

Constitutional and Legal Issues in Ghana's Public Administration: Governance and Public Policy Challenges

Nick Fobih

Central University, Central Business School
Department of Management & Public Administration
Accra, Ghana

ABSTRACT

The purpose of this study is to examine some of the major constitutional and legal issues that are imperative in Ghana's public administration. Despite Ghana's success in promoting democratic governance over the past decades since the 1992 transition, numerous constitutional and legal issues affect effective policy design and implementation that require urgent governmental reforms. The study discussed the constitutional and democratic theories as the basis of the work. The methodology used is based on the qualitative approach with combined sources from primary and secondary data. The findings in the study show that certain aspects of Ghana's constitutional provisions and legal framework do adversely affect its policy design and implementation in diverse ways. The significance of the study is that the outlined challenges and recommendations will inform the government and key policy makers on the need to make effective policies in order to enhance the country's political and socio-economic development. The study's implication for theory is that it will inform its readers about the different theoretical perspectives on the issues discussed. The study also provides key insights into important issues in Ghana's constitutional provisions, and the legal and policy environment, which can serve as useful tools or instruments for policy makers in the three organs of government and the bureaucracy. This study further contributes towards academic discussions on the viability of the constitutions drawn by authoritarian regimes prior to the third-wave democratic transitions in Africa, and the difficulties some of these constitutional provisions pose to making effective policies and governance, thus emphasizing the need for constitutional reviews.

Key words: Ghana, Constitutional and Legal Issues, Public Administration, Governance, Public Policy.

INTRODUCTION

Across the globe, constitutions and legal frameworks are the bedrocks or building blocks of democratic states and guide the institutions for promoting democratic values in the country as well as the systems with which the various governmental bodies operate, particularly in the design and implementation of public policies and the effective delivery of public services. Numerous studies have highlighted the importance of constitutions and legal frameworks in democratic states, which is evidenced in the fact that prior to the introduction of democratic rule, a constitution must first be designed and enacted. As a unitary state, Ghana's governance system is based on democratic principles and the presidential system of government where the

bureaucracy operates under the oversight function of the executive branch of government. While Ghana has made significant inroads since its 1992 democratic transition, its public policy making and implementation environments have been saddled with weak institutional frameworks, resulting in poor policy making by the executive and legislative arms of government, and ineffective implementation of policies in terms of the delivery of public services by the Ministries, Departments and Agencies (MDAs) or the bureaucracy, coupled with weaknesses in the judiciary's administration of justice. The question to be answered in the study is, how do the basic constitutional provisions and the legal frameworks affect Ghana's public administration? This study argues that despite the significant progress made since the enactment of the 1992 Constitution and the re-introduction of democracy in Ghana, there have been constitutional and legal issues pertaining to weaknesses in some sections of the constitutional provisions and the legal frameworks that have negatively impacted the deepening of the country's democracy and the promotion of accountable and responsible governance by the executive, legislative and judiciary arms of government. These trends have also had many negative consequences on the delivery of public services by the bureaucracy.

In Shaffritz, Russell and Borick's (2016) work, *Introducing Public Administration*, the authors defined public administration as what the bureaucracy or civil service does in terms of the implementation of the government's public policy, and explained public administration in terms of a set of institutional arrangements, administrative practices and systems, which implement and monitor state policies to address the political and socio-economic needs of citizens through the delivery of public services and regulations by the bureaucracy. Public administration is therefore governmental administration, which operates in the particular sphere of the machinery of government, especially policies by the executive branch, which are implemented through the bureaucracy or civil service (Stillman, 2011). It deals with the analysis, formulation and implementation of government policies to improve the political and socio-economic conditions of citizens in a country. Dye (2016), defined public policy as "anything a government chooses to do or not to do". This implies that public policy is the sole domain of government, particularly the actions and inactions of the executive branch of government. While Dye's definition is simple, a broader meaning can be attributed to it in terms of all the actions and inactions of government, and a conscious choice of government in making decisions and taking actions, which may yield intended or unintended consequences.

Governance is the way or process by which a government or the executive branch makes decisions and take actions to benefit citizens in the country. In other words, it refers to the structures and processes that are designed to ensure accountability, transparency, the rule of law, equity, inclusiveness, participation, empowerment, broad-based participation in government respect for civil liberties. It also represent how public affairs are managed based on certain values, beliefs, norms and democratic principles. In recent times, international organisations such as the International Monetary Fund (IMF), the World Bank and the United Nations have given a great deal of attention to the promotion of good governance by governments across the globe. The good governance agenda stems from donor concern with the effectiveness of public service delivery and development efforts in many developing countries. Good governance is basically a way of assessing how public sector institutions and officials conduct public affairs, manage resources more efficiently and effectively, take responsibility for their actions or inactions, and are accountable to citizens. The UNDP, the

World Bank, the Organisation for Economic Cooperation & Development (OECD) and the Development Assistance Committee (DAC) define governance as the existence of authority or power to manage a country's economic, political and administrative affairs more effectively. The 2009 Global Monitoring Report regards governance as power relations, formal and informal processes of formulating policies and allocating resources, processes of decision-making and mechanisms for holding government accountable.

In development literature, good governance is frequently used by the donors as a necessary pre-condition for creating an enabling environment for sustainable human development and poverty alleviation. Good governance is regarded as one of the targets of both the Millennium Development Goals (MDGs) and Sustainable Development Goals (SDGs). The linkage of public administration to governance is evident if a greater number of people benefit from government policies based on its public policies making or actions and inactions. Since public administration is the machinery for implementing government policy, it follows that its study must lead to the study of the most efficient ways of organising the executive branch of government, its institutions and its procedures (Akindele, 1995).

LITERATURE REVIEW

The theoretical framework in this study is based on three different theoretical approaches - constitutional theory, legal theory and democratic theory. Advocates of constitutional theory such as Murrill (2018), argued that it is an area of constitutional law that focuses on the underpinnings of constitutional government and overlaps with legal theory, constitutionalism, philosophy of law and democratic theory. Constitutional theory draws on the agreement existing within a legal culture and extending those agreed-upon principles to resolve more controversial issues in the society. Since a constitution reinforces a state's legal principles, there is an interrelationship between the constitutional and legal frameworks of a country in the promotion of civil liberties, rule of law, administration of justice and delivery of services as well as the interaction and performance of the functions of the executive, legislative and judiciary arms of government. In relating this view to contemporary trends, like many countries' constitutions, Ghana's constitution and the legal framework specify the powers and responsibilities of government, and the rights and responsibilities of citizens. Among the constitution's key functions is to serve as the basic principle upon which people within the country are governed as it also binds the government to certain standards. A constitution also sums up the rule of law, hence the law, the courts, and administration of justice only exist within the framework of the Constitution (1992 Constitution). A constitution is the fundamental law of a country's political system and superior to any other laws. It spells out the relationship between citizens and the state and empower the state to regulate citizens' behaviour by passing laws that must be obeyed by all citizens, in terms of the responsibilities of citizens to their government. It delineate the boundaries of the state's powers by identifying and protecting both individual citizens and collective human rights, which the state cannot violate arbitrarily. A constitution also defines the responsibilities and relationships of the different parts of the state or branches of government (executive, legislative and judiciary), and sometimes lay out the rules of intergovernmental relations - governing the relations between the levels of government (central/national government and local governments). Constitutions can also be examined in terms of the ideas, interests and ideological orientation of the designers and their interests can significantly influence a constitution.

Where pre-established ideological perspectives and institutional factors including the culture and belief systems of the society. The role of ideas and ideologies such as neoliberalism/capitalism, socialism, democracy, and conservatism ideologies greatly influence constitutional design and public policy making. For example, the United States Constitution was greatly influenced by the ideological orientation of its designers. Alexander Hamilton representing the liberal view, aimed at strengthening the power and role of the central government, while James Madison's ideas were oriented towards conservatism, which sought to promote the power of individual citizens' rights over the state. In contemporary usage, whereas the term liberal is used to describe belief in the power of government to better the lives of everyone – rich or poor, conservative refers to the belief in the primacy of individual initiative and effort over government action. Liberal and conservative influences on constitutional design and policy making in particular, can be examined in terms of policy styles and policy regimes. Whereas conservatives on the one hand believe that government is too big, liberals on the other hand argue that big government can work to equalize differences between the wealthy or powerful and the poor or vulnerable groups in the society. Moreover, whether a constitution is designed by an autocratic or democratic incumbent government it could influence its content in terms of the powers and functions allocated to the state, especially the executive branch of government, governance mechanisms and how the rights of individuals are defined in the constitution. For example, Ghana's 1992 Constitution, which ushered in its 4th Republican government was designed under the autocratic Provisional National Defence Council (PNDC) regime headed by ex-president Rawlings, which was intended to insulate the military junta from prosecution and strengthen its power. A number of constitutional provisions and legal frameworks in the 1992 Constitution often stir major controversies and dilemma for the government's role with regard to promoting public interests and backing certain actions of some public officials.

Political theory is the study of political ideas and values like justice, power and democracy that we use to describe, understand and assess political practices and institutions. Political theory helps us to better understand the concepts that have shaped our politics, including freedom, equality, individuality, democracy and justice. Three dynamic political thinkers on political thought - Hobbes, Rousseau and Locke discussed the social contract theory in their works. As one of the most influential political philosophers of the modern period, as quoted in Grant (1987), Locke identified fundamental natural rights as life, liberty, and property. He believed that government was created through the consent of the people to be ruled by the majority and governance is a "social contract" between the state and its citizens. This idea is in line with Abraham Lincoln's famous dictum "government of the people, for the people and by the people." Democratic theory, which is an aspect of political theory promotes majority rule without violating minority rights, maintaining the willingness to compromise, and recognizing the worth and dignity of all people. Some proponents of democratic theory (Dahl, 1956; Diamond & Morlino, 2016), discussed the key elements of democracy in their works. Diamond for example, noted that some of the basic principles of democracy are the existence of a political system for choosing and replacing the government through free and fair elections; the active participation of the people in politics and civic life; protection of citizens' human rights or civil liberties; and the respect for the rule of law in which the laws and procedures apply equally to all citizens.

Based on Diamond's view, there should be popular sovereignty, separation of powers, and checks and balances among the three organs of government, and strict oversight functions by the judiciary over the executive decisions and actions, as well as judicial review by the judiciary branch of government, including limited government, in which the government does what it is supposed to do as its core responsibilities efficiently and effectively. Watkins (1970), also argued that in the common variant of liberal democracy, the powers of the majority are exercised within the framework of a representative democracy, but the constitution limits the majority and protects the minority, usually through citizens' enjoyment of certain individual rights. For example, respect for individuals' civil liberties, the rule of law etc. are based on legal principles through which the state governs a society, thus, constitutions and legal principles govern state/society relations. Based on these views, it could be argued that while constitutions are important for the smooth running of democratic systems, legal principles in a society, in terms of fair interpretation of the law are paramount for promoting social justice, the rule of law and equality before the law. Recent manifestations on democracy argue that democracy facilitate the promotion of good governance. Governance is achieved through the structures and processes that are designed to ensure smooth organisation of policies and administration of a country, and how government make decisions to meet citizens' interests and needs. Literature on governance supported by the global governance institutions such as the United Nations and the World Bank, define the major characteristics or principles of good governance as empowerment and broad-based participation, rule of law, respect for civil liberties, transparency, responsiveness, consensus-oriented, equity and inclusiveness, efficiency and effectiveness as well as responsibility and accountability of public officials.

METHODOLOGY

This section provides explanation of the methods used in conducting the research in terms of the research design, population, instrumentation, variables, model specifications and the data analysis used in the study. The adopted research design explains the epistemological and philosophical paradigms that guide the inquiry, which is based on the qualitative study method, and a combination of primary and secondary data. Primary data was collected and interpreted through interviews and the administration of questions. In terms of sample size, this study employed a census in selecting samples for the study. According to Israel (2013), a census is attractive for smaller populations 100 to 200, and enables the researcher to collect detailed information on all or most elements within the population. A study population is a group of individuals with some common defining characteristics that the research can identify and study (Creswell & Creswell, 2017; Denzin & Lincoln, 2011; Saunders, Lewis & Thornhill, 2007). Since sampling is important in research, the study used proportionality to calculate the sample size. The study interviewed and/or served questionnaires to 112 participants. Ten (10) officials from the Ministries, Departments and Agencies (MDAs), twelve (12) former and current Ministers of State, ten (10) current and former staff from the Office of the President, fifteen (15) Members of Parliament representing selected constituencies across the country, ten (10) staff from the judicial service and fifty-five (55) citizens and opinion leaders in the selected regions and districts.

The survey method was used in collecting data from respondents, which is a method of data collection where information is gathered through questionnaires and interviews as major instruments to elicit information from the respondents. A combination of individual and

focused group interviews were used to gather information from participants. These include structured and unstructured interviews consisting of open-ended and closed-ended questions. The five point Likert scale (a psychometric response scale) was used in both the interviews and questionnaires. Questions were outlined from one to five, where one represents the lowest score and five represents the highest score based on strongly agree -5, agree -4, somewhat agree or indifferent -3, disagree -2 and strongly disagree -1. Completed questionnaires from the fieldwork were edited and coded appropriately to make effective meaning out of the data. The interview transcripts were analysed using the Taguette computer-aided qualitative data analysis software. Editing was done to correct errors, check for nonresponses, accuracy and correct answers. Coding was also done to facilitate comprehensive analysis of the data. The study also followed ethical guidelines and full disclosure of the purpose of the study, and ensured the confidentiality and anonymity of all participants.

Discussion of Key Findings: Some constitutional provisions and legal framework adversely affecting Ghana's policy and public administration

Some of the major challenges associated with certain constitutional provisions in the 1992 Constitution and Ghana's public policy making identified in the study include the following:

Some key challenges in Ghana's 1992 Constitution: Some of the challenges in Ghana's public policy design and implementation, as well as public administration in general are attributed to the constitutional provisions specified in the 1992 Constitution. The 1992 Constitution is the supreme law of the land, which provides for the sharing of powers among the president and his cabinet, parliament, an independent judiciary and the council of state. Through its system of checks and balances, it avoids bestowing preponderant power on any specific branch of government. Chapter 6, Act 34 section 1 of the 1992 Constitution, specifies the implementation of directive principles of state policies as a guide for all citizens, the president and cabinet, parliament, judiciary, the council of state, political parties and other bodies and persons in applying or interpreting the Constitution or any other law, and in making and/or implementing any policy decisions, for the establishment of a just and free society (Ghana's 1992 Constitution). By limiting the government's own reach, the 1992 Constitution guarantees certain rights to the people. However, despite the fact that a constitution is fundamental to every democratic society, it can also create constitutional challenges when it is not fairly written by its designers.

Some of the constitutional provisions which overly empower and protect the president from civil and criminal actions while in office negatively affect policy making and public administration in Ghana. Chapter 8 of the constitution vests executive authority in the president. Under the executive powers on the president's power and autonomy, section 4 states that without prejudice to the provisions of Article 2 of this constitution, and subject to the operation of the prerogative writs, the president shall not, while in office, be liable to proceedings in any court for the performance of his functions, or for any act done or omitted to be done, or purported to be done, or purported to have been done or purporting to be done in the performance of his functions, under this constitution or any other law. Section 5 also states that the president shall not, while in office as president, be personally liable to any civil or criminal proceedings in court. Section 6 further states that civil or criminal proceedings may be instituted against a person within three years after his ceasing to be President, in respect of anything done or omitted to be done by him in his personal capacity before or during his term

of office notwithstanding any period of limitation except where the proceedings had been legally barred before he assumed the office of president. (Ghana's 1992 Constitution). These indemnity clauses in the 1992 Constitution insulate presidents from being accountable for their actions while in office, which often empowers sitting presidents to take certain unlawful official and personal actions while in office, which otherwise may lead to criminal prosecution. These constitutional provisions further weaken the oversight role of the legislative body and the judiciary over the executive branch in policy making.

Another major challenge emanating from the 1992 constitutional provisions is the requirement that the president appoints more than fifty (50) percent of Ministers from parliament. This is contrary to the 1979 Constitution, which required the president to appoint all ministers from outside of parliament. In Act 78 on the appointment of ministers of state, section (1) states that Ministers of State shall be appointed by the president with the prior approval of parliament from among Members of Parliament (MPs) or persons qualified to be elected as MPs, except that the majority of Ministers of State shall be appointed from among MPs. Section (2) also indicates that the president shall appoint such number of Ministers of State as may be necessary for the efficient running of the state. (Ghana's 1992 Constitution). It must be noted clearly that the fusion of the executive and legislative branches of government based on the appointment of majority of ministers from parliament and other constitutional provisions contravene the independence, objectivity and neutrality of MPs, and the oversight role of the legislature over the executive branch of government. This further compromises key democratic principles of checks and balances and separation of powers among the organs of government.

Yet another challenge in policy making at the local government level is that the country's unitary state system as enshrined in the 1992 Constitution, weakens effective intergovernmental relations and leads to lack of a full-fledged decentralised system. The autonomy of the local governments is very much restricted. For example, the Metropolitan, Municipal and District Assemblies (MMDAs) are not allowed to elect their own Metropolitan, Municipal and District Chief Executives (MMDCEs), which could promote popular participation and empowerment of the local governments in policy making. Again, some local government officials and citizens interviewed in the selected municipalities and districts expressed their disappointment and disapproval about the fact that very often, they are not consulted in policy design and implementation. Furthermore, some local government officials expressed their displeasure about the fact that most key policies and projects that are implemented at the local government level emanate from the central government through the Ministry of Local Government, Decentralisation and Rural Development (MLGDRD), often without any inputs from key local government officials, opinion leaders and citizens in the local communities.

Corruption, abuse of power, conflict of interests and weaknesses in institutional structures: Evidently, the introduction of liberal democracy under the 1992 Constitution has been a counter-balance to the Ghanaian state's autocratic behavior during the 1960s, 1970s and 1980s, especially under the more recent Armed Forces Revolutionary Council (AFRC) and the Provisional National Defence Council (PNDC) regimes. Under the current democratic dispensation, the state cannot nationalize industries or arbitrarily arrest and detain people without recourse to the rule of law or law courts. Nonetheless, the weaknesses in government responsibility and accountability has resulted in widespread corruption which has saddled

Ghana's public sector. Like many governments in Africa, the Ghana government is falling behind its commitment in the African Union's anti-corruption Convention. According to the 2020 Transparency International's Global Corruption Barometer Report in its *Corruption Perceptions Index*, which is a yardstick for measuring corruption in about 180 countries around the world rated Ghana as the third most corrupt country after Columbia and Mexico. Ghana's position in recent corruption index ratings show that the government and its numerous anti-corruption bodies have failed in their fight against public sector corruption and this rating indicates the high level of malfeasance in Ghana's public sector despite the country's growth in democratic practice.

Other challenges pertaining to corruption, abuse of power and conflict of interest are the duplication of projects by governments, abandoning of projects and inequitable distribution of resources and projects. Furthermore, under the current democratic dispensation, representation of public interests and government policies to ensure fair and equitable delivery of public services to all regions, municipalities and districts across the country are weakly established. Regardless of the fact that Ghana is now a democratic country, the delivery of public services by the MDAs is skewed towards political influence and often lack objectivity, fairness, accountability and responsibility of policy makers and civil servants in the MDAs who are charged with implementing government policies. Approximately 80 percent of respondents in the communities consisting of opinion leaders and citizens in the study area complained about lack of amenities and infrastructure in their communities. Another aspect of the weaknesses in Ghana's institutional structures is the weakness of state institutions and their lack of capacity to promote checks and balances and strict separation of powers among the branches of government – the executive, legislative and judiciary arms of government - leading to weaknesses in the oversight role of the legislature and judiciary. This has greatly facilitated corruption in the public sector. This major challenge was reiterated by former United States President Barack Obama in a speech he gave in Ghana's parliament. Key part of this speech was the need for strong institutions, rule of law and respect for civil liberties to bolster the country's democracy (Obama, 2009).

Social attitudes and cultural values: Within any given society, there is a set of broadly held attitudes, cultural values, and beliefs that shape public policy by helping to determine which ideas are acceptable or not. There are two sets of social attitudes and ideas that are especially relevant to policy making. The first is the set of procedural attitudes that a society holds. These are the accepted rules of the game. For example, as in many democratic societies, many people in Ghana agree that the political system should be democratic and adhere to certain procedures, such as free, fair and open elections, parliamentary procedures, the rule of law, the promotion of civil liberties, respect of citizens' basic human rights and so on, while public policy making process should address the needs of citizens. The challenge is that many Ghanaians' social attitudes and beliefs are broadly cultural-based, complex in nature, short-term oriented and wealth-focused. People fancy wealth and see nothing wrong with illegal wealth acquisition by political leaders, bureaucrats and some citizens with unscrupulous character through corrupt or other illegal means. This has broadly permeated the society's ethics and values.

While the practice of democracy in Ghana has increased participation in governance in some respects, democracy in Ghana is bedeviled with partisanship at all levels of the political

spectrum. Many people owe allegiance to political parties than to the national interest and many politicians' utterances and actions not only promote partisanship, but also ethnic divisions and hatred for political opponents. These have greatly contributed to lack of nationalism and patriotism in terms of social attitudes and behaviours in the Ghanaian societal fabric. The second set of social attitudes and ideas relevant to public policy making are substantive values, which reflect beliefs about the scope and purpose of government. People see government as an entity that must be utilized for personal gains and self-interests. Also, the electoral processes for electing political representatives at both the national and local levels has become a money-making system for many delegates who are supposed to represent their constituencies' interests. This has turned the country's democracy into a means for wealth-acquisition and in the most part, the wealthier candidates are elected, and not by merit. Thus, the study also found that policy effectiveness in Ghana is at a very low level because state institutions are weak and the society is basically divided among the two major political parties, which has resulted in fragmented, short-sighted and ineffective policies intended for political gains.

The role of policy and procedural actors: Poor representation by national and local government representatives

Under this section, we examined the way those closest to the development of public policy (primarily politicians, public officials and the various interest groups) interact to achieve better policy outcomes or failed policies. These actors are required to follow rules and processes based on certain norms in setting the agenda, formulating policies, taking decisions, implementing the decisions and evaluating them in a certain manner. Whereas effective representation is a core requirement for both appointed and elected leaders at both the national and local government levels, majority (seventy-eight percent) of citizens in all the municipalities and districts selected for the study stated that both appointed and elected representatives at both the national and local government levels do not serve them well due to lack of consultation and participation in decision making since some Members of Parliament (MPs) fail to visit their constituencies regularly to get informed about the communities' needs. Also, the respondents further stated that communities do not benefit from the District Assembly Common Fund (DACF), which MPs and MMDCEs are required by the constitution to use to provide social development and infrastructure projects in their constituencies. Eighty-one percent of the community members interviewed also stated that very often, majority of the MPs in both the two dominant parties (NPP & NDC) in Ghana's legislature agree or disagree on a policy based on their self-interests, parties' interests and/or just on ideological differences, and not due to a policy's viability or sustainability. Hence, the existence of numerous narrow interests pressure the government to serve their interests or party's rather than the national interests.

Partisanship and lack of continuity in government policy: Lack of continuity in government policy and projects was identified as one of the key challenges for the success of governance and policy implementation since every new government that assumes power in Ghana is reluctant to continue the previous government's policies and projects. It could be argued that partisanship is a bane to effective policy making and implementation in many third-wave democratic countries in the developing world and Ghana is no exception. Lack of objective expert policy analysts with to objectively help the government in its analysis of policy is another

major challenge. Due to the partisan nature of Ghana's politics, many policy analysts lack objectivity. Objective analysis of inputs such as resources allocated verses outputs in terms of outcomes brought about by the inputs, including impact in terms of direct and medium term effects based on a policies' short, medium and long-term impact is often weakly established.

CONCLUSION

In terms of the findings in the study, it is apparent that there are a number of constitutional provisions that require immediate government attention and constitutional review in order to deepen Ghana's democracy, governance practices and policy making processes. While the judiciary plays its oversight function over the executive, certain legal frameworks and loopholes in the constitution have enabled successive presidents under the Fourth Republic to exploit the provision of no cap to the appointment of judges to the Supreme Court to their advantage. Moreover, the fusion of the executive and legislative bodies through the appointment of about 50 percent of MPs as Ministers has weakened parliament's oversight role over the executive branch of government, in the practice of checks and balances and separation of powers among these two organs of government. The presidential indemnity clause from prosecution of a president's actions has weakened government accountability and responsibility, and facilitated corruption in government.

RECOMMENDATIONS

To overcome the above challenges, government needs to explore and utilize the multiple strategies outlined in the policy recommendations below. The numerous constitutional, legal and policy making challenges highlighted above require a multi-stakeholder response to address them more appropriately in the following ways:

Need for constitutional review and implementation of constitutional and administrative laws more rigorously – in examining the weaknesses in Ghana's 1992 Constitution, it becomes apparent that there is a need for constitutional review to address the lapses in the constitution in order to promote democratic governance more effectively. Implementing constitutional law addresses issues in the constitution in terms of conflict over the division of powers. Since constitutional law is enforceable through the courts, it will help resolve disputes before the courts when central and local governments cannot agree or when the legislative and executive bodies cannot agree. It can also help redefine some of the executive powers in the constitution that are most contentious. Constitutional law also deals with the legacy of judicial review of constitutional provisions. It also clearly defines the role of the courts in the resolution of conflict and the processes in which disputes are settled and the legality of government actions with regard to respect for rule of law, citizens' civil liberties and basic human rights, redistribution of resources, government accountability and responsibility in terms of corruption and abuse of power. Besides implementing constitutional law, there is the need for the government to abide by administrative law provisions and the courts to strictly interpret and implement the laws when public officials break the law or abuse their discretionary powers. The study recommends that in order to achieve responsible governance, effective and efficient service delivery system, government accountability and accelerated national development, it is necessary that policy makers within the three branches of government including the bureaucracy must work together to review and reform Ghana's constitution and legal framework to enhance its policy making and implementation.

Administrative law regulates the relationship between the citizens and the state, especially the bureaucracy, which is an arm of the executive branch of government. Hence if constitutional law looks at the macro-legal picture, administrative law looks at the micro-legal level of issues. Administrative law is more concerned with the day-to-day legalities of how public administration takes place, and since many public servants' actions are left to discretion, there is a need for a check against the arbitrary and discretionary interpretation of the law by unelected officials whose job is to implement the wishes of the elected politicians and the people. Since administrative law is therefore concerned with administrative actions of officials whose powers are derived from laws enacted under the Constitution, a law found to be unconstitutional, therefore deprives a government official of any right to exercise those powers and further may give rise to citizens who are adversely affected by the official's actions could seek remedies in the event the official's actions caused damages. Although these checks are provided in administrative law by the courts, some public officials and civil servants abuse their discretionary powers with impunity and very often the government is not made to be accountable, responsible and liable for its employees' actions. It is also imperative that the courts look into the rule making process to check whether the regulatory bodies that have been given power are exercising that power constitutionally or through their own rules unconstitutionally. Since legal rights and the general right of protection from being deprived of "life, liberty, and security of a person except in accordance with principles of fundamental justice" is obviously highly pertinent to administrative law, it is important that the courts act more proactively to investigate the propriety of the way in which Ghana's administrative bodies exercise their adjudicative/decision-making powers involving the ministries, departments and agencies' delivery of services to citizens and executive institution's protection of citizens' rights as well as other governmental institutions entrusted with discretionary powers. Promoting accountable and responsible governance will ensure that the political, social and economic priorities of government are based on broad consensus, and decision-making in administrative processes, especially in the allocation of resources are done equitably and fairly.

Promotion of democratic principles: For Ghana's democracy to continue to be relevant to all its citizens, certain key principles such as the rule of law, respect for civil liberties, social justice, separation of powers, checks and balances, judicial review, limitations on the president's ability to appoint judges to the Supreme Court, openness and transparency as well as ethical conduct must prevail among the president and other government officials. There is also a need for openness, change and innovation in governance, which could bring about the needed change to make the government and its institutions dynamic to promote efficient and effective delivery of services.

Instituting more rigorous anti-corruption laws and penalties: Corruption is a bane in the Ghanaian society. Given the anti-corruption policies' strategic importance to national development, it is imperative that the government enforces the anti-corruption laws more rigorously and severe penalties to deter public officials from engaging in corrupt practices introduced. The problem in Ghana is not lack of anti-corruption bodies, which the country can boast of many, but strict enforcement of laws without any partisan influence, favouritism and nepotism as well as giving the anti-corruption bodies the autonomy to prosecute suspected public officials is key to success in the fight against corruption.

Using governing policy instruments to deal with implementation challenges: Governing instruments is defined as major ways in which governments seek to ensure compliance, support and implementation of public policy such as regulations, punishments and rewards. One way to address policy implementation challenges is following the trend toward transferring responsibilities to the private sector through privatization, contracting out, outsourcing and public-private partnerships. One popular thinking among new public management (NPM) advocates is that government should “steer” rather than “row” (Pal, 2006; Peters, 2000). This means, government should arrange for the provision of services, but not deliver (or implement) those services itself. Government institutions and the policy planning, monitoring and evaluation units (PPMEs) in the MDAs should also engage in more rigorous monitoring and implementation exercises to check the efficiency and effectiveness of project implementation in the delivery of public goods and services. One of the key steps in implementing any policy involves deciding on the means by which the policy will be enacted. One way of exploring this is to use governing instruments. The most desirable situation for the state, as far as effective policy-making and implementation are concerned, is to strengthen intergovernmental relations between state and local governments, with close partnership between the two, thereby maximizing and balancing both state policy capacity, local participation and autonomy, and collaboration with society. This redefinition of the relationship between the state, market and society/citizens and non-governmental agencies is termed by Evans (1995), as embedded autonomy in terms of the state's partnership with social groups, which enables it to devise cohesive and sustainable policies.

Improving state-society relations: The most desirable situation for the state, as far as effective policy-making and implementation are concerned, is for both state and society to be strong, with close partnership between the two, thereby maximizing and balancing both state policy capacity and autonomy. Evans (1995) termed this embedded autonomy – state's partnership with social groups enable it to devise cohesive and long-term policies. To design and implement policies effectively in a democratic system, the state must be well-organised and supported by prominent social actors. Since policy output is determined by the manifestation of the self-interest of policy actors in any given policy choice content and influenced by the nature of conflicts and compromises they make during policy formulation, the presence of particular actors in the policy process and the interests they pursue are often largely determined by the nature of the organisation within which they operate. Strong social cohesion and strong organisations can bargain more effectively and constrain the state's ability to change policy in a significant way. The extent to which interest groups are able to offer the necessary support depends, among other things, on the strength of their own internal organisation, their position within the ruling and main opposition parties, their relationship with the state and/or other similar powerful actors within the society. These complex interrelationships, that is, fragmentation within and among prominent social groups simultaneously strengthens the state's level of policy autonomy and undermines its policy capacity by limiting its ability to mobilize social actors towards the resolution of societal problems. While conflicts among social actors could paralyze their ability to constructively influence the state's policy-making, unity within and among the social groups could create a stable policy environment that facilitates effective policy implementation.

Finally, the implications of the outcome of the study on policy and development is that adopting the suggested policies could help policy makers and the Ghana government to make more effective policies based by making significant changes to certain aspects of the 1992 constitutional provisions. Since a country's constitutional provisions and legal framework greatly influence its public policy agenda and governance, it is imperative that the government sets up a new Constitutional Review Committee to review the Constitution or implement the recommendations of the 2010 Constitutional Review Committee's Report to help address the weaknesses in the 1992 Constitution more appropriately, especially to facilitate good governance, effective service delivery and promote respect for citizen's human rights. The limitations of the study narrow the scope of this paper by design, since it left out some critical topics such as constitutional and legal issues in countries in West Africa or Africa in general, which could be explored in future studies. The study therefore suggests that future studies on constitutional and legal issues should focus on a comparative study of the third wave democratic countries in West Africa or Africa in general. The significance of this study is that it will help policy makers and the government of Ghana and other governments in Africa to improve on their constitutional and legal frameworks, governance practices and policy making in general.

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Interviews:

Interview with selected MMDCEs & officials at MMDAs

Interview with selected Members of Parliament

Interviews with selected Ministers

Focus group interviews with community opinion leaders in selected MMDAs