

Full Length Research Paper

A survey of MPs' opinions about the challenges of blending executive and legislative functions of government under Ghana's 1992 Constitution

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Since the inauguration of the fourth republican constitution in 1993, concerns have been raised about the effect of article 78 (1) on executive-legislature relations, the legislature's oversight role and the workings of the legislature and the performance of legislators. The aim of this study was to examine legislators' perceptions about the impact and implications of article 78 (1) on the work of legislators and the legislature, data for the study was collected in 2008 through semi-structured interviews conducted with twenty purposively selected minority and majority legislators of the fourth parliament under the fourth republic. The findings revealed that article 78.1 affects the work of legislators significantly. MPs reported that, the practice of appointing majority of executive ministers from the legislature has resulted in a reduction of time and energy legislators' devote to parliamentary work. Also, legislator-ministers are either late or absent to the house as well as special parliamentary committee meetings. Majority of MPs reported that article 78.1 has not only rendered legislative oversight ineffectual, it has also made the legislature vulnerable to executive control and manipulation in several ways. MPs identified: (i) the absence of office space (ii) inadequate secretarial services and related ICT support services (iii) undue pressure from constituents for projects (iv) lack of logistical resources (v) weak technical support from parliamentary service workforce and (vi) the absence of competent research staffers as some of challenges of been a legislator in Ghana. The conclusions which emerged from the study are that, article 78(1) has not only subverted the powers and autonomy of the Ghanaian legislature, it has rendered its control over executive arbitrariness and excesses ineffectual. It has also rendered the principle of separation of powers useless and impracticable, plunging Ghana's parliamentary development and democratic governance into a quagmire. Given the diversity of opinions on the matter, MPs suggested that Ghanaians would have to remain open to all shades of policy and reform proposals and critically examine all available options before proceeding with any amendment of the 1992 constitution. Further empirical studies would have to be conducted into the effects of the article and many other provisos on the legislature and Ghana's democratic advancement in general.

Key words: Constitution, article 78 (1), legislature, legislator, Ghana.

INTRODUCTION

Today, with many African countries trying to consolidate their democratic governments, the question of what role or contribution the legislature is making naturally arises. A related and a more important question are: what factors are obstructing the work, development and performance of African legislatures? Whether African countries are making significant strides in their democratic journey

does not negate the fact that majority of them are facing several problems, most of which are largely attributable to constitutional and institutional bottlenecks.

Thus, although Africa's democratization process including Ghana has been progressive over the last two decades, one of the core institutions, the legislature does not seem to be flourishing in the same way as democracy

in general in most of the countries. The logical question, therefore, is how do we explain the root causes of the underdevelopment and underperformance of African legislatures? This paper attempts to answer this question based on the views and experiences of Ghanaian legislators of the 4th parliament under the 1992 constitution. The paper focuses attention on one particular constitutional provision, which is article 78 (1) and tried to identify the ways in which it is influencing legislative oversight and the work of legislators.

OVERVIEW OF ARTICLE 78 (1) AND EXECUTIVE-LEGISLATURE RELATIONS UNDER THE 1992 CONSTITUTION

There is no doubt that Ghana is a political success story of multiparty democracy (Gyimah-Boadi, 1999) with an enviable record of five successive multiparty elections since 1992. But certain constitutional provisions have serious ramifications for legislative development. In actual fact, the architectural design of the 1992 Fourth Republican Constitution of Ghana is complex. The constitution in principle is configured upon the principle of separation of powers. But the framers of the constitution deliberately fused the functions and powers of the executive and the legislature culminating in a hybridisation of the presidential and parliamentary systems of government. Essentially, the constitution shared authority of the Ghanaian state among the three arms of government but vested absolute executive powers in the presidency [Republic of Ghana, 1992; Article 58 (1); Article 93; Article 125 (3)]. Regarding the vex issue of marrying the functions of the executive and the legislature, it is stated in article 78 (1) that:

“Ministers of State shall be appointed by the president with prior approval of parliament from among members of parliament or persons qualified to be elected as members of Parliament, except that the majority of Ministers of State shall be appointed from among members of parliament” (Republic of Ghana, 1992 constitution).

The practical working of this particular constitutional provision has over time generated a protracted debate from both proponents and opponents, including political analysts, legislators, academics and researchers. The opponents argue that article 78 (1) of the constitution has created practical difficulties and real dilemma for the actualization of the doctrine of separation of powers and democratic governance in Ghana. According to them the legal architecture of the 1992 constitution, which resulted in the fusion of executive and legislative functions has implications, not only for the legislature as an institution, but also for the work and overall performance of legislators. The fusion and concomitant hybridization of

the presidential and parliamentary systems of government, therefore, has not only reduced the independence of the legislature but has given the executive unequivocal influence upon legislators (Ninsin, 2008). In addition, they pointed out that the appointment of majority of ministers from parliament has the potential of stifling the ability of the legislature to exercise its oversight and investigative responsibilities. In fact, it is trumpeted that article 78 (1) has had serious deleterious effects on legislators' performance. This is because Members of Parliament (MPs) are unable to participate effectively in the activities of the legislature at all times due to the fact that their executive and ministerial responsibilities always conflict with their mandated legislative roles (Prempeh, 2001; Bonzi-Simpson, 1995).

Several voices from the top of the political pile lend their support for this viewpoint. Particularly, ex-President John Agyekum Kufour in an introspective farewell state of the nation address to parliament in 2008 corroborated this point and expressed serious concerns about the potential negative effect of article 78 (1) on the work and performance of parliament especially the minister-MPs. The former president bemoaned that the practice of appointing majority of ministers from the legislature noting that, it poses a serious challenge to both government and legislators; because this practice essentially amounts to serving two different masters and, therefore failing to be loyal to any one of them.

Supporters of the provision argue to the contrary that appointing majority of ministers from parliament as provided in article 78 (1) of the constitution has the potential to promote consensual politics and efficiency in the performance of legislative duties. More specifically, the supporters of this constitutional provision argued that the fusion of executive and legislative functions has potential of enhancing the performance of MPs, in the sense that, legislators would make more informed contribution to legislation and the policymaking process on the floor of Parliament. This strand of belief and thinking is premised on the belief that because majority of the executives or cabinet ministers are members of the legislature they would have in-depth knowledge about government policy and laws. Quite apart from that, legislators would be in a far better position to contribute meaningfully to policymaking and debates both in the house and at the committee level. Furthermore, they contend that the provision has the inherent potential of ensuring collaborative relationship between the executive and the legislature especially in policymaking, political management and overall management of government business.

Because of the diversity of viewpoints on this particular provision, many Ghanaians are suggesting a revision of the constitution through referendum. No matter how genuine these calls may be, they are not based on any empirical evidence. That aside, the Ghanaian legislature

itself is barely fifteen years old. Quite a number of empirical research works have been done which aimed to ascertain the prospects and limitations of the constitution in the promotion of democratic governance (Ninsin, 2008; Warren, 2005; CDD-Ghana, 2001). Despite the insights emerging from these empirical research works, very little is known about the ways in which article 78 (1) has actually enhanced or crippled the legislative process and the work of legislators in general. Essentially, there is dearth of empirical evidence and in-depth interrogation of the legislators' own opinion on the matter. Thus, the question addressed in this paper was: How does the appointment of majority of ministers from parliament affect the work of legislators? In other words: How does article 78 (1) affect the work of legislators and in which ways has it curtailed the independence of the legislature rendering it unquestionably subservient to executive control in Ghana? The objectives of the study are to:

- i.) Examine parliamentarians' perceptions about the ways in which article 78 (1) affects their work.
- ii.) Examine perceptions about the ways in which the appointment of majority of Ministers from parliament has created opportunity for executive control over the legislature and in the process reduced legislative independence.
- iii.) Examine legislators' opinion about the 'good' and 'bad' sides of article 78 (1) and the suggestions they have to offer to correct the situation.

The paper is divided into four major sections: the first section reviews literature on the normative arguments underlying the principle for separating governmental powers, the second section discusses Ghana's post-independence parliamentary experience outlining the various power relations that had characterised executive-legislature relations during the period. Section three describes the data collection and analysis protocol and based on interview evidence discusses MPs' perceptions about the various ways in which article 78 (1) has impacted their work in particular and the Ghanaian legislature in general. The fourth and final section identifies the lessons learned and their implications for improving the work and independence of the legislature.

LITERATURE ON SEPARATING THE ARMS OF GOVERNMENT

The classical and dominant normative perspective, which has proved useful in studying government institutions particularly the relationship between the executive and the legislature in any political system in the world, is the doctrine or the principle of separation of powers. The doctrine identifies three main arms of government, namely: the legislature, the executive and judiciary and prescribes that each should enjoy considerable

independence from the other in terms of the exercise of power, function and personnel. This doctrinal prescription aims to ensure that the exercise of power in managing the business of government is diversified and distributed among the three arms of government, thereby injecting a system of checks, controls and balances among them. In the words of Lord Templeton (1993): 'Parliament makes the law, the executive carries the law into effect and the judiciary enforces the law'. Essentially, by separating the three arms of government, the proponents believe that liberty of the citizenry would be protected. It is in this connection that, Montesquieu in his classical formulation of the doctrine argued that:

"When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty... Again, there is no liberty if the power of judging is not separated from the legislature and executive. If it were joined with the legislature, the life and liberty of the subject would be exposed to arbitrary control; for the judge will then be the legislator. If it were joined to the executive power, the judge might behave as an oppressor. There would be an end to everything, if the same man or the same body, whether of the nobles or of the people, were to exercise those three powers, that of enacting laws, that of exercising public affairs, and that of trying crimes or individual causes" (Shekleton, 1949).

The aim for promoting the doctrine was to devise a means to prevent the emergence of authoritarian and tyrannical government as a result of over concentration of power in one man or group of men. Quite apart from that, the institutionalization of the doctrine aims to provide grounds for the promotion of the rule of law rather than rule of men in public affairs. And as a governance principle, it seeks to achieve this goal by keeping both the executive and legislative branches of government within the bounds of the law by the judiciary. Clearly, the overarching concern of the framers of the doctrine of separation of powers is to prevent arbitrariness and abuse of popular power entrusted to rulers (Barendt, 1995).

In a typical democratic system, the doctrine of dividing the power, functions and personnel among the three arms of government has the potential to promote effectiveness and efficiency in the prosecution of government business. By promoting division of labour through the doctrine of separation of powers, no one agency of government is overburden with work, this may logically improve the quality of governance. It is important to point out that no democratic system exists with an absolute separation of powers or an absolute lack of separation of powers. Nonetheless, some systems are clearly founded on the principle of separation of powers,

while others are clearly based on a marrying of powers.

All said so far about the normative propositions of the doctrine of separation of powers justifies the argument that the work of government requires considerable degree of partnership between the three arms, especially between the executive and the legislative organs. Given that the legislature is the rulemaking or policymaking body and represents the will and interest of the electorate, the onus rests upon legislators to represent, fight for and protect the interest of their constituents in the performance of their lawmaking function. One way to do this is to forge a critical partnership with the executive when it comes to the making of choices that affect the interest of the governed. It is trite to note that, the penultimate aim of an effective legislature is that it tries not to compromise its independence in the process of partnering with the executive. Rather, the legislature is expected to use the partnership that it forges with the executive as a means to an end. That is, to prevent executive excesses and arbitrariness and ensures that executive accountability and rule of law is not only enhanced but also institutionalised. This is expected to be an ideal aspiration of all legislatures the world over. Whether legislature(s) make this ideal practical is a contestable matter; this matter is interrogated with particular focus on the Ghanaian experience.

POLITICAL AND INSTITUTIONAL CONTEXT OF POLICYMAKING UNDER GHANA'S 1992 CONSTITUTION

Ghana's 1992 constitution made several provisions aimed at facilitating the effective interaction and participation of traditional governance institutions in policymaking. These institutions, the legislature, executive and the judiciary, have all over the years contributed in diverse ways to the success of the policy process in Ghana. The politics of policymaking in Ghana takes the form of interaction between politicians and government institutions. It is expected that such interactions would not only ensure, but enhance institutional control and cross-fertilisation of ideas needed for quality policy output (Aye and Soreide, 2008). The usefulness of this interaction is dependent on the existing legal and constitutional arrangements, institutional framework and the democratic orientation of the various political actors in the policymaking process.

At the highest political level the president and commissions set up by the president and parliament are the main policymakers. Among them, the president dominates all policy decisions (Article 257 (6) of the 1992 constitution). This over-extended dominance of the presidency in policymaking is due to the fact that, the president has exclusive executive authority to appoint all members of special agencies and commissions that play crucial role in the policymaking process.

Parliament is constitutionally the policymaking and or lawmaking organ of government (Article 93 (2) of the 1992 constitution). However, the constitution encourages the president to appointment majority of ministers from parliament (Article 78 (1) of 1992 constitution). This provision has generally been used to recruit most competent legislators to join the government and for enforcing loyalty to the executive undermining the oversight function of parliament. In situations where the policymaking process is fraught with acrimony and partisanship, this constitutional provision is likely to water down the influence of the legislature especially the minority legislators' influence not only on the policymaking process but also on policy outcomes.

The Ghanaian parliaments have since 1992 been dominated by the party of the executive. Politicians (individuals and groups) always manoeuvre to shape the institutions in which they work to maximize their ability to achieve their goals (Ninsin, 2008). Since the inauguration of the constitution in 1992, there has been continuous dominance of parliamentary behaviour by parties and this has limited the potential for independent policy actions by legislators. Power in Ghanaian parliaments is mostly skewed towards the majority and sometimes the majority takes policy decisions even without the consent of the minority (Ninsin, 2008). In the current parliament, the seats are distributed as follows: National Democratic Congress (majority has 114 seats), New Patriotic Party (minority has 110 seats) and other minority parties, Convention Peoples Party (CPP) (1 seat); Peoples National Convention (PNC 2 seats) and Independent candidates (3 seats).

The increasing importance of the legislature in policymaking and in participatory democracy including Ghana's is widely acknowledged (Darko, 2007; Calland, 1999). Ghana's parliament is responsible for enacting laws and policies for all sectors [(Article 93 (2)]. An essential role in this policymaking process is played by parliamentary committees, where the core of parliament's work is done and where the public is able to engage with policy and legislative issues through submissions and public hearings. In actual fact, this is where the action is policy development, in depth issue studies, departmental oversight, legislative work and review of government spending (Finsten, 2002). In the particular cases, the committees which consist of majority and minority members are responsible for securitizing legislations. The specialised committees serve also as an advisory body to the government on policy formulation. But the effective influence of the specialised parliamentary committees on sector policy depends on their knowledge and capacity regarding the particular policy issue area. But the limited influence of specialised committees on policy issue is due to the fact that the composition of committees reflects the partisan composition on the floor, if the majority of legislators come from the government, then they will seek

Table 1. Representation in Ghana's parliament under the fourth republican constitution.

| Party | 1 st Parliament | | 2 nd Parliament | | 3 rd Parliament | | 4 th Parliament | | 5 th Parliament | |
|-------------|----------------------------|------|----------------------------|-----|----------------------------|-----|----------------------------|------|----------------------------|------|
| | No. | % | No. | % | No. | % | No. | % | No. | % |
| NDC | 189 | 94.5 | 132 | 66 | 92 | 46 | 94 | 40.9 | 117 | 51 |
| NCP | 8 | 4 | - | - | - | - | - | - | - | - |
| PNC | - | - | 1 | 0.5 | 3 | 1.5 | 4 | 1.7 | 2 | 0.9 |
| NPP | - | - | 62 | 31 | 100 | 50 | 128 | 55.7 | 107 | 47.5 |
| CPP | - | - | - | - | 1 | 0.5 | 3 | 1.3 | 1 | 0.4 |
| EGLE | 1 | 0.5 | - | - | - | - | - | - | - | - |
| PCP | - | - | 5 | 2.5 | - | - | - | - | - | - |
| Independent | 2 | 1 | - | - | 4 | 2 | 1 | 0.4 | 3 | 1.3 |
| Total | 200 | 100 | 200 | 100 | 200 | 100 | 230 | 100 | 229 | 100 |

presidential assent to make decisions.

HISTORICAL OVERVIEW OF GHANA'S LEGISLATURE

Chronicling of the Ghanaian legislature is not only difficult but also uninteresting exercise to undertake. This is because the legislature has been truncated several times by military coups. Indeed, twenty one out of the 52 years of Ghana's independence from British colonial domination was under military dictatorships. The period of 1972 to 1982 can be described as the era of stagnation and underdevelopment of the legislature, the country in the process experienced seven different military regimes during this period. The nature of political events during this period highlights the vagaries and severe instability that have dominated Ghanaian politics and the legislature's history.

Ghana experienced various systems of government. These included: "Westminster" model of parliamentary government (1957 - 1960 and 1969 - 1972); One-party dictatorship (1960 - 1966); military dictatorship (1966 - 1969; 1972 - 1979 and 1981 - 1993); United States' model of separation of powers (1979 - 1981) and the Fourth Republican Constitution (1992 to date), which is a combination of the Westminster type parliamentary system and the American executive-presidential model.

Indeed, the 1992 Fourth Republican Constitution culminated in the restoration of parliament in January 1993 with a hybridization of an executive presidential - parliamentary system of government, which has given the executive an imposing presence in the legislature. Unlike its predecessors, the hybrid governmental system represents a slight departure from the pure doctrine of separation of powers. As noted earlier, this is because the executive-president is required under article 78(1) to appoint majority of its ministers from among members of parliament. The overarching objective for the partial

fusion of executive - legislative function is to enhance smooth working relations between Cabinet Ministers and lawmakers in order to ensure effective political management of the business of government. Conceivably, this particular constitutional arrangement was ostensibly aimed to curb the perceived defect of the strict separation of powers practiced in the third republic. But it has in several ways given the executive an unequivocal control over parliament, a situation that is worrying considering the history of the Ghanaian legislature and its role in the country's democratic development.

Table 1 shows the numerical composition of Ghana's Parliament for the 1st, 2nd, 3rd, 4th and 5th Parliaments of the 4th Republic.

METHOD AND TECHNIQUES OF DATA COLLECTION

Data for the study were collected through a qualitative technique. Qualitative research method was used here for purposes of adopting an interpretive approach for the analysis and understanding of the experiences of Ghanaian legislators and aimed to provide a 'deeper' understanding of the phenomenon of executive-legislative fusion. This technique was useful because of its substantial flexibility, as it allows the study take place within the local environment at 'Parliament House' where legislative activities occurs.

Issue-driven semi-structured interviews involving about twenty purposively selected legislators was used for data collection and the phenomenon being investigated - executive-legislator relationships - dictated the choice and type of participants purposive sampling technique, a non-probability sampling was used for selecting key informants from the majority and minority side of parliament. But the selection was influenced by researcher's personal judgement and the research objectives taking into account the:

- i.) Past and present majority and minority legislators who had condition of being a Minister and a Member of the legislature.
- ii.) Parliamentary staff working with MPs and have long association with the Parliamentary service.
- iii.) Individuals engaged in general parliamentary affairs.

Table 2. Background Information on Interviewees.

| Background Information on Interviewees | Number of MPs included in sample |
|--|----------------------------------|
| Party affiliation | |
| Independent candidate | 1 |
| National Democratic Congress | 8 |
| New Patriotic Party | 8 |
| Convention Peoples Party | 1 |
| Peoples National Convention | 1 |
| Director of Parliamentary Affairs | 1 |
| Status in parliament | |
| MPs and Cabinet Minister | 6 |
| MPs only | 13 |
| Gender | |
| Male (MPs) | 17 |
| Female (MPs) | 3 |
| Educational background | |
| Professor | 1 |
| Postgraduate | 7 |
| Graduate | 1 |
| Diploma | 1 |
| Professional | 2 |

Source: Interview data (2008).

The interviews were conducted with majority and minority members of parliament. As shown in Table 2, the interviewees composed of 17 men and 3 women including (8) New Patriotic Party (NPP, Majority) and National Democratic Congress (NDC, Minority) MPs, Convention Peoples Party (1), Peoples National Convention members and director of parliamentary affairs (1). Out of these 6 were MPs and cabinet ministers and 13 were members only and 1 legislative staffer. On the issue of education, seven (7) of the interviewees hold postgraduate degrees, other were one (1) Professor (1), diploma (1) and graduate (1) respectively.

Generally, the interview sought information about: tendencies of executive control of the legislature; legislative autonomy; effects of fusing executive and legislative work on performance and effectiveness of MPs who are cabinet ministers and the perceived merits and demerits of article 78 (1). Interviewees were also asked to give their general opinion on whether an amendment of article 78 (1) would change the current state of excessive executive dominance of the Ghanaian legislature.

The interviews were taped and transcribed into word processor files. The transcripts were reviewed by the researcher for common themes and ideas. The second phase of the data analysis involved generating categories, themes and units for analysis. After generating the various categories and sub-categories and analysis units, the qualitative data were transformed through quantitative content analysis and processing. This process was used for generating simple descriptive statistics, specifically frequencies and percentages which was used for the interpretation and analysis.

METHODOLOGICAL LIMITATIONS OF THE STUDY

It is important to state that we do not pretend that a score of interviews conducted with members of parliament constitute a

scientifically representative cross-section of the Ghanaian legislature. We tried to obtain opinions from legislators of the various parties in parliament but, inevitably, biases crept into the small purposively selected sample of participants. First, there may be a partisan bias, with selecting a larger number of interviews from the majority Party (NPP). Second, our technique of contacting most participants on the floor of parliament may have deprived as of the opportunity of meeting those MPs who may have a vast experience with the issue under investigation. Third, because we interviewed only MPs who are currently active legislators our interviews did not capture the views of past MPs who were ministers and therefore, may have rich experience with the effects of marrying executive and legislative functions. Thus, the results reported here should be interpreted with caution. This is because the finding probably may over-estimate or under-estimate MPs' opinion about the impact and implications of the article 78(1) for policymaking and performance of the Ghanaian legislature in general.

FINDINGS OF THE STUDY

This section summarises MPs' opinions about the diverse effects of article 78 (1) on the work of the legislature and legislators in Ghana.

Independence of the legislature from executive control

Independence of the arms of government including the legislature is critical for checking executive excesses, arbitrariness and abusive of governmental power. In this regard, interviewees were asked to give their opinion about the degree to which the legislature is free from legislative control. Answers to this question were divided along partisan lines minority and majority members over the key issue of executive control of the legislature.

A majority of interviewees, 60% comprising majority members of parliament were of the opinion that the Ghanaian legislature is largely independent from executive control or manipulation. The justification for this viewpoint was premised on the believe that, the legislature as a lawmaking body controls its own business, enact bills which are binding on the executive, initiates public inquiries and is constitutionally empowered to pass a vote of No confidence and impeach the president.

But another 40% comprising largely of minority members expressed a contrary opinion. They were of the opinion that the legislature is not independence because the executive has direct influence in the affairs of the legislature. They cited the imposing presence of the president through the majority of ruling party, the executive interferes in the work of parliament because majority of minister are appointed from among the members of the legislature and the ever loyalty party of members of the ruling party to the President. Another issues raised are that in the present situation where parliament has no control over its budget and finances

Table 3. Perceptions about the independence of the legislature.

| Responses | Frequency | % |
|-----------|-----------|----|
| Yes | 12 | 60 |
| No | 8 | 40 |

Source: Field data (2008).

Table 4. Does appointment of minister from parliament affect its legislative work.

| Responses | Frequency | (%) |
|-----------|-----------|-----|
| Yes | 18 | 90 |
| No | 2 | 10 |

Source: Field data (2008), N = 20.

Table 5. Do you agree or disagree that the fusion of executive-legislative fusions has weakened the policymaking role of the legislature?

| Responses | Frequency | % |
|-----------|-----------|----|
| Yes | 13 | 65 |
| No | 7 | 25 |

Source: Field data (2008), N = 20.

Table 6. Do you agree or disagree with the opinion that MPs who are Cabinet Ministers contributes effectively to policymaking.

| Responses | Frequency | % |
|-----------|-----------|----|
| Agree | 11 | 55 |
| Disagree | 7 | 35 |
| Unsure | 2 | 10 |

Source: Field data (2008), N = 20.

but that is determined by the executive, this in itself subjugates the legislature to executive control undermining the principle of legislative independence. Also minority interviewees reported that the practice where the executive-president appoints parliamentary leaders like the speaker of parliament, the majority leader and minister of parliamentary affairs further reduces the degree of independence that MPs and Parliament is expected to enjoy.

Effect of executive-legislative fusion on legislative work

The current underperformance of legislators and the legislature itself may be largely due to the appointment of majority of cabinet ministers from parliament. The study

in this connection further explored perception about the effect of marrying executive and legislative functions on the work of legislators. Tables 3 summarised the responses on this question. An overwhelming majority of MPs ninety percent (90%) are strongly of the opinion that marrying executive and legislative functions affect the work of parliament and effectiveness of policymakers (Table 4).

In responding to a follow-up question, particularly the effect of article 78 (1) on the policymaking function of the legislature, 65% of interviewed legislators reported that Ghana's parliament is weak in and another 10% saw it as very weak. Only 7 out of 20 interviewees perceived parliament as not weak.

Perceptions about the effectiveness of legislators who are also cabinet ministers

The effectiveness of legislators is essential for ensuring that the legislature makes good laws and policies for national development. The study asked participants whether they agree or disagree with this assertion. As shown in Table 5, thirteen out of twenty MPs, (that is 65%) said that MPs who are ministers contribute effectively to policymaking, only seven disagree. Thus, the majority of interviewees identified some positive signs with the fusion of executive and legislative functions.

But interestingly an overwhelming majority of 100% unanimously said participation and contribution at various parliamentary committees is very low. And, they believe this was due to the marriage between cabinet and parliament.

Independence of cabinet ministers who are legislators

Autonomy is a prerequisite for effective legislative oversight and check on the actions of the executive. Viewpoints on this matter showed that MPs who are ministers have limited autonomy and therefore are unable to check executive abuse of power especially in areas of public spending, taxation and related policy choices. In Table 6, 65%, majority of respondents said ministers who were MPs are not independent.

Respondents who reported that sitting MPs who are cabinet ministers are not independent from the executive control explained that most of the MPs are loyal to the executive and ruling party than to the legislature or Parliament and their zealotry to win and maintain ministerial positions makes them uncritical of executive policies (Table 7).

When perceptions about the independence of the legislature is examined along partisan line, the findings are that three out of eight (3 out of eight) NPP and six out of eight (6 out of 8) NDC including PNC, CPP interviewees

Table 7. Are MPs who are cabinet ministers independent of executive control.

| Responses | Frequency | % |
|-----------|-----------|----|
| Yes | 7 | 35 |
| No | 13 | 65 |

Source: Field data (2008), N = 20.

Table 8. Reasons why legislators who are MPs are not independent from executive control.

| Commonest reasons given by respondents | Frequency | % |
|--|-----------|----|
| Loyalty to cabinet and party other than the legislature | 10 | 50 |
| Desire to keep Ministerial portfolio /appointment | 6 | 46 |
| Legislators are not critical of government policies in Parliament | 7 | 35 |
| Support and vote in favor of every government policy in Parliament | 13 | 65 |

Source: Field data (2008).

reported that the Ghanaian legislature is not independent of the executive. But two (2 out of 8) NDC and five (5 out of 8) NPP legislators were of the opinion that the legislature is independent.

Loyalty to the executive-President and the party, desire to keep ministerial portfolio, support for ruling government's policy and unquestionable loyalty to the ruling party was some of the reasons why legislator-ministers find it difficult to be independent. Table 8 summarises this points.

Perceived merits of article 78 (1) appointing majority of ministers from the legislature

The interview participants apparently knew and appreciated some inherent advantages associated with the fusion of executive and legislative functions. The respondent offered the following advantages of article 78(1), it promotes harmony between the legislature and the executive; it facilitates smooth functioning of government business, it is useful for quicker formulation and implementation of public policies, makes cabinet benefits from expert knowledge acquired by legislators both within parliament and cabinet. Respondents also stated that article 78(1) provides ministers deeper insight about parliamentary deliberations and enhances effective policy management thereby reducing the cost of government business.

Amend or not to amend article 78(1) of the 1992 Constitution

Interestingly, both the majority and minority MPs unanimously revealed a growing disagreement with the proposal for an amendment of article 78(1) of the 1992

Constitution. Majority of interviewees explained that the Constitution is very infant so it seemed too early rushing to alter its architecture, rather it should be given time to function. It was only the rare interviewees who tried to justify the amendment proposal, according to them the constitution is fifteen years, so Ghanaians should consider the possibility of making changes to any part or provision(s) that impact negatively on democratic governance.

CHALLENGES CONFRONTING MINISTER-MPS

Interviewees unanimously said minister-MPs face many challenges in prosecuting their legislative activities. Among other things, the respondents identified busy schedules, inadequate time to contact constituents, work-overload, and dilemma of maintaining loyalty to the president and party, unnecessary lateness to parliament and parliamentary committee meetings and unwarranted absenteeism as some of the challenges facing them. In general, the challenges facing Ghanaian legislators included:

- i.) Absence of office space, inadequate secretarial services and related ICT support service.
- ii.) Undue pressure from their constituencies for projects.
- iii.) Lack of logistical resources,
- iv.) Weak technical support from parliamentary service workforce.
- vi.) Absence of competent research staff.

LESSONS LEARNED

The following lessons emerged from the study. The first lesson was that, minister-MPs hold a positive view about

the fusion of executive and legislative functions. But they confessed that, being a Cabinet Minister and MP is a very difficult task. Combining the executive and legislative function functions has serious implications for their time, commitment, effectiveness, zeal and dedication to parliamentary work.

The second lesson was that, even though both majority and minority MPs admitted that article 78 (1) of the constitution has to a large extent weakened the workings of the legislature in diverse ways; they object to its amendment. The MPs' objection was based on the assumption that the 1992 constitution is very infant, so it is too early rushing to alter its politico-legal architecture; rather, it should be given time to function for a longer period.

Thirdly, the study has confirmed that, all Ghanaian legislators are confronted with similar problems which affect them in the performance of their legislative tasks. Last but not the least, the respondents' rejection of the proposal to amend parts of the constitution especially article 78(1) might be due to the privileges and pecks that are due to Minister-MPs and not necessarily a genuine concern about the lifespan of the 1992 constitution.

Concluding remarks

The Ghanaian constitution has vested considerable amount of powers in the legislature enough for it to assert its independence as well as enable it function effectively. However, certain sections of the constitution which deals with the distribution of power within the legislature and the relationship between the legislature and the executive particularly article 78(1) has rein in the powers of the legislature in diverse ways. The provision in article 78(1) in particular has not only subverted the powers and autonomy of the legislature, it has rendered its oversight control over executive arbitrariness and excesses ineffectual. The article 78 (1) has also rendered the principle of separation of powers useless and impracticable and has the tendency of plunging Ghana's parliamentary development and democratic governance into a quagmire. If truth be told, both the majority and

minority legislators have divergent opinions about the prospect, pitfalls and implications of this article of the 1992 constitution. But as suggested by a lesser number of legislators in this study, Ghanaians should be open minded and consider all available options before proceeding with any amendment of sections of the constitution that are having debilitating effects on the legislature, not only on the performance of its oversight function but also in asserting its independence from executive manipulations and control. Given the diversity of opinions on various sections and articles of the 1992 constitution, it is suggested that in-depth empirical studies be conducted into the effects of the article and many other provisos on the legislature and Ghana's democratic advancement in general.

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