

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

Ninth Parliament – Sixth Session

**FISCAL ANALYSIS AND APPROPRIATIONS
COMMITTEE (FAAC)**

COMMITTEE REPORT

**STUDY VISIT TO THE PARLIAMENT
OF GHANA**

[03rd – 09th June, 2007]

**National Assembly,
Parliament Buildings,
NAIROBI**

June, 2007

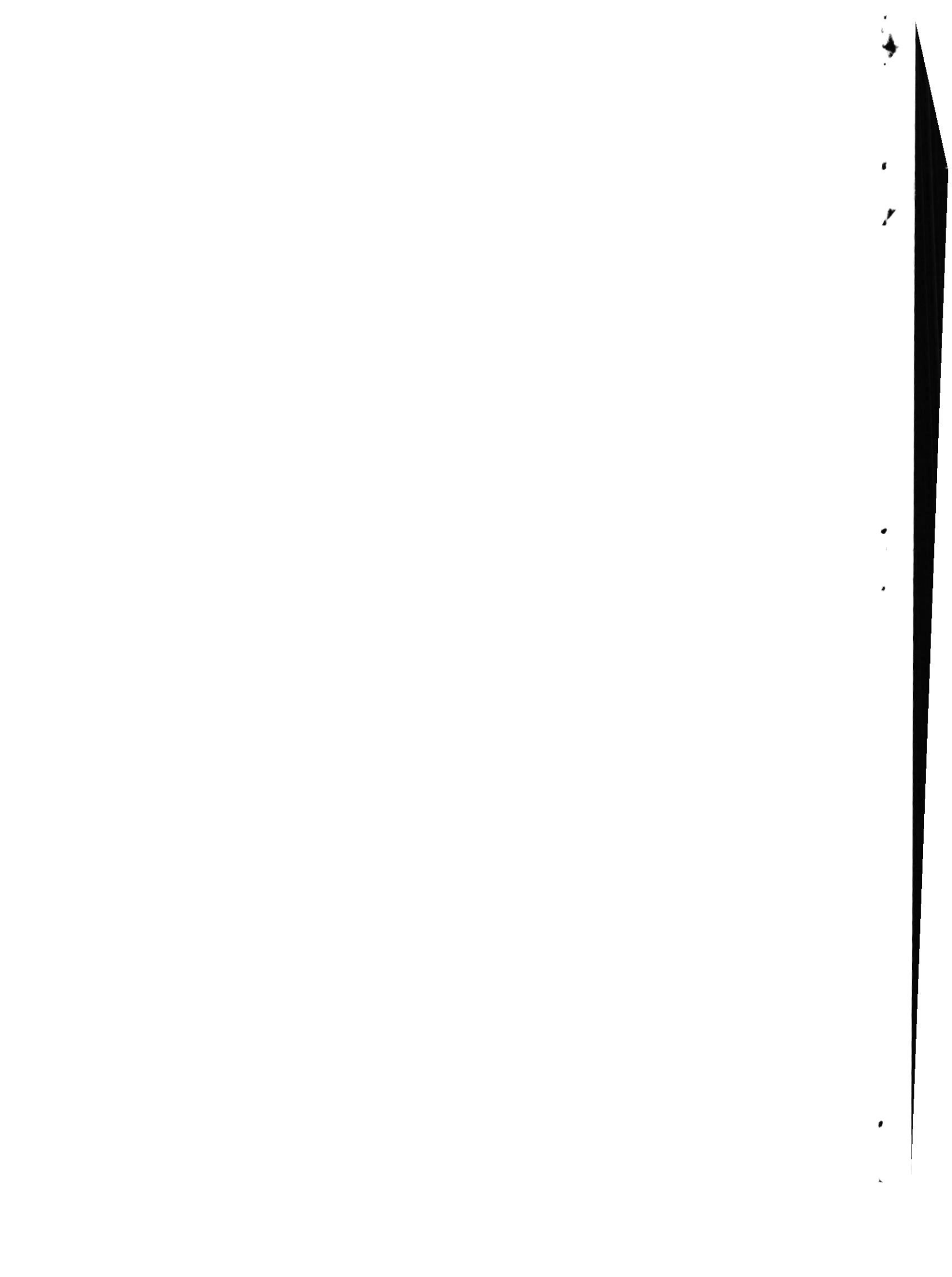


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PREFACE

The Fiscal Analysis and Appropriations Committee (FAAC) was formally ratified by the House on 06th July 2006. It has over the last one year worked on establishing its rules and operations.

The committee has since its creation performed its mandate through a series of sittings to chart out its operations and activities. The committee sittings have been complemented by meetings and workshops with other committees and stakeholders in a bid to refine the draft Fiscal Management Bill, 2007 and define its operationalization. In addition, the committee made two foreign study visits to the Parliament of Uganda and the Parliament of Ghana respectively to understudy the operations of budget committees in other jurisdictions.

The delegation consisted of nine (9) Members of Parliament from the Fiscal Analysis and Appropriations Committees They included:

The Hon. Joseph K. Lagat,	-	MP Chairman
The Hon. Elias Mbau, MP	-	Vice Chairman
The Hon. Oloo Aringo, MP		
The Hon. Julius Arungah, MP		
The Hon. Owino Likowa, MP		
The Hon. Daudi Mwanzia, MP		
The Hon. Simeon Lesrima, MP		
The Hon. W. Kariuki Mirugi, MP		

The Members were accompanied by a secretariat of three staff.

Ms. Phyllis M. Makau	-	Principal Budget Officer
Mr. Bonnie M. Mathooko	-	Research Assistant
Mr. Irungu Kigundu	-	Finance Officer

The Committee expresses appreciation to the Hon. Speaker, the Liaison Committee, the World Bank and the Clerk of the National Assembly for facilitation of the trip in the form of logistical and technical support.

Hon. Speaker,

On behalf of the Committee, it is my pleasant duty and privilege to lay on the Table of the House, our report of the study visit.

HON. JOSEPH K. LAGAT, M.P

CHAIRMAN, FISCAL ANALYSIS AND APPROPRIATIONS COMMITTEE (FAAC)

Signed: 

Date: 

PART ONE

1.0 INTRODUCTION

The control and oversight of the national budget is one of Parliament's fundamental mandates. Presently, Parliament's role in the budget process is limited to approval.

Budget approval only fulfills the minimum constitutional requirement. Effective execution of the mandate requires Parliament to satisfy itself that the budget is fiscally sound, that the allocation of public resources is matched with the needs of citizenry, and that the budgets is implemented properly and efficiently.

Towards the realization of this noble goal, Parliament by a resolution of the House created a select committee – the Fiscal Analysis and Appropriations Committee (FAAC). A complementary budget law, the Fiscal Management Bill 2007, now awaiting its Third Reading, is proposed to further give the FAAC a firm legal backing for effective participation in the budget process. The Bill seeks to:

- Establish and entrench in law principles of fiscal management;
- Open the budget to more parliamentary input and scrutiny;
- Provide for independent budget and economic analysis expertise in Parliament;
- Improve budget and economic performance reporting to Parliament.

1.1 RATIONALE FOR THE VISIT

The need to have an effective and efficient parliamentary committee system in any legislature is overwhelming. Achieving this feat cannot be done in isolation but with due regard to the functioning of similar services/committees in other jurisdictions.

The Parliamentary Service Commission (PSC) in Kenya is devoted to the capacity building of the Members and its staff in efforts aimed at improving service delivery in the Kenya National Assembly and to the general public. Pursuant to this goal, the PSC has embarked on various capacity building programmes for the parliamentary committees and staff alike. This is in line with the 2002–2012 National Assembly Strategic Plan (Blue Print) which is to be implemented gradually over the period.

The above notwithstanding, the Fiscal Analysis and Appropriations Committee in the Kenya parliament is relatively new having been formally ratified by the House in July 2006. As such, exposure of the committee members to parliaments with similar committees will certainly equip the delegation with a wider view of parliamentary engagement in the national

budget process elsewhere, keeping in mind that legislatures are unique depending on the prevailing political circumstances.

There are a number of countries in Africa where the budget committee has had a great impact in the management of public resources. Examples include Uganda, Zambia and Ghana. The Fiscal Analysis and Appropriations Committee has already visited Uganda to understudy the operations of the budget office in the Uganda parliament. The visit gave an insight and to a large extent, this mirrored on the entire East and Central Africa region.

The study visit to the Parliament of the Republic of Ghana was intended to understudy the western part of Africa. It is instructive to note that Ghana has had success case in the adoption of the Medium Term Expenditure Framework (MTEF). Besides being a commonwealth country which shares a largely similar parliamentary practice with Kenya, Ghana was among the first countries in Africa to adopt MTEF and parliamentary committee operations in this country are functional. Ghana therefore was an ideal country to visit. Further, the budget making in Ghana is interactive and Parliament plays its rightful role of oversight.

1.2 OBJECTIVES

The cardinal role of parliament lies in oversight. The challenge for parliaments the world over has been the question of how to effectively play this role in changing face of democratic governance. Budget has over time emerged as the most powerful tool of oversight. Information, ideas and knowledge of what works best, why it works best and how long it takes to achieve results is therefore imperative towards actualizing FAAC operations.

Consequently, the objectives of the visit are:

1. To expose and familiarize the Committee with the operations of similar committee in the Parliament of the host country with a view of exploring how Kenya could benefit from their experiences.
2. Hold discussions with members of parliament, committees, government officials and other stakeholders to familiarize the committee with their participation and collaboration in the entire budget process and how they complement each other in realizing their vision.
3. Gather pertinent information on the host parliament's oversight role in the budget process and the reporting system.
4. Share experiences and with counterparts in the host countries and borrow best practices in endeavour for an effective and vibrant participation in the national budget process.
5. Promote networking and exchange of ideas between members of the two countries.

PART TWO

2.0 THE REPUBLIC OF GHANA

2.1 Historical Background

Modern Ghana was formed from the merger of the British colony of the Gold Coast and the Togoland trust territory, Ghana in **1957** became the first country in colonial Africa to gain its independence. A long series of coups resulted in the suspension of the constitution in 1981 and the banning of political parties. A new constitution, restoring multiparty politics, was approved in **1992**.

However, as far back as **1850** Ghana, then Gold Coast was given its own Legislative Council to advise the colonial governor in enacting legislation mainly in the form of ordinances "for the peace, order and good government of the subject". The Legislative Council was purely advisory as the governor exercised all legislative and executive powers.

In **1916**, the Legislative Council was reconstituted to include nine nominated unofficial members, six of whom were Africans, as opposed to eleven officials and the governor. The first Legislative Council elections took place in **1925** under the "*Guggisberg Constitution*". Under this arrangement the governor still retained complete control of legislation.

Under the **1946** "*Burns Constitution*" which replaced the Guggisberg Constitution, the representatives of the people formed the majority in the Legislative Council. The governor ceased to be ex-officio President of the Legislative Council and an unofficial Member was appointed President. The system continued up to **1951** when the legislature elected its first Speaker under the **1950** Constitution.

In **1951** the first large-scale elections to the Legislative Assembly took place when 75 Members were elected. There were three nominated ex-officio Members and six special Members representing commercial and mining interests.

The **1954** transitional Constitution provided for an Assembly of a Speaker and 104 Members elected on party lines on the basis of universal adult suffrage. In **1957**, Ghana achieved full political independence. The independence Constitution was fashioned after the Westminster model with a Prime Minister as head of the government and the Queen of England the head of state.

In **June 1960** ten women were elected by the National Assembly to fill specially created seats. This was done to expose women to parliamentary life. This system of election was not intended to be permanent. Besides, the

Act made no provision in filling a vacancy caused by death, resignation or expulsion of a woman Member. On **July 1, 1960** Ghana became a sovereign unitary Republic. The president was vested with executive powers. Ministers were appointed from Parliament and no provision of a vice-president was catered for.

However, in **February 1964**, Ghana adopted a one-party system of Government. The First National Assembly of the Republic was dissolved in **1965**. The subsequent general election saw the 198 Members, all of them members of the national party, the Convention People Party (CPP) being elected unopposed. The **1964** Constitutional amendments among other things increased the powers and prerogatives of the President.

The First Republican government of independent Ghana came to a premature end on **24th February, 1966** via a military coup which installed a military government. This effectively ended the **First Republic**.

The military government constituted itself into a National Liberation Council (NLC) that remained in power up to **September 1969** when, on its own volition, handed over power to another constitutionally elected government, and thereby restored parliamentary rule once again. This ushered in the **Second Republic**. However, after only 22 months in office, the second parliamentary democracy also succumbed to another military rule that lasted between **January 1972** and **October 1979** with the Supreme Military Council (SMC) in power. Under much political pressure, the military government was compelled to usher in the **Third Republican** parliamentary system.

Nevertheless, the Third Republic was also short-lived and in **December 1981**, another military coup brought down parliamentary democracy once more. In **1992**, after 11 years of military rule, the Provisional National Defense Council (PNDC), handed over administration of the country to an elected government with constitutional rule and a multi-party parliamentary system, hence begun life to the current **Fourth Republic**.

2.2 Traditional Government

In Ghana every village or town has a ruler who is a chief. Each town or village is made up of families, lineage, and clan heads. In every town or village, there is particular family or clan from which chiefs are chosen. Such a family is referred to as the "Royal Family" or "Respectable Family".

In matters of traditional government, the country is divided into states or traditional areas. For example, there are Dagbon state, Anlo State, Asante state, the various Ga States, the Akwapem State and Nkusukum state. Each area is ruled by a paramount chief "Ya-Na", Gonja "Yabonwura", the Ewe "Awoamefia" or "Fiaga" or "Togbui", the Akwapem, "Okuapenhene" and the Ga, "Nii" or "Mantse".

In some traditional areas, although the chief rules the area customarily, the high-priest or the Land Priest is regarded as the owner of the land. For instance, in the Northern and Upper Regions of Ghana, the Land Priest and chiefs have authority over the lands which come under them. The Ga(s) too have Wulorme (the high-priests) who also has authority over the land

3.0 POLITICAL AND LEGISLATIVE SYSTEM IN GHANA

Under the **First Republican Constitution**, the Executive President was not a Member of Parliament but Ministers of State had to be appointed from among MPs and they had to sit in parliament to pilot Bills and other matters that fell within their portfolios through parliament.

The President, in obedience to the Constitution, attends Parliament in person, to deliver the Sessional Address in which he gives a message on the state of Ghana. The President has the function of placing final seal on Bills to make them law. Under the **pre-Republican** and the **Second Republican Constitutions** the Prime Minister and all Ministers of State appointed by him had to be MPs.

Under the **Third Republican constitution**, based mainly on the American System, the Executive President was outside Parliament and Ministers were appointed exclusively outside the membership of Parliament.

The **Fourth Republican constitution** has provided a hybrid system of Government – a blend of Parliament and Presidential system in which the Executive President has some of his Ministers appointed from within and outside Parliament. The latter Ministers can participate in debate in the House but cannot vote.

Another feature common to the Second, Third, and Fourth Republican Parliaments was the Committee System. Under the system, the constitution required the appointment of various committees from among MPs to enquire into activities and administration of such ministries or departments as were assigned to them. A very important function of the committees is to examine in detail Bills that are referred to them and propose amendments to them, where the committees find this necessary after making all such enquiries as the committees considered expedient.

The inauguration of the First Parliament of the Fourth Republic was preceded by a 259 Member Consultative Assembly which prepared the 1992 Constitution which was submitted to the people for approval in referendum. The 1968 and 1978 Constitutions were promulgated by the Constituent Assemblies themselves. The 1992 Constitution introduced an executive presidential system, a two-term limit to presidential tenure and a 200-member unicameral legislature (since increased to 230 in 204). The 1968

and 1978 Constitutions of the Second and Third Republics had provided for 140 elected Members.

The term of office of Members of Parliament is four years. Three parties were represented in the First Parliament, of the fourth republic. Conspicuously absent were the main opposition parties after boycotting the 1992 parliament election thus giving the ruling party (National Democratic Congress) a vast majority in the 200 Member Parliament. However, they participated in the December 7, 1996 elections which returned 66 of their members into the Second Parliament. The ruling Party – the National Democratic Congress (NDC) – won 133 seats in Progressive Alliance with the Eagle Party (EP) and the Democratic People’s Party (DPP), while the main Opposition Parties in Great Alliance – the National Patriotic Party (NPP) 60 seats and the People’s Convention Party (PCP) 5 seats. The People’s National Convention (PNC) had 1 seat.

The first, second and third Parliaments of the Fourth Republic, unlike the previous Parliaments of the Second and Third Republics, completed the full term of office of four years. The fourth Parliament, voted in during the December 7, 2004 general elections and sworn in January, 2005 is on its third year. The next elections are due in 2008.

The Constitution provides for two terms for the President, of which the current President John Kufuor is serving his second term. President Kufuor government of the New Patriotic Party (NPP), was elected, first in December 2000 (with 57% second round votes) and again in December 2004 (with 53% second round votes).

A notable aspect contributing to the deepening of democratic rule and increased legislative oversight in the country is grounded on the fact that all appointments to constitutional offices have to be vetted by Parliament prior to receiving Presidential approval.

4.0 DEVELOPMENT OF COMMITTEE SYSTEM IN GHANA WITH PARTICULAR REFERENCE TO FINANCE, PAC AND THE SPECIAL BUDGET COMMITTEE – *Presentation by; S.N. Darkwa, Former Clerk, Parliament of Ghana*

Committees in the parliament of Ghana started in the Second Republic. The First Republic only had sessional and ad hoc committees. The oversight responsibility of the legislature depends on how the committees are able to the extra mile in safeguarding public interest.

The Business Committee schedules meetings programme for the whole week. The establishment of the committees requires that each members of Parliament has to belong to at least one committee. The transaction of business before the committees follows the practice of the House and the quorum is one third of the membership just as that for parliamentary sittings.

In addition, committees derive their powers from Parliament and rules of procedure are similar to those of the plenary.

Presently, there are about 15 select committees each corresponding to a particular ministerial portfolio. Some special committees are established to meet the exigencies of the day including the special budget committee. Even then, ministerial budgets are dealt with by the specific select committee.

4.1 Political Parties

Nonetheless, members have a limited scope of independent action. They are under control of their sponsoring political party. This limits their participation even in matters of national interest. Further, a member is required to first resign before he/she can change political parties. This law came about in the second constitution. However, a member's allegiance to a party does not refrain him/her from taking up a cabinet appointment if called upon to do so. Nonetheless, parties tend to pursue an almost similar ideology with very narrow ideological differences. At the same time, the constitution requires that no one can register a political party without first establishing branches all over the country.

5.0 MEETING WITH THE SPECIAL BUDGET COMMITTEE AND THE COMMITTEE ON FINANCE

Ghana adopted the Medium Term Expenditure Framework (MTEF) as part of its budget system in 1998. Together with other reform measures, the MTEF provides a potential basis to implement the principles of an open budget and improve fiscal transparency in Ghana. The legal framework for Ghana's national budget process includes the 1992 Constitution; the Financial Administration Decree (1979); and the Financial Administration Regulations (1979), among others.

The legal framework assigns clear roles to the Executive, Parliament and the Auditor-General in the budget process. The minister of finance, who is accountable to the president, has overall responsibility for financial management in Ghana. The role of parliament in the legislative phase of the budget process is clearly stipulated. It has the power to adjust both expenditure and revenues downwards. However, it has no say over debt control, no oversight over financing and cannot introduce expenditure or revenue measures.

5.1 Special Budget Committee

The committee was created in 2001 through amendments to Parliament rules. The committee however does not look into the entire national budget as ministerial and departmental budgets are looked into by the sector committees. The committee was created to enhance the financial independence of the independent constitutional bodies such as Parliament, the Auditor-General, Electoral Commission, and Public Service Commission among others. In all, there are six independent commissions/bodies that the Special Budget Committee oversees in terms of protecting their budgetary allocations. Nonetheless, these independent bodies submit their budgets through the treasury and are subject to revision. This necessitated the creation of the Special Budget Committee to check the actions of the Executive which can decide to starve independent bodies financially thus hampering their operations.

Parliaments must have financial independence to enjoy democratic independence. In fact, parliament was never meant to govern but to oversee and control government. It is through the Special Budget Committee that Parliament has been able to control its own budget. The committee has 21 members drawn from all political parties represented in Parliament and is chaired by the Majority Leader, who is deputised by the Minority Leader

The law requires that the budget of parliament is not subject to review. Only the Judiciary in Ghana has a financial autonomy laid by the constitution. The budget of the judiciary in Ghana is by constitution prepared by the Chief Justice and sent directly to the president who may only add her/his comments but not alter it. The president then sends the budget directly to Parliament. It does not go through the Ministry of finance which just notes the same. The budget however has to be reasonable and manageable without exhausting resources for other arms of government.

The extent to which the Parliament can control the budget is limited. Indeed, Parliament can only reduce but cannot increase the budget as presented by the Minister of Finance. This is a constitutional provision in Ghana. The budget comes to Parliament in form of a statement which the various sectoral committees go through before making their recommendations. This is followed by the Appropriations Bill brought by the minister of Finance

which is referred to the Finance committee which makes a report to be tabled and debated by Parliament before being passed.

The Contingency funds in Ghana are factored into the budget as contingency liabilities. Any other contingency spending must be approved by Parliament. This is unlike the practice in Kenya where contingency funds is left at the discretion of the Executive. In addition, all loans to the government must be approved by Parliament.

Sanctions

Parliament has been able to prevail upon ministries to review their budgets for not performing as required.

The national budget was once rejected during the Third Republic in 1970. However, unlike the Westminster practice where such a vote will require calling for fresh elections, the constitution states that no authority can dissolve parliament until it has completed its term.

5.2 The Finance Committee

The finance committee is made up of 25 members – 13 from the majority and 12 from the minority. It is one of the 12 standing committees of the Parliament of Ghana.

One of the primary roles of the committee is to look into the budget estimates of all revenue agencies. It is also mandated to look at returns of foreign transfers of the currency by the Bank of Ghana but this mandate is not seriously pursued.

6.0 MEETING WITH THE PUBLIC ACCOUNTS COMMITTEE

The committee is a standing committee of the parliament of Ghana comprising 25 members – 10 from the minority, 14 from majority and 1 independent. The PAC is entrenched in the constitution. The chairman is always a senior member of the opposition. The committee is vested with immense powers, among them, it can subpoena, issue summons, receive evidence within and outside the country.

The committee receives various reports from the Controller and Accountant General. They include:

- Foreign exchange receipts of the Bank of Ghana;
- District Assemblies Common Fund – there are 130 District Assemblies;
- Reports of District Assemblies and Traditional Councils;
- Public enterprises e.g. Volta River Authority;
- Universities;
- Ministries and agencies of central government; and
- The Consolidate Fund.

The PAC in Ghana is up to date with its accounts. This is unlike several countries in the developing world which lag behind in the PAC business. The practice of having watchdog committee accounts lagging behind creates loopholes for malpractices in the public service particularly with procurements.

The Controller and Accountant General in Ghana also carry performance/efficiency audits. Reports of such audits are also referred to the committee.

To further improve the oversight role and ensure that the recommendations of the PAC are implemented, each ministry has its own Audit Implementation Committee usually chaired by the Director General (the equivalent of a Permanent Secretary). The implementation committee must report back to Parliament on action taken within six months as stipulated in law.

The administration of the PAC is vested in a senior clerk assisted by a staff of four. Their work is complemented by 2 staff from the Controller and Accountant general

Another milestone for the oversight role in Ghana is the setting up of new court system - Public Financial Tribunal - to fast-track committee recommendations. The rules for the operationalization of the court are currently being worked out before being tabled in parliament for debate and subsequent adoption. The court, to be headed by a High Court judge will allow for cases of financial malpractice to be dealt with expeditiously.

7.0 OFFICE OF CONTROLLER AND AUDITOR-GENERAL

The office is largely an administrative office. The functions are spelt out in the Financial Administration Act. Nonetheless, its primary role is to monitor the financial activities of ministries and departments. It also manages the payment and management of payroll for government offices and departments except the statutory bodies.

Notably, funds to districts are presently sent directly to the district and not through ministerial head offices. This practice rules out delays in implementation of district programmes. To monitor use of funds, each ministry has an internal audit unit staffed by the ministry. The Internal audit Agency oversees the audit units staff.

Information dissemination of funds disbursement is done officially. Disbursements to ministries are usually gazetted every month.

8.0 OFFICE OF THE AUDITOR-GENERAL

The Office of Auditor-General was created under the Audit Service Act, 2000. The office audits all agencies, departments and institutions that draw funding from the Consolidated Fund Services.

The audit service exists to promote good governance in areas of accountability, transparency and probity in public financial management service in line with recognised international standards.

Audit reports are submitted to Parliament six months after the close of financial year. Three types of audit are presently undertaken. They include: financial; performance; and IT audits.

Regarding audit service and the relationship with parliament,

- Parliament appoints an external auditor to audit the accounts of the Auditor General.
- It also makes requests to the Auditor General for special audits; and
- Considers budget estimates of the Auditor-General.

Meeting the needs of Parliament

- Content of audit reports made as simple as possible;
- Consultations on work programme to reflect issues of concern;
- Briefings on audit reports to assist committee chairman ; and
- Briefings on audit reports to committee members and suggested questions for witnesses.

IT Audits

Mapping exercise in government institutions and departments has been completed. However, systems audit is yet to be done. On the other hand, IT policy is being pursued.

The challenges facing this audit include; the tools and their use in the audits. Secondly, the integrity of the system as to whether the system can be manipulated.

9.0 POVERTY REDUCTION STRATEGY COMMITTEE (PRSC)

The committee was formed to spearhead efforts by parliamentarians to reduce poverty to a bare minimum. Its creation is based on the premise that poverty has to be fought from the level of decision-making in order to achieve greater development and economic growth.

The committee looks into the areas of policy that can assist in poverty reduction. It has been contributed immensely to the Ghana Poverty Reduction Strategy (GPRS 1) of 2003 to 2006 as well as the GPRS 2 for 2006 onwards. The framework targets education, governance and health.

The GPRS 1 framework targeted reduction of poverty. Under GPRS 2 policy document, this was rephrased to have a growth and poverty reduction strategy outlook. The policy documents raised the need for an oversight body to oversee the formulation and implementation of poverty related policies. Initially, the PRSC was an ad hoc committee with oversight responsibility.

The budget process has previously featured prominently to allow the committee perform and ensure growth and development. This aimed at ensuring that resources were equitably distributed to all parts of Ghana. The committee has found and formed a reliable and formidable collaboration with the Economic Development Commission.

In its existence, the committee has been instrumental in spearheading the creation of Poverty Alleviation Fund in 1996. Plans are ongoing to create the Income Generation and Productivity Fund. This advocates the strengthening of public private partnerships for sustained investment and wealth creation.

Challenges

The committee still feels very little has been achieved in poverty reduction in the country. The most perennial problem of low illiteracy level has been identified as a serious challenge to the process. This has tended to pull down whatever progress and efforts made. The concepts of ICT and girl child education are being advocated to reverse the trend.

Achievements

The achievements of the committee role are benchmarked in the following:

- Free education up to primary 6 with one hot meal per very pupil at this level. This has raised school enrolment;
- Free bus ride for school children in school uniform;
- Increased allocations to the health sector. The National Health Insurance Scheme offers a subsidised policy of US\$ 11 per year for parents and children below 11 years of age;
- Low yielding business investment loans;
- Youth employment policy – with training being offered in teaching, nursing and other trades.

10.0 CONCLUSION

Ghana is a country where reforms have been successful in terms of public financial management. Parliament involvement in the national budget process is increasingly becoming entrenched particularly at the departmental committees. There is quite some high degree of parliament's engagement prior to the approval stage which is traditionally parliament's role. These measures have enabled the Parliament to play its supervisory role in the budget process and to provide more accountability to the citizens.

Additionally, there is need for Parliaments to have financial independence in order to enjoy democratic independence. This, in Ghana has been achieved thorough the Special Budget Committee of Parliament. The law requires that the budget of Parliament is not subject to review. In addition, the Judiciary in Ghana has a financial autonomy laid by the constitution.

The foregoing is indeed is a milestone worth replicating in other jurisdictions so as to check the Executive from using the budget as a tool to control and emasculate the other arms of government.
