100%:

- a. Traditional authorities – 25%
- b. Local women leaders – 20%
- c. Local small business owners – 20%
- d. Persons with Disabilities and persons of voting age below the age of 35 years – 20%
- e. Community-based non-governmental organisations – 15%.

The Devolution Commission shall develop the modalities for the selection of the nominees to the appointive seats other than those representing the Traditional Authorities in the District. With regard to the representation of Chiefs, it is proposed that the power to appoint or nominate which Chiefs and Queenmothers should sit on the Assembly during a given term should be vested in the Paramount Chiefs within the district, with the caveat that, where there is a dispute over the representation, the Regional House of Chiefs shall make the appointment.

Sub-District Level Community Governance: What Role for the Chief?

7.82 As has been noted previously, the “sub-district” level of the current local government architecture is the weak link in the decentralised structure, as it gets far less attention and resources compared to the “district”. Yet, this “sub-district” level is where the settlements and communities and villages and towns are; where people live their daily, humdrum lives. It is also where chiefs and traditional chieftaincy institutions are most present and most proximate to the people.

7.83 In discussing the relative neglect of sub-district structures or institutions, one issue that came up for discussion in the Committee's consultations and engagements was the role of traditional authorities, particularly Chiefs, at the sub-district level of local governance. There is a growing recognition that effective local governance, particularly at the so-called sub-district level, cannot be fully realised without the meaningful participation of traditional leaders who continue to command considerable organic legitimacy and moral authority within their communities.

7.84 In response, proposals have emerged to formally integrate Chiefs into the governance structure of the MMDAs, particularly at the sub-district level, to ensure inclusive and participatory development. This will harmonise the modern democratic governance system with the traditional chieftaincy institution, thereby fostering collaboration, accountability, and community-driven development at the grassroots level.

Recommendation

7.85 Having regard to the critical and historic role that Chiefs, including Queenmothers, where applicable, play in local community affairs, their incomparable social legitimacy, and the fact that they are legally precluded from participating in electoral politics, the Committee is of the view that in addition to representation on the deliberative and legislative District Assembly (DA), Chiefs should be formally integrated into the local government structures at the sub-district level where there are Paramount or Divisional Chiefs. The Committee recommends that, as this fundamentally implicates the institution of Chieftaincy, the Devolution Commission, the Council of State, the Government, and the various Houses of Chiefs, including Traditional Councils, work together to develop appropriate modalities on how the integration must proceed.

Fiscal Decentralisation

District Assembly Common Fund: Dimensions of the Issue

7.86 The District Assembly Common Fund (DACF) is a critical fiscal instrument established under Article 252 of the 1992 Constitution of Ghana to promote decentralisation and equitable development across the country. It mandates that not less than 5% of the total national revenue be set aside and distributed among the MMDAs to enable them to discharge their responsibilities effectively. The DACF thus serves as a primary source of funding for local governments, empowering them to plan and implement development projects that address the specific needs of their communities.

7.87 Despite its constitutional importance, the DACF has been the subject of extensive public debate and scrutiny. Submissions from citizens, civil society organisations, and policy analysts have highlighted several key concerns regarding its adequacy, management, and relevance in advancing local governance. Among these is the

widespread call for an increase in the current 5% (five percent) allocation, which the majority of Ghanaians consider insufficient to drive meaningful development at the local level. They argue that, with the growing responsibilities of MMDAs and increasing demands for infrastructure and social services, the existing allocation no longer accurately reflects the fiscal realities or developmental aspirations of local communities.

7.88 Another critical issue raised during the public engagements pertains to the office of the Administrator of the DACF, whose role and relevance have come under review. Some submissions question the continued necessity of the office, particularly in light of concerns about bureaucratic delays, lack of transparency, and the practice of contractually pre-committing DACF funds on behalf of MMDAs. Such practices undermine the autonomy of local assemblies and distort the principles of fiscal decentralisation.

7.89 Also, there is growing public disapproval of the allocation of a portion of the DACF to Members of Parliament. Many stakeholders argue that this arrangement is constitutionally flawed, as the core mandate of MPs is to perform legislative, representative, and oversight functions, rather than spearheading local development projects. The diversion of DACF resources to MPs is therefore viewed as a distortion of the Fund's intended purpose, often resulting in overlaps, inefficiencies, and political interference in local development planning.

7.90 Taken together, these concerns point to the need for a comprehensive review of the DACF framework to ensure that it effectively fulfils its constitutional mandate of promoting balanced and sustainable development across Ghana's districts. A re-evaluation of the Fund's allocation formula, administrative structure, and utilisation practices will be essential to strengthening local governance and deepening the decentralisation process envisioned by the 1992 Constitution.

Recommendation

7.91 The Committee recommends appropriate amendments to Article 252 as follows:

- a. Raise the District Assembly Common Fund Amount to not less than 10% of total national revenues.
- b. Merge the office of the District Assembly Common Fund Administrator into the Devolution Commission as a functional (inter-governmental fiscal transfers) division of the Commission.

- c. No portion of a District's allocation of the DACF shall be spent or contractually pre-committed on behalf of the District by the Central Government.
- d. No portion of DACF shall be allocated to a Member of Parliament.

Internally Generated Funds (IGF)

7.92 One of the significant challenges confronting District Assemblies is the limited capacity to generate adequate IGF to support their operations and developmental projects. Most of the key revenue sources in the country, including income tax, value-added tax, and corporate tax, are centralised and collected by the Ghana Revenue Authority (GRA) on behalf of the central government. As a result, MMDAs are left with only a few local sources of revenue, including property rates, market tolls, and business operating permits.

7.93 Unfortunately, these revenue streams often prove insufficient to meet the financial demands of the assemblies. This heavy reliance on the DACF and other central government funding hampers their autonomy and delays development initiatives at the local level.

7.94 At the same time, many participants and submissions observed that District Assemblies, particularly Metropolitan and some Municipal Assemblies, have immense potential to raise substantial revenues from property rates yet were chronically underperforming in this regard. In addition to poor data and records on property ownership and valuation, it was observed that misaligned incentives partly explained why potentially property rate-rich Metropolitan districts were not collecting significant revenues from property rates. The fact that such districts depended on fiscal transfers from Central Government to cover their recurrent expenditures, including their staff salaries, operated as a disincentive to maximise their potential yield from property rates.

Recommendation

7.95 The Committee recommends as follows:

- a. Parliament should enact appropriate legislation to cede specifically identified local informal sector income taxes to District Assemblies.
- b. The Devolution Commission shall coordinate technical assistance for District Assemblies to update local property rate valuations and tax collection capacity.

Responsibility for Emoluments of Elected DCE and Assembly Members

7.96 Article 250 of the 1992 Constitution establishes a clear distinction in the determination and payment of emoluments for key local government officials. Under this provision, the emoluments of DCEs are to be determined by Parliament and charged on the Consolidated Fund. Conversely, the emoluments of Presiding Members and other Assembly Members are determined by their respective District Assemblies and paid from the Assembly's own resources. The logic of this constitutional arrangement appears to be that, as the DCE was appointed by and represented the Central Government in the district, it was only fair and appropriate that the DCE would be paid as an employee of the Central Government. Following that same logic, since the Presiding Member and Assembly members were elected by or worked for the Assembly, it was right for the Assembly to pay their emoluments.

7.97 The Committee observed that many of the Assembly members who participated in our engagements would prefer to be on the Central Government's payroll. The Committee also notes that national parties and politicians have sometimes made campaign promises to have Government assume responsibility for the payment of allowances to Assembly members. The Committee is of the view that this would be a regressive step. The Committee believes that the goal should be to wean Districts off the Consolidated Fund when it comes to their recurrent expenditures, including the emoluments of the DCE. At a minimum, once Districts start to elect their DCEs, they should assume full responsibility for the emoluments of their DCEs as well.

Recommendation

7.98 The Committee recommends that for Voting Districts all of the salaries and allowances of the DCE and staff of the Assembly and the allowances of the Assembly members and staff shall be paid solely from the Assembly's internally generated funds and a corresponding local tax base ceded to the District Assembly.

Chieftaincy and Traditional Authority

Exclusion of Chiefs from “Active Party Politics”

7.99 The 1992 Constitution of Ghana, under Article 276(1), explicitly prohibits chiefs from engaging in active party politics. This constitutional provision has, over the years, generated significant debate within Ghana’s democratic and governance discourse. The issue resurfaced prominently during the 2025 public engagements organised by the Constitution Review Committee, where divergent opinions were expressed about whether this prohibition remains relevant in contemporary Ghana.

7.100 Proponents for the amendment of this provision submit that the restriction infringes upon the fundamental political rights of chiefs as citizens, particularly their right to freely associate and participate in political activities as guaranteed under the Constitution. They contend that in a democratic society, every citizen, regardless of traditional status, should have the right to engage in politics and contribute to national decision-making processes.

7.101 Proposals for their continued exclusion maintain that the prohibition serves a vital purpose in preserving the neutrality, unity, and integrity of the chieftaincy institution. The exclusion of chiefs from active party politics also ensures social cohesion at the community/traditional level. Given Ghana’s highly polarised political environment, allowing chiefs to engage in partisan politics could compromise their traditional authority, weaken their role as custodians of communal peace, and further deepen political divisions at the local level. The chieftaincy institution has historically played a crucial role in conflict resolution, cultural preservation, and community development, functions that demand impartiality and non-partisanship.

7.102 The Committee is of the view that the current constitutional policy and prohibition against Chiefs participating in active party politics are appropriate and should be maintained.

Recommendation

7.103 The Committee recommends that the current provision of Article 276 precluding Chiefs, including Queenmothers, from participating in active party politics be retained. A recent Supreme Court decision in *Elorm Kwami Gorni v Attorney-General and National House of Chiefs* (2022) has clarified that the provision means that a Chief may not endorse a candidate or party involved in an election, but leaves Chiefs free to express approval of a policy, project or programme of a candidate or party.

The Committee notes that Article 276 lacks an enforcement mechanism. The Committee proposes that a complaint of a violation of Article 276 by a Chief shall be made to the National House of Chiefs, which shall publish a process for handling and resolving such complaints.



CONSTITUTION
REVIEW COMMITTEE
2025



Chapter VIII:
Securing and
Safeguarding Our
Democratic Peace,
Freedoms and Stability

CRC25

Chapter VIII: Securing and Safeguarding Our Democratic Peace, Freedoms and Stability

Overview

8.1 The Committee organised this chapter around a distinct constitutional issue: finding a way to structure, regulate, and legitimise the exercise of the State's coercive power in a manner that secures national security and public safety, while upholding democratic peace, constitutional freedoms, and political stability. Ghana's constitutional history demonstrates that when coercive authority is insufficiently bounded by law, accountability and civilian control, it threatens individual rights and poses a destabilising risk to the democratic order itself over time.

8.2 Chapter Eight, therefore, treats security governance as a core constitutional design issue, and security institutions are approached as constitutional actors whose mandates, leadership structures, deployment rules and accountability mechanisms must be deliberately aligned with the Constitution's foundational commitments to popular sovereignty, civilian supremacy and human dignity.

8.3 Against this background, the chapter addresses five interrelated constitutional gaps:

- a. First, the chapter identifies the absence of an express constitutional normative framework governing security power generally. While the 1992 Constitution assumes a rights-respecting and civilian-led security order, it does not clearly articulate the principles that govern the exercise of coercive power across all law enforcement and security agencies. The Committee responds by constitutionalising binding principles that define the purpose, limits and ethical orientation of security power, in this chapter. These principles provide the normative foundation upon which all subsequent institutional and governance reforms in the chapter rest.
- b. Second, the Committee confronts the problem of weak and fragmented accountability over misconduct involving security personnel or institutions. Courts, parliamentary committees, internal disciplinary mechanisms and complaint-based bodies operate in parallel, but none is designed to provide continuous, systemic and civilian-facing oversight of security institutions. This fragmentation has led to reactive and episodic accountability, leaving patterns of abuse and opaque practices largely unaddressed. The proposal for an Independent Security Services Oversight Commission (ISSOC) addresses this deficit directly by

providing an institutional mechanism capable of enforcing the constitutional principles outlined earlier in the chapter.

- c. Third, the Committee addresses the blurring of civilian policing and military force in internal security contexts. Ghana's constitutional history makes clear that military involvement in civilian governance carries exceptional constitutional sensitivity. Yet the existing framework does not provide clear thresholds, procedures or oversight for domestic military deployment. This has enabled the gradual normalisation of military presence in civilian space. The chapter therefore recalibrates Article 210 to re-entrench policing as the default mechanism of internal security, while constitutionally constraining military involvement to exceptional, subsidiary and tightly supervised circumstances.
- d. Fourth, the chapter examines leadership, governance and command within the security services, with particular focus on the Police Service and the Prisons Service. The appointment, tenure and authority of security leadership are treated as constitutional variables that directly affect independence, professionalism and public trust. Weak tenure security, excessive political discretion and blurred governance structures have contributed to perceptions of politicisation and compromised neutrality. The proposed reforms to appointment processes, fixed tenure, operational independence and governance councils are designed to translate the chapter's normative commitments into concrete institutional safeguards.
- e. Fifth, the chapter addresses institutional coherence across the security architecture. Security councils, regional committees and oversight bodies have evolved in a fragmented and inconsistent manner, reflecting earlier constitutional choices that did not anticipate contemporary security challenges.

8.4 Taken together, this chapter proposes a constitutional arrangement in which security power is reorganised around rights protection and security governance structures across institutions are aligned with a common constitutional goal: reduced executive dominance, strengthened civilian and rights-based oversight, and more precise separation between policy oversight and operational command.

Statement of Principles and Values in Relation to Public Safety and Security Agencies

8.5 The constitutional foundation of Ghana's public safety and security architecture is rooted in popular sovereignty and constitutional supremacy. Article 1(1) vests sovereignty in the people of Ghana, from whom all organs of State derive their authority, while Article 1(2) affirms the supremacy of the Constitution over all exercise of public power. Security agencies, like all organs of State, therefore, exercise delegated authority and remain bound by constitutional limits, accountability, and the rule of law. Their legitimacy flows from constitutional compliance rather than coercive capacity.

8.6 The Constitution recognises the protection of life, liberty, dignity, and personal security as core constitutional values. Chapter Five guarantees fundamental human rights and freedoms, including the right to life (Article 13), personal liberty (Article 14), dignity (Article 15), freedom of assembly and association (Article 21), and protection from arbitrary arrest or detention. These provisions collectively establish that the primary purpose of public safety and security institutions are to protect persons and constitutional freedoms, not to suppress them. Security power must therefore be exercised as a rights-protective function.

8.7 Additionally, the constitutional framework distinguishes between internal security and national defence. Article 200 establishes the Police Service and assigns it the responsibility for maintaining law and order, preserving internal security, and protecting life and property. By contrast, Article 210 establishes the Armed Forces principally for the defence of Ghana. Read together, these provisions constitutionalise a civilian-led security order in which policing, rather than military force, is the default mechanism for managing civilian life, public order, and democratic activity.

8.8 The Committee observes that while the Constitution permits the deployment of the Armed Forces in support of civilian authority, such deployment is constitutionally exceptional. Article 210(3) allows the Armed Forces to be deployed for other purposes only as provided by law and subject to constitutional control. This structure indicates that military involvement in civilian law enforcement is not a parallel or routine function, but rather an extraordinary or exceptional measure that requires a clear legal basis, civilian oversight, and strict limitations. The Constitution, therefore, assumes a demilitarised democratic space as the norm.

8.9 The Directive Principles of State Policy reinforce this constitutional orientation. Article 35 commits the State to democratic governance, accountability, and decentralisation of power, while Article 37 requires the State to secure freedom, justice,

probity, and accountability in public life. Article 41 imposes a duty on citizens and public officers alike to uphold and defend the Constitution. These provisions collectively situate security governance within a democratic, accountable, and civilian-centred constitutional order.

8.10 The Constitution also embeds accountability as an indispensable component of security governance. Article 23 requires administrative bodies and officials to act fairly, reasonably, and in accordance with the law. Article 33 guarantees access to the courts for the enforcement of fundamental rights, while Articles 125 and 130 vest judicial power in the courts to review the legality of public action. These provisions affirm that security agencies and officers are subject to judicial scrutiny and cannot operate within zones of immunity where civilian harm or abuse of power occurs.

8.11 The Committee notes that the Constitution does not treat accountability as exclusively internal to security institutions. While Articles 203 and 210 establish Police and Armed Forces Councils with internal governance and disciplinary roles, the broader constitutional framework does not insulate security agencies from external oversight where constitutional rights are implicated. The protection of civilians from abuse of power is therefore a constitutional concern, not merely a matter of internal discipline or professional regulation.

8.12 The Constitution further embeds principles of equality, merit, and non-discrimination that apply to security sector recruitment and appointments. Article 17 guarantees equality before the law and prohibits discrimination, while Article 35(6)(b) obliges the State to achieve reasonable regional and gender balance in public institutions without compromising competence. These provisions support a constitutional requirement that recruitment and promotion within security services must be merit-based, transparent, and insulated from partisan or patronage influence.

8.13 Flowing from the above, the Committee observes that the 1992 Constitution regulates public safety and security institutions through a dispersed set of provisions rather than through a consolidated or express statement of governing principles.

8.14 The Committee observes further that this absence of an express constitutional statement of principles has contributed to uncertainty in practice. While the Police Service is constitutionally established under Article 200 as the primary internal security institution, the Constitution does not expressly affirm civilian policing as the default model of internal security, nor does it clearly state the exceptional nature of military involvement in civilian law enforcement. As a result, constitutional distinctions between

policing and defence have increasingly been blurred in operational practice, without clear constitutional benchmarks against which such decisions can be assessed.

8.15 In the same regard, while, as noted, the Constitution protects fundamental rights and freedoms in absolute and non-derogable terms, it does not expressly situate public safety and security agencies within a rights-protective constitutional ethic. Chapter Five binds all organs of State, including security agencies; however, the absence of a sector-specific constitutional statement has allowed security operations to be framed primarily as matters of discretion, policy, or operational necessity rather than as constitutionally constrained exercises of public power.

8.16 Further, while the Constitution provides for internal governance structures such as the Police Council and the Armed Forces Council, it does not articulate overarching principles governing accountability for civilian harm, abuse of power or excessive use of force. The constitutional framework presumes accountability through courts and administrative justice, but it does not explicitly address the opacity, asymmetry of power and institutional barriers that often prevent effective redress where security agencies harm civilians.

8.17 In the Committee's view, although the 1992 Constitution is built on an assumption of a democratic, civilian-led and rights-respecting security order, it leaves these foundational premises largely to implication, institutional convention and administrative discretion rather than to express constitutional command. The Constitution presumes that security agencies will internalise democratic norms, operate under civilian authority, and exercise coercive power within the limits of legality and human rights, but it does not articulate these expectations as binding principles governing doctrine, deployment or accountability.

8.18 This constitutional silence must be assessed against Ghana's particular constitutional history. Before the adoption of the 1992 Constitution, the country experienced repeated episodes of unconstitutional rule, including prolonged periods of military governance in which security institutions exercised political authority, performed civilian functions, and operated with limited legal constraints. The 1992 constitutional settlement was expressly designed to break from this past by entrenching popular sovereignty, civilian supremacy and fundamental rights. However, where the Constitution does not clearly state the principles that must govern the exercise of security power, elements of this pre-constitutional culture can persist in practice, especially during moments of political tension or perceived insecurity.

8.19 The Committee further observes that the legacy of prior periods of unconstitutional rule has not been confined to formal structures alone, but has seeped into institutional culture, operational habits and inherited modes of practice within parts of the security architecture. Over time, assumptions forged under emergency governance and military dominance of civilian space have been normalised into routine ways of thinking about authority, order and compliance. These include an instinctive recourse to force rather than dialogue, a tendency to prioritise command over accountability, and an operational comfort with opacity in decision-making. Such practices may persist even within a constitutional democracy, not as deliberate violations of the Constitution, but as residual institutional memory carried forward through training, hierarchy and informal norms.

8.20 The Committee considers that cultural inheritance of this nature cannot be corrected by implication, goodwill or episodic reform alone. Where deeply embedded practices shape institutional behaviour, constitutional recalibration must be deliberate, explicit and norm-setting. The Constitution must speak clearly and audibly about the values that govern the use of coercive power in a democratic society. It must provide benchmarks that are sufficiently precise to guide reform, sufficiently visible to shape institutional self-understanding, and sufficiently authoritative to discipline deviation.

8.21 The Committee observes that in such contexts, constitutional values that are assumed rather than articulated are vulnerable. In the absence of explicit constitutional direction, operational decisions may be justified by reference to urgency, public order, national security or exceptional circumstances, without adequate consideration of proportionality, civilian protection or democratic accountability. Emergency narratives and claims of operational necessity can therefore displace constitutional restraint, not through formal suspension of the Constitution, but through gradual erosion driven by discretion.

8.22 The Committee notes that the Fourth Republic is dotted with experiences demonstrating how easily security deployments, policing methods and inter-service roles can expand beyond their ordinary constitutional limits in the absence of clearly defined principles.

8.23 The Committee therefore concludes that constitutional design must do more than assume democratic behaviour; it must actively entrench it. Explicit articulation of the principles governing public safety and security agencies is necessary to insulate democratic norms from political pressure, crisis-driven deviation and institutional drift, and to ensure that the constitutional break from Ghana's undemocratic past is not merely symbolic but operational and enforceable.

8.24 In reaching that conclusion, the Committee has observed that comparative constitutional practice demonstrates that modern democratic constitutions increasingly articulate explicit principles and values governing the organisation, conduct and accountability of security and law-enforcement agencies. Rather than leaving the orientation of coercive power to implication, convention, or executive discretion, contemporary constitutional frameworks recognise that clarity at the level of foundational values is essential to restrain abuse, guide institutional culture, and provide enforceable standards for courts, oversight bodies, and the public.

8.25 This trend is particularly pronounced in jurisdictions emerging from histories of authoritarian rule, internal conflict or militarised governance, where constitutional silence has proven insufficient to prevent the re-emergence of coercive practices inconsistent with democratic norms.

8.26 The Constitution of South Africa provides one of the clearest examples of explicit constitutional articulation. Section 205 establishes the South African Police Service and defines its objects in constitutional terms: to prevent, combat and investigate crime; maintain public order; protect and secure the inhabitants of the Republic and their property; and uphold and enforce the law. Beyond functional mandates, Section 199 of the South African Constitution sets binding principles applicable to all security services, including the police and the armed forces. These principles require that:

- a. The security services “must act, and must teach and require their members to act, in accordance with the Constitution and the law, including customary international law and international agreements binding on the Republic”.
- b. No member of any security service may obey a manifestly illegal order.
- c. Neither the security services, nor any of their members, may, in the performance of their functions – (a) prejudice a political party interest that is legitimate in terms of the Constitution; or (b) further, in a partisan manner, any interest of a political party.

8.27 In addition, the South African Constitution provides that to give effect to the principles of transparency and accountability, multi-party parliamentary committees must have oversight of all security services in a manner determined by national legislation or the rules and orders of Parliament.

8.28 Kenya’s 2010 Constitution similarly embeds explicit principles governing policing within the constitutional text. Article 244 of the Kenyan Constitution establishes the National Police Service and mandates that it shall strive for the highest standards of

professionalism and discipline, prevent corruption, promote transparency and accountability, comply with constitutional standards of human rights and fundamental freedoms, and foster relationships with the broader society. These obligations are reinforced by Article 10, which outlines the national values and principles of governance that are binding on all State organs, including law enforcement agencies. These include the rule of law, human dignity, equity, social justice, inclusiveness, transparency and accountability.

8.29 The Constitution of Colombia also offers an instructive example. Article 218 establishes the National Police as a permanent armed body of a civilian nature, explicitly distinguishing it from the military. The Constitution defines the police's primary purpose as maintaining conditions necessary for the exercise of public rights and freedoms, as well as promoting peaceful coexistence. This constitutional framing places the protection of rights, rather than the suppression of dissent, at the centre of policing identity and function.

8.30 Similarly, Spain's Constitution explicitly addresses the role of security forces in Article 104, which provides that security forces shall have as their mission the protection of the free exercise of rights and freedoms and the guarantee of citizen security. This formulation is significant because it constitutionally subordinates policing objectives to rights protection, rather than merely crime control.

8.31 These comparative approaches are particularly instructive for Ghana and have also guided the Committee's thinking and approach on how to frame binding constitutional principles that are informed by Ghana's past, grounded in present realities and are attuned to enhance the aspirations of democracy embodied in the Constitution.

8.32 The Committee proposes that at the most general level, the Constitution must affirm that public safety and security exist to ensure the protection of the free exercise of rights and freedoms. Security agencies are thus not autonomous centres of power but trustees of coercive authority exercised on behalf of the Republic for the goal of better protecting rights. Their legitimacy flows from service to the public, subordination to civilian authority, and fidelity to constitutional rights. This foundational orientation must be expressly stated to counter residual authoritarian reflexes that persist within institutional culture and operational practice.

8.33 Flowing from this general orientation, the Committee identifies a set of ten core constitutional principles that should govern all law-enforcement and security agencies, regardless of mandate:

- a. First, the Committee affirms as a core constitutional principle that the purpose of law enforcement and internal security is to protect and enable the enjoyment of human dignity, fundamental rights and freedoms, and that considerations of security, public order, or stability shall serve that purpose and shall not be invoked to displace, override or negate it. The Constitution must make clear not only that public order, security operations and crime control cannot be pursued at the expense of dignity, due process, freedom of assembly, expression, or bodily integrity, but also that law enforcement agencies shall bear a positive constitutional duty to facilitate, protect and enable the exercise of fundamental rights and freedoms.
- b. Second, legality and constitutional fidelity must be elevated as binding operational norms. Every exercise of security power must be grounded in law, pursued for a lawful purpose, and executed within constitutional limits. Emergency narratives, operational convenience or political directives cannot justify departures from constitutional standards.
- c. Third, law enforcement power is lawful only when exercised in compliance with constitutional rights and prescribed procedures. Therefore, no violation of rights shall be excused, ignored, or rendered inconsequential on grounds of public order, crime prevention, expediency, security, or public interest.
- d. Fourth, civilian supremacy and democratic accountability must be made explicit as a core constitutional principle. All law enforcement and security agencies shall operate under civilian authority, subject to constitutional institutions, parliamentary oversight, and judicial scrutiny. No security body shall exercise coercive power insulated from public accountability or shielded by institutional opacity, and no law-enforcement or security agency shall deploy, or undertake operational action, except pursuant to a lawful command or authorisation traceable to a civilian authority responsible under the Constitution.
- e. Fifth, necessity and proportionality in the use of force must be constitutionally entrenched. Force is not a routine tool of governance but an exceptional measure. Security agencies must be guided by the principle that force may be used only when strictly necessary, in proportion to the threat faced, and as a last resort. Lethal force must always be subject to the highest threshold of justification.
- f. Sixth, political neutrality and institutional independence must be expressly required. Security agencies must neither serve partisan interests nor be perceived as instruments of political competition. Recruitment, deployment, promotion and discipline must be insulated from political influence to preserve public trust and democratic stability.
- g. Seventh, professionalism, meritocracy and competence must be elevated from administrative ideals to constitutional values. The Committee notes that

politicised recruitment practices, informal quotas, and opaque appointment systems have undermined professionalism across the security sector. Constitutional principles must therefore mandate objective criteria, transparent processes and continuous professional development.

- h. Eighth, transparency compatible with operational security must be constitutionally required. While security work entails confidentiality, secrecy cannot become a shield against probity and accountability. The Constitution must require openness regarding mandates, rules of engagement, oversight findings and use-of-force incidents, subject only to narrowly tailored national-security limitations.
- i. Ninth, accountability for abuse of power must be unequivocally affirmed. Where civilians suffer harm through the unlawful or excessive use of force, the Constitution must guarantee an independent investigation, access to remedies, and institutional consequences. Accountability, on the part of security agencies, should not be viewed as antagonistic to security; rather, it is essential to its legitimacy.
- j. Tenth, equality and non-discrimination must govern all security operations. Law enforcement and security agencies shall exercise their powers without discrimination on grounds of political opinion, ethnicity, religion, gender, age, disability, social status, or any other prohibited ground. Selective enforcement, profiling, or differential treatment that targets particular groups or communities undermines the constitutional order and shall be constitutionally impermissible. Security power must be exercised uniformly, impartially, and with heightened protection for vulnerable persons and groups.

8.34 The Committee emphasises that these principles must not remain abstract. They must be articulated as binding constitutional benchmarks capable of guiding legislation, shaping institutional culture, informing judicial interpretation, and providing a clear reference point for oversight bodies and the public. Without such explicit benchmarks, past patterns of militarisation, politicisation and abuse risk reproducing themselves under new administrative forms.

8.35 After having elaborated the substantive principles and values that should govern law enforcement and security agencies, the next issue with which the Committee was confronted was where, within the constitutional architecture, such principles ought to be located. This question is not merely technical. It goes to the legal force of the principles, their institutional reach, and their capacity to shape conduct, interpretation and accountability across the security sector.

8.36 The Committee observed that the structure of the 1992 Constitution does not present an obvious or uncontested home for cross-cutting security principles of this nature. Provisions relating to internal security, prisons, policing and the armed forces are dispersed across different chapters, each designed to regulate specific institutions rather than to articulate shared normative commitments. Embedding the principles within any single institutional chapter would therefore risk narrowing their application, implying that they bind only the institution in which they appear rather than all bodies exercising coercive power on behalf of the State.

8.37 At the same time, the Committee was concerned that reliance on ordinary legislation alone would be constitutionally insufficient. Ghana's experience demonstrates that security governance is particularly susceptible to executive dominance, emergency rhetoric and political pressure. Without constitutional anchoring, foundational norms such as civilian supremacy, legality, proportionality and accountability are vulnerable to dilution or selective application. The absence of a clear constitutional reference point has contributed to ambiguity in practice and inconsistency in enforcement.

8.38 The Committee also considered the implications of justiciability. Institutional chapters of the Constitution tend to generate enforceable rules. In contrast, Chapter Six on the DPSP has historically been treated as programmatic, notwithstanding the Supreme Court's evolving jurisprudence recognising its interpretive and normative force. The placement challenge, therefore, was not simply to find a location but to ensure that the principles would possess sufficient constitutional authority to guide legislation, inform judicial interpretation, structure oversight, and influence institutional culture without drawing the courts into operational command of security agencies.

8.39 The Committee notes that Chapter Six is uniquely designed to articulate cross-cutting values and objectives that bind all organs of State, without displacing the functional autonomy of particular institutions. Article 34 imposes an affirmative constitutional obligation on the State to take steps to realise the Directive Principles, while also requiring periodic public accounting to Parliament.

8.40 The Committee is also cognisant of the fact that the Supreme Court has repeatedly affirmed that Chapter Six forms part of the Constitution's binding normative order, capable of grounding constitutional interpretation, guiding the exercise of public power, and informing the legality and reasonableness of State action. The Committee therefore considers that locating core principles governing law enforcement and security agencies within Chapter Six does not weaken their constitutional force in any way, shape, or form.

8.41 Against this background, the Committee concluded that Chapter Six provides the most coherent constitutional space for embedding binding and justiciable principles governing law enforcement and security agencies.

Recommendation

8.42 The Committee recommends the insertion of a new Article 35A in Chapter Six of the Constitution to establish binding constitutional principles governing all law-enforcement and security agencies, as follows:

Article 35A – Principles Governing Law-Enforcement and Security Agencies

1. The primary purpose of all law enforcement and security agencies shall be to protect the people of Ghana and provide a safe and secure environment for the enjoyment of human dignity, fundamental rights, and freedoms. Considerations of security, public order, crime control or stability shall serve that purpose and shall not be invoked to displace, override or negate constitutional rights and freedoms.
2. Every exercise of law enforcement or security power shall be grounded in law, pursued for a lawful purpose, and executed in strict compliance with the Constitution and relevant laws. No directive, policy, emergency justification or operational consideration shall excuse departure from constitutional or other legal standards.
3. Law-enforcement or security action shall be lawful only when exercised in compliance with constitutional rights and prescribed procedures. Violations of rights shall not be excused, ignored, or validated on grounds of expediency, security, public interest or prevention of crime.
4. All law enforcement and security agencies shall operate under civilian authority and be subject to parliamentary oversight and judicial scrutiny. No agency shall deploy, undertake operations, or exercise coercive power except pursuant to lawful command or authorisation traceable to a civilian authority responsible under the Constitution.
5. Force shall be used only where strictly necessary, as a measure of last resort, and in proportion to the threat faced. Lethal force shall be subject to the highest threshold of necessity and justification.
6. Law enforcement and security agencies shall be politically neutral and shall not serve partisan interests. Recruitment, appointment, promotion, deployment and discipline shall be insulated from political influence and conducted in accordance with objective and transparent criteria.

7. Professionalism, merit-based recruitment and competence shall constitute constitutional values governing all law enforcement and security agencies. Informal quotas and opaque recruitment practices are inconsistent with this Constitution.
8. Law enforcement and security agencies shall operate with transparency compatible with legitimate operational requirements. Secrecy shall not be used to shield misconduct, abuse of power or failure of accountability.
9. Where unlawful or excessive use of force or abuse of power results in civilian death or harm, the Constitution shall guarantee independent investigation, access to remedies, and appropriate institutional consequences.
10. Law enforcement and security powers shall be exercised impartially and without discrimination on grounds of political opinion or affiliation, ethnicity, religion, belief or non-belief, gender, age, disability, social status, or any other prohibited ground. Selective enforcement, profiling or differential treatment undermines constitutional order and is prohibited.
11. The principles set out in this article shall be binding on all organs of State and shall guide legislation, policy, oversight, institutional practice and judicial interpretation in matters relating to law enforcement and security.

Composition of the National Security Council

8.43 The coordination of national security is inherently complex, encompassing multiple security and public safety institutions. In reviewing the composition of the National Security Council, the Committee assessed whether all relevant stakeholders are appropriately represented to enable effective coordination, information sharing, and cooperation among institutions mandated to safeguard the nation's peace and security. In this regard, the Committee considers it prudent to expand membership of the Council to include the Attorney-General, as the principal legal adviser to the Government, and the leadership of agencies responsible for immigration, cybersecurity, narcotics control, and rescue and emergency response. This expanded composition is particularly important in light of the evolving nature of security threats.

Recommendation

8.44 The Committee recommends an amendment to Article 83(1) to provide for the inclusion in the membership of the National Security Council of the following office holders:

- a. The Attorney General;
- b. The National Security Coordinator;
- c. The Comptroller General of the Ghana Immigration Service;
- d. The Director-General of the Narcotics Control Commission;
- e. The Chief Fire Officer;
- f. The Director General of the Cybersecurity Authority;
- g. A representative from the National House of Chiefs.

Independent Security Services Oversight Commission (ISSOC)

8.45 Under the current constitutional order, the governance and oversight of the security services are distributed across several institutions and mechanisms.

8.46 The security services are established and regulated under the Constitution and relevant enactments. Command and administrative control of these services are vested primarily in the Executive, with the President designated as the central authority responsible for national security and the deployment and direction of security agencies, acting in accordance with constitutional procedures and through the appropriate service councils and command structures.

8.47 Parliament exercises oversight functions in relation to the security services through its legislative authority, approval of budgets, and the work of its select committees. Parliamentary committees may invite heads of security services to appear before them, request information, and conduct inquiries within the scope of their mandates. Parliament also exercises influence through the enactment of laws governing security institutions and the approval of expenditure relating to national security.

8.48 Judicial oversight is exercised through the courts in the determination of cases involving the security services. Courts adjudicate claims concerning the legality of arrests, detentions, use of force, disciplinary actions, and other conduct by security agencies, and interpret constitutional and statutory provisions governing the powers and limits of those services.

8.49 Internal accountability mechanisms exist within each security service. These include disciplinary bodies, internal investigations units, and service-specific procedures for handling complaints against officers. Such mechanisms operate within the hierarchical structures of the respective services and are governed by service regulations and administrative rules.

8.50 In addition to these mechanisms, certain independent bodies established under the Constitution, such as the CHRAJ and the Ghana Police Service, have mandates that intersect with the conduct of the security services. These bodies receive complaints, investigate alleged violations of rights or mal-administration, and issue findings or recommendations within the scope of their respective legal mandates.

8.51 Together, these arrangements constitute the existing framework through which the security services are governed, supervised, and held to account under the Constitution and the laws of Ghana.

Limitations of the Existing Oversight Framework

8.52 The Committee notes that the current oversight architecture is institutionally fragmented. Oversight functions are dispersed across Parliament, the courts, internal disciplinary mechanisms, and several independent bodies with intersecting mandates. While each performs a role, there is no single institution with a comprehensive, system-wide mandate to oversee the security services as a sector. As a result, oversight tends to be episodic, issue-specific, and reactive rather than continuous and integrated.

8.53 The Committee further observes that parliamentary oversight, though constitutionally significant, is shaped by the manner in which it is exercised. Oversight through select committees is influenced by partisan dynamics, limited time, and competing legislative priorities. Engagement with security sector matters is not anchored in a system of regular, structured reporting, but occurs through varied and irregular processes, including committee hearings, ad hoc briefings, and parliamentary questions directed to ministers. These mechanisms are not coordinated within a single oversight framework, and do not consistently provide Parliament with a comprehensive or continuous picture of security sector governance, making sustained scrutiny and systematic follow-up difficult.

8.54 Judicial oversight plays a critical role in enforcing constitutional limits on the exercise of security powers, particularly through adjudication of claims relating to arrest,

detention, use of force, and violations of fundamental rights. However, judicial intervention is largely reactive and dependent on individual cases being brought before the courts. It is not designed to provide continuous supervision of security institutions or to address patterns of conduct that may not crystallise into justiciable disputes.

8.55 The effectiveness of judicial oversight is also shaped by conditions of access to justice. Proceedings against security agencies typically require legal representation, financial resources, and a willingness to engage in protracted litigation. This limits the range of cases that reach the courts and affects who is able to vindicate rights through judicial processes. Moreover, such cases are ordinarily framed around individual grievances and personalised harm. Remedies tend to focus on declaratory relief or monetary compensation for specific violations, rather than on institutional accountability, structural reform, or public transparency. As a result, while judicial decisions may provide redress in individual cases and clarify legal standards, they operate within constraints that limit their capacity to serve as a comprehensive framework for public accountability across the security sector.

8.56 With respect to independent bodies with mandates relating to human rights, administrative justice, and professional standards, while CHRAJ is empowered to receive complaints, conduct investigations, and make findings in respect of alleged abuses of power, mal-administration, and violations of fundamental rights involving security agencies, it cannot in its present structure act proactively and must await complaints. This creates the same restrictive scope of intervention as the Courts.

8.57 The complaint-based nature of this mandate also shapes the scope of outcomes. Investigations tend to focus on discrete incidents and individual grievances, rather than on institutional patterns, operational practices, or organisational culture within security agencies. Where findings are made, the emphasis is often on remedial recommendations directed at the specific case, rather than on broader corrective or preventive measures.

8.58 The role of the Police in relation to the conduct of other security agencies is also limited by institutional design and practice. While the Police are vested with investigative and prosecutorial functions in respect of criminal offences, their capacity to influence or improve the conduct of other security services is constrained by inter-agency comity and norms of institutional deference that shape how security agencies relate to one another. These dynamics affect the willingness and practical ability of the Police to investigate or pursue matters involving officers of parallel security institutions, particularly where operations are sensitive or implicate national security considerations.

8.59 Moreover, the Police mandate is oriented primarily toward the investigation and prosecution of criminal offences. This means that oversight is largely confined to conduct that can be framed within the elements of a crime. Forms of misconduct that fall short of criminal liability but raise concerns of abuse of power, excessive use of force, procedural impropriety, or violations of professional standards are not readily addressed within this framework. As a result, reliance on police processes as a mechanism of accountability leaves a significant category of security sector conduct outside effective scrutiny or corrective intervention.

8.60 Internal accountability mechanisms within the security services exist in the form of disciplinary units, professional standards offices, and internal complaints processes established under service regulations. In principle, these mechanisms are intended to provide avenues for addressing misconduct, breaches of discipline, and violations of professional standards by officers.

8.61 The Committee received submissions pointing to the fact that in practice, the operation of these internal mechanisms raises significant concerns in relation to their accessibility, effectiveness, and credibility, particularly from the perspective of civilians who seek to lodge complaints. Complaint processes are not uniformly formalised across the security services, and there is limited public information regarding how complaints may be made, how they are assessed, or the procedures governing their investigation. Clear rules, timelines, and standards for handling complaints are often not publicly articulated, consistently applied, or readily ascertainable by complainants.

8.62 In addition, the handling of complaints is frequently characterised by delay and low institutional prioritisation. Complaints may remain unresolved for extended periods without communication to the complainant, and there is often no structured system for tracking progress or ensuring follow-up. In many cases, complainants report receiving no formal outcome or explanation, even where serious allegations are raised.

8.63 Concerns were also raised regarding the protection of complainants within internal processes. In some instances, identifying information of complainants is disclosed to the officers against whom complaints are made. This has led to reports of direct contact, intimidation, or threats, which undermine confidence in the complaints system and discourage civilians from engaging with internal accountability mechanisms.

8.64 Further, the internal nature of these processes further shapes their outcomes. Investigations are conducted within the same institutional hierarchies responsible for operational command and professional advancement. This creates structural incentives

to minimise reputational harm to the institution and to prioritise internal cohesion over transparency. The perception, and in some cases the experience, is that internal mechanisms tend toward containment and resolution within the service, rather than toward impartial fact-finding and accountability.

8.65 The Committee notes that taken together, these features limit the capacity of internal accountability mechanisms to provide reliable, timely, and impartial redress for civilians affected by the misconduct of security personnel. While internal discipline remains an essential component of professional regulation, its current configuration does not provide a sufficient or credible mechanism for civilian-facing accountability within the security services.

8.66 A further concern that the Committee's attention was drawn to relates to the increasing visibility of individuals operating in public spaces while claiming affiliation with "national security" or other security institutions, often without clear identification or transparent institutional accountability. Such individuals are frequently armed, operate in unmarked vehicles, and interact directly with civilians, including in situations that involve the use of force, arrest, or detention.

8.67 In many instances, it is unclear which security agency these individuals belong to, under what legal authority they are operating, or whether their activities fall within any constitutionally recognised security function. Despite this uncertainty, they often perform law enforcement-type roles, including crowd control, arrests, and restricting movement, in contexts that do not present an evident national security rationale.

8.68 This phenomenon has increasingly extended into ordinary civilian policing situations, including public elections and by-elections, public demonstrations, political activity, and routine law enforcement encounters. Reports indicate the involvement of persons perceived to be party-affiliated operatives or informal security actors acting alongside, or in place of, regular law enforcement personnel. Their conduct frequently falls outside established constitutional and statutory safeguards, particularly those governing arrest, detention, and the treatment of persons deprived of liberty, as outlined in Chapter Five of the Constitution.

8.69 The lack of clear identification and attribution presents acute challenges for accountability and discipline. Where complaints arise, security institutions often decline to confirm whether the individuals concerned are members of any recognised service, citing security considerations or inter-agency sensitivities. This opacity makes it difficult to determine which institutional disciplinary framework, if any, applies, and effectively

places such actors beyond the reach of both internal and external accountability mechanisms.

8.70 The cumulative effect of these practices is to blur the boundaries between formal security services and informal or auxiliary actors, complicating the enforcement of professional standards and constitutional norms. The absence of clear lines of responsibility, coupled with institutional reluctance to disclose the identity or chain of command of such operatives, undermines civilian trust and raises fundamental questions about how discipline, oversight, and legality are to be ensured in contemporary security operations.

8.71 The Committee notes that the absence of a standing, independent oversight institution has also meant that concerns relating to the conduct of security services are frequently addressed through ad hoc fact-finding or investigative bodies established in response to particular incidents. Examples include commissions and committees established to investigate disturbances during electoral processes, the use of force in public order situations, or the deployment of military personnel in civilian contexts. The Ayawaso West Wuogon Commission and the Ejura Ministerial Committee are such examples.

8.72 While such bodies have played an important role in documenting events and acknowledging public concern, their mandates are typically narrow, time-bound, and incident-specific. As a result, findings and recommendations emerging from these processes tend to be partial and uneven in their scope. They are often not embedded within a broader framework of ongoing oversight, follow-up, or institutional learning. There is limited continuity between successive inquiries, and no permanent mechanism to monitor the implementation of recommendations, assess the recurrence of similar conduct, or ensure that lessons learned from one incident inform future security practices across agencies.

8.73 The reliance on ad hoc mechanisms also affects the way responsibility is conceptualised. Inquiries are framed around discrete episodes rather than around patterns of conduct, operational doctrines, or institutional culture. This constrains the capacity of such processes to address systemic issues or long-standing practices that contribute to recurring abuses.

8.74 In addition, many interactions between security services and civilians do not involve isolated individuals but affect entire communities. Situations involving mass arrests, curfews, military deployments, or prolonged security operations create collective

harms that are not easily addressed through individualised complaint mechanisms. Requiring affected persons to pursue redress through fragmented, case-by-case processes places a significant burden on communities and limits the ability to capture the scope and impact of such conduct fully.

8.75 This challenge is particularly acute in contexts of protracted conflict or recurring security operations, where patterns of behaviour, rather than single incidents, give rise to rights concerns. Addressing such situations requires coordinated, sector-wide assessment and sustained engagement across multiple agencies, rather than episodic responses triggered by individual complaints or isolated events.

Comparative Practice

8.76 In considering how other constitutional systems have responded to similar challenges of accountability, civilian protection, and oversight of security services, the Committee examined comparative practice across a range of jurisdictions. This review focused on jurisdictions with differing constitutional traditions, security architectures, and historical experiences, including common law, civil law, post-conflict, and post-colonial systems, and its purpose was to identify recurring design features and governance approaches that have been adopted to address the limitations of complaint-driven, ad hoc, and internally managed oversight mechanisms in the security sector.

8.77 In this connection, the Committee observed that:

- a. In South Africa, an independent police complaints body is established under section 206(6) of the Constitution of the Republic of South Africa, 1996, and operationalised through the Independent Police Investigative Directorate Act, 2011. IPID is mandated to investigate deaths in police custody, deaths as a result of police action, complaints of torture, rape, corruption, and other serious misconduct by police and other law enforcement agencies. It operates independently of the police and refers completed investigations to the National Prosecuting Authority and relevant disciplinary bodies.
- b. In Jamaica, there is an Independent Commission of Investigations (INDECOM), which is established under the Independent Commission of Investigations Act, 2010, as an independent statutory body. INDECOM is mandated to investigate actions of members of the Jamaica Constabulary Force and the Jamaica Defence Force that result in death, injury, or alleged abuse of power. It has the authority to initiate investigations without a complaint, compel cooperation, and prepare files

for prosecutorial consideration by the Director of Public Prosecutions, while also addressing systemic issues affecting public confidence in the security forces.

- c. The United Kingdom has, for its part, the Independent Office for Police Conduct (IOPC), which is established under the Police Reform Act 2002, as amended, as an independent statutory body responsible for overseeing the police complaints system in England and Wales. The IOPC has the authority to investigate serious incidents involving the police, including deaths following police contact, serious injury, corruption, and significant breaches of professional standards. It may initiate investigations on its own motion, direct police forces to undertake investigations under its supervision, and make binding recommendations in respect of disciplinary proceedings, while also issuing public reports addressing systemic issues in policing.
- d. In Canada, the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police is established under the Royal Canadian Mounted Police (RCMP) Act. The Commission provides independent civilian oversight of the RCMP by receiving complaints, conducting investigations, and initiating reviews of specified policing activities in the public interest. It may also conduct systemic reviews and issue public reports with findings and recommendations, although implementation of recommendations rests with the RCMP and the Minister responsible.

8.78 A key feature of all these different oversight frameworks is that they are staffed by independent civilians. The importance of independent civilian oversight as an element of democratic governance has also been recognised at the continental level. In 2006, the African Commission on Human and Peoples' Rights adopted a Resolution addressing the role of oversight mechanisms in the governance of policing and security institutions. In that Resolution, the Commission underscored the contribution that independent oversight can make to constitutionalism, accountability, and public confidence, and called on African Union Member States to **“establish independent civilian policing oversight mechanisms where they do not exist, and which shall include civilian participation.”** [Emphasis added]

Recommendation

8.79 To address the limitations of complaint-driven, episodic, and institution-specific oversight, the Committee recommends amending the Constitution to insert a new Article providing for the establishment, by an Act of Parliament, of an Independent Security Services Oversight Commission (ISSOC).

8.79.1 The ISSOC should be a permanent but modestly sized autonomous body, designed to complement, not replace, the oversight roles of Parliament, the courts, internal disciplinary systems, and existing constitutional bodies.

8.79.2 In particular, the Commission should be empowered to initiate investigations on its own motion, conduct systemic and thematic inquiries, address patterns of conduct affecting communities, and respond to individual and collective complaints relating to civilian-facing security operations.

8.79.3 To ensure public confidence and effectiveness, the Commission should be civilian in character, institutionally independent of the security services and accountable to Parliament through regular reporting. Its findings and directives should be enforceable through the courts and the institutions to which they are directed.

Proposed Constitutional Framework

8.79.4 The Committee recommends:

- a. The ISSOC shall, in the performance of its functions, be guided by the Basic Principles set out in this Constitution; Principles Governing Law Enforcement and Security Agencies.
- b. The proposed Article shall be along the following lines:
 1. Parliament shall, within six months of the coming into force of the relevant amendment, enact legislation to establish an ISSOC.
 2. The ISSOC shall, in the performance of its functions, be guided by the Principles Governing Law-Enforcement and Security Agencies.
 3. The ISSOC shall be independent and shall not be subject to the direction or control of any person or authority in the performance of its functions, except as expressly provided in this Constitution.
 4. The mandate of the ISSOC shall be limited to oversight of the conduct of security services in their interactions with civilians, and shall include:

- i. Oversight of the exercise of security powers in civilian contexts, including arrest, detention, use of force, crowd control, public order operations, and security deployments affecting civilian populations;
 - ii. Promotion of compliance by security services, in their dealings with civilians, with the Constitution, applicable law, and binding international human rights obligations;
 - iii. Investigation of complaints or matters, whether on its own initiative or upon petition by individuals, groups, or communities, relating to abuse of power, misconduct, or violations of rights arising from civilian interactions with security services;
 - iv. Examination of systemic practices, operational doctrines, or patterns of conduct that affect civilian populations or communities, including during protracted or recurring security operations;
 - v. Issuance of findings and recommendations necessary to secure constitutional compliance and accountability in civilian-facing security operations.
5. The powers of the Commission shall be as necessary for the effective investigation of civilian-facing conduct, including:
 - i. Summoning persons, requiring the production of documents, and compelling testimony, subject only to narrowly defined and judicially reviewable claims of national security privilege;
 - ii. Entering and inspecting premises of security services, including detention facilities, subject to safeguards prescribed by law;
 - iii. Referring matters to the Attorney-General, relevant prosecutorial authorities, or disciplinary bodies and directing further action;
 - iv. Issuing publicly accessible reports, subject to limited redactions strictly necessary to protect legitimate national security interests, victims or witnesses, as the case may be.
 - v. Any claim that disclosure of information to the ISSOC would prejudice national security shall be justified in writing and shall be subject to review by the Supreme Court.
6. Parliament shall make provision for:
 - a. Procedures for receiving individual and collective complaints, including complaints affecting entire communities;
 - b. Reporting obligations to Parliament and the public, subject to narrowly tailored national security limitations;

- c. Referral mechanisms to prosecutorial, judicial, or disciplinary authorities where civilian harm discloses criminal or unlawful conduct;
 - d. Such additional functions as Parliament may consider necessary, provided they are consistent with the civilian oversight mandate of the Commission.
- 7. Composition of the Commission:
 - i. Shall consist of a chairperson who is a civilian and such number of other members as Parliament may prescribe, appointed in a manner that ensures independence, professional competence, gender balance, and public confidence.
 - ii. Members of the ISSOC should include:
 - a) Human Rights Lawyer (with not less than 7 years post-qualification experience, with a track record of working on human rights cases);
 - b) Senior Jurist (retired judge of the superior courts);
 - c) The Commissioner or Deputy Commissioner of CHRAJ;
 - d) Retired Senior Police Officer above the rank of Deputy Commissioner;
 - e) Retired Senior Military Officer above the rank of Brigadier General;
 - f) The Commissioner or Deputy Commissioner of the National Commission for Civic Education;
 - g) A licensed Clinical Psychologist or Psychiatrist.
 - h) None of the persons appointed to the commission shall be serving members of any security service.
 - iii. The process of nomination and appointment shall be transparent and participatory, and shall involve consultation with Parliament and relevant independent bodies as prescribed by law.
- 8. Accountability and Reporting
 - i. The ISSOC shall submit an annual report to Parliament on the state of security sector governance, including findings, directives issued, and levels of compliance.
 - ii. Parliament shall debate the report of the ISSOC within a prescribed period and may require the appearance of the heads of security services to respond to its findings.
- 9. Nothing in this Article shall be construed as:
 - i. Conferring operational command or control over the security services on the ISSOC; or

- ii. Assigning responsibility for internal discipline, personnel management, or service administration within the security services to the Commission.

Armed Forces

Deployment of Armed Forces for Civilian Law Enforcement

8.80 Article 210 of the Constitution establishes the Ghana Armed Forces and defines their core constitutional functions. Under Article 210(1), the Armed Forces are mandated to defend the sovereignty and territorial integrity of Ghana, protect the country against external aggression, and assist in preserving internal security where required.

8.81 In addition to their primary defence role, Article 210 envisages circumstances in which the Armed Forces may be called upon to support civil authority. This includes providing assistance in maintaining law and order, protecting life and property, and preserving constitutional order, particularly when ordinary policing resources are insufficient or when the situation poses a serious threat to national stability.

8.82 Article 210 further contemplates the involvement of the Armed Forces in non-combat and non-security roles. These include participation in national development, disaster response, and other tasks of a public nature as may be prescribed by law. Such functions reflect the Armed Forces' auxiliary role in supporting the State beyond traditional military operations.

8.83 The Constitution places the Armed Forces under civilian control, with overall command vested in the President acting in accordance with the Constitution. The deployment, organisation, and administration of the Armed Forces are therefore framed within a constitutional structure that emphasises both national defence and subordination to civilian authority.

8.84 Taken together, Article 210 defines the Armed Forces as institutions primarily oriented toward external defence, while recognising limited and conditional roles in internal security, civilian support, and national development, as may be authorised under the Constitution and by law.

8.85 While Article 210 recognises a role for the Armed Forces in assisting civil authority, the constitutional framework provides limited guidance on the precise conditions under which such assistance should be invoked. The absence of clearly articulated thresholds for military involvement in aid of civilian law enforcement has resulted in a broad and flexible understanding of when such involvement is considered justified. This has implications for predictability, restraint, and civilian oversight.

8.86 A further concern arises from the formulation in Article 210, which provides that the Armed Forces may perform “such other functions for the development of Ghana as the President may determine.” While this clause reflects the President’s role as Commander-in-Chief, its breadth and indeterminacy render it an open-ended source of authority for military involvement in civilian affairs. The absence of constitutional criteria, procedural safeguards, or parliamentary involvement in the exercise of this discretion risks locating decisions on military deployment primarily at the pleasure of the Executive. This has implications for democratic accountability, as it may limit effective parliamentary oversight and make the scope of such deployments difficult to contest or review, particularly where military involvement extends beyond defence or clearly defined internal security functions.

8.87 A related concern arises from the scope of powers exercised by members of the Armed Forces when deployed in civilian contexts. Military personnel, trained primarily for combat and defence operations, may exercise coercive powers that directly affect civilians, including arrest, detention, and the use of force. The constitutional framework does not clearly delineate the extent to which such powers are to be exercised under civilian law enforcement standards, nor does it specify how military rules of engagement are to be reconciled with constitutional norms governing policing.

8.88 The command and control arrangements governing such deployments also raise concerns. Although the Armed Forces operate under civilian authority, deployments in support of civil power often involve parallel chains of command between military and civilian agencies. The constitutional text does not clearly address how responsibility is allocated for decisions taken on the ground, particularly where civilian harm occurs, or how accountability is to be traced across institutional boundaries.

8.89 Duration and review of military deployments in civilian law enforcement settings present further challenges. Article 210 does not prescribe time limits, reporting obligations, or mechanisms for periodic review once the Armed Forces have been deployed internally. In practice, deployments may become prolonged, normalised, or renewed without transparent criteria or structured oversight.

8.90 Accountability mechanisms applicable to civilian harm arising from such deployments are also unclear. When members of the Armed Forces interact with civilians in law enforcement roles, it is not always evident which legal regime governs complaints, investigations, or remedies. Military justice systems, internal inquiries, and civilian processes may overlap or operate in parallel, creating uncertainty for individuals and communities affected by these systems, who seek redress.

8.91 These issues are compounded where military deployments occur in contexts of public protest, electoral activity, or community-level security operations. In such settings, the presence of the Armed Forces in civilian spaces can have a significant chilling effect on the exercise of constitutional rights, including freedom of assembly, expression, and political participation, particularly where the legal basis, scope, and oversight of the deployment are not clearly articulated.

8.92 Taken together, these concerns highlight the constitutional sensitivity of deploying the Armed Forces for civilian law enforcement purposes and underscore the need for clearer standards governing authorisation, scope, duration, and accountability in such circumstances.

8.93 These concerns assume particular significance in Ghana's historical and constitutional context. As a State that has experienced repeated periods of military intervention in governance, the Constitution is consciously structured to entrench civilian supremacy and to demarcate military space from civilian political and social life. The manner in which the Armed Forces are deployed, represented, and normalised within civilian law enforcement, therefore, carries weight beyond immediate operational considerations.

8.94 However, in recent years, the distinction between civilian policing and military presence in public life has become increasingly blurred. The Armed Forces have been deployed with growing frequency in non-combat and non-emergency situations that fall within ordinary civilian law enforcement functions. These include election-related security operations, routine patrols, crowd control, and the guarding of public officials and political actors. Such deployments occur outside situations of declared emergency or evident breakdown of public order, and risk normalising military visibility and authority within civilian spaces.

8.95 The use of military personnel in election security is particularly sensitive. Electoral processes lie at the heart of constitutional democracy, and their credibility depends not only on security but also on the public's perception of neutrality and civilian control. The

presence of armed military personnel at polling stations, collation centres, or political gatherings can have a chilling effect on political participation and undermine confidence in the civilian character of electoral administration.

8.96 Concerns also arise from the deployment of military personnel in contexts traditionally governed by civilian authority and welfare considerations. Instances of military presence in educational institutions, including secondary schools, highlight the extent to which military force has been introduced into spaces traditionally associated with care, discipline, and social development, rather than security threats. Such deployments raise questions about proportionality, appropriateness, and the long-term effects on civil-military relations.

8.97 The entry of military forces into Parliament during a period of political tension has further underscored the constitutional sensitivity of internal military deployment. Parliament is the embodiment of civilian sovereignty and democratic representation. Military presence within or around the legislative space, particularly, carries symbolic and practical implications that resonate deeply within Ghana's constitutional memory.

8.98 These developments point to a broader concern about the gradual militarisation of civilian law enforcement functions. Policing and soldiering are grounded in distinct institutional cultures, training paradigms, and legal frameworks. When military personnel are routinely deployed to perform civilian law enforcement roles, the balance between security and liberty risks being recalibrated in ways that are neither explicitly authorised nor carefully supervised.

8.99 The Committee notes that the National Reconciliation Commission (NRC) took a consistently critical view of the deployment of the military in civilian affairs, including internal law-and-order functions and intrusion into civilian institutions. Drawing on Ghana's post-independence experience, the NRC concluded that such deployments were a central driver of gross human rights violations and posed a structural threat to constitutional democracy.

8.100 The NRC found that military involvement in civilian governance was not limited to periods of military rule but became normalised across both unconstitutional and constitutional regimes, particularly during times of political tension and public disorder. This normalisation blurred the boundary between civilian policing and military force, eroding accountability, proportionality, and respect for fundamental rights.

8.101 A central concern of the NRC was the institutional unsuitability of the military for civilian law enforcement. Military training and doctrine are oriented toward combat and enemy neutralisation, not the regulation of civilian conduct under due process constraints. As a result, patterns of excessive force, arbitrary detention, torture, and abuse were treated by the NRC not as anomalies, but as foreseeable consequences of structural mis-deployment, often exacerbated by informal security arrangements that bypassed civilian oversight.

8.102 While the NRC did not call for an absolute prohibition on military assistance to civil authorities, it strongly favoured strict limitation of such involvement to exceptional circumstances, subject to clear legal authorisation, civilian control, and robust accountability. It rejected the routine invocation of “national security” to justify military intervention in civilian life, warning that societies which normalise military presence in civilian governance risk reproducing the very authoritarian practices that transitional justice processes seek to overcome.

8.103 The Committee notes that comparative constitutional practice demonstrates a clear reluctance to permit open-ended military involvement in internal affairs. Many constitutions expressly limit domestic deployment of the armed forces to exceptional circumstances, subject such deployments to parliamentary oversight and time-bound authorisation, and link them to formal emergency or internal security regimes. These approaches reflect a shared concern that unchecked executive discretion in internal military deployment risks eroding civilian supremacy and democratic accountability. The Committee observes in this connection that:

- a. Kenya’s Constitution places clear and express limits on the internal deployment of the Defence Forces. Article 241(3)(a) confines the primary role of the Defence Forces to the defence and protection of the sovereignty and territorial integrity of the Republic. Article 241(3)(b) permits the Defence Forces to assist and cooperate with other authorities in situations of emergency or disaster, subject to a mandatory obligation to report to the National Assembly whenever they are deployed in such circumstances. Article 241(3)(c) further provides that the Defence Forces may be deployed to restore peace in any part of Kenya affected by unrest or instability only with the approval of the National Assembly. Read together with Article 238, which subordinates all security organs to civilian authority, the rule of law, and constitutional values, these provisions constitutionally entrench parliamentary control and civilian supremacy as conditions for internal military deployment.
- b. South Africa’s Constitution expressly regulates the deployment of the Defence Force for internal purposes. Section 201(2)(c) permits the deployment of the

Defence Force in cooperation with the police service for the maintenance of law and order, thereby framing military involvement as subsidiary to civilian policing. Section 201(3) requires that any such deployment be authorised by the President and that Parliament be informed promptly and in sufficient detail to enable effective oversight.

8.104 In light of the foregoing, the Committee is of the view that the constitutional framework governing the deployment of the Armed Forces in internal security and civilian law enforcement contexts requires clarification and recalibration. Given Ghana's constitutional history and comparative constitutional practice, the Committee considers it necessary to reaffirm the primacy of the Armed Forces' role in external defence and to ensure that any involvement in internal affairs remains exceptional, subsidiary, and carefully constrained.

8.105 Further, the Committee is of the view that the Constitution should more clearly articulate the conditions under which the Armed Forces may be deployed in aid of civil authority. In particular, the absence of defined thresholds, temporal limits, and reporting obligations has created space for discretionary and repeated military deployments in civilian contexts without structured oversight. The Committee considers that constitutional guardrails are required to ensure that such deployments are authorised on a clear legal basis, limited in scope and duration, and subject to meaningful civilian and parliamentary scrutiny.

8.106 In addition, the Committee is of the view that where the Armed Forces are deployed in civilian law enforcement contexts, their conduct must be governed by civilian legal standards and constitutional rights protections. Clear constitutional guidance is required to ensure that arrest, detention, use of force, and other coercive powers exercised in civilian space are subject to the same norms of legality, necessity, proportionality, and accountability that apply to civilian policing.

8.107 Finally, the Committee considers that these clarifications should be effected at the constitutional level, with detailed procedures and safeguards to be elaborated through legislation. This approach would align Ghana's constitutional framework with comparative practice, reduce reliance on ad hoc or informal deployment practices, and reinforce the constitutional distinction between military defence functions and civilian law enforcement responsibilities.

Recommendation

- 8.108 The Committee recommends that Article 210 should be amended to provide that
- a. The Armed Forces of Ghana shall be established for the defence and protection of the sovereignty and territorial integrity of Ghana.
 - b. Subject to this Constitution, the Armed Forces may be deployed in aid of civil authority only in exceptional circumstances where there exists a serious threat to public safety or constitutional order that cannot reasonably be addressed by the Police Service with available resources.
 - c. A deployment of the Armed Forces in aid of civilian law enforcement shall be made only upon a formal request by the Police Council to the Armed Forces Council, acting in accordance with this Constitution and any law made under it.
 - d. Where the Armed Forces are deployed in aid of civilian law enforcement, they shall, for the duration of the deployment, be under the operational command and control of the Police Service, and members of the Armed Forces so deployed shall act in support of, and subject to the direction of, the Police Service.
 - e. A request by the Police Council to the Armed Forces Council for the deployment of the Armed Forces under this Article shall only be initiated upon the advice of the Inspector-General of Police, considered and approved by the Police Council and submitted in writing to the Armed Forces Council and shall state:
 - i. the nature of the threat or situation necessitating the request;
 - ii. the reasons why the Police Service is unable to manage the situation without military assistance;
 - iii. the scope, geographic area, and intended duration of the deployment.
 - f. Parliament shall be briefed promptly on any deployment of the Armed Forces in aid of civilian law enforcement.
 - g. Where a deployment of the Armed Forces in aid of civilian law enforcement exceeds three (3) days, parliamentary approval shall be sought for the continuation of the deployment.
 - h. Where Parliament is on recess and a deployment of the Armed Forces in aid of civilian law enforcement exceeds seven (7) days, Parliament shall be recalled in accordance with this Constitution for the purpose of considering and approving the continuation of the deployment; and shall do so by votes of a two-thirds majority.
 - i. Where the Armed Forces are deployed in aid of civilian law enforcement, members of the Armed Forces shall be bound by:
 1. the rights and freedoms guaranteed under Chapter Five; and

2. civilian law enforcement standards governing arrest, detention, use of force, and engagement with civilians.
- j. The Armed Forces shall not be deployed for the personal protection of civilians or public officials, except in respect of the President, as Commander-in-Chief; and the relevant minister responsible for defence.
- k. Where members of the Armed Forces are assigned to the protection of the President and the Minister in civilian settings, such members shall not appear in military uniform and shall perform such functions in a manner prescribed by law.
- l. The Armed Forces shall not, under any circumstances, enter into contracts or arrangements with private persons or entities for the provision of security services.
- m. Any additional functions of the Armed Forces beyond those specified in this Article shall be defined by law, subject to parliamentary oversight, and shall be consistent with civilian supremacy, democratic accountability, and this Constitution.

The Committee further recommends that:

Article 200(1) shall be amended to state as follows: “There shall be a Police Service of Ghana which shall be the primary and principal institution responsible for civilian law enforcement in the Republic”.

Article 200(3) shall be amended to say, “The Police Service shall be adequately equipped, resourced, and maintained to perform its primary and principal functions of maintaining law and order, protecting life and property, preventing and detecting crime, and ensuring public safety in accordance with this Constitution.”

Composition of the Police Council and Regional Police Committees

8.109 The Police Council is established under Article 201 of the Constitution as the body responsible for advising the President on matters relating to the Police Service. The Constitution prescribes the composition of the Council, reflecting an attempt to balance executive authority, institutional leadership within the Police Service, and limited civilian representation.

8.110 Under Article 201, the Police Council is composed of a person to be appointed as Chairperson by the President in consultation with the Council of State, the Minister responsible for the Interior, the Inspector-General of Police, the Attorney-General or a

representative nominated by the Attorney-General, a lawyer nominated by the Ghana Bar Association, a representative of the Retired Police Officers Association, and two other persons appointed by the President acting in consultation with the Council of State.

8.111 The inclusion of executive actors and senior police leadership situates the Police Council firmly within the Executive branch of government, while the presence of nominees from the Ghana Bar Association and retired police officers introduces a measure of professional and civilian input. However, the overall composition reflects a structure in which executive influence remains significant, particularly given the powers vested in the President for appointments.

8.112 The Committee is of the view that the composition of the Police Council should be reviewed with the primary objective of strengthening public confidence in the independence and integrity of the Police Service. As the principal body charged with advising on matters of policing governance, the Council's composition must reflect constitutional values of impartiality, accountability, and civilian trust, rather than appearing closely aligned with executive control or political authority. Even where such influence is not exercised in practice, the appearance of executive dominance on the governing council of the Police Service can fuel widespread public perception of executive political interference in law enforcement.

8.113 On a comparative note, Jamaica and Kenya provide some useful examples. Jamaica's Constitution establishes a Police Service Commission responsible for appointing, promoting, and disciplining members of the Police Force. The Commission is composed entirely of civilians, including members appointed by the Governor-General on the advice of the Prime Minister and Leader of the Opposition. Serving police officers are excluded from membership. Kenya's Constitution establishes the National Police Service Commission as a central police governance body with extensive authority over the administration and professional regulation of the Police Service. Article 246(2) provides for a mixed composition combining civilian, professional, and institutional representation. The Commission includes a person qualified to be appointed as a High Court Judge, two retired senior police officers, and three persons of integrity who have served the public with distinction, all appointed by the President. In addition, serving police leadership is represented through the Inspector-General of the National Police Service and both Deputy Inspectors-General. Article 246(3) vests the Commission with substantial powers, including the recruitment and appointment of officers, confirmation of appointments, determination of promotions and transfers, and the exercise of disciplinary control over members of the Service, subject to due process.

8.114 The Committee is of the view that greater weight should be given to institutional independence and constitutional accountability in the composition of the Police Council. Incorporating representation from independent constitutional bodies concerned with human rights and administrative justice would strengthen the Council's credibility and align its work more closely with the constitutional standards governing the exercise of police power. Such representation would also signal a clear commitment to rights-respecting and accountable policing.

8.115 The Committee further considers that the manner in which police representation on the Council is selected should reinforce professional legitimacy rather than political patronage. Nomination of police members through established internal governance structures of the Police Service, subject to appropriate consultation, would enhance confidence that such members represent institutional expertise rather than individual alignment with executive authority.

8.116 Finally, the Committee is of the view that the number of members appointed directly at the discretion of the President should be limited. While executive involvement in policing governance is constitutionally appropriate, reducing discretionary appointments would help recalibrate the Council towards a more balanced and independent body. These adjustments, taken together, are necessary to reinforce public trust in the Police Service as a professional, impartial, and constitutionally grounded institution.

Recommendation

8.117 The Committee recommends that:

- a. Article 201 of the Constitution should be amended to restructure the composition of the Police Council, thereby strengthening institutional independence, reducing executive dominance, and enhancing public confidence in the impartial governance of the Police Service. This will consist of
 1. Filling the seat on the Council reserved for a nominee of the Ghana Bar Association through democratic contestation open to all lawyers in good standing that have attained a specified number of years of seniority at the bar.
 2. Removing the representative nominated by the Retired Senior Police Officers Association.

3. Adding one person who has previously held the office of Inspector-General of Police to be appointed by the President in consultation with the Council of State.
 4. Providing for three members of the Police Service on the Police Council, who shall be nominated by the Police Management Board in consultation with the Council of State, and appointed by the President acting in accordance with the nomination. Provided that at least one of the members shall be of a junior rank within the Police Service, and no more than two-thirds of the members shall be of the same gender.
 5. Reducing the number of members appointed at the discretion of the President from two to one, and requiring that such appointment be made acting in consultation with the Council of State.
- b. Article 204 of the Constitution shall be amended by
1. deleting from the composition of the Regional Police Committee, the Minister of State appointed by the President; and the representative nominated by the Ghana Bar Association;
 2. inserting the following additional members into the composition of the Regional Police Committee:
 - i. one police officer of a junior rank serving in the region, and one Divisional Police Commander serving in the region, appointed by the Inspector-General of Police on the advice of the Police Management Board.
 - ii. One representative of CHRAJ.
 3. providing that the Committee shall be chaired by the most senior Police member of the Police Service in the Region.
- c. Article 203 shall be amended to provide that the Police Council may, in consultation with the Police Management Board and the ISSOC, by Constitutional Instrument, make regulations for the performance of its functions under this Constitution or any other law and for the effective and efficient administration of the Police Service.

The Inspector General of Police (IGP)

8.118 Article 202 of the 1992 Constitution establishes the office of the Inspector-General of Police (IGP) and sets out the framework governing appointment, authority and control within the Police Service. Clause (1) vests the power to appoint the Inspector-General of Police in the President, acting in consultation with the Council of State. The Constitution does not prescribe any further criteria for appointment, nor does it specify tenure, security of office, or grounds and procedures for removal.

8.119 Clause (2) designates the IGP as the head of the Police Service, responsible for both operational control and administration. This authority, however, is expressly made subject to the provisions of Article 202 and to the “control and direction” of the Police Council. The constitutional text, therefore, envisages a layered governance structure in which the IGP exercises professional command over policing operations, while remaining institutionally situated within a broader framework of oversight and direction.

8.120 Clause (3) centralises appointment authority over members of the Police Service in the President, acting in accordance with the advice of the Police Council. This provision places recruitment and appointment powers within the executive branch, albeit mediated through an advisory institutional mechanism. Clause (4) further allows the President to delegate aspects of these appointment functions to the Police Council, a committee, or a member of the Council, subject to conditions determined by the President.

8.121 During nationwide consultations, stakeholder engagements and expert submissions, the appointment, authority and security of tenure of the IGP emerged as a recurrent source of concern across civil society organisations, professional bodies, former security officials, lawyers, youth groups and community representatives.

8.122 A central concern repeatedly raised was the widespread perception that the IGP is politically aligned with the appointing executive. Participants consistently pointed to the appointment process under Article 202(1), which vests appointment power in the President, subject only to consultation with the Council of State, as insufficient to guarantee independence or neutrality. Many stakeholders emphasised that the absence of a requirement for concurrence, parliamentary scrutiny, or public vetting has fostered the public's belief that police leadership is beholden to the political interests of the government of the day. This perception, even where individual office holders act professionally, was described as deeply damaging to public trust in the Police Service.

8.123 Stakeholders also highlighted the absence of constitutionally protected tenure for the IGP as a critical weakness. The Constitution does not specify a term of office, conditions of service, or grounds and procedures for removal from office. As a result, the office was widely understood during consultations to be insecure and contingent on executive confidence. Several participants noted that changes in police leadership often coincide with changes in political administration, reinforcing the impression that the IGP's tenure is politically determined. This insecurity was said to discourage professional independence and to create implicit pressure on police leadership to align operational decisions with executive preferences, particularly during elections, demonstrations and politically sensitive investigations.

8.124 Another concern frequently raised is related to the unclear constitutional relationship between the IGP and the Police Council. While Article 202(2) places the IGP under the "control and direction" of the Police Council, stakeholders observed that the Constitution does not define the scope or limits of this authority. This ambiguity was reported to have generated uncertainty in practice as to whether the Police Council exercises strategic oversight, administrative supervision, or influence over operational matters. Several submissions described this lack of clarity as contributing to weak accountability, blurred responsibility, and institutional friction within the Police Service.

8.125 Participants further expressed concern about the broader appointment powers over the Police Service vested in the President under Article 202(3). During consultations, civil society groups and former officers highlighted the persistence of informal practices, including protocol recruitment, politically influenced promotions, and non-transparent deployments. While recognising that such practices are not constitutionally mandated, stakeholders argued that the existing constitutional framework does not provide sufficient safeguards to entrench meritocracy, professionalism and political neutrality in police appointments and career progression.

8.126 The Committee notes that these concerns reflect a deep and persistent anxiety about the politicisation of police leadership, the vulnerability of the IGP to executive influence, and the consequent erosion of public confidence in the Police Service as a neutral and professional institution.

8.127 In the Committee's view, there is a clear need to constitutionally reframe the appointment of the IGP in a manner that reduces the perception and risk of partisan influence. While executive involvement in appointments is not in itself incompatible with democratic governance, the current model, which relies solely on presidential appointment after consultation with the Council of State, lacks sufficient counter-

balancing safeguards. The Constitution must therefore introduce a more transparent, participatory and institutionally balanced appointment process that affirms the IGP's legitimacy as a national, rather than partisan, office holder.

8.128 The Committee agrees that the constitutional framework must more explicitly entrench principles of professionalism, meritocracy and political neutrality in police leadership and senior appointments. While these values are often articulated in policy or legislation, their absence from the constitutional text has weakened their normative force. Embedding these principles constitutionally would provide a firm benchmark for evaluating appointments, promotions and leadership conduct within the Police Service.

8.129 Similarly, the Constitution should articulate the role of the IGP as a guardian of constitutional rights, rather than just an enforcer of public order. Police leadership must be constitutionally anchored in the obligation to facilitate the exercise of freedoms, protect civic space, and ensure that policing remains consistent with democratic values. This normative repositioning is essential to align police authority with the broader constitutional project of securing democratic peace, freedoms and stability.

Recommendations

8.130 The Committee recommends amendment of Article 202 of the Constitution to restructure the appointment, tenure, authority and accountability of the IGP in a manner that secures professional independence, democratic legitimacy and constitutional fidelity.

1. Appointment of the IGP (Amendment to Article 202(1))
 - a. Article 202(1) should be amended to replace the current consultative appointment model with a constitutionally structured, multi-institutional appointment process, as follows:
 - i. The IGP shall be appointed by the President from a shortlist of not fewer than three (3) qualified senior police officers nominated by the Police Council;
 - ii. A person shall not be nominated as IGP unless that person holds a rank not lower than Commissioner of Police.
2. Fixed Tenure and Security of Office (New Article 202A)
 - a. A new Article 202A should be inserted to provide that:
 - i. The IGP shall hold office for a single, fixed, non-renewable term of six years or until attaining the age of 65 years, whichever is earlier.
 - ii. The IGP may be removed from office only on grounds of:

- 1) stated misconduct,
 - 2) incapacity,
 - 3) serious violation of the Constitution, or
 - 4) inability to perform the functions of the office;
 - b. Removal shall be effected only following a formal investigation by the Police Council.
3. Operational Independence and Lawful Authority (Amendment to Article 202(2))
Article 202(2) should be amended to state expressly that:
 - i. The IGP exercises exclusive operational command and administration of the Police Service;
 - ii. Neither the President, a Minister, nor any other authority may issue directions relating to specific investigations or arrest or enforcement of law against any particular person or persons or the recruitment, assignment, or dismissal of any member of the Police Service.
 - iii. The Police Council's authority shall be limited to policy, governance, and oversight, and shall not extend to operational interference. Any policy directive to the IGP issued by the Police Council or a Minister must be in writing.
4. Political Neutrality and Constitutional Loyalty (New Clause under Article 202)
Article 202 should be reinforced to require that:
 - i. The IGP shall act with strict political neutrality, and shall not align the Police Service with any political party, office-holder or partisan interest;
 - ii. Any conduct by the IGP that materially compromises political neutrality shall constitute a constitutional violation and grounds for removal.
5. Constitutional Duty to Protect Rights (New Normative Clause in Article 202)
Article 202 should be amended to state that:
 - i. The IGP bears a positive constitutional duty to ensure that policing operations protect, facilitate and do not unlawfully restrict the enjoyment of fundamental rights and freedoms;
 - ii. In the exercise of operational control and administration of the Police Service, the IGP shall be under a constitutional duty to give effect to, implement and operationalise the principles and values governing law-enforcement and security services prescribed by this Constitution, and shall ensure that all policing policies, directives, rules of engagement, training programmes, deployments and operational practices are consistent with those principles.

- iii. Maintenance of public order shall be pursued only through lawful, proportionate and rights-respecting means;
- iv. Failure to prevent or address systemic violations of rights by the Police Service shall engage constitutional responsibility.

Renaming the Ghana Prisons Service to Ghana Correctional Services

8.131 The nomenclature used to describe public institutions is not merely symbolic but reflects the underlying philosophy, objectives, and values that guide their operations. In this regard, the Committee's engagements revealed sentiments that the continued use of the term "Prison Service" inadequately captures the contemporary objectives of the penal system and risks reinforcing a punitive, custodial conception of criminal justice that is increasingly out of step with constitutional values, international best practices, and modern justice thought.

8.132 Globally, the primary constitutional purpose of imprisonment has evolved beyond retribution alone to accommodate the protection of society through lawful punishment that respects human dignity and facilitates the rehabilitation and reintegration of offenders. Article 15 of the Constitution affirms the inviolability of human dignity, while Article 296 requires that discretionary power be exercised fairly, reasonably, and without arbitrariness. These provisions impose normative limits on how punishment is conceived and administered, and they support an approach to incarceration that prioritises reform, rehabilitation, and social reintegration rather than mere confinement.

8.133 Historically, the term "*Prison Service*" has evoked an institutional focus on custody, control, and incapacitation. By contrast, the term "*Correctional Service*" more accurately reflects a system oriented towards correcting offending behaviour, addressing the underlying causes of criminality, and preparing offenders for lawful participation in society upon release. Internationally, there has been a discernible shift away from custody-centric terminology towards correctional or rehabilitative language. Jurisdictions such as South Africa and Canada have adopted the term "*Correctional Services*" to signal a deliberate policy emphasis on offender rehabilitation, restorative justice, and reduced recidivism. This shift is consistent with international human rights instruments, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which emphasise respect for dignity, reintegration, and the social purpose of imprisonment.

8.134 The Committee finds merit in the call to rename the Prison Service. While the renaming would align the institution and its institutional direction with contemporary best practices, it would also provide a normative foundation for reforming training curricula, performance indicators, budgetary priorities, and inter-agency collaboration in areas such as rehabilitation, education, vocational training and mental health support. While renaming alone is insufficient to achieve systemic reform, it serves as a necessary first step in re-orienting institutional culture and public expectations towards a correctional, rather than purely custodial, model of incarceration.

8.135 Importantly, the proposed renaming does not diminish the lawful authority of the State to detain, discipline, and secure offenders. Rather, it situates these functions within a broader constitutional and policy framework that recognises punishment as a means to public safety through rehabilitation, rather than an end in itself.

Recommendation

8.136 For these reasons, the Commission recommends that the Prison Service be renamed the Correctional Service, to reflect a modern, rights-respecting, and rehabilitation-focused penal system consistent with constitutional values, international standards, and the long-term interests of public safety and social cohesion.

Composition of the Prisons Service Council and Regional Prisons Committees

8.137 The governance of the Prisons Service under the 1992 Constitution is anchored in the Prisons Council and supported by Regional Prisons Committees. Article 206 establishes the Prisons Council as the principal oversight body, composed of a Chairperson appointed by the President, the Minister responsible for the Interior, the Director-General of the Prisons Service, and two other persons appointed by the President, at least one of whom must be a lawyer with professional or career experience as a human rights advocate or defender.

8.138 This composition reflects a civilian-led governance structure that combines executive policy oversight, institutional leadership and legal expertise, consistent with the custodial and rights-sensitive nature of prison administration. The inclusion of the Director-General ensures continuity and operational insight, while the presence of a legal practitioner introduces an explicit legality and rights-oriented dimension into the Council's work. Article 206 further provides for the establishment of Regional Prisons

Committees to support decentralised administration and oversight of prisons across the country.

8.139 The Committee considers that the existing constitutional framework governing the composition of the Prisons Council and the Regional Prisons Committees requires rationalisation to bring it into alignment with the broader set of reforms proposed in this Chapter.

8.140 As currently structured, the membership arrangements reflect an earlier, more fragmented approach to security-sector governance and do not fully correspond with the principles of civilian supremacy, professional competence, transparency and rights-based oversight that the Committee has recommended for all law-enforcement and security institutions.

8.141 What is therefore required is a deliberate streamlining of membership to ensure coherence across the security architecture, reduce executive over-concentration, and strengthen the presence of professional, civilian and rights-oriented perspectives. In particular, the Committee is of the view that governance bodies for the Prisons Service should be constituted in a manner consistent with the reformed Police Council and other security oversight structures, with more precise criteria for appointment, reduced political discretion, and enhanced emphasis on legal expertise, human rights, correctional administration and rehabilitative justice.

Recommendation

8.142 The Committee recommends that:

- a. Article 201 of the Constitution should be amended to restructure the composition of the Police Council, thereby strengthening institutional independence, reducing executive dominance, and enhancing public confidence in the impartial governance of the Police Service. This will consist of
 1. Filling the seat on the Council currently reserved for a nominee of the Ghana Bar Association through a democratic and transparent process open to all lawyers in good standing who meet the prescribed seniority requirements, in accordance with procedures prescribed by an Act of Parliament, as recommended in Chapter IX of this Report.
 2. Removing the representative nominated by the Retired Senior Police Officers Association.

3. Adding one person who has previously held the office of Inspector-General of Police to be appointed by the President in consultation with the Council of State.
 4. Providing for three members of the Police Service on the Police Council, who shall be nominated by the Police Management Board in consultation with the Council of State, and appointed by the President acting in accordance with the nomination. Provided that at least one of the members shall be of a junior rank within the Police Service, and no more than two-thirds of the members shall be of the same gender.
 5. Reducing the number of members appointed at the discretion of the President from two to one, and requiring that such appointment be made acting in consultation with the Council of State.
- b. Article 204 of the Constitution shall be amended by
1. deleting from the composition of the Regional Police Committee, the Minister of State appointed by the President; and the representative nominated by the Ghana Bar Association;
 2. inserting the following additional members into the composition of the Regional Police Committee:
 - iii. one police officer of a junior rank serving in the region, and one Divisional Police Commander serving in the region, appointed by the Inspector-General of Police on the advice of the Police Management Board.
 - iv. One representative of CHRAJ.
 3. Providing that the Committee shall be chaired by the most senior Police member of the Police Service in the Region.
- c. Article 203 shall be amended to provide that the Police Council may, in consultation with the Police Management Board and the ISSOC, by Constitutional Instrument, make regulations for the performance of its functions under this Constitution or any other law and for the effective and efficient administration of the Police Service.

Appointment of the Director-General

Recommendation

8.143 Article 207 should be amended to replace the current consultative appointment model with a constitutionally structured, multi-institutional appointment process, as follows:

- i. The President shall appoint the Director-General from a shortlist of not fewer than three (3) qualified senior Prison Officers nominated by the Prisons Service Council;
- ii. A person shall not be nominated as Director-General of Prisons unless that person holds a rank not lower than a Director.

Fixed Tenure and Security of Office

Recommendation

8.144 A new Article 209A should be inserted to provide that:

- i. The Director-General shall hold office for a single, fixed, non-renewable term of 6 years or until attaining the age of 65 years, whichever is earlier.
- ii. The Director-General may be removed from office only on the grounds of:
 - a. stated misconduct,
 - b. incapacity,
 - c. serious violation of the Constitution, or
 - d. inability to perform the functions of the office.

Removal shall be effected by the President in accordance with the advice of the Prisons Council only following a formal investigation by an independent body established by the Prisons Council.

Operational Independence and Lawful Authority (Amendment to Article 207)

Recommendation

8.145 Amend Article 207 to provide that:

- a. The Director-General of the Prisons Service shall exercise exclusive operational command and administration of the Prisons Service, and shall be responsible for the day-to-day management, custody, security, welfare, rehabilitation and correctional functions of all prisons and places of lawful detention, subject only to this Constitution and law.
- b. Neither the President, a Minister, nor any other authority shall issue directions relating to specific prison operations, including matters of inmate custody, classification, transfers, discipline, rehabilitation programmes, security measures or internal administration, except where expressly authorised by the Constitution or by an Act of Parliament consistent with it.
- c. The authority of the Prisons Council shall be confined to policy formulation, governance standards, discipline, senior-level appointments and administrative oversight, and shall not extend to interference in operational decisions or the management of individual inmates or facilities.
- d. In the exercise of operational command, the Director-General shall be constitutionally bound to give effect to the principles governing law-enforcement and security agencies, including the protection of human dignity, legality, proportionality, humane treatment of persons deprived of liberty, rehabilitation, transparency, and accountability for abuse of power.

Political Neutrality and Constitutional Loyalty (New Clause under Article 207)

Recommendation

8.146 Article 207 should be reinforced to require that:

- a. The Director-General shall act with strict political neutrality, and shall not align the Prisons Service with any political party, office-holder or partisan interest;
- b. Any conduct by the Director-General that materially compromises political neutrality shall constitute a constitutional violation and grounds for removal.



CONSTITUTION
REVIEW COMMITTEE
2025



Chapter IX:
Towards A Living
Constitution

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Chapter IX: Towards A Living Constitution

Overview

9.1 The 1992 Constitution was crafted at a pivotal moment in Ghana's political history. The national memory of past abrupt constitutional dislocations shaped deliberate choices, which are reflected in the structure of the Constitution. Coming at the end of a long cycle of constitutional suspensions, military rule, and institutional fragility, it is understandable that the framers sought to design a constitutional architecture that would prevent easy manipulation by transient majorities and guarantee predictability and stability during a fragile transition into a multi-party democracy.

9.2 Chapter 25 of the Constitution, entitled 'Amendment of the Constitution', sets out the exclusive procedures by which the Constitution may be revised. It establishes two distinct pathways for amending the Constitution: one for "entrenched provisions" and another for all other provisions or so-called "non-entrenched provisions".

9.3 Article 289 provides the general framework, declaring that the Constitution may be amended either by an Act of Parliament without recourse to a referendum or by recourse to a referendum, depending on whether the provision in question is "entrenched" or not entrenched. This dual-track mechanism is central to the amendment philosophy of the 1992 Constitution. It reflects a deliberate choice to differentiate between constitutional provisions. Although the Constitution does not provide a theory or rationale for the distinction it makes between entrenched and non-entrenched provisions, it is generally assumed that entrenched provisions must be those provisions deemed foundational to the constitutional system and therefore must require overwhelming national consensus to alter, while the remainder of the provisions, presumably not being as fundamental, should be amendable through broad parliamentary consensus.

9.4 Article 290 governs amendments to entrenched provisions. These provisions require a multi-stage process:

- a. A bill introduced in Parliament,
- b. Public notice through gazette publications and lengthy periods for nationwide debate, and
- c. A national referendum, which will only be valid if at least 40 per cent of registered voters participate and at least 75 per cent of votes cast support the amendment.

9.5 It is only after these conditions have been met that Parliament will complete the process by passing the amendment bill as a matter of duty.

9.6 Article 291 provides a comparatively simpler procedure for non-entrenched provisions, requiring only a parliamentary process, though still with elevated safeguards, beyond what is required for ordinary legislation: a two-thirds majority of Parliament and compliance with procedural notifications and publication requirements.

9.7 Chapter 25 offers an essential point of departure for any conversation about constitutional flexibility, adaptability, and democratic responsiveness. As noted above, in 1992, the framers erred on the side of pragmatic rigidity, insulating a large number of provisions and features of the constitutional order and the new Republic from capricious regime experimentation or manipulation.

9.8 However, three decades later, Ghana's constitutional experience reveals a new set of realities. While over-entrenchment may have supported temporal stability, it has also produced technical and operational constraints.

9.9 The Constitution has been amended only once, and entirely through the non-entrenched process. No entrenched provision has been successfully amended. In 2019, a scheduled referendum aimed at amending an entrenched provision to permit political parties to sponsor candidates in local government elections was cancelled when it became apparent that the necessary cross-party consensus could not be secured. Even where proposed reforms enjoy broad public and national support, the proposals have remained unrealised because the amendment architecture, specifically in relation to entrenched provisions, is procedurally exacting and difficult to operationalise. Because each entrenched provision must be voted on separately, attempting multiple amendments through referenda is a costly, time-consuming, and legally complex proposition.

9.10 This chapter begins from the premise that a constitution must be both enduring and dynamic. It must preserve its core values while remaining responsive to evolving societal needs, governance challenges, and the aspirations of different generations. A "living constitution" is not easily altered, but it must have the built-in capacity to reflect the needs of the society it governs and to evolve through legitimate, participatory, and well-structured democratic processes.

9.11 The Committee approached its review of the amendment framework of the Constitution not as a search for political fault, but as an assessment of a technical design that has served Ghana relatively well to date and yet now reveals important limitations.

In examining the machinery of constitutional change under the 1992 Constitution, the Committee identified three interrelated dimensions of constitutional adaptiveness that require careful reconsideration.

9.12 First, the Committee examined constitutional rigidity and the scope of entrenchment, acknowledging both the historical justification that shaped the wide-ranging entrenchment adopted at moment of transition to democratic rule and the contemporary constraints that this architecture now imposes. The Committee paid particular attention to how over-entrenchment can impede important reforms, including reforms that command national consensus.

9.13 Second, the Committee considered the role of popular initiative in constitutional amendment, exploring how the amendment process might be broadened to include structured opportunities for citizens to propose, influence, or deliberate on constitutional reform. The Committee's deliberations were guided by a commitment to enhancing legitimacy and participation while ensuring that appropriate guardrails protect the integrity of fundamental constitutional values.

9.14 Third, the Committee reflected on the challenge of constitutional obsolescence, recognising that constitutions inevitably bear the imprint of their historical moment. The Committee noted the risk that, without mechanisms for periodic review or public engagement, the Constitution may gradually lose resonance with contemporary aspirations and generational expectations.

9.15 In evaluating these three dimensions, the Committee drew on comparative constitutional practice to understand how different democracies balance durability with adaptability. These perspectives informed the Committee's own proposals for reform. Consequently, each section of this chapter concludes with practical recommendations designed to help ensure that Ghana's constitutional order remains both anchored in its foundational democratic commitments and responsive to the society it serves.

Subchapter 1: Amendment of the Constitution

A. Constitutional Rigidity and the Over-Entrenchment Problem

9.16 As noted, the decision to entrench a large number of provisions in the 1992 Constitution must be understood in its historical context. Beginning with the 1969 Constitution, Ghana's constitutions have been framed largely in reaction to the experiences and excesses of past authoritarian regimes. In particular, experiences under the Independence Constitution and the First Republic, particularly in relation to the executive, parliament, the courts, individual liberties, and constitutional amendments, have had an enduring influence on the framing and content of subsequent Ghanaian constitutions, including the degree of entrenchment or rigidity of the constitution.

9.17 Ghana's tradition of hyper-entrenched constitutions began with the 1969 Constitution. Reflecting the experiences and lessons under the two previous constitutions, the Constitution of the Second Republic contained a number of so-called immutable or eternity clauses—provisions of the Constitution, including the supremacy clause, the right of access to the Supreme Court to challenge the constitutionality of an act or enactment, the prohibition against a one-party state, and the constitutional amendment procedure, which could not be amended at all.¹⁵⁵ A second category of provisions, more extensive than the first, could not be amended “in any way that may detract or derogate from any such provision or the principles embodied in any such provisions.”¹⁵⁶ In effect, provisions in this second category were protected against regressive amendments by subjecting an attempted amendment of any such provision to judicial challenge on grounds of unconstitutionality.

9.18 The Constitution of the Third Republic (1979) made thirty-four individual provisions plus all of the provisions of three chapters of the Constitution amendable only through a referendum. The remainder of the provisions of the Constitution could only be amended if they each secured the votes or approval of two-thirds of all local government councils, two-thirds of all members of the Council of State, and two-thirds of all members of Parliament.

9.19. Ghana's tradition of strong constitutional entrenchment fits the comparative pattern. New democracies emerging from an authoritarian era tend to adopt hyper- or

¹⁵⁵ Constitution of the Republic of Ghana, 1969, article 169(3) (“Parliament shall have no power to amend this clause, the preceding clauses of this article, any provisions of Chapter One, and articles 127, 149 and 153 of this Constitution.”)

¹⁵⁶ *Ibid.*, Article 169(4).

strong entrenchment in their immediate post-authoritarian constitutions. For example, the Brazilian Constitution of 1988 contains an expansive catalogue of immutable clauses.

9.20 In its review, the Committee noted the extensive range of provisions that the 1992 Constitution classifies as entrenched. These include: (a) the foundational clauses on the Constitution itself (articles 1, 2 and 3); (b) the provisions on the territories of Ghana (articles 4 and 5); (c) the Laws of Ghana (article 11); (d) the entire Chapter on Fundamental Human Rights and Freedoms; (e) key provisions on representation of the people (articles 42, 43, 46, 49, 55 and 56); (f) the entire chapter on the Executive (Chapter 8); (g) the Legislature (articles 93 and 106); (h) the Judiciary (articles 125, 127, 129, 145 and 146); (i) freedom and independence of the media (article 162(1) to (5)); (j) finance provisions (articles 174 and 187); (k) the Police Service (article 200); (l) the Armed Forces (article 210); (m) the Commission on Human Rights and Administrative Justice (articles 216 and 225); (n) the National Commission for Civic Education (article 231); (o) decentralisation and local government (articles 240 and 252); (p) chieftaincy (article 270); (q) the code of conduct for public officers (article 286); (r) the amendment procedure itself (Chapter 25); and (s) miscellaneous provisions (articles 293 and 299).

9.21 The sheer breadth of this entrenchment list illustrates the scale of constitutional provisions that require a referendum to amend, and it directly shapes the practical difficulties identified in this section. As a mode of amendment, the referendum route can only be used very sparingly because of the unique challenges associated with it.¹⁵⁷ Not only are the minimum voter turnout (of 40%) and voter approval threshold of 75% quite stringent, the legal impracticability of putting multiple, unrelated issues together on a ballot and inviting voters to approve passage by providing a binary “yes”/“no” answer creates a major bottleneck for constitutional reform. This was, in fact, one of the principal implementation challenges associated with the output of CRC-1. A more calibrated model would retain entrenchment for a narrower set of matters central to the Constitution's identity, while allowing other currently entrenched provisions to be amended through a rigorous parliamentary process designed to engender high cross-party consensus.

9.22 Under such a framework, entrenchment would be restricted to genuinely foundational provisions. In contrast, other less foundational provisions could be amended by Parliament using a significantly elevated threshold, specifically 75 per cent

¹⁵⁷ Kofi Quashigah and Peter Atupare, Taking the Process of Amending the 1992 Constitution Forward: A Legal Perspective, IDEG Issue Brief No. 13 (2014) (arguing that it would be unconstitutional in a referendum to put multiple unrelated issues together and invite voters to approve it by providing a single, binary “yes” or “no” answer to a single question). This technical difficulty means that an attempt to amend more than one or two entrenched provisions might require a series of referenda.

of all Members (the same as the threshold for passage in a referendum). Provisions currently requiring a two-thirds parliamentary vote for amendment would remain unaffected. In effect, a three-tier system of amendment would be established, with two tiers of entrenched provisions: foundational provisions requiring a referendum and those needing a significantly enhanced parliamentary consensus (75%), and a third amendment tier requiring a regular two-thirds parliamentary supermajority.

9.23 In determining which provisions should require approval in a referendum for their amendment, the Committee adopted the principle that only clauses whose alteration would fundamentally change the identity, character or basic structure of the Constitution or the structural pillars of contemporary Ghanaian democracy ought to be subjected to the referendum pathway. Some features announce themselves, even at first sight, as foundational, e.g. supremacy of the constitution, regularity of elections, presidential term limits, access to independent courts, political pluralism, and freedom of speech and expression.

9.24 Comparative constitutional practice indicates that provisions requiring entrenchment generally fall into four principal categories:

- a. foundational state identity clauses that define the supremacy, continuity and territorial integrity of the Republic;
- b. core rights provisions, typically embodied in a dedicated bill of rights;
- c. the essential elements of the separation of powers, which secure the balance and independence of the executive, legislature and judiciary; and
- d. a narrow set of democratic guarantees, including the right to vote, the right to form political parties, the integrity of elections and the foundational protections for media freedom.

9.25 Accordingly, the Committee proposes, first, that the core clauses on the supremacy, enforcement and defence of the Constitution, and on the territory of Ghana, ought to remain entrenched. This includes Articles 1, 2, and 3, together with Article 4 on the territory of Ghana.

9.26 Second, the Committee reaffirms that the protection of fundamental human rights remains at the heart of Ghana's constitutional identity. For this reason, the Committee proposes that the Constitution's core rights guarantees be preserved within the entrenched tier. These include Articles 12(1), 17, 21(1) and 23, which articulate the foundational principles of equality, freedom, and administrative justice. Entrenching these provisions ensures that the essential character of the rights framework remains fully

insulated from alteration. The remainder of Chapter 5 would continue to enjoy full constitutional protection within the proposed new semi-entrenched tier, which will allow the rights framework to evolve coherently as new governance realities emerge.

9.27 Third, with respect to the separation of powers, the Committee does not consider it necessary to require a referendum for entire institutional chapters, but rather the key provisions that secure the basic structure of the Constitution. For the Executive, this would include only the core provisions on the status and authority of the President, as well as the two-term limit, contained in Articles 57(1)-(5), 58, 60, and 66(2). For the Legislature, entrenchment would be limited to the fundamental elements contained in article 93(2) on the vesting of legislative power in Parliament and article 106(1) and (2) on the essential requirements for the passage of legislation. For the Judiciary, only provisions which establish judicial authority and guarantee judicial independence (Articles 125 and 127) would be protected by the referendum track.

9.28 Finally, in the Committee's view, certain democratic guarantees also warrant continued entrenchment under the referendum track. The right to vote, as outlined in Article 42, and the principles governing the secrecy of public elections, as stipulated in Article 49(1), should remain entrenched because they underpin the legitimacy of representative government. Additionally, articles 55(1) and (2), which preserve the multiparty character of our democracy, should be entrenched. Similarly, the core media freedom guarantees in Article 162, particularly clauses (1) to (3) on the freedom and independence of the media, should continue to be subject to the referendum route.

9.29 The Committee considers that several provisions currently listed as entrenched should not remain in the referendum pathway because they relate primarily to institutional design, administrative arrangements or policy choices rather than to the identity or basic structure of the Constitution. These include:

- a. Article 11(7) (The laws of Ghana)
- b. The entirety of Chapter 5, other than Articles 12(1), 17, 21(1) and 23.
- c. Articles 43, 46, 49(2) - (4) (Electoral Commission membership/design)
- d. Articles 55 & 56 other than 55(1) and (2) (political party regulation)
- e. The entirety of Chapter 8, other than Articles 57(1), 58, and 66(2).
- f. Articles 174 & 187 (finance/taxation and audit administration)
- g. Articles 129, 145-146 (judicial discipline processes)
- h. Article 200 (Police/ Armed Forces internal arrangements)
- i. Article 210 (Armed Forces of Ghana)
- j. Articles 216 and 225 (Commission on Human Rights and Administrative Justice)
- k. Article 231 (National Commission for Civic Education)

- l. Articles 240 and 252 (Decentralisation and Local Government)
- m. Article 280 (Chieftaincy)
- n. Article 286 (Code of conduct for public officers)
- o. Articles 293 and 299 (Miscellaneous administrative matters and the transitional provisions).

9.30 Under the proposed framework, these provisions would migrate to an enhanced parliamentary amendment tier requiring a seventy-five per cent vote of all Members, which would preserve strong safeguards against partisan manipulation while relieving the referendum tier of matters not central to the Constitution's core identity. These provisions will now form the core of what the Committee proposes to be called the "semi-entrenched provisions".

9.31 At the same time, the absence of a referendum requirement for these provisions would make the amendment process more technically manageable, less vulnerable to administrative obstacles, and more responsive to broad national consensus. The semi-entrenched tier thus becomes a meaningful middle ground: rigorous enough to safeguard constitutional stability, yet sufficiently practical to allow necessary reforms that enjoy strong cross-party support to move forward.

Recommendation

9.32 The Committee reasons that the current constitutional amendment framework outlined in Article 290 of Chapter Twenty-Five results in an excessively entrenched and, by extension, a highly rigid Constitution. The Committee believes that the impulse to over-entrench at the time of the 1992 Constitution's framing may have been borne out of a genuine desire to safeguard against opportunistic changes to provisions such as the two-term limit on the presidential office, the guarantee of multi-party democracy, and the freedom to form political parties. The Committee is of the view that all of the Constitution's "sacred cows" - the provisions that vast majorities of Ghanaians rightfully hold dear - can continue to be protected through firm entrenchment, while leaving reasonable room for periodic or episodic governance-enhancing reforms to take place with substantial cross-party support in Parliament.

The Committee accordingly recommends an amendment to Chapter 25 of the Constitution to introduce a third amendment route - to be known as the **semi-entrenched provisions** - under which certain non-foundational or less foundational provisions of the Constitution that are now amendable only via a Referendum may be

amended by an enhanced parliamentary majority of not less than seventy-five per cent of all Members of Parliament.

The Committee recommends that only the following provisions, considered as forming part of the “basic structure” or critical democratic safeguards of the Constitution, should remain entrenched and amendable by referendum:

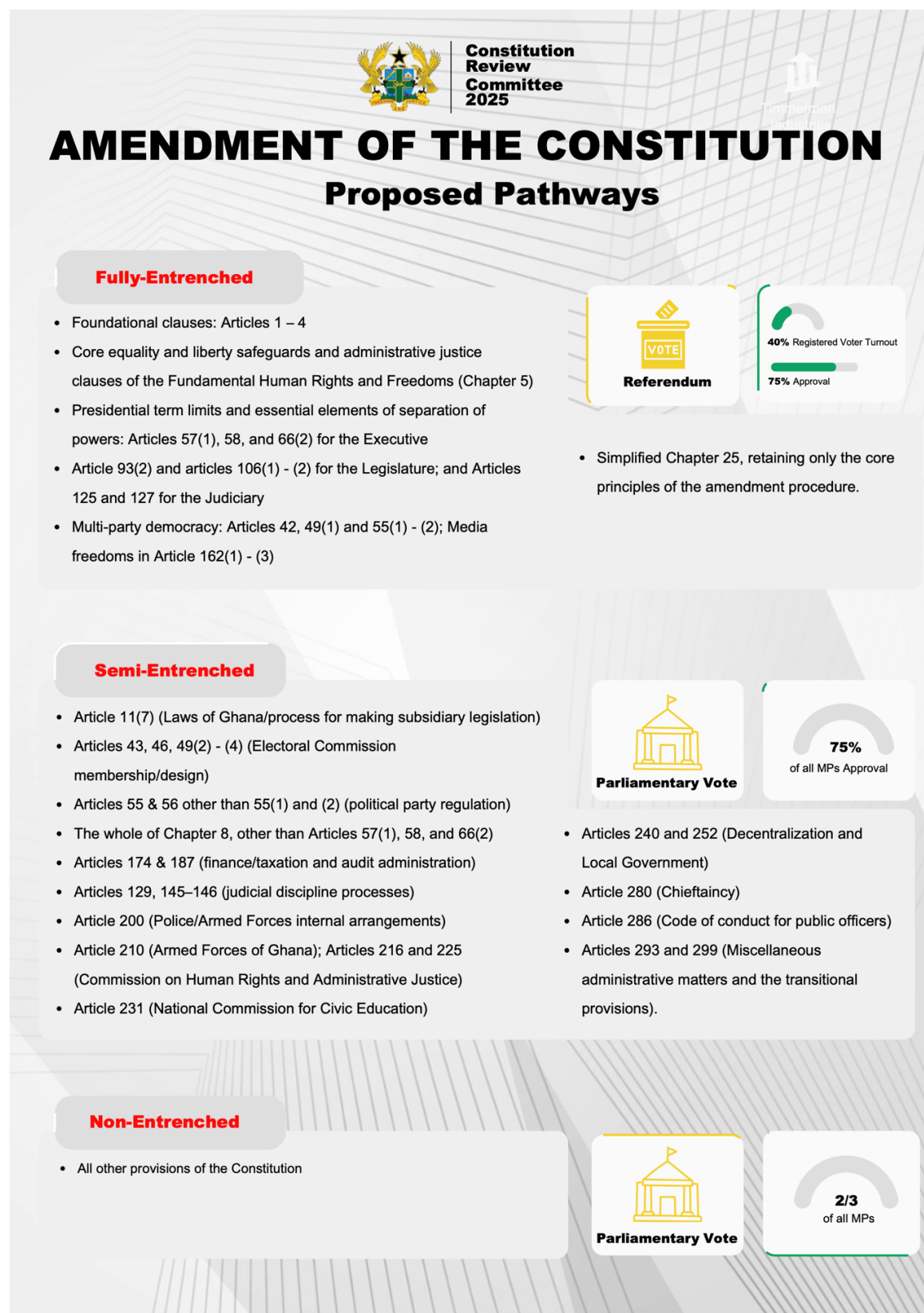
- a. Full entrenchment via a referendum should be reserved exclusively for core provisions that define the identity and basic structure of the Constitution. These provisions, identified in paragraphs 23-25, are listed below:
 1. Foundational identity clauses, including articles 1 - 4;
 2. The core equality and liberty safeguards and administrative justice clauses of the Fundamental Human Rights and Freedoms (Chapter 5);
 3. Presidential term limits and essential elements of the separation of powers: articles 57(1), 58, and 66(2) for the Executive; article 93(2) and articles 106(1) - (2) for the Legislature; and articles 125 and 127 for the Judiciary;
 4. Core guarantees of Ghana’s multi-party democracy: (including articles 42, 49(1) and 55(1) - (2));
 5. Core media freedoms in article 162(1) - (3);
 6. A simplified Chapter 25, retaining only the core principles of the amendment procedure.
- b. All other formerly entrenched provisions should migrate to the proposed semi-entrenched amendment route requiring the support of at least seventy-five per cent of all Members of Parliament. In contrast, the originally non-entrenched provisions would retain their existing status under the two-thirds majority requirement. The Committee proposes that the following should migrate to the proposed semi-entrenched tier because they do not define the basic structure of the Constitution, but should require approval by not less than seventy-five per cent of all Members of Parliament:
 1. Article 11(7) (The laws of Ghana/process for making subsidiary legislation)
 2. Articles 43, 46, 49(2) - (4) (Electoral Commission membership/design)
 3. Articles 55 & 56 other than 55(1) and (2) (political party regulation)
 4. The rest of Chapter 8, other than Articles 57(1), 58, and 66(2).
 5. Articles 174 & 187 (finance/taxation and audit administration)
 6. Articles 129, 145-146 (judicial discipline processes)
 7. Article 200 (Police/ Armed Forces internal arrangements)
 8. Article 210 (Armed Forces of Ghana)

9. Articles 216 and 225 (Commission on Human Rights and Administrative Justice)
10. Article 231 (National Commission for Civic Education)
11. Articles 240 and 252 (Decentralisation and Local Government)
12. Article 280 (Chieftaincy)
13. Article 286 (Code of conduct for public officers)
14. Articles 293 and 299 (Miscellaneous administrative matters and the transitional provisions)

c. The Committee further recommends that all remaining provisions of the Constitution not listed as entrenched or semi-entrenched shall continue to be amended as non-entrenched provisions in accordance with the existing requirement of approval by not less than two-thirds of all Members of Parliament.

d. That Chapter 25 should be simplified so that only the core principles of the amendment procedure remain entrenched, with procedural detail moved to the semi-entrenched tier.

Diagram: Amendment of the Constitution – Proposed Pathways



B. Popular Initiative in Constitutional Amendment

9.33 The Committee's review of the amendment framework also considered the place of citizen participation in initiating or shaping constitutional reform. Under the current Chapter 25, constitutional amendments may only be initiated by the political branches. While citizens are currently able to elicit the support of an MP to propose ordinary legislation via the Private Member's Bill route, the Committee is of the view that the Private Member's Bill is not the appropriate route for a citizen to initiate the processes for an amendment to the Constitution. No provision currently exists for citizens to trigger a public deliberation on constitutional issues, or to require Parliament to consider amendment proposals supported by a threshold of the population.

9.34 In its deliberations, the Committee was guided by two considerations. First, that the Constitution derives its legitimacy from the people, and that the capacity to propose constitutional change is a meaningful expression of constitutional ownership. Second, that popular initiative mechanisms must be designed with appropriate guardrails to protect the coherence of the constitutional order and prevent attempts to dilute rights or undermine democratic values. The Committee therefore sought an approach that enhances participation while maintaining constitutional integrity.

9.35 Comparative practice demonstrates that citizen-initiated amendment is neither uncommon nor destabilising when structured appropriately. Jurisdictions such as Kenya, Switzerland, Uruguay, and several U.S. states allow citizens to directly propose constitutional amendments upon securing prescribed signature thresholds, subject to strict verification, judicial review of subject-matter admissibility, and parliamentary involvement at key stages. In these systems, popular initiative has operated as a complement rather than as an alternative to representative institutions, ensuring that constitutional questions of broad and sustained public concern reach the formal agenda without undermining the stability of the constitutional order.

9.36 Against this backdrop, the Committee considered that Ghana would benefit from introducing a formal citizen-initiated constitutional amendment process. Under such a system, citizens who meet a defined signature threshold, whether through physical or validated digital signatures, would be empowered to submit an amendment proposal to Parliament. The signature threshold should be sufficiently high to ensure seriousness and broad national support, yet not so high as to make the mechanism illusory.

9.37 In addition, the Committee also considers that embedding structured public consultation within the amendment process is itself a valuable form of citizen initiative.

Even where amendments originate in Parliament, mandatory public engagement ensures that constitutional change remains connected to the society it is intended to serve.

9.38 By requiring parliamentary proposals to amend non-entrenched provisions to undergo public hearings, stakeholder submissions, or other accessible consultation processes, the amendment framework incorporates citizen voice at an early stage and guards against a technocratic or disconnected parliamentary process. This approach treats participation as a constitutive feature of constitutional amendment, rather than an optional adjunct, thereby strengthening the legitimacy, transparency, and societal grounding of legislative-initiated reforms.

9.39 To ensure that popular initiative and participatory consultation enhance, rather than weaken, constitutional governance, the Committee proposes the following guardrails:

- a. Citizen-initiated amendments should be expressly prohibited from affecting any provision that forms part of the Constitution's fully entrenched provisions that require a referendum to amend. Any such proposal must still comply with the applicable parliamentary approval threshold, including the enhanced seventy-five per cent requirement where formerly entrenched provisions are involved.
- b. Citizen-initiated proposals should demonstrate clear and substantial nationwide support before they may be submitted to Parliament. The Committee proposes that any such initiative must be endorsed by at least five per cent of all registered voters nationwide, with signatures collected either physically or through a verified digital signature system. To ensure that proposals reflect broad national interests, rather than sectional or regionally concentrated interests, at least half of all regions should each contribute a minimum of 0.5 per cent of their registered voters toward the total signatures. In addition, no gender shall constitute less than one-third of the total number of endorsing signatories, and any proposal that fails to satisfy this minimum gender threshold shall be invalid. These thresholds are designed to ensure seriousness, national reach and sustained public backing, while keeping the mechanism practically achievable for amendments that command broad civic consensus.
- c. Once a citizen-initiated proposal satisfies the required signature and geographic and gender thresholds, it should proceed through a structured and transparent process. First, the proposal may undergo an admissibility review by the Law Reform Commission to confirm that it does not affect any entrenched provision, since, under the Committee's proposed framework, all entrenched clauses

constitute the basic structure and are therefore outside the scope of popular initiative.

- d. If the proposal is admissible, Parliament should be required to formally table it, publish it for public notice, and conduct mandatory public consultations, including hearings and opportunities for written submissions. After considering the views gathered through these consultations, Parliament must deliberate on the proposal and decide whether to adopt, amend, or reject it.
- e. Any proposal that Parliament resolves to advance after its deliberations must then proceed through the amendment pathway corresponding to the category of provision it affects. In effect, proposals concerning semi-entrenched clauses must be approved through the semi-entrenched route, requiring at least seventy-five per cent of all Members of Parliament. In contrast, proposals relating to provisions that are non-entrenched would continue to be governed by the existing two-thirds requirement.

9.40 Finally, to embed meaningful public participation into the amendment of non-entrenched provisions, the Committee considers that the existing sequence under article 291 provides several natural entry points for structured civic engagement without altering Parliament's ultimate authority. After the first Gazette publication, and before the second, Parliament or a designated committee could be required to solicit public comments, hold hearings, or invite written submissions on the substance of the proposed amendment.

9.41 Following the Bill's introduction and referral to the Council of State, a second phase of public consultation could occur, enabling citizens and stakeholder groups to contribute views that would inform both the Council of State's advice and Parliament's subsequent deliberations. These participation requirements would not modify the constitutional procedure outlined in Article 291, but would operate alongside it as statutory obligations, ensuring that amendments proceed only after the public has had a structured opportunity to understand, debate, and influence the proposal. Embedding participation in this way transforms the non-entrenched amendment process from a largely internal parliamentary exercise into a transparent, deliberative one, without undermining parliamentary authority or altering constitutional thresholds.

Recommendation

9.42 In light of the foregoing analysis, the Committee recommends:

1. The introduction of a structured popular initiative mechanism and the embedding of mandatory public participation within the amendment of non-entrenched provisions.
2. The Citizen-initiated amendments should be inadmissible if they seek to alter any entrenched provision.
3. That a citizen proposal should be supported by at least five per cent of registered voters nationwide, with signatures collected physically or through a verified digital system. To ensure geographical breadth, at least half of all regions must each contribute a minimum of 0.5 per cent of their registered voters. In addition, no gender shall constitute less than one-third of the total number of endorsing signatories, and any proposal that fails to satisfy this minimum gender threshold shall be invalid.
4. That once support thresholds are met, the Law Reform Commission should conduct a subject-matter admissibility review to confirm that no basic-structure clause is implicated. Parliament must then table the proposal, publish it for public notice, and conduct mandatory public consultations. Afterwards, it will deliberate and decide whether to adopt, amend, or reject the proposal.
5. That any initiative approved at the admissibility stage must proceed through the appropriate parliamentary amendment route: where the proposal touches a provision previously entrenched, it shall require the enhanced seventy-five per cent majority of all Members of Parliament; where it concerns a provision that has always been non-entrenched, it shall follow the existing two-thirds majority requirement.
6. That, without altering article 291, legislation should embed mandatory public participation within the amendment of non-entrenched provisions by requiring:
 - a. public consultations between the first and second Gazette publications;
 - b. structured opportunities for citizens and stakeholders to submit views during and after the Council of State review; and
 - c. publication of consultation reports as part of Parliament's deliberative record.

C. The Problem of Constitutional Obsolescence

9.43 The Committee also reflected on the broader challenge of constitutional obsolescence in the context of Ghana's thirty-year constitutional experience. Constitutions, by their nature, bear the imprint of the historical moment in which they are drafted. They capture the anxieties, priorities, political bargains and institutional imaginaries of a particular generation.

9.44 Over time, however, new social expectations emerge, economic and governance challenges evolve, and subsequent generations develop distinct conceptions of justice, accountability, participation and state responsibility. A constitution that does not meaningfully update or renew its engagement with these shifting societal realities risks gradually losing resonance, legitimacy and interpretive coherence.

9.45 This concern is not unique to Ghana. Comparative constitutional practice demonstrates that even highly stable democracies face the persistent tension between constitutional permanence and societal transformation. Some jurisdictions respond by incorporating periodic review mechanisms directly into their constitutional architecture; others rely on structured review commissions, consultative processes, or mandatory parliamentary reflection at regular intervals.

9.46 In its review, the Committee observed that Ghana's Constitution contains no mechanism for periodic or generational reflection on its performance, relevance or alignment with contemporary aspirations. Over time, this increases the risk that the Constitution will become progressively misaligned with current governance realities, technological developments, demographic shifts, and the evolving expectations of younger generations.

9.47 The Committee notes that the question of periodic constitutional review was also raised during the work of the CRC-1. In its Report, the CRC-1 recorded submissions calling for the establishment of a permanent body to undertake periodic assessments of the Constitution and to identify its strengths and weaknesses on a continuous basis. The CRC-1 reviewed comparative experiences, including those of Zambia, India, Ireland, and the Solomon Islands, where executive-appointed commissions or parliamentary committees periodically review constitutional arrangements. It also considered jurisdictions such as Micronesia, Palau, and Portugal that have constitutions that prescribe review intervals.

9.48 Although the CRC-1 discussed these models and acknowledged public support for a mechanism of ongoing review, it ultimately made no specific recommendation on the matter. The Committee revisits the issue, recognising that the underlying concern has persisted: the risk that, over time, the Constitution may drift out of alignment with contemporary aspirations unless structured, recurring opportunities for reflection are institutionalised.

9.49 The Committee was guided by the principle that each generation is entitled to live under a constitutional order that meaningfully reflects its values, choices and aspirations, even while remaining tethered to foundational principles that ensure continuity and stability. A living constitution, therefore, requires mechanisms that allow society to periodically “take the pulse” of the constitutional order, assess its performance, identify emerging gaps, and consider whether adjustments are necessary. Importantly, the purpose of such mechanisms is not to encourage routine amendment, but to maintain a structured dialogue between constitutional text and constitutional experience.

9.50 Accordingly, the Committee considers that Ghana would benefit from institutionalising a system of periodic constitutional review, even where such review does not necessarily lead to amendment. This could take several forms: a parliamentary committee mandated to conduct a comprehensive review every fifteen or twenty years; a standing expert advisory body such as the Law Reform Commission tasked with assessing constitutional performance and proposing areas for reflection; or a citizen-participatory forum convened at regular intervals to evaluate how well the Constitution addresses contemporary governance challenges. These mechanisms would create a predictable and deliberative space for constitutional discourse, ensuring that concerns are identified early and preventing reform debates from emerging only in moments of crisis or political tension.

9.51 Such periodic review structures also serve an important democratic function. They make constitutional conversation continuous rather than episodic; they encourage intergenerational engagement with the constitutional text; and they help ensure that constitutional meaning evolves through public deliberation rather than solely through adjudication or political negotiation. In this regard, periodic review becomes a core component of maintaining a living constitution, thus preserving continuity while remaining attuned to societal evolution.

9.52 Finally, the Committee notes that institutionalising a periodic review mechanism will enhance constitutional stability. By providing an orderly and predictable avenue for evaluating the adequacy of constitutional arrangements, periodic review reduces the risk

of abrupt or reactive reforms. It enhances transparency, deepens public engagement, and strengthens the relationship between constitutional norms and social realities. In this way, periodic review serves as an essential complement to the amendment framework, ensuring that the Constitution remains both enduring and responsive across generations.

9.53 Accordingly, the Committee considers that Ghana would benefit from institutionalising a system of periodic constitutional review, even where such review does not necessarily lead to amendment. Notably, the Committee notes that such a mechanism need not be incorporated in the Constitution itself. It can be established through ordinary legislation, which may create the framework, mandate and timetable for periodic review and public engagement.

9.54 Through legislation, Parliament may, for example, constitute a standing committee with responsibility for conducting a comprehensive review every fifteen or twenty years; establish an expert constitutional advisory body mandated to monitor constitutional performance; or provide for a recurring national consultative process through which citizens and institutions can articulate concerns and proposals.

9.55 Legislation thus offers a flexible and accessible means of ensuring that constitutional reflection becomes a regular feature of Ghana's democratic practice, without requiring an amendment to create the mechanism.

Recommendation

9.56 In light of the foregoing deliberation, the Committee recommends:

The Committee recommends that Parliament be mandated to enact legislation providing for a structured system of periodic constitutional review, conducted at intervals of 25 years, by an appropriate institutional body. This system should incorporate mandatory public participation and the publication of review reports, ensuring that the Constitution remains aligned with evolving societal needs and expectations.

Subchapter 2: The Problem of Private Bodies in the Constitution

Introduction

9.57 In the course of its work, the Committee identified a structural challenge arising from the Constitution's reliance on a range of private, voluntary associations to perform constitutionally mandated representational functions. Across several chapters, the Constitution assigns nomination or consultative roles to bodies such as the National Association of Farmers and Fishermen, Retired Senior Police Officers Association, Ghana Bar Association; Judicial Service Staff Association; Publishers and Private Press Associations; Ghana Association of Writers; Ghana Library Association; Christian Council; National Catholic Secretariat; Ghana Pentecostal Council; Federation of Muslim Councils; Ahmadiyya Mission; Ghana Advertising Association; Institute of Public Relations; Ghana National Association of Teachers; National Council on Women and Development; Trades Union Congress; Association of Private Broadcasters; ; Ghana Medical Association; and Ghana Institution of Surveyors.

9.58 These organisations were neither created by the Constitution nor by statute. They are private entities whose existence, internal governance, and representational legitimacy fall entirely outside the constitutional framework.

9.59 In general, naming a private body in a national constitution is not considered best practice in legal drafting. Constitutions are difficult to amend. Naming specific private bodies in a constitution makes it hard to update the constitution if the organisation dissolves or loses its relevance. The better approach, if it is felt necessary to assign a private body a role in the constitution, is to use general, neutral language to describe the type of body that is needed or contemplated, allowing for flexibility or adaptability in representation through an act of Parliament rather than rigid constitutional text.

9.60 The Committee observed that this practice of naming non-state bodies in the Constitution dates back to the 1969 Constitution and that the 1992 Constitution's reliance on specific private associations reflects the institutional landscape of the late 1980s and early 1990s. The organisations named in the text were, at the time of drafting, among the few nationally prominent bodies capable of providing sectoral representation.

9.61 Over the past three decades, however, Ghana's civic and professional landscape has diversified significantly, with many of those originally named either evolving, fragmenting, becoming inactive or being replaced by new bodies with wider membership and stronger institutional capacity. The constitutional architecture has not kept pace with this transformation, resulting in representational provisions that no longer correspond to

the contemporary configuration of civil society, labour, professional associations or faith-based organisations.

9.62 The Committee observed that this design feature has resulted in two interlinked difficulties. First is the problem of institutional discontinuity. Considering that these bodies exist independently of the State, nothing in law guarantees their continued existence, their internal cohesion, or their capacity to perform the constitutional functions assigned to them properly.

9.63 In some instances, constitutionally named bodies have become dormant, fragmented, or ceased to exist altogether. For example, the National Council on Women and Development, expressly named in Article 166 (by amendment) as a member of the National Media Commission, no longer exists following sectoral reforms, leaving a vacancy that the constitutional text does not address. Similar concerns arise in relation to the Retired Senior Police Officers Association, referenced in Article 201, which no longer exists. In each case, the constitutional provision becomes difficult or impossible to operationalise.

9.64 The second difficulty relates to constitutional functionality and interpretive rigidity. Under a strictly textual approach, the disappearance or dysfunction of a constitutionally named private body creates a procedural deadlock. Where the Constitution mandates the participation of a specified organisation in the composition of a constitutional body, the question arises whether the organ can be properly constituted if that organisation is unable to act. Past judicial interpretations have not always provided a clear mechanism for addressing such gaps. In some instances, constitutional bodies can face operational uncertainty because nomination pathways cannot be fulfilled in accordance with the text.

9.65 The Committee also notes that the elevation of specific private organisations risks conferring upon them a structural advantage that is difficult to reconcile with constitutional values of equality, freedom of association and public accountability. Unlike public institutions, private associations are not required to adhere to constitutional standards of transparency, democratic governance or fair representation. Yet the Constitution entrusts them with gatekeeping authority over appointments to public bodies, even though their internal processes may not reflect inclusive or democratic practices. This arrangement effectively privileges the members of certain associations over other citizens, creating unequal pathways to constitutional participation and embedding sector-specific hierarchies into the constitutional order.

9.66 Furthermore, the Committee observed that the reliance on named private bodies makes the Constitution unusually vulnerable to obsolescence. As new associations emerge, sectors expand, or professional groupings diversify, the constitutional text remains tied to institutional realities of the late 1980s and early 1990s. Where the organisations named in the Constitution no longer command broad legitimacy or sectoral dominance, their continued constitutional role generates representational distortions and potential disputes over authority. Because constitutional amendment is difficult, outdated institutional references persist far beyond their practical relevance, gradually weakening the coherence and credibility of the representational framework.

9.67 Finally, the Committee finds that this model creates structural risks of state capture and elite domination. Constitutionally entrenched private bodies can become gatekeepers with disproportionate influence over national governance, particularly where leadership structures are narrow or unrepresentative. Their constitutionally conferred authority may outlast their actual legitimacy, allowing small groups to exercise enduring influence without the safeguards of public accountability.

9.68 These concerns underline the need for a future-proof representational model that preserves the value of sectoral expertise while ensuring that constitutional representation rests on transparent, contestable and publicly accountable foundations.

9.69 In light of these findings, the following sections set out the Committee’s proposals for a more durable and functional representational framework.

A. Principles for a Sustainable Representational Framework

9.70 In considering alternative models to replace or reform the Constitution’s reliance on named private bodies, the Committee was guided by a set of foundational constitutional values and design principles. These principles are intended to ensure that any future representational framework is durable, legitimate and adaptable to Ghana’s evolving institutional landscape.

9.71 Public accountability and transparency form the first pillar. Constitutional representation must be exercised by bodies whose internal governance arrangements meet minimum standards of openness, ethical conduct and procedural fairness. Where an organisation performs a constitutional function, it should not do so based on private rules alone. Instead, the framework should require demonstrable compliance with transparent processes, clear membership criteria and accountable decision-making

structures. These safeguards are essential if the constitutional system is to avoid delegating public authority to opaque or self-selecting groups.

9.72 A second guiding principle is openness, contestability, and equality of access. The Committee considers that no private organisation should enjoy a constitutionally entrenched monopoly over sectoral representation. A sustainable model must therefore create avenues through which other credible bodies, including newly formed or reformed associations, can participate where they demonstrably represent relevant constituencies. This ensures that representation is not restricted to legacy organisations and that all persons within a sector enjoy equal civic opportunities. By tying representation to demonstrable functional competence rather than organisational identity, the Constitution will preserve the value of expert input while avoiding the pitfalls of institutional rigidity.

9.73 The Committee also considered institutional durability and future-proofing. A representational model anchored in the identity of specific private organisations cannot adapt easily to shifts in Ghana's socio-economic landscape. Instead, the Constitution should rely on generic institutional categories or functional criteria that remain valid even as particular organisations emerge, merge, dissolve or diversify.

9.74 Closely related is the principle of state neutrality and the avoidance of preferential treatment. The Constitution should not be the vehicle through which the State endorses particular private bodies or confers structural advantage upon them. Doing so not only risks distorting civic competition but also places the State in a position of perpetual dependence on the internal fortunes of organisations beyond its control. A neutral, function-based model reduces these risks and aligns with constitutional expectations of fairness and even-handedness.

9.75 Together, these normative principles provide the benchmarks against which the Committee evaluated potential reform options.

B. Legislative Framework for Operationalising the New Model

9.76 The Committee proposes that the governance of constitutional nominations by professional bodies and civil society organisations should be regulated through an enabling Act of Parliament rather than through direct naming of private entities in the constitutional text.

9.77 To this end, Parliament must enact a Constitutional Nominations (Professional Bodies and Civil Society Representation) Act to prescribe the procedures, criteria and

safeguards by which recognised professional bodies, civil society organisations and other voluntary associations nominate representatives to constitutional bodies. Such an Act would ensure that nomination processes are governed by transparent, uniform and accountable rules, while maintaining the flexibility necessary to adapt to Ghana's evolving institutional landscape.

9.78 This legislative approach is justified for several reasons. First, it provides certainty and clarity. Parliament is the institution best placed to develop uniform standards for nomination and representation across sectors, thereby avoiding the inconsistencies and disputes that arise from ad hoc arrangements. Without such a framework, nomination processes are vulnerable to capture by dominant interests, particularly where private associations lack clear internal accountability mechanisms.

9.79 Second, operationalising nomination procedures through legislation enhances transparency, inclusivity, and democratic oversight. An Act of Parliament can impose meaningful safeguards to ensure that nominations are participatory, broadly consultative and reflective of Ghana's constitutional values. It may, for example, require engagement with multiple associations within a field; mandate transparent internal selection processes; or introduce rotation mechanisms to prevent monopolisation by a single organisation.

9.80 Adopting this new framework would require targeted constitutional amendments to remove all direct references to specific private bodies while preserving the representational function intended by the framers. Provisions that currently assign constitutional nomination or consultation roles to named associations would be revised to refer instead to "a representative nominated in accordance with an Act of Parliament" or a similar formulation. This would affect, for example, articles that presently mention the Ghana Bar Association, the Trades Union Congress, the Christian Council, the National Catholic Secretariat, the Federation of Muslim Councils, and other designated private bodies.

9.81 The substantive role of these groups in contributing sectoral expertise or societal perspectives would remain intact, but the Constitution would no longer tie representational rights to the continued existence or dominance of any particular association. Instead, the new enabling Act would determine which organisations qualify to participate in nomination processes, how they are recognised, how they demonstrate representativeness, and how accountability and transparency are ensured. These amendments are narrowly tailored, removing only the rigid textual references while

safeguarding the underlying constitutional purpose of securing broad and informed civic participation.

Recommendation

9.82 The Committee recommends amendments to the Constitution to remove all direct references to specific private associations in Articles 153, 157, 166, 201, 204, 206, 209, 259 and 261, replacing them with neutral formulations providing for representatives to be nominated in accordance with procedures prescribed by an Act of Parliament, and further recommends that the Act prescribe the procedures, criteria and safeguards by which recognised professional bodies, civil society organisations and other voluntary associations shall nominate representatives to constitutional bodies in a manner that ensures transparency, inclusivity and institutional continuity.

The following articles, therefore, require redrafting to replace named bodies with a neutral formulation that refers instead to representatives nominated in accordance with procedures prescribed by an Act of Parliament.

A. Judicial Service and the Courts

a. Article 153 – Judicial Council

1. 153(f) – “Two representatives of the Ghana Bar Association...”
2. 153(l) – “A representative of the Judicial Service Staff Association...”

b. Article 157(1) – Rules of Court Committee

1. 157(1)(c) – “Two lawyers...nominated by the Ghana Bar Association...”

B. National Media Commission

1. Article 166(a) – Representatives nominated by private bodies

1. 166(a)(i) – Ghana Bar Association
2. 166(a)(ii) – Publishers & owners of the private press
3. 166(a)(iii) – Ghana Association of Writers and Ghana Library Association
4. 166(a)(iv) – Christian group (National Catholic Secretariat, Christian Council, Ghana Pentecostal Council)
5. 166(a)(v) – Federation of Muslim Councils and Ahmadiyya Mission
6. 166(a)(vii) – Ghana Advertising Association & Institute of Public Relations
7. 166(a)(viii) – Ghana National Association of Teachers
8. 166(a)(ix) – National Council on Women and Development

9. 166(a)(x) – Trades Union Congress
 10. 166(a)(xi) – Association of Private Broadcasters
2. Article 166(b) – “Two representatives nominated by the Ghana Journalists Association...”
- C. Security Services
1. Article 201 – Police Council
 1. 201(e) – Lawyer nominated by the Ghana Bar Association
 2. 201(f) – Representative of the Retired Senior Police Officers Association
 2. Article 204(d) – Regional Police Committees
 1. Lawyer nominated by the Ghana Bar Association
 3. Article 206 – Prisons Service Council
 1. 206(d) – Medical practitioner nominated by the Ghana Medical Association
 2. 206(e) – Lawyer nominated by the Ghana Bar Association
 3. 206(h) – Representative of religious bodies appointed by the President
 4. Article 209 – Regional Prisons Committees
 1. 209(1)(d) – Lawyer nominated by the Ghana Bar Association
 2. 209(1)(f) – Medical practitioner nominated by the Ghana Medical Association
 3. 209(1)(i) – Religious representatives selected by Regional Minister
- D. Lands Commission and Related Bodies
1. Article 259(b) – Lands Commission
 1. 259(b)(ii) – Ghana Bar Association
 2. 259(b)(iii) – Ghana Institution of Surveyors
 3. 259(b)(vi) – National Association of Farmers and Fishermen
 2. Article 261 – Regional Lands Commission
 1. 261(c) – Lawyer nominated by the Ghana Bar Association
 2. 261(d) – Surveyor nominated by the Ghana Institute of Surveyors.
 3. 261(e) – National Association of Farmers and Fishermen.

C1 Short Biographies of Committee Members

Prof. Henry Kwasi Prempeh
Chairperson

Henry Kwasi Prempeh has been the Executive Director of Ghana Center for Democratic Development (CDD-Ghana) since 2019, having previously served as its Director of Legal Policy and Governance and a founding board member. From 2003 to 2015, he was a tenured professor at Seton Hall University School of Law (NJ, USA), teaching courses and seminars in constitutional law, comparative constitutional design, and corporate law, among others. He has also been a visiting professor at GIMPA Law School and Central European University (Budapest, Hungary), where he has co-taught the "Constitution Building in Africa" course since 2014. His international work includes serving as a constitutional adviser to the UN Special Envoy to Yemen in connection with the design and writing of a post-conflict constitution for the Middle Eastern country, consulting on constitutional reforms in South Sudan and The Gambia, and serving multiple times as a resource person to the Kenyan Supreme Court on constitutional and election adjudication matters. Previously, he practised as an attorney in Washington, D.C., with O'Melveny & Myers LLP and Cleary Gottlieb Steen & Hamilton. Prempeh holds a Juris Doctor from Yale Law School, where he was appointed a Coker Fellow (Teaching Assistant) and served as Editor/Notes Editor on the *Yale Law Journal*. He also has an MBA from Baylor University, Texas, and a BSc (Admin) degree from the University of Ghana Business School. Prempeh was awarded the Order of the Volta in 2023 for his role as special counsel in the Ghana-Côte d'Ivoire Maritime Boundary Delimitation case. He served on the Ghana Law Reform Commission from 2017 to 2024 and was Richard von Weizsäcker Fellow (2024) at the Robert Bosch Academy, Berlin.

Dr. Rainer Akumperigya, Esq.
Member-Secretary

Dr. Rainer Akumperigya is a founding partner at Partners and Associates, an Accra-based law firm specializing in legal consultancy for corporate entities and international oil companies. With over a decade of experience in litigation, he has played a key role in a number of corporate mergers and joint ventures. Dr. Akumperigya has lectured in an adjunct or guest lecturer capacity at law faculties in Ghana, including UPSA Law School and GIMPA Law School, and at the CAS European Institute, and authored or co-authored various academic publications. His principal academic and research interests are in the areas of constitutional theory and practice, upstream risk governance and land law management systems in Africa. Dr. Akumperigya holds a Ph.D in Law and Master of Laws (LL.M) from the University of Aberdeen, UK., a Bachelor of Laws (LL.B) from the University of Ghana and a Qualifying Certificate of Law (B.L) from the Ghana School of Law.

Her Ladyship Justice (Mrs.) Sophia O.A. Adinyira

Justice (Mrs.) Sophia O. A. Adinyira (née Ohene) retired from the bench in 2019 after a distinguished thirty-year career, thirteen of those years as a Justice of the Supreme Court, having previously sat on the Court of Appeal and the High Court. Justice Adinyira chaired the Judicial Training Institute (2017-19) and the Council for Law Reporting (2015-16). She also served as a member of the Judicial Council (2015-2017) and the General Legal Council (2013-2019) and was an external examiner in Family Law and practice for the Ghana School of Law (2010-2015). At the international level, Justice Adinyira served as a Judge of the United Nations Appeals Tribunal (UNAT), becoming President, Second and First Vice-President of UNAT at various times from 2009 to 2016. Justice Adinyira has participated in several national and international conferences, seminars and training programs and delivered public lectures and papers on a wide range of subjects, including gender and human rights, child protection, juvenile justice, access to justice, judicial integrity, and tackling judicial corruption and ensuring efficient case management. Prior to her appointment to the bench in 1989, Justice Adinyira served as a State Attorney in the Attorney-General's Department, rising to the position of Principal State Attorney. Justice Adinyira was called to the Ghana bar in 1973, having received her LLB (Hons.) and Qualifying Certificate of Law (BL) from the University of Ghana. In 2010, she was awarded the UNCRC@20 Award by the Department of Children (MOWAC) in recognition of her contribution towards enhancing the Destiny of the Ghanaian child. She has been actively involved in Church Ecumenism from 1998 to 2013, having served as the Vice Moderator of the World Council of Churches in Geneva from 1998 to 2006. Currently, she concentrates on her role in the Anglican Church of Ghana, where she serves as Chancellor of the Anglican Diocese of Koforidua, and Provincial Chancellor of the Church of the Province of West Africa (Anglican Communion). She is an immediate past member of the Governing Council of the Anglican University College of Technology, Nkoranza.

Ms. Charlotte A. Kesson-Smith Osei, Esq.

Mrs. Osei has over 30 years' experience as a lawyer, with professional expertise across the private, public, and not-for-profit sectors. She is a former chair of Ghana's Electoral Commission and, before that, of the National Commission for Civic Education (NCCE), becoming the first person/woman to head both independent constitutional bodies. She has held several key international roles, including serving as President of the African Association of Election Authorities, Vice Chairperson of the Executive Board of the African Capacity Building Foundation, and a UN-appointed International Elections Commissioner in Afghanistan, where she helped strengthen electoral dispute resolution. She has also led ECOWAS election missions in Liberia, Nigeria, and Sierra Leone and serves as a non-executive director of the Electoral Institute for Sustainable Democracy in Africa. A Barrister and Solicitor of Ghana's Supreme Court since 1994, Charlotte Osei is Founder and Managing Consultant of Cyrus Law, a boutique business law firm in Accra, with a practice focus on wealth and legacy law, public-private partnerships and family businesses. She holds a Master of Laws (LL.M) from Queen's University, Kingston, Canada, a Master's in Business Leadership from the University of South Africa, Pretoria, and a Bachelor of Laws (LL.B) Hons degree from the University of Ghana, Legon.

Dr. Esi E. Ansah

Dr. Esi E. Ansah is the Executive Director of the Center for Leadership at Ashesi University, where she designs and delivers leadership programs for senior executives across various sectors. With over 20 years of experience in higher education and corporate Ghana, she specialises in leadership development, Human Resource consulting, service quality, social entrepreneurship, and public sector reform. She holds three bachelor's degrees in Psychology, International Affairs, and French from Florida State University, a Master of Arts (M.A) in Social Sciences from the University of Chicago, a Master of Science (MSc.) in Public Service Management from DePaul University, and a Ph.D in Public Administration from Rutgers University, all in the United States. Since joining Ashesi University in 2008, she has taught Leadership, Human Resource Management, Negotiation, and Organisational Behaviour, receiving multiple awards for her effective teaching style. She also founded Axis Human Capital Ltd., providing corporate training and career coaching for over 16 years. Passionate about social impact, she established the Association of Ghana's Elders (AGE) in 2013 to support and advocate on behalf of senior citizens. She climbed Mt. Kilimanjaro in 2015 to raise awareness and funds for AGE. Dr. Ansah serves on several boards and is a Fellow of the Aspen Institute's Africa Leadership Initiative – West Africa (ALIWA) and an active member of the Legon Interdenominational Church (LIC).

Prof. Kwame Karikari

Professor Kwame Karikari has had a distinguished career as a journalist, activist, and academic. He retired as a Professor of Journalism and Mass Communication at the University of Ghana, where he also served as Director of the School of Communications. He later became Dean of Communication Studies at Wisconsin University (Ghana). His public service and leadership roles include serving as Director-General of the Ghana Broadcasting Corporation (1982-1984), Chairperson of the Graphic Communications Group Limited (2012-2018) and a member of the National Media Commission. Professor Karikari started his journalism career with various local newspapers in the U.S., including the Augusta Weekly and Africa News, before returning to Ghana in 1979 to begin his academic career. A committed freedom of expression and social justice activist, he founded and led the Media Foundation for West Africa (MFWA), has consulted for UNESCO, ECOWAS, served on the Press Freedom Commission of South Africa, and other international media and human rights organisations, and organized journalism workshops across Africa. A trained teacher, Professor Karikari studied at Komenda Training College and Advanced Teacher Training College (now University of Education, Winneba) before earning a Bachelor of Arts (B.A) in Philosophy and Political Science from the City College of New York and a Master of Arts (M.A) in Journalism from Columbia University. In 2023, the University of Ghana awarded him an honorary Doctor of Letters for his contributions to press freedom and journalism.

Alhaji Ibrahim-Tanko Amidu

Alhaji Ibrahim-Tanko Amidu is a social development expert with over 30 years' experience in development management, social development and institutional and organisational strengthening. He has led the development and implementation of programmes and initiatives to improve the governance of public goods and services delivery in Ghana, promote democratic, accountable and responsive governance, strengthen institutions, and build and enhance peace and security. He is currently the Executive Director of STAR-Ghana Foundation. A national centre for active citizenship and local philanthropy, the Foundation works to strengthen civil society and enable citizens to engage with State and non-state actors to ensure accountable, transparent, and responsive governance. Widely respected as a thought leader on issues of inclusive and sustainable development, peace and security and good governance, Alhaji Ibrahim-Tanko has spoken and led discussions on these issues at various international, national, and local forums. His contributions have earned him numerous awards, including the World Bank's first Leadership Prize for Social Accountability in Africa. He was made an Honorary Fellow by the Ghana Institute of Directors in 2018 and sits on the boards of a number of international, national and local civil society organisations. Ibrahim-Tanko holds a Master's degree in Social Policy from the Centre for Social Policy Studies, University of Ghana, Legon and a Bachelor's degree in Administration from the School of Administration, University of Ghana, Legon. He is currently pursuing a PhD in Social Policy at the University of Ghana, Legon.

Dr. Godwin Djokoto

Dr. Godwin Djokoto is a Senior Lecturer at the University of Ghana School of Law, where his teaching and scholarship interests include Immovable Property Law, Banking Law, Equity and Succession, Contract Law, Ocean Law and Policy, and International Maritime Conflict Management. He is the Coordinator of the Ocean Governance Project at the University of Ghana, Legon and has extensive legal consultancy and private practice experience in banking, fisheries management, land law, and construction regulation.. Dr. Djokoto has played key roles in international and national ocean, and maritime governance and international law. He served as the legal consultant on the expert panel for Ghana's Ocean Governance Study (2023); Counsel on the legal and technical team representing Ghana in the Ghana-Côte d'Ivoire Maritime Boundary Dispute before the International Tribunal for the Law of the Sea (ITLOS) and in the Office of the Prosecutor at the International Criminal Court (ICC) in The Hague as an intern. He has also worked as a member of the Expert Panel appointed by the Food and Agriculture Organisation (FAO) and the International Institute for Environment and Development (IIED) on developing governance guidelines for land, forestry, and fisheries. Dr. Djokoto is also one of Ghana's representatives on the Technical Working Group revising the Gulf of Guinea Commission Treaty. A member of the Commonwealth Lawyers Association, International Law Association, World Jurist Association, and Ghana Bar Association, Dr. Djokoto has authored peer-reviewed articles, "The Law of Mortgages in Ghana," and serves as Editor of the Commercial Law Reports of Ghana. He holds a Ph.D. from the Australian National Centre for Ocean Resources and Security (ANCORS) at the University of Wollongong, Australia, a Master of Laws (LL.M) from Schulich School of Law, Dalhousie University, Canada, and a Bachelor of Laws (LL.B) from the University of Ghana, Legon. After completing his Qualifying Certificate of Law (QCL) at the Ghana School of Law, he was called to the Ghana Bar in 2003. He was awarded the Order of the Volta, Companion, in 2023 for his role in connection with the Ghana-Côte d'Ivoire Maritime Boundary Delimitation Dispute before ITLOS in Hamburg.

C2 Secretariat Staff

No	Name	Role
1	Kwaku Antwi-Boasiako	Project Coordinator
2	Noah Ephraem Tetteh Adamtey, Esq.	Research Lead & Report Drafting
3	Eric Owusu Mensah	Parliamentary Liaison
4	Tigura P. Ateiwah, Esq.	Researcher & Report Drafting
5	Aretha Bamford, Esq.	Researcher & Report Drafting
6	Kwesi Mfodwo	Researcher & Documentation
7	Victor Nsoh Azure, Esq.	Researcher & Report Drafting
8	Takyi Stephen Adu-Amankwah, Esq.	Researcher
9	Patience Asabagna, Esq.	Research Assistant
10	Hebah Abdul Nazir Muktar, Esq.	Research Intern
11	Thomas Clarkson Akurugu	Finance Officer
12	Courage Asare	IT & Communications
13	Abigail Manu	Programs Officer & Exec. Admin.
14	Ivy Ayinsongya Bopam	Admin. Assistant
15	Rebecca Normenyo	Admin. Assistant
16	Johnson Oussale	Photography
17	Samuel Boateng	Photography

C3 CRC2025: Stakeholder Engagements

Thematic Stakeholder Engagements

No.	Date	Thematic Engagement	Participants
1	March 18-19	Lands and Natural Resources	38
2	March 20-21	Decentralisation and Local Governance & Chieftaincy	44
3	March 24-25	Public Services & Enterprises; Code of Conduct for Public Officers, & Exercise of Discretionary Power (Art. 296)	83
4	March 26	Independent Constitutional Bodies & Executive Advisory Councils (incl. Council of State)	40
5	March 27	Political Parties	40
6	April 2-3	The Political Branches (Executive and Legislature)	60
7	April 3-4	The Judiciary	60
8	April 7	Economy and Financial Management: Finance (Chapter 13 of the Constitution), Central Bank, and National Development Planning (Chapter 6 and Article 86)	40
9	April 8	Rights, Gender, Youth, and Inclusion	46
10	April 9	Anti-corruption	52
11	May 27	Zoom Engagement on Citizenship	35

Identifiable Groups Stakeholder Engagements

No.	Date	Identifiable Group	Participants
1	April 23	Business Community and Organised Labour, including SMEs	40
2	April 24	Academia and Professional Bodies	44
3	April 25	Military and Other Security Agencies	47
4	May 14	Journalists and Social Media Community	48
5	May 19	X-Spaces Engagement with the Youth	21,000
6	June 10	Engagement with the Faith Community	45
7	June 11	Engagement with Imani Africa	4

8	June 28	Zoom Engagement with the Diaspora Community	125
9	July 31	Engagement with the National House of Chiefs	30
10	August 6	Engagement with the Council of State	12
11	August 6	Engagement with the Trades Union Congress (TUC)	14
12	September 5	Zoom Engagement with State Interests and Governance Authority (SIGA)	10
13	September 5	Zoom Engagement with Intersex Ghana & Key Watch Ghana	15
14	September 25	Engagement with the Judiciary	15
15	September 30	Engagement with the Minority Caucus in Parliament	9
16	November 6	Engagement with the Majority Caucus in Parliament	8

Eminent Persons Stakeholder Engagements

No.	Date	Eminent Person(s)	Participants
1	March 4	H. E. President John Dramani Mahama	
2	April 30	Engagement with Prof. Mike Ocquaye	
3	April 30	Engagement with Justice Sophia Akuffo	
4	April 30	Engagement with Mr. Sam Okudzeto	
5	May 2	Engagement with Nana Dr. SKB Asante	
6	May 7	Engagement with Prof. Kwamena Ahwoi	
7	May 7	Engagement with Speaker Alban Bagbin	
8	May 15	Engagement with President John Agyekum Kufuor	
9	May 28	Engagement with Justice Stephen Alan Brobbey	
10	June 3	Engagement with Hon. Osei Kyei Mensah-Bonsu	
11	June 3	Engagement with former Vice-President Dr. Mahamudu Bawumia	
12	June 4	Engagement with Former President Nana Addo-Dankwa Akufo-Addo	
13	July 30	Eminent Persons Engagement – Nana Otuo Serebour	

14	August 6	The Chairperson and Members of the current Council of State	
15	September 25	Acting Chief Justice with a section of Justices of the Supreme Court, Court of Appeal and High Court, and Judges of the Circuit Court and District Courts	
16	September 30	Hon. Osahen Afenyo-Markin and a section of the Minority Caucus (NPP)	
17	November 6	Hon. Mahama Ayariga and a section of the Majority Caucus (NDC)	

Zonal Public Engagements

No.	Date	Zonal Public Engagements	Participants
1	June 16	Public Engagements – Bolgatanga	308
2	June 18	Public Engagements – Tamale	210
3	June 23	Public Engagements – Wa	217
4	July 3	Public Engagements – Koforidua	297
5	July 11	Public Engagements – Ho	284
6	July 15	Public Engagements – Accra	185
7	July 21	Public Engagements – Cape Coast	230
8	July 24	Public Engagements – Takoradi	260
9	July 29	Public Engagements – Sunyani	265
10	August 1	Public Engagements – Kumasi	180
		Total	2,436

1	March-August	Estimated audience reached by live-streaming: Facebook Views: X Impressions: YouTube Views:	3,266 114,433 8,388
2	March-September	Facebook Views of all CRC Content via @CRCGH25	192,152
3	March-September	Submissions: Electronic Submissions via Website & Email:	735

		Manual Submissions to the Secretariat:	85
		Total:	820

C4 Comparison Between CRC, CRC-1 & CRCC Recommendations

I. Towards An Effective Presidency

The President			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Term of Office of President: Total Number of Terms	The Committee proposes no amendment to Article 66(2), as we find no ambiguity regarding its meaning and no need to extend the two-term limitation on the number of terms a person may be elected to hold office as President.	The 2010 Commission recommended that Article 66(2) be amended to clarify that a person who has been President for two terms of 4 years is ineligible to stand for re-election. The 2025 Committee found that this is already understood and observed in practice, so an amendment would be unnecessary.	The 2024 Committee recommended amending Article 66(2) to clarify that a President who serves less than a full 4-year term may contest a subsequent election after an intervening period, while maintaining an overall limit of eight years in office. However, the 2025 Committee proposes no amendment to Article 66(2), concluding that the provision is clear and that the existing two-term limit should remain unchanged.
Term of Office of President: Length of a Term	The Committee recommends an amendment to Article 66(1) to extend the length of a President's term from four years to five years.	The 2010 Commission recommended that the existing 4-year term be maintained on the basis that it has historically worked well. However, the 2025 Committee concluded that the need for additional time to implement policy would justify departing from the status quo and extending the presidential term.	The 2024 Committee did not make a recommendation in this area.
Minimum Age Qualification to be President	The Committee recommends an amendment to Article 62(b) to lower the minimum age a person must attain to qualify for election as President from forty (40) years to thirty (30) years.	The 2010 Commission recommended retaining the existing minimum age requirement of 40 years, and that there should be no maximum age. The 2025 Committee's recommendation takes a more progressive approach, lowering the age threshold to 30 years to improve youth participation in governance.	The 2024 Committee did not make a recommendation in this area.
Exemption from Tax	The Committee recommends an amendment to Article 68(5) to provide that the salary, allowances and facilities payable to the President under clauses (3) and (4) of Article 68 shall be subject to tax in accordance with applicable law. The President shall similarly be subject to	The 2010 Commission and 2025 Committee were both in agreement that the President should be made to pay taxes, as an example to the people of Ghana.	The 2024 Committee also recommended that the President should be made to pay taxes, by deleting Article 68(5).

	payment of indirect tax on goods and services, including import duty, on the same terms as every other person.		
Emoluments of the President and Other Holders of Public Office: Article 71	The Committee recommends an amendment to clauses (1) and (2) of Article 71 to provide that the salaries and allowances and the facilities and privileges available to persons holding public office generally, including the President and the holders of the other offices listed under clauses (1) and (2), shall be determined by the proposed Independent Public Emoluments Commission.	The 2010 Commission recommended the establishment of an Independent Emoluments Commission to determine the salaries and benefits of specified officeholders transparently. The 2025 Committee also recommended establishing an Independent Public Emoluments Commission, but placed more emphasis on parliamentary oversight of the proposed Commission's work.	The 2024 Committee recommended that Article 71 be amended to establish a one-time Independent Emoluments Committee (IEC) composed of representatives from the Public Services Commission, Organized Labor, the Ministry of Finance, the Audit Service, and the Fair Wages and Salaries Commission. The IEC's mandate would be to prescribe a predetermined formula for the emoluments of Article 71 officeholders, which would be reviewed periodically. This formula would thereafter be managed by the Fair Wages and Salaries Commission, eliminating the need for future committees. The 2010 Commission and both the 2024 and 2025 Committees were in agreement that there should be an Independent Emoluments Commission established, reflecting a widespread stakeholder and institutional consensus.
Immunities After Ceasing to be President	The Committee recommends an amendment to Article 57(6) to provide that (a) private civil proceedings may be instituted against a person at any time after he or she ceases to be President, subject only to the statute of limitations applicable to the claim in question, and (b) criminal proceedings may be instituted against a person within four years of ceasing to be President; in each case, in respect of anything done or omitted to be done by him	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not propose an amendment to this provision, aside from the recommendation to remove tax immunity (see h. Taxpayer status).

	or her in their personal capacity before or during the term of office.		
Vice-President or Prime Minister?	The Committee finds that the need for a seamless succession to the office of President in the event of a vacancy in the office justifies retaining the position of Vice-President. The Committee is of the considered view that granting specified executive functions to or vesting specified powers in the Vice-President, as proposed by some persons, would not conduce to effective governance, as that would invite or provoke turf battles or interpersonal conflict at the highest levels of Executive authority. The Committee further finds that there is no need to make specific provision in the Constitution to permit the appointment of a Prime Minister or a Minister performing similar functions, by whatever name he or she may be called, as nothing in the 1992 Constitution prevents or forbids a President from appointing or designating any member of his Cabinet, including the Vice-President, to perform functions similar to those ordinarily performed by a Prime Minister in a semi-presidential system.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Appointment of Ministers and Deputy Ministers from Parliament (Article 78(1))	The Committee recommends an amendment to Article 78(1) to provide that no member of Parliament may be appointed a Minister of State, a Deputy Minister, or a Regional Minister. The Committee further recommends, as a companion amendment, that a member of Parliament who resigns from Parliament shall not be eligible for appointment as a Minister of State, a Deputy Minister or a Regional Minister. The ineligibility for appointment shall, however, be limited to the term of the Parliament to which he or she was elected.	The 2010 Commission concluded that Ministers should be freely appointed by the President from within and outside of Parliament, and they should be allowed to serve as both Ministers and Members of Parliament. The rationale behind this was to strengthen the linkage and therefore relationship between the executive and legislative branches. However, the 2025 Committee believes that having a clearer separation between the two branches would improve the efficiency and independence of both.	The 2024 Committee recommended amendments to Article 78(1) requiring a member of Parliament appointed as a Minister of State to vacate their seat and subjecting ministerial appointments and reassignments to parliamentary approval. The 2025 Committee's recommendation goes further by prohibiting the appointment of serving or resigning members of Parliament as Ministers of State, Deputy Ministers, or Regional Ministers for the duration of the

			parliamentary term. Overall, both recommendations aim to prevent dual service, but the 2025 proposal imposes a stricter and time-limited bar.
Total Number of Ministers (Article 78(2))	The Committee recommends an amendment to Article 78(2) to provide that the total number of Ministers of State, including Deputy Ministers and Regional Ministers, shall not exceed three times the number of Ministers in the Cabinet. Pursuant to Article 76(1), the number of Ministers of State in the Cabinet is capped at no more than nineteen. This means the total number of Ministers of State, including Deputy Ministers and Regional Ministers, shall not exceed 57. Additionally, the Committee recommends that the President shall not appoint Deputy Regional Ministers. The Committee further recommends that a President who desires to appoint a person as a Minister of State in excess of the stated ceiling shall furnish Parliament in writing with the specific reasons justifying the additional appointment and obtain a resolution of Parliament, supported by a majority vote of all the members of Parliament, to lift the ceiling to enable the additional appointment to be considered. The nominee will then undergo the normal process of parliamentary vetting and be appointed upon receiving the approval of Parliament.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended an upper limit, restricting the number of Ministers and Deputy Ministers a President may appoint to 55. The 2025 Committee recommendation also proposes an upper limit, and linked the total number of Ministers of State, including Deputy and Regional Ministers, to the size of the Cabinet. It caps the total at three times Cabinet membership, producing a cap of 57. The 2025 Committee recommendation also prohibits the appointment of Deputy Regional Ministers and requires prior parliamentary approval, by a simple majority, where the President seeks to exceed the ceiling. The 2024 recommendation set a single numerical limit, while the 2025 recommendation combines numerical caps with procedural controls.
Effect of Censure of a Minister: Article 82(5)	The Committee recommends an amendment to Article 82(5) to provide that the President shall revoke the appointment of a Minister against whom Parliament has passed a vote of censure pursuant to clause (1) of Article 82. The Committee further recommends, as a companion amendment, that a Minister whose appointment is revoked as a result of having been censured by Parliament	The 2010 Commission recommended that a successful vote of censure by Parliament should oblige the President to revoke the appointment of the affected Minister within a specified period, thereby ensuring the effectiveness of parliamentary oversight. The 2025 Committee adopts the same position that censure should lead to the revocation of a ministerial	The 2024 Committee recommended amending Article 82(5) so that a vote of censure leads to the revocation of a ministerial appointment. Similarly to the 2010 Commission, it did not provide for a period of ineligibility for re-appointment as the 2025 Committee's recommendation.

	shall not be eligible for re-appointment as Minister during the remainder of the President's or Parliament's term.	appointment, but the addition of a period of ineligibility for re-appointment strengthens ministerial accountability to Parliament.	
Article 70 and Other Public Appointments	The Committee reasons that the nature and extent of the discretion enjoyed by a President in making an appointment to a public office established by or under the 1992 Constitution, including the offices listed in clauses (1) and (2) of Article 70, must depend on the nature of the office in question. In furtherance of this principle, the Committee proposes a classification of public offices based on the degree of independence or political detachment required for the effective performance of the office's functions. The Committee classifies appointments under the Constitution into four (4) categories, namely, executive offices, independent offices, Hybrid-Independent offices and Hybrid-Executive offices. For each classification, the Committee recommends an appropriate mode of appointment as follows: In respect of an appointment to an Executive office, the President shall have plenary power to select or choose the person to be appointed, subject, in limited instances, to the prior approval of Parliament (e.g., where the office involves enforcement of laws or is appropriately subject to direct parliamentary oversight). When making appointments in this category, the President acts in the capacity of Head of Government, seeking to assemble the team with which he or she will govern and execute his or her political mandate. Appointees to these offices are, essentially, politicians or political assistants to the President, exercising authority that is strictly derivative of the President's executive authority and who thus serve appropriately at his or her pleasure. Offices in this	The 2010 Commission recommended to retain the President's general power of appointment, subject to parliamentary approval for specified senior offices, and it accepted that some appointments were political in nature and should be coterminous with the presidential term. The 2025 Committee builds on this approach by drawing a clearer constitutional distinction between executive, independent, hybrid-Independent, and Hybrid-Executive offices, and framing the appointment processes for such positions accordingly. As such, the 2025 recommendations shift from preserving the President's appointment powers to imposing structural and procedural safeguards to strengthen institutional independence, and ensuring that the mode of appointment matches the nature of the position in question.	The 2024 Committee recommended that the President's general power of appointment be maintained, similarly to the 2010 Commission. However, to insulate key positions from political control, it recommended that the following should be subject to an open and competitive process that includes the approval of two-thirds of members of Parliament: the Commissioner for Human Rights and Administrative Justice and their Deputies; the Chairperson and members of the National Commission for Civic Education; the Chairperson, Deputy Chairperson and other Members of the Electoral Commission; the Auditor-General; the District Assemblies Common Fund Administrator; the Administrator and Deputies of the Independent Constitutional Bodies Fund; and the Government Statistician. Furthermore, the 2024 Committee recommended that the staff of the Independent Constitutional Bodies (ICBs) and State-Owned Enterprises (SOEs), including the Chief Executive Officer of SOEs, should be appointed by the relevant ICB/SOE, in consultation with the Public

	category include Ministers of State and persons appointed to serve at the Office of the President and Vice-President. In respect of an appointment to an Independent office, the President shall make the appointment acting in accordance with the nomination or nominations presented to him or her by an independent constitutional body following a competitive, meritocratic recruitment and selection process administered by that body (either alone or with the professional or administrative assistance of the Public Services Commission). The primary independent nominating body the Committee proposes for submitting nominations for appointment to independent constitutional offices is a substantially reformed Council of State (see Chapter IV) and, in the case of certain judicial appointments, a reformed Judicial Council (Chapter IV). Depending on the office in question, nominating body shall present to the President a short list of ranked options (i.e., more than one qualified candidate) from which to select the nominee (e.g., National Commission for Civic Education); in other cases (e.g., Electoral Commission, Auditor-General, Chief Justice), where the offices play a high-profile role in the constitutional system of checks and balances, the nominating body shall present to the President a single final candidate. The President's role in appointments in the Independent-office category is, essentially, a duty to appoint as advised. In effect, the President makes such appointments in his or her capacity as the Head of State (analogous to the President under the 1969 Constitution), not as the Head of Government. Subsequent to the nomination, the approval of Parliament is recommended for these Independent offices. In respect of an appointment to a Hybrid-Independent office, the President shall make the appointment acting in accordance with the advice of a relevant Nominating body or Governing Council, following a competitive,		Services Commission through an open and transparent procedure to be determined by a legislative instrument. Additionally, where a vacancy occurs in the membership of the ICBs, that vacancy must be filled within 6 months of its occurrence. While the 2024 Committee's recommendations largely kept the existing appointment framework with added procedural safeguards, the 2025 Committee proposes a more fundamental restructuring based on the level of independence required for each role.

	meritocratic selection process administered independently by that body or council. For example, with the appointment of chief executive officers of State-Owned Enterprises (SOEs) and Other State Entities (OSEs), which fall into the hybrid category, the policy-directing Governing Council will propose a nominee for appointment after a competitive, meritocratic recruitment and selection process based on stated qualifications and criteria. As the Government's interest in the entity is protected by a Government majority on the Governing Council or through an additional layer of oversight from a "SIGA" body (proposed in Chapter III), the President should be expected to rely on the sound judgment of the Governing Council or oversight body in confirming the appointment to these offices. In respect of an appointment to a Hybrid-Executive office, the President shall make the appointment acting in consultation with the relevant body that exercises policy responsibility or oversight over the office (i.e., the governing council for that office; e.g., Police Council in the case of the Inspector-General of Police, and the Armed Forces Council in the case of the Chief of Defence Staff). The constraint on the President's appointment power in this instance is partly procedural and partly substantive, as the appointment must follow a process of informed consultation between the President and the governing council based on the candidates' qualifications. The foregoing recommendation, if adopted, will effectively bind the President to the advice of a named body when making an appointment 'acting on the advice of' that body, for example the Judicial Council. Thus, this recommendation effectively overturns the decision of the Supreme Court in <i>Ghana Bar Association v Attorney General & Judicial Council</i> (2015), which held that a provision of the Constitution that the President shall make		

	an appointment “acting on the advice of” a named body (Judicial Council) does not oblige the President to follow the “advice” tendered. The Committee makes the following companion recommendations to better secure the independence of Independent offices and Hybrid-Independent appointments: Persons appointed to Independent or Hybrid-Independent offices shall hold office for fixed, renewable, or non-renewable terms or until they have attained a prescribed retiring age, whichever is earlier. Additionally, the term of office of persons in this category shall not be coterminous with the term of office of the President. Where a vacancy occurs in an Independent or Hybrid-Independent office, the vacancy shall be filled with a substantive appointment within 90 days of the occurrence of the vacancy. This is to avoid vacancies being left open or filled by “acting” appointments of indefinite tenure. Where an appointment is required to be made “on the advice of” or “in consultation with” a named body, no appointment to the office in question, whether described as interim, acting or substantive, shall be made or announced in advance of or pending the completion of all the required steps in the appointment process.		
Effect of Absence of President and Vice-President from the Country: Article 60(8) and (11)	The Committee recommends that each of Articles 60(8) and 60(11) be amended to provide that neither the President nor the Vice-President shall be deemed to be “unable to perform the functions of the President” by reason only of the fact that either is or both are physically absent from Ghana. This recommendation, if adopted, would effectively overturn the Supreme Court's decision in <i>Asare v. Attorney-General</i> [2003-2004] SCGLR 823.	The 2010 Commission recommended that mere physical absence from the country should not automatically trigger the Vice-President’s assumption of presidential powers. The 2025 Committee holds the same view that physical absence from the jurisdiction did not mean the President is unable to perform his duties, and therefore should not necessitate the delegation of presidential authority.	The 2024 Committee recommended that "absent from Ghana" and "returns" be deleted from Article 60(8), mirroring the views held by the 2010 Commission and 2025 Committee that physical absence alone was not enough to necessitate the delegation of presidential power.

Presidential Succession Beyond the Vice-President: The Speaker of Parliament as Caretaker President	The Committee accordingly recommends as follows: To ensure reasonable continuity in Government and forestall possible governmental dysfunction where the Speaker of Parliament is of a different political party than the Government's, the Committee recommends appropriate amendments to clauses (11), (12) and (13) of Article 60 to provide that Cabinet shall elect one of their number to succeed to the office of President for a caretaker period of three months in the event of vacancies occurring concurrently in the offices of the President and Vice-President. The Committee reasons that while the Speaker of Parliament remains third in the constitutional order of precedence, succession to concurrent vacancies in the two highest offices of the Executive, albeit for a limited time, must be kept within the Executive (Cabinet) and the same political party for practical reasons.	The 2010 Commission recommended that the provisions which allow the Vice-President to assume the presidency where it becomes vacant be retained. It did not propose a clear succession plan, but instead advised that circumstances requiring the Chief Justice or Speaker to act as President should be avoided as much as possible. By contrast, the 2025 Committee directly addresses the risk of concurrent vacancies by proposing a succession mechanism within Cabinet, thereby keeping interim presidential authority within the Executive, for reasons of continuity and functionality.	The 2024 Committee addressed presidential succession indirectly by proposing that a Vice-President who leaves the political party of the President be deemed to have resigned, thereby reinforcing party cohesion within the Executive but without reconsidering the line of succession beyond the Vice-President. The 2025 Committee directly addresses the question of presidential succession by through its proposal of a clear succession mechanism.
Scheduling of Presidential Elections	The Committee recommends an amendment to Article 63(2)(a) to provide that the election of the President shall be held on such date in the first week of November in an election year as the Electoral Commission shall, by constitutional instrument, specify. This recommendation, if adopted, would extend the period of transition between the election of a President and the assumption of office by the newly elected President from one month to two months.	The 2010 Commission recommended that the presidential and parliamentary elections should continue to be held on the same day in order to be cost-effective and in order not to have the results of one election bear on those of the other. While the 2025 Committee did not make the same recommendation, both the 2010 Commission and 2025 Committee agreed that the transition period should be extended to two months, instead of one.	The 2024 Committee did not make a recommendation in this area.
Presidential Election Petition	A Presidential Election Petition shall be filed no later than 14 calendar days after conclusion of the election. The Petition shall name the Electoral Commission (EC) as the first Respondent. The EC shall be required to furnish for the scrutiny of the Court, the Petitioner and any other party in the case, all relevant data pertaining to the results	The 2010 Commission recommended that all electoral dispute cases should be disposed of within 6 months, and the Rules of Court should be amended to this effect. The 2025 Committee's recommendation is narrower in focus, only dealing with presidential election petitions. It	The 2024 Committee did not make a recommendation in this area.

	of the Election. The Petition shall be heard and decided by the Supreme Court within 30 business days after it is filed. The applicable legal standards to be applied by the Court in determining the matter shall be dealt with in a statute or rules of procedure.	takes a stronger approach by recommending a shorter period of 30 days for the termination of such cases, and this requirement in the Constitution instead of in legislation.	
Restriction on Powers during Post-Election Transition Period	The Committee recommends an amendment to Chapter Eight of the Constitution by the introduction of a new provision to forbid or prevent the taking of certain specified actions by the President or a member of his Government or administration within the transition period commencing from the date of the presidential election to the date of the assumption of office of the next President, as follows: No appointment, nomination, or offer of employment to a public office may be made or extended to any person, the term of which would extend into the next administration. No new contract or commitment, including a salary or wage increase, may be granted or offered that is not already approved in the current year's appropriations. No transaction for the sale or purchase or grant of a leasehold interest in a public land or sale of any public asset to any person may be commenced or concluded. No bill may be introduced by a certificate of urgency. Any action taken or purported to be taken, or transaction entered into or purported to be entered into, in violation of any of the above provisions shall be deemed to be void and would impose no obligation on the State in favour of any third party.	The 2010 Commission recommended the enactment of legislation to regulate presidential transitions and to provide clear guidelines for how outgoing officeholders account for State property and other issues that have caused contention in prior presidential transitions. The 2025 Committee expands on this by proposing explicit constitutional provisions restricting presidential powers such as making new appointments and contracts during the transition, providing clearer constitutional enforcement than the 2010 proposal.	The 2024 Committee did not make a recommendation in this area.

II. Towards a People-Centred Democracy

Parliament			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations

Size of the Membership of Parliament	The Committee recommends an amendment to Article 93(a) to provide that Parliament shall consist of not more than 276 elected members, thereby capping the number of members of Parliament at the present level. The Committee recommends, as a companion amendment to the above, appropriate amendments to Article 47 to provide that the Electoral Commission shall, in reviewing the division of the country into constituencies after the publication of the enumeration figures following a census of the population of Ghana, apply such criteria, rules and methodology, including appropriate deviations from the population quota, as shall be prescribed in relevant legislation to ensure fair representation and prevent gross malapportionment among the constituencies.	The 2010 Commission recommended that the existing provisions on the numerical composition of Parliament should be maintained. However, the 2025 Committee identified a need to prevent the proliferation of constituencies to ensure effective governance, and therefore recommends setting a cap on the number of Members of Parliament.	The 2024 Committee recommended amending Articles 93(1) and 47(1) to cap the number of elected Members of Parliament and constituencies at 277, while keeping the Electoral Commission's role in prescribing constituencies within that limit. The 2025 Committee adopts the same objective of preventing the proliferation of constituencies, but proposes a slightly lower cap of 276 and sets out clearer regulatory parameters to guide the Electoral Commission in exercising its mandate.
The Electoral System: Proportional Representation?	The Committee supports PR in principle. We are, however, unable to recommend a switch from FPTP to PR at this time. Given the embeddedness of FPTP in Ghana's electoral culture and history going back to the colonial period, its practical simplicity from a voter standpoint, and the dizzying array of PR design options on offer, the Committee is of the considered view that a decision by Ghana to switch from FPTP to PR must be based on a dedicated and comprehensive study and investigation of the issue. The Committee notes that the Committee of Experts chaired by Nana (Dr.) S.K.B. Asante, whose Proposals for a Draft Constitution of Ghana formed the basis for the Consultative Assembly debates that led to the 1992 Constitution (the "SKB Asante Committee"), was similarly favourably disposed to PR yet stopped short of recommending its adoption at the time, concluding that "the PR method would require further study given its newness to the Ghanaian electorate." CRC-1 also recommended in its report that the PR system be	The 2010 Commission recommended that the Electoral Commission study the use of a mixed electoral system, as a form of proportional representation, for parliamentary and local elections. The 2025 Committee similarly endorses further examination of proportional representation but departs from the 2010 Commission's approach by recommending that the assessment be conducted through an independent study rather than by the Electoral Commission.	The 2024 Committee did not make a recommendation in this area.

	subjected to further study for possible “deployment in the future.” The Committee notes with disappointment that no such study has been undertaken since 1992.		
Political Party Control and Selection of Caucus Leadership in Parliament (Parliamentary Independence)	The Committee recommends an amendment by inclusion of a new provision to the effect that members of Parliament shall constitute themselves into Majority and Minority caucuses on the basis of the numerical strength of their respective political party representation in Parliament, and the members of each caucus shall elect from among their number, by secret vote, persons who shall constitute the leadership of their respective caucuses and hold the positions of Majority or Minority Leader, Deputy Majority or Deputy Minority Leader, Chief Whip and Deputy Chief Whip, as the case may be. A Leader, Deputy Leader, Chief Whip, or Deputy Chief Whip of a party caucus may be removed and replaced by the vote of an absolute majority of the members of the caucus in a special election called for that purpose, at the request of at least one-third of the members of the caucus.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Qualification to be a Member of Parliament (Eligibility of Dual Citizens)	The Committee recommends an amendment to Article 94(2)(a) to provide that a citizen of Ghana by birth who otherwise meets all other qualifications shall not be precluded from contesting for election to Parliament merely by virtue of holding the citizenship of another country, whether or not the second citizenship was acquired voluntarily or by operation of law, and shall therefore not be required to renounce the other citizenship either before contesting for election to Parliament or upon election as a member of Parliament.	The 2010 Commission recommended keeping the existing constitutional rules on who may become a Member of Parliament. The 2025 Committee generally agreed, but proposes allowing dual citizens to stand for Parliament in order to widen the pool of eligible candidates.	The 2024 Committee did not make a recommendation in this area.
Ineligibility of Serving Public Officers to Contest	The Committee recommends an amendment to Article 94(3)(b) to provide that a member of the Armed Forces or the Police Service or any other security service organisation or any service that forms part of the	The 2010 Commission did not make a recommendation for constitutional reform in this area. However, it recommended that the Public Services Commission should define	The 2024 Committee did not make a recommendation in this area.

Parliamentary Elections	Public Services of Ghana, or an employee of a state-owned company or corporation of a commercial or regulatory nature, whether established by statute or registered under the Companies Act, or an employee of any entity established solely or mostly with public funds to pursue a public purpose, shall not participate in active party politics, including hold or seek to hold office in a political party or seek or contest for election as the candidate of a party in a national or local election, unless he or she first resigns from his or her public employment. This proposed amendment also seeks to overturn the holding of the Supreme Court in <i>Kwadjoga Adra v. Attorney-General</i> (2015) to the effect that “public servants” whose employer-institutions are not listed in Article 94(3)(b), as currently written, may participate in partisan politics without resigning their public employment. The Committee recommends an additional amendment to Article 94(3)(b) to provide that public employees who resign their public employment shall observe a twelve-month “cooling-off” period before contesting national, parliamentary or party elections.	through Constitutional Instrument the meaning of “active party politics”, in relation to public officers. The 2025 Committee takes a more explicit approach by inserting stricter regulations directly into the Constitution, which will be more effective in ensuring that public employees do not participate in “active party politics” than solely redefining the meaning of the term.	
Tenure of Members of Parliament	In line with our recommendation in paragraph 1.2 in respect of the term of office of the President, the Committee recommends an amendment to clauses (1) and (2) of Article 113 to extend the term of Parliament from four years to five years. The Committee further recommends an amendment to Article 112(4) to provide that the general election to elect members of Parliament shall be held on the same day as presidential elections.	The 2010 Commission recommended to retain the existing provisions. However, the 2025 Committee favors changing MPs’ terms to five years, to align with the extension of the presidential term of office to five years. The 2010 Commission and 2025 Committee also both recommended that parliamentary and presidential elections should be held on the same day.	The 2024 Committee did not make a recommendation in this area.

Voting on Constitutional Amendment Bills	The Committee recommends an amendment to Article 104(4) to restrict the use of secret voting in Parliament to “where the voting is in relation to the election or removal of any person under this Constitution or under any other law.” Voting on a bill to amend the Constitution shall be open, recorded, and made public.	The 2010 Commission recommended that the existing constitutional provisions on voting in Parliament be maintained. However, the 2025 Committee considers the need for transparency in parliamentary voting to be important enough that voting should be made public, except in the case of election to or removal from a public office.	The 2024 Committee did not make a recommendation in this area.
Certificate of Urgency	The Committee recommends an amendment to Article 106(13) to include safeguards against misuse or abuse of the “certificate of urgency” as follows: 1. Definition of urgency: Parliament shall, either in its Standing Orders or by legislation, define the circumstances that qualify for a certificate of urgency, focusing on immediate and irreparable harm that would occur if normal procedures were followed. This would restrict its application to genuine emergencies (e.g., natural disasters, public health crises, immediate national security threats) rather than using it for routine government business. 2. Require robust justification: The authority requesting the certificate must provide a detailed, publicly accessible statement or statutory declaration explaining the specific grounds for urgency and why the matter “cannot wait.” 3. Mandatory Bipartisan Support: To proceed by a certificate of urgency, the request must receive cross-party approval. a higher threshold for approval. 4. Guaranteed Minimum Scrutiny Period: Parliament must establish an abbreviated timeframe for at least a committee review of the Bill. 5. Mandate Stakeholder input: Implementing measures to guarantee some form of public consultation, even in	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended amending Article 106(13) to allow a Bill certified as urgent by a parliamentary committee to be considered, passed, and assented to within 24 hours. The 2025 Committee proposes a stricter approach by adding procedural safeguards, including mandatory justification and bipartisan approval thresholds, to limit the use of certificates of urgency. The 2025 recommendation therefore strengthens the constitutional controls on the use of certificates of urgency beyond what was proposed in 2024.

	urgent cases. This could involve streamlined public hearings, online feedback mechanisms, or minimum time for relevant stakeholder and civil society review to ensure transparency and inclusion. 6. Exempt Certain Bills: Explicitly excluding certain types of Bills (e.g., those altering human rights or the constitution; natural resource agreements; other international business agreements) from the certificate of urgency process to ensure they receive full procedural debate.		
Right to Public Participation in the Legislative Process	The Committee recommends an amendment to Chapter Ten of the Constitution to insert a new provision to guarantee a right to public participation in the legislative process with a corresponding obligation on Parliament, including its committees, to take affirmative steps to facilitate and ensure meaningful public and stakeholder consultation and participation in the legislative processes.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
MPs Engagement with Constituents	The Committee recommends an amendment to Chapter Ten of the Constitution to insert a provision to require that Members of Parliament, during each recess, hold at least one in-person and non-partisan town-hall style engagement with their constituents in their respective constituencies.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Conflict of Interests of MPs	The Committee recommends an amendment to Article 98 to provide that a Member of Parliament shall not: a. Be eligible for appointment to a position on the management or governing council or board of directors, or to the procurement committee, of any entity funded wholly or partially from public funds or in which the Government of Ghana has an interest; b. Represent, or belong to a professional or business firm that represents a party in a matter, whether legal or commercial, in which that other party's interests are adverse to or on the opposite side of the interest of the Republic of Ghana;	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	c. Accept or agree to accept, directly or through a third party, an offer of cash or in-kind gift of substantial value, benefit, inducement or reward from any person or entity with an interest in the outcome of a Bill, an investigation, a nomination, an agreement or an appointment or a resolution that is before Parliament or a committee of Parliament for decision. The Committee further recommends that no person or entity with an interest in the outcome of a Bill, an investigation, a nomination or an appointment or a resolution that is before Parliament or a committee of Parliament for decision shall offer cash or an in-kind gift, a benefit, inducement or reward to any member of Parliament or a staff of his or her office.		
Private Member's Bill	The Committee recommends an amendment to Article 108 to the effect that a Member of Parliament, either alone or in association with other Members of Parliament, may introduce to Parliament, on their own behalf a Bill or a motion ("Private Member's Bill") on, any matter within the legislative competence of Parliament except where, in the determination of the Speaker or the person presiding, the Bill has the purpose or effect of creating a new office or body or a line of recurring expenditure for which no appropriations has been made in the budget of the affected entity or would require the raising or imposition of a tax or levy.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee proposed an amendment to the title of Article 108 to 'Consideration of Money Bills' but did not amend the substantive restriction on MPs initiating financial bills, whereas the 2025 Committee's recommendation fundamentally changes the nature of Private Members' Bill and their usage. As such, the 2025 Committee's recommended removal of restrictions on Private Members' Bills is more transformative than amending the nomenclature as proposed by the 2024 Committee.
Non-Implementation of Enacted Legislation	The Committee recommends an amendment to Chapter Ten to introduce a new Article to provide that an Act of Parliament that requires the passage of Regulations for its effective implementation shall	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

(Laws without L.I.s)	specify in the Act a time period, not later than twelve (12) months after the effective date of the Act, by which the necessary Regulations shall be prepared and laid before Parliament.		
Abuse of Contempt of Parliament	The Committee recommends an amendment to Article 122 to clarify that the rights to freedom of speech and expression and freedom of the media guaranteed in Articles 21(1)(a) and 162 of this Constitution are not inferior or subordinate to the power of Parliament to punish for contempt; therefore, the contempt power of Parliament may not be invoked by Parliament or a Member of Parliament to punish or seek to punish a person or media organisation for expressing or publishing information, opinion, or commentary that Parliament or a Member of Parliament perceives to be unfair, untrue, critical, offending or unflattering of Parliament or a member. Where a Member believes that he or she has been defamed, the appropriate remedy lies in a suit for defamation. In the case of Parliament, a complaint may be made to the National Media Commission for appropriate redress.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Payment of Gratuity to members of Parliament	The Committee recommends an amendment to Article 114(1) to provide that, in lieu of the current system whereby gratuity is paid to members of Parliament at the end of each term of Parliament, the proposed Independent Public Emoluments Commission shall develop and determine, as part of its general mandate, an appropriate scheme of pension or retiring benefit or superannuation for members of Parliament.	The 2010 Commission recommended the creation of an Independent Emoluments Commission to determine the conditions of all public officers, including MPs. The 2025 Committee agreed with this view, recommending that its proposed Independent Public Emoluments Commission should have retirement benefits of MPs as part of its mandate.	The 2024 Committee did not make a recommendation in this area.
Political Parties			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Registration and Regulation of	The Committee recommends an amendment to Chapter Seven of the Constitution to provide for the	The 2010 Commission did not recommend the establishment of an independent regulatory	The 2024 Committee did not make a recommendation in this area.

Political Parties: Establishment of an Independent Regulator	establishment of an Independent Registrar and Regulator of Political Parties and Campaigns (“IRRPC”). The IRRPC shall be constituted in the same manner as the Electoral Commission (“EC”) and other independent constitutional bodies. The IRRPC shall take over the functions and powers of the EC in respect of registration and regulation of political parties but have an expanded mandate with enhanced enforcement powers to regulate the conduct and activities of political parties and political campaigns generally, including monitoring and enforcing compliance and sanctioning noncompliance. The IRRPC, with parliament, shall develop laws governing political parties and campaigns, promulgate and enforce a Code of Conduct and proscribe specified anti-democratic activities of political parties, including vigilantism and vote buying. The IRRPC shall further develop and enforce compliance with agreed affirmative action benchmarks and milestones, and administer a proposed Democracy Fund to incentivize and support policy development, gender-inclusive initiatives, and other targeted, non-electioneering activities of parties.	body for parties and campaigns, but did address the issue of regulating elections. It proposed that legislative changes should be made to empower the Electoral Commission and its sub-structures to investigate instances of electoral violence and any electoral offences. Furthermore, the 2010 Commission recommended that the Electoral Commission should make regulations through Constitutional Instrument that cap campaign expenditure, set a campaign period, and prescribes severe penalties for the infringement of electoral laws. The 2025 Committee’s recommendation focuses more on structural change than the 2010 Commission’s recommendation by proposing the establishment of a new body to properly regulate political parties and campaigns, instead of placing this responsibility with the Electoral Commission.	
Monetization and Party and Campaign Financing	The Committee recommends an amendment to Chapter Seven of the Constitution to provide that Parliament shall, within a specified period after the coming into effect of this proposed amendment, enact legislation or amend existing legislation, with implementing Regulations to be made by the IRRPC, to regulate the cost of electioneering and political campaigns as follows: a. Restrict the period for electioneering and campaigning by a party or candidate to a specified number of days or weeks immediately prior to general elections (e.g., 120 days), before which time no electioneering or campaigning activity (as defined by the law) may be permitted;	The 2010 Commission did not make any recommendations for constitutional amendment in this area. Similarly to the registration and regulation of political parties, the 2010 Commission recommended that the Electoral Commission use Constitutional Instruments to regulate party and campaign financing. However, the 2025 Committee holds the view that all regulation of party and campaign financing should be done by the IRRPC, which would be empowered through the introduction or amendment of legislation as necessary. The 2025 Committee’s proposal therefore gives responsibility for regulating	The 2024 Committee did not make a recommendation in this area.

	b. Restrict the amount and kind of expenditure or spending a political party or candidate may incur in a campaign; c. Subject to review and approval by IRRPC the amount of fees parties may charge aspirants and candidates in internal primaries to elect a candidate for parliamentary or presidential elections; d. Compel disclosure and external audit of finances, spending, and financing sources of political parties and candidates; e. Regulate and sanction abuse of incumbency for electioneering purposes; f. Enforce violations, including through criminal prosecution by proposed Anti-Corruption and Ethics Commission.	money in politics to the new IRRPC, instead of the Electoral Commission as proposed by the 2010 Commission.	
Internal Party Democracy	The Committee recommends an amendment to Article 55 to provide, in furtherance of the principle that the internal organisation of a political party shall conform to democratic principles, that all registered political parties shall afford their members in good standing as of a specified cut-off date before an internal election an equal opportunity to exercise their right to vote to elect their party's candidate for parliamentary and presidential elections.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Public Funding of Parties and the Establishment of a Democracy Fund	The Committee recommends that the Constitution shall provide for the establishment of a Democracy Fund by an Act of Parliament. The legislation establishing the Fund shall make provision for the sources of funding for the Democracy Fund, which sources shall include fines levied by the IRRPC. The Committee recommends that a portion of the Fund shall be used to support specified activities of qualified political parties: research and development of policies; training and capacity-building to increase representation of women and Persons with Disabilities (PWDs) and other underrepresented groups. The Democracy Fund shall be administered by the IRRPC.	The 2010 Commission did not make any recommendations for constitutional amendment in this area. It considered the question of public funding for political parties, but ultimately simply recommended that the Electoral Commission continue to develop proposals to guide future legislation. The 2025 Committee's approach differs by explicitly providing that the State should have a role in the funding of political parties, and outlining how such funding would be used to support the development of democracy in Ghana.	The 2024 Committee did not make a recommendation in this area.

Electoral Commission			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Composition of the Commission	The Committee recommends an amendment to Article 43 to provide that the EC shall comprise a Commissioner and two Deputy Commissioners, thus removing the “four other members” from the composition of the Commission. The Committee reasons that, it is inconsistent with the independence of the EC to have on the Commission four members who are not full-time commissioners (and who may hold other offices) and whose tenure and conditions of service differ and are determined in a different manner from the rest of the Commission. The Committee is satisfied that, as with the Commission for Human Rights and Administrative Justice, which comprises a Commissioner and two Deputies, the EC, supported by its public service establishment, can function effectively with a Commissioner and two Deputy Commissioners.	The 2010 Commission recommended amending the Constitution to reconstitute the Electoral Commission as a body of three full-time executive members, including a chairperson, to improve its effectiveness. The 2025 Committee adopts a similar position but extends the rationale by emphasizing that a smaller, fully constituted Electoral Commission would also better safeguard the Commission’s independence.	The 2024 Committee did not make a recommendation in this area.
Appointment of Chairperson and Members of the Electoral Commission	The Committee recommends an amendment to Articles 217 and 70 to provide that the Commissioner and each of the Deputy Commissioners shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancies by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC). A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position. The PSC will undertake initial screening of applicants and provide the Council of State with a shortlist of qualified candidates, who shall then be interviewed or	The 2010 Commission recommended that the heads and members of independent constitutional bodies, including the Electoral Commission, be appointed by the President in consultation with the Council of State and with the prior approval of Parliament. The 2025 Committee adopts a broadly similar structure but departs from the 2010 approach by requiring the President to act in accordance with a nomination made by a reformed Council of State following an open, competitive and merit-based process administered by the Public Services Commission, thereby further constraining presidential discretion and strengthening the meritocratic basis of appointments.	The 2024 Committee recommended that the President’s general power of appointment be maintained. However, the Chairperson, Deputy Chairpersons, and other members of the Electoral Commission shall be subject to an open competitive process that includes the approval of two-thirds of members of Parliament. The 2025 Committee’s recommendation is more wide-reaching because it fundamentally restructures the appointment process to make it more meritocratic through the inclusion of the Public Services Commission.

	vetted by the Council until a final nominee is selected for submission to the President. The President shall then forward the nominee on to Parliament and, upon receiving the approval of Parliament, the nominee shall be appointed by the President.		
Tenure of the Chairperson and Deputy Commissioners of the Electoral Commission	The Committee recommends an amendment to Article 223 to provide that the Commissioner and each of the Deputy Commissioners of the Commission shall hold office for a single, non-renewable term of ten (10) years or upon or until he or she attains the age of 65 years, whichever is earlier. A person who has held the office of Commissioner or Deputy Commissioner shall, upon retiring or resigning from the position, be ineligible for appointment to any other public office, until after a three-year cooling off period.	The 2010 Commission also recommended a non-renewable tenure of 10 years for members of the Electoral Commission, which is the same as the 2025 Committee's recommendation.	The 2024 Committee recommended adding a provision to Article 44 to require the Commissioner and Deputy Commissioners to retire at ages 70 and 65 respectively, placing emphasis on uniform retirement ages across all independent constitutional bodies rather than changing tenure length. The 2025 Committee also recognized the need for uniformity, but went further by proposing a new, standardized duration of tenure for these offices.
Removal of Chairperson and Deputy Commissioner	The Committee recommends an amendment to Article 228 to provide as follows: a. The Commissioner or a Deputy Commissioner may be removed only on grounds of a wilful violation of law, dereliction of duty, or abuse of power. b. A petition seeking the removal of the Commissioner or a Deputy Commissioner shall be submitted to the Council of State; the petition shall state the grounds for removal and the relevant facts supporting the petition. c. Upon receipt of the petition, the Council of State shall constitute a subcommittee of its members to review the petition to assess whether the petition discloses on its face, grounds and facts requiring further investigation by the Council. d. If the preliminary review determines that the petition presents a case warranting further investigation, the Council shall constitute a five-person	The 2010 Commission recommended retaining the existing constitutional arrangements governing the removal of heads and members of independent constitutional bodies. The 2025 Committee departs from this position by proposing a detailed and structured removal framework. Under the proposal, the process involves the Council of State, an independent tribunal, and a President bound by the outcome, with the aim of strengthening independence and security of tenure.	The 2024 Committee did not make a recommendation in this area.

	independent tribunal, with membership drawn from outside the Council, to conduct an investigation into the matter. e. The Commissioner or Deputy Commissioner who is the subject of the removal petition shall be accorded all appropriate due process, including representation by counsel and a right to interrogate and cross-examine the Petitioner. f. The tribunal shall make its recommendation to the Council upon conclusion of its investigation. g. The Council of State shall submit the recommendations of the tribunal to the President, who shall act in accordance with the recommendation. h. The hearing shall be in-camera.		
Death of a Presidential Candidate	The Committee recommends an amendment of Article 50 to provide that the EC shall publish, by Constitutional Instrument, the procedure for dealing with the untimely death of a presidential candidate ahead of a presidential election.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
National Commission for Civic Education			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Functions and Mandate of the Commission	The Committee recommends an amendment to Article 233 to provide that, in addition to the functions listed in that provision, the NCCE shall: Organize national presidential debates; Convene periodically civic fora and town hall-style meetings in local communities to facilitate engagements between the people and their local assemblies and members of Parliament. The Committee proposes that, in line with its re-focus on civic engagement, the Commission should be renamed the National Commission for Civic Engagement.	The 2010 Commission acknowledged concerns about overlapping mandates among the NCCE and other independent constitutional bodies but did not propose any constitutional amendment to expand or refocus the Commission's functions, recommending instead stronger inter-agency collaboration through enabling legislation and the entrenchment of the NCCE's independence. The 2025 Committee departs from this approach by proposing a constitutional expansion and clarification of the NCCE's mandate to include national presidential debates and structured civic engagement at the community level, together with a renaming of	The 2024 Committee did not make a recommendation in this area.

		the Commission to reflect a more active civic engagement role.	
Composition of the Commission	The Committee recommends an amendment to Article 232(1) to provide that the NCCE shall comprise a Commissioner and two Deputy Commissioners, thus removing the “four other members” from the composition of the Commission. The Committee reasons that, it is inconsistent with the independence of the NCCE to have four members who are not full-time commissioners (and may hold other offices) and whose tenure and conditions of service differ and are determined in a different manner from the rest of the Commission. The Committee is satisfied that, as with the Commission for Human Rights and Administrative Justice, which comprises a Commissioner and two Deputies, the NCCE, supported by its public service establishment, can function effectively with a Commissioner and two Deputy Commissioners.	The 2010 Commission recommended amending the Constitution to reconstitute the NCCE as a body of three full-time executive members, including a chairperson, to improve its effectiveness. The 2025 Committee adopts a similar position but extends the rationale by emphasizing that a smaller, fully constituted NCCE would also better safeguard the Commission’s independence.	The 2024 Committee did not make a recommendation in this area.
Appointment of Chairperson and Members of the Commission	The Committee recommends an amendment to Articles 232(2) and 70 to provide that the Commissioner and each of the Deputy Commissioners shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancy by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC). A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position. The PSC will undertake initial screening of applicants and provide the Council of State with a shortlist of qualified candidates, who	The 2010 Commission recommended that the heads and members of independent constitutional bodies, including the NCCE, should be appointed by the President in consultation with the Council of State, and prior approval of Parliament. The 2025 Committee decided on similar method for appointing the heads and members of independent constitutional bodies, including the NCCE, except the Public Services Commission also has a role in setting the criteria for qualification.	The 2024 Committee recommended that the President’s general power of appointment be maintained. However, the Chairperson and members of the National Commission for Civic Education should be subject to an open competitive process that includes the approval of two-thirds of members of Parliament. Similarly, as for the other independent constitutional bodies, the 2025 Committee’s recommendation is more wide-reaching because it fundamentally restructures the appointment process to make it more meritocratic through the inclusion of the Public Services Commission.

	shall then be interviewed or vetted by the Council until a final nominee is selected for submission to the President. The President shall then forward the nominee on to Parliament and, upon receiving the approval of Parliament, the nominee shall be appointed by the President.		
Tenure and removal of the Chairperson and Members of the Commission	The Committee recommends an amendment to Article 235 to provide that the Commissioner and each of the Deputy Commissioners shall hold office for a single, non-renewable term of ten (10) years or upon or until he or she attains the age of 65 years, whichever is earlier. A person who has held the office of Commissioner or Deputy Commissioner shall, upon retiring or resigning from the position, be ineligible for appointment to any other public office, until after a three-year cooling off period. The Committee recommends an amendment to Article 236 to provide as follows: a. The Commissioner and Deputy Commissioners may be removed only on grounds of a wilful violation of law, dereliction of duty, or abuse of power. b. A petition seeking the removal of the Commissioner or a Deputy Commissioner shall be submitted to the Council of State; the petition shall state the grounds for removal and the relevant facts supporting the petition. c. Upon receipt of the petition, the Council of State shall constitute a subcommittee of its members to review the petition to assess whether the petition discloses on its face grounds and facts requiring further investigation by the Council. d. If the preliminary review determines that the petition presents a case warranting further investigation, the Council shall constitute a five-person independent tribunal, with membership drawn from outside the Council, to conduct an investigation into the matter.	The 2010 Commission also recommended a single, non-renewable tenure of 10 years, which is the same as the 2025 Committee's recommendation.	The 2024 Committee recommended strengthening the independence of the Commission by amending Article 234 to expressly insulate the Commission, the Commissioner, and Deputy Commissioners from external control, and by setting uniform retirement ages of 70 for the Commissioner and 65 for Deputy Commissioners under Article 235. The 2025 Committee adopts a different approach by restructuring tenure under Article 235, providing for a single, non-renewable 10-year term or retirement at age 65, whichever occurs first, and introducing a 3-year cooling-off period before appointment to any other public office. While the 2024 recommendation emphasizes institutional independence and retirement age uniformity, the 2025 recommendation focuses on fixed tenure, rotation, and post-office restrictions.

	e. The Commissioner or a Deputy Commissioner who is the subject of the removal petition shall be accorded all appropriate due process, including representation by counsel and a right to interrogate and cross-examine the Petitioner. f. The tribunal shall make its recommendation to the Council upon conclusion of its investigation. g. The Council of State shall submit the recommendations of the tribunal to the President, who shall act in accordance with the recommendation. h. The hearing must be in-camera.		
Financing	The Committee recommends that the NCCE should be entitled to receive subvention or grants from the proposed Democracy Fund to assist its work.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
National Media Commission			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Composition of the Commission (Article 166)	The Committee recommends an amendment to Article 166 to provide for a Commission membership of seven (7), as opposed to the current membership of eighteen (18). The members of the Commission shall be nominated as follows: one person nominated by the President, a legal practitioner of at least eighteen (18) years' experience nominated by the President, two persons nominated by the Associations of media owners, one of whom shall be female, and two persons nominated by the Associations of professional journalists, one of whom shall be female. The Committee further recommends an amendment to Article 166 to provide that, as the Commission membership is constituted by nominees of identifiable bodies, such members being necessarily part-time, the day-to-day running and performance of the functions of the Commission shall be vested in a chief executive officer who shall be designated as the Executive Secretary of the Commission and shall be an ex-officio	The 2010 Commission recommended that the National Media Commission should be composed of 11 members as follows: a. 1 representative each nominated by Lawyers, Christian groups, Muslim groups, and institutions for training journalists and communicators; and b. 2 representatives each nominated by the President, the Journalists, Organized Labor, and women's groups The 2025 Committee proposed a more streamlined model by further reducing the Commission to seven members, narrowing nominations to the President, media owners, and professional journalists, and formally distinguishing the Commission's governing role from day-to-day administration through the creation of an Executive Secretary as chief executive officer.	The 2024 Committee recommended amending Article 166(1)(c) and (d) to include the phrase "one of whom must be a woman" for the President's and Parliament's appointees. The 2025 Committee's recommendation also involves taking action to improve gender representation, but focuses more on streamlining the NMC's functions by reducing the size of the Commission.

	member of the Commission. The Commission as provided in Article 166 is thus properly the governing council or board of the Commission, as opposed to the day-to-day operating entity itself.		
Functions/Mandate of the National Media Commission	The Committee recommends appropriate amendments to Articles 167 and 173 and affected legislation to provide as follows: a. To enable the Commission discharge effectively its mandate under Article 167(a), the Constitution and enabling legislation should provide that the Commission may: 1. Receive complaints from journalists, media organisations, or members of the public concerning threats, attacks, or undue interference with media freedom, whether by state or non-state actors; 2. Initiate investigations on its own motion into alleged violations of press freedom, including harassment, unlawful arrests, seizure of equipment, censorship, intimidation, or economic coercion; 3. Summon persons, require the production of documents, and conduct hearings necessary for the effective investigation of such complaints; 4. Issue protective directives, compliance notices, or cease-and-desist orders to halt ongoing or imminent violations of media freedom, subject to judicial review; 5. Facilitate mediation or dispute resolution between media institutions and public authorities where appropriate, without prejudice to the right of access to the courts; and 6. Institute or support legal proceedings, including constitutional enforcement actions, where systemic or grave threats to media freedom arise. b. To enable the Commission discharge effectively its regulatory mandate under Article 167(b), the	The 2010 Commission proposed a limited clarification of the National Media Commission's regulatory role, focusing on confirming its authority over broadcast authorization and its powers to initiate court actions and provide remedies for media misconduct. The 2025 Committee went significantly further by proposing a comprehensive expansion and codification of the Commission's functions, establishing it as the primary regulator of the media space with wide-ranging powers over standards-setting, licensing, enforcement, accreditation, dispute resolution, media safety, and oversight of ownership and professional practice.	The 2024 Committee did not make a recommendation in this area.

	Constitution and related legislation should clearly mandate the Commission to: 1. Set national journalistic and media standards, grounded in democratic values, accountable governance, professional ethics, and appropriate Ghanaian cultural norms, through consultative and transparent processes; 2. Monitor compliance with those standards through proportionate, participatory, and non-intrusive mechanisms that avoid prior restraint while promoting professionalism and public accountability; and 3. Enforce compliance through clearly defined procedures that respect natural justice, editorial independence, and the right to judicial review. This mandate should explicitly include the authority to: 1. Develop, adopt, and periodically review codes of ethics, editorial guidelines, and professional standards applicable to journalists, media practitioners, and media enterprises; 2. Issue interpretative guidelines to clarify the application of ethical and professional norms; 3. Receive and adjudicate complaints relating to accuracy, fairness, balance, and ethical breaches; 4. Require corrections, rights of reply, apologies, or other remedial measures as proportionate responses to established violations; 5. Impose graduated and constitutionally permissible sanctions, including public reprimands or mandatory corrective actions, while avoiding punitive excess; and 6. Require professional training or capacity-building interventions as corrective, non-punitive measures where systemic deficiencies are identified.		

	c. To enable the Commission discharge effectively its mandate under Article 167(c), the Commission should be empowered to: 1. Oversee or approve the appointment and removal of boards, chief executives, and editors of state-owned media, subject to clearly defined grounds and transparent procedures; 2. Secure tenure protections for key office holders to prevent arbitrary or politically motivated removals; 3. Investigate allegations of political, executive, or partisan interference in editorial or managerial decisions; 4. Issue binding directives to safeguard editorial independence where interference is established; 5. Prohibit ministerial or partisan directives relating to editorial content or professional functions; and 6. Review funding and budgetary arrangements to guard against indirect interference through financial pressure or resource manipulation. For the NMC to function as a credible regulator, the Committee recommends that the Constitution clearly mandates it to: 1. Set national media standards rooted in democratic principles and accountable governance, compatible with Ghanaian cultural values; 2. Monitor compliance through transparent and participatory mechanisms, and; 3. Enforce those standards with due process safeguards.		
Limitations on Media Freedom: Regulation of Media	The Committee recommends an amendment to Article 164 to align the text with contemporary standards and best practices in relation to media freedom by providing that restrictions on media freedom must be: a. Based on a law. b. Be reasonably necessary to achieve the stated public interest.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	c. Be proportionate and limited in its effects or protection of the reputations, rights and freedoms of others.		
Definition of "Media" in the Constitution	To address this, the Committee recommends that the Constitution adopts a technology-neutral definition of "media", covering all forms of content dissemination regardless of platform or format. This would empower the NMC and future regulators to oversee emerging forms of media without constantly chasing legal reform.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Legal Status and Governance of the Commission	The Committee recommends an amendment to Article 166 to: a. Include the Executive Secretary of the Commission as an ex-officio member of the Commission; b. Designate the body constituted under Article 166 as the governing council of the Commission, with responsibility for policy direction and oversight.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Appointment and tenure of the Executive Secretary of the Commission	The Committee recommends an amendment to Chapter Twelve to provide for the appointment, tenure and removal of an Executive Secretary who shall be the Chief Executive Officer of the Commission as follows: a. Appointment: The Executive Secretary shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancy by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC). A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position. The PSC will undertake initial screening of applicants and	The 2010 Commission did not propose an Executive Secretary and therefore did not make a recommendation in this area.	The 2024 Committee did not propose an Executive Secretary and therefore did not make a recommendation in this area.

	provide the Council of State with a shortlist of qualified candidates, who shall then be interviewed or vetted by the Council until a final nominee is selected for submission to the President. The President shall then forward the nominee on to Parliament and, upon receiving the approval of Parliament, the nominee shall be appointed by the President. b. Tenure: The Executive Secretary shall hold office for a single, non-renewable term of ten (10) years or until he or she attains the age of 65 years, whichever is earlier c. The Executive Secretary shall be subject to removal on the same terms as the Commissioner or Deputy Commissioner of the other independent constitutional bodies.		
Tenure of NMC Board Members	The Committee recommends that the other members of the Commission shall have a tenure of 5 years, renewable once.	The 2010 Commission recommended that the existing provisions governing the tenure of NMC Board Members should be retained.	The 2024 Committee did not make a recommendation in this area.
Funding of the Commission	The budget of the NMC should be constitutionally ring-fenced, ensuring that it receives guaranteed resources insulated from executive control. This will enhance institutional resilience and enable the Commission to operate without fear of financial reprisal for taking unpopular but necessary actions. The Committee recommends that the NMC should receive subvention from the proposed Democracy Fund.	The 2010 Commission proposed a systemic funding reform by recommending the creation of an Independent Constitutional Bodies Fund through which the budgets of all ICBs, including the NMC, would be submitted directly to Parliament without ministerial clearance. The 2025 Committee takes a more targeted approach by proposing constitutional guarantees for the NMC's operational funding and making it eligible for support from a Democracy Fund.	The 2024 Committee did not make a recommendation in this area.

III. Harnessing Our Collective Wealth for Sustainable Development

Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Legislative and Budgetary Alignment with the National Development Plan	To ensure meaningful mainstreaming of the National Development Plan (NDP) into policy and law-making, the Committee recommends that the Constitution be amended as follows: a. Article 106: Every Bill must be accompanied by a memorandum explaining its consistency with the National Development Plan and the Directive Principles of State Policy. Any material departure must be justified and referred to the National Development Planning Commission for comment before Parliament proceeds. A Bill that materially departs from the Directive Principles shall not be proceeded with unless amended. b. Article 179: All government appropriations, including the annual budget and the Medium-Term Expenditure Framework, must indicate how public funds advance the National Development Plan. Any material divergence must be disclosed and justified. c. Article 87: The National Development Planning Commission shall support Metropolitan, Municipal, and District Assemblies and promote coherence across planning levels. The National Development Plan shall be binding on these Assemblies, and any material departure must be explained in accordance with law. Additionally, all constitutional obligations relating to disclosure, alignment, explanation, and planning coherence shall be justiciable.	The 2010 Commission recommended that any policy, law, administrative action, programme, budget, or financial disbursement that was inconsistent with the National Development Plan be treated as unconstitutional. The 2025 Committee adopts a more practical and structured approach. Bills and budgets must explain how they align with the NDP, and any material departure must be justified and reviewed by the National Development Planning Commission. These obligations are made legally enforceable. Unlike the 2010 approach of automatic invalidity, the 2025 recommendation strengthens alignment through transparency and institutional oversight. It also preserves workable legislative and budgetary processes.	The 2024 Committee did not make a recommendation in this area.
Nature and Ownership of the National Development Plan	To ensure legitimacy and broad-based ownership of the national development plan, the Committee recommends that the plan should not become effective merely upon submission to the President. Instead, it should be approved by Parliament by two-thirds of all members before implementation. Parliamentary approval will strengthen accountability and ensure that the plan reflects the will of the people through their elected representatives. The Committee also recommends that the NDPC be required to widely publish the plan	The 2010 Commission recommended that the National Development Plan be written into the Constitution as a long-term and binding national plan. It proposed that the Plan be enforceable by the public. The 2010 Commission also recommended wide consultation in its preparation, approval by a two-thirds majority in Parliament, and public dissemination once approved.	The 2024 Committee did not make a recommendation in this area.

	through print and electronic media and in public spaces across communities to increase citizen awareness and participation.	The 2025 Committee takes a more procedurally focused approach. It requires a two-thirds parliamentary resolution before the NDP can take effect. The 2025 Committee's recommendation also strengthens transparency and public engagement by placing a clear constitutional duty on the National Development Planning Commission to ensure wide dissemination of the approved Plan.	
Implementation of the National Development Plan	The Committee recommends constitutional amendments as follows: a. Article 87 should affirm the National Development Planning Commission as the central body for coordinating, monitoring, and evaluating the National Development Plan, while implementation remains the responsibility of Ministries, Departments, Agencies, and Metropolitan, Municipal, and District Assemblies within their mandates. b. The Constitution should require the annual budgets and operational plans of all Ministries, Departments, Agencies, and Metropolitan, Municipal, and District Assemblies to be derived from and aligned with the National Development Plan, to ensure coherence between development priorities, policy, and expenditure. c. Article 67 should require the President to report annually to Parliament on implementation of the National Development Plan, including progress achieved, challenges encountered, and measures taken to ensure government-wide alignment.	The 2010 Commission recommended that the National Development Planning Commission should focus on preparing, monitoring, and evaluating the National Development Plan, with implementation left to Ministries, Departments, Agencies, and Metropolitan, Municipal, and District Assemblies. It also proposed that all operational plans and budgets be based on the Plan and that the President report annually to Parliament on implementation. The 2025 Committee retains this framework but strengthens it through clearer constitutional provisions. It affirms the coordinating and oversight role of the Commission, reinforces alignment of budgets and plans with the Plan, and expands presidential reporting to include progress, challenges, and government-wide alignment.	The 2024 Committee did not make a recommendation in this area.
Amendment of the National Development Plan	The Committee recommends that the Constitution be amended to provide that the National Development Plan may be amended only in accordance with the procedure prescribed below:	The 2010 Commission recommended a centralized approach to amending the National Development Plan. It proposed that amendment authority be vested solely in Parliament, exercisable only by a two-thirds majority, and	The 2024 Committee did not make a recommendation in this area.

	a. An amendment to the National Development Plan may be proposed by a Metropolitan, Municipal, or District Assembly, a Ministry, Department, or Agency, or the National Development Planning Commission, and every proposed amendment shall be submitted to the National Development Planning Commission for technical review before being submitted to Cabinet and laid before Parliament. b. No proposed amendment to the National Development Plan shall be laid before Parliament unless it is accompanied by a written statement setting out the purpose of the amendment, the deficiency or change in circumstance it seeks to address, and its implications for national development coherence. c. An amendment to the National Development Plan shall not take effect unless it has been published for public notice and consultation and approved by Parliament by a resolution supported by not less than two-thirds of all the Members of Parliament.	that all amendments be published. The 2025 Committee retains the requirement of parliamentary approval by a two-thirds majority and public disclosure but introduces a more structured and participatory process. It allows amendment proposals to originate from MDAs, MMDAs, or the National Development Planning Commission, requires prior technical review by the Commission, mandates a written justification, and adds public notice and consultation. The 2025 approach therefore strengthens procedural rigor, transparency, and inclusiveness, while preserving strong parliamentary control over changes to the Plan.	
Implementing the Directive Principles of State Policy	In light of the foregoing, the Committee recommends that the Constitution be amended to strengthen the binding force, coherence, and operational enforcement of the Directive Principles of State Policy and the operationalization of the National Development Plan through the following measures: a. Require Parliament to enact framework legislation governing national development planning. Pursuant to this framework, a long-term or medium-term national development plan—ideally spanning not more than twenty-five (25) years—with clearly defined objectives, targets, and milestones shall be prepared and periodically reviewed by the National Development Planning Commission for the progressive realization of the goals and objectives set out in the Directive Principles of State Policy. Any such plan, or revision thereof, shall be laid before Parliament and shall not take	The 2010 Commission recommended that the NDPC should have regard to the Directive Principles of State Policy (DPSP) in the performance of their functions. The 2025 Committee concurred with this assessment, but chose to recommend a more explicit constitutional link between the DPSP and national development, as well as providing for more stringent requirements on progress towards their operationalization.	The 2024 Committee recommended expanding the functions of the National Development Planning Commission to prepare and review a long-term national development plan, monitor development policies, and report annually to Parliament. The 2025 Committee builds on this by strengthening the binding force of the Directive Principles of State Policy and linking them directly to national planning, budgeting, presidential reporting, and election programmes. While the 2024 recommendation focuses on the role of the NDPC, the 2025 approach embeds the Directive Principles

	effect unless approved in accordance with this Constitution. b. Article 87 shall be amended to affirm that the National Development Planning Commission shall serve as the central coordinating, monitoring, and evaluation body for the National Development Plan, while responsibility for implementation shall remain with Ministries, Departments, Agencies, and Metropolitan, Municipal, and District Assemblies acting within their respective mandates. c. Articles 34(2) and 67 shall be strengthened to require the President to submit to Parliament an annual written report on progress made towards the achievement of the policy goals and objectives set out in the Directive Principles of State Policy and the National Development Plan. Such report shall demonstrate measurable progress, challenges encountered, and corrective measures adopted, whether or not incorporated into the State of the Nation Address. d. The Constitution shall require the Minister responsible for Finance to present an annual budget and related fiscal instruments that expressly indicate how proposed expenditures, revenues, and fiscal priorities advance the goals and objectives of the Directive Principles of State Policy as reflected in the National Development Plan approved by Parliament. The annual budgets and operational plans of all MDAs and MMDAs shall be drawn from, and aligned with, the National Development Plan. e. Article 34(1) shall be given operational effect by requiring political parties and presidential candidates, not later than six (6) months before a general election, to prepare, publish, and submit to the National Development Planning Commission a programme or manifesto setting out the legislative, administrative, and policy measures they propose to adopt in the progressive fulfilment of the Directive Principles of State Policy as		more firmly across government and democratic processes.

	embodied in the National Development Plan. Such programmes or manifestoes shall include indicative cost estimates and proposed sources of funding. f. To preserve institutional neutrality, the Constitution shall provide that the National Development Planning Commission shall not express opinions on the merits of any party or candidate programme or manifesto, but shall be required only to certify formal consistency with the National Development Plan and the Directive Principles of State Policy. Any certification or notification of inconsistency shall be factual and technical in nature and shall be made public to inform democratic debate, while leaving substantive policy choice and electoral judgment to the electorate.		
Composition of the National Development Planning Commission	The Committee recommends that Article 87 of the Constitution be amended to provide that the membership of the National Development Planning Commission shall include: a. The Minister responsible for Finance and Economic Planning b. The Governor of the Bank of Ghana c. The Government Statistician d. The Head of the Land Use and Spatial Planning Authority. e. The Head of the Environmental Protection Authority. f. One academic or established professional with recognized expertise in economic planning. g. One academic or established professional with recognized expertise in social planning. h. Two representatives nominated by the National House of Chiefs with demonstrable knowledge or experience in matters relating to development or economics. i. Two representatives of organized labour and civil society organisations, as prescribed by law j. The Director-General of the Commission, who shall serve as Executive Secretary.	The 2010 Commission recommended a broad and representative National Development Planning Commission that was independent, professional, and multi-partisan. Its proposed membership included major political parties, regional planning officers, the private sector, organized labour, civil society, the National House of Chiefs, and key economic institutions. The 2025 Committee proposes a more streamlined and technical composition. It retains core economic offices but replaces partisan and regional representation with sector regulators, planning experts, organized labour and civil society representatives, and an engineer nominated by professional bodies. The emphasis shifts from political and regional balance to professional competence, expertise, and institutional coordination.	The 2024 Committee recommended a wide reconstitution of the National Development Planning Commission to ensure independence, professionalism, multi-partisanship, and broad stakeholder representation, including membership drawn from political parties, academia, industry, labor, civil society, and traditional authorities. The 2025 Committee recommends a more streamlined and technocratic composition focused on key public institutions and planning expertise, with limited and clearly defined representation from academia, traditional authorities, labor, and civil society. While the 2024 recommendation placed a strong emphasis on broad representational inclusion, the 2025 recommendation prioritizes professional competence,

	k. A professional engineer nominated by the Council of State through a competitive process administered by the Public Services Commission. The Committee further recommends that appointments under paragraphs (f), (g), (h), and (i) of this part be made in a manner that ensures professional competence, independence, and balanced representation, in accordance with criteria prescribed by law.		independence, and balanced representation.
Public Lands and Natural Resources			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Vesting of Public Lands and the Fiduciary Role of the Lands Commission	The Committee recommends appropriate amendments to Chapter Twenty, as follows: - Article 257 should be amended to remove vesting of public lands in the President. Public lands should be expressly vested in the people of Ghana, to be held and managed in trust for present and future generations. The Constitution should affirm that no public office holder holds proprietary title over public lands, and that all authority over such lands is fiduciary and limited. - Article 258 should be revised to establish the Lands Commission as the primary constitutional trustee and manager of public lands, acting on behalf of the people of Ghana. The Commission's mandate should be explicitly grounded in fiduciary principles, including duties of loyalty to the public interest, transparency and reasoned decision-making, sustainability and intergenerational equity, and prevention of waste, speculative alienation and abuse. Constitutional safeguards should strengthen the institutional	The 2010 Commission recommended a limited clarification of ownership. It affirmed that lands and natural resources belong to the people of Ghana but remain vested in the President in trust on their behalf. The 2025 Committee proposes a more substantive change. Public lands are vested directly in the people, with the Lands Commission designated as the constitutional trustee and manager. The proposal introduces enforceable fiduciary duties, limits disposal to transparent and lawful processes, strengthens parliamentary oversight, and provides legal remedies for breaches. Unlike the 2010 position, the 2025 recommendation moves beyond symbolic ownership to embed accountability and legal control in public land administration.	The 2024 Committee did not propose an amendment to this provision.

	independence of the Lands Commission from executive control or political direction. 3. New Fiduciary Governance Clause (Public Lands). - A new constitutional provision should impose direct fiduciary obligations on all public authorities involved in land administration, including the Lands Commission, Ministries, Departments and Agencies. Breach of these fiduciary duties should be constitutionally justiciable, with access to judicial remedies, including injunctions, nullification of transactions and accountability sanctions. 4. The new clause should provide that the Lands Commission in administering public lands as a fiduciary shall not sell, lease, allocate or otherwise dispose of any public land except in accordance with procedures prescribed by law that ensure transparency, fairness, value for money and demonstrable public interest. 5. As part of the accountability measures, the Committee recommends that the Lands Commission and the respective mineral resource commissions be required to report to Parliament annually on the state and management of all public lands, as well as mineral resources. The Committee recognizes that public lands and minerals are critical to the development of a nation and, therefore, recommends the retention of the provision in Article 258(2) of the Constitution by which the Minister responsible for Lands and Natural Resources can give general policy directions, as opposed to specific transaction directions. The Committee, nevertheless, recommends that such general policy directions be addressed in writing solely to the Executive Secretary of the Lands Commission for implementation. This avoids situations where directions are given by the Minister responsible for Lands and Natural Resources to persons other than the Executive Secretary of the Lands Commission, complicating lines of responsibility and accountability. 6. A new clause should require:		

	a. Mandatory annual audits of public land administration by the Auditor-General, b. Public registers and disclosure of public land allocations, leases and disposals, c. Strengthened parliamentary oversight over public land governance, and d. Accessible remedies for citizens, communities and civil society to challenge mismanagement. 7. Parliament should, by law, revise existing laws and provide a comprehensive public lands governance statute to operationalize these constitutional reforms, including: a. Enforcement mechanisms, b. Sanctions for breach of fiduciary duty, c. Continuity safeguards aligned with national development planning, and protection of public lands as strategic national assets.		
Compulsory Acquisition of Land & Reversionary Rights of Original Owners	The Committee recommends that Article 20 of the Constitution be amended as follows: a. Article 20 should be harmonized with the revised vesting framework to ensure that compulsory acquisition and use of land strictly serve a defined public purpose, comply with the principles of necessity, proportionality, and fairness, preserve reversionary rights where the public purpose fails, and cannot be used as a mechanism for indirect private capture of public land. b. The Committee recommends that where there is a change in the purpose for which land is compulsorily acquired and for which reason the pre-acquisition owners cannot exercise their right of pre-emption, the pre-acquisition owners should be entitled to receive some financial compensation from the government or any entity which is granted the land to undertake the redevelopment or to execute the changed purpose.	The 2010 Commission recommended that where land acquired by the State is not used for the stated public purpose, the land should revert to the original owners. The 2025 Committee adopts a more detailed and protective framework, by amending several clauses to expand the meaning of fair and adequate compensation, introduce enforceable resettlement obligations, and strengthen reversionary rights through a legally enforceable buy-back mechanism. Overall, the 2025 approach moves beyond a single reversion rule to establish a comprehensive constitutional regime for acquisition, use, compensation, and accountability.	The 2024 Committee proposed a narrow amendment to Article 20(2)(a) to require compensation for compulsory acquisition to be paid within one year of assessment. The 2025 Committee takes a broader approach by proposing a redesign of Article 20 to strictly limit compulsory acquisition, require advance compensation, and protect reversionary rights. While the 2024 recommendation addresses payment timing, the 2025 recommendation overhauls the constitutional framework for compulsory acquisition.

	c. Article 20(1) be amended to require that compulsory acquisition may be undertaken only where land is required for a clearly defined, specific, and immediate public purpose, supported by a written statement of necessity demonstrating that the acquisition is a measure of last resort and that no reasonably less intrusive alternative is available. d. A new clause be inserted in Article 20 to provide that land compulsorily acquired by the State shall not be transferred, leased, or otherwise vested in private persons or entities for commercial or profit-making purposes, and that compulsory acquisition shall not be used as a mechanism for land assembly for private development. e. Article 20(2) be amended to provide that compulsory acquisition shall not take effect unless funds for the full payment of compensation have been assessed, secured, and appropriated in advance, and that compensation shall be paid within a constitutionally prescribed period, failing which the acquisition shall be void. f. In order to give prominence to the new arrangement in this regard, the Committee recommends that the statutory provisions in Section 238 of the Land Act, 2020(Act 1036) which provides that before the State compulsorily acquires land, money for compensation and other cost associated with the compulsory acquisition must be provided and kept in an escrow account or evidence of Cabinet approval and budgetary allocation must be provided, should be elevated to constitutional status to prevent this provision from being easily changed by Parliament in the future. g. A clause be inserted to clarify that “fair and adequate compensation” includes not only market value, but also compensation for permanent deprivation of land, loss of livelihoods, disruption of economic systems, extinguishment of generational patrimony, and social		

	and cultural dislocation, particularly in respect of customary landholding communities. h. Article 20(3) be amended to require that resettlement planning be completed and approved prior to compulsory acquisition, and that resettlement obligations be enforceable against the acquiring authority as a condition precedent to taking possession of land. i. Article 20(5) be amended to require that compulsorily acquired land be used exclusively for the stated public purpose within a defined period, and that failure to commence such use within that period shall trigger mandatory review and reversionary procedures. j. Article 20(6) be amended to provide that reversionary rights operate as a legally enforceable right of buy-back in favour of the original owner or successors-in-title, exercisable at the prevailing market value at the time of reversion, taking into account appreciation arising from general market forces and any value added through State investment. k. A new clause should be inserted to prohibit the acquisition of land not required for immediate public use, to prevent speculative holding of compulsorily acquired land by the State, and to guard against the abuse of compulsory acquisition for corrupt, political, or private advantage. Article 20 be amended to require the maintenance of a comprehensive, publicly accessible register of all compulsorily acquired lands, including the purpose of acquisition, compensation status, utilization, and reversionary action, subject to periodic independent audit.		
Composition and Independence of Lands Commission and Regional	The Committee recommends targeted constitutional reform affecting Articles 258 and 259 of the Constitution, together with consequential legislative authority vested in Parliament, as follows:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended amending the composition of the Regional Lands Commissions by adding a representative of the National Development Planning Commission. The 2025 Committee

Lands Commission	a. Articles 258, 259, and 264 should be amended to remove the exhaustive constitutional prescription of the membership and composition of the Lands Commission, instead requiring that these be determined through legislation that has regard to the constitutional principles of independence, merit, transparency, security of tenure and accountability. b. Articles 260–264 should be amended to allow the Regional Lands Commissions to be established and structured by legislation reflecting regional land tenure and administrative needs. c. A new clause should require Parliament to ensure independence, professionalism, transparency, and protection from politicisation in laws governing the Lands Commission and Regional Lands Commissions. d. Parliament should, within a specified period, enact comprehensive legislation on appointments, expertise, tenure security, accountability, and transparent reporting. e. The Constitution should provide for the inclusion of senior police officers on the National and Regional Lands Commissions, appointed by the Inspector-General of Police. f. A senior military officer with expertise in border demarcation and maritime delimitation should be appointed to the National Lands Commission by the Chief of Defence Staff.		proposes a broader constitutional reform by removing detailed membership rules from the Constitution and assigning responsibility for the composition and independence of the Lands Commission to Parliament. The 2025 recommendation also differentiates between national and regional structures, requires comprehensive enabling legislation, and introduces security sector representation through senior police and military officers. While the 2024 recommendation made a targeted change to the membership of the Regional Lands Commission, the 2025 approach redesigns the institutional framework of the Lands Commission as a whole to strengthen independence, transparency, and governance integrity.
Office of the Stool Lands Administrator	The Committee recommends that: a. Article 267(2) should be amended to remove the Office of the Administrator of Stool Lands as a separate constitutional office and to vest responsibility for the collection, management, and disbursement of stool land revenues in the Lands Commission. b. The Committee recommends that the Office of the Administrator of Stool Lands (OASL) should be made a	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	Division of the Lands Commission with an additional mandate to collect revenue from family lands, clan lands, quarter lands and Tindana lands. It is further recommended that this change should come with a change in its name, and the name 'Rent Management Division' is recommended. c. A new provision be inserted to provide that the Lands Commission shall be responsible for the collection, accounting, management, and disbursement of all rents, dues, royalties, revenues, and other payments derived from stool, family, clan, quarter and Tindana lands, in accordance with this Constitution and any Act of Parliament. d. Article 267(4) – Article 267 be amended to expressly provide that the Lands Commission, in exercising stool land revenue functions, acts as a fiduciary on behalf of stools, skins, and communities, and shall have authority to require periodic reporting, auditing, and verification of the use of stool land revenues by all beneficiaries. e. That consequently Article 258 be amended to include, among the functions of the Lands Commission, responsibility for the financial administration of stool land revenues and the integration of such revenue administration with land registration, boundary demarcation, and customary land information systems. f. Article 267(6) be retained, subject to minor consequential amendments, to preserve the existing stool land revenue-sharing formula, with references to the Office of the Administrator of Stool Lands replaced by references to the Lands Commission. g. A new clause be inserted to require District Assemblies, traditional authorities, and any other beneficiaries of stool land revenue to submit annual reports to the Lands Commission on the receipt and utilization of such revenues, in a manner prescribed by Parliament.		

	h. A new article be inserted to empower the Lands Commission or the Auditor General to take remedial action, including surcharge, recovery of misapplied funds, and referral for prosecution, in respect of any misuse or misapplication of stool land revenues.		
Land Interest of Non-Citizens and Joint Ownership with Citizens	The Committee recommends that Article 266 of the Constitution be amended as follows: a. Article 266(2) be amended to provide that any agreement, deed, or conveyance that purports to grant a freehold interest in land to a non-citizen shall not be void, but shall by operation of law be deemed to confer a leasehold interest for a period of 50 years at a time. b. Article 266(4) be amended to expressly provide that where a leasehold interest in land granted to a non-citizen exceeds the constitutionally permitted duration of 50 years, the lease shall automatically be reduced to the maximum allowable term, with the excess duration rendered of no legal effect. c. The Committee is of the opinion that the statutory provisions prescribed by the Land Act, 2020 (Act 1036) in relation to joint ownership between a Ghanaian and a non-Ghanaian citizen are pragmatic and our recommendation is to elevate the provisions Section 10(9) and (10) of the Land Act, 2020 to constitutional status. Section 10(9) provides that the restrictions imposed in land acquisition by non-Ghanaian citizens in subsections (1), (2), (3) and (7) of Section 10 shall not be affected by the marriage of that person to a citizen of Ghana or by the entry of that person into a partnership with a citizen of Ghana. Section 10(10) of Act 1036 explains that: “For the purpose of this section, a company or corporate body is not a citizen if more than forty percent of the equity shareholding or ownership is held by non-citizens”.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	In essence, a company or corporate body incorporated in Ghana but with a foreign shareholder holding more than 40% is not a citizen of Ghana and cannot acquire land in excess of 50 years at a time. However, if the Ghanaian shareholding in a Ghanaian incorporated company has 60% or more, and a foreigner owns the rest, then such a company is classified as a Ghanaian company and, therefore, can acquire proprietary interests in land which exceeds 50 years. Where the shareholding between Ghanaians and non-Ghanaians is equal, then it cannot acquire an interest in land longer than 50 years at a time. In the case of marriage (or any form partnership) between a Ghanaian and a non-Ghanaian, the fact of this relationship by itself should not enable the non-Ghanaian to acquire an interest in land exceeding 50 years at a time.		
Protection for Leased Land in Continuous Public-Interest Use	The Committee recommends that Article 266 of the Constitution be amended by the insertion of a new clause that provides that: a. Where land is held under a lease and is used continuously and predominantly for essential public or social purposes by a non-profit, mission-locked entity, the lessee shall be entitled, upon expiry of the lease, to a protected right of renewal, subject to this Constitution and any Act of Parliament. b. A protected right of renewal under this article shall not create a freehold interest, perpetual tenure, or any proprietary interest beyond a 50-year leasehold interest, and land subject to such renewal shall remain subject to periodic tenure cycles and ultimate reversion to the landowner.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Modernizing Constitutional Language on Stool Land Beneficiaries	The Committee recommends that Article 267(1) and 295 of the Constitution be amended to replace the term “subjects of the stool” with “members of the stool community” or “members of the stool”, so that the provision affirms that stool lands vest in the appropriate	The 2010 Commission recommended amending the Constitution to include family lands within the definition of stool or skin lands, thereby expanding the categories of land covered. The 2025 Committee’s approach differed by	The 2024 Committee recommended an amendment to Article 295 to broaden the constitutional definition of stool land. The change expanded the categories of land and

	stool on behalf of, and in trust for, the members of the stool community, in accordance with customary law and usage.	addressing the language used to describe beneficiaries of stool lands. It proposes replacing the term “subjects of the stool” with “members of the stool community” to reflect contemporary usage and to clarify that stool lands are held in trust for the wider community under customary law. While the 2010 recommendation expanded what counts as stool land, the 2025 recommendation modernizes how ownership and community benefit are expressed	beneficiaries covered, including family, community, and company lands, but it retained the existing phrase “subjects of the stool”. The 2025 Committee takes a different and more targeted approach. It focuses on modernizing the constitutional language itself by replacing “subjects of the stool” with “members of the stool community” or “members of the stool”. This change is intended to reflect contemporary understandings of community membership and to clarify that stool lands are held in trust for the wider stool community in accordance with customary law.
The Nature of the Trust under Article 267	The Committee recommends that Article 267 be amended to: a. Expressly provide that the stool, acting through the occupant of the stool and the relevant traditional authority, holds stool lands in a fiduciary capacity and not as a beneficial owner, and that all powers exercised in relation to stool lands are subject to duties of loyalty, good faith, accountability, and intergenerational equity. b. Clarify that the fiduciary obligations of the stool extend beyond revenue management to include the allocation, use, protection, and long-term stewardship of stool lands, and that such obligations shall be exercised for the collective benefit of the members of the stool community. c. Recognize the right of members of stool communities to enforce the fiduciary obligations arising under the constitutional trust, including the right to seek information, challenge mismanagement or abuse of	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	authority, and pursue appropriate remedies for breach of trust before a court of competent jurisdiction. d. Provide that while customary law and usage continue to govern stool landholding, such customary norms shall operate subject to the fiduciary obligations and constitutional values embodied in Article 267, and that where there is inconsistency, the fiduciary duty to act in the collective interest of the stool community shall prevail. e. Require Parliament to provide by law for clear consequences and remedies for breach of fiduciary duty by traditional authorities, including restitution, recovery of misapplied benefits, removal or suspension from land administration functions, and other appropriate sanctions consistent with customary governance structures and constitutional principles.		
Prescription of Basic Principles of Natural Resources in the Constitution	The Committee recommends constitutional amendments as follows: a. Provisions on vesting natural resources should be aligned with the public trust framework, with Article 257(6) amended to vest minerals, water, and other natural resources in the people of Ghana, held in trust by the State for present and future generations. b. A new article or clause should set out guiding principles for natural resource governance, including public ownership and trusteeship, fiduciary responsibility, intergenerational equity, sustainability, equitable use, precaution, public benefit, transparency, accountability, democratic oversight, community participation through access to information and FPIC, restoration and rehabilitation, climate compatibility, and enforceability of the public trust. c. Article 268 should be aligned with this framework by requiring parliamentary ratification of natural resource transactions to be exercised in accordance with the prescribed constitutional principles.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

Legal Consequence of Non-Ratification of Natural Resource Agreements, Transactions and Undertakings	The Committee recommends that a new clause be inserted into Article 268, requiring prior parliamentary approval before natural resource concessions or grants are made. For emphasis, this prior approval should precede the signing of any agreement, concession or grant by the Executive. The signed agreement must then be returned to Parliament for confirmation, to ensure that the agreement, concession, or grants made by the Executive conform to the terms approved by Parliament. This process will ensure the full participation of the people of Ghana, through their elected representatives, both before and after natural resource concessions and grants are made.	The 2010 Commission recommended that natural resource rights be granted on the recommendation of the relevant resource commission and be subject to parliamentary ratification, with Parliament allowed to delegate this power for certain transactions. The 2025 Committee strengthens this framework by requiring parliamentary approval before any agreement, concession, or grant is signed, followed by confirmation after signing. Compared with the 2010 approach, the 2025 recommendation introduces earlier and more robust parliamentary control over natural resource transactions.	The 2024 Committee did not make a recommendation in this area.
Allocation of Mineral Revenue to Mining Communities	The Committee recommends that a percentage of gross revenue (not exceeding 3%) generated from natural resource extraction be granted to communities where the natural resources are exploited for infrastructural needs, human developmental needs as well as for dealing with environmental challenges that might arise from natural resource extraction. The management of this fund should be under the control of the Committee/Board of Trustees drawn from the National Development Planning Commission, a representative from the Commission regulating the utilization of the natural resource, a representative of the District Chief Executive, a representative of the highest traditional authority in the District where the natural resource is exploited, a representative of the youth, women and persons with disabilities. The Committee also recommends that Parliament should be obliged to enact detailed provisions to give effect to this recommendation.	The 2010 Commission recommended amending relevant Acts of Parliament to improve transparency and accountability in the use of mineral revenues within the constitutional framework. The 2025 Committee goes further by proposing a direct allocation of up to 3% of gross resource revenue to host communities. It also introduces a defined governance structure for managing these funds and requires Parliament to enact detailed implementing legislation.	The 2024 Committee did not make a recommendation in this area.
Protection of the environment:	In order to express society's revulsion and opprobrium to illegal mining in Ghana, the Committee will be remiss in its duty of constitutional review if it does not recommend the creation of an offence of ecocide with	The 2010 Commission recommended the creation of a legislative framework to address environmental crimes linked to the exploitation of natural resources. The 2025 Committee adopts	The 2024 Committee recommended that the right to a clean and healthy environment for every person should be explicitly listed alongside

Dangers from ecocide	very stiff and punitive sanctions. This further gives true expression to the right to a clean environment. Currently, many countries around the world have made similar provisions for the offence of ecocide in their criminal/penal codes. The countries with such laws include Belgium, Belarus, Russia, Ukraine, Moldova, Tajikistan, Uzbekistan, the Republic of Armenia, Kazakhstan and others. Article 94 of the Belgian Penal Code defines ecocide as “deliberately committing an unlawful act causing serious, widespread and long-term damage to the environment knowing that such acts cause such damage.” Article 154 of the Criminal Code of the Republic of Armenia defines ecocide as “mass destruction of flora or fauna, contamination of the atmosphere, soil, lithosphere, or water resources, polluting or otherwise causing an ecological catastrophe.” Article 196 of Uzbekistan’s Criminal Code also defines the offence as “pollution or damage of land, water, or atmospheric air, resulting in mass disease incidence of people, death of animals, birds or fish or other grave consequences.”	a much stronger position by calling for the constitutional recognition of ecocide as a distinct criminal offence, with severe and punitive sanctions. It frames ecocide as an expression of society’s condemnation of environmental destruction, particularly illegal mining, and as a means of giving effect to the right to a clean environment. Unlike the general legislative approach proposed in 2010, the 2025 recommendation seeks to elevate environmental harm to the highest level of criminal accountability, drawing on emerging international practice.	other socioeconomic rights in a new clause added to Article 24. The 2025 Committee takes a more punitive and deterrent approach by proposing the creation of a specific offence of ecocide, carrying severe criminal sanctions. While the 2024 recommendation emphasizes environmental protection as a constitutional right, the 2025 proposal seeks to deter extreme environmental harm by elevating it to a serious criminal offence, particularly in response to illegal mining and large-scale ecological destruction.
The Natural Resource Commission	The Committee recommends that the Constitution be amended to insert a new provision under Article 269 requiring Parliament to enact legislation establishing a coordinating authority for natural resources, mandated to promote coherence, coordination, and compliance with the basic constitutional principles governing natural resources across all sectoral institutions and regulatory bodies, with responsibility for ensuring alignment of decisions relating to minerals, forests, water resources, land use, agriculture, and environmental protection, and for safeguarding adherence to those constitutional principles, provided that the establishment of such authority shall not, of itself, abolish or diminish the mandates of existing commissions or authorities under Article 269 except as may be provided by law.	The 2010 Commission recommended retaining the existing constitutional mandates of the Natural Resources Commissions. It did not propose creating new coordinating institutions or altering the sector-based structure already provided in the Constitution. The 2025 Committee takes a more integrative approach by proposing a new coordinating authority to promote coherence and compliance across all natural resource sectors. While preserving the mandates of existing commissions, the 2025 recommendation seeks to improve coordination, alignment, and adherence to shared constitutional principles across minerals, forests, water, land use, and environmental regulation.	The 2024 Committee did not propose an amendment to this area.

How do we employ our natural resources to attain the maximum benefit for the country?	The Committee recommends that the Constitution be amended to provide that Ghana shall be entitled in the short term to a minimum carried interest higher than 10 per cent of the total revenue generated. In the long term, the Committee recommends that the Government should take urgent steps to enter into agreements that give Ghana control over the revenue of its natural resources and ensure that the technical expertise of explorators is paid for as a service rendered. The Committee is of the opinion that the Government should be able to raise funds at a low cost in the form of sovereign bonds to finance such exploration and exploitation activities, if it cannot fund same from its regular budget. In order to ensure that future generations also benefit from the resource revenue, the Committee recommends the establishment of a heritage fund in the Constitution into which some funds will be lodged, earmarked and invested for the long-term for future generations. The details should be provided by Parliament.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Ocean Resources and Blue Economy	When the 1992 Constitution was promulgated over 32 years ago there was limited awareness of the importance and value of the oceans. This has changed, and it is essential that our current Constitution acknowledges the importance of the ocean and its resources, and makes the necessary provisions to protect this significant resource. In this light, the Committee recommends the provision of an Article to be dedicated to Ocean Governance and the blue economy which shall focus on at least 5 areas including imposing an obligation on the: a. State to sustainably manage the ocean and ocean resources. b. State to ensure the security of Ghana's maritime domain (either directly or in concert with other States and competent international organisations). c. Identification, protection and determination of our maritime frontiers.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	d. State to cooperate with other States in the sustainable management of living and non-living resources of the ocean and the maintenance of a healthy ocean. e. State to ratify all relevant marine environment related international conventions.		
Public Finance			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Tax exemptions	The Committee recommends amending Article 174 to treat all tax exemptions, waivers, reliefs, concessions, or variations as tax expenditures, with the Minister for Finance required, subject to parliamentary approval, to set an annual ceiling in the Appropriation Act. The Minister should also submit an Annual Tax Expenditure Statement with the budget, detailing proposed tax exemptions and special regimes for the coming year, disaggregated by sector and beneficiary, and a review of tax expenditures granted over the previous five years, including their fiscal cost and benefits. In addition, a public record of all tax exemptions and waivers should be maintained, stating the legal basis and justification, and made available to Parliament and the Auditor-General.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Extra-Budgetary Funds: Internally-Generated Funds and Special Purpose Statutory Funds	The Committee recommends that Article 176 be amended to provide as follows: Internally Generated Funds (IGF): a. Parliament shall annually authorize, through the Appropriation Act, the amount of IGF a public entity may retain for operations or administration. b. All IGF retained by a public entity shall be reported to Parliament during the financial year, as prescribed by law. c. The right to retain IGF shall depend on compliance with public financial management rules, and may be suspended or withdrawn for material non-compliance.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	Earmarked statutory funds: a. Parliament shall set, by law, an aggregate cap on earmarked taxes as a proportion of total tax revenue. b. Parliament shall also prescribe a macro-cap on earmarked funds and may allow temporary consolidation for fiscal stability or national emergencies. c. All earmarked funds and purpose-specific levies shall be subject to statutory sunset clauses. d. An earmarked fund shall expire at the end of its sunset period unless renewed by Parliament upon a reasoned request from the Minister for Finance.		
Contingency Fund	The Committee recommends that Article 177 be amended as follows: a. “Urgent and unforeseen” expenditure should be defined as expenditure that could not reasonably have been anticipated and that poses an imminent and serious threat to national security, public health or safety, or economic stability, causing widespread hardship. b. The Contingency Fund should receive an annual allocation of not less than one per cent and not more than three per cent of total budgetary expenditure. c. Any request to withdraw from the Contingency Fund should be made by the Minister for Finance, supported by written justification, and submitted to the relevant parliamentary committees for approval within five working days. d. Where an advance is taken from the Contingency Fund, a supplementary estimate should be presented to Parliament within thirty days to replace the amount advanced.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Withdrawal from Public Funds: Commitments Control by	The Committee recommends that Article 178 be amended as follows: a. There shall be a Controller and Accountant-General appointed by the President on the advice of the Council of State.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

Controller and Accountant-General	b. The Controller and Accountant-General shall serve a single, non-renewable term of eight years or until age sixty-five, whichever occurs first. c. The Controller and Accountant-General shall act as chief accounting officer of Government, responsible for managing and accounting for the Consolidated Fund and all public funds, including authorizing withdrawals and enforcing financial compliance. d. No withdrawal from, or commitment against, any public fund shall occur without the prior approval of the Controller and Accountant-General. e. Approval shall be granted only where the withdrawal or commitment is authorized by law. f. Where lawful, approval shall not be unreasonably delayed, and the Minister for Finance may direct approval in writing if a refusal or delay is unlawful. g. The Controller and Accountant-General shall submit an annual report to Parliament by 31 March, accounting for public fund withdrawals and commitments and explaining any material variances, subject to parliamentary oversight.		
Annual Estimates and Medium-Term Budget Framework: How do we connect the annual budget to the National Development Plan by the NDPC?	The Committee recommends amending Article 179 to require the President to submit to Parliament, at least two months before the annual budget, a medium-term economic framework covering a minimum of three years. The framework should include projections of key macroeconomic indicators, revenues, expenditures, fiscal balances, public debt, and a medium-term fiscal strategy. Parliament should approve the framework by resolution before considering the Appropriation Bill. The Minister for Finance should also submit a statement showing how the annual estimates align with the approved framework and explaining any material deviation.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Independent Fiscal Council	The Committee recommends that the Constitution should not itself establish a Fiscal Council or prescribe its	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	composition, mandate, or operations. Instead, the Constitution should expressly authorize Parliament to establish a Fiscal Council by legislation for the purpose of promoting fiscal responsibility, sustainability, transparency, and independent fiscal analysis, and to regulate the composition, functions, powers, and tenure of such a body by law.		
Borrowing and Public Debt: Debt Anchor, Ceiling?	The Committee recommends amending the Constitution to require Parliament to enact legislation establishing a public debt management framework, including debt anchors or fiscal sustainability rules, to ensure prudent and transparent borrowing without prescribing specific tools in the Constitution. The Minister for Finance should submit regular and comprehensive information to Parliament on public debt, including loan terms, amounts, maturities, purposes, and any material restructuring or assumption of debt. All contingent liabilities, including those arising from guarantees, public-private partnerships, and State-Owned Enterprises, should also be disclosed to Parliament to enable informed oversight of fiscal risks.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Central Bank	The Committee recommends amending Articles 183 and 184 to restrict direct advances or credit by the Bank of Ghana to Government or public entities. Such advances may occur only on a written directive from the Minister for Finance, under an emergency clause in law, and with prior parliamentary approval by at least a 60 per cent majority. The parliamentary committee responsible for finance should have access to the Bank of Ghana's foreign exchange transactions and report on them to Parliament quarterly instead of every six months.	The 2010 Commission recommended that the independence of the Bank of Ghana be expressly recognized in the Constitution. The 2025 Committee builds on this principle by proposing specific constitutional controls to protect that independence in practice. The 2025 recommendation also strengthens parliamentary oversight through more frequent reporting on foreign exchange transactions, moving from a general statement of independence to detailed safeguards and accountability mechanisms.	The 2024 Committee did not make a recommendation in this area.
Government Statistician	The Committee recommends an amendment to Article 185 to provide as follows:	The 2010 Commission recommended renaming the office as the Statistician-General and entrenching its independence in the Constitution. The 2025 Committee shifts focus to appointment	The 2024 Committee recommended retaining a Statistical Service within the Public Services of Ghana, headed by a Statistician-General appointed

	The Government Statistician shall be appointed by the President in accordance with the advice of the Council of State and hold office for a single, non-renewable term of 8 years or until attaining the age of 65 years, whichever is earlier.	and tenure by proposing a fixed, non-renewable 8-year term or retirement at age 65, with appointment by the President on the advice of the Council of State. While the 2010 recommendation stressed independence in principle, the 2025 proposal seeks to secure independence through clearer tenure and appointment rules.	by the President in consultation with the Council of State, with terms set by the Independent Emoluments Commission. The 2025 Committee builds on this by adding tenure and appointment safeguards. Compared with the 2024 focus on institutional placement and remuneration, the 2025 recommendation strengthens independence through fixed tenure and clearer appointment rules.
Public Wage Bill: Emoluments Commission	The Committee notes that, a widespread practice of cross-service benchmarking of salaries and benefits, including retiring benefits, has been permitted to take root across the public services, including the security services, with disastrous consequences for the public wage bill. In particular, a growing number of public employees now “retire on salary,” a privilege that was historically restricted to the judiciary. The Committee is concerned that this practice is unjustified as well as being both fiscally and politically unsustainable. The Committee recommends that the proposed Independent Public Emoluments Commission be given broad mandate to rationalize these and many other distortions in the public wage bill.	The 2010 Commission recommended the creation of an Independent Emoluments Commission to determine and review the emoluments of all public officers, and to absorb the Fair Wages and Salaries Commission and the Single Spine Salary Structure into its institutional framework. Both the 2010 Commission and 2024 Committee acknowledged the need to create a new body to correct existing fiscal balances and ensure long-term sustainability.	The 2024 Committee recommended establishing an Independent Emoluments Commission to determine and review the emoluments of all public offices and to consolidate pay structures, with appointments subject to presidential nomination and parliamentary approval. While the 2024 recommendation focused on creating the Commission and its mandate, the 2025 proposal directs that mandate towards correcting unsustainable pay practices and improving fiscal discipline.
State Enterprises	The Committee recommends constitutional amendments as follows: a. Chapter 14 should be retitled “Public Services and State Enterprises” and include a distinct provision governing State-Owned Enterprises and State-controlled Joint Ventures. b. State-Owned Enterprises and State-controlled Joint Ventures should operate under principles of	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	accountability, transparency, professionalism, efficiency, and protection from political capture. c. Governance, management, and staffing should be merit-based, commercially prudent, and politically neutral, with no use for partisan patronage or political advantage. d. Appointments to boards and senior management should follow statutory criteria ensuring competence and independence, and be subject to parliamentary oversight. e. The liabilities and financial exposures of State-Owned Enterprises and State-controlled Joint Ventures should be recognized as fiscal risks and subject to enhanced disclosure, reporting, and parliamentary oversight. f. Despite their commercial form, State-Owned Enterprises and State-controlled Joint Ventures should remain subject to constitutional standards of public accountability, integrity, and protection of the public interest.		
Establishment of "SIGA" as a constitutional body	The Committee recommends amending Chapter 14 to provide as follows: a. A State Interests and Governance Authority shall be established as a constitutional body responsible for overseeing and protecting the State's interests in State-Owned Enterprises and State-controlled Joint Ventures. b. The Authority shall act as the central supervisory body for commercial State enterprises and operate as a super-board, distinct from the Public Services Commission. c. The Authority shall manage the State's ownership interests on behalf of the people of Ghana and exercise governance and oversight in accordance with the Constitution and statute.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	d. Its functions shall include advising on the creation, restructuring, or divestiture of State enterprises; advising on board appointments; supporting boards in senior management matters; setting and enforcing performance benchmarks; and reporting periodically to Parliament and Government. e. The Authority shall act independently, in the public interest, and be accountable to Parliament. f. Parliament shall provide by law for the Authority's composition, appointments, tenure, structure, and operations, consistent with constitutional principles.		
Corporate Governance of SOEs	The Committee recommends constitutional amendments as follows: a. Parliament shall, within six months, enact a single law establishing a uniform governance framework for all State-Owned Enterprises and State-controlled Joint Ventures. b. The law shall set minimum standards for director and officer duties and accountability, ultra vires conduct, procurement and recruitment, and financial reporting and transparency. c. State-Owned Enterprises and State-controlled Joint Ventures shall submit audited annual accounts to Parliament, the Auditor-General, the responsible Minister, and the public, with sanctions for non-compliance. d. Parliament may withhold public funding or guarantees from non-compliant enterprises and act on Auditor-General reports to investigate, sanction, or require remedial action.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Appointment of CEOs and Management of SOEs	The Committee recommends constitutional provisions as follows:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	a. Ministers, Deputy Ministers, and Members of Parliament shall not serve on the boards or management of State-Owned Enterprises or State-controlled Joint Ventures. b. Board appointments shall be based on competence, experience, integrity, and expertise, without regard to political affiliation. c. Duly constituted boards shall have sole authority to appoint, supervise, and remove chief executive officers and senior management, subject to law and performance requirements. d. The State Interests and Governance Authority shall guide board and executive appointments to ensure fairness, professionalism, transparency, and good governance.		
Minimum Qualifications of CEOs and Management	The Committee recommends constitutional amendments as follows: a. Ministers, Members of Parliament, and candidates for elective office shall not serve on the boards or management of State-Owned Enterprises. b. The State Interests and Governance Authority shall set minimum qualifications for board and senior management appointments, based on expertise, experience, and integrity, and not on eligibility for political office. c. Political party office holders, campaign organizers, and current or recent candidates for elective office shall be disqualified from serving as directors or senior managers of State-Owned Enterprises. d. Parliament shall enact a law defining the duties and accountability of directors and officers, who shall act as fiduciaries of the State under standards comparable to company law. e. Directors and officers shall not derive personal benefit from enterprise transactions except as permitted by law.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	f. The law shall allow direct and derivative actions to enforce accountability for misconduct or breach of duty. g. Institutional nominees on SOE boards shall remain accountable to their nominating bodies. h. Persons who bring successful public-interest or derivative actions may recover reasonable legal costs and compensation from offending officers.		
Tenure	The Committee recommends mandating Parliament to enact a law governing the liability and accountability of directors and officers of State-Owned Enterprises, enforced by the State Interests and Governance Authority, and ensuring the following: a. Directors and officers shall be fiduciaries of the State, bound by duties of fairness, transparency, good faith, and reasonable care. b. Directors and officers shall be prohibited from deriving personal or indirect benefits from enterprise transactions. c. The law shall provide for direct and derivative actions to enforce accountability and provide redress for misconduct or breach of duty. d. Institutional nominees shall remain accountable to their nominating bodies. e. Successful public-interest or derivative actions shall attract recovery of reasonable legal costs and compensation from offending officers.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

IV. Restoring Trust in the Institutions of Accountability

Council of State			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Abolish, Retain, Reform,	The Committee recommends that the Council of State should be maintained and substantially reformed by appropriate amendments to its mandate, composition, and transparency in Chapter Nine of the Constitution.	The 2010 Commission did not consider whether or not to abolish the Council of State; however, it discussed whether it should be a second legislative chamber, ultimately concluding that	The 2024 Committee did not make a recommendation in this area.

Second Chamber?	The Committee is of the view that there is no need for a second chamber of Parliament. The mandate of the reformed Council of State will include reviewing and proposing amendments to certain bills.	Ghana should retain the existing unicameral legislature.	
Composition and Qualification of Members	The Committee recommends that an appropriate amendment be made to article 89(2) to reconstitute the Council with 33 members as follows: 1. Ex-Officeholders (5): The President to appoint any three (3) persons who are able and willing to serve from among the following list: a former President or a former Vice-President; a former Speaker of Parliament; a former Chief Justice; a former Head of Civil Service; a former Chief of Defence Staff; a former Inspector-General of Police; in each case, other than the immediate past occupant of the office. Plus, two (2) former members of Parliament nominated by Parliament/Speaker not belonging to the same party, at least one of whom shall be a woman; Term: single non-renewable term. 2. President of the National House of Chiefs (1) as an <i>ex officio</i> member. 3. A past National Best Farmer who is still active in agriculture (1) 4. Interest Group Nominees chosen through a democratic process specified in an Act of Parliament by recognized associations and groups representing the following (10): Industry and Commerce (2, at least one woman); Organized labour (2, private/public); Faith-based Organisations (2); Professional Associations (2, at least one woman); Academia (1). Civil society (1)	The 2010 Commission recommended reducing the size and political influence of the Council of State by cutting presidential appointees from 11 to 5 and capping total membership at 25, arguing that extensive presidential appointments weakened the Council's credibility. The 2025 Committee instead proposes a broader and more structured composition, including former national officeholders, bipartisan former Members of Parliament, traditional authority, organized interest groups, civil society, and regional nominees. The 2010 Commission's proposal focused on reducing membership to limit executive influence, while the 2025 Committee's approach prioritizes wider representation, elected leadership, fixed terms, and access to expert input.	The 2024 Committee recommended reducing the size of the Council of State to 25 by replacing the 11 other members appointed by the President with 5 presidential appointees drawn from organized labor, business, faith groups, academia, and the National Peace Council, while leaving the overall structure of the Council of State largely intact. The 2025 Committee recommends a much broader reconstitution, expanding the Council to 33 members with widened representation, which marks a shift from the selective adjustment in 2024 to a full institutional redesign.

	Term: May be re-nominated for a final, second term. 5. Regional representation (16): A Chief or Queenmother or other notable citizen residing in the Region who is nominated by a Regional Nominating Body (RNB) comprising the Regional House of Chiefs plus an equal number of citizens of the Region, including Queenmother or Women Leaders, with the composition to be prescribed in an Act of Parliament Term: May be re-nominated for a final, second term. 6. The Chairperson of the Council shall be elected by the Council from among its members. 7. The Council may invite persons as guests or engage persons as consultants to assist it with its work.		
Functions and Mandate	The Committee recommends appropriate amendments to articles 70, 72(1), 90 and 91(1) to provide for the following functions for the Council of State: 1. Recruit, select and submit to the President a nomination or nominations, as the case may be, for appointment of qualified persons to vacancies in the following offices: a. Chief Justice, subject to the approval of Parliament. b. EC (chair and commissioners), subject to the approval of Parliament. c. NCCE (chair and commissioners), subject to the approval of Parliament. d. Auditor-General, subject to the approval of Parliament. e. Controller and Accountant General, subject to the approval of Parliament. f. State Statistician.	The 2010 Commission recommended that the Council of State should remain primarily an advisory body to the President and other State institutions, and that Parliament should enact legislation providing for its functions, funding, accounting, and annual reporting. The 2025 Committee proposes a fundamental expansion of this role, giving the Council binding authority in key senior appointments, a defined role in the removal of independent officeholders, and advisory responsibility for international agreements and natural resource contracts. This represents a shift from a consultative body in 2010 to an institution with substantive decision-making and oversight functions in 2025.	The 2024 Committee recommended that Parliament should define through legislation the functions, funding, accounting arrangements, and reporting obligations of the Council of State, without specifying particular substantive powers. The 2025 Committee's proposal goes further by constitutionally prescribing the Council's functions, including binding authority in key senior appointments, a defined role in removal processes, and advisory responsibilities for international agreements and natural resource contracts. As such, the 2025 Committee's recommendation demonstrates a shift from legislative

	g. CHRAJ chair and deputies, subject to the approval of Parliament. h. Public Services Commission chair and members, subject to approval of Parliament. i. Lands and Natural Resource Commissioners and Chair. j. Anti-Corruption and Ethics Commissioners, subject to the approval of Parliament. k. Members of the Independent Political Party and Campaigns Regulator, subject to the approval of Parliament. l. Commissioners of the proposed Independent Emoluments Commission, subject to the approval of Parliament. m. Members of the Devolution Commission, subject to the approval of Parliament. The President shall act in accordance with the nomination or recommendation submitted by the Council of State in connection with the aforementioned offices. The Council of State shall constitute a committee of the Council consisting of not more than 10 members of the Council to handle the recruitment, vetting and selection of nominees for vacancies in the aforementioned constitutional offices. The Council of State shall perform its nomination-related functions with the assistance of the Public Services Commission. 2. Receive written petitions (with sworn affidavit under penalty of perjury) for the removal of an identified independent constitutional officeholder and, determine, if petition on the face of it alleges facts and grounds sufficient to warrant further investigation and action and, if so, set up an independent tribunal to investigate and make appropriate findings and recommendation to the Council for onward transmission to the President for obligatory action.		clarification in 2024 to detailed constitutional empowerment in 2025.

	3. In consultation with the Prisons Council, advise the President on the grant of pardons or the exercise of the prerogative of mercy. 4. Advise the President on conferment of National Awards and Honors. 5. Review and submit to Parliament opinion or advice on proposed international agreements and natural resource contracts; Parliament shall be obligated to consider but not bound to accept the recommendation(s) of the Council of State before action on the proposed legislation or agreement. 6. Mediate or facilitate the mediation or settlement of conflicts referred to it by the President, the Speaker or the National House of Chiefs or initiate mediation to settle conflicts. 7. Offer non-binding advice to the President or Cabinet on any matters of State, with or without request.		
Meetings: Transparency	The Committee recommends appropriate amendments to Chapter Nine to provide as follows: The internal deliberations of the Council of State shall be in camera, but a record of Council decisions, including advice and recommendations made, shall be a matter of public record and shall be made public, except as to non-binding advice sought by or provided confidentially to the President. The Council shall submit an annual report to Parliament and shall publish same for public access.	The 2010 Commission recommended that the Council of State should be made to present annual reports to Parliament, a position which is also held by the 2025 Committee. However, the 2025 recommendation prescribes more stringent meeting and reporting requirements as part of the restructured Council of State.	The 2024 Committee did not make a recommendation in this area.
Emoluments	The Committee notes that membership of the Council of State is not a full-time position. Members will be paid such allowances as may be determined by the proposed Independent Public Emoluments Commission.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Tenure of Members of	The Committee recommends appropriate amendments to article 89(5) to provide as follows:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

the Council of State	1. The tenure of members of the Council of State shall not be coterminous with that of the President. The term of the Council of State shall be one year longer than the term of office of the President. Members, other than those appointed by the President and Parliament/Speaker, shall be eligible to serve a maximum of two terms, which need not be consecutive. 2. The Committee recommends no change to clause (6) of article 89. However, where a vacancy occurs in the membership of the Council, it shall be filled within 60 days of its occurrence.		
Judiciary			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Jurisdictions of the Supreme Court	The Committee recommends introducing comprehensive measures to streamline the appellate workload of the Supreme Court and to reposition it primarily as a court of constitutional interpretation and authoritative statement of law or legal principle, rather than a general court of error correction. 1. In particular, the Committee recommends amending Article 131 to provide that, subject to the Constitution, the Court of Appeal shall be the final appellate court in all civil and criminal matters. Accordingly, all appeals arising from decisions of the District Court and Circuit Court shall terminate at the Court of Appeal, and no right of appeal or application for leave to appeal shall lie to the Supreme Court in respect of such matters. This reform will reduce the volume of routine appeals reaching the Supreme Court and enhance the finality and efficiency of litigation. 2. The Committee further recommends that all appeals arising from interlocutory decisions or orders of any court shall terminate at the Court of Appeal and shall not	The 2010 Commission recommended limiting access to the Supreme Court by excluding interlocutory appeals from automatic appeal and requiring such matters to end at the Court of Appeal, in order to reduce delays and congestion. The 2025 Committee adopts the same underlying approach by retaining the existing jurisdictional structure but removing the automatic right of appeal to the Supreme Court, allowing access only by leave. Both recommendations seek to reduce the Supreme Court’s workload and enable it to focus on cases of substantial constitutional and national importance.	The 2024 Committee did not make a recommendation in this area.

	be subject to appeal or review by the Supreme Court. Where, however, an interlocutory decision raises a question of constitutional interpretation or enforcement within the meaning of Article 130, the constitutional question may be referred to the Supreme Court in accordance with the Constitution. 3. With respect to matters originating from the High Court, the Committee recommends that appeals shall likewise terminate at the Court of Appeal. However, a party aggrieved by a decision of a three-member panel of the Court of Appeal in such matters may, in accordance with law, apply for a review of that decision by a full bench of the Court of Appeal, constituted by not fewer than five Justices of the Court of Appeal. This review mechanism shall apply only to matters originating from the High Court and shall not be available in respect of appeals from the District Court or Circuit Court as of right. However, the Court of Appeal may grant leave to review a matter arising from the District Court or Circuit Court. 4. The Committee recommends the introduction of a limited and discretionary mechanism by which a party dissatisfied with a final decision of the Court of Appeal in a matter originating from the High Court may apply to the Supreme Court for leave to invite the Court to determine a question of law or constitutional interpretation arising from the decision of the Court of Appeal. 5. Under this mechanism, the Supreme Court shall not exercise appellate jurisdiction or rehear the appeal. Leave shall be granted only where the Supreme Court is satisfied that the proposed question:		

	reveals inconsistent principles of law arising from decisions of different courts; or raises a general principle of law arising for the first time; or requires resolution in the public interest to ensure certainty and coherence in the law. 6. Where leave is granted, the Supreme Court shall determine only the certified question. It may affirm the legal position adopted by the Court of Appeal, vacate the judgment in whole or in part, or remit the matter to the Court of Appeal for final disposition in accordance with the determination of the Supreme Court. Where the matter is remitted to the Court of Appeal, the Court of Appeal shall conclude the matter and grant any consequential orders as may be necessary. 7. To ensure efficiency and effective case filtering, the Committee recommends that applications for leave under this mechanism be determined by a panel of three Justices of the Supreme Court, rather than the full bench.		
Size of the Supreme Court and other Superior Courts	In line with the Committee’s earlier recommendation to streamline the appellate jurisdiction of the Supreme Court, thereby reducing its workload, the Committee proposes the following constitutional reforms: Amend Article 128(1) to provide that the Supreme Court shall consist of the Chief Justice and not more than fourteen (14) Justices. The prescription of an upper limit will preserve appointment flexibility while safeguarding against excessive expansion of the Court. There should be no numerical constitutional cap imposed on the Court of Appeal and the High Court, to allow for periodic adjustments in their composition in response to population growth, increased caseloads, and evolving	The 2010 Commission recommended capping the number of Justices of the Supreme Court at 15, including the Chief Justice, to prevent unchecked expansion and preserve judicial efficiency, while proposing no changes to the size of the other Superior Courts. The 2025 Committee adopts a closely aligned approach by setting a similar upper limit of the Chief Justice and not more than 14 Justices, but goes further by expressly declining to impose numerical caps on the Court of Appeal and the High Court, to allow flexibility in response to caseload growth and demographic change.	The 2024 Committee did not make a recommendation in this area.

	demands of justice delivery. However, Parliament shall provide for a cap by legislation, with the cap adjustable by Parliament upon request and justification provided by the Chief Justice acting on the advice of the Judicial Council.		
Qualification and Appointment of Chief Justice and other Justices of the Superior Courts	The Committee recommends a revised appointment framework incorporating processes such as advertisement of vacancies, defined merit benchmarks, Judicial Council scorecards, application to the Judicial Council, as well as public vetting.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Qualification and Appointment of the Chief Justice	The Committee recommends the following: <i>Qualification</i> The Committee recommends that to qualify for appointment as a Chief Justice, a person must be a citizen of Ghana. Additionally, the person must be either a serving Justice of the Supreme Court or a distinguished legal practitioner with proven expertise in law and at least fifteen (15) years of post-qualification experience at the Bar without any disciplinary sanctions. <i>Appointment procedure</i> The Committee recommends that, upon a vacancy in the office of Chief Justice: A public notice shall be issued by the Judicial Council inviting applications from eligible persons; The Judicial Council shall receive, review, and shortlist qualified applicants. The shortlist shall be submitted to the Council of State; The appropriately designated committee of the Council of State shall conduct in-camera interviews and, in	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	consultation with the Judicial Council, recommend two candidates, ranked in order of merit; The President shall nominate one candidate from the shortlist and submit the nomination to Parliament; Parliament shall, by simple majority, approve the nominee after a transparent vetting process; The President shall formally appoint the nominee as Chief Justice upon approval; Upon a vacancy, a new Chief Justice must be appointed within 90 days. If the nominee is rejected, the President may nominate again, within 10 days from the remaining names in the shortlist from the Council of State.		
Qualification of Other Justices of the Superior Courts	<u>Qualification</u> The Committee recommends the following regarding the qualification of Justices of the Superior Courts: Other Justices of the Supreme Court For the other Justices of the Supreme Court, aside from the Chief Justice, the Committee recommends that qualification should be restricted to a practising lawyer or legal academic or a sitting Justice of the Court of Appeal, in each case, with at least 15 years of post-qualification experience at the Bar and without any disciplinary sanctions. Justices of the Court of Appeal The Committee recommends that to qualify for appointment to the Court of Appeal, the appointee must be a judge of the High Court or a practising lawyer or a legal academic, in each case, with at least 12 years of post-qualification experience and without any disciplinary sanctions.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	Justices of the High Court The Committee recommends that a person appointed to the High Court must be a judge of the Circuit Court or a practising or a legal academic, in each case, a lawyer with at least 10 years of post-qualification experience, and without any disciplinary sanctions. <u>Appointment Process for Other Justices of the Superior Courts</u> The Committee recommends the following appointment process for Justices of the Superior Courts Other Justices of the Supreme Court The Committee recommends that when a vacancy arises, the Judicial Council will advertise for applications. The Judicial Council, in consultation with the Council of State, considers all qualified candidates. The Judicial Council recommends two names for every vacancy to the President. The President nominates one candidate and submits the nomination to Parliament. Parliament approves the nominee by simple majority, after which the President makes the formal appointment . Justices of the Court of Appeal and High Court The Committee recommends that when a vacancy arises, the Judicial Council call for nominations and expressions of interest. In consultation with the Judicial Committee of the Council of State, the Judicial Council shall screen the applicants and submit its nominee(s) to the President. The President appoints the nominee(s), subject to parliamentary approval by a simple majority vote. The Committee recommends that the Judicial Council identify and evaluate eligible candidates for the position. The Council recommends qualified candidates to the		

	President. The President appoints based on the advice of the Judicial Council.		
Control of the Administrative Powers of the Chief Justice	The Committee recommends the following checks on the powers of the Chief Justice: <i>Amendment of the Composition of the Superior Courts</i> The Constitution should be amended to remove the Chief Justice as a member of the Court of Appeal and the High Court. The Chief Justice should remain a member of, and preside over, the Supreme Court only. This amendment will preserve the hierarchical integrity of the courts and ensure that judges at each level exercise their functions free from real or perceived interference. <i>Creation of Divisions within the Supreme Court</i> The Committee recommends the establishment of two permanent divisions of the Supreme Court: a. The Original Jurisdiction Division, which shall hear all matters invoking the Court’s original jurisdiction under the Constitution; and b. The Appellate Jurisdiction Division, which shall hear appeals from the Court of Appeal and other matters within the Court’s appellate jurisdiction. The Chief Justice shall be a member of both divisions and may preside over either division as necessary. To enhance transparency and predictability, the Chief Justice shall, at the beginning of each legal year, publish a list of Justices assigned to each division. This list, which shall be prepared by the Chief Justice acting in consultation with other Justices of the Supreme Court, shall remain in effect throughout the legal year and may only be altered with the approval of the Judicial Council in exceptional circumstances. <i>Decentralization of Judicial Administration</i>	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	To reduce the over-concentration of administrative powers in the office of the Chief Justice, the Committee recommends that each of the Superior Courts, other than the Supreme Court, should have its own administrative head as follows: Court of Appeal There shall be a President of the Court of Appeal, who shall be the most senior Justice of the Court of Appeal. The President, together with the next two most senior Justices of the Court and the Registrar, shall be responsible for empanelling Justices and the general administration of the Court. High Court There shall be a Supervising High Court Judge in each region, appointed by the Judicial Council. The Supervising Judge shall oversee the administration and operations of the High Courts within the region, ensure the equitable distribution of cases, supervise judges and magistrates, and maintain standards of judicial efficiency and discipline. For all courts: The empanelment of Justices and judges shall be carried out in accordance with objective, pre-established rules approved by the Judicial Council and administered by the Registrar of the Court, and shall not be subject to the discretion of any individual judge or person.		
Tenure of Chief Justice and other Superior Court Justices	The Committee recommends the following tenure for Justices of the Superior Courts: Chief Justice The Committee recommends that the Chief Justice should hold the position for a single, non-renewable term of 10 years or upon attaining the age of 70, whichever is earlier. The Chief Justice retires with full entitlements of the office. A Chief Justice whose tenure ends before	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	attaining 70 years could elect to continue sitting as a Justice of the Supreme Court. Other Justices of the Superior Courts The committee recommends that all Justices of the Superior Courts should hold their tenure until retirement, death or resignation, whichever comes first. For Justices of the Supreme Court and Court of Appeal, the mandatory retirement age should remain 70 years. For High Court Justices, the mandatory retirement age should remain 65 years.		
Process for Removal of Justices of the Superior Courts	The Committee recommends the following grounds and process for removal from office of Justices of the Superior Courts: <i>Grounds</i> The Committee recommends that the grounds for removal should be the same for all justices. The grounds for removal should include mental or physical incapacity, incompetence, gross misconduct, violation of the judicial code of conduct, or bankruptcy. <i>Removal Process</i> Chief Justice An aggrieved person may submit a confidential petition for the removal of the Chief Justice to the Council of State. Within 7 days of receipt, the Council shall refer the petition to a committee to determine its <i>prima facie</i> merit. If insufficient grounds are found, the petition shall be dismissed. If sufficient, the Council shall notify the President and the Speaker of Parliament. The President shall suspend the Chief Justice pending investigation. The Council of State shall appoint a 5-member tribunal. The tribunal shall be made up of one person appointed	The 2010 Commission recommended a limited reform to the removal of the Chief Justice. It proposed that the Constitution should expressly require the establishment of a <i>prima facie</i> case by the President acting in consultation with the Council of State before removal proceedings begin, and made no recommendation on the removal of other Justices. The 2025 Committee proposes a more detailed and standardized framework. It aligns the grounds for removal across all Justices and sets out clear, time-bound procedures for the Chief Justice and other Justices, with defined roles for the Council of State, the President, and specially constituted tribunals.	The 2024 Committee recommended a narrow procedural reform by requiring consultation with the Council of State when determining whether a <i>prima facie</i> case exists for the removal of any Justice, and by making the <i>prima facie</i> stage for the Chief Justice explicit and distinct from the investigative committee stage. The 2025 Committee proposes a much more comprehensive framework, standardizing the grounds for removal across all Justices and assigning the Council of State a central role in receiving petitions, assessing merit within defined timelines, and triggering tribunal proceedings for both the Chief Justice and other Justices.

	by the President who shall not be a lawyer or currently holding any public or party office; one person appointed by the Speaker of Parliament who shall be a former MP, not currently holding any public or party office; one person appointed by the Public Service Commission; one person appointed by the National House of Chiefs; and a former justice of the Supreme Court appointed by the Judicial Council. The Committee shall be chaired by the former Justice of the Supreme Court. The tribunal shall conduct its hearings in camera and submit its report containing its findings and recommendation within 60 days. The Council of State shall, upon receiving the report of the tribunal, forward the report to the President, who shall act on its recommendations. The Chief Justice, as the subject of the removal petition, shall be entitled to a copy of the report. Other Justices An aggrieved person may submit a confidential petition to the Council of State seeking the removal of a Justice of the Superior Court. The Council refers the petition to its judicial committee within 7 days to assess its <i>prima facie</i> merit. If the petition is without merit, it is dismissed. If it meets the threshold, the Council notifies the President, Speaker of Parliament, and Chief Justice. The President shall suspend the Justice pending the outcome of the inquiry. The Council of State appoints a five-member tribunal with two former Superior Court judges (nominated by the Judicial Council), a non-lawyer (nominated by the President), one person nominated by the Public Services Commission, and a nominee from the National House of Chiefs. In-camera hearings are conducted, and the tribunal submits a report containing its findings and recommendations within 60 days. The Council of State shall, upon receiving the report of the tribunal, forwards		

	it to the President, who shall act upon its recommendation. The Justice who is the subject of the removal petition shall be entitled to a copy of the report.		
Integration of the Lower Courts into the Regular Judiciary	The Committee recommends appropriate amendments to Articles 126, 148, 149, 150, 151 and 152 to provide as follows: The Judiciary shall consist of – The Superior Court of Judicature comprising The Supreme Court; The Court of Appeal, and The High Court The Circuit Courts and District Courts; and Such lower courts or tribunals as Parliament may establish by an Act of Parliament. With no “Lower Bench” under the recommendation above, District and Circuit Court Judges are not “judicial officers” as the term is used in Articles 148 to 151. Instead, they are members of the Judiciary, subject to the protections and terms and conditions especially applicable to Judges of their rank under the Constitution and as determined by the Independent Emoluments Commission.	The 2010 Commission recommended that the existing constitutional expression of the Lower Courts be maintained.	The 2024 Committee did not make a recommendation in this area.
Regional Tribunals	The Committee recommends that Regional Tribunals be dis-established from the Constitution. The Committee notes that the High Court has been handling the caseload of the Regional Tribunals. The resources to be committed to resuscitating the moribund Regional Tribunals could be channelled to resource the High Court, as well as the Circuit and District Courts that the Committee now proposes to make part of the regular judiciary. Moreover, the jurisdiction of the Circuit Courts could be expanded to take on some of the cases that the Regional Tribunals would ordinarily hear.	The 2010 Commission recommended abolishing the Regional Tribunals and transferring their caseload to the regular courts. The 2025 Committee agrees that the Regional Tribunals should be removed from the Constitution, but expands on the 2010 recommendation by explaining how their functions would be absorbed, with cases handled by the High Court, expanded jurisdiction for the Circuit Courts, and resources redirected to strengthen the High Court, Circuit, and District Courts.	The 2024 Committee recommended deleting all constitutional references to Regional Tribunals, while expressly retaining customary tribunals, thereby removing Regional Tribunals from the constitutional framework without further elaboration on case reallocation. The 2025 Committee adopts the same substantive outcome but goes further by explaining how the functions of the

			Regional Tribunals would be absorbed, with their caseload handled by the High Court, expanded jurisdiction for the Circuit Courts, and resources redirected to strengthen the High Court, Circuit, and District Courts.
Qualifications of Judges of Other Courts	The Committee recommends the following qualification for Judges of the Primary courts: <i>Circuit Court</i> The Committee recommends that a person be qualified to be a Circuit Court Judge if the person possesses a minimum of five years of demonstrable post-qualification experience as a lawyer and has no disciplinary sanctions. <i>District Court</i> For the District Court, the Committee recommends that a Judge of the District Court should have a minimum of three years of demonstrable post-qualification experience as a lawyer, without any disciplinary sanctions.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Appointment Process of Judges of the Primary Court Judges	The Committee recommends the following appointment process for Judges of the Primary courts: When a vacancy arises in the Primary courts: The Judicial Council will issue a public notice to inform interested lawyers of the opportunity to apply. Upon receiving the applications, the Judicial Council will conduct an initial screening to identify candidates who meet the eligibility criteria. Those who are shortlisted will undergo examinations and interviews conducted on behalf of the Judicial Council by the Public Services Commission, which will then provide a list of qualified candidates to the Judicial Council.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	The Judicial Council will select individuals from this list, and the President will appoint the chosen candidates.		
Removal from office of Judges of the Primary Court Judges	The Committee recommends the following process for the removal from office of Judges of the Primary courts: A petition for the removal of a Judge of a District Court or Circuit Court may be submitted to the Judicial Council. Upon receiving such a petition, the Judicial Council will assess whether it warrants further investigation. If the Council determines that the issues raised in the petition require additional examination, it will conduct a hearing. During this hearing, the concerned Judge is entitled to present their defence, either personally or with the assistance of a lawyer or expert of their choosing. Following the conclusion of the hearing, the Judge may be removed or otherwise sanctioned if a resolution is passed by the Judicial Council, with at least two-thirds of the members voting in favour of the decision.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended that the rules governing the procedure for the removal of judges and certain constitutional office holders be made by the Rules of Court Committee under Article 154(2), leaving the process to be regulated through court rules. The 2025 Committee proposes a more substantive framework by vesting the Judicial Council with authority to receive and assess petitions, conduct hearings with due process guarantees, and impose removal or sanctions by a two-thirds majority.
Conditions of Service of Judges of the Primary Court Judges	The Committee recommends that the process and institutional framework for determining the conditions of service of Judges of the Primary Courts be harmonized with that applicable to the Justices of the Superior Courts. Accordingly, salaries, allowances, benefits, and related entitlements for Judges of the Primary Courts should be determined through the same constitutional and institutional mechanisms (Independent Public Emoluments Commission), and by reference to comparable indices of responsibility, independence, security of tenure, and exposure to professional risk, in order to promote coherence, equity, and judicial independence across the judiciary.	The 2010 Commission recommended that the conditions of service of Judges of the Primary Courts should be determined by an Independent Emoluments Commission. The 2025 Committee agrees with this position, but builds on it by specifying the terms of reference to be used when setting the conditions of service for Primary Court Judges, and clarifying that their conditions of service should be harmonized with those of the Superior Courts.	The 2024 recommended that Article 149 be amended so that judicial officers shall their salaries, allowances, and other benefits determined by an Independent Emoluments Commission. The 2025 Committee took the same view, but also specified the terms of reference to be used when setting the conditions of services of judicial officers, referred to by the 2025 Committee as Judges of the Primary Courts.
Position of the Judicial Secretary	The Committee makes the following recommendations:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	The Committee recommends that the Constitution should expressly provide for the office of the Judicial Secretary as the Chief Registrar and Chief Accounting Officer of the Judicial Service. Beyond this, the Constitution should explicitly delineate the functions of the Judicial Secretary. The Judicial Secretary should be responsible for the day-to-day administration, management of funds, and coordination of all non-judicial functions of the Judiciary. Matters relating to administration, finance, human resource management, and logistics shall fall within the purview of the Judicial Secretary, while the Chief Justice shall continue to exercise overall policy and judicial leadership. The Committee recommends that the Judicial Secretary be appointed through a transparent and merit-based process. The Judicial Council should make the appointment upon a public advertisement of the vacancy, vetting of applicants by the Public Services Commission, and final appointment by the Judicial Council. Finally, the Committee recommends that to qualify for appointment as Judicial Secretary, the person must demonstrate experience in administration, management, or public service leadership, and be without disciplinary sanctions. Qualification as a lawyer should be an added advantage but not a requirement. The Judiciary Secretary shall not, while he or she continues in office as Judicial Secretary, hold any judicial office.		
Composition of the Judicial Council	The Committee recommends an amendment to Article 153 to change the membership and composition of the Judicial Council as follows: The Chief Justice who shall preside over the meetings of the Council;	The 2010 Commission proposed limited changes to the Judicial Council by adding representatives of the Ghana Prisons Service, recognized religious bodies, and the private sector, replacing the Police Legal Directorate with a general Police	The 2024 Committee recommended that the Judicial Council's composition be changed by adding members from the Ghana Prisons Service, Christian bodies, Muslim

	a Justice of the Supreme Court nominated by the Justices of the Supreme Court; the President of the Court of Appeal; the Chief Judge of the High Court; the Minister responsible for Justice; the Judicial Secretary who shall be the Secretary to the Council; One judge selected by Judges of the District and Circuit Courts from among their number; Two practising lawyers, not of the same gender, nominated through a democratic process by all lawyers in good standing; One legal academic nominated by the Deans of the Law Faculties; A member of the Judicial Committee of the National House of Chief nominated by the National House of Chiefs; and The Chairperson of the Legal Aid Commission.	Service representative, and replacing references to specific associations with neutral descriptions. The 2025 Committee takes a different approach by removing security, religious, private sector, and staff representatives, while strengthening professional and institutional membership through heads of court, a legal academic, the Judicial Secretary, and the Chairperson of the Legal Aid Commission, and reforming the selection of practising lawyers through a gender-balanced election. Overall, the 2010 proposals emphasized broader social inclusion, while the 2025 recommendations focus on professionalization and tighter institutional control.	and Ahmadiyya organisations, and the private sector, while reducing presidential appointees from four to two and replacing the Police Service's legal director with a general Police Service representative. The 2025 Committee's recommendation instead restructures the Judicial Council around judicial and legal professional leadership, removing most institutional and security service representatives, abolishing presidential non-lawyer appointments, and excluding religious and private sector members. It strengthens senior judicial representation, adds an elected District and Circuit Court judge, includes a legal academic and the Chairperson of the Legal Aid Commission, and reforms lawyer representation through a gender-balanced, democratic process. While the 2024 proposal prioritized wider social representation, the 2025 proposal focuses on a more judicially centered and professionally specialized Judicial Council.
Financial independence of Judiciary	The Committee recognizes that while Article 127(4) guarantees financial independence of the Judiciary, its effect is weakened by Article 179(5), which grants the President discretion to revise judiciary budget estimates. Article 179(5) should be amended to require that the estimates submitted under Article 127(4) be laid before Parliament by the President without revision or alteration.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

The Attorney-General	The Committee recommends appropriate amendments to article 88 (3), 88(4) and 218(b) and 218(e) to take away the Attorney-General's authority to prosecute corruption and corruption-related offences and CHRAJ's corruption investigation powers and vest all authority for prosecuting corruption in a proposed independent Anti-Corruption and Ethics Commission (AEC). The Committee further proposes, in this regard, that the AEC take over the anti-corruption mandate of the CHRAJ and merge that with the legislatively-established Office of Special Prosecutor to create a one-stop shop for all corruption and corruption-related prosecutions. The Attorney General, through its Director of Public Prosecutions, will continue to handle all other criminal offences, in addition to the Attorney-General's other responsibilities. The Committee also recommends that the Attorney-General or any person exercising prosecutorial authority may not discontinue a commenced prosecution without leave of court.	The 2010 Commission recommended retaining the combined offices of Minister of Justice and Attorney-General at the President's discretion and restructuring the Attorney-General's Office into two semi-independent divisions, headed by a Director of Public Prosecutions and a Solicitor-General, to separate criminal and civil functions while keeping prosecution within the Attorney-General's remit. The 2025 Committee departs significantly from this approach by removing the Attorney-General's authority to prosecute corruption-related offences altogether and vesting all such powers in a proposed independent Anti-Corruption and Ethics Commission, including through the merger of the Office of the Special Prosecutor, while confining the Attorney-General to non-corruption prosecutions and restricting the power to discontinue cases without leave of court.	The 2024 Committee did not make a recommendation in this area.
New Article for the Anti-Corruption and Ethics Commission	The Committee recommends establishing an independent Anti-Corruption and Ethics Commission (AEC) under the Constitution. The Commission shall consist of a Commissioner and two Deputy Commissioners appointed by the President acting in accordance with the nomination submitted by the Council of State, subject to the prior approval of Parliament. Each of the Commissioner and Deputies shall hold office for a single, non-renewable term of 10 years or until the age of 65 years, whichever is earlier. The Commission would have the power to investigate allegations of corruption and corruption-related offences, and exclusive power to prosecute such offences. In the performance of its duties, the Commission shall not be subject to the direction or control of any person or authority.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

V. Towards a Well-Governed, Capable and Effective Public Service

The Public Services			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Fragmentation of the Public Services (Article 190(1)(d))	Parliament should enact framework legislation to provide for the process by which a decision to create a new public service, or otherwise merge or reorganize an existing service, shall be made. The statutory process should include a comprehensive study undertaken by an independent committee to assess the merits and implications of the proposed reorganisation for the effective and efficient functioning of public service and the implementation of policy. Legislation setting up a new public entity must demonstrate why the functions or objects to be performed by the new body cannot be performed by any existing body.	The 2010 Commission recommended a structural reorganisation of the Public Services by replacing the list in Article 190(1) with a broad and inclusive categorization which should include the following types of public services: those specified in a Schedule, those established in the Constitution, those established by Act of Parliament, public corporations other than those set up as commercial ventures, and such other public services as Parliament may provide. It also called for legislation and policy frameworks to clarify the status and coordination of public bodies. The 2025 Committee addresses a different but related concern by focusing directly on ongoing fragmentation and proliferation, and recommends framework legislation to regulate the creation, merger, or reorganisation of public services, supported by independent assessments of necessity, impact, and efficiency.	The 2024 Committee recommended targeted amendments to Article 190 to clarify institutional placement by including the Local Government Service in Article 190(1)(a) and removing it from Article 190(2). The 2025 Committee takes a broader systemic approach by addressing the continued proliferation and fragmentation of the Public Services, and recommends framework legislation to regulate the creation, merger, or reorganisation of public services, supported by independent assessments of necessity, impact, and efficiency.
Mandatory Governing Councils for Statutory Bodies (Article 190(3)(a))	The Committee recommends an appropriate amendment to Article 190(3) to provide that an Act of Parliament establishing a new public service entity pursuant to clause (1) of Article 190 shall state whether and why the entity shall have or shall not have a governing council.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Protection of Public Officers from Political Interference and Non-participation in Partisan Politics	The Committee recommends appropriate amendment to Article 191 to provide that the Public Services Commission shall make regulations by Constitutional Instrument to elaborate on the protections of clauses (a) and (b) and provide for administrative procedures and processes, including time limits, for resolving complaints or grievances, with a right of recourse to CHRAJ.	The 2010 Commission recommended that the Public Services Commission should, by Constitutional Instrument, define what constitutes “active party politics,” taking into account the categories of public officers subject to the restriction. The 2025 Committee goes further by proposing a general constitutional prohibition on active party politics and open	The 2024 Committee did not propose an amendment to this provision.

	The Committee also recommends the insertion of a clause to the effect that no member of the public services shall participate in active party politics or manifest or demonstrate open partisanship or partisan affiliation while employed in the public services.	partisanship for all members of the public services, while also requiring the Public Services Commission to issue detailed regulations on protections and grievance procedures, with a right of recourse to CHRAJ.	
Appointment, Qualification, and Tenure of Head of Civil Service (Article 193(1), (2))	The Committee recommends an amendment to Article 193(1) to provide that: a. The Head of Civil Service shall be appointed by the President on the advice of the Council of State based on the outcome of an open, competitive, meritocratic search process administered on behalf of the Council by Public Services Commission. b. Qualifications for appointment should state educational level (at least advanced, postgraduate education or professional training), number of years of seniority, rank or experience as a public officer or other alternative career path: international public service, academia, consulting, or corporate public sector. c. The Head of Civil Service shall be appointed to a single non-renewable term of ten (10) years or upon attaining the age of 65 years, whichever is earlier.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not propose an amendment to this provision.
Public Services Commission: Composition, Appointment, Tenure, and Powers	The Committee recommends an amendment to Article 194(2) to provide as follows: a. The Public Services Commission shall consist of a Chairman, a Vice-Chairman and no more than five other members, all of whom shall be full-time Commissioners. b. Each Commissioner shall be appointed by the President in accordance with the advice or nomination of the Council of State, based on the outcome of an open, competitive, meritocratic search process administered on behalf of the Council by Head of Civil Service. c. Term: Each Commissioner, including the Chairman and vice-chairman, shall hold office for a single non-renewable term of ten (10) years or until they attain the age of 65 years, whichever is earlier. The appointment of	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended reforms limited to the tenure and conditions of service of the leadership of the Public Services Commission, by aligning the Chairperson's and Vice-Chairperson's terms and conditions of service with those of the Court of Appeal and the High Court respectively, and prescribing retiring ages. The 2025 Committee adopts a more comprehensive approach by reconstituting the Commission's composition, introducing a merit-based

	Commissioners shall be staggered so that they do not assume office simultaneously.		appointment process, and providing for single, non-renewable terms for all Commissioners.
Power to Appoint Public Officers (Article 195)	The Committee recommends appropriate amendments to Article 195 as follows: 1. The power to appoint persons to the governing council of a public service or statutory body (not of a commercial nature) shall reside in the President or a Minister designated by the President, and such appointment shall be made, subject to meeting specified qualifications, in consultation with the Public Services Commission. 2. The power to appoint the chief executive officer and other senior management of a public service, however so described, shall reside in the governing council or board, which shall exercise such power based on the outcome of an open, competitive, meritocratic or qualification-based process administered by the governing council in consultation with the PSC. It is further provided that no current holder of an office in a political party or political campaign shall be eligible to be appointed to any office within the public service or related entity. 3. The power to appoint a member, employee, or staff member of the public service below the chief executive officer and his or her direct reports shall vest in the governing council and management of the public service organisation, exercised in accordance with the regulations of the PSC.	The 2010 Commission recommended that appointments under Article 195(1) should generally be made by the President, acting on the advice of governing councils and in consultation with the Public Services Commission, and that presidential appointments should be limited to political offices. It also proposed that institutions of higher education and professional training retain autonomous appointment powers. The 2025 Committee reorganizes appointment authority by allocating board appointments to the President in consultation with the Public Services Commission, vesting chief executive appointments in governing councils through open, merit-based processes, and leaving lower-level staff appointments to management under PSC regulations, while excluding active party officials from eligibility.	The 2024 Committee did make a recommendation in this area.
Form of exercise of power by PSC (Article 197)	The Committee recommends an amendment to Article 197 to remove the requirement that the Public Services Commission obtain the prior approval of the President to make Regulations by Constitutional Instrument for the effective and efficient performance of its functions under this Constitution or any other law.	The 2010 Commission recommended amending Article 197 to require the Public Services Commission to make Regulations governing the public services in consultation with the President. The 2025 Committee takes a different approach by removing presidential involvement altogether and providing that the Commission should exercise its functions and powers solely under Regulations made by Constitutional	The 2024 Committee did make a recommendation in this area.

		Instrument, on the basis that presidential participation reflects an outdated constitutional arrangement.	
Retiring Age (Article 199)	The Committee recommends an amendment to Article 199 to provide as follows: 1. Except as otherwise provided for in this Constitution, the mandatory retiring age for a holder of public office shall be determined by an Act of Parliament. 2. Parliament may, by an Act of Parliament, vary the retiring age upwards or make special dispensation for the retiring age to be varied for different occupational categories of public officers, such as for public tertiary educational institutions or persons with disabilities. However, the retiring age shall not exceed seventy (70) years for any appointive public office.	The 2010 Commission recommended establishing an Independent Emoluments Commission to determine the emoluments of public officers, including retirement benefits, pensions, and gratuities. The 2025 Committee addresses retirement from a different angle by proposing to remove the retiring age from Article 199 and vest Parliament with authority to set and vary retirement ages by statute for different categories of public officers, subject to a maximum age of 70 years.	The 2024 Committee did not make a recommendation in this area.
Code of Conduct for Public Officers – Chapter 24 of the Constitution			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Conflict of Interest and Standards of Conduct	The Committee recommends appropriate amendments to Chapter Twenty Four to provide as follows: a. The insertion of a specific sub-clause to Article 284 (or the placement of an equivalent clause within a new Chapter on Conduct in Public Life) to the following substantive effect: where a public officer is confronted with a conflict of interest, that officer shall immediately disclose in writing, the nature of the conflict to the competent authority and shall refrain from participating in any discussion, deliberation, recommendation, decision or other official act in relation to the matter that gives rise to the conflict. The provision should further stipulate that failure to make such disclosure and to recuse renders any ensuing decision or act invalid for constitutional impropriety, without prejudice to any disciplinary or other sanction provided by law. This formulation gives the conflict rule operational meaning	The 2010 Commission noted gaps in the regulation of conflicts of interest, highlighting the absence of legislation to define conflicts, regulate gifts, and clarify procedures and sanctions, which it said weakened public trust in the asset declaration regime. The 2025 Committee takes a more comprehensive approach by proposing constitutional amendments to Article 284 to require disclosure and recusal, invalidate actions taken in breach of these duties, and establish a clear and enforceable Code of Conduct. The 2010 recommendation therefore focused on legislative clarification, whereas the 2025 recommendation embeds detailed rules and enforcement mechanisms directly in the Constitution.	The 2024 Committee did not make a recommendation in this area.

	and attaches a concrete legal consequence to non-compliance. b. To ensure that ethical governance is not confined to conflicts of interest alone, the Committee recommends that the Constitution should declare, in express terms, that the Chapter on the Code of Conduct extends beyond the rule against conflicts of interest and sets out minimum, non-exhaustive standards of conduct applicable to all public officers. The text should then articulate, in narrative form, the content of those standards: 1. Professionalism: a public officer shall carry out the functions of office in a professional manner, with competence, diligence and impartial judgment, and with due regard to maintaining public confidence in the integrity of the office. 2. Compliance with law and respect for rights: a public officer shall act in accordance with the Constitution and the law and shall give due respect to the fundamental rights and freedoms and the related duties specified in Chapter Five. 3. Position of trust: public office is a fiduciary position; accordingly, an officer shall employ the authority, information and assets entrusted by virtue of office solely to advance the interests of the State and shall not convert any such authority, information or assets to private benefit. 4. Non-interference with the administration of justice: no public officer shall, directly or indirectly, use the influence or prestige of office to intervene on behalf of any person in an investigation, prosecution or adjudication of a matter so as to influence its outcome. 5. Prohibition of improper enrichment: a public officer shall not use their office to improperly enrich themselves or others, or solicit or accept benefits in connection with		

	the performance of official functions other than those permitted by law. 6. Stewardship of state property: a public officer shall take all reasonable steps to protect property entrusted to their care or for official use and shall ensure that such property is not misused, misapplied or misappropriated. 7. Political neutrality: a person appointed to a public officer shall not manifest or display partisanship or allow partisan considerations to influence the discharge of his or her official duties. 8. Truthfulness to the public: a public officer shall not knowingly provide false or misleading information to members of the public or to any public authority. 9. Prohibition on acting for foreign interests: a public officer shall not, in a manner adverse or detrimental to the national interest of the Republic of Ghana, act as or be an agent for, or otherwise further the interests of, any foreign government, organisation or individual. c. The Constitution should state explicitly that these standards constitute minimum, non-exhaustive expectations, and that nothing in the list limits Parliament from prescribing additional standards consistent with the Constitution. d. For the standards to be effective, the Committee further recommends an enforcement architecture entrenched in the Constitution. The text should require the Anti-Corruption and Ethics Commission to make Regulations, by Constitutional Instrument, to give effect to the Code of Conduct, including the specification of investigative procedures and the prescription of appropriate administrative and civil sanctions for breach. In the alternative, or in addition, the Constitution should impose a duty upon Parliament to enact, within a defined period following commencement, a Public Ethics Act that elaborates upon the Code and attaches sanctions		

	in accordance with guiding principles stipulated in the Constitution. This dual pathway ensures that the Code is not merely aspirational but immediately enforceable while allowing Parliament to develop a comprehensive legislative framework.		
Declaration and Disclosure of Assets by Public Officers	The Committee recommends appropriate amendments as follows: 1. There should be an amendment to Article 286(5) expressly identifying, in addition to existing categories, public officers in the military, the police and other security services; independent constitutional officeholders beyond CHRAJ and judges; members of statutory regulatory bodies such as the Minerals Commission and the Lands Commission; and Metropolitan, Municipal and District Chief Executives, as subject to the asset-declaration provision. The Constitution should retain a residual category for coverage by statute to ensure adaptability over time. This textual clarification removes doubt about coverage and affirms that those occupying positions of exceptional trust are subject to the highest standards of transparency. 2. To ensure that declarations capture the true financial position of officeholders, the Constitution should require the declarant to include the assets and liabilities of members of the immediate household, specifically the spouse and unmarried children. This requirement is a proportionate measure aimed at preventing concealment through related persons and reflects comparative practice. 3. The Committee further recommends amending Article 286(2) to authorize and require the Auditor-General to unseal a declaration in the presence of the declarant at the time of submission for the limited purposes of confirming identity, completeness and internal	The 2010 Commission recommended strengthening asset declarations by requiring public officers to declare all assets and liabilities on assuming and leaving office, with annual updates. Submission would be to the Auditor-General with verification by CHRAJ within 6 months, and criminal sanctions for false or omitted declarations. The 2025 Committee builds on this framework by expanding the scope of declarations to include spouses and unmarried children, introducing controlled opening and time-bound verification by the Auditor-General, extending coverage to additional categories of senior public officers, and requiring reporting to the President and the Ethics and Anti-Corruption Commission, thereby making the regime more comprehensive and operational.	The 2024 Committee recommended strengthening asset declarations by requiring the Auditor-General to verify declarations, issue a certificate of verification, and apply the constitutional presumption against unexplained wealth, while also expanding the list of public officers covered. The 2025 Committee advances this approach by broadening the content of declarations to include spouses and unmarried children, introducing controlled opening at submission, imposing strict timelines for verification and reporting, and specifying transmission of reports to the President and the Ethics and Anti-Corruption Commission, thereby placing greater emphasis on procedural clarity and enforceability.

	consistency. Where information is incomplete or missing, the Auditor-General shall require a supplemental filing within a prescribed period. 4. Verification should be expressly mandated. Within sixty (60) days of receiving a declaration, the Auditor-General must verify the truth of the matters contained in the declaration. The Constitution should impose a duty upon the declarant to cooperate fully with the verification process and should authorize the Auditor-General to invite or request the assistance of the public and of relevant public agencies as necessary to verify the declarations. Upon completion, the Auditor-General shall issue a verification audit report within fifteen (15) days, and a copy shall be submitted to the President and to the Anti-Corruption and Ethics Commission for any further action in accordance with law. The Auditor-General should be authorized to publish a list of all covered public officers who have complied with their asset declaration obligations and whose declarations have been verified and confirmed.		
Post-Declaration Increase in Net Worth (“Unexplained Wealth”)	The Committee makes the following recommendations: 1. Article 286(4) creates a presumption that, following a prior asset declaration, any subsequent increase in the declarant’s net worth that is “not reasonably attributable to income, gift, loan, inheritance or any other reasonable source” is “deemed to have been acquired in contravention of this Constitution.” This is a clear constitutional statement in support of the presumptive illegality of “unexplained wealth”. Moreover, the fact that the Constitution grants the state enforcement authority, the benefit of a “presumption” that any unexplained wealth has been unlawfully acquired, supports the idea of a “reverse burden of proof” in corruption cases. The Constitution must go further to expressly empower the Auditor-General and the Anti-Corruption and Ethics Commission to employ	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended that Parliament enact legislation to introduce penalties for failure to submit asset declarations or for making false declarations, and for other such relevant matters as Parliament may determine. The 2025 Committee proposes a much stronger framework by amending Article 286 to empower the Auditor-General and the Ethics and Anti-Corruption Commission to conduct lifestyle audits, and require regular, verified asset declarations at set intervals. While the 2024 recommendation focuses on sanctions for non-compliance, the

	lifestyle and unexplained-wealth audits and associated enforcement tools for the purpose of giving effect to Article 286(4) and to their wider anti-corruption mandates. The constitutional text should clarify that where a significant increase in net worth is not reasonably explained by lawful sources, proceedings may be instituted in which a calibrated reverse burden of proof applies, subject to judicial oversight and to safeguards prescribed by law. 2. To ensure legal certainty and to embed safeguards, the Constitution should further require Parliament to enact, within a specified period, legislation that gives effect to this provision. Such legislation should set out investigative powers (including access to relevant financial and property records), the evidentiary standards and thresholds for invoking a reverse burden of proof, the roles of the Auditor-General and the proposed Anti-Corruption and Ethics Commission, procedures for asset recovery and confiscation, and protections for the rights of affected persons. This framework will render the constitutional presumption effective while maintaining fidelity to principles of fairness. 3. A public officer who is subject to the asset declaration requirement of Article 286(2) shall submit the first such declaration within 15 days of taking office, and subsequently in one-year intervals, with a terminal declaration to be made 30 days after the end of the term or tenure of that officeholder.		2025 recommendation establishes a comprehensive constitutional regime for detection, enforcement, and asset recovery.
Sanctions for contravention of Code provisions	The Committee recommends that sanctions for specified violations within this chapter be expressly prescribed, either directly in the Constitution or in an Act of Parliament enacted pursuant to the Constitution. The framework should distinguish between (a) violations of Article 284, being breaches of the Code of Conduct, and (b) violations associated with Article 286, namely false declarations and unexplained wealth. For Article 284	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	violations, the regime should provide for administrative and other civil measures, including reprimand, restitution, suspension without pay for a defined period, and disqualification from holding public office for a specified term, imposed in accordance with due process. For Article 286 violations, the regime should provide for stiffer sanctions proportionate to the gravity of the misconduct, including removal from office, criminal penalties as Parliament may prescribe, and, where appropriate, confiscation and pecuniary penalties. The adoption of a prescribed, calibrated regime will ensure uniformity of treatment, reinforce deterrence, and bring the sanctions architecture into full conformity with constitutional requirements. Sanctions must be authorized in the Constitution and prescribed in an appropriate Act of Parliament for specified violations of the provisions of this chapter, according to the nature of the violation: Administrative and other civil sanctions may be appropriate for Code violations under article 284, while stiffer sanctions, including removal from office, asset recovery, and criminal sanctions, would be more appropriate for article 286 violations (false declarations; unexplained wealth).		
State-Owned Enterprises			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Constitutional Status of State-Owned Enterprises	The Committee recommends appropriate amendments to Chapter Fourteen of the Constitution to provide as follows: 1. Regulation and governance of state-owned enterprises, including commercial ventures in which the Government of Ghana (GoG) has a controlling interest, should be treated separately under a new section of Chapter Fourteen. Chapter Fourteen should be retitled Public Services and State Enterprises.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	2. SIGA should be established as a constitutional body – as the primary central oversight body responsible for holding and exercising on behalf of the Government of Ghana the ownership interests and related governance rights and prerogatives relating to State-owned enterprises and other ventures in which GoG has a controlling interest. 3. SIGA’s role will be similar to a “State Enterprises Commission”. SIGA’s functions should include: a. Advise GoG on establishment/divestiture of a commercial state entity. b. Advise President/Minister on appointment of boards of state enterprises. c. Support operating company (SOE) boards (“in consultation with”) with recruitment, selection, retention, appraisal of CEOs and top management. d. Develop and enforce performance contracts for CEOs and management of individual SOEs. e. Regularly appraise performance of SOEs and submit reports to Parliament and Government.		
Corporate Governance of SOEs	The Committee recommends that: 1. Parliament enacts, within six (6) months of this amendment, a comprehensive law establishing a uniform governance framework for all state-owned enterprises (SOEs), regardless of their mode of incorporation. 2. The law should standardize director liability, ultra vires transactions, contracting and procurement, recruitments, financial reporting and disclosures. 3. All SOEs must submit audited financial statements annually to Parliament, the Auditor-General, the responsible Minister, and the public, with sanctions imposed on officers or directors who fail to comply.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	4. Parliament should withhold budget allocations from non-compliant SOEs and utilize Auditor-General reports to investigate or recommend remedial actions in cases of malfeasance or governance deficiencies.		
Appointment and Accountability of Directors, Chief Executive Officers and Other Management of SOEs	The Committee recommends amendments to appropriate parts of the Constitution to provide as follows: a. No Minister of State, Deputy Minister, or Member of Parliament may be appointed a director or chairman of the governing council or board of a State-Owned Enterprise. b. Appointments to the governing boards of State-Owned Enterprises shall be made on the basis of demonstrated competence, professional experience, integrity, and relevant expertise, and political affiliation or partisan considerations shall not be a factor in such appointments. c. The governing board of a SOE, once duly and properly constituted in accordance with law, shall have the exclusive authority to appoint, supervise, and, where necessary, remove the chief executive officer and other senior management, subject to applicable law and performance requirements. d. The appointment processes for members of governing boards and chief executive officers of State-Owned Enterprises shall be guided and coordinated by SIGA to ensure fairness, professionalism, transparency, and compliance with sound corporate governance principles. e. Where an appointment is required to be made in consultation with or on the advice of a designated body, the process of consultation or rendering of the advice must be deemed a condition precedent to the making and publication of the appointment. If it is necessary to appoint a person in a temporary capacity to act in the position while the required advice or consultative processes are pending for a substantive successor or appointee, the person named to act temporarily in the	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	vacant position must be the person next in line in authority or seniority within the organisation. f. SIGA shall prescribe minimum qualifications for appointment to the governing boards and senior management positions of SOEs, including relevant professional training, expertise, and demonstrable managerial experience, and a record free from adverse findings of misconduct, mismanagement, or abuse of office. g. A person shall not be appointed or serve as a director, chairperson, chief executive officer, or senior manager of a State-Owned Enterprise if that person holds office at any level in a political party, participates in the organisation or conduct of a political campaign, or is a current or immediate past candidate for elective political office. h. Parliament shall enact a law governing the duties, liabilities, and accountability of directors and officers of State-Owned Enterprises and State-controlled Joint Ventures, and vest enforcement authority in the SIGA Directors and officers of State-Owned Enterprises and State-controlled Joint Ventures shall be fiduciaries of the State and shall owe duties of loyalty, good faith, transparency, fairness, and reasonable care in the performance of their functions, comparable to those applicable under company law and the common law. i. A director or officer of a State-Owned Enterprise or State-controlled Joint Venture shall not, directly or indirectly, derive any personal benefit from any transaction, decision, or arrangement involving that enterprise, except as expressly permitted by law. j. The legislation enacted under this article shall provide for both direct and derivative actions to enable accountability and redress for breach of fiduciary duty, misconduct, or abuse of office by directors or officers of State-Owned Enterprises and State-controlled Joint Ventures.		

	k. An institutional nominee serving on the governing board of a State-Owned Enterprise or State-controlled Joint Venture shall remain accountable to the nominating institution for any breach of fiduciary duty or misconduct committed in the course of that service. A person who successfully institutes a public-interest or derivative action in respect of misconduct by a director or officer of a State-Owned Enterprise or State-controlled Joint Venture shall be entitled to recover reasonable legal costs and such compensation as may be determined in accordance with law from the offending director or officer.		
Tenure	The Committee recommends the following in relation to tenure of SOE Board, CEO and Management: 1. Tenure of SOE board: Government appointees to the board may be appointed to a term coterminous with the term of President; however, institutional nominees should be appointed to a fixed, non-renewable term - not coterminous with the term of the President. 2. Tenure of SOE CEO and management must be specified in their contracts of employment contract approved by the board acting in consultation with SIGA. It must be a renewable term, subject to meeting key performance indicators, as determined by the board and SIGA and specified in the contracts of appointment. The grounds for removal must also be specified in the contract and shall include failure to meet agreed key performance indicators (KPIs).	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

VI. Leaving No One Behind: Towards a Just and Equitable Society

Citizenship

Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Dual (Multiple) Citizenship and Public Office Restrictions	The Committee recommends amending Articles 8 and 94 to limit multiple-citizenship disqualifications to only the offices of President and Vice-President, and to remove multiple citizenship as a bar to becoming a Member of Parliament. It further affirms that all Ghanaian citizens by birth, regardless of other nationalities, should be eligible for public office subject to standard age, competence, and integrity requirements. Parliament should also be required to establish clear laws on integrity, conflicts of interest, security vetting, and disclosure for public office holders.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Gender Discrimination in the Treatment of Foreign Spouses	The Committee recommends that Article 7 be amended to establish an entirely gender-neutral spousal citizenship regime by removing the permanent residency requirement that currently applies only to male applicants, applying marriage-verification safeguards equally to all applicants regardless of gender, and mandating Parliament to align all citizenship and immigration legislation and administrative practice with the principle of substantive gender equality so that no Ghanaian woman is indirectly disadvantaged in the transmission of citizenship.	The 2010 Commission proposed a limited reform by recommending that Article 7 be made gender neutral, without further guidance on implementation. The 2025 Committee adopts a more comprehensive approach by removing the permanent residency requirement that applies only to male spouses, extending marriage-verification safeguards to all applicants, and requiring Parliament to align citizenship and immigration laws with substantive gender equality. While the 2010 recommendation focused on neutral wording, the 2025 proposal addresses both legal and administrative discrimination affecting Ghanaian women.	The 2024 Committee did not make a recommendation in this area.
Heritage Citizenship	The Committee recommends that Article 8 of the Constitution be amended to expressly recognize a right of abode for persons of African descent in the Diaspora, exercisable in accordance with conditions to be prescribed by Parliament. This right of abode should further mature, upon satisfaction of clearly defined statutory requirements,	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	into an entitlement to apply for Ghanaian citizenship through a dedicated heritage-based pathway. Parliament shall by law regulate the qualifying criteria, procedures and safeguards applicable to both the right of abode and the heritage-citizenship pathway.		
Administrative Hometown-Based Discrimination Against Citizens from Zongo Communities and Historically Mobile Groups	The Committee recommends the insertion of a new constitutional provision requiring that Parliament enact legislation to prohibit the use of “hometown”, indigeneity, ancestral origin, ethnicity, religion, language and settlement history as criteria for determining a citizen’s access to public services, civil documentation, public employment, political participation, or the enjoyment of any civic right or obligation. Such legislation shall also prescribe uniform, objective and non-discriminatory procedures for civil registration, national identification and service access, with enforceable sanctions for officials who substitute ethnic, religious or settlement-based criteria for legal citizenship.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Fundamental Human Rights			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Scope of Applicability of Fundamental Human Rights	The Committee recommends that Article 12(1) be reformulated to expressly establish a clear constitutional presumption that the fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all other governmental actors and their agencies and by all persons, institutions, and authorities exercising power over others, including traditional authorities, political parties and private entities whose conduct affects the dignity, liberty, equality or legal protection of another person.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Limitation Clause	The Committee recommends the removal of the multiple, specific and dispersed limitation phrases currently	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended a narrow amendment by adding

	attached to individual rights provisions in Chapter Five. In their place, the Constitution should adopt a single, general limitation clause applicable to all fundamental rights. Under this approach, any restriction on a constitutional right, regardless of its legislative source or policy justification, must be strictly justified under a unified standard of legitimacy, proportionality and necessity. This would ensure that no restriction is automatically validated merely by invoking broad public-interest language, and that all limitations are subjected to the same rigorous constitutional test of necessity, least-restrictive means and proportionality in a free and democratic society.		‘public order’ to Article 21(4)(c) and safeguarding ‘public morality’ to Article 21(4)(e) as additional grounds for limiting certain freedoms. The 2025 Committee proposes a more far-reaching reform by replacing the multiple, provision-specific limitation phrases in Chapter Five with a single, general limitation clause applicable to all fundamental rights. This unified clause would require every restriction to meet strict standards of legitimacy, necessity and proportionality, rather than relying on broad public-interest justifications. Thus, the 2025 recommendation shifts from a targeted expansion of limitation grounds to a comprehensive overhaul of how all constitutional rights may be restricted.
Pre-Trial Detention	The 2025 Committee recommends that all arrested persons should be presumed entitled to bail, with detention allowed only where it is strictly necessary to prevent flight or interference with evidence. For non-violent offences and misdemeanours, bail should be automatic, and pre-trial detention should be used only as a last resort. Parliament should also establish strict time limits, regular judicial reviews, and strong remedies for unlawful detention, and the military should be barred from holding civilians for more than 48 hours.	The 2010 Commission recommended a targeted reform by reducing the maximum period of pre-trial detention before court appearance from 48 hours to 24 hours. The 2025 Committee proposes a more comprehensive framework by presuming all arrested persons are entitled to bail, limiting detention to cases where it is strictly necessary, and making bail automatic for non-violent offences and misdemeanours. Furthermore, it makes provision for strict time limits, regular judicial reviews, remedies for unlawful detention, and restrictions on military detention of civilians, which the 2010 Commission did not address. While the 2010 recommendation focused on	The 2024 Committee did not make a recommendation in this area.

		shortening detention time, the 2025 proposal restructures the entire approach to pre-trial liberty and detention safeguards.	
Fair Trial	The Committee recommends an amendment of article 19 that recognizes the following: 1. Every person charged with a criminal offence has the right to a trial and determination of the charge within a strictly reasonable time. 2. Parliament shall set binding time limits for the investigation, prosecution, and determination of criminal cases, taking account of the seriousness and complexity of the offence. 3. Where a person is not tried within the prescribed time limits, and the delay is not their fault, the court shall grant fair and proportionate remedies, including dismissal of charges, exclusion of evidence, or sentence reduction. 4. Any public officer whose unjustified actions or omissions cause unconstitutional delay shall be personally liable, subject to discipline, and face further legal consequences as prescribed by law.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended specific procedural changes to Article 19 by introducing a 6-month deadline for the commencement of criminal trials and by removing references to the death penalty and Regional Tribunals from the fair trial provisions. The 2025 Committee's approach is broader because it reframes Article 19 to guarantee trial within a strictly reasonable time, by mandating Parliament to set binding time limits across all stages of criminal proceedings, providing remedies for unconstitutional delay, and imposing personal liability on public officers responsible for such delay.
Legal Aid	The Committee recommends strengthening Article 294 to establish an independent Legal Aid Commission with secure funding and a nationwide presence to support criminal defendants who cannot afford legal representation. Legal aid should cover legal advice, representation by a lawyer, and all necessary assistance for a fair trial. Parliament may also introduce pro bono duties, supervised student legal clinics, digital and community-based services, and specialized support for vulnerable groups.	The 2010 Commission recommended establishing the Legal Aid Scheme as an independent constitutional body with secured funding to improve access to justice. The 2025 Committee builds on this by proposing an independent Legal Aid Commission with nationwide coverage, expanded services for indigent criminal defendants, and a clear constitutional mandate. It also supports wider delivery methods, including pro bono duties, student clinics, digital services, and targeted support for vulnerable groups. As such, the 2025 proposal shifts the focus from institutional status to practical and inclusive service delivery.	The 2024 Committee did not make a recommendation in this area.

The Death Penalty	The Committee recommends targeted constitutional reform affecting Articles 3, 13, 19, 72 and 94 of the Constitution, together with mandatory consequential legislative adjustments to abolish the death penalty entirely. Furthermore, the Constitution should be structured so that no criminal penalties are prescribed or implied within the Constitution itself, and all criminal punishments shall be determined exclusively by Parliament through ordinary legislation.	The 2010 Commission recommended abolishing the death penalty and replacing it with life imprisonment, based on alignment with contemporary human rights standards. The 2025 Committee also supports complete abolition but proposes a broader constitutional reform by amending multiple provisions, and requiring consequential legislative changes. It further recommends that the Constitution should no longer prescribe or imply any criminal penalties, leaving all punishment to be determined by Parliament through ordinary legislation. While both bodies favour abolition, the 2025 proposal restructures the constitutional treatment of criminal punishment more comprehensively.	The 2024 Committee proposed a limited amendment to Article 13(1) to state that no person shall be deprived of life intentionally, without addressing other constitutional references to capital punishment. The 2025 Committee advances a more extensive reform by abolishing the death penalty through multiple constitutional amendments and removing all criminal penalties from the Constitution itself. It also mandates legislative adjustments to ensure that punishment is regulated solely by Parliament. Whereas the 2024 recommendation focused on a single rights provision, the 2025 proposal redesigns the entire constitutional framework governing criminal sanctions.
Right to Food	The Committee recommends targeted constitutional reform affecting Articles 14, 15 and 30 of the Constitution, together with the insertion of a new standalone custodial rights provision, as follows: 1. Amend Article 14 to clarify that detention must not deprive a person of basic necessities such as adequate food. Also, that detention conditions should be open to direct constitutional review as part of the right to personal liberty. 2. Amend Article 15 to recognize that denying a person in custody adequate, safe, and nutritious food violates human dignity, and that custodial hunger, starvation, or degrading food conditions amount to cruel, inhuman, or degrading treatment. 3. Amend Article 30 to recognize that persons in custody are entitled to enhanced protection of basic survival	The 2010 Commission recommended introducing an explicit constitutional right to food for all Ghanaians, and that the NDPC should produce a holistic National Development Plan which would address the sustainable production of food. The 2025 Committee instead chose to anchor the right to food specifically within custodial settings, strengthening protections across Articles 14, 15, and 30, and creating a standalone, enforceable right to adequate food for persons in detention, with heightened duties imposed on the State.	The 2024 Committee did not make a recommendation in this area.

	needs, including food, water, and essential nutrition, and to impose a heightened constitutional duty of care on the State for all persons in custody. 4. Amend Article 14 to guarantee that every person in custody has an immediate and enforceable right to adequate, safe, and nutritious food for the entire period of detention or imprisonment. The duty shall rest directly on the State, allow no limitation based on resources or security, and any breach shall be a constitutional violation enforceable by the courts through relief and compensation.		
Right to Housing	The Committee recommends targeted constitutional reform affecting Articles 20 and 36 of the Constitution, together with mandatory consequential legislative duties imposed on Parliament, as follows: 1. Amend Article 20 to impose a clear constitutional duty on the State to prevent homelessness caused by compulsory acquisition, evictions, redevelopment, or disaster displacement. Where displacement occurs, the State must provide suitable alternative housing consistent with human dignity, and no person should be made homeless through State action. 2. Add a new Article establishing a new constitutional right of access to adequate housing, to be progressively realized through reasonable legislative, budgetary, and administrative measures within available resources. This right would be subject to judicial review based on fairness, transparency, and non-retrogression. 3. Amend Article 36 to require Parliament to enact binding housing laws, including annual housing targets, a national housing plan, and clear standards for resettlement and compensation. These laws should also regulate rents, protect tenants, upgrade informal settlements, and require regular reporting on housing outcomes.	The 2010 Commission recommended recognizing an explicit constitutional right to housing, emphasizing access to affordable shelter, the prevention of homelessness, and rent regulation as matters of human dignity. The 2025 Committee advances this position by introducing a justiciable right of access to adequate housing, prohibiting homelessness arising from State action, and imposing detailed constitutional and legislative duties on the State, including binding housing targets, governance standards, and parliamentary oversight.	The 2024 Committee did not make a recommendation in this area.

Right to Education	The Committee recommends amending the Constitution to protect students from religious coercion and discrimination in all educational institutions, while allowing schools to maintain a religious identity that does not infringe students' rights. No student should be forced to take part in religious worship, and admissions, discipline, boarding, leadership, and school activities must be free from religious bias. It also proposes that Parliament enact a law to ensure all public, mission-assisted, and private schools respect learners' constitutional rights, guarantee voluntary religious participation, and prevent discrimination. The law should provide neutral codes of conduct, supervised alternatives to worship, clear complaints systems, GES oversight, and training for teachers and chaplains on freedom of conscience and religious neutrality.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Rights of Children	The Committee recommends targeted constitutional reform affecting Articles 28, 15 and 30 of the Constitution, together with mandatory consequential legislative duties imposed on Parliament, as follows: 1. Amend Article 28 to protect children's bodily integrity to prohibit irreversible, non-consensual medical or surgical procedures unless they are strictly necessary to save life or prevent serious harm. There should also be special constitutional protection for intersex children, ensuring that their best interests override cultural or cosmetic reasons for early "normalizing" interventions. 2. Amend Article 15 to recognize that non-consensual, non-therapeutic medical alteration of a child's body violates human dignity, and to strengthen the constitutional basis for holding medical and institutional actors accountable for such violations.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	3. Amend Article 30 to recognize that children requiring specialized medical care, including intersex children, are entitled to enhanced constitutional protection against coercive or irreversible treatment. Additionally, require heightened consent safeguards, independent medical review and rights-based clinical standards where long-term bodily consequences arise. 4. Require Parliament to pass detailed laws regulating medical and surgical decisions affecting children, including independent reviews, strict necessity tests, informed consent standards, and strong accountability measures. It also proposes creating a Special Guardian ad litem to represent a child's best interests and give consent where parents are unavailable or in dispute with health practitioners.		
Rights of the Youth	The Committee recommends the insertion of a new provision on the rights of the youth as follows: The youth of Ghana shall have the right to develop to their full physical, intellectual, social and economic potential and to participate fully in the life of the nation. The State shall have due regard to the interests of the youth as a vital resource for national development and democratic governance. The State shall take appropriate measures to: a. Ensure that the youth have access to relevant and quality education, skills development, and training; b. Promote employment opportunities and sustainable livelihoods for the youth; c. Protect the youth from exploitation, abuse, harmful practices, and all forms of discrimination; d. Facilitate the participation of the youth in political, economic, social, and cultural life; and e. Promote the values of integrity, civic responsibility, and national service among young people. f. Parliament shall enact such laws as may be necessary to give effect to this article.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

Women's Rights	The Committee recommends targeted constitutional reform affecting Articles 27, 17, 35(6), 36 and 22 of the Constitution, with consequential legislative duties imposed on Parliament, as follows: 1. Amend Article 27 to move from a welfare-based approach to substantive gender equality. References to “traditional care for children” should be replaced with gender-neutral caregiving duties, and a new clause should guarantee women’s autonomy, economic independence, and political participation. The State should also have a clear duty to prevent and respond to gender-based violence, including domestic and sexual violence, harmful practices, and workplace harassment. 2. Amend Article 17 to provide a clear constitutional basis for affirmative action and temporary special measures to promote gender equality in politics, public appointments, education, employment, and economic participation. 3. Amend Article 35(6) to make regional and gender balance in public appointments a binding constitutional obligation, with a rule that states no more than two-thirds of all any appointive public body can be of the same gender. 4. Amend Article 36 to impose a duty on the State to ensure women’s equal access to land, credit, capital, inheritance, employment, and business support, with targeted policies for women in informal and vulnerable work. 5. Amend Article 22 to affirm equal spousal rights to property ownership, control, and inheritance during and after marriage, and require laws on matrimonial property, spousal consent, and fair division of marital assets.	The 2010 Commission proposed addressing gender inequality mainly through legislation, calling for a comprehensive Affirmative Action Act to promote women’s participation and equality. The 2025 Committee recommends a more far-reaching constitutional strategy by amending multiple provisions, including Articles 17, 22, 27, 35 and 36, and imposing binding duties on Parliament. These reforms shift Article 27 towards substantive gender equality, provide a constitutional basis for affirmative action, require gender balance in public appointments, strengthen women’s economic rights, and affirm equal spousal property rights. While the 2010 approach relied largely on statutory reform, the 2025 proposal embeds gender equality directly within the constitutional framework.	The 2024 Committee recommended limited and focused amendments on family and caregiving, including a legislative deadline on spousal property rights under Article 22(2) and revised wording of Article 27 that retained gendered assumptions about care roles. The 2025 Committee advances a broader reform agenda by removing gendered caregiving language, guaranteeing women’s autonomy and political participation, and imposing State duties to address gender-based violence. It also introduces constitutional provisions on affirmative action, gender balance in appointments, and women’s economic and property rights. Whereas the 2024 recommendations addressed specific family-related issues, the 2025 proposals aim to establish comprehensive and enforceable gender equality across public and private life.
Persons with Disabilities	The Committee recommends updating Article 29 to reflect modern disability rights standards by recognizing	The 2010 Commission recommended updating constitutional language on disability to align with	The 2024 Committee recommended a limited linguistic change by

	persons with disabilities and adopting the social model of disability. Accessibility should become a clear constitutional duty, not a discretionary one, with mandatory access audits for all publicly funded infrastructure and no funding for non-compliant projects. Parliament should also establish strong enforcement and compensation mechanisms, align all disability laws with the revised Article, and ensure proper funding for implementation.	international standards and completing regulations to give practical effect to existing protections. The 2025 Committee proposes a more substantive reform by revising Article 29 to recognize persons with disabilities under the social model of disability and making accessibility a binding constitutional duty. It further calls for mandatory access audits for publicly funded infrastructure, enforcement and compensation mechanisms, and full legislative alignment with the revised Article. While the 2010 recommendation focused on language and regulatory implementation, the 2025 proposal establishes enforceable constitutional obligations with clear institutional and funding requirements.	replacing the term “disabled persons” with “persons with disabilities” throughout the Constitution. The 2025 Committee advances a much broader reform by modernizing Article 29 to reflect contemporary disability rights standards, adopting the social model of disability, and imposing mandatory accessibility duties on the State. It also proposes enforcement mechanisms, compensation for non-compliance, and legislative harmonization. The 2024 recommendation addressed terminology, whereas the 2025 proposal restructures the constitutional framework to ensure practical and enforceable inclusion for persons with disabilities.
Rights of Older Persons	The Committee recommends adding a new constitutional provision to protect the rights of older persons, and recognize them as a vulnerable group. Parliament should pass laws to ensure that people aged 60 and above live with dignity, are free from abuse and discrimination, have access to healthcare and social support, and are fully included in national life.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Right to Health	The Committee recommends targeted constitutional reform to strengthen the protection and enforceability of the right to health through amendments affecting Articles 30, 36 and 37 of the Constitution, together with a new justiciable health rights provision, as follows: 1. Add a new, enforceable constitutional right to health that guarantees access to basic and essential healthcare services, including emergency treatment, mental health care, and essential medicines. No one should be denied	The 2010 Commission proposed renaming Article 30 as the “Right to Health” and guaranteeing the highest attainable standard of health, including access to healthcare without barriers. The 2025 Committee advances a more detailed and enforceable framework by introducing a new justiciable right to health, guaranteeing access to essential services such as emergency and mental healthcare, and prohibiting denial of treatment on grounds such as poverty, disability, religion,	The 2024 Committee recommended renaming Article 30 as the “Right to Healthcare” and recognizing a general right of every Ghanaian to good healthcare. The 2025 Committee proposes a more robust reform by creating an enforceable constitutional right to health, expanding protections against denial of care, and guaranteeing access to

	emergency care because of inability to pay, and the State must take reasonable steps to expand healthcare access fairly, with priority for vulnerable groups. 2. Amend Article 30 to ensure that no one is denied medical care because of religion, disability, poverty, detention status, or social condition. Also, guarantee timely access to essential treatment where delay could cause serious harm, long-term disability, or death. 3. Amend Articles 36 and 37 to align them with the new right to health so that health funding, infrastructure, and workforce planning become clear constitutional duties. The State’s obligation to ensure healthcare access should be ongoing and subject to parliamentary oversight and judicial review where basic health rights are breached. 4. Require Parliament to pass a comprehensive Public Health Framework Act that clearly defines basic healthcare entitlements, sets national standards for emergency care, affordability, and access, and provides accountability for denied treatment. The law should also protect vulnerable groups and allow courts to order treatment, compensation, and systemic remedies where health rights are violated.	or detention status. It also proposes aligning Articles 36 and 37 to impose clear constitutional duties on health funding, infrastructure, and workforce planning, supported by a comprehensive Public Health Framework Act with accountability mechanisms. While the 2010 proposal focused on recognition and broad access, the 2025 recommendation establishes concrete obligations, legal remedies, and institutional accountability for health rights.	essential and emergency services regardless of ability to pay. It also links health rights to State duties on funding, infrastructure, and planning, and requires Parliament to enact a detailed Public Health Framework Act with judicial remedies for violations. Overall, the 2025 Committee’s recommendation ultimately seeks to make health rights legally enforceable, where the 2024 Committee’s proposal only focused on the recognition of such a right.
Right to Privacy (Digital Rights Gap)	The Committee recommends modernizing Article 18 to protect digital and data privacy, including biometric, financial and communication data, and to guard against mass surveillance except where strictly authorized by law. Privacy rights should apply to both State and non-State actors, and any interference must be lawful, necessary, proportionate, and independently approved. Parliament should be required to pass strong data protection and surveillance laws with clear warrant procedures, limits on data use, and effective remedies for abuse. The Constitution should also treat privacy intrusions that undermine democracy or personal dignity as serious violations of both the right to privacy and the right to human dignity.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

The Right to a Clean, Healthy and Sustainable Environment	The Committee recommends adding a new, enforceable constitutional right to a clean, healthy, and sustainable environment. This would guarantee protection from environmental harm, require the State to prevent pollution, regulate harmful activities such as mining, promote conservation and sustainable resource use, and allow individuals and communities to seek court remedies. The Constitution would also recognize the State’s duty to protect the environment for the benefit of present and future generations.	The 2010 Commission recommended addressing environmental harm through a legislative framework focused on environmental crimes linked to the exploitation of natural resources. The 2025 Committee proposes a stronger constitutional approach, by building on the proposed legislative framework and introducing an enforceable right to a clean, healthy, and sustainable environment. This would impose direct duties on the State to prevent pollution, regulate harmful activities such as mining, promote conservation, and protect the environment for present and future generations. It would also allow individuals and communities to seek court remedies for environmental harm. Thus, the 2025 Committee’s recommendation places more emphasis on constitutionalizing environmental protection with enforceable rights and obligations, instead of leaving to legislation as in the 2010 proposal.	The 2024 Committee recommended adding the right to a clean and healthy environment as a new socioeconomic right under Article 24. The 2025 Committee advances this by proposing a fully enforceable constitutional right that goes beyond recognition to include clear State duties on pollution control, environmental regulation, conservation, and sustainable resource use. It also provides for judicial remedies and explicitly links environmental protection to the interests of future generations. While the 2024 recommendation focused on listing the right, the 2025 proposal seeks to make environmental protection legally enforceable and institutionally accountable.

VII. “All Development is Local”

Streamlining National Decentralization Efforts			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Establishment of Independent Devolution Commission	The Committee recommends appropriate amendments to Chapter Twenty of the Constitution as follows: <i>Establishment of an Independent Devolution Commission</i> The Committee recommends the establishment of an Independent Devolution Commission (Devolution Commission) as the central institutional mechanism responsible for the design, coordination, oversight, and	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	continuous implementation of Ghana's decentralization framework. The Commission shall serve as the principal technical and regulatory authority for matters relating to local government structure, capacity, performance, and inter-governmental relations. To safeguard its autonomy and ensure stability of operations, the funding of the Commission shall be charged on the Consolidated Fund.		
Mandate of the Independent Devolution Commission	The Committee recommends that the mandate of the Devolution Commission shall include: a. Responsibility for functions such as the creation, merger, and elevation of districts. b. Serving as the coordinating authority for the inter-governmental finance system, which would involve integrating the Office of the Administrator of the District Assemblies Common Fund into the Devolution Commission. c. Responsibility for ensuring the transparency, equity, and predictability of transfers to local authorities. d. Supporting improvements in internally generated revenue, and promoting sustainable fiscal autonomy at the local level. e. Conducting regular assessments of the administrative and human resource capacity of MMDAs, and administering a comprehensive performance and benchmarking framework for all local government units. f. Developing and gazetting clear national standards on the establishment, staffing, financing, and minimum operational requirements of sub-district bodies.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Oversight of the Devolution Commission	The Committee recommends that the Commission be subject to political accountability through the following means: a. Where the Commission proposes to create a new district, redraw district boundaries, or upgrade a district, it shall make its proposals by which of a Constitutional Instrument which shall be laid before Parliament; the	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	proposed changes shall not come into effect until they have passed the appropriate parliamentary process. b. Both the President and Parliament shall have a role in the appointment of the Chair and Vice Chairpersons of the Commission: The President shall nominate persons to the position of Chair and Vice Chairperson in accordance with the recommendations of the Council of State and, upon receiving the prior approval of Parliament, confirm their appointments. c. The Commission shall report annually to Parliament on its activities.		
Composition of the Commission	The Committee recommends that the Devolution Commission be constituted as follows: a. A Chairman and two vice-chairmen, all of whom shall be full-time members of the Commission; and b. Such other members, who shall not be full-time, not exceeding 8 in number as Parliament shall by law prescribe, including: 1. A representative of the National Development Planning Commission. 2. A representative of the National Association of Local Authorities of Ghana (NALAG). 3. A representative of the National House of Chiefs. 4. A representative of the Civil and Local Government Service.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Appointment of Commissioner and Deputy Commissioners	The Committee recommends that the Chair and each Vice-Chairperson of the Commission be appointed by the President, acting on a nomination submitted by the Council of State and subject to prior approval by Parliament. Under the proposed amendment, the Council of State shall select nominees for vacancies through an open, competitive and merit-based process administered on its behalf by the Public Services Commission (PSC). The PSC shall publicly advertise vacancies, stating the qualifications prescribed by Parliament, conduct an	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	initial screening of applicants, and submit a shortlist of qualified candidates to the Council of State. The Council shall interview or vet the shortlisted candidates and submit a ranked list of three nominees to the President. The President shall nominate one candidate for parliamentary approval and, upon such approval, appoint the nominee.		
Tenure of Office of the Commissioner and Deputy Commissioner	The Committee recommends that the Chairman and each of the Vice Chairpersons shall hold office for a single, non-renewable term of ten (10) years or until they attain the age of 65 years, whichever is earlier. The other (non-full-time) members of the Commission shall be nominated by their respective institutions to serve for a term of four-years, renewable for a maximum of two more terms in total.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Removal of the Commissioner and the Deputy Commissioner	The Committee recommends that the grounds and procedure for removal of the Chair and Deputy Commissioners of the Electoral Commission be applicable to the Chair and Vice Chairpersons of the Devolution Commission.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Elections of DCEs: Dimensions of the issue			
Topic	2025 CRC Recommendation	2010 CRC Recommendation	2024 CRCC Recommendation
The Right of a District to Elect its District Chief Executive	In relation to the election of DCEs, the Committee recommends a phased and asymmetrical approach: a. The Committee considers that the right of a district to elect its DCE is part of a wider reform package, not a standalone measure. Such elections must entail clear obligations, including assuming responsibility for certain local recurrent expenditures currently borne by central government. Districts lacking the capacity to meet these obligations should not be granted voting rights merely for symbolic reasons. The objective is to advance effective decentralisation and devolution, not elections for their own sake.	The 2010 Commission recommended that the District Chief Executive should be nominated by the President and approved by a simple majority of the District Assembly. The 2025 Committee departs from this centralized appointment model by recognizing the election of DCEs as part of a broader decentralization and devolution framework, rather than an automatic entitlement. It proposes a phased and asymmetrical approach under which only districts with the capacity to assume defined fiscal and administrative responsibilities would be granted the right to	The 2024 Committee recommended the direct election of DCEs by registered voters in each district on a non-partisan basis. The 2025 Committee takes a more cautious and differentiated approach by rejecting automatic nationwide elections in favour of an incremental system linked to district capacity and decentralization objectives. It emphasizes that the right to elect a DCE, once granted, would be

	b. The Committee further notes that the right to elect a DCE, once granted, would be politically difficult to reverse and should therefore be approached with caution. Given the excessive number of districts and the disregard of statutory criteria in their creation, automatically extending this right to all districts would compound past errors. c. The Committee observes that the proposed incremental and asymmetrical approach is consistent with Article 240(2)(e), which seeks to ensure local accountability by affording people, as far as practicable, effective participation in the governance of their local areas. d. For comparative purposes, the Committee notes that devolution in England, including the election of mayors, has followed a similarly systematic and incremental approach, guided by clear principles and criteria, with the long-term aim of extending elected local leadership to all communities.	elect their DCEs. The 2010 recommendation prioritized executive control with limited local approval, while the 2025 proposal conditions local electoral choice on institutional capacity and effective decentralization.	difficult to reverse and should therefore be conferred only where clear obligations can be met. Overall, the 2024 recommendation treated DCE elections as a universal democratic reform, but the 2025 proposal instead frames them as a conditional and phased instrument of effective local governance.
Which Districts Should Elect Their DCEs?	The Committee recommends that, as a start, all existing districts should be divided into Voting Districts (VDs) and Non-Voting Districts (NVDs), with the right to elect MMDCEs granted, initially, only to VDs. The Committee recommends that the Devolution Commission be responsible for implementing the phased election of DCEs, with the following considerations and principles to be set out either in the Constitution or an Act of Parliament: a. The Committee proposes that the base criterion for designating a district as a VD should be that it either forms part of a regional capital or meets a prescribed population threshold expressed as a percentage of the national population. The threshold should ensure that the combined population of all VDs constitutes not less	The 2010 Commission recommended that the DCE be nominated by the President and approved by a simple majority of Parliament, instead of elections in certain districts as proposed by the 2025 Committee.	The 2024 Committee recommended the election of District Chief Executives on a non-partisan basis but did not specify how or in which districts such elections should occur, whereas the 2025 Committee's recommendations lay out a clear framework.

	than a specified majority (for example, 70%) of Ghana's population, so that most citizens can vote to elect their MMDCEs from the outset. b. Districts not qualifying initially as VDs would progress to VD status upon meeting the prescribed population threshold. However, recognizing that some districts (e.g. some rural, population-declining ones) may never do so, the Committee proposes alternative pathways. These include applying a lower population ratio or permitting adjoining NVDs within the same Region to merge to meet the threshold and obtain VD status, subject to approval by the Devolution Committee. c. Notwithstanding the distinction between VDs and NVDs, the Committee proposes that MMDCEs be elected in all cases. In VDs, MMDCEs should be elected by direct universal adult suffrage. In NVDs, the DCE should be elected indirectly by a two-thirds majority of District Assembly members from a list of pre-qualified candidates, overseen by the Devolution Committee with support from the Public Services Commission.		
Qualification of DCEs	The Committee recommends that, since the DCE is an executive/management position, candidates for DCE must possess additional qualifications beyond basic qualifications to be MP: The Committee recommends the following additional qualifications: a. Bachelor's degree or professional qualification with at least 8 years post-qualification experience, including at least 3 years in a leadership or management position in the public sector, private sector or civil society/community development sector; or b. Advanced degree with at least 3 years' experience in leadership or management in the public sector, private sector or civil society/community development sector; or	The 2010 Commission rejected the introduction of educational or professional qualification requirements for members of MMDAs, including Chief Executives, on the basis that such requirements could limit broad local participation in decentralized governance. The 2025 Committee adopts a different approach by treating the DCE role as an executive and management position, requiring clearly defined minimum levels of competence and experience. While the 2010 position prioritized inclusiveness in local governance, the 2025 proposal emphasizes ensuring administrative capacity and effective local leadership.	The 2024 Committee did not make a recommendation in this area.

	c. At least high school/post-high school with at least 12 years' experience in business or community development.		
Participation or Exclusion of Political Parties from Local Government Elections	The Committee recommends that the election of MMDCEs, whether direct or indirect, be conducted on a non-partisan basis. Although the party affiliations of some Assembly members are often known, repeated surveys show strong public support for non-partisan local government elections. Communities favour this approach because it reduces electoral tension and campaign costs. The Committee further considers that partisan MMDCE elections would nationalize what should be local decisions, drawing national parties into contests centred on local development issues. Local government elections should therefore remain distinct from parliamentary and presidential elections, to ensure that they focus on and prioritize everyday local concerns. The Committee further recommends that the Independent Political Party and Campaigns Regulator (IPPCR) publish regulations to govern the conduct of campaigning and electioneering in relation to DCE elections, while the NCCE should continue to provide platforms for candidates to engage local voters.	The 2010 Commission recommended amending Article 248 to give Parliament discretion to permit partisan district elections in the future, citing divided public opinion, the informal partisan character of existing local elections, and comparative evidence that party involvement could strengthen decentralization and political accountability. In contrast, the 2025 Committee takes a firm position against partisan involvement in MMDCE elections, whether direct or indirect. Its recommendation is grounded in public support for non-partisan local contests, concerns about heightened electoral tension and costs, and the risk that party competition would shift local elections towards national political agendas.	The 2024 Committee recommended keeping local government elections non-partisan by maintaining the substance of Article 248 and updating its language to be gender neutral. The 2025 Committee goes further by explaining how this non-partisan approach should operate in practice, calling for clear rules on campaigning to be issued by the IRRPC and recommending that the NCCE continue providing platforms for candidate engagement. In effect, both Committees agree on the principle, but the 2025 proposal operationalizes the non-partisan election of DCEs.
Term Limits for MMDCEs	The Committee recommends an amendment to Article 246(b) to limit an MMDCE to no more than two terms of five (5) years, regardless of whether they occur consecutively or non-consecutively.	The 2010 Commission recommended standardizing the tenure of MMDCEs at four years, to run concurrently with the terms of the President and Parliament, while leaving the determination of term limits to Parliament. The 2025 Committee takes a firmer constitutional position by prescribing a maximum of two five-year terms for MMDCEs, whether served consecutively or not. Rather than deferring to legislation, the 2025 proposal fixes both tenure length and term limits in the Constitution,	The 2024 Committee recommended removing the word “consecutive” from Article 246(2) to ensure that a DCE could not hold office for more than two terms in total. The 2025 Committee aligns with this objective but goes further by expressly limiting an MMDCE to two five-year terms and placing the restriction beyond legislative alteration. While the 2024 recommendation clarified the total number of permissible

		representing a shift from legislative discretion to clearer constitutional regulation.	terms, the 2025 proposal consolidates this limit and standardizes the term length within the Constitution.
Grounds for Removal	The Committee recommends that the Devolution Committee propose, for the approval of Parliament, the grounds and mechanism for the removal of an MMDCE.	The 2010 Commission recommended a removal process for District Chief Executives that combined presidential authority with Assembly oversight, allowing removal by the President or by a two-thirds vote of no confidence of the Assembly, with implementing details to be set out in legislation. The 2025 Committee proposes a different institutional approach by assigning the development of removal grounds and procedures to the Devolution Commission, subject to parliamentary approval, thereby shifting responsibility from executive-led mechanisms to an independent, standard-setting body.	The 2024 Committee recommended specific constitutional changes to Article 243(3) by defining limited grounds for removal of a District Chief Executive, removing the President's removal power, and anchoring accountability primarily in Assembly votes of no confidence, resignation, death, or incapacitation. The 2025 Committee takes a more institutional approach by proposing that the grounds and procedures for removal be developed by the Devolution Commission and approved by Parliament, rather than being exhaustively set out in the Constitution itself.
Deputy DCE	The Committee recommends that provision be made for the position of Deputy DCE. The Deputy DCE, who shall not be of the same sex as the DCE, shall contest and be elected together with the DCE on the same ticket. The qualifications for the Deputy DCE shall be the same as for the DCE.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Election of the Presiding Members of the District Assembly	The Committee recommends an amendment to Article 244(2) to provide that the Presiding Member shall be elected by a simple majority of all of the elected Assembly members.	The 2010 Commission recommended that Presiding Members be elected by a majority of Assembly members present and voting, allowing the outcome to depend on attendance at the meeting. The 2025 Committee proposes a stricter threshold by requiring election by a simple majority of all elected Assembly members, thereby strengthening legitimacy and ensuring broader representative support.	The 2024 Committee recommended that Presiding Members be elected by a simple majority of all Assembly members and also proposed fixing a four-year renewable term of office. The 2025 Committee aligns with the 2024 position on the voting threshold for election but does not address the term of office, focusing

			instead on the mode of election alone.
Appointive Seats on the District Assembly	The Committee recommends an amendment to Article 242 to provide that 30% of all the members of the Assembly shall be appointed based on the following allocation of seats, reconstituted into 100%: a. Traditional authorities – 25%. b. Local women leaders – 20%. c. Local small business owners – 20%. d. Persons with disability and persons of voting age below the age of 35 years – 20%. e. Community-based non-governmental organisations – 15%. The Devolution Commission shall develop the modalities for the selection of the nominees to the appointive seats other than those representing the Traditional Authorities in the District.	The 2010 Commission proposed appointing one-third of District Assembly members from broadly defined underrepresented groups, leaving detailed criteria and limits, including for chiefs, to be set by Parliament. The 2025 Committee adopts a more prescriptive and technocratic approach by fixing the appointive share at 30% and allocating seats across clearly specified local constituencies with defined percentages, while assigning the Devolution Commission a central role in developing selection modalities.	The 2024 Committee focused on detailing the composition of presidential appointees by specifying functional and faith-based categories, including traditional councils, religious groups, security expertise, civil society, and nominees of the DCE. The 2025 Committee shifts away from presidentially driven and faith-based appointments towards a structured representational model grounded in local social and economic groups, with allocation by percentage and selection overseen institutionally by the Devolution Commission rather than individual political actors.
Sub-District Level Community Governance: What Role for the Chief?	Having regard to the critical and historic role Chiefs, including Queenmothers, where applicable, play in local community affairs, their incomparable social legitimacy, and the fact that they are legally precluded from participating in electoral politics, the Committee is of the view that, in addition to representation on the deliberative and legislative District Assembly, Chiefs should be formally integrated into the local government structures at the sub-district governing level where there are Paramount or Divisional Chiefs. The Committee recommends that, as this fundamentally implicates the institution of Chieftaincy, that the Devolution Commission, the Council of State, the Government, and the various Houses of Chiefs, including Traditional Councils, work together to develop appropriate modalities on how the integration must proceed, subject to ratification by Parliament.	The 2010 Commission recognized chiefs in Ghana’s decentralized system but limited their role to appointed representation on District Assemblies, leaving details to Parliament and excluding sub-district participation. In comparison, the 2025 Committee proposes a broader role by formally integrating chiefs, including queen mothers, into sub-district governance, with modalities to be jointly developed by chieftaincy institutions, the Devolution Commission, the Council of State and Government, subject to parliamentary approval.	The 2024 Committee did not make a recommendation in this area.

Fiscal Decentralization			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
District Assembly Common Fund: Dimensions of the Issue	The Committee recommends appropriate amendments to Article 252 as follows: a. Raise the District Assembly Common Fund Amount to not less than 10% of total national revenues. b. Merge the office of the District Assembly Common Fund Administrator into the Devolution Commission as a functional (inter-governmental fiscal transfers) division of the Commission. c. No portion of a District's allocation of the DACF shall be spent or contractually pre-committed on behalf of the District by the Central Government. d. No portion of DACF shall be allocated to a Member of Parliament.	The 2010 Commission recommended strengthening the District Assembly Common Fund mainly through institutional reforms, including establishing the Administrator as an independent constitutional office, clarifying appointment arrangements, expanding revenue-raising authority, and progressively increasing the Fund's share of national revenue. It also proposed removing Members of Parliament from direct access to the Fund through the creation of a separate Constituency Development Fund. The 2025 Committee instead prioritizes firm fiscal guarantees and tighter constitutional safeguards by raising the minimum DACF allocation to not less than 10 per cent of national revenue, integrating its administration into a Devolution Commission, and prohibiting central government and parliamentary control over district allocations.	The 2024 Committee recommended that Article 252 be amended to transform the District Assemblies Common Fund from a brief funding provision into a full constitutional framework. Specifically, the recommendation: a. Disaggregated Article 252 into multiple clauses, clearly separating the Fund's object, sources, administration, management, accountability, and staffing. b. Introduced an explicit constitutional object clause, defining the Fund's purpose as financing district development. c. Clarified and expanded funding sources, expressly recognizing parliamentary allocations, other approved funds, voluntary contribution, grants, and donations or gifts. d. Expanded the governance structure by creating the offices of an Administrator and two Deputy Administrators, appointed with Council of State consultation and parliamentary approval. e. Guaranteed the independence of the Administrator and Deputies in the performance of their functions. f. Clarified management arrangements, assigning responsibility for proposing the distribution formula to the

			Administrator, subject to parliamentary approval. g. Strengthened security of tenure, applying the Article 146 removal procedure to the Administrator and Deputies. h. Introduced a remuneration and expenses framework, placing emoluments under the Independent Emoluments Commission and charging administrative costs to the Consolidated Fund. i. Created a constitutional staffing framework, requiring consultation with the Public Services Commission for staff appointments. The 2025 Committee takes a more focused approach by prioritizing fiscal strength and protection of district resources, proposing to raise the Fund to not less than 10% of national revenue, merge its administration into the Devolution Commission, and impose clear constitutional restrictions on the use of DACF allocations. While the 2024 recommendation concentrated on institutional design and governance architecture, the 2025 proposal emphasizes fiscal guarantees, devolution, and shielding district resources from central and parliamentary interference.

Internally Generated Funds	The Committee recommends as follows: a. Parliament should enact appropriate legislation to cede specifically identified local informal sector income taxes to District Assemblies. b. The Devolution Commission shall coordinate technical assistance for District Assemblies to update local property rate valuations and tax collection capacity.	The 2010 Commission adopted a general, administrator-led approach by recommending that the DACF Administrator propose to Parliament which revenue-generating functions should be ceded to the MMDAs, leaving both the scope and sequencing of fiscal devolution largely open-ended. The 2025 Committee instead advances a more targeted and institutionalized framework by calling for legislation to cede clearly identified informal sector income taxes to District Assemblies and assigning the Devolution Commission a coordinating role in strengthening local revenue capacity through improved property valuation and tax administration.	The 2024 Committee did not make a recommendation in this area.
Responsibility for Emoluments of Elected MMDCE and Assembly Members	The Committee recommends that, for Voting Districts, all of the salaries and allowances of the MMDCE and staff of the Assembly and the allowances of the Assembly members and staff shall be paid solely from the Assembly's internally generated funds and a corresponding local tax base ceded to the District Assembly.	The 2010 Commission recommended that the salaries and allowances of MMDCEs, Presiding Members and Assembly Members should be centrally determined by an Independent Emoluments Commission, with the aim of ensuring uniformity and equity across districts. The 2025 Committee adopts a different approach by assigning responsibility for the payment of emoluments to District Assemblies themselves, to be funded from internally generated revenue and a dedicated local tax base. Rather than central standardization, the 2025 proposal links remuneration to local fiscal capacity as part of a wider strategy to deepen decentralization and local accountability.	The 2024 Committee did not make a recommendation in this area.
Chieftaincy and Traditional Authority			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Exclusion of Chiefs from "Active Politics"	The Committee recommends that the current provision of Article 276 precluding Chiefs, including Queenmothers, from participating in active party politics be retained. A recent Supreme Court decision in <i>Elorm Kwami Gorni v Attorney-General and National House of</i>	The 2010 Commission supported retaining the prohibition on chiefs' involvement in active party politics and sought to clarify its scope by proposing a detailed definition of what constitutes "active party politics." The 2025	The 2024 Committee did not make a recommendation in this area.

	<i>Chiefs (2022)</i> has clarified that the provision means that a Chief may not endorse a candidate or party involved in an election, but leaves Chiefs free to express approval of a policy, project or programme of a candidate or party. The Committee notes that Article 276 lacks an enforcement mechanism. The Committee proposes that a complaint of a violation of Article 276 by a Chief shall be made to the National House of Chiefs, which shall publish a process for handling and resolving such complaints.	Committee likewise recommends retaining the prohibition, but builds on subsequent judicial interpretation by noting that chiefs may express views on policies without endorsing parties, and shifts the focus from definition to enforcement by proposing a complaints mechanism administered by the National House of Chiefs.	

VIII. Securing and Safeguarding Our Democratic Peace, Freedoms and Stability

Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Statement of Principles and Values in Relation to Public Safety and Security Agencies	The Committee recommends the insertion of a new Article 35A in Chapter Six of the Constitution to establish binding constitutional principles governing all law-enforcement and security agencies, as follows: Article 35A – Principles Governing Law-Enforcement and Security Agencies 1. The primary purpose of all law enforcement and security agencies shall be to protect the people of Ghana and provide a safe and secure environment for the enjoyment of human dignity, fundamental rights, and freedoms. Considerations of security, public order, crime control or stability shall serve that purpose and shall not be invoked to displace, override or negate constitutional rights and freedoms. 2. Every exercise of law enforcement or security power shall be grounded in law, pursued for a lawful purpose, and executed in strict compliance with the Constitution and relevant laws. No directive, policy, emergency justification or operational consideration shall excuse departure from constitutional or other legal standards.	The 2010 Commission recommended amending the Constitution to include national security objectives centred on human security, emphasizing protection of individual safety and liberty, development of well-equipped security services, peaceful resolution of conflicts, and cooperation with other states to safeguard national and global security.	The 2024 Committee did not make a recommendation in this area.

	3. Law-enforcement or security action shall be lawful only when exercised in compliance with constitutional rights and prescribed procedures. Violations of rights shall not be excused, ignored, or validated on grounds of expediency, security, public interest or prevention of crime. 4. All law enforcement and security agencies shall operate under civilian authority and be subject to parliamentary oversight and judicial scrutiny. No agency shall deploy, undertake operations, or exercise coercive power except pursuant to lawful command or authorization traceable to a civilian authority responsible under the Constitution. 5. Force shall be used only where strictly necessary, as a measure of last resort, and in proportion to the threat faced. Lethal force shall be subject to the highest threshold of necessity and justification. 6. Law enforcement and security agencies shall be politically neutral and shall not serve partisan interests. Recruitment, appointment, promotion, deployment and discipline shall be insulated from political influence and conducted in accordance with objective and transparent criteria. 7. Professionalism, merit-based recruitment and competence shall constitute constitutional values governing all law enforcement and security agencies. Informal quotas and opaque recruitment practices are inconsistent with this Constitution. 8. Law enforcement and security agencies shall operate with transparency compatible with legitimate operational requirements. Secrecy shall not be used to shield misconduct, abuse of power or failure of accountability. 9. Where unlawful or excessive use of force or abuse of power results in civilian death or harm, the Constitution shall guarantee independent investigation, access to remedies, and appropriate institutional consequences. 10. Law enforcement and security powers shall be exercised impartially and without discrimination on		

	grounds of political opinion or affiliation, ethnicity, religion, belief or non-belief, gender, age, disability, social status, or any other prohibited ground. Selective enforcement, profiling or differential treatment undermines constitutional order and is prohibited. 11. The principles set out in this article shall be binding on all organs of State and shall guide legislation, policy, oversight, institutional practice and judicial interpretation in matters relating to law enforcement and security.		
Composition of the National Security Council	The Committee recommends an amendment to Article 83(1) to provide for the inclusion in the membership of the National Security Council of the following office holders: a. The Attorney General. b. The National Security Coordinator. c. The Comptroller General of the Ghana Immigration Service. d. The Director-General of the Narcotics Control Commission. e. The Chief Fire Officer. f. The Director General of the Cybersecurity Authority. g. A representative from the National House of Chiefs.	The 2010 Commission recommended amendments to the Constitution to expand and clarify the composition and administration of the National Security Council, including all the Service Chiefs of the Armed Forces as members, designating the National Security Coordinator as Secretary, and retaining the head of Customs on the Council to the exclusion of the head of the Ghana Revenue Authority. The 2025 Committee's recommendation concentrates on membership changes by adding the Minister of State responsible for Foreign Affairs, the Director-General of the Immigration Service, and the Director-General of the Narcotics Control Commission, without addressing administrative arrangements. While the 2010 Commission focused on structural and military representation issues, the 2025 Committee emphasized expanded civilian and specialized agency participation.	The 2024 Committee recommended the following additions to the composition of the National Security Council: the Commissioner-General of the Ghana Revenue Authority, the head of the Ghana Immigration Service, the Minister responsible for National Security, the head of the Economic and Organized Crime Office, the head of the Ghana National Fire Service, the head of the National Commission on Small Arms and Light Weapons, and the head of the National Disaster Management Organisation, and that one of the three presidential appointees must be a woman. The 2025 Committee's recommendation is narrower in scope, seeking to add only the Minister of State responsible for Foreign Affairs, the Director-General of the Immigration Service, and the Director-General of the Narcotics Control Commission. The 2024 recommendation envisaged a substantial expansion of the Council's institutional reach, whereas the 2025 Committee

			proposes a smaller number of targeted additions.
Independent Security Services Oversight Commission (ISSOC)	To address the limitations of complaint-driven, episodic, and institution-specific oversight, the Committee recommends amending the Constitution to insert a new Article providing for the establishment, by an Act of Parliament, of an Independent Security Services Oversight Commission (ISSOC). 1. The ISSOC should be a permanent but modestly sized autonomous body, designed to complement, not replace, the oversight roles of Parliament, the courts, internal disciplinary systems, and existing constitutional bodies. 2. In particular, the Commission should be empowered to initiate investigations on its own motion, conduct systemic and thematic inquiries, address patterns of conduct affecting communities, and respond to individual and collective complaints relating to civilian-facing security operations. 3. To ensure public confidence and effectiveness, the Commission should be civilian in character, institutionally independent of the security services and accountable to Parliament through regular reporting. Its findings and directives should be enforceable through the courts and the institutions to which they are directed. Proposed Constitutional Framework 4. The Committee recommends: a. The ISSOC shall, in the performance of its functions, be guided by the Basic Principles set out in this Constitution; Principles Governing Law Enforcement and Security Agencies. b. The proposed Article shall be along the following lines:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	1. Parliament shall, within six months of the coming into force of the relevant amendment, enact legislation to establish an ISSOC. 2. The ISSOC shall, in the performance of its functions, be guided by the Principles Governing Law-Enforcement and Security Agencies. 3. The ISSOC shall be independent and shall not be subject to the direction or control of any person or authority in the performance of its functions, except as expressly provided in this Constitution. 4. The mandate of the ISSOC shall be limited to oversight of the conduct of security services in their interactions with civilians, and shall include: i. Oversight of the exercise of security powers in civilian contexts, including arrest, detention, use of force, crowd control, public order operations, and security deployments affecting civilian populations; ii. Promotion of compliance by security services, in their dealings with civilians, with the Constitution, applicable law, and binding international human rights obligations; iii. Investigation of complaints or matters, whether on its own initiative or upon petition by individuals, groups, or communities, relating to abuse of power, misconduct, or violations of rights arising from civilian interactions with security services; iv. Examination of systemic practices, operational doctrines, or patterns of conduct that affect civilian populations or communities, including during protracted or recurring security operations; v. Issuance of findings and recommendations necessary to secure constitutional compliance and accountability in civilian-facing security operations.		

	5. The powers of the Commission shall be as necessary for the effective investigation of civilian-facing conduct, including: i. Summoning persons, require the production of documents, and compel testimony, subject only to narrowly defined and judicially reviewable claims of national security privilege; ii. Entering and inspecting premises of security services, including detention facilities, subject to safeguards prescribed by law; iii. Referring matters to the Attorney-General, relevant prosecutorial authorities, or disciplinary bodies and directing further action; iv. Issuing publicly accessible reports, subject to limited redactions strictly necessary to protect legitimate national security interests, victims or witnesses, as the case may be. v. Any claim that disclosure of information to the ISSOC would prejudice national security shall be justified in writing and shall be subject to review by the Supreme Court. 6. Parliament shall make provision for: a. Procedures for receiving individual and collective complaints, including complaints affecting entire communities; b. Reporting obligations to Parliament and the public, subject to narrowly tailored national security limitations; c. Referral mechanisms to prosecutorial, judicial, or disciplinary authorities where civilian harm discloses criminal or unlawful conduct; d. Such additional functions as Parliament may consider necessary, provided they are consistent with the civilian oversight mandate of the Commission. 7. Composition of the Commission:		

	i. Shall consist of a chairperson who is a civilian and such number of other members as Parliament may prescribe, appointed in a manner that ensures independence, professional competence, gender balance, and public confidence. ii. Members of the ISSOC should include: a) Human Rights Lawyer (with not less than 7 years post-qualification experience, with a track record of working on human rights cases); b) Senior Jurist (retired judge of the superior courts); c) The Commissioner or Deputy Commissioner of CHRAJ; d) Retired Senior Police Officer above the rank of Deputy Commissioner; e) Retired Senior Military Officer above the rank of Brigadier General; f) The Commissioner or Deputy Commissioner of the National Commission for Civic Education; g) A licensed Clinical Psychologist or Psychiatrist. h) None of the persons appointed to the commission shall be serving members of any security service. iii. The process of nomination and appointment shall be transparent and participatory, and shall involve consultation with Parliament and relevant independent bodies as prescribed by law. 8. Accountability and Reporting i. The ISSOC shall submit an annual report to Parliament on the state of security sector governance, including findings, directives issued, and levels of compliance. ii. Parliament shall debate the report of the ISSOC within a prescribed period and may require the appearance of the heads of security services to respond to its findings. 9. Nothing in this Article shall be construed as: i. Conferring operational command or control over the security services on the ISSOC; or		

	ii. Assigning responsibility for internal discipline, personnel management, or service administration within the security services to the Commission.		
Deployment of Armed Forces for Civilian Law Enforcement	The Committee recommends that Article 210 should be amended to provide that: a. The Armed Forces of Ghana shall be established for the defence and protection of the sovereignty and territorial integrity of Ghana. b. Subject to this Constitution, the Armed Forces may be deployed in aid of civil authority only in exceptional circumstances where there exists a serious threat to public safety or constitutional order that cannot reasonably be addressed by the Police Service with available resources. c. A deployment of the Armed Forces in aid of civilian law enforcement shall be made only upon a formal request by the Police Council to the Armed Forces Council, acting in accordance with this Constitution and any law made under it. d. Where the Armed Forces are deployed in aid of civilian law enforcement, they shall, for the duration of the deployment, be under the operational command and control of the Police Service, and members of the Armed Forces so deployed shall act in support of, and subject to the direction of, the Police Service. e. A request by the Police Council to the Armed Forces Council for the deployment of the Armed Forces under this Article shall only be initiated upon the advice of the Inspector-General of Police, considered and approved by the Police Council and submitted in writing to the Armed Forces Council and shall state: i. The nature of the threat or situation necessitating the request;	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	ii. The reasons why the Police Service is unable to manage the situation without military assistance; iii. The scope, geographic area, and intended duration of the deployment. f. Parliament shall be briefed promptly on any deployment of the Armed Forces in aid of civilian law enforcement. g. Where a deployment of the Armed Forces in aid of civilian law enforcement exceeds three (3) days, parliamentary approval shall be sought for the continuation of the deployment. h. Where Parliament is on recess and a deployment of the Armed Forces in aid of civilian law enforcement exceeds seven (7) days, Parliament shall be recalled in accordance with this Constitution for the purpose of considering and approving the continuation of the deployment; and shall do so by votes of a two-thirds majority. i. Where the Armed Forces are deployed in aid of civilian law enforcement, members of the Armed Forces shall be bound by: 1. the rights and freedoms guaranteed under Chapter Five; and 2. civilian law enforcement standards governing arrest, detention, use of force, and engagement with civilians. j. The Armed Forces shall not be deployed for the personal protection of civilians or public officials, except in respect of the President, as Commander-in-Chief; and the relevant minister responsible for Defence. k. Where members of the Armed Forces are assigned to the protection of the President and the Minister in civilian settings, such members shall not appear in military		

	uniform and shall perform such functions in a manner prescribed by law. l. The Armed Forces shall not, under any circumstances, enter into contracts or arrangements with private persons or entities for the provision of security services. m. Any additional functions of the Armed Forces beyond those specified in this Article shall be defined by law, subject to parliamentary oversight, and shall be consistent with civilian supremacy, democratic accountability, and this Constitution. The Committee further recommends that: Article 200(1) shall be amended to state as follows: “There shall be a Police Service of Ghana which shall be the primary and principal institution responsible for civilian law enforcement in the Republic”. Article 200(3) shall be amended to say, “The Police Service shall be adequately equipped, resourced, and maintained to perform its primary and principal functions of maintaining law and order, protecting life and property, preventing and detecting crime, and ensuring public safety in accordance with this Constitution.”		
Composition of the Police Council and Regional Police Committees	The Committee recommends that: a. Article 201 of the Constitution should be amended to restructure the composition of the Police Council, thereby strengthening institutional independence, reducing executive dominance, and enhancing public confidence in the impartial governance of the Police Service. This will consist of 1. Filling the seat on the Council reserved for a nominee of the Ghana Bar Association through democratic contestation open to all lawyers in good standing that	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee recommended a limited amendment to Article 201(h) to improve gender representation on the Police Council by requiring that one nominee be a woman. The 2025 Committee proposes a more extensive restructuring of the Council’s composition to strengthen independence, reduce executive dominance, and enhance public

	have attained a specified number of years of seniority at the bar. 2. Removing the representative nominated by the Retired Senior Police Officers Association. 3. Adding one person who has previously held the office of Inspector-General of Police to be appointed by the President in consultation with the Council of State. 4. Providing for three members of the Police Service on the Police Council, who shall be nominated by the Police Management Board in consultation with the Council of State, and appointed by the President acting in accordance with the nomination. Provided that at least one of the members shall be of a junior rank within the Police Service, and no more than two-thirds of the members shall be of the same gender. 5. Reducing the number of members appointed at the discretion of the President from two to one, and requiring that such appointment be made acting in consultation with the Council of State. b. Article 204 of the Constitution shall be amended by 1. Deleting from the composition of the Regional Police Committee, the Minister of State appointed by the President; and the representative nominated by the Ghana Bar Association; 2. Inserting the following additional members into the composition of the Regional Police Committee: i. One police officer of a junior rank serving in the region, and one Divisional Police Commander serving in the region, appointed by the Inspector-General of Police on the advice of the Police Management Board. ii. One representative of CHRAJ. 3. Providing that the Committee shall be chaired by the most senior Police member of the Police Service in the Region. c. Article 203 shall be amended to provide that the Police Council may, in consultation with the Police Management Board and the ISSOC, by Constitutional Instrument, make		confidence in police governance. Its recommendations introduce broader representation from within the Police Service, adjust external memberships, limit presidential discretion in appointments, and incorporate gender balance as part of the overall design. While the 2024 proposal addressed gender representation in isolation, the 2025 approach embeds it within a wider reform of the Police Council's composition and appointment processes.

	regulations for the performance of its functions under this Constitution or any other law and for the effective and efficient administration of the Police Service.		
The Inspector General of Police (IGP)	The Committee recommends amendment of Article 202 of the Constitution to restructure the appointment, tenure, authority and accountability of the IGP in a manner that secures professional independence, democratic legitimacy and constitutional fidelity. Appointment of the IGP (Amendment to Article 202(1)) Article 202(1) should be amended to replace the current consultative appointment model with a constitutionally structured, multi-institutional appointment process, as follows: The IGP shall be appointed by the President from a shortlist of not fewer than three (3) qualified senior police officers nominated by the Police Council; A person shall not be nominated as IGP unless that person holds a rank not lower than Commissioner of Police. Fixed Tenure and Security of Office (New Article 202A) A new Article 202A should be inserted to provide that: The IGP shall hold office for a single, fixed, non-renewable term of six years or until attaining the age of 65 years, whichever is earlier. The IGP may be removed from office only on grounds of: stated misconduct, incapacity, serious violation of the Constitution, or inability to perform the functions of the office; b. Removal shall be effected only following a formal investigation by the Police Council. Operational Independence and Lawful Authority (Amendment to Article 202(2)) Article 202(2) should be amended to state expressly that:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make recommendation in this area.

	The IGP exercises exclusive operational command and administration of the Police Service; Neither the President, a Minister, nor any other authority may issue directions relating to specific investigations or arrest or enforcement of law against any particular person or persons or the recruitment, assignment, or dismissal of any member of the Police Service. The Police Council's authority shall be limited to policy, governance, and oversight, and shall not extend to operational interference. Any policy directive to the IGP issued by the Police Council or a Minister must be in writing. Political Neutrality and Constitutional Loyalty (New Clause under Article 202) Article 202 should be reinforced to require that: The IGP shall act with strict political neutrality, and shall not align the Police Service with any political party, office-holder or partisan interest; Any conduct by the IGP that materially compromises political neutrality shall constitute a constitutional violation and grounds for removal. Constitutional Duty to Protect Rights (New Normative Clause in Article 202) Article 202 should be amended to state that: The IGP bears a positive constitutional duty to ensure that policing operations protect, facilitate and do not unlawfully restrict the enjoyment of fundamental rights and freedoms; In the exercise of operational control and administration of the Police Service, the IGP shall be under a constitutional duty to give effect to, implement and operationalize the principles and values governing law-enforcement and security services prescribed by this Constitution, and shall ensure that all policing policies, directives, rules of engagement, training programmes,		

	deployments and operational practices are consistent with those principles. Maintenance of public order shall be pursued only through lawful, proportionate and rights-respecting means; Failure to prevent or address systemic violations of rights by the Police Service shall engage constitutional responsibility.		
Renaming the Ghana Prisons Service to Ghana Correctional Services	For these reasons, the Commission recommends that the Prison Service be renamed the Correctional Service, to reflect a modern, rights-respecting, and rehabilitation-focused penal system consistent with constitutional values, international standards, and the long-term interests of public safety and social cohesion.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Composition of the Prisons Service Council and Regional Prisons Committees	The Committee recommends that: a. Article 201 of the Constitution should be amended to restructure the composition of the Police Council, thereby strengthening institutional independence, reducing executive dominance, and enhancing public confidence in the impartial governance of the Police Service. This will consist of 1. Filling the seat on the Council currently reserved for a nominee of the Ghana Bar Association through a democratic and transparent process open to all lawyers in good standing who meet the prescribed seniority requirements, in accordance with procedures prescribed by an Act of Parliament, as recommended in Chapter IX of this Report. 2. Removing the representative nominated by the Retired Senior Police Officers Association. 3. Adding one person who has previously held the office of Inspector-General of Police to be appointed by the President in consultation with the Council of State. 4. Providing for three members of the Police Service on the Police Council, who shall be nominated by the Police	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	Management Board in consultation with the Council of State, and appointed by the President acting in accordance with the nomination. Provided that at least one of the members shall be of a junior rank within the Police Service, and no more than two-thirds of the members shall be of the same gender. 5. Reducing the number of members appointed at the discretion of the President from two to one, and requiring that such appointment be made acting in consultation with the Council of State. b. Article 204 of the Constitution shall be amended by 1. deleting from the composition of the Regional Police Committee, the Minister of State appointed by the President; and the representative nominated by the Ghana Bar Association; 2. inserting the following additional members into the composition of the Regional Police Committee: iii. one police officer of a junior rank serving in the region, and one Divisional Police Commander serving in the region, appointed by the Inspector-General of Police on the advice of the Police Management Board. iv. One representative of CHRAJ. 3. Providing that the Committee shall be chaired by the most senior Police member of the Police Service in the Region. c. Article 203 shall be amended to provide that the Police Council may, in consultation with the Police Management Board and the ISSOC, by Constitutional Instrument, make regulations for the performance of its functions under this Constitution or any other law and for the effective and efficient administration of the Police Service.		
Appointment of the Director-General	Article 207 should be amended to replace the current consultative appointment model with a constitutionally structured, multi-institutional appointment process, as follows:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	The President shall appoint the Director-General from a shortlist of not fewer than 3 qualified senior Prison Officers nominated by the Prisons Service Council; A person shall not be nominated as Director-General of Prisons unless that person holds a rank not lower than a Director.		
Fixed Tenure and Security of Office of Director-General of the Prisons Service	A new Article 209A should be inserted to provide that: The Director-General shall hold office for a single, fixed, non-renewable term of 6 years or until attaining the age of 65 years, whichever is earlier. The Director-General may be removed from office only on the grounds of: stated misconduct, incapacity, serious violation of the Constitution, or inability to perform the functions of the office. Removal shall be effected by the President in accordance with the advice of the Prisons Council only following a formal investigation by an independent body established by the Prisons Council.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Operational Independence and Lawful Authority (Amendment to Article 207)	Amend Article 207 to provide that: a. The Director-General of the Prisons Service shall exercise exclusive operational command and administration of the Prisons Service, and shall be responsible for the day-to-day management, custody, security, welfare, rehabilitation and correctional functions of all prisons and places of lawful detention, subject only to this Constitution and law. b. Neither the President, a Minister, nor any other authority shall issue directions relating to specific prison operations, including matters of inmate custody, classification, transfers, discipline, rehabilitation programmes, security measures or internal administration, except where expressly authorized by the Constitution or by an Act of Parliament consistent with it.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.
Political Neutrality	Article 207 should be reinforced to require that:	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

and Constitutional Loyalty (New Clause under Article 207)	a. The Director-General shall act with strict political neutrality, and shall not align the Prisons Service with any political party, office-holder or partisan interest; b. Any conduct by the Director-General that materially compromises political neutrality shall constitute a constitutional violation and grounds for removal.		

IX. Towards A Living Constitution

Subchapter 1: Amendment of The Constitution			
Topic	2025 CRC Recommendations	2010 CRC Recommendations	2024 CRCC Recommendations
Constitutional Rigidity and the Over-Entrenchment Problem	The Committee reasons that the current constitutional amendment framework outlined in Article 290 of Chapter Twenty-Five results in an excessively entrenched and, by extension, a highly rigid Constitution. The Committee believes that the impulse to over-entrench at the time of the 1992 Constitution's framing may have been borne out of a genuine desire to safeguard against opportunistic changes to provisions such as the two-term limit on the presidential office, the guarantee of multi-party democracy, and the freedom to form political parties. The Committee is of the view that all of the Constitution's "sacred cows" – the provisions that vast majorities of Ghanaians rightfully hold dear – can continue to be protected through firm entrenchment, while leaving reasonable room for periodic or episodic governance-enhancing reforms to take place with substantial cross-party support. The Committee accordingly recommends an amendment to Chapter 25 of the Constitution to introduce a third amendment route – to be known as the semi-entrenched provisions - under which certain non-foundational provisions of the Constitution that are now amendable only via a Referendum may be amended by an enhanced	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

	parliamentary majority of not less than seventy-five per cent of all Members of Parliament. The Committee recommends that only the following provisions, considered as forming part of the “basic structure” or critical democratic safeguards of the Constitution, should remain entrenched and amendable by referendum: a. Full entrenchment via a referendum should be reserved exclusively for core provisions that define the identity and basic structure of the Constitution. These provisions, identified in paragraphs 23-25, are listed below: Foundational identity clauses, including articles 1 - 4; The core equality and liberty safeguards and administrative justice clauses of the Fundamental Human Rights and Freedoms (Chapter 5); Presidential term limits and essential elements of the separation of powers: articles 57(1), 58, and 66(2) for the Executive; article 93(2) and articles 106(1) - (2) for the Legislature; and articles 125 and 127 for the Judiciary; Core guarantees of Ghana’s multi-party democracy: [including articles 42, 49(1) and 55(1) - (2)]; Core media freedoms in article 162(1) - (3); A simplified Chapter 25, retaining only the core principles of the amendment procedure. b. All other formerly entrenched provisions should migrate to the proposed semi-entrenched amendment route requiring the support of at least seventy-five per cent of all Members of Parliament. In contrast, the originally non-entrenched provisions would retain their existing status under the two-thirds majority requirement. The Committee proposes that the following should migrate to the proposed semi-entrenched tier because they do not define the basic structure of the		

	Constitution, but should require approval by not less than seventy-five per cent of all Members of Parliament: Article 11(7) (The laws of Ghana/process for making subsidiary legislation) Articles 43, 46, 49(2) - (4) (Electoral Commission membership/design) Articles 55 & 56 other than 55(1) and (2) (political party regulation) The rest of Chapter 8, other than Articles 57(1), 58, and 66(2). Articles 174 & 187 (finance/taxation and audit administration) Articles 129, 145–146 (judicial discipline processes) Article 200 (Police/ Armed Forces internal arrangements) Article 210 (Armed Forces of Ghana) Articles 216 and 225 (Commission on Human Rights and Administrative Justice) Article 231 (National Commission for Civic Education) Articles 240 and 252 (Decentralization and Local Government) Article 280 (Chieftaincy) Article 286 (Code of conduct for public officers) Articles 293 and 299 (Miscellaneous administrative matters and the transitional provisions) c. The Committee further recommends that all remaining provisions of the Constitution not listed as entrenched or semi-entrenched shall continue to be amended as non-entrenched provisions in accordance with the existing requirement of approval by not less than two-thirds of all Members of Parliament. d. That Chapter 25 should be simplified so that only the core principles of the amendment procedure remain entrenched, with procedural detail moved to the semi-entrenched tier.		

Popular Initiative in Constitutional Amendment	The Committee recommends: The introduction of a structured popular initiative mechanism and the embedding of mandatory public participation within the amendment of non-entrenched provisions. The Citizen-initiated amendments should be inadmissible if they seek to alter any entrenched provision. That a citizen proposal should be supported by at least five per cent of registered voters nationwide, with signatures collected physically or through a verified digital system. To ensure geographical breadth, at least half of all regions must each contribute a minimum of 0.5 per cent of their registered voters. In addition, no gender shall constitute less than one-third of the total number of endorsing signatories, and any proposal that fails to satisfy this minimum gender threshold shall be invalid. That once support thresholds are met, the Law Reform Commission should conduct a subject-matter admissibility review to confirm that no basic-structure clause is implicated. Parliament must then table the proposal, publish it for public notice, and conduct mandatory public consultations. Afterwards, it will deliberate and decide whether to adopt, amend, or reject the proposal. That any initiative approved at the admissibility stage must proceed through the appropriate parliamentary amendment route: where the proposal touches a provision previously entrenched, it shall require the enhanced seventy-five per cent majority of all Members of Parliament; where it concerns a provision that has always been non-entrenched, it shall follow the existing two-thirds majority requirement. That, without altering article 291, legislation should embed mandatory public participation within the amendment of non-entrenched provisions by requiring: a. Public consultations between the first and second Gazette publications;	The 2010 Commission observed that similar mechanisms for popular participation in the constitutional amendment process exist in other jurisdictions, but ultimately did not make any recommendations for their introduction.	The 2024 Committee recommended that the views of Ghanaians citizens should be sought during the constitutional review process, which was achieved through the 2025 Committee's stakeholder and public zonal engagements.

	b. Structured opportunities for citizens and stakeholders to submit views during and after the Council of State review; and c. Publication of consultation reports as part of Parliament’s deliberative record.		
The Problem of Constitutional Obsolescence	The Committee recommends that Parliament be mandated to enact legislation providing for a structured system of periodic constitutional review, conducted at intervals of 25 years, by an appropriate institutional body. This system should incorporate mandatory public participation and the publication of review reports, ensuring that the Constitution remains aligned with evolving societal needs and expectations.	The 2010 Commission noted fragmentation in the legislative review process and recommended harmonizing the mandates of review bodies, while also proposing periodic constitutional review, for example every 10 years. The 2025 Committee instead recommended that Parliament enact legislation establishing a structured system of constitutional review every 25 years, with public participation and published reports. Overall, the 2025 Committee builds on the 2010 Commission’s proposal by recommending a more formal and detailed legislative framework for constitutional review.	The 2024 Committee did not make a recommendation in this area.
The Problem of Private Bodies in the Constitution	The Committee recommends amendments to the Constitution to remove all direct references to specific private associations in Articles 153, 157, 166, 201, 204, 206, 209, 259 and 261, replacing them with neutral formulations providing for representatives to be nominated in accordance with procedures prescribed by an Act of Parliament, and further recommends that the Act prescribe the procedures, criteria and safeguards by which recognized professional bodies, civil society organisations and other voluntary associations shall nominate representatives to constitutional bodies in a manner that ensures transparency, inclusivity and institutional continuity.	The 2010 Commission did not make a recommendation in this area.	The 2024 Committee did not make a recommendation in this area.

C5 Photos: CRC Zonal Public & Interest Group Engagements

Bolgatanga





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TUC



Engagement on Finance



National House of Chiefs

















Institute of Economic Affairs (IEA)



Minority Caucus in Parliament



Majority Caucus in Parliament

