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TRANSMITAL LETTER

December 22, 2025

His Excellency

President John Dramani Mahama

Jubilee House, Accra.

Your Excellency,

We, the undersigned, whom you appointed on January 19, 2025, as a Committee to undertake a comprehensive review of the 1992 Constitution of the Republic of Ghana, have the honour to submit our Report. Following our formal inauguration at a ceremony at Jubilee House on January 30, 2025, we subscribed to our oaths of office and immediately commenced our work. We are pleased to present to you the culmination of our efforts, our final Report, titled **"Transforming Ghana: From Electoral Democracy to Developmental Democracy."**

Your Excellency, as you will recall, the eight-member Committee appointed to this national task comprised the following persons:

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

To facilitate the effective discharge of our mandate, a Secretariat was established with the approval of the Office of the Attorney-General. The Secretariat was composed of a Project Coordinator, a Research Team of junior lawyers and law interns working under the supervision of a senior lawyer, a Digital Communications and IT Support Specialist, and Administrative Assistants. The Government of Ghana provided the Committee with an appropriately furnished and equipped office space at the Office of the President Annex on Abdul Diouf Road, Ridge, Accra, which served as the operational hub for all our activities.

Our specific Terms of Reference, as outlined in our letters of appointment, mandated us to:

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

(ii) identify and address gaps and challenges with the implementation of the work done by these previous aforementioned bodies;

(iii) engage the public and stakeholders to solicit their views and proposals for amendment of the 1992 Constitution; and

(iv) make "actionable recommendations" for amendments to the Constitution that would "enhance democratic governance" and make for a "more inclusive, effective and forward-looking national governance framework."

Guiding Principles and Organisational Framework

From the outset, the Committee was guided by a clear set of principles that would inform and direct all our deliberations and final recommendations. These principles were inspired by the Directive Principles of State Policy in Chapter Six of the 1992 Constitution and reflected our collective commitment to advancing Ghana's democratic and developmental aspirations.

The Committee adopted deliberation and consensus as its primary decision-making rule. However, recognising that consensus might not always be achievable on complex constitutional matters, the Committee agreed that where, after prolonged deliberation, consensus could not be reached, the matter would be decided by a majority vote of members present, with a quorum of six members required for voting. In the event of an evenly split vote, the Chairman was empowered to cast the deciding vote. Additionally, any member who disagreed with a Committee decision on a specific recommendation, retained the right to have his or her dissenting or minority opinion included and identified as such in the final report.

The Committee's Guiding Principles included the commitment to:

- Preserving and strengthening the democratic gains made by the country so far
- Strengthening checks and balances in the exercise of official authority in all spheres and at all levels of government
- Enhancing respect for the rule of law and the independence of the judiciary
- Ensuring a more responsive and people-centred representative democracy
- Deepening decentralisation and the accountability of local political officeholders to local communities
- Enhancing transparency and accountability of government and all public institutions
- Promoting professionalism and sound governance practices in the public services and state-owned enterprises
- Reducing partisanship in public administration and state institutions
- Strengthening the effectiveness of anti-corruption institutions and mechanisms
- Ensuring prudent and accountable use of the nation's resources and finances
- Enhancing public trust in state institutions
- Reducing the cost of politics and other barriers to effective citizen participation in the institutions of representative democracy
- Aiding the development of responsible, democratic, and policy-oriented political parties
- Preserving and strengthening national unity and social cohesion
- Promoting a more equal and just society and enhanced respect for fundamental human rights and freedoms.

Crucially, the Committee resolved that no recommendation would be made that would have the purpose or effect of giving any particular person or political party an unfair political advantage. This principle was essential to ensuring the legitimacy and acceptability of our work across the political spectrum.

Committee's Approach and Methodology

The Committee adopted a problem-solving approach to the execution of its substantive mandate. We took the view that, given the extensive ground already covered by the 2010 Constitution Review Commission and the subsequent Constitution Review Consultative Committee, an exhaustive clause-by-clause review of the 1992 Constitution would serve no useful purpose. Moreover, since our task was a review, as opposed to a complete rewriting or replacement of the existing constitution, the Committee understood that a more selective, problem-solving approach was implicitly called for by our Terms of Reference.

The Committee's task was essentially to identify and propose appropriate solutions or remedies of a constitutional nature to those problems afflicting Ghana's democracy, governance, or development that either emanated directly or indirectly from the text or operation of the Constitution, or could be ameliorated or remedied through constitutional amendment.

Our methodology consisted of four sequential and complementary steps:

1. Desk Review and Documentary Analysis

Under the direction of the Committee, the Research Team reviewed and prepared for the benefit of members comprehensive summaries of various key documents, including:

- The 2010 Constitution Review Commission Report (CRC-I)
- The Constitution Review Implementation Committee Report (CRIC, 2015)
- The 2023-24 Constitution Review Consultative Committee Report (CRCC)
- The Report of the Committee of Experts that produced the draft proposals for the 1992 Constitution
- Past constitutions of Ghana and their historical context
- Various published studies, commentaries, and critiques of the 1992 Constitution
- Scholarly analyses of democratic governance under the Fourth Republic
- Supreme Court of Ghana case law relating to disputed provisions and interpretations of the 1992 Constitution
- Relevant provisions of selected comparative constitutions, particularly from African regional and constitutional peers
- Data from Afrobarometer and other opinion surveys on Ghana conducted over the last several years

This desk review helped the Committee isolate critical problem areas in our national governance and identify potential pathways or proposals for reform that had been previously identified by earlier commissions, scholars, researchers, and other commentators.

2. Targeted Stakeholder Engagements

The Committee's targeted stakeholder engagements were strategically designed to enable us to tap into the deep reservoir of knowledge, expertise, and firsthand experiences and insights of individuals and organisations that have experienced or studied closely the workings of various aspects of the Constitution. We employed a triangulated approach to these targeted stakeholder engagements, engaging with three distinct categories of stakeholders:

(a) Thematic Stakeholder Engagements

The Committee organised **10 thematic stakeholder engagements** that brought together over **500 experts and practitioners** to deliberate on specific constitutional themes and clusters. These thematic engagements were structured around the following areas:

1. Lands and Natural Resources (38 participants)
2. Decentralisation and Local Governance & Chieftaincy (44 participants)
3. Public Services & Enterprises; Code of Conduct for Public Officers, & Exercise of Discretionary Power (83 participants)
4. Independent Constitutional Bodies & Executive Advisory Councils, including the Council of State (40 participants)
5. Political Parties (40 participants)
6. The Political Branches: Executive and Legislature (60 participants)
7. The Judiciary (60 participants)
8. Economy and Financial Management: Finance, Central Bank, and National Development Planning (40 participants)
9. Rights, Gender, Youth, and Inclusion (46 participants)
10. Anti-corruption (52 participants)

These thematic engagements enabled the Committee to benefit from the deep expertise and practical knowledge of specialists, constitutional scholars, practitioners, and experienced officials in each of these critical areas.

(b) Engagements with Identifiable Groups

The Committee held **17 stakeholder engagements with identifiable groups**, representing a diverse cross-section of Ghanaian society. These included:

1. Business Community and Organised Labour, including SMEs (40 participants)
2. Academia and Professional Bodies (44 participants)
3. Military and Other Security Agencies (47 participants)
4. Journalists and Social Media Community (48 participants)
5. X-Spaces Engagement with the Youth (21,000 participants)
6. Engagement with the Faith Community (45 participants)
7. Engagement with Imani Africa (4 participants)
8. Zoom Engagement with the Diaspora Community (125 participants)
9. Engagement with the National House of Chiefs (30 participants)
10. Engagement with the Council of State (12 participants)
11. Engagement with the Trades Union Congress (14 participants)

12. Zoom Engagement with State Interests and Governance Authority (SIGA) (10 participants)
13. Zoom Engagement with Intersex Ghana & Key Watch Ghana (15 participants)
14. Engagement with the Judiciary (15 participants)
15. Engagement with the Minority Caucus in Parliament (9 participants)
16. Engagement with the Majority Caucus in Parliament (8 participants)

In total, these engagements reached over **21,500 people**, with the X-Spaces engagement with the youth alone reaching 21,000 young people, demonstrating the Committee's commitment to engaging with younger generations who represent Ghana's democratic future.

(c) Engagements with Eminent Persons

The Committee benefited immensely from the wisdom and experience of **11 eminent persons** who have been intimately involved with Ghana's constitutional development over the past 32 years. These included:

1. His Excellency President John Dramani Mahama
2. Professor Mike Ocquaye
3. Justice Sophia Akuffo
4. Mr. Sam Okudzeto
5. Nana Dr. SKB Asante
6. Professor Kwamena Ahwoi
7. Speaker Alban Bagbin
8. Former President John Agyekum Kufuor
9. Justice Stephen Alan Brobbey
10. Hon. Osei Kyei Mensah-Bonsu
11. Former Vice President Dr. Mahamudu Bawumia
12. Former President Nana Addo Dankwa Akufo-Addo
13. Nana Otuo Serebour, former Chair of the Council of State
14. The Chairman and Members of the current Council of State
15. The Acting Chief Justice with a section of Justices of the Supreme Court, Court of Appeal and High Court, and Judges of the Circuit and District Courts
16. Hon. Alexander Afenyo Markin and a section of the Minority Caucus (NPP)
17. Hon. Mahama Ayariga and a section of the Majority Caucus (NDC)

3. Public Engagements and Submissions

To ensure that our work was grounded in the realities and aspirations of ordinary Ghanaians, the Committee undertook an extensive nationwide public consultation process.

(a) Dissemination of Information and Public Outreach

To widen public knowledge and appreciation of the Constitution and to stimulate informed discussion on constitutional reform, the Committee launched its own dedicated website (**www.constitutionreviewgh.org**) in February 2025. This website served as the primary platform for information dissemination, public engagement, and interface with the public.

Complementing the website, and with a particular focus on engaging younger audiences, the Committee also established an official presence on multiple social media platforms, with accounts on Facebook, Instagram, X (formerly Twitter), and YouTube under the handle **@CRCGH25**. These digital platforms proved highly effective in reaching diverse audiences and were used to live-stream all of the Committee's public engagements and post regular updates on the Committee's work.

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

(b) Public Notices and Call for Submissions

By notices published in various media—including the Commission's website and social media platforms, the Government Information Service website, and daily newspapers (both printed and online)—members of the public were informed of the official launch of the Committee and invited to submit their ideas, comments, and suggestions on the reform of the Constitution via written submissions to the Committee's email address or via regular mail in care of the Director of the Secretariat.

In total, the Committee received **785 written submissions from the public**—735 electronic submissions via our website and email, and 50 manual submissions delivered to the Secretariat. This substantial number of submissions demonstrated a high level of public interest in constitutional reform and a strong desire among Ghanaians to participate in shaping their nation's constitutional future.

(c) Zonal Public Engagements

To ensure that our work was truly national in scope and that we captured the views of Ghanaians from all regions and walks of life, the Committee travelled throughout the country and conducted **10 zonal public engagements** in the capitals of the 10 old regions. The decision to undertake ten zonal engagements was mainly due to limitations of budget and time. These zonal public engagements were held in:

1. Bolgatanga (308 participants)

2. Tamale (210 participants)
3. Wa (217 participants)
4. Koforidua (297 participants)
5. Ho (284 participants)
6. Accra (185 participants)
7. Cape Coast (230 participants)
8. Takoradi (260 participants)
9. Sunyani (265 participants)
10. Kumasi (180 participants)

In total, **2,436 Ghanaians** participated in these zonal engagements, representing a wide cross-section of society, including youth, persons with disabilities, market women, civil society organisations, civil and public servants, members and chief executives of district assemblies, professional groups and associations, Chiefs, Queenmothers, Tindana, representatives of the National Commission for Civic Education and other State agencies, members of the security services, driver associations, students, and many others.

All of the Committee's public engagements were live-streamed on the Committee's social media platforms. Between March and August, our live-streams on X (formerly Twitter) generated **114,433 impressions**. During the same period, there were **8,388 views** of our videos on YouTube and **3,266 views** on Facebook. Between March and September, all of the Committee's content on Facebook—including videos, photos, posts, and comments—attracted **192,152 views**, demonstrating the significant level of public interest in our work.

Summary of Consultation Outcomes

The Committee's Stakeholder Engagements – In Numbers:

In all, the Committee received 735 electronic submissions via email and the website, as well as 50 manual submissions at the Secretariat, making a total of **785 written submissions**. The Committee organised 10 thematic stakeholder engagements, benefiting from the expertise and insights of over **500 experts and practitioners** on the various thematic clusters.

The Committee also held 17 stakeholder engagements with identifiable groups, ranging from Members of Parliament to the media, and from the business community to academia and the youth. Through those engagements, the Committee benefited from and reached out to over **21,500 people**, which includes 21,000 young people who tuned in to the Committee's X-Spaces engagement.

The Committee also engaged with 11 eminent persons who have worked with the Constitution over the past 32 years, including the sitting President, H.E. John Dramani Mahama, former President John Agyekum Kufuor, former President Nana Addo Dankwa Akufo-Addo, and current Speaker Alban Bagbin.

The Committee travelled around the country and conducted zonal public engagements with citizens. In all, 10 zonal engagements were organised in the capitals of the 10 old regions. These zonal public engagements attracted the active participation of a wide cross-section of society, from youth, persons with disabilities, market women, Chiefs, Queenmothers, Tindana, NCCE and other State agencies, the security services, driver associations, students, among others. A total of **2,436 Ghanaians** participated in these zonal engagements.

The Report: "Transforming Ghana: From Electoral Democracy to Developmental Democracy"

The enclosed Report, **"Transforming Ghana: From Electoral Democracy to Developmental Democracy,"** represents the culmination of this extensive national dialogue and reflects the deep aspirations of Ghanaians for a constitution that moves beyond the ritual of elections to deliver tangible improvements in their quality of life and material well-being.

The Report identifies a central challenge that has animated our work: Ghana's record of orderly political turnover and stable democratic peace has not translated into the desired economic transformation or development that citizens expect. Repeated party turnover in government without corresponding change in the quality or outcomes of governance risks turning Ghana into a "choiceless democracy"—a democracy where citizens go through a periodic ritual of choosing or changing their political leadership through peaceful, competitive elections, yet experience little change in material or non-material outcomes.

Our recommendations are therefore aimed at recalibrating our constitutional framework to make it a more effective instrument for national development, while preserving and strengthening the democratic gains that Ghana has achieved. The Report is organised into nine substantive chapters, each addressing a critical area of governance:

Chapter I: Towards an Effective, Focused Presidency – This chapter addresses the need to refocus the Presidency on strategic leadership for national development, rather than allowing it to be consumed by the politics of patronage and partisan advantage.

Chapter II: Towards a People-Centred and Problem-Solving Representative Democracy – This chapter proposes reforms to make Parliament more responsive to the needs and aspirations of the people and more focused on problem-solving and policy-making.

Chapter III: Harnessing Our Collective Resources, Finances and Investments for Sustainable Development – This chapter addresses the need for more effective management of the nation's resources, finances, and investments to ensure sustainable development.

Chapter IV: Restoring Trust in the Institutions of Accountability – This chapter proposes measures to strengthen and enhance the effectiveness of independent accountability institutions, including the anti-corruption agencies.

Chapter V: Towards a Well-Governed, Capable and Effective Public Service – This chapter addresses the need for a more professional, meritocratic, and performance-oriented public service.

Chapter VI: Leaving No One Behind: Towards a Just and Equitable Society – This chapter focuses on constitutional reforms aimed at promoting equality, justice, and inclusion.

Chapter VII: "All Development is Local" – This chapter proposes a genuine devolution of power and resources to local communities and the harnessing of the organic social power and legitimacy of traditional institutions for effective local government and development.

Chapter VIII: Securing and Safeguarding Our Democratic Peace, Freedoms and Stability – This chapter addresses measures to protect and strengthen Ghana's democratic peace and the freedoms that underpin it.

Chapter IX: Towards a Living Constitution – This chapter addresses the need to make the Constitution a living document that evolves with the times and responds to the changing needs of the nation.

Acknowledgements and Gratitude

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

Our work would not have been possible without the active and enthusiastic participation of the thousands of Ghanaians who shared their time, wisdom, and

aspirations with us throughout this process. We extend our sincere gratitude to the experts, civil society organisations, traditional authorities, public officials, and citizens from all walks of life who contributed so generously to our consultations and deliberations.

We also wish to acknowledge the invaluable support of our Secretariat staff and volunteers whose dedication, professionalism, and tireless work were instrumental to the successful completion of our mandate. The Research Team, in particular, provided exceptional support in reviewing documents, preparing background materials, and assisting in the organisation of our engagements.

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

Conclusion

We trust that our recommendations will meet with your approval and provide a solid foundation for the constitutional amendments and other measures necessary to propel Ghana into its next chapter of democratic consolidation and developmental success. We believe that the implementation of our recommendations will contribute significantly to deepening Ghana's democracy, enhancing the effectiveness of our governance institutions, and ensuring that our constitutional framework serves as a powerful instrument for national development and the improvement of the material and non-material well-being of all Ghanaians.

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

Yours sincerely,

Professor Henry Kwasi Prempeh	**Chairman**
Dr. Rainer Akumperigya, Esq.	**Secretary**
Her Ladyship Justice (Mrs.) Sophia O. A. Adinyira	Member
Professor Kwame Karikari	Member

Ms. Charlotte Kesson-Smith Osei, Esq.	Member
Dr. Esi Ansah	Member
Alhaji Ibrahim-Tanko Amidu	Member
Dr. Godwin Djokoto, Esq.	Member

CHAPTER ONE: TOWARDS AN EFFECTIVE PRESIDENCY

Background

This chapter focuses on the office of President and issues related to the Executive branch.

Term of Office of President: Total Number of Terms

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

Term of Office of President: Length of a Term

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

Minimum Age Qualification to be President

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

Exemption from Tax

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

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

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

Immunities After Ceasing to be President

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

Vice President or Prime Minister?

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

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

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

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

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

Total Number of Ministers (Article 78(2))

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

The Committee further recommends that, a President who desires to appoint a person as a Minister of State in excess of the stated ceiling shall furnish Parliament in writing with the specific reasons justifying the additional appointment and obtain the prior approval of Parliament for the appointment. Parliament's approval shall be by a simple majority of all members of Parliament.

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

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

Article 70 and Other Public Appointments

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

1) In respect of an appointment to an *Executive* office, the President shall have plenary power to select or choose the person to be appointed, subject, in limited instances to the prior approval of Parliament (e.g., where the office involves enforcement of laws or is appropriately subject to direct parliamentary oversight). In making appointments in this category, the President acts in the capacity of Head of Government, looking to assemble the team with which he would govern and execute his political mandate. Appointees to these offices are, essentially, politicians or political assistants to the President, exercising authority that is strictly derivative of the President's executive authority and who thus serve appropriately at his or her pleasure. Offices in this category include Ministers of State and persons appointed to serve at the Office of the President and Vice-President.

2) In respect of an appointment to an *Independent* office, the President shall make the appointment acting *in accordance with* the nomination or nominations presented to him by an independent constitutional body following a competitive, meritocratic recruitment and selection process administered by that body (either alone or with the professional or administrative assistance of the Public Services Commission). The primary independent nominating body the Committee proposes for submitting nominations for appointment to independent constitutional offices is a substantially reformed Council of State (see Chapter **IV**) and, in the case of certain judicial appointments, a reformed Judicial Council (Chapter Four). Depending on the office in question, the Nominating body shall present the President a short list of ranked options (i.e., more than one qualified candidate) from which to select the nominee (e.g., National Commission for Civic Education); in other cases (e.g., Electoral Commission, Auditor-General, Chief Justice), where the offices play a high-profile role in the constitutional system of checks and balances, the Nominating body shall present to the President a single final candidate. The President's role in appointments in the Independent-office category is, essentially, a duty to appoint as advised. In effect, the President makes such appointments in his capacity of a Head of State (analogous to the President under the 1969 Constitution), not as a politician Head of Government. Subsequent to the nomination, the approval of Parliament is recommended for these Independent offices.

3) In respect of an appointment to a *Hybrid-independent* office, the President shall make the appointment acting *in accordance with the advice* of a relevant Nominating body or Governing Council, following a competitive, meritocratic selection process administered independently by that body or

council. For example, with the appointment of chief executive officers of State-Owned Enterprises (SOEs) and Other State Entities (OSEs), which are offices that fall in the hybrid category, the policy-directing Governing Council will propose the nominee for appointment after a competitive meritocratic recruitment and selection process based on stated qualifications and criteria. As the Government interest in the entity is protected by a Government majority on the Governing Council or through an additional layer of oversight from a "SIGA" body (proposed in Chapter III), the President should be expected to rely on the sound judgement of the Governing Council or overnight body in confirming the appointment to these offices.

4) In respect of an appointment to a *Hybrid-executive* office, the President shall make the appointment acting *in consultation with* the relevant body that exercises policy responsibility or oversight over the office (i.e., the governing council for that office; e.g., Police Council in the case of the Inspector-General of Police, and the Armed Forces Council in the case of the Chief of Defence Staff). The constraint on the President's appointment power in this instance is part-procedural and part-substantive, as the appointment must follow a process of informed consultation between the President and the governing council based on the candidates' qualifications.

1.12 The foregoing recommendation, if adopted, will effectively bind the president to the advice of a named body when making an appointment 'acting on the advice of' that body, example the Judicial Council. Thus, this recommendation effectively overturns the decision of the Supreme Court in *Ghana Bar Association v Attorney General & Judicial Council* (2015), which held that a provision of the Constitution that the President shall make an appointment "acting on the advice of" a named body (Judicial Council) does not oblige the President to follow the "advice" tendered.

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

- Persons appointed to Independent or Hybrid-Independent offices shall hold office for fixed renewable or non-renewable terms or until they have attained a prescribed retiring age, whichever is earlier. Additionally, the term of office of persons in this category shall not be co-terminus with the term of office of the President.

- Where a vacancy occurs in an Independent or Hybrid-Independent office, the vacancy shall be filled with a substantive appointment within 90 days of the occurrence of the vacancy.

- Where an appointment is required to be made "on the advice of" or "in consultation with" a named body, no appointment to the office in question, whether described as interim, acting or substantive, shall be made or announced in advance of or pending the completion of all the required steps in the appointment process.

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

1.14 The Committee recommends that each of Articles 60(8) and 60(11) be amended to provide that neither the President nor the Vice-President shall be deemed to be "unable to perform the functions of the President" by reason only of the fact that either is or both are physically absent from Ghana. This recommendation, if adopted, will effectively overturn the decision of the Supreme Court in *Asare v. Attorney-General* [2003-2004] SCGLR 823

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

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

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

Scheduling of Presidential Elections

1.16 The Committee recommends an amendment to Article 63(2)(a) to provide that the election of the President shall be held on such date in the first week of the month of November in an election year as the Electoral Commission shall, by constitutional instrument, specify. This recommendation, if adopted, will extend the period of transition between the election of a President and the assumption of office of the newly-elected President from one month to two months.

Presidential Election Petition

1.17 The Committee recommends an amendment to Article 64(1) to provide that a petition to challenge the validity of the election of a person declared as President-elect shall be brought by a citizen of Ghana to the Supreme Court within fourteen (14) calendar days after the declaration of the results of the election. The Committee further recommends an amendment to Article 64 to provide that the said petition shall be heard and determined by the Supreme Court within thirty days after it is brought. In the interest of expeditious determination of the petition, the Electoral Commission shall furnish promptly for the scrutiny of the Supreme Court, the Petitioner and any other party in the case, all relevant or contested data in its custody pertaining to the results of the Election.

Restrictions on Powers during Post-Election Transition Period

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

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

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

CHAPTER TWO: TOWARDS A PEOPLE-CENTERED DEMOCRACY

Background

This chapter covers Parliament, Political Parties, the Electoral Commission, the National Commission for Civic Education (NCCE), and the National Media Commission (NMC).

Parliament

Size of the Membership of Parliament

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

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

The Electoral System: Proportional Representation?

2.2 To enhance opportunities for women, youth and other politically marginalized groups, including smaller political parties, to gain representation in Parliament, the Committee endorses proportional representation and recommends to Government to commission an independent study and investigation of the suitability of proportional representation for Ghana, having regard to our presidential system of government and longstanding use of the first past the post electoral system.

Political Party Control and Selection of Caucus Leadership in Parliament (Parliamentary Independence)

2.3 The Committee recommends an amendment by inclusion of a new provision to the effect that members of Parliament shall constitute themselves into Majority and Minority caucuses on the basis of the numerical strength of their

respective political party representation in Parliament, and the members of each caucus shall elect from among their number, by secret vote, persons who shall constitute the leadership of their respective caucuses and hold the positions of Majority or Minority Leader, Deputy Majority or Deputy Minority Leader, Chief Whip and Deputy Chief Whip, as the case may be. A Leader, Deputy Leader, Chief Whip, or Deputy Chief Whip of a party caucus may be removed and replaced by the vote of an absolute majority of the members of the caucus in a special election called for that purpose at the request of at least one-fourth of the members of the caucus.

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

2.4 The Committee recommends an amendment to Article 94(2)(a) to provide that a citizen of Ghana by birth who otherwise meets all other qualifications shall not be precluded from contesting for election to Parliament merely by virtue of holding the citizenship of another country, whether or not the second citizenship was acquired voluntarily or by operation of law, and shall therefore not be required to renounce the other citizenship either before contesting for election to Parliament or upon election as a member of Parliament.

Ineligibility of Serving Public Officers to Contest Parliamentary Elections

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

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

The Committee recommends an additional amendment to Article 94(3)(b) to provide that public employees who resign their public employment shall

observe a twelve-month "cooling-off" period before contesting national, parliamentary or party elections.

Tenure of Members of Parliament

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

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

Voting on Constitutional Amendment Bills

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

Certificate of Urgency

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

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

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

Right to Public Participation in the Legislative Process

2.9 The Committee recommends an amendment to Chapter Ten of the Constitution to insert a new provision to guarantee a right to public participation in the legislative process with a corresponding obligation on Parliament, including its committees, to take affirmative steps to facilitate and ensure meaningful public and stakeholder consultation and participation in the legislative processes.

MPs Engagement with Constituents

2.10 The Committee recommends an amendment to Chapter Ten of the Constitution to insert a provision to require that Members of Parliament, during each recess, hold at least one in-person and non-partisan town-hall style engagement with their constituents in their respective constituencies.

Conflict of Interests of MPs

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

(a) be eligible for appointment to a position on the management or governing council or board of directors, or to the procurement committee, of any entity funded wholly or partially from public funds or in which the Government of Ghana has an interest;

(b) represent, or belong to a professional or business firm that represents, a party in a matter, whether legal or commercial, in which that other party's interests are adverse to or on the opposite side of the interest of the Republic of Ghana;

(c) accept or agree to accept, directly or through a third party, an offer of cash or in-kind gift of substantial value, benefit, inducement or reward from any person or entity with an interest in the outcome of a Bill, an investigation, a

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

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

Private Member's Bill

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

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

2.13 The Committee recommends an amendment to Chapter Ten to introduce a new Article to provide that an Act of Parliament that requires the passage of Regulations for its effective implementation shall specify in the Act a time period, not later than twelve (12) months after the effective date of the Act, by which the necessary Regulations shall be prepared and laid before Parliament.

Contempt of Parliament

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

Payment of Gratuity to members of Parliament

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

Political Parties

Registration and Regulation of Political Parties: Establishment of an Independent Regulator

2.16 The Committee recommends an amendment to Chapter Seven of the Constitution to provide for the establishment of an Independent Registrar and Regulator of Political Parties and Campaigns ("IRRPC"). The IRRPC shall be constituted in the same manner as the Electoral Commission ("EC") and other independent constitutional bodies. The IRRPC shall take over the functions and powers of the EC in respect of registration and regulation of political parties but have an expanded mandate with enhanced enforcement powers to regulate the conduct and activities of political parties and political campaigns generally, including monitoring and enforcing compliance and sanctioning noncompliance. The IRRPC, with parliament, shall develop laws governing political parties and campaigns, promulgate and enforce a Code of Conduct

and proscribe specified anti-democratic activities of political parties, including vigilantism, vote buying. The IRRPC shall further develop and enforce compliance with agreed affirmative action benchmarks and milestones, and administer a proposed Democracy Fund to incentivize and support policy development, gender-inclusive initiatives, and other targeted, non-electioneering activities of parties.

Monetization of Election and Campaign Financing

2.17 The Committee recommends an amendment to Chapter Seven of the Constitution to provide that Parliament shall, within a specified period after the coming into effect of this proposed amendment, enact legislation or amend existing legislation, with implementing Regulations to be made by the IRRPC, to regulate the cost of electioneering and political campaigns as follows:
(a) restrict the period for electioneering and campaigning by a party or candidate to a specified number of days or weeks immediately prior to general elections (e.g., 120 days), before which time no electioneering or campaigning activity (as defined by the law) may be permitted;
(b) restrict the amount and kind of expenditure or spending a political party or candidate may incur in a campaign;
(c) subject to review and approval by IRRPC the amount of fees parties may charge aspirants and candidates in internal primaries to elect a candidate for parliamentary or presidential elections;
(d) compel disclosure and external audit of finances, spending, and financing sources of political parties and candidates;
(e) regulate and sanction abuse of incumbency for electioneering purposes;
(f) enforce violations, including through criminal prosecution by proposed Anti-Corruption and Commission.

Internal Party Democracy

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

Public Funding of Parties and the Establishment of a Democracy Fund

2.19 The Committee recommends an amendment to Article 55 to provide that Parliament shall enact legislation establishing a Democracy Fund, which Fund, administered by the IRRPC shall raise or mobilize resources, including technical assistance, from diverse prescribed sources to promote the sound development of a multi-party democracy in Ghana, including supporting political parties to build the capacities necessary to enable them play the role and fulfil the mandates entrusted to them under the Directive Principles of State Policy and other laws.

Electoral Commission

Composition of the Commission

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

Appointment of Commissioner and Deputy Commissioners of the Electoral Commission

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

nominee is selected for submission to the President. The President shall then forward the nominee on to Parliament and, upon receiving the approval of Parliament, the nominee shall be appointed by the President.

Tenure of the Commissioner and Deputy Commissioners of the Electoral Commission

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

Removal of Commissioner and Deputy Commissioner

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

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

- The Council of State shall submit the recommendations of the tribunal to the President, who shall act in accordance with the recommendation.
- The hearing shall be in-camera.

Death of a Presidential Candidate

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

National Commission for Civic Education

Functions and Mandate of the Commission

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

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

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

Composition of the Commission

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

Appointment of Commissioner and Deputy Commissioners

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

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

Tenure of office of the Commissioner and Deputy Commissioners

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

Removal of the Commissioner of Deputy Commissioner

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

- The Commissioner and Deputy Commissioners may be removed only on grounds of a willful violation of law, dereliction of duty, or abuse of power.
- A petition seeking the removal of the Commissioner or a Deputy Commissioner shall be submitted to the Council of State; the petition shall state the grounds for removal and the relevant facts supporting the petition.
- Upon receipt of the petition, the Council of State shall constitute a subcommittee of its members to review the petition to assess whether

the petition discloses on its face grounds and facts requiring further investigation by the Council.

- If the preliminary review determines that the petition presents a case warranting further investigation, the Council shall constitute a five-person independent tribunal, with membership drawn from outside the Council, to conduct an investigation into the matter.
- The Commissioner or a Deputy Commissioner who is the subject of the removal petition shall be accorded all appropriate due process, including representation by counsel and a right to interrogate and cross-examine the Petitioner.
- The tribunal shall make its recommendation to the Council upon conclusion of its investigation.
- The Council of State shall submit the recommendations of the tribunal to the President, who shall act in accordance with the recommendation.
- The hearing must be in-camera.

Financing

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

National Media Commission

Composition of the Commission

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

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

or board of the Commission, as opposed to the day-to-day operating entity itself.

Regulatory Mandate of the National Media Commission

2.32 The Committee recommends an amendment to Article 167 to provide that the Commission shall, in addition to its listed functions, perform the following additional functions:

- set, monitor compliance with, and enforce in a transparent and participatory manner national media standards rooted in democratic principles and accountable governance, taking into consideration appropriate Ghanaian cultural norms;
- issue and revoke broadcast authorizations based on clearly defined procedures and standards
- Article 167: Provide explicit definition of "other media", "media of mass communication" to include "Digital" media;
- Adopt, in consultation with industry and relevant media professional bodies, guidelines for regulating infractions of ethical and professional standards;
- sanction infractions of ethical and professional rules, including Art. 162 (6), through the Complaints Settlement mechanism;
- ensure the protection of the rights and privileges of journalists in the performance of their duties;
- Grant authorization for broadcasting services to applicants based on clearly defined guidelines for programming and professional standards;
- Develop and establish ethical and professional standards for journalists, media practitioners and media enterprises;
- Monitor and regulate compliance with the media professional and ethical standards;
- Set standards, in consultation with the relevant training institutions, for professional education and training of journalists;
- Facilitate resolution of disputes between the government and the media and between the public and the media, and intra-media;
- Settle complaints by the public against the media and by the media against the public;
- Ensure the safety of media and journalists from any source whatsoever, state or non-state;
- safeguard against private media monopolization or dominance by enacting appropriate anti-concentration provisions, limiting cross-media ownership and promoting transparency in media financing.

- Conduct and publish an annual review of the performance and the general public opinion of the media;
- Submit annual reports to Parliament
- Accredit journalists and foreign journalists by certifying their competence, authority, or credibility against official standards based on the quality and training of journalists in Ghana, including the maintenance of a register of journalists, media enterprises, and such other related registers as it may deem fit, and issuance of such document evidencing accreditation with the Commission as the Commission shall determine;
- Compile and maintain a register of accredited journalists, foreign journalists, media enterprises, and such other related registers as it may consider necessary;
- Advise the government or the relevant regulatory authority on matters relating to professional standards, education, and the training of journalists and other media practitioners;

Limitations on Media Freedom: Regulation of Media

2.33 The Committee recommends an amendment to Article 164 to align the text with contemporary standards and best practices in relation to media freedom by providing that restrictions on media freedom must be:

- based on a law
- be reasonably necessary to achieve the stated public interest
- be proportionate and limited in its effects or
- protection of the reputations, rights and freedoms of others.

Definition of "Media" in the Constitution

2.34 The Committee recommends an amendment to Chapter Twelve to provide an appropriate, technology-neutral definition to media to cover all forms of all forms of content dissemination regardless of platform or format. This would properly empower the Commission to oversee emerging forms of media.

Appointment, tenure and removal of Executive Secretary of the Commission

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

- Appointment: The Executive Secretary shall be appointed by the President acting in accordance with the nomination submitted for the

respective vacancy by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC). A vacant position on the Commission shall be advertised publicly by the PSC, stating the qualifications for the position. The PSC will undertake initial screening of applicants and provide the Council of State with a shortlist of qualified candidates, who shall then be interviewed or vetted by the Council until a final nominee is selected for submission to the President. The President shall then forward the nominee on to Parliament and, upon receiving the approval of Parliament, the nominee shall be appointed by the President.

- Tenure: The Executive Secretary shall hold office for a single, non-renewable term of ten (10) years or until he or she attains the age of 65 years, whichever is earlier
- The Executive Secretary shall be subject to removal on the same terms as the Commissioner or Deputy Commissioner of the other independent constitutional bodies.

Tenure of NMC Board Members

2.36 The Committee recommends that the other members of the Commission shall have a tenure of five (5) years, renewable once.

Funding of the Commission

2.37 The Committee recommends an appropriate amendment to Chapter Twelve to guarantee the Commission the necessary operational resources commensurate with its regulatory mandate. The Committee recommends that the Commission be eligible for subvention and grants from the Democracy Fund.

CHAPTER THREE: HARNESSING OUR COLLECTIVE RESOURCES, FINANCES AND INVESTMENTS FOR SUSTAINABLE DEVELOPMENT

Background

This chapter focuses on the constitutional rules, institutions, and practices that govern the ownership, management, and coordination of Ghana's land, natural resources, public finances, and investments, and how these arrangements shape accountability, development planning, and long-term national outcomes.

National Development Plan

Legislative and Budgetary Alignment with the National Development Plan

3.1. To ensure meaningful mainstreaming of the National Development Plan into policy and law-making, the Committee recommends that the Constitution be amended as follows:

- Article 106 shall be amended to provide that every Bill introduced in Parliament shall be accompanied by a memorandum which:

  (a) indicates how the proposed legislation advances and is aligned with the National Development Plan and the Directive Principles of State Policy; and (b) where the Bill materially departs from the National Development Plan, expressly identifies the nature of the departure and provides a reasoned justification demonstrating why such departure is necessary and consistent with the long-term national interest.

  Where a Bill is inconsistent with, or materially departs from, the National Development Plan, the Bill shall be referred to the National Development Planning Commission for comments on its coherence with the Plan, and Parliament shall consider those comments before proceeding further with the Bill.

  A Bill that materially departs from the Directive Principles of State Policy shall not be proceeded with or passed by Parliament and shall be withdrawn, and no such Bill shall be re-laid or reconsidered unless it is amended to conform fully with the Directive Principles of State Policy.

- Article 179 should be amended to provide that all government appropriations, including the annual budget and the Medium-Term Expenditure Framework, shall indicate how public funds are to be

applied to advance the objectives, priorities, and targets set out in the National Development Plan, and where any proposed expenditure materially diverges from that Plan, such divergence shall be expressly disclosed and justified.

- Article 87 should be amended to provide that:

  a. The National Development Planning Commission shall –

     (a) provide technical assistance and coordination support to Metropolitan, Municipal, and District Assemblies in the preparation, harmonisation, and implementation of development plans;

     (b) work with such Assemblies to address structural development challenges, including spatial inequality, infrastructure deficits, service delivery gaps, and local economic transformation, in a manner consistent with the National Development Plan; and

     (c) promote coherence between national, sectoral, and sub-national planning instruments.

  b. The National Development Plan shall be binding on Metropolitan, Municipal, and District Assemblies. All development plans, programmes, and major public investments undertaken at the sub-national level must be consistent with the National Development Plan or accompanied by a reasoned explanation for any material departure, as prescribed by law.

- Article 87 shall be amended to provide that all obligations under the Constitution relating to disclosure, alignment, explanation, and planning coherence shall be justiciable as matters of constitutional compliance.

Nature and Ownership of the National Development Plan

3.2. The Committee recommends that Article 87 of the Constitution be amended to

- Provide that the National Development Plan shall not take effect upon submission to the President but shall be laid before Parliament and approved by a resolution supported by not less than two-thirds of all the Members of Parliament before implementation.

- Require the National Development Planning Commission to ensure wide public dissemination of the approved National Development Plan, including publication through print and electronic media and display in public spaces across the country, in order to promote public awareness, transparency, and citizen participation in national development planning.

Implementation of the National Development Plan

3.3. The Committee recommends that the Constitution be amended as follows:

- Article 87 shall be amended to affirm that the National Development Planning Commission shall serve as the central coordinating, monitoring, and evaluation body for the National Development Plan, while responsibility for the implementation of the Plan shall remain with Ministries, Departments, Agencies, and Metropolitan, Municipal, and District Assemblies acting within their respective mandates.

- The Constitution shall be amended to require that the annual budgets and operational plans of all Ministries, Departments, Agencies, and Metropolitan, Municipal, and District Assemblies be drawn from, and aligned with, the National Development Plan, so as to ensure coherence between national development priorities, public policy, and public expenditure.

- Article 67 shall be amended to require the President to report annually to Parliament on the steps taken to implement the National Development Plan, including the progress made, challenges encountered, and measures adopted to ensure alignment across the government.

Amendment of the National Development Plan

3.4. The Committee recommends that the Constitution be amended to provide that the National Development Plan may be amended only in accordance with the procedure prescribed below:

- An amendment to the National Development Plan may be proposed by a Metropolitan, Municipal, or District Assembly, a Ministry, Department, or Agency, or the National Development Planning Commission, and every proposed amendment shall be submitted to the

National Development Planning Commission for technical review before being submitted to Cabinet and laid before Parliament.

- No proposed amendment to the National Development Plan shall be laid before Parliament unless it is accompanied by a written statement setting out the purpose of the amendment, the deficiency or change in circumstance it seeks to address, and its implications for national development coherence.

- An amendment to the National Development Plan shall not take effect unless it has been published for public notice and consultation and approved by Parliament by a resolution supported by not less than two-thirds of all the Members of Parliament.

Implementing the Directive Principles of State Policy

3.5. The Committee recommends that the Constitution be amended to strengthen the binding force and operational enforcement of the Directive Principles of State Policy as follows:

- The Constitution shall provide that a long-term or medium-term national development plan, with defined objectives, targets, and milestones, shall be prepared and periodically reviewed by the National Development Planning Commission for the progressive realisation of the goals and objectives set out in the Directive Principles of State Policy, and that any such plan or revision shall be laid before Parliament and approved in accordance with this Constitution.

- Article 34(2) shall be strengthened to require the President to submit to Parliament an annual written report on progress made towards the realisation of each of the policy goals and objectives set out in the Directive Principles of State Policy, and such report shall be presented in a manner that demonstrates measurable progress, challenges, and corrective measures, whether or not incorporated into the State of the Nation Address.

- The Constitution shall require the Minister responsible for Finance to present an annual budget and related fiscal instruments that expressly indicate how proposed expenditures, revenues, and fiscal priorities advance the goals and objectives of the Directive Principles of State Policy as reflected in the national development plan approved by Parliament.

- Article 34(1) shall be given operational effect by requiring political parties and presidential candidates, not later than six (6) months before a general election, to prepare, publish, and submit to the National Development Planning Commission a programme or manifesto setting out the legislative, administrative, and policy measures they propose to adopt in progressive fulfilment of the Directive Principles of State Policy as embodied in the national development plan, together with indicative cost estimates and proposed sources of funding.

- To preserve institutional neutrality, the Constitution shall provide that the National Development Planning Commission shall not express opinions on the merits of any party or candidate manifesto, but shall be required only to certify whether the manifesto demonstrates formal consistency with the national development plan and the Directive Principles of State Policy. Where inconsistencies are identified, to notify the party or candidate and advise the party on any corrective alignment. The Commission's certification or notification shall be factual and technical in nature and shall not rank, compare, endorse, or criticise political programmes.

- The Constitution shall require that certifications of compliance issued by the National Development Planning Commission be made public, to inform democratic debate, while leaving substantive policy choice and electoral judgment to the electorate.

Composition of the National Development Planning Commission

3.6. The Committee recommends that Article 87 of the Constitution be amended to provide that the membership of the National Development Planning Commission shall include –

a. The Minister responsible for Finance and Economic Planning;
b. the Governor of the Bank of Ghana;
c. the Government Statistician;
d. the Head of the Land Use and Spatial Planning Authority;
e. the Head of the Environmental Protection Authority;
f. one academic or established professional with recognised expertise in economic planning;
g. one academic or established professional with recognised expertise in social planning;

h. two representatives nominated by the National House of Chiefs with demonstrable knowledge or experience in matters relating to development or economics;
i. two representatives of organised labour and civil society organisations, as prescribed by law; and
j. the Director-General of the Commission, who shall serve as Executive Secretary.
k. An Engineer nominated by Associations of Engineers

The Committee further recommends that appointments under paragraphs (f), (g), (h), and (i) of this part be made in a manner that ensures professional competence, independence, and balanced representation, in accordance with criteria prescribed by law.

Public Lands and Natural Resources

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

3.7. The Committee recommends that:

- Article 257 should be amended to remove vesting of public lands in the President. Public lands should be expressly vested in the people of Ghana, to be held and managed in trust for the benefit of present and future generations.

- Article 258 should be revised to establish the Lands Commission as the primary constitutional trustee and manager of public lands, acting on behalf of the people of Ghana.

- Further, the powers, rights and privileges derivable and associated with ownership should be exercised on behalf of the Republic by the Lands Commission in the case of public lands and in the various natural resources Commissions.

- As part of the accountability measures, the Committee recommends that the Lands Commission and the respective mineral resource commissions be required to report to Parliament annually on the state and management of all public lands, as well as mineral resources. The Committee recognises that public lands and minerals are critical to the development of a nation and, therefore, recommends the retention of the provision in Article 258(2) of the Constitution by which the Minister

responsible for Lands and Natural Resources can give general policy directions, as opposed to specific transaction directions. The Committee, nevertheless, recommends that such general policy directions be directed solely at the Executive Secretary of the Lands Commission for implementation. This avoids situations where directions are given by the Minister responsible for Lands and Natural Resources to persons other than the Executive Secretary of the Lands Commission.

- A new constitutional provision should impose direct fiduciary obligations, including duties of loyalty to the public interest, transparency and reasoned decision-making, sustainability and intergenerational equity, and prevention of waste, speculative alienation and abuse, on all public authorities involved in land administration. The new clause should provide that the Lands Commission, in administering public lands as a fiduciary, shall not sell, lease, allocate or otherwise dispose of any public land except in accordance with procedures prescribed by law that ensure transparency, fairness, value for money and demonstrable public interest.

- Breach of these fiduciary duties should be constitutionally justiciable, with access to judicial remedies, including injunctions, nullification of transactions and accountability sanctions.

- A new provision should require:
    - mandatory annual audits of public land administration by the Auditor-General,
    - public registers and disclosure of public land allocations, leases and disposals,
    - strengthened parliamentary oversight over public land governance, and
    - accessible remedies for citizens, communities and civil society to challenge mismanagement.

- Parliament should, by law, revise existing laws and provide a comprehensive public lands governance statute to operationalise these constitutional reforms, including:
    - enforcement mechanisms,
    - sanctions for breach of fiduciary duty,
    - continuity safeguards aligned with national development planning, and
    - protection of public lands as strategic national assets.

Compulsory Acquisition of Land & Reversionary Rights of Original Owners

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

- Article 20 should be harmonised with the revised vesting framework to ensure that compulsory acquisition and use of land strictly serve a defined public purpose, comply with the principles of necessity, proportionality, and fairness, preserve reversionary rights where the public purpose fails, and cannot be used as a mechanism for indirect private capture of public land.

- The Committee recommends that where there is a change in the purpose for which land is compulsorily acquired and for which reason the pre-acquisition owners cannot exercise their right of pre-emption, the pre-acquisition owners should be entitled to receive some financial compensation from the government or any entity which is granted the land to undertake the redevelopment or to execute the changed purpose.

- Article 20(1) be amended to require that compulsory acquisition may be undertaken only where land is required for a clearly defined, specific, and immediate public purpose, supported by a written statement of necessity demonstrating that the acquisition is a measure of last resort and that no reasonably less intrusive alternative is available.

- A new clause be inserted in Article 20 to provide that land compulsorily acquired by the State shall not be transferred, leased, or otherwise vested in private persons or entities for commercial or profit-making purposes, and that compulsory acquisition shall not be used as a mechanism for land assembly for private development.

- Article 20(2) be amended to provide that compulsory acquisition shall not take effect unless funds for the full payment of compensation have been assessed, secured, and appropriated in advance, and that compensation shall be paid within a constitutionally prescribed period, failing which the acquisition shall be void.

- In order to give prominence to the new arrangement in this regard, the Committee recommends that the statutory provisions in Section 238 of the Land Act, 2020(Act 1036) which provides that before the State compulsorily acquires land, money for compensation and other cost associated with the compulsory acquisition must be provided and kept in

an escrow account or evidence of Cabinet approval and budgetary allocation must be provided, should be elevated to constitutional status to prevent this provision from being easily changed by Parliament in the future.

- A clause be inserted to clarify that *"fair and adequate compensation"* includes not only market value, but also compensation for permanent deprivation of land, loss of livelihoods, disruption of economic systems, extinguishment of generational patrimony, and social and cultural dislocation, particularly in respect of customary landholding communities.

- Article 20(3) be amended to require that resettlement planning be completed and approved prior to compulsory acquisition, and that resettlement obligations be enforceable against the acquiring authority as a condition precedent to taking possession of land.

- Article 20(5) be amended to require that compulsorily acquired land be used exclusively for the stated public purpose within a defined period, and that failure to commence such use within that period shall trigger mandatory review and reversionary procedures.

- Article 20(6) be amended to provide that reversionary rights operate as a legally enforceable right of buy-back in favour of the original owner or successors in title, exercisable at the prevailing market value at the time of reversion, taking into account appreciation arising from general market forces and any value added through State investment.

- A new clause should be inserted to prohibit the acquisition of land not required for immediate public use, to prevent speculative holding of compulsorily acquired land by the State, and to guard against the abuse of compulsory acquisition for corrupt, political, or private advantage.

- Article 20 be amended to require the maintenance of a comprehensive, publicly accessible register of all compulsorily acquired lands, including the purpose of acquisition, compensation status, utilisation, and reversionary action, subject to periodic independent audit.

Composition and Independence of Lands Commission and Regional Lands Commission

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

- Article 258, 259, 264 should be amended to remove the exhaustive constitutional prescription of the membership and composition of the Lands Commission; require that the composition, qualifications, appointment processes and internal structure of the Lands Commission be determined by Act of Parliament, subject to constitutional principles of independence, merit, transparency, security of tenure and accountability and retain at the constitutional level, only the core mandate of the Commission, its fiduciary responsibility to manage public lands and interests in land on behalf of the people of Ghana, and its independence from improper political or private influence.

- Articles 260 - 264 should be amended to eliminate rigid constitutional prescriptions governing the composition of Regional Lands Commissions and provide instead that the Regional Lands Commissions shall be established and structured in accordance with legislation enacted by Parliament, tailored to regional land tenure realities and administrative needs.

- A new clause shall be inserted in the Constitution to provide that, in exercising its legislative authority over the composition, structure, and internal organisation of the Lands Commission and Regional Lands Commissions, Parliament shall ensure institutional independence, professional competence, functional diversity, transparency, and protection against politicisation, and that no law enacted for this purpose shall permit executive control or dominance inconsistent with the fiduciary role of those bodies as trustees of land interests held on behalf of the people of Ghana.

- Parliament shall, within a specified period, enact comprehensive legislation governing appointment criteria and procedures, the inclusion of technical and customary land expertise, tenure security and safeguards against arbitrary removal, performance and accountability mechanisms, and transparent reporting obligations to Parliament and the public.

- The addition of a police officer not below the rank of a Commissioner of Police to the membership of the National Lands Commission and an officer not below the rank of Inspector of Police to the Regional Lands Commission serving in the region. Both appointments are to be made by the Inspector-General of Police. These additions to the membership of the Lands Commission will result in amendments to Articles 259 and 261.

- The Committee recommends that military personnel not below the rank of Colonel with expertise in border demarcation and maritime delimitation be appointed as a member of the National Lands Commission. This appointment should be made by the Chief of Defence Staff.

Office of Stool Lands Administrator

3.10. The Committee recommends that:

- Article 267(2) should be amended to remove the Office of the Administrator of Stool Lands as a separate constitutional office and to vest responsibility for the collection, management, and disbursement of stool land revenues in the Lands Commission.

- The Committee recommends that the Office of the Administrator of Stool Lands(OASL) should be made a Division of the Lands Commission with an additional mandate to collect revenue from family lands, clan lands, quarter and Tindana lands. It is further recommended that this change should come with a change in its name, and the name Rent Management Division has been recommended.

- A new provision be inserted to provide that the Lands Commission shall be responsible for the collection, accounting, management, and disbursement of all rents, dues, royalties, revenues, and other payments derived from stool, family, clan, quarter and Tindana lands, in accordance with this Constitution and any Act of Parliament.

- Article 267(4) – Article 267 be amended to expressly provide that the Lands Commission, in exercising stool land revenue functions, acts as a fiduciary on behalf of stools, skins, and communities, and shall have authority to require periodic reporting, auditing, and verification of the use of stool land revenues by all beneficiaries.

- That consequently Article 258 be amended to include, among the functions of the Lands Commission, responsibility for the financial administration of stool land revenues and the integration of such revenue administration with land registration, boundary demarcation, and customary land information systems.

- Article 267(6) be retained, subject to minor consequential amendments, to preserve the existing stool land revenue-sharing formula, with references to the Office of the Administrator of Stool Lands replaced by references to the Lands Commission.

- A new clause be inserted to require District Assemblies, traditional authorities, and any other beneficiaries of stool land revenue to submit annual reports to the Lands Commission on the receipt and utilisation of such revenues, in a manner prescribed by Parliament.

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

Land Interest of Non-Citizens and Joint Ownership with Citizens

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

- Article 266(2) be amended to provide that any agreement, deed, or conveyance that purports to grant a freehold interest in land to a non-citizen shall not be void, but shall by operation of law be deemed to confer a leasehold interest for a period of 50 years at a time.

- Article 266(4) be amended to expressly provide that where a leasehold interest in land granted to a non-citizen exceeds the constitutionally permitted duration of 50 years, the lease shall automatically be reduced to the maximum allowable term, with the excess duration rendered of no legal effect.

- The Committee is of the opinion that the statutory provisions prescribed by the Land Act, 2020 (Act 1036) in relation to joint ownership between a Ghanaian and a non-Ghanaian citizen are pragmatic and our recommendation is to elevate the provisions Section 10(9) and (10) of the Land Act, 2020 to constitutional status. Section 10(9) provides that the restrictions imposed in land acquisition by non-Ghanaian citizens in

subsections (1), (2), (3) and (7) of Section 10 shall not be affected by the marriage of that person to a citizen of Ghana or by the entry of that person into a partnership with a citizen of Ghana. Section 10(10) of Act 1036 explains that: "For the purpose of this section, a company or corporate body is not a citizen if more than forty percent of the equity shareholding or ownership is held by non-citizens."

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

Protection for Leased Land in Continuous Public-Interest Use

3.12. The Committee recommends that Article 266 of the Constitution be amended by the insertion of a new clause that provides that:

- Where land is held under a lease and is used continuously and predominantly for essential public or social purposes by a non-profit, mission-locked entity, the lessee shall be entitled, upon expiry of the lease, to a protected right of renewal, subject to this Constitution and any Act of Parliament.

- A protected right of renewal under this article shall not create a freehold interest, perpetual tenure, or any proprietary interest beyond a 50-year leasehold interest, and land subject to such renewal shall remain subject to periodic tenure cycles and ultimate reversion to the landowner.

Modernising Constitutional Language on Stool Land Beneficiaries

3.13. The Committee recommends that Articles 267(1) and 295 of the Constitution be amended to replace the term "subjects of the stool" with "members of the stool community" or "members of the stool", so as to affirm that stool lands vest in

the appropriate stool on behalf of, and in trust for, the members of the stool community, in accordance with customary law and usage.

The Nature of the Trust under Article 267

3.14. The Committee recommends that Article 267 be amended to:

- expressly provide that the stool, acting through the occupant of the stool and the relevant traditional authority, holds stool lands in a fiduciary capacity and not as a beneficial owner, and that all powers exercised in relation to stool lands are subject to duties of loyalty, good faith, accountability, and intergenerational equity;

- clarify that the fiduciary obligations of the stool extend beyond revenue management to include the allocation, use, protection, and long-term stewardship of stool lands, and that such obligations shall be exercised for the collective benefit of the members of the stool community;

- recognise the right of members of stool communities to enforce the fiduciary obligations arising under the constitutional trust, including the right to seek information, challenge mismanagement or abuse of authority, and pursue appropriate remedies for breach of trust before a court of competent jurisdiction;

- provide that while customary law and usage continue to govern stool landholding, such customary norms shall operate subject to the fiduciary obligations and constitutional values embodied in Article 267, and that where there is inconsistency, the fiduciary duty to act in the collective interest of the stool community shall prevail; and

- require Parliament to provide by law for clear consequences and remedies for breach of fiduciary duty by traditional authorities, including restitution, recovery of misapplied benefits, removal or suspension from land administration functions, and other appropriate sanctions consistent with customary governance structures and constitutional principles.

Prescription of Basic Principles of Natural Resources in the Constitution

3.15. The Committee recommends that the Constitution be amended as follows:

- The provisions vesting natural resources shall be amended to align expressly with the public trust framework applicable to public lands, and in particular Article 257(6) shall be amended to provide that all minerals in their natural state, water resources, and other natural resources vest in the people of Ghana and are held in trust by the State for the benefit of present and future generations.

- The incorporation of a new article or clause setting out the basic principles governing natural resources which shall guide the interpretation and application of all laws, contracts, policies, and administrative actions relating to natural resources. These principles shall include:

    - collective ownership and public trusteeship;
    - fiduciary responsibility
    - intergenerational equity;
    - sustainability and environmental stewardship;
    - equitable and reasonable utilisation
    - precautionary principle
    - public benefit and national development;
    - transparency and accountability;
    - democratic and parliamentary oversight;
    - meaningful community participation realised through access to information, Free, Prior and Informed Consent (FPIC) and equitable benefit-sharing
    - obligation to restore and rehabilitation
    - climate compatibility; and
    - justiciability and enforceability of the public trust.

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

Legal Consequence of Non-Ratification of Natural Resource Agreements, Transactions and Undertakings

3.16. The Committee recommends that a new clause be inserted into Article 268, requiring prior parliamentary approval before natural resource concessions or grants are made. For emphasis, this prior approval should precede the signing of any agreement, concession or grant by the Executive. The signed agreement must then be returned to Parliament for confirmation, to ensure that the agreement, concession, or grants made by the Executive conform to the terms

approved by Parliament. This process will ensure the full participation of the people of Ghana, through their elected representatives, both before and after natural resource concessions and grants are made.

Allocation of Mineral Revenue to Mining Communities

3.17. The Committee recommend that a percentage of gross revenue (not exceeding 3%) generated from natural resource extraction be granted to communities where the natural resources are exploited for infrastructural needs, human developmental needs as well as for dealing with environmental challenges that might arise from natural resource extraction. The management of this fund should be under the control of the Committee/Board of Trustees drawn from the National Development Planning Commission, a representative from the Commission regulating the utilisation of the natural resource, a representative of the District Chief Executive, a representative of the highest traditional authority in the District where the natural resource is exploited, a representative of the youth, women and persons with disabilities. The Committee also recommends that Parliament should be obliged to enact detailed provisions to give effect to this recommendation.

Protection of the environment: Dangers from ecocide

3.18. In order to express society's revulsion and opprobrium to illegal mining in Ghana, the Committee will be remiss in its duty of constitutional review if it does not recommend the creation of an offence of ecocide with very stiff and punitive sanctions. This further gives true expression to the right to a clean environment. Currently, many countries around the world have made similar provisions for the offence of ecocide in their criminal/penal codes. The countries with such laws include Belgium, Belarus, Russia, Ukraine, Moldova, Tajikistan, Uzbekistan, the Republic of Armenia, Kazakhstan and others. Article 94 of the Belgian Penal Code defines ecocide as "deliberately committing an unlawful act causing serious, widespread and long-term damage to the environment knowing that such acts cause such damage." Article 154 of the Criminal Code of the Republic of Armenia defines ecocide as "mass destruction of flora or fauna, contamination of the atmosphere, soil, lithosphere, or water resources, polluting or otherwise causing an ecological catastrophe." Article 196 of Uzbekistan's Criminal Code also defines the offence as "pollution or damage of land, water, or atmospheric air, resulting in mass disease incidence of people, death of animals, birds or fish or other grave consequences."

The Natural Resource Commission

3.19. The Committee recommends that the Constitution be amended to insert a new provision under Article 269 requiring Parliament to enact legislation establishing a coordinating authority for natural resources, mandated to promote coherence, coordination, and compliance with the basic constitutional principles governing natural resources across all sectoral institutions and regulatory bodies, with responsibility for ensuring alignment of decisions relating to minerals, forests, water resources, land use, agriculture, and environmental protection, and for safeguarding adherence to those constitutional principles, provided that the establishment of such authority shall not, of itself, abolish or diminish the mandates of existing commissions or authorities under Article 269 except as may be provided by law.

How do we employ our natural resources to attain the maximum benefit for the country?

3.20. The Committee recommends that the Constitution be amended to provide that Ghana shall be entitled in the short term to a minimum carried interest higher than 10 per cent of the total revenue generated. In the long term, the Committee recommends that the Government should take urgent steps to enter into agreements that give Ghana control over the revenue of its natural resources and ensure that the technical expertise of explorators is paid for as a service rendered. The Committee is of the opinion that the Government should be able to raise funds at a low cost in the form of sovereign bonds to finance such exploration and exploitation activities, if it cannot fund same from its regular budget. In order to ensure that future generations also benefit from the resource revenue, the Committee recommends the establishment of a heritage fund in the Constitution into which some funds will be lodged, earmarked and invested for the long-term for future generations. The details should be provided by Parliament.

Ocean Resources and Blue Economy

3.21. When the 1992 Constitution was promulgated over 32 years ago there was limited awareness of the importance and value of the oceans. This has changed, and it is essential that our current Constitution acknowledges the importance of the ocean and its resources, and makes the necessary provisions to protect this significant resource. In this light, the Committee recommends the provision of an Article to be dedicated to Ocean Governance and the blue economy which shall focus on at least 5 areas including imposing an obligation on the:

- State to sustainably manage the ocean and ocean resources;
- State to ensure the security of Ghana's maritime domain (either directly or in concert with other States and competent international organisations);
- Identification, protection and determination of our maritime frontiers;
- Cooperation with other States in the sustainable management of living and non-living resources of the ocean and the maintenance of a healthy ocean;
- State to ratify all relevant marine environment related international conventions.

Public Finance

Tax Exemptions

3.22. The Committee recommends that Article 174 of the Constitution be amended to provide as follows:

- Any tax exemption, waiver, relief, concession, or variation shall constitute a tax expenditure, and the Minister responsible for Finance shall, subject to the approval of Parliament, specify an annual ceiling for tax expenditures in the Appropriation Act.

- The Minister responsible for Finance shall, as part of the annual budget presentation to Parliament, submit an Annual Tax Expenditure Statement setting out –

  (a) estimates of all tax exemptions, waivers, and special tax regimes proposed for the ensuing financial year, disaggregated by sector and beneficiary class; and
  (b) a retrospective analysis of tax expenditures granted during the preceding five (5) financial years, including an assessment of their fiscal cost and the economic or social benefits derived therefrom.

- A contemporaneous public record shall be maintained of every tax exemption, waiver, relief, or variation granted, including the legal basis and justification for such grant, and such record shall be made available to Parliament and submitted to the Auditor-General in a manner prescribed by law.

Extra-Budgetary Funds: Internally-Generated Funds and Special Purpose Statutory Funds

3.23. The Committee recommends that Article 176 of the Constitution be amended by the insertion of the following provisions:

- With respect to internally generated funds (IGF),

  a. the amount of internally generated funds that a public entity may retain for operational or administrative purposes shall be authorised annually by Parliament through the Appropriation Act.

  b. All amounts of internally generated funds retained by a public entity shall be reported to Parliament during the financial year in a manner prescribed by law.

  c. Authority for a public entity to retain internally generated funds shall be conditional upon full compliance with applicable public financial management and fiscal rules, and where a public entity materially fails to comply, its eligibility to retain such funds may be suspended or revoked in accordance with law.

- With respect to earmarked statutory funds

  a. Parliament shall, by law, prescribe an aggregate cap on the yield of earmarked taxes as a proportion of total tax revenue.

  b. Parliament shall, by law, prescribe an overall macro-cap on earmarked statutory funds as a proportion of total tax revenue and may specify circumstances under which earmarked funds may be temporarily consolidated for purposes of fiscal stability or national exigency.

  c. Any earmarked fund established for a specific purpose under Article 176(2)(a), and any levy imposed for a specific purpose, shall be subject to a sunset clause stipulated in the law establishing the fund.

  d. An earmarked fund shall lapse upon the expiration of its sunset period unless renewed by Parliament for a further specified term upon a reasoned request by the Minister responsible for Finance.

Contingency Fund

3.24. The Committee recommends that Article 177 of the Constitution be amended as follows:

- Article 177 shall define "urgent and unforeseen" expenditure to mean a circumstance that:

  (a) could not reasonably have been anticipated through routine risk assessment, intelligence gathering, or expert analysis prior to its occurrence; and

  (b) presents a clear, imminent, and grave threat to (i) national security; (ii) public health or public safety; or the economic stability of the nation, resulting in severe and widespread hardship.

- The amount voted annually by Parliament into the Contingency Fund shall not be less than one per cent and not more than three per cent of total budgetary expenditure for that financial year, as presented by the Minister responsible for Finance.

- A request for any withdrawal or advance from the Contingency Fund shall be made by the Minister responsible for Finance and shall be accompanied by a written justification demonstrating compliance with clause (1) of this article, and such request shall be submitted to the committees of Parliament responsible for financial measures and public accounts, which committees shall jointly review and approve or reject the request within five (5) business days.

- Where an advance is made from the Contingency Fund, a supplementary estimate to replace the amount advanced shall be laid before Parliament for approval within thirty (30) days of the advance being made.

Withdrawal from Public Funds: Commitments Control by Controller and Accountant-General

3.25. The Committee recommends that Article 178 of the Constitution be amended to provide as follows:

- There shall be a Controller and Accountant-General, who shall be appointed by the President acting in accordance with the advice of the Council of State.

- The Controller and Accountant-General shall hold office for a single, non-renewable term of eight (8) years or until attaining the age of sixty-five (65) years, whichever occurs earlier.

- The Controller and Accountant-General shall be the chief accounting officer of the Government and shall be responsible for the custody, management, and accounting of the Consolidated Fund and all other public funds and accounts, including the authorisation and approval of withdrawals from, and commitments incurred against, such funds, and the enforcement of compliance with applicable financial laws and regulations.

- No monies shall be withdrawn from, and no commitment shall be incurred against, the Consolidated Fund or any other public fund unless the withdrawal or commitment has received the prior approval of the Controller and Accountant-General.

- The Controller and Accountant-General shall not approve any withdrawal from, or commitment against, a public fund unless satisfied that the withdrawal or commitment is authorised by law.

- Where a requested withdrawal or commitment is authorised by law, the Controller and Accountant-General shall not unreasonably withhold or delay approval, and where the Minister responsible for Finance is satisfied that a refusal or delay is not in compliance with law, the Minister may, by written directive, require the Controller and Accountant-General to grant the approval.

- The Controller and Accountant-General shall submit to Parliament, not later than the thirty-first day of March in each year, an annual report covering the preceding financial year, detailing withdrawals and commitments made against public funds, comparing such withdrawals and commitments with parliamentary appropriations, and explaining any material variances, and Parliament shall exercise oversight over the performance of the Controller and Accountant-General through its relevant committees, in accordance with law.

Annual Estimates and Medium-Term Budget Framework: How do we connect the annual budget to the National Development Plan by the NDPC?

3.26. The Committee recommends that Article 179 of the Constitution be amended by the insertion of the following provisions:

- The President shall cause to be prepared and laid before Parliament, not later than two (2) months before the presentation of the annual budget for the ensuing financial year, a medium-term economic framework covering a period of not less than three (3) years, which shall include:

  (a) medium-term projections of key macroeconomic variables, including gross domestic product growth, inflation, and public debt ratios;

  (b) projections of revenues, expenditures, fiscal balances, and public debt; and

  (c) a fiscal strategy setting out the Government's fiscal policy objectives and targets over the medium term.

- Parliament shall, by resolution, approve the medium-term economic framework before proceeding to the consideration of the Appropriation Bill for the relevant financial year.

- At the time of laying the annual estimates of revenue and expenditure before Parliament, the Minister responsible for Finance shall submit a statement demonstrating how the proposed estimates are aligned with the approved medium-term economic framework and explaining any material deviation or inconsistency between the annual estimates and that framework.

Independent Fiscal Council

3.27. The Committee recommends that the Constitution should not itself establish a Fiscal Council or prescribe its composition, mandate, or operations.

Instead, the Constitution should expressly authorise Parliament to establish a Fiscal Council by legislation for the purpose of promoting fiscal responsibility, sustainability, transparency, and independent fiscal analysis, and to regulate the composition, functions, powers, and tenure of such a body by law.

Borrowing and Public Debt: Debt Anchor, Ceiling?

3.28. The Committee recommends that the Constitution be amended as follows:

- Parliament shall enact legislation establishing a public debt management framework, including the adoption of one or more debt anchors or fiscal sustainability rules, for the purpose of ensuring

prudent, transparent, and sustainable public borrowing, without prescribing any specific debt management tool in the Constitution.

- The Minister responsible for Finance shall submit to Parliament, at such intervals and in such form as prescribed by law, comprehensive information relating to public debt, including:

  (a) the terms, amounts, maturity profiles, and purposes of all loans and guarantees contracted or issued by the State; and

  (b) any material variation, restructuring, or assumption of public debt obligations.

- All contingent liabilities of the State shall be disclosed to Parliament, including fiscal risks arising from guarantees, indemnities, public-private partnerships, and the obligations, liabilities, or exposures of State-Owned Enterprises and State-controlled joint ventures. Such disclosure shall be made in a manner sufficient to enable Parliament to exercise informed oversight and to assess the fiscal risks and potential impacts of those liabilities on the public finances.

Central Bank

3.29. The Committee recommends an amendment to articles 183 and 184 to provide as follows:

- The Bank of Ghana shall not carry out a directive to grant direct advances or credit to Government or a public entity, unless the directive (i) is in writing from the Minister responsible for finance, (ii) is authorised under an emergency clause contained in applicable law; (iii) Parliament, upon being fully notified, votes to approve the request made in the directive by at least a 60% majority vote.
- The Committee of Parliament responsible for finance shall monitor and be granted access upon request to the foreign exchange receipts and payments or transfers of the Bank of Ghana in and outside Ghana and shall report on them to Parliament once every quarter, as opposed to once every six-months.

Government Statistician

3.30. The Committee recommends an amendment to Article 185 to provide as follows:

- The Government Statistician shall be appointed by the President in accordance with the advice of the Council of State and hold office for a single, nonrenewable term of 8 years or until attaining the age of 65 years, whichever is earlier.

Public Wage Bill: Emoluments Commission

3.31. The Committee notes that, a widespread practice of cross-service benchmarking of salaries and benefits, including retiring benefits, has been permitted to take root across the public services, including the security services, with disastrous consequences for the public wage bill. In particular, a growing number of public employees now "retire on salary," a privilege that was historically restricted to the judiciary. The Committee is concerned that this practice is unjustified as well as being both fiscally and politically unsustainable. The Committee recommends that the proposed Independent Public Emoluments Commission be given broad mandate to rationalise these and many other distortions in the public wage bill.

State Enterprises

3.32. The Committee recommends that the Constitution be amended to expressly recognise and regulate State-Owned Enterprises and State-controlled Joint Ventures as a distinct category of public institutions with significant fiscal, economic, and systemic impact, in the following manner:

- Chapter 14 of the Constitution should be amended and retitled "Public Services and State Enterprises", and a separate provision shall be inserted to govern State-Owned Enterprises and joint ventures in which the State holds a controlling interest, as proposed earlier.

- State-Owned Enterprises and State-controlled Joint Ventures shall be governed in accordance with the principles of accountability, transparency, professionalism, efficiency, and protection against political capture.

- The governance, management, and staffing of State-Owned Enterprises shall be based on merit, competence, commercial prudence, and political neutrality, and no State-Owned Enterprise or State-controlled Joint Venture shall be used as an instrument of partisan patronage, political reward, or political advantage.

- Appointments to the governing bodies and senior management of State-Owned Enterprises and State-controlled Joint Ventures shall be made in accordance with criteria and procedures prescribed by law, designed to ensure professional competence, independence, and insulation from undue political interference, and shall be subject to such parliamentary oversight as may be prescribed by law.

- The liabilities, guarantees, indebtedness, and financial exposures of State-Owned Enterprises and State-controlled Joint Ventures constitute fiscal risks to the State, and such enterprises shall be subject to enhanced disclosure, reporting, and parliamentary oversight in respect of their financial performance, obligations, and contingent liabilities, in accordance with this Constitution and any Act of Parliament.

- Notwithstanding their commercial character or incorporation under any enactment relating to companies, State-Owned Enterprises and State-controlled Joint Ventures remain subject to applicable constitutional standards governing public accountability, integrity, conflict of interest, and the protection of the public interest.

Establishment of "SIGA" as a constitutional body

3.33. The Committee recommends that Chapter 14 be amended to make provision for:

- There shall be a State Interests and Governance Authority, which shall be a constitutional body responsible for the governance, oversight, and protection of the State's interests in State-Owned Enterprises and State-controlled Joint Ventures operating as commercial entities.

- The State Interests and Governance Authority shall function as the central coordinating and supervisory authority for commercial State enterprises and shall operate as a super-board for the State commercial sector, distinct from the Public Services Commission, having regard to the commercial character, scale, and fiscal significance of such enterprises.

- The State Interests and Governance Authority shall hold and manage the State's ownership interests in State-Owned Enterprises and State-controlled Joint Ventures on behalf of the people of Ghana and shall exercise regulatory, policy, and governance oversight over such entities in accordance with this Constitution and any Act of Parliament.

- The functions of the State Interests and Governance Authority shall include — (a) advising the Government on the establishment, restructuring, merger, divestiture, or dissolution of commercial State enterprises; (b) advising the President or the appropriate Minister on the appointment of members of the governing boards of State-Owned Enterprises and State-controlled Joint Ventures; (c) supporting governing boards, in consultation with them, in the recruitment, selection, retention, appraisal, and removal of chief executive officers and senior management; (d) developing, approving, and enforcing performance contracts and performance benchmarks for State-Owned Enterprises and State-controlled Joint Ventures; and (e) monitoring and appraising the performance of State-Owned Enterprises and State-controlled Joint Ventures and submitting periodic reports to Parliament and the Government.

- In the performance of its functions, the State Interests and Governance Authority shall act independently and in the public interest, and shall be accountable to Parliament in accordance with this Constitution and any Act of Parliament.

- Parliament shall, by law, provide for the composition, appointment procedures, tenure, internal organisation, and operational modalities of the State Interests and Governance Authority, consistent with the principles set out in this Constitution.

Corporate Governance of SOEs

3.34. The Committee recommends that the Constitution be amended to provide as follows:

- Parliament shall, within six (6) months of the coming into force of this amendment, enact a single, comprehensive law establishing a uniform governance framework applicable to all State-Owned Enterprises and State-controlled Joint Ventures, irrespective of their mode of incorporation or legal form.

- The Constitution shall require that the law referred to in clause (1) provide for minimum and uniform standards governing (a) the duties, liabilities, and accountability of directors and officers; (b) ultra vires transactions and abuse of corporate authority; (c) contracting, procurement, and recruitment processes; and (d) financial reporting, disclosure, and transparency obligations.

- All State-Owned Enterprises and State-controlled Joint Ventures shall be required to submit audited annual financial statements to Parliament, the Auditor-General, the responsible Minister, and the public, in a manner prescribed by law, and the Constitution shall require the imposition of sanctions on directors or officers who fail to comply with this obligation.

- Parliament may withhold budgetary allocations, guarantees, or other public financial support from any State-Owned Enterprise that fails to comply with applicable governance, reporting, or accountability requirements, and to act upon reports of the Auditor-General to investigate, sanction, or recommend remedial measures in cases of malfeasance, mismanagement, or governance failure.

Appointment of CEOs and Management of SOEs

3.35. The Committee recommends the inclusion of provisions in Chapter 14 of the Constitution to provide that:

- No Minister of State, Deputy Minister, or Member of Parliament shall be appointed to serve on the governing board or management of a State-Owned Enterprise or State-controlled Joint Venture.

- Appointments to the governing boards of State-Owned Enterprises shall be made on the basis of demonstrated competence, professional experience, integrity, and relevant expertise, and political affiliation or partisan considerations shall not be a determining factor in such appointments.

- The governing board of a State-Owned Enterprise, once duly and properly constituted in accordance with law, shall have the exclusive authority to appoint, supervise, and, where necessary, remove the chief executive officer and other senior management, subject to applicable law and performance requirements.

- The appointment processes for members of governing boards and chief executive officers of State-Owned Enterprises shall be guided and coordinated by the State Interests and Governance Authority to ensure fairness, professionalism, transparency, and compliance with sound corporate governance principles.

Minimum Qualifications of CEOs and Management

3.36. The Committee recommends that the Constitution be amended to provide that

- No Minister of State, Deputy Minister, Member of Parliament, or candidate for elective public office shall be appointed to serve on the governing board or in the management of a State-Owned Enterprise

- The State Interests and Governance Authority shall prescribe minimum qualifications for appointment to the governing boards and senior management positions of State-Owned Enterprises, including relevant professional training, sectoral expertise, or demonstrable managerial experience, and a record free from adverse findings of misconduct, mismanagement, or abuse of office, and no appointment shall be based solely on qualifications applicable to eligibility for election to Parliament.

- A person shall not be appointed or serve as a director, chairperson, chief executive officer, or senior manager of a State-Owned Enterprise if that person holds office at any level in a political party, participates in the Organisation or conduct of a political campaign, or is a current or immediate past candidate for elective political office.

- Parliament shall enact a law governing the duties, liabilities, and accountability of directors and officers of State-Owned Enterprises and State-controlled Joint Ventures, and vest enforcement authority in the State Interests and Governance Authority. Directors and officers of State-Owned Enterprises and State-controlled Joint Ventures shall be fiduciaries of the State and shall owe duties of loyalty, good faith, transparency, fairness, and reasonable care in the performance of their functions, comparable to those applicable under company law and the common law.

- A director or officer of a State-Owned Enterprise or State-controlled Joint Venture shall not, directly or indirectly, derive any personal benefit from any transaction, decision, or arrangement involving that enterprise, except as expressly permitted by law.

- The legislation enacted under this article shall provide for both direct and derivative actions to enable accountability and redress for breach of fiduciary duty, misconduct, or abuse of office by directors or officers of State-Owned Enterprises and State-controlled Joint Ventures.

- An institutional nominee serving on the governing board of a State-Owned Enterprise or State-controlled Joint Venture shall remain accountable to the nominating institution for any breach of fiduciary duty or misconduct committed in the course of that service.

- A person who successfully institutes a public-interest or derivative action in respect of misconduct by a director or officer of a State-Owned Enterprise or State-controlled Joint Venture shall be entitled to recover reasonable legal costs and such compensation as may be determined in accordance with law from the offending director or officer.

Tenure

3.37. The Committee recommends that the Constitution be amended to

- Require Parliament to enact a law governing the liability and accountability of directors and officers of State-Owned Enterprises, with enforcement authority vested in the State Interests and Governance Authority.
  a. The Committee further recommends that the law provide that directors and officers of State-Owned Enterprises are fiduciaries of the State and are bound by duties of fairness, transparency, good faith, and reasonable care, as recognised under the Companies Act and the common law.

  b. The law shall expressly prohibit directors and officers of State-Owned Enterprises from deriving any personal or indirect benefit from transactions, decisions, or arrangements involving the enterprises on whose boards or management they serve.

  c. The law shall provide for both direct and derivative action mechanisms to strengthen accountability and to allow redress for misconduct, breach of fiduciary duty, or abuse of office.

  d. The law shall further provide that institutional nominees serving on the governing boards of State-Owned Enterprises remain accountable to their nominating institutions for breaches of fiduciary duty committed in the course of their service.

  e. The law shall also provide that persons who successfully institute public-interest or derivative actions in respect of misconduct by directors or officers of State-Owned Enterprises are entitled to

recover reasonable legal costs and appropriate compensation from the offending directors or officers, in accordance with law.

- The Committee recommends that the Constitution be amended to require Parliament to enact a law governing the liability and accountability of directors and officers of State-Owned Enterprises, with enforcement authority vested in the State Interests and Governance Authority.

- The Committee further recommends that such law shall recognise directors and officers of State-Owned Enterprises as fiduciaries of the State, bound by duties of fairness, transparency, good faith, and reasonable care, as understood under the Companies Act and the common law.

- The law shall expressly prohibit directors and officers of State-Owned Enterprises from deriving any personal or indirect benefit from transactions, decisions, or arrangements involving the enterprises on whose boards or management they serve.

- The law shall provide for both direct and derivative action mechanisms to enhance accountability and to allow redress for misconduct, breach of fiduciary duty, or abuse of office.

- The law shall further provide that institutional nominees serving on the governing boards of State-Owned Enterprises remain accountable to their nominating institutions for any breach of fiduciary duty committed in the course of their service.

- The law shall also provide that persons who successfully institute public-interest or derivative actions in respect of misconduct by directors or officers of State-Owned Enterprises are entitled to recover reasonable legal costs and appropriate compensation from the offending directors or officers, in accordance with law.

CHAPTER FOUR: RESTORING TRUST IN THE INSTITUTIONS OF ACCOUNTABILITY

Background

Chapter Four deals with the Council of State, the Judiciary, the Office of the Attorney General, and a newly proposed Anti-Corruption and Ethics Commission.

A. Council of State

Abolish, Retain, Reform, Second Chamber?

4.1 The Committee believes that the case for retaining the Council of State remains strong, so long as it is substantially restructured in purpose (function), composition, impact, and transparency. In particular, a Council of State that returns to the role envisioned for it under the 1969 Constitution as a co-guarantor of the independence of certain constitutional bodies and offices would make a significant contribution to our constitutional system of checks and balances.

The Committee does not think there is a need to constitute the Council of State as a second chamber. However, the Council of State can also play a critical "reviewer" or "second opinion" role in the legislative process. In short, the Committee is satisfied that the Council of State can be substantially reformed to make it a key player in the governance architecture. Accordingly, the Committee recommends that the institution be maintained.

Size and Composition

4.2 The Committee recommends that an appropriate amendment be made to article 89(2) to reconstitute the Council with 33 members as follows:

4.2.1 Ex-Officeholders (5):

- The President to appoint any three (3) persons who are able and willing to serve from among the following list: a former President or a former Vice President; a former Speaker of Parliament; a former Chief Justice; a former Head of Civil Service; a former Chief of Defense Staff; a former Inspector-General of Police; in each case, other than the immediate past occupant of the office.

- Plus, two (2) former members of Parliament nominated by Parliament/Speaker not belonging to the same party, at least one of whom shall be a woman; Term: single non-renewable term.

4.2.2 President of the National House of Chiefs (1) as an ex officio member.

4.2.3 Immediate past National Chief Farmer

4.2.4 Interest Group Nominees chosen through a democratic process specified in an Act of Parliament by recognised associations and groups representing the following (10):

- Industry and Commerce (2, at least one woman);
- Organised labour (2, private/public);
- Faith-based Organisations (2);
- Professional Associations (3, at least one woman);
- Academia (1).
- Civil society (1)
- Term: May be re-nominated for a final second term.

4.2.5 Regional representation (16):

- A Chief or Queenmother or other notable citizen residing in the Region who is nominated by a Regional Nominating Body (RNB) comprising the Regional House of Chiefs plus an equal number of citizens of the Region, including Queenmothers or Women Leaders, with the composition to be prescribed in an Act of Parliament
- Term: May be re-nominated for a last second term.

4.2.6 The Chairperson of the Council shall be elected by the Council from among its members.

4.2.7 The Council may invite persons as guests or engage persons as consultants to assist it with its work.

Functions and Mandate

4.3 The Committee recommends appropriate amendments to articles 70(1), 70(2), 89(1), 90, and 91 to provide for expanded functions and mandate for the Council of State as follows: The Council shall:

4.3.1 Recruit, vet, and make binding nominations to the President for appointment to vacancies in the independent and "hybrid-independent" constitutional and statutory offices listed below:

- Chief Justice and other Justices of the Supreme Court, subject to the prior approval of Parliament
- Commissioner and Deputy Commissioners of the Electoral Commission, subject to the approval of Parliament
- Commissioner and Deputy Commissioners of the National Commission for Civic Education, subject to the approval of Parliament
- The Auditor-General, subject to the approval of Parliament
- The Controller and Accountant General
- The Commissioner and Deputy Commissioners of the Commission for Human Rights and Administrative Justice (CHRAJ), subject to the approval of Parliament
- The Commissioner and Deputy Commissioners of the proposed Anti-Corruption and Ethics Commission, subject to the approval of Parliament
- The Chair and Commissioners of the proposed Independent Public Emoluments Commission, subject to the approval of Parliament
- Chair and members of the Lands and Natural Resources Commission
- The proposed Independent Registrar and Regulator of Political Parties and Campaigns
- Chair and members of the Public Services Commission
- The Executive Secretary of the National Media Commission
- The Head of Civil Service

The Committee recommends that the Council of State play no role in appointments to vacancies on the governing boards of state-owned enterprises and other statutory bodies, as it is proposed that appointments to such governing councils shall be made by the President in accordance with the advice of a proposed "constitutionalised SIGA." Appointment to the governing council of the constitutionalised SIGA shall be made by the President, acting *in consultation with* the Council of State.

- The Council of State may constitute a committee of the Council of not more than nine members to serve as the Council's Independent Constitutional Officers Selection Committee to perform the Council's recruitment and selection function with the assistance of the Public Services Commission.

4.3.2 Receive written petition (with sworn affidavit under penalty of perjury) for the removal of an identified independent constitutional officeholder and, determine, if petition on the face of it alleges facts and grounds sufficient to warrant further investigation and action and, if so, set up an independent

tribunal to investigate and make appropriate findings and recommendation to the Council for onward transmission to the President for obligatory action.

4.3.3 In consultation with the Prisons Council, advise the President on the grant of pardons or the exercise of the prerogative of mercy.

4.3.4 Advise the President on conferment of National Awards and Honours.

4.3.5 Review and submit to Parliament opinion or advice on proposed international agreements and natural resource contracts; Parliament shall be obligated to consider but not bound to accept the recommendation of the Council of State before action on the proposed legislation or agreement.

4.3.6 Mediate or facilitate the mediation or settlement of conflicts referred to it by the President, the Speaker or the National House of Chiefs or initiate mediation to settle conflicts.

4.3.7 Offer non-binding advice to the President or Cabinet on any matters of State, with or without request.

Qualification of Members

4.4 The Committee recommends the following qualifications for a person nominated as a member of the Council of State:

- Be a "Fit and Proper" person;
- Age limit: Minimum 30 years but not more than 80 years at the time of appointment;
- Must have no record of conviction or professional indiscipline or dismissal from office on grounds of misconduct or incompetence;
- Must not currently be the subject of or defendant in judicial proceedings involving criminal conduct.
- Shall not participate in active politics while a member of the Council.

Meetings: Transparency

4.5 The Committee recommends that the Council of State meet every month or as necessary to consider a matter or an assignment. Meetings may be in-person or virtual. Proceedings shall be in camera, but a record of Council decisions, including advice and recommendations tendered, shall be a matter of public record and shall be made public, except as to non-binding advice sought by or provided confidentially to the President. The Council shall submit an annual report to Parliament and shall publish same for public access.

Emoluments

4.6 The Committee notes that membership of the Council of State is not a full-time position. The Committee therefore recommends that members be paid such sitting allowances as shall be determined by the proposed Independent Emoluments Commission.

Tenure of Members of the Council of State

4.7 The Committee believes that the tenure of members of the Council of State should not be coterminous with that of the President.

- The Committee therefore recommends a six-year term for members of the Council.
- Members, other than those appointed by the President and Parliament/Speaker, shall be eligible to serve a maximum of two terms, which do not need to be consecutive.
- Additionally, a member of the Council may be removed on the same grounds and by the same procedure as those for Superior Court Justices.

B. Judiciary

Jurisdictions of the Supreme Court

4.8 The Committee recommends maintaining the existing jurisdictional structure of the Supreme Court. However, the Committee recommends introducing measures to streamline its appellate workload. In particular, the Committee recommends that appeals of cases from the lower courts should terminate at the Court of Appeal, without an automatic right of appeal to the Supreme Court, unless by leave. This reform would reduce the Court's caseload, enhance the timeliness of its decisions, and allow it to focus on matters of substantial constitutional and national importance.

Size of the Supreme Court and other Superior Courts

4.9 In line with the Committee's earlier recommendation to streamline the appellate jurisdiction of the Supreme Court, thereby reducing its workload, the Committee proposes the following constitutional reforms:

4.9.1 Amend Article 128(1) to provide that the Supreme Court shall consist of the Chief Justice and not more than fourteen (14) Justices. The prescription of an upper limit will preserve appointment flexibility while safeguarding against excessive expansion of the Court.

4.9.2 There should be no numerical cap imposed on the Court of Appeal and the High Court, to allow for periodic adjustments in their composition in response to population growth, increased caseloads, and evolving demands of justice delivery.

Qualification and Appointment of Chief Justice and other Justices of the Superior Courts

4.10 The Committee recommends a revised appointment framework incorporating processes such as advertisement of vacancies, defined merit benchmarks, Judicial Council scorecards, application to the Judicial Council, as well as public vetting.

The Chief Justice

4.11 The Committee recommends the following:

4.11.1 *Qualification*

The Committee recommends that to qualify for appointment as a Chief Justice, a person must be a citizen of Ghana. Additionally, the person must be either a

serving Justice of the Supreme Court or a distinguished legal practitioner with proven expertise in law and at least fifteen (15) years of post-qualification experience at the Bar without any disciplinary sanctions.

4.11.2 *Appointment procedure*

The Committee recommends that, upon a vacancy in the office of Chief Justice:

- A public notice shall be issued by the Judicial Council inviting applications from eligible persons;
- The Judicial Council shall receive, review, and shortlist qualified applicants. The shortlist shall be submitted to the Council of State;
- The Judicial Committee of the Council of State shall conduct in-camera interviews and, in consultation with the Judicial Council, recommend two or three candidates, ranked in order of merit;
- The President shall nominate one candidate from the shortlist and submit the nomination to Parliament;
- Parliament shall, by simple majority, approve the nominee after a transparent vetting process;
- The President shall formally appoint the nominee as Chief Justice upon approval;
- Upon a vacancy, a new Chief Justice must be appointed within 90 days.

4.11.3 If the nominee is rejected, the President may nominate again, within 10 days from the remaining names in the shortlist from the Council of State.

Qualification and Appointment of Other Justices of the Superior Courts

Qualification

4.12 The Committee recommends the following regarding the qualification of Justices of the Superior Courts:

4.12.1 *Other Justices of the Supreme Court*

For the other Justices of the Supreme Court, aside from the Chief Justice, the Committee recommends that qualification should be restricted to a practising lawyer or a sitting Justice of the Court of Appeal with at least 15 years of post-qualification experience at the Bar and without any disciplinary sanctions.

4.12.2 *Justices of the Court of Appeal*

The Committee recommends that to qualify for appointment to the Court of Appeal, the appointee must be a judge of the High Court or a practising lawyer with at least 12 years of post-qualification experience and without any disciplinary sanctions.

4.12.3 *Justices of the High Court*

The Committee recommends that a person appointed to the High Court must be a judge of the Circuit Court or a practising lawyer with at least 10 years of post-qualification experience, and without any disciplinary sanctions.

Appointment Process for Other Justices of the Superior Courts

4.13 The Committee recommends the following appointment process for Justices of the Superior Courts

4.13.1 *Other Justices of the Supreme Court*

The Committee recommends that when a vacancy arises, the Judicial Council will advertise for applications. The Judicial Council, in consultation with a Judicial Committee of the Council of State, considers the proposed names along with other qualified candidates. The Judicial Council recommends two names to the President. The President nominates one candidate and submits the nomination to Parliament. Parliament approves the nominee by simple majority, after which the President makes the formal appointment.

4.13.2 *Justices of the Court of Appeal*

The Committee recommends that when a vacancy arises, the Judicial Council call for nominations and expressions of interest. In consultation with the Judicial Committee of the Council of State, the Judicial Council shall screen the applicants and submit its nominee(s) to the President. The President appoints the nominee(s), subject to parliamentary approval by majority vote.

4.13.3 *High Court*

The Committee recommends that the Judicial Council identify and evaluate eligible candidates for the position. The Council recommends qualified candidates to the President. The President appoints based on the advice of the Judicial Council.

Control of the Administrative Powers of the Chief Justice

4.14 The Committee recommends the following checks on the powers of the Chief Justice:

4.14.1 *Amendment of the Composition of the Superior Courts*

The Constitution should be amended to remove the Chief Justice as a member of the Court of Appeal and the High Court. The Chief Justice should remain a member of, and preside over, the Supreme Court only. This amendment will

preserve the hierarchical integrity of the courts and ensure that judges at each level exercise their functions free from real or perceived interference.

4.14.2 *Creation of Divisions within the Supreme Court*

The Committee recommends the establishment of two permanent divisions of the Supreme Court:

1. The Original Jurisdiction Division, which shall hear all matters invoking the Court's original jurisdiction under the Constitution, particularly constitutional interpretation and enforcement matters; and
2. The Appellate Jurisdiction Division, which shall hear appeals from the Court of Appeal and other matters within the Court's appellate jurisdiction.

The Chief Justice shall be a member of both divisions and may preside over either division as necessary. To enhance transparency and predictability, the Chief Justice shall, at the beginning of each legal year, publish a list of Justices assigned to each division. This list shall remain in effect throughout the legal year and may only be altered with the approval of the Judicial Council in exceptional circumstances.

4.14.3 *Decentralisation of Judicial Administration*

To reduce the over-concentration of administrative powers in the office of the Chief Justice, the Committee recommends that each of the Superior Courts, other than the Supreme Court, should have its own administrative head as follows:

i. Court of Appeal: There shall be a President of the Court of Appeal, who shall be the most senior Justice of the Court of Appeal. The President, together with the next two most senior Justices of the Court and the Registrar, shall be responsible for empaneling Justices and the general administration of the Court.
ii. High Court: There shall be a Supervising High Court Judge in each region, appointed by the Judicial Council. The Supervising Judge shall oversee the administration and operations of the High Courts within the region, ensure the equitable distribution of cases, supervise judges and magistrates, and maintain standards of judicial efficiency and discipline.

Tenure and Removal of Chief Justice

4.15 The Committee recommends the following tenure for Justices of the Superior Courts:

4.15.1 *Chief Justice*

The Committee recommends that the Chief Justice should hold the position for a single, non-renewable term of 10 years or upon attaining the age of 70, whichever is earlier. The Chief Justice retires with full entitlements of the office. A Chief Justice whose tenure ends before attaining 70 years could elect to continue sitting as a Justice of the Supreme Court.

4.15.2 *Other Justices of the Superior Courts*

The committee recommends that all Justices of the Superior Courts should hold their tenure until retirement, death or resignation, whichever comes first. For Justices of the Supreme Court and Court of Appeal, the mandatory retirement age should be 70 years. For High Court Justices, the mandatory retirement age should be set at 65.

Process for Removal of Justices of the Superior Courts

4.16 The Committee recommends the following grounds and process for removal from office of Justices of the Superior Courts:

4.16.1 *Grounds*

The Committee recommends that the grounds for removal should be the same for all justices. The grounds for removal should include mental or physical incapacity, incompetence, gross misconduct, violation of the judicial code of conduct, or bankruptcy.

4.16.2 *Removal Process*

4.16.2.1 Chief Justice

- An aggrieved person may submit a confidential petition for the removal of the Chief Justice to the Council of State.
- Within 7 days of receipt, the Council shall refer the petition to its judicial committee to determine its prima facie merit. If insufficient grounds are found, the petition shall be dismissed. If sufficient, the Council shall notify the President and the Speaker of Parliament.
- The President may suspend the Chief Justice pending investigation.
- The Council of State shall appoint a 5-member tribunal. The tribunal shall be made up of one person appointed by the President who shall not be a lawyer or currently holding any public or party office; one person appointed by the Speaker of Parliament who shall be a former MP, not currently holding any public or party office; one person appointed by the Public Service Commission; one person appointed by the National House of Chiefs; and a former justice of the Supreme Court appointed by the Judicial Council. The tribunal shall conduct its hearings in camera and

submit its findings within 60 days. The Committee shall be chaired by the former Justice of the Supreme Court.

4.16.2.2 Other Justices

- An aggrieved person may submit a confidential petition to the Council of State seeking the removal of a Justice of the Superior Court.
- The Council refers the petition to its judicial committee within 7 days to assess its prima facie merit. If the petition is without merit, it is dismissed. If it meets the threshold, the Council notifies the President, Speaker of Parliament, and Chief Justice.
- The President may suspend the Justice pending the outcome of the inquiry.
- The Council of State appoints a five-member tribunal with two former Superior Court judges (nominated by the Judicial Council), a non-lawyer (nominated by the President), a former Public Services Commissioner (Council's nominee), and a nominee from the National House of Chiefs. In-camera hearings are conducted, and the tribunal submits a report within 60 days.

Integration of the Lower Courts into the Regular Judiciary

4.17 The Committee recommends amending Article 126 to remove references to "lower courts". Instead, Article 126 should read: "The Judiciary shall comprise the Superior Courts, comprising the Supreme Court, Court of Appeal, and High Court; the Circuit and District Courts, and such other courts or tribunals as Parliament may by law establish". Similarly, all references to "Lower Courts" in the Constitution should be reviewed.

Regional Tribunals

4.19 The Committee recommends that the Regional Tribunals be disestablished from the Constitution. The Committee notes that the High Court has been handling the caseload of the Regional Tribunals. The resources to be committed to resuscitating the moribund Regional Tribunals could be channelled to resource the High Court, as well as the Circuit and District Courts that the Committee now proposes to make part of the regular judiciary. Moreover, the jurisdiction of the Circuits could be expanded to take on some of the cases that the Regional Tribunals would ordinarily hear.

Judges of Other Courts

Qualification of Judges

4.20 The Committee recommends the following qualification for Judges of the Other Courts:

4.20.1 Circuit Court

The Committee recommends that a person be qualified to be a Circuit Court Judge if the person possesses a minimum of five years of demonstrable post-qualification experience as a lawyer and has no disciplinary sanctions.

4.20.2 District Court

For the District Court, the Committee recommends that a Judge of the District Court should have a minimum of three years of demonstrable post-qualification experience as a lawyer, without any disciplinary sanctions.

Appointment Process

4.21 The Committee recommends the following appointment process for Judges of the Other Courts:

4.21.1 When a vacancy arises in the Other Courts:

- The Judicial Council will issue a public notice to inform interested lawyers of the opportunity to apply.
- Upon receiving the applications, the Judicial Council will conduct an initial screening to identify candidates who meet the eligibility criteria.
- Those who are shortlisted will undergo examinations and interviews conducted by the Public Services Commission, which will then provide a list of qualified candidates to the Judicial Council.
- The Judicial Council will select individuals from this list, and the President will appoint the chosen candidates.

Removal from office of Judges

4.22 The Committee recommends the following process for the removal from office of Judges of the Other Courts:

- A petition for the removal of a Judge of a District Court, Circuit Court or another court may be submitted to the Judicial Council.
- Upon receiving such a petition, the Judicial Council will assess whether it warrants further investigation.
- If the Council determines that the issues raised in the petition require additional examination, it will conduct a hearing.
- During this hearing, the concerned Judge is entitled to present their defence, either personally or with the assistance of a lawyer or expert of their choosing.
- Following the conclusion of the hearing, the Judge may be removed or otherwise sanctioned if a resolution is passed by the Judicial Council, with at least two-thirds of the members voting in favour of the decision.

Position of the Judicial Secretary

4.23 The Committee makes the following recommendations:

4.23.1 The Committee recommends that the Constitution should expressly provide for the office of the Judicial Secretary as the Chief Administrator and Chief Accounting Officer of the Judiciary. Beyond this, the Constitution should explicitly delineate the functions of the Judicial Secretary. The Judicial Secretary should be responsible for the day-to-day administration, management of funds, and coordination of all non-judicial functions of the Judiciary. Matters relating to administration, finance, human resource management, and logistics shall fall within the purview of the Judicial Secretary, while the Chief Justice shall continue to exercise overall policy and judicial leadership.

4.23.2 The Committee recommends that the Judicial Secretary be appointed through a transparent and merit-based process. The Judicial Council should make the appointment upon a public advertisement of the vacancy, vetting of applicants by the Public Services Commission, and final appointment by the Judicial Council.

4.23.3 Finally, the Committee recommends that to qualify for appointment as Judicial Secretary, the person must demonstrate experience in administration, management, or public service leadership, and be without disciplinary sanctions. Qualification as a senior lawyer should be an added advantage but not a requirement.

Financial Independence of Judiciary

4.25 The Committee recognizes that while Article 127(4) guarantees financial independence of the Judiciary, its effect is weakened by Article 179(5), which grants the President discretion to revise judiciary budget estimates. Article 179(5) should be amended to require that the estimates submitted under Article 127(4) be laid before Parliament by the President without revision or alteration.

C. The Attorney-General

4.25 The Committee recommends appropriate amendments to article 88 (3), 88(4) and 218(b) and 218(e) to take away the Attorney-General's authority to prosecute corruption and corruption-related offences and CHRAJ's corruption investigation powers and vest all authority for prosecuting corruption in a proposed Independent Anti-Corruption and Ethics Commission (AEC). The Committee further proposes, in this regard, that the AEC take over or merge with the legislatively-established Office of Special Prosecutor to create a one-stop shop for all corruption and corruption-related prosecutions. The Attorney-General, through its Director of Public Prosecutions, will continue to handle all other criminal offences, in addition to the Attorney-General's other responsibilities. The Committee also recommends that the Attorney-General or any person exercising prosecutorial authority may not discontinue a commenced prosecution without leave of court.

New Article for the Anti-Corruption and Ethics Commission

4.26 The committee recommends establishing an independent Anti-Corruption and Ethics Commission under the Constitution. The Commission would have the power to investigate allegations of corruption and corruption-related offences, and exclusive power to prosecute such offences.

In the performance of its duties, the Commission shall not be subject to the direction or control of any person or authority.

CHAPTER FIVE: TOWARDS A WELL-GOVERNED, CAPABLE AND EFFECTIVE PUBLIC SERVICE

Background

This chapter covers the Public Services, Code of Conduct of Public Officers, including the regime of asset declaration.

The Public Services

Fragmentation of the Public Services: What's the logic? Cost-benefit. (Article 190(1)(d))

5.1 The Committee notes a pattern of proliferation and fragmentation of the Public Services. The Committee is aware of several Public Sector Reform programmes that have been embarked upon by successive governments. Yet these do not appear to have tamed the appetite for creating more and more public bodies, often without disestablishing existing ones that may have become redundant with the passage of time or technological advancements. The Committee recommends that Parliament enact framework legislation to provide for a process by which a decision to create a new public service, or otherwise merge or reorganise an existing service, shall be made. The statutory process should include a comprehensive study undertaken by an independent committee to assess the merits and implications of the proposed reorganisation for the effective and efficient functioning of public services and the implementation of policy.

Public corporate entities set up as commercial ventures (Article 190(1)(b))

5.2 The Committee is in agreement that public corporations "set up as commercial ventures" are not appropriate for inclusion as part of the Public Services. However, the Committee recommends an amendment to Chapter Fourteen to provide specially for state-owned enterprises (SOEs) and other state entities (OSEs), whether established by statute or registered under the Companies Act. The Committee reasons that these state entities, in which the State has substantial interests, constitute a critical part of the national economy, and their operations carry significant systemic and contingent liabilities for the Government. The Committee is of the view that it is long overdue for this sector of the State and national economy to be brought under closer national scrutiny, a result that the Committee believes would be achieved by bringing it within

the constitutional framework. However, as these are not part of the Public Services, a new body should be provided for in the Constitution for the SOE and OSE sector, the equivalent of the Public Services Commission on the "commercial side" of the State, but with a broader regulatory mandate given the commercial and financial character of these state assets. The Committee believes that the State Interests and Governance Authority (SIGA) is ideally suited to serve this purpose. Accordingly, the Committee recommends that SIGA's regulatory and oversight role and responsibility for the performance and governance of the state commercial sector should be constitutionalised by the establishment of SIGA as a constitutional body.

The Committee has made specific recommendations under the section on State-Owned Enterprises in Chapter IV of the Report.

Governing Councils (Article 190(3)(a))

5.3 The Committee notes that the establishment of a governing council is, in the Ghanaian context, a routine part of the creation of any new statutory body. Article 190(3), in fact, appears to require such a governing council or board for every one of the institutions comprising the Public Services. The Committee is unclear, however, whether a governing council must necessarily accompany every public entity created by statute, regardless of its purpose. The Committee notes that even statutory investigative or prosecutorial bodies, such as the EOCO and OSP, are established with boards or governing councils. The Committee recommends that the Government review this established practice, as it carries significant cost implications for the State. Whether a new statutory or public entity requires a board or governing council should depend on the nature of the entity, its functions and reporting lines. Thus, enabling statutes must determine, on a case-by-case basis, if such a council is necessary.

Protection of Public Officers from Political Interference and Non-participation in Partisan Politics

5.4 The Committee recommends an amendment to Article 191 to provide that the Public Services Commission shall make regulations by Constitutional Instrument to elaborate on protections provided to members of the public services under this provision and provide administrative procedures and processes, including time limits, for resolving complaints or grievances, with a right of recourse to CHRAJ.

The Committee also recommends an amendment to the appropriate section of Chapter Fourteen to provide that no member of the public services shall participate in active party politics or manifest or demonstrate open partisanship or partisan affiliation while employed in the public services.

Appointment, Qualification, and Tenure of Head of Civil Service (Article 193(1), (2))

5.5 The Committee recommends that:

- The Head of Civil Service be appointed by the President on the advice of the Council of State based on the outcome of an open, competitive, meritocratic search process administered on behalf of the Council by the Public Services Commission.
- The Head of Civil Service should hold office for a single, nonrenewable term of 8 years or until the age of 65, whichever is earlier.

Public Services Commission: Composition, Appointment, Functions and Powers

5.6 The Committee recommends an amendment to article 194(1)(b) to remove the "other members" of the Commission of unspecified number who are not full-time commissioners, bringing the Commission's composition to a Chair, a Vice-Chair and three other full-time Commissioners. Each of the Chair, the Vice-Chair and the other Commissioners shall be appointed by the President on the advice of the Council of State, based on the outcome of an open, competitive, meritocratic search process administered on behalf of the Council by the Head of Civil Service.

The Chair and members of the Public Service Commission shall serve a single, nonrenewable term of 8 years or until the age of 65, whichever is earlier.

Power to Appoint Public Officers (Article 195)

5.7 The Committee recommends appropriate amendments to Article 195 as follows:

5.7.1 Power to appoint persons to the governing council of a public service or statutory body (not of a commercial nature) shall reside in the President or a Minister designated by the President, and the appointment shall be made (based on stated qualifications and disqualifications) in consultation with the Public Services Commission.

5.7.2 Power to appoint the chief executive officer or other senior management of the public service or entity shall reside in the governing council or board, which shall exercise its power based on the outcome of an open, competitive, meritocratic or qualification-based process administered by the governing council with the assistance of the PSC. No current holder of an office in a political party or political campaign shall be eligible to be appointed to any office within the public service or related entity.

5.7.3 Power to appoint employee or staff below the level of CEO and direct reports of the CEO shall reside in the board and management of the entity, exercised in accordance with regulations of the PSC.

Form of exercise of power by PSC (Article 197)

5.8 The Committee recommends that the PSC shall perform its functions and exercise its powers in accordance with its Regulations, which shall be made by means of a Constitutional Instrument, without recourse to the President. The Committee notes that the inclusion of the President in Article 197 is a legacy from the 1969 Constitution, where the President, being a non-executive President, was supposed to work in partnership with the PSC to protect and safeguard the independence of the Civil Service and other public services.

Retiring Age (Article 199)

5.9 The Committee recommends an amendment to article 199 to de-constitutionalize the retiring age and, instead, provide that Parliament shall, by an Act of Parliament, set the retiring age for the public services and make appropriate variation upwards for different occupational categories of public officers, for example, public tertiary educational institutions and persons with disabilities, provided, however, that the retiring age shall not exceed 70 years for any appointed public officer.

Code of Conduct for Public Officers – Chapter 24 of the Constitution

5.10 The Committee recommends an amendment to article 284 to provide as follows: where a public officer is confronted with a conflict of interest, that officer shall immediately disclose in writing, the nature of the conflict to the competent authority and shall refrain from participating in any discussion, deliberation, recommendation, decision or other official act in relation to the matter that gives rise to the conflict. The provision should further stipulate that failure to make such disclosure and to recuse renders any ensuing decision or act invalid for constitutional impropriety, without prejudice to any disciplinary or other sanction provided by law. This formulation gives the conflict rule operational meaning and attaches a concrete legal consequence to non-compliance.

5.10.1 To ensure that ethical governance is not confined to conflicts of interest alone, the Committee recommends that the Constitution should declare, in express terms, that the Chapter on the Code of Conduct extends beyond the rule against conflicts of interest and sets out minimum, non-exhaustive standards of conduct applicable to all public officers. The text should then articulate, in narrative form, the content of those standards to include the following:

5.10.1.1 First, professionalism: a public officer shall carry out the functions of office in a professional manner, with competence, diligence and impartial judgment, and with due regard to maintaining public confidence in the integrity of the office.

5.10.1.2 Second, compliance with law and respect for rights: a public officer shall act in accordance with the Constitution and the law and shall give due respect to the fundamental rights and freedoms and the related duties specified in Chapter Five.

5.10.1.3 Third, position of trust: public office is a fiduciary position; accordingly, an officer shall employ the authority, information and assets entrusted by virtue of office solely to advance the interests of the State and shall not convert any such authority, information or assets to private benefit.

5.10.1.4 Fourth, non-interference with the administration of justice: no public officer shall, directly or indirectly, use the influence or prestige of office to intervene improperly on behalf of any person in an

investigation, prosecution or adjudication, or to procure a termination, delay or other handling of the matter otherwise than in accordance with law and evidence.

5.10.1.5 Fifth, prohibition of improper enrichment: a public officer shall not use their office to improperly enrich themselves or others, nor solicit or accept benefits in connection with the performance of official functions other than those permitted by law.

5.10.1.6 Sixth, stewardship of state property: a public officer shall take all reasonable steps to protect property entrusted to their care or for official use and shall ensure that such property is not misused, misapplied or misappropriated.

5.10.1.7 Seventh, political neutrality: save as expressly provided for elected public officers, a public officer shall not manifest partisanship or allow partisan considerations to influence the discharge of official duties.

5.10.1.8 Eighth, truthfulness to the public: a public officer shall not knowingly provide false or misleading information to members of the public or to any public authority.

5.10.1.9 Ninth, prohibition on acting for foreign interests: a public officer shall not, in a manner adverse or detrimental to the national interest of the Republic of Ghana, act as or be an agent for, or otherwise further the interests of, any foreign government, organisation or individual.

5.10.2 The Constitution should state explicitly that these standards constitute minimum, non-exhaustive expectations, and that nothing in the list limits Parliament from prescribing additional standards consistent with the Constitution.

5.10.3 For the standards to be effective, the Committee further recommends an enforcement architecture entrenched in the Constitution. The text should require the Ethics and Anti-Corruption Commission to make Regulations, by Constitutional Instrument, to give effect to the Code of Conduct, including the specification of investigative procedures and the prescription of appropriate administrative and civil sanctions for breach. In the alternative, or in addition, the Constitution should impose a duty upon Parliament to enact, within a defined period following commencement, a Public Ethics Act that elaborates

upon the Code and attaches sanctions in accordance with guiding principles stipulated in the Constitution.

This dual pathway ensures that the Code is not merely aspirational but immediately enforceable while allowing Parliament to develop a comprehensive legislative framework.

Declaration and Disclosure of Assets by Public Officers

5.11 The Committee recommends an amendment to Article 286 as follows:

5.11.2 To ensure that declarations capture the true financial position of officeholders, the Constitution should require the declarant to include the assets and liabilities of members of the immediate household, specifically the spouse and unmarried children. This requirement is a proportionate measure aimed at preventing concealment through related persons and reflects comparative practice in integrity systems.

5.11.3 The Committee further recommends amending Article 286(2) to authorise and require the Auditor-General to unseal a declaration in the presence of the declarant at the time of submission for the limited purposes of confirming identity, completeness and internal consistency. Where information is incomplete or missing, the Auditor-General shall require a supplemental filing within a prescribed period. This controlled opening strikes a balance between privacy and the constitutional need for a credible process.

5.11.4 Verification should be expressly mandated. Within ninety (90) days of receiving a declaration, the Auditor-General must verify the truth of the matters contained in the declaration. The Constitution should impose a duty upon the declarant to cooperate fully with the verification process. It should authorise the Auditor-General to request the assistance of the public and of relevant public agencies as necessary to complete the verification. Upon completion, the Auditor-General shall issue a verification audit report within fifteen (15) days, and a copy shall be submitted to the President and to the Ethics and Anti-Corruption Commission for any further action in accordance with law. This sequence, including controlled opening, completeness check, time-bound verification, and formal reporting, renders the declaration regime operational, credible, and effective.

5.11.5 The list of public officers specifically named as covered by the asset declaration requirement of article 286(5) does not include public officers in the military, police, or other security services. Nor does it specifically mention

independent constitutional officeholders (other than CHRAJ and judges) or members of statutory regulatory bodies, such as the Minerals or Lands Commission, or MMDCEs. While these and other categories of public officers may be covered by statute, it is best, given the level of their positions or status, that they be expressly named in the Constitution as covered, leaving the residual category for other public officers.

Post-Declaration Increase in Net Worth ("Unexplained Wealth")

5.12 The Committee recommends an amendment to Article 286 as follows:

5.12.1 Article 286(4) creates a presumption that, following a prior asset declaration, any subsequent increase in the declarant's net worth that is "not reasonably attributable to income, gift, loan, inheritance or any other reasonable source" is "deemed to have been acquired in contravention of this Constitution." This is a clear constitutional statement in support of the presumptive illegality of "unexplained wealth". Moreover, the fact that the Constitution grants the state enforcement authority and the benefit of a "presumption" that any unexplained wealth has been unlawfully acquired supports the idea of a "reverse burden of proof" in corruption cases.

Standing on this principle, the Constitution must go further to expressly empower the Auditor-General and the Anti-Corruption and Ethics Commission to conduct lifestyle and unexplained-wealth audits, as well as associated enforcement tools, for the purpose of giving effect to Article 286(4) and to their broader anti-corruption mandates. The constitutional text should clarify that where lawful sources do not reasonably explain a significant increase in net worth, proceedings may be instituted in which a calibrated reverse burden of proof applies, subject to judicial oversight and to safeguards prescribed by law.

5.12.2 To ensure legal certainty and to embed safeguards, the Constitution should further require Parliament to enact, within a specified period, legislation that gives effect to this provision. Such legislation should outline investigative powers (including access to relevant financial and property records), the evidentiary standards and thresholds for invoking a reverse onus, the roles of the Auditor-General and the Anti-Corruption and Ethics Commission, procedures for asset recovery and confiscation, and protections for the rights of affected persons. This framework will render the constitutional presumption effective while maintaining fidelity to principles of fairness.

5.12.4 A public officer who is subject to the asset declaration requirement of Article 286(2) shall submit the first such declaration within 15 days of taking office, and subsequently in two-year intervals, with a terminal declaration to be made 30 days after the end of the term or tenure of that officeholder.

5.12.6 A copy of the report shall be submitted to the President and to the Ethics and Anticorruption Commission for further action in accordance with law.

Complaints of Contravention and Sanctions

5.13 The Committee recommends amendments to Article 287 as follows:

5.13.1 The Committee recommends that sanctions for specified violations within this chapter be expressly prescribed, either directly in the Constitution or in an Act of Parliament enacted pursuant to the Constitution. The framework should distinguish between (a) violations of Article 284, being breaches of the Code of Conduct, and (b) violations associated with Article 286, namely false declarations and unexplained wealth. For Article 284 violations, the regime should provide for administrative and other civil measures, including reprimand, restitution, suspension without pay for a defined period, and disqualification from holding public office for a specified term, imposed in accordance with due process.

5.13.2 For Article 286 violations, the regime should provide for stiffer sanctions proportionate to the gravity of the misconduct, including removal from office, criminal penalties as Parliament may prescribe, and, where appropriate, confiscation and pecuniary penalties. The adoption of a prescribed, calibrated regime will ensure uniformity of treatment, reinforce deterrence, and bring the sanctions architecture into full conformity with constitutional requirements.

5.13.3 Sanctions must be prescribed (either in the Constitution or in an appropriate Act of Parliament) for specified violations of the provisions of this chapter, according to the nature of the violation: Administrative and other civil sanctions may be appropriate for Code violations under article 284, while stiffer sanctions, including removal from office and criminal sanctions, would be more appropriate for article 286 violations (false declarations; unexplained wealth).

CHAPTER SIX: LEAVING NO ONE BEHIND: TOWARDS A JUST AND EQUITABLE SOCIETY

Background

This chapter focuses on issues affecting the status and quality of rights enjoyed by various categories of persons within society. Focusing on persistent inequalities and gaps in the regime of rights and social protection for vulnerable citizens, the recommendations in this chapter aim to enhance the prospects for a more humane and inclusive society

Multiple Citizenship and Political Eligibility

6.1. The Committee recommends the following constitutional amendments:

- Articles 8 and 94 of the Constitution, to replace the concept of *"dual citizenship"* with "*multiple citizenship*".

- Article 8 should be amended to limit constitutional disqualifications arising from multiple citizenship exclusively to the offices of President and Vice President; and clarify that multiple citizenship, by itself, does not constitute a ground for exclusion from any other elective or appointive public office under the Constitution.

- Article 94 should be amended to remove multiple citizenship as a disqualification for election to Parliament; and affirm that every citizen of Ghana, irrespective of multiple nationality status, is eligible to stand for election to Parliament, subject only to age, competence, integrity, and eligibility requirements applicable equally to all citizens.

- The Constitution should impose an express duty on Parliament to enact legislation establishing comprehensive integrity, conflict-of-interest, security vetting, and disclosure regimes applicable to all public office holders; and ensure that concerns relating to loyalty, allegiance, accountability, and public confidence are addressed through transparent, proportionate, and non-discriminatory regulatory mechanisms, rather than through blanket or status-based exclusions.

Gender Discrimination in the Treatment of Foreign Spouses

6.2. The Committee recommends that Article 7 be amended to establish a fully gender-neutral spousal citizenship regime by removing gender-specific residency requirements, applying marriage-verification safeguards equally to all applicants, and requiring Parliament to align citizenship and immigration laws and practice with substantive gender equality so that no Ghanaian is disadvantaged in the transmission of citizenship on the basis of gender.

6.3. The Committee recommends that Article 8 of the Constitution be amended to expressly recognise a right of abode for persons of African descent in the Diaspora, exercisable in accordance with conditions to be prescribed by Parliament.

This right of abode should further mature, upon satisfaction of clearly defined statutory requirements, into an eligibility to apply for Ghanaian citizenship through a dedicated heritage-based registration pathway. Once granted, such citizenship must confer full and equal status with all other forms of Ghanaian citizenship, without distinction as to civic or political rights.

Parliament shall, by law, regulate the qualifying criteria, procedures and safeguards applicable to both the right of abode and the heritage citizenship pathway.

Administrative Hometown-Based Discrimination Against Citizens from Zongo Communities and Historically Mobile Groups

6.4. The Committee recommends the insertion of a new constitutional provision expressly prohibiting the use of *"hometown"*, indigeneity, ancestral origin, ethnicity, religion, language or settlement history as criteria for determining a citizen's access to public services, civil documentation, public employment, political participation, or the enjoyment of any civic right or obligation.

Parliament should be mandated to enact legislation prescribing uniform, objective, and non-discriminatory procedures for civil registration, national identification, and service access, with enforceable sanctions for officials who substitute ethnic, religious, or settlement-based criteria for legal citizenship.

Scope of Applicability of Fundamental Human Rights

6.5. The Committee recommends that Article 12(1) be reformulated to expressly affirm the full horizontal and vertical application of the Bill of Rights to all persons, institutions, and authorities exercising power over others, including traditional authorities, political parties, and private entities.

The revised formulation should eliminate ambiguity in the phrase "where applicable" and establish a clear constitutional presumption that all rights bind any actor whose conduct affects the dignity, liberty, equality or legal protection of another person.

Rights Limitation Clause

6.6. The Committee recommends the removal of the multiple, fragmented, and provision-specific limitation phrases currently attached to individual rights in Chapter Five, and in their stead proposes a single, general limitation clause applicable to all fundamental rights, as follows:

General Limitation of Rights

(1) A fundamental right or freedom guaranteed by this Constitution may be limited only in accordance with this article.

(2) Any law, act, decision or measure that limits a fundamental right shall bear the burden of strict justification.

(3) A limitation shall be constitutionally valid only where the person or authority seeking to uphold it demonstrates that:
(a) the limitation is authorised by law;
(b) the limitation pursues a legitimate constitutional objective;
(c) the limitation is strictly necessary in a free and democratic society;
(d) the limitation is proportionate to the objective pursued; and
(e) no less restrictive means are reasonably available to achieve that objective.

(4) A limitation shall not be upheld merely on the basis of assertions of public order, public safety, public morality, national security or economic necessity, unless such claims are specifically and strictly justified under clause (3).

(5) In determining whether a limitation is constitutionally valid, a court shall interpret this article in a manner that gives the fullest possible effect to the enjoyment of fundamental rights.

(6) Any limitation that does not satisfy the requirements of this article is void to the extent of the inconsistency.

Pre-Trial Detention

6.7. The Committee recommends the introduction of the following new constitutional provision as an amendment to Article 14:

- No restriction of personal liberty shall be imposed except in accordance with law and only where the restriction is strictly necessary, proportionate, time-bound and demonstrably justified in a free and democratic society.

- A person who is arrested or detained shall be presumed entitled to bail, and shall not be remanded in custody except where the prosecution establishes, on clear, specific and credible grounds, that detention is strictly necessary to prevent
    - flight from justice, or
    - interference with witnesses or evidence.
    - In the case of misdemeanours and non-violent offences, bail shall be automatic, and shall not be denied except in the exceptional circumstances set out in clause (2).
- Parliament shall, by law, provide for a comprehensive framework governing arrest, bail, remand and pre-trial detention, and that framework shall
    - impose strict and enforceable time limits on police remand and prosecutorial case review,
    - require automatic and periodic judicial review of all pre-trial detention, and
    - establish effective remedies and accountability, including immediate release, enforceable compensation, disciplinary

sanctions and personal liability for public officers responsible for unlawful, excessive or unjustified detention.

- Pre-trial detention shall be used only as an exceptional measure of last resort and shall not be employed as a routine instrument of investigation, coercion, or administrative convenience.

Fair Trial

6.8. The Committee recommends an amendment of Article 19 that recognises the following:

- Every person charged with a criminal offence shall have the right to be tried and have the charge determined within a strictly reasonable time.

- Parliament shall by law prescribe binding time limits for the investigation, prosecution and determination of criminal cases, taking into account the seriousness and complexity of the offence.

- Where an accused person is not tried within the time limits prescribed by law, and the delay is not attributable to that person, the court shall grant such effective remedies as are just and proportionate, including dismissal of the charges, exclusion of evidence, or reduction of sentence.

- A public officer whose unjustified acts or omissions cause or materially contribute to unconstitutional delay in criminal proceedings commits a constitutional violation and shall be subject to personal liability, disciplinary sanction and such further consequences as may be prescribed by law.

Legal Aid

6.9. The Committee recommends the amendment of Article 294 to make provision for the following:

- Every person has the right to legal aid in all criminal proceedings and in all proceedings for the enforcement or interpretation of this Constitution.

- In all other proceedings, including civil, family, and public interest matters, legal aid shall be provided in accordance with the eligibility criteria prescribed by Parliament, taking into account financial need, vulnerability, and the complexity or public importance of the matter.

- Parliament shall, by law, provide for a robust legal aid framework that ensures access to legal aid and adequate funding and resources to the legal aid commission.

- Legal aid shall include legal advice, representation by a lawyer, and all assistance reasonably required for the fair initiation, conduct and resolution of proceedings.

The Death Penalty

6.10. The Committee recommends abolishing the death penalty. The Committee further references amending Articles 3, 13, 19, 72, and 94 to eliminate all references to the death penalty from Ghana's constitutional order, aligning the Constitution with the country's settled legislative practice, evolving public conscience, and contemporary human rights standards.

Parliament shall have no power to enact any law that prescribes, authorises or permits the imposition or execution of the death penalty for any offence under the laws of Ghana.

Any sentence of death imposed prior to the coming into force of this provision shall, by operation of law, be deemed to be substituted with a sentence of life imprisonment or such other lawful custodial sentence as Parliament may prescribe.

The Right to Food

6.11. The Committee recommends the following constitutional amendments:

- Article 14 shall be amended to expressly provide that no deprivation of personal liberty operates to suspend or diminish a person's entitlement to the basic necessities of life, including adequate food, and that the conditions of arrest, detention and imprisonment are subject to direct constitutional scrutiny as part of the protection of personal liberty.

- Article 15 shall be amended to expressly recognise that the denial of adequate, safe and nutritionally sufficient food to a person in custody constitutes a violation of human dignity, and to affirm that custodial hunger, intentional starvation or nutritionally degrading detention conditions amount to cruel, inhuman or degrading treatment.

- Article 30 (Rights of the Sick and Vulnerable Persons) shall be amended to recognise that persons whose liberty has been lawfully restricted are entitled to enhanced constitutional protection of their basic survival needs, including food, water and essential nutrition, and that institutional custody triggers a heightened constitutional duty of care on the State.

- A new standalone constitutional article on the Right to Food in Custody shall be inserted to provide that every person who is arrested, detained or imprisoned is entitled, as of right, to adequate, safe and nutritionally sufficient food for the entire duration of such custody or detention; that this obligation rests directly on the State and admits of no limitation based on resource constraints, administrative convenience or security classification; and that any denial of adequate food constitutes a breach of the Constitution, directly justiciable and enforceable by the courts, including through immediate relief and compensation.

The Right to Housing

6.12. The Committee recommends the following constitutional amendments and consequential legislative obligations:

- Article 20 shall be amended to expressly provide that the exercise of State power, including compulsory acquisition, forced eviction, urban redevelopment, slum clearance or disaster-induced displacement, shall

not result in homelessness; to impose an immediate and enforceable duty on the State to ensure suitable alternative accommodation consistent with human dignity where displacement occurs; and to prohibit the rendering of any person homeless as an incident of compulsory acquisition or development activity.

- Chapter Five shall be amended by the insertion of a new article recognising a progressively realisable right of access to adequate housing, requiring the State to take reasonable legislative, budgetary and administrative measures, within available resources, to expand access over time; and providing that compliance with this obligation shall be subject to judicial review on standards of reasonableness, equity, transparency and non-retrogression.

- Article 36 shall be reinforced to impose a binding housing governance duty on the State by requiring Parliament to enact legislation that establishes annual statutory housing delivery targets; mandates a medium and long-term national housing roadmap with measurable milestones; regulates informal settlement upgrading as a primary housing strategy; provides binding tenant protection and rent regulation mechanisms; prescribes clear standards for consultation, resettlement and compensation in displacement contexts; and requires annual reporting to Parliament on housing delivery, eviction, resettlement and upgrading outcomes.

The Right to Education: Religious Coercion and Discrimination in Public Schools

6.13. The Committee recommends that, in line with the proposals of the 1968 Constitutional Commission, the following constitutional reforms are required to secure freedom of religion, conscience and non-discrimination in education:

- Article 25 (Right to Education) should be amended to provide that educational institutions are required to comply fully with the rights in Chapter Five, while retaining the freedom to maintain a denominational identity and ethos that does not infringe the rights of students; to explicitly guarantee that no student shall be compelled to participate in religious worship, instruction or observance in any educational establishment; and State that admission, boarding access, discipline, student leadership and participation in school activities shall

not be subject to direct or indirect religious discrimination in any educational institution.

- Article 21 shall be amended to clarify that no person shall be disadvantaged or privileged by reason of religion, belief or non-belief, and the State shall not adopt any practice that coerces, presumes, or promotes adherence to any religious or belief system. Similarly, the State shall maintain equal regard for all faiths, beliefs and non-belief, and shall not, in the exercise of any public power, function or resource, adopt, privilege or advance the institutional interests of any religious or belief community

- Parliament should be required to enact a statute pursuant to Articles 21 and 25:
    - Expressly confirming that all educational institutions offering education to the general public, whether publicly funded, mission-assisted, or privately operated, are bound to respect the constitutional rights of learners under Chapter Five. This should include guarantees that participation in religious observance is voluntary, that students may opt out without penalty, and that admissions, discipline, academic opportunity and compulsory school activities are conducted on neutral and non-discriminatory terms.

    - Clarifying that parental choice of a school with a religious ethos does not diminish the constitutional protections owed to learners. Private providers may maintain their religious identity, symbols, chaplaincies and moral environment, but these may not take the form of coercive religious exercises or discriminatory practices.

    - Acknowledging, without creating exemptions, that some educational institutions serve specialised purposes distinct from ordinary schooling. Seminaries and ministerial training institutions exist to offer intensive doctrinal formation to persons who voluntarily choose such paths, typically as adults or near-adults. These institutions remain bound by constitutional norms; yet, because participation is based on informed consent and their purpose is not general public education, compulsory doctrinal

activities within them do not raise the same coercive concerns that arise when minors or compulsory basic education are involved.

- Establishing a voluntary religious participation framework, recognising
    1. That Mission-assisted schools may maintain chaplaincies, symbols and ethos.
    2. Participation in worship, devotions or doctrinal instruction must be voluntary, with no academic, disciplinary or social penalties for non-participation.
    3. Prohibition of religious discrimination in admissions and placement; boarding access; discipline; student leadership; and allocation of student opportunities.
    4. Establishing neutral codes of conduct and discipline that govern behaviour through non-denominational standards of respect, punctuality, honesty and decorum; and mandate that schools provide supervised and non-stigmatising alternatives to worship (e.g., study hall, library sessions, civic or constitutional education modules).

- Establishing oversight and accountability mechanisms, such as a structured complaints mechanism in every school, anti-retaliation protections for students and parents, Ghana Education Service (GES) oversight audits focused on compliance with constitutional religious freedom standards, and sanctions for coercive practices or discriminatory policies.

- Incorporating training on freedom of conscience, religious pluralism, and constitutional neutrality into teacher preparation programmes and chaplaincy guidelines.

The Right of Children to Bodily Integrity

6.14. The Committee recommends targeted constitutional amendments affecting Articles 28, 15 and 30 of the Constitution, together with

mandatory consequential legislative duties imposed on Parliament, as follows:

- Article 28 should be amended to provide for the right of every child to bodily integrity, including freedom from irreversible, non-consensual medical or surgical interventions that are not strictly necessary to preserve life or prevent serious and immediate harm; that the best interests of the child shall override social, cosmetic, cultural or expediency-based justifications for invasive medical procedures; for protection for intersex children, recognising their distinctive vulnerability to medically unnecessary "normalising" interventions carried out before informed consent is possible.

- Article 15 should be harmonised with the amended Article 28 to explicitly recognise that non-consensual, non-therapeutic medical alteration of a child's body constitutes a prima facie violation of human dignity.

- Article 30 should be amended to expressly provide that

    - Children requiring specialised medical care, including intersex children, are entitled to heightened constitutional protection against non-therapeutic, coercive or irreversible medical interventions.

    - Any medical treatment or procedure involving long-term, irreversible or life-altering bodily consequences for a child shall be subject to enhanced safeguards, including informed consent appropriate to the child's age and capacity, independent medical review, and compliance with rights-based, best-interest clinical standards grounded in human dignity and bodily integrity.

- The Constitution shall require Parliament to enact legislation establishing comprehensive civil, disciplinary and criminal accountability frameworks for violations of bodily integrity in medical, custodial, educational and other institutional settings, including: clear consent standards and documentation requirements; independent complaint, investigation and redress mechanisms; professional and institutional sanctions for violations; and remedies, including compensation and injunctive relief, for affected persons.

Women's Rights

6.15. The Committee recommends constitutional amendments affecting Articles 17, 27, 35 and 36 of the Constitution, with consequential legislative duties imposed on Parliament, as follows:

- Article 27 should be amended to remove language that is premised on stereotypical or gendered caregiving roles, including references to "traditional care for children," and to replace such language with a gender-neutral recognition of shared caregiving responsibilities. The Article should be further revised to expressly guarantee women's equal autonomy, bodily integrity, economic independence, and full participation in political, public, and economic life. In addition, Article 27 should impose a clear and enforceable constitutional obligation on the State to prevent, prohibit, and respond to all forms of gender-based violence, including domestic violence, sexual violence, harmful traditional practices, and harassment in the workplace.

- Article 17 should be amended to provide an explicit constitutional foundation for special measures and affirmative action aimed at achieving substantive gender equality in political representation, public appointments, education, employment and economic participation.

- Article 35(6) should be amended to convert the existing aspiration of regional and gender balance in public appointments into a binding constitutional obligation; and support the introduction of a mandatory gender parity rule in appointive public offices, such that not more than two-thirds of the members of any appointive public body shall be of the same gender.

- Article 36 should be amended to impose a specific duty on the State to secure women's equal access to land, credit, capital, inheritance, employment opportunities and entrepreneurship support; and mandate targeted public policies for the economic protection of women in informal and vulnerable labour sectors.

The Right to Privacy (Digital Rights Gap)

6.16. The Committee recommends targeted constitutional reform affecting Article 18 of the Constitution, together with mandatory consequential legislative duties imposed on Parliament, as follows:

- Article 18 should be amended to expressly recognise and protect the right to informational privacy and personal data protection, including the right of every person to exercise control over the collection, processing, storage, use and disclosure of their personal data. The Article should further provide explicit constitutional protection for digital privacy, encompassing biometric information, metadata, financial data and communications in all electronic and technological forms.

- The amended provision should guarantee protection against mass surveillance, profiling, interception, monitoring or tracking of persons, whether through digital or other means, except where such interference is strictly authorised by the Constitution, is lawful, necessary, proportionate, and subject to independent oversight. Article 18 should also clarify that violations of privacy may arise from the conduct of both State and non-State actors, and that the right to privacy is enforceable horizontally as well as vertically, thereby imposing corresponding duties of respect and protection on private persons, institutions and entities.

- Article 18 should be further amended to provide that any act, law, policy or practice of surveillance, data collection, processing, interception, profiling, tracking or other intrusion into privacy that has the effect of chilling or inhibiting the exercise of freedom of expression, media freedom, political participation, freedom of association, peaceful assembly or protest shall be deemed to infringe the right to privacy under Article 18 and the affected substantive right.

- An intrusion into privacy that undermines personal autonomy, intimacy, identity or self-determination shall, in addition to constituting a violation of Article 18, be deemed a violation of Article 15 on respect for human dignity and shall attract all remedies available for breaches of human dignity under this Constitution.

- Article 18 should further be harmonised with the reformed constitutional limitations framework so that any restriction of privacy shall be lawful, strictly necessary, proportionate and demonstrably justified; surveillance, interception and data access shall require prior independent authorisation, except in narrowly defined emergency circumstances subject to prompt judicial review; and general references to public safety, morality, economic well-being or security shall not, without strict proof, justify privacy intrusions.

- Parliament shall by law enact a comprehensive data protection, surveillance and communications interception framework consistent with Article 18, providing for, independent pre-authorisation of surveillance; transparent warrant procedures, data minimisation and retention limits; rights of access, correction, erasure and objection; mandatory notification of unlawful or unjustified surveillance; and enforceable civil remedies, administrative sanctions and institutional accountability.

Persons with Disability

6.17. The Committee recommends targeted constitutional and legislative reform affecting Article 29 of the Constitution, together with strengthened mandatory duties imposed on Parliament and all public authorities, as follows:

- Article 29 should be amended to replace the formulation "Rights of Disabled Persons" with "Rights of Persons with Disabilities," in line with contemporary human rights standards and the social model of disability reflected in the UN Convention on the Rights of Persons with Disabilities.

- The current language in Article 29(6), which subjects accessibility to the qualifier "as far as practicable," should be strengthened to impose a clear, enforceable constitutional obligation on the State to ensure accessibility in all public spaces, services and infrastructure, subject only to narrowly defined and demonstrably justified limitations.

- The Constitution should impose an express duty requiring that all publicly funded infrastructure and public–private partnership projects be subjected to:
    - Pre-construction disability access audits,
    - Mandatory compliance certification before occupancy or use, and
    - Periodic post-completion accessibility reviews.
    - No public funds should be lawfully disbursed for infrastructure that fails to meet minimum constitutional accessibility standards.

- Article 29 should be amended to require Parliament to create effective complaint, inspection, sanction and compensation mechanisms for violations.

- Parliament shall enact legislation to review and harmonise the Persons with Disability Act and all related legislation with the revised Article 29; and shall ensure adequate and predictable funding for enforcement institutions.

The Right to Health

6.18. The Committee recommends targeted constitutional amendments to strengthen the protection and enforceability of the right to health through new justiciable health rights provision, as follows:

- Every person has the right to have access to basic and essential healthcare services, including emergency medical treatment, maternal, neonatal and reproductive healthcare, child healthcare, essential medicines, and preventive and public health services necessary for the protection of life and health.

- No person shall be denied emergency medical treatment in any public health facility on any ground, including inability to pay, administrative status or any other condition unrelated to urgent medical need.

- The State shall take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right, guided by principles of equity, priority to vulnerable groups, and non-discrimination.

- The State shall have an immediate and enforceable obligation to ensure the availability and provision of emergency medical treatment and other minimum core healthcare services necessary to preserve life, human dignity and bodily integrity.

- The State shall take reasonable legislative, policy, budgetary and administrative measures, within its available resources, to achieve the progressive realisation of universal access to adequate healthcare services.

The Committee recommends further that Parliament shall enact a comprehensive legislation to give effect to the right to health guaranteed by this Constitution, which shall define a minimum core package of basic and essential healthcare services, establish national standards governing emergency medical treatment, affordability and equitable geographic

access, and provide clear accountability mechanisms for the prevention and redress of wrongful denial of care, with particular protection for persons in custody, pregnant women, children, older persons and persons with disabilities; and the law shall further provide that any person whose minimum core right to health is violated shall be entitled to immediate and effective judicial relief, including mandatory treatment orders, compensation, and structural or systemic remedies where persistent or institutional failure is established.

The Committee recommends that the new article should be harmonized with Articles and 37 thus:

- The State shall recognise public health financing, healthcare infrastructure development, and health workforce planning as core constitutional governance obligations necessary for the protection of life, dignity and human security.

- In the formulation and implementation of economic, social and development policies under Articles 36 and 37, the State shall ensure that access to basic and essential healthcare services is treated as a continuous constitutional responsibility.

- The State shall take reasonable legislative, budgetary and administrative measures, within its available resources, to give effect to the progressive realisation of access to healthcare, while ensuring the immediate fulfilment of minimum core healthcare obligations.

- Parliament shall exercise effective oversight over compliance with this article, including the adequacy, equity and sustainability of public health financing and service delivery.

- Where the State fails to fulfil minimum core healthcare obligations, or acts unreasonably in the allocation or administration of healthcare resources, such failure shall be subject to judicial review and appropriate constitutional remedies.

- In interpreting this article, a court shall adopt an approach that gives full effect to the protection of life, human dignity and equality, and shall not defer to executive or legislative discretion where such discretion results in the denial of essential healthcare services.

Protection of Rights by the Courts

The Committee recommends targeted constitutional amendment of Article 33 as follows:

> (1) A person who alleges that a provision of this Constitution relating to the fundamental human rights and freedoms has been, is being, or is likely to be contravened may apply to the High Court for redress.
>
> (2) An application under this article may be brought by -
> (a) a person acting in their own interest;
> (b) a person acting on behalf of another person who cannot act in their own name;
> (c) a person acting as a member of, or in the interest of, a group or class of persons;
> (d) a person acting in the public interest; or
> (e) an association acting in the interest of its members.
>
> (3) The High Court may make such orders, issue such directions, and grant such relief, including declaratory, injunctive, compensatory or structural remedies, as it considers appropriate for the purpose of enforcing or securing the enjoyment of the rights and freedoms guaranteed by this Constitution.
>
> (4) The enforcement of fundamental human rights and freedoms under this article shall not be subject to any statutory limitation period, procedural time bar, or prescription imposed by or under any law.
>
> (5) A person aggrieved by a determination of the High Court may appeal to the Court of Appeal with the right of a further appeal to the Supreme Court.
>
> (6) The Rules of Court Committee may make rules of court with respect to the practice and procedure of the Superior Courts for the purposes of this article, provided however that no legislation, rules of court, or administrative procedure shall operate to bar, defeat or restrict the exercise of the right to seek redress under this article on grounds of delay alone.
>
> (7) The rights, duties, declarations and guarantees relating to the fundamental human rights and freedoms specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man.
>
> (8) This article shall be interpreted purposively so as to facilitate broad access to justice and the effective protection of fundamental rights and freedoms.

CHAPTER SEVEN: ALL DEVELOPMENT IS LOCAL

Background

This chapter addresses issues of political and fiscal decentralisation, as well as the role of traditional authorities in local government. An Independent Devolution Commission, elected metropolitan and municipal chief executives, and representation and participation of chiefs in local government are among the new reforms proposed in this chapter.

Streamlining National Decentralisation Efforts

Establishment of Independent Devolution Commission

7.1 Given the crucial role of local governance in driving development in Ghana, along with the rise of economically unviable districts and their failure to spur local growth, there is the need for the creation of a central technical body that would oversee and provide technical support for the functions of MMDAs. The committee, therefore, proposes an amendment to Article 241 to establish a centralised Independent Devolution Commission (Devolution Commission). This commission would be responsible for overseeing the development and implementation of devolution policies, as well as ensuring that various MMDAs comply with these guidelines

Among its key functions, the Independent Devolution Commission would establish criteria for creating and adjusting the boundaries and sizes of districts, municipalities, and metropolitan areas, while also providing ongoing technical support to MMDCEs. Additionally, it would identify the factors necessary for establishing new districts, offer advice on revenue mobilisation, and manage the responsibilities associated with the District Assemblies Common Fund (DACF). Parliament will, by an Act, provide for the composition and functions of the Commission, as well as the qualifications, Appointment, and Removal process for the Commissioners.

Mandate of the Independent Devolution Commission

7.2 The Committee recommends that the mandate of the Devolution Commission shall include:

- Develop and gazette national standards, guidelines, and performance benchmarks for the establishment, administration, and management of MMDAs and their sub-structures
- Manage the process for creating new districts, merging existing districts, and elevating districts to municipal or metropolitan status, and ensuring that such decisions are based on technical rationality rather than political expedience.
- Conduct comprehensive assessments of the institutional and human resource capacity of MMDAs and design targeted programs to address identified gaps in planning, financial management, and service delivery.
- Oversee the implementation of the national inter-governmental fiscal framework, ensuring a transparent, equitable, and predictable transfer of resources to MMDAs.
- Develop and support the implementation of innovative strategies for MMDAs to enhance Internally Generated Funds (IGF) and reduce over-reliance on the District Assemblies' Common Fund (DACF).
- In collaboration with the Auditor-General, establish robust systems for financial management, internal audit, and accountability to ensure prudent use of public resources at the local level.
- Design and implement a comprehensive, publicly accessible performance assessment framework for all MMDAs, measuring indicators related to service delivery, financial management, citizen participation, and local economic development.
- Assume the functions of the Inter-Ministerial Coordinating Committee and perform other functions Parliament may by law require.

Composition of the Commission

7.3 The Committee recommends that the Devolution Commission shall comprise a Commissioner and two Deputy Commissioners,

Appointment of Commissioner and Deputy Commissioners

7.4 The Committee recommends that the Commissioner and each of the Deputy Commissioners of the Devolution Commission shall be appointed by the President acting in accordance with the nomination submitted for the respective vacancy by the Council of State (as reformed), subject to the prior approval of Parliament. Under this proposed amendment, the Council of State shall be responsible for selecting a suitable nominee for a vacant position on the Commission, following an open, competitive and meritocratic recruitment

process, which shall be administered on behalf of the Council of State by the Public Services Commission (PSC).

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

Tenure of office of the Commissioner and Deputy Commissioners

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

Removal of the Commissioner of the Deputy Commissioner

7.6 The Committee recommends the following procedure for removing the Commissioner and Deputy Commissioners of the Devolution Commission:

- The Commissioner and Deputy Commissioners may be removed only on grounds of a willful violation of law, dereliction of duty, or abuse of power.
- A petition seeking the removal of the Commissioner or a Deputy Commissioner shall be submitted to the Council of State; the petition shall state the grounds for removal and the relevant facts supporting the petition.
- Upon receipt of the petition, the Council of State shall constitute a subcommittee of its members to review the petition to assess whether the petition discloses on its face grounds and facts requiring further investigation by the Council.
- If the preliminary review determines that the petition presents a case warranting further investigation, the Council shall constitute a five-person independent tribunal, with membership drawn from outside the Council, to investigate the matter.
- The Commissioner or a Deputy Commissioner who is the subject of the removal petition shall be accorded all appropriate due process,

including representation by counsel and a right to interrogate and cross-examine the Petitioner.

- The tribunal shall make its recommendation to the Council upon conclusion of its investigation.
- The Council of State shall submit the tribunal's recommendations to the President, who shall act in accordance with the recommendations.
- The hearing must be in-camera.

Political Decentralisation

Creation and Proliferation of Districts

7.7 The Committee reasons that it is necessary, in the interest of effective decentralisation, to:

(i) restrain and regulate the creation and rate of increase in the number of new districts, and

(ii) Rationalise the existing number of districts to a prudent, objectively-determined number, consistent with the vision of the district as the basic unit and primary driver of development at the sub-national level.

The Committee believes that for these twin goals to be accomplished, responsibility for creating new districts and managing sundry other aspects of the decentralisation agenda must be depoliticised and professionalised. The Committee envisions the Devolution Commission as an independent commission with a broad mandate (affecting multiple Articles under Chapter Twenty) for ensuring that the constitutional vision of a development-oriented, appropriately-resourced, and capably decentralised system of government proceeds and is operationalised in a systematic, predictable, and orderly manner. The Devolution Commission will execute its mandate with technocratic and administrative backstopping from a professionally staffed public service or secretariat. The Committee believes that the proposed Devolution Commission can be fashioned out of a number of existing constitutional, statutory, and administrative bodies.

National and Regional Capitals as Special Cases

7.8 The Committee is of the view that the national and regional capital areas present peculiar challenges in the decentralisation context, particularly in the context of the existing fragmentation of districts within the national and subnational capitals. The Committee believes that the proposed Devolution

Committee, as envisioned, would be best positioned to address these special cases.

Election of MMDCEs: Dimensions of the Issue

7.9 The Committee recommends an amendment to Article 243 to provide for the election of the District Chief Executive, replacing the current system of appointment by the President.

Which Districts Should Elect Their DCEs?

7.10 The Committee recommends, in light of the case we have made for a Devolution Commission, that how and in what sequence the election of District Chief Executives shall proceed is a proper question for the Devolution Commission to answer following some constitutionally or statutorily delineated principles.

In the Committee's view, the decision to permit voters of a District to directly elect their DCE is likely to be a politically irreversible decision. Therefore, given that the proposed Devolution Commission is tasked with rationalising the existing number of districts to a prudent number, the Committee proposes that the election of DCEs proceed on the basis of a phased plan based on clear criteria and methodology developed by the Devolution Commission (and approved by Parliament).

The Committee offers the following as guidelines or principles for the proposed Devolution Commission to consider. The Committee proposes that the base criterion for designating a district as a Voting District (VD) should be that the district :

(i) is or forms part of a regional capital or
(ii) meets a prescribed population threshold expressed as a percentage of the total national population.

The prescribed population threshold for a district to qualify as a VD should be such that the aggregate population of all VDs is not less than a specified majority (e.g., 70%) of the total population of Ghana. The idea is to ensure that, right from the start, the overwhelming majority of Ghanaians would get to vote in their respective districts to elect their DCE.

Under the Committee's proposal, districts that do not get to directly elect their DCEs from the start ("Currently Non-Voting Districts" or CNVDs) would graduate to VD status upon meeting the prescribed national population ratio.

However, considering current demographic trends, certain districts may never meet the threshold to qualify to elect their DCEs directly. For such districts, which are likely to be mostly rural, populating-losing districts, the Committee proposes an alternative path to VD: a lower national population ratio may be set for them or adjoining CNVDs in the same Region could be permitted to apply to merge or consolidate in order to meet the prescribed population threshold and be granted VD status by the Devolution Commission. This alternative pathway to VD status would provide a bottom-up, organic progression to VD status for many otherwise small districts.

Notwithstanding the distinction made here between VDs and CNVDs, the Committee proposes that in all cases, the DCE shall be elected. However, while the Committee proposes the direct popular election of DCEs based on universal adult suffrage in VDs, we recommend that, in CNVDs, the DCE be elected indirectly by a two-thirds majority of all members of the District Assembly from a list of pre-qualified candidates. We propose that the Devolution Commission, with assistance from the Public Services Commission, oversee the pre-qualification process.

Qualification of MMDCEs

7.11 The Committee recommends that the DCE is an executive/management position; candidates for DCE must possess additional qualifications beyond basic qualification to be MP: 1) bachelor's degree or professional qualification with at least 8 years post-qualification experience, including at least 3 years in leadership or management position in public sector or private sector or civil society/community development sector; or advanced degree with at least 3 years' experience in leadership or management in public or private or civil society/community development sector; or at least high school/post-high school with at least 12 years' experience in business or community development.

Participation or Exclusion of Political Parties from Local Government Elections

7.12 The Committee recommends that the election of DCEs, whether directly or indirectly, shall proceed on a non-partisan basis. The Committee notes that, while the party affiliations of Assembly members elected on a nonpartisan basis are often widely known, a significant majority of Ghanaians, in survey after survey, continue to support local government elections conducted on a nonpartisan basis. Local communities defend the preference for nonpartisan local elections on the grounds that they create a less tense electoral

atmosphere, as well as less costly campaigns, than elections held on a partisan basis. The Committee also reasons that electing DCEs on a partisan basis is likely to "nationalise" what should be a local community decision or affair, as national parties get drawn into the local elections. Moreover, as local government elections are most likely to turn on local development issues, programmes and projects, they are unlikely to invite the sort of major policy differences and contestations that drive national partisan elections. The Committee is of the view that local government elections must be substantively different in focus from elections for MPs and for the president. However, making all three elections partisan would likely rob local communities of the opportunity to have elections that focus on and prioritise their everyday local concerns.

The Committee recommends that the IRRPC publish regulations to govern the conduct of campaigning and electioneering in relation to DCE elections, while the NCCE should provide platforms for candidates to engage local voters.

Term Limits for MMDCEs

7.13 The Committee recommends an amendment to Article 246(b) to limit a DCE to no more than two terms of five (5) years, regardless of whether they occur consecutively or non-consecutively.

Grounds for removal

7.14 The Committee recommends that the Devolution Committee propose, for the approval of Parliament, the grounds and mechanism for the removal of a DCE.

Election of the Presiding Members of the District Assembly

7.15 The Committee recommends an amendment to Article 244(2) to provide that the Presiding Member shall be elected by a simple majority of all of the elected Assembly members.

Appointive Seats on the District Assembly

7.16 The Committee recommends an amendment to Article 242 to provide that thirty per cent of all the members of the Assembly shall be appointed based on the following allocation of seats:

- Traditional authorities 25%

- Local women leaders 20%
- Local small business owners 20%
- Persons with disability and persons of voting age below the age of 35 years – 20%
- Community-based non-governmental organisations 15%

The Devolution Commission shall develop the modalities for the selection of the nominees to the appointive seats other than those representing the Traditional Authorities in the District.

Sub-District Level Community Governance: What Role for the Chief?

7.17 Having regard to the critical and historic role Chiefs, including queen mothers, where applicable, play in local community affairs, their incomparable social legitimacy, and the fact that they are legally precluded from participating in electoral politics, the Committee is of the view that, in addition to representation on the deliberative and legislative District Assembly, Chiefs should be formally integrated into the local government structures at the sub-district governing level where there are Paramount or Divisional Chiefs. The Committee recommends that, as this fundamentally implicates the institution of Chieftaincy, that the Devolution Commission, the Council of State, the Government, and the various Houses of Chiefs, including Traditional Councils, work together to develop appropriate modalities on how the integration must proceed, subject to ratification by Parliament.

Fiscal Decentralisation

District Assembly Common Fund: Dimensions of the Issue

7.18 The Committee recommends appropriate amendments to Article 252 as follows:

- Raise the District Assembly Common Fund Amount to not less than 10% of total national revenues.
- Merge the office of the District Assembly Common Fund Administrator into the Devolution Commission as a functional division of the Commission.

The Committee further recommends the following restrictions on the use of the District Assembly Common Fund (DACF):

- No portion of a District's allocation of the DACF shall be spent or contractually pre-committed on behalf of the District by the Central Government.
- No portion of DACF shall be allocated to a member of Parliament.

Internally Generated Funds

7.19 The Committee recommends as follows:

- Parliament should enact appropriate legislation to cede specifically identified local informal sector income taxes to District Assemblies.
- The Devolution Commission shall coordinate technical assistance for District Assemblies to update local property rate valuations and tax collection capacity.

Responsibility for Emoluments of Elected MMDCE and Assembly Members

7.20 The Committee recommends that, for Voting Districts, all of the salaries and allowances of the DCE and staff of the Assembly and the allowances of the Assembly members and staff shall be paid solely from the Assembly's internally generated funds.

Chieftaincy and Traditional Authority

Exclusion of Chiefs from "Active Party Politics"

7.15 The Committee recommends that the current provision of Article 276 precluding Chiefs, including queen mothers, from participating in active party politics be retained. A recent Supreme Court decision in *Elorm Kwami Gorni v Attorney-General and National House of Chiefs (2022)* has clarified that the provision means that a Chief may not endorse a candidate or party involved in an election, but leaves Chiefs free to express approval of a policy, project or programme of a candidate or party.

The Committee notes that Article 276 lacks an enforcement mechanism. The Committee proposes that a complaint of a violation of Article 276 by a Chief shall be made to the National House of Chiefs, which shall publish a process for handling and resolving such complaints.

CHAPTER EIGHT: SECURING AND SAFEGUARDING OUR DEMOCRATIC PEACE, FREEDOMS AND STABILITY

Background

This chapter focuses on security governance in Ghana, examining the constitutional regulation of policing and internal security, the limits of military involvement in civilian affairs, and the institutional reforms required to secure civilian oversight, accountability and democratic peace.

Reorganisation and Consolidation of Security and Safety Services into a Single Constitutional Chapter

8.1 The Committee recommends reorganising the Constitution by consolidating Articles 85 and Chapters 15, 16, and 17 into a single chapter on Public Safety, Peace, and Security. This would provide a coherent, rights-based, and civilian-led framework for the governance, oversight, and accountability of all security institutions.

Statement of principles and values in relation to public safety and security agencies

8.2 The Committee recommends the insertion of an Article in the proposed consolidated security chapter to expressly articulate binding principles and values governing all law-enforcement and security agencies, affirming civilian supremacy, rights-protective policing, legality, necessity and proportionality in the use of force, political neutrality, professionalism, transparency and accountability, and providing a clear constitutional benchmark to guide legislation, oversight, institutional practice and judicial interpretation in matters relating to public safety and security.

Composition of the National Security Council

8.3. The Committee recommends an amendment to Article 83(1) to provide for the inclusion in the membership of the National Security Council of the Minister of State responsible for Foreign Affairs, the Director-General of the Immigration Service, and the Director-General of the Narcotics Control Commission.

Independent Security Oversight Authority

8.4 The Committee recommends the insertion of a new Article directing Parliament to establish, within a prescribed period, a seven-member Independent Security Services Oversight Authority (ISSOA) to provide independent civilian oversight over the conduct of security services in their interactions with civilians, with a mandate limited to oversight of civilian-facing security operations.

8.5 While ISSOA's enabling Act will provide the composition and membership of the Authority, the Committee proposes that the Commission include persons from the following backgrounds:

- A retired Justice of the Superior Court
- lawyer with substantial experience in human rights law
- Representative of CHRAJ;
- Retired senior Police Officer who retired at or above the rank of Deputy Commissioner;
- Retired senior military officer who retired at or above the rank of Brigadier General;
- Representative from Civil Society;
- A licensed Clinical Psychologist or Psychiatrist with not less than 10 years post-qualification experience.

Deployment of Armed Forces for Civilian Law Enforcement

8.6. The Committee recommends an amendment to Article 210 to clarify that the Armed Forces exist primarily for national defence and may be deployed in aid of civilian law enforcement only in exceptional circumstances, upon a formal request by the Police Council, under police operational control, subject to parliamentary oversight and time limits, bound by civilian policing standards and fundamental rights, and prohibited from routine civilian security or private protection roles.

The Committee further recommends amendments to Article 200 to expressly affirm the Police Service of Ghana as the primary and principal institution responsible for civilian law enforcement in the Republic, and to impose a constitutional obligation on the State to adequately equip, resource and maintain the Police Service to perform its core functions of maintaining law and order, protecting life and property, preventing and detecting crime, and ensuring public safety in accordance with the Constitution.

Composition of the Police Council and Regional Police Committees

8.7 The Committee recommends amendments to Articles 201 and 204 of the Constitution to recalibrate police governance structures to strengthen institutional independence, reduce executive dominance, and enhance public confidence in the impartial governance of the Police Service, as follows:

Police Council

8.8. The Committee recommends amending Article 201 on the composition of the Police Council to replace the representative nominated by the Ghana Bar Association with a senior lawyer nominated by the President.

Regional Police Committee

8.9. The Committee recommends amending Article 204 to remove the representative nominated by the Ghana Bar Association and replace it with a senior lawyer nominated by the Regional Security Council.

Composition of the Prisons Service Council and Regional Prisons Committees

8.10 The Committee recommends amendments to Articles 208 and 209 to strengthen institutional independence, reduce executive dominance, and enhance public confidence in the administration of the Prisons Service, as follows:

Prisons Service Council

8.11. The Committee recommends amending Article 208 to change the composition of the Prison Service Council, replacing the representative nominated by the Ghana Bar Association with a senior lawyer nominated by the President.

Regional Prisons Committees

8.12. The Committee recommends amending Article 209 to remove the representative nominated by the Ghana Bar Association and replace it with a senior lawyer nominated by the Regional Security Council.

Tenure and security of office

8.13. The Director-General is to hold office for a single, fixed and non-renewable term of seven (7) years, with removal permitted only on constitutionally

defined grounds and through an independent investigative process followed by parliamentary approval.

CHAPTER NINE: TOWARDS A LIVING CONSTITUTION

Background

This chapter focuses on the 1992 Constitution's amendment framework, its effects on constitutional adaptability over time, and the challenges created by naming private bodies in the constitutional text.

Constitutional Rigidity and the Over-Entrenchment Problem

9.1. The Committee reasons that the current constitutional amendment framework outlined in Article 290 of Chapter Twenty-Five results in an excessively entrenched and, by extension, a highly rigid Constitution. The Committee believes that the impulse to over-entrench, at the time of the framing of the 1992 Constitution, may have been borne out of a genuine desire to safeguard against opportunistic changes to such provisions as the two-term limit on presidential office, the guarantee of multi-party democracy and the freedom to form political parties. The Committee is of the view that all of the Constitution's "sacred cows" – the provisions that vast majorities of Ghanaians rightfully hold dear – can continue to be protected through firm entrenchment, while leaving reasonable room for periodic governance-enhancing reforms to take place with substantial cross-party support.

9.2. The Committee accordingly recommends an amendment to Chapter 25 of the Constitution to introduce a third amendment route – to be known as the **semi-entrenched** provisions - under which certain non-foundational provisions of the Constitution that are now amendable only one-provision-at-a-time via a Referendum may be amended by an enhanced parliamentary majority of not less than seventy-five percent of all Members of Parliament.

The Committee recommends that only the following provisions, considered as forming part of the "basic structure" or critical democratic safeguards of the Constitution, should remain entrenched and amendable by referendum: Articles 1 to 4; Articles 12, 17, 21(1) and 23; Articles 57(1), 58 and 66(2); Article 93(2) and Articles 106(1) and (2); Articles 125 and 127; Article 42; Article 49(1); Articles 55(1) and (2); Articles 162(1) to (3); and a simplified Chapter 25 retaining only the core principles governing the constitutional amendment procedure.

The Committee recommends that the following provisions should become semi-entrenched and be amendable only through an enhanced parliamentary

procedure requiring the approval of not less than seventy-five percent of all Members of Parliament: Article 11; the entirety of Chapter 5 other than Articles 12(1); 17, 21(1) and 23 Articles 43, 46 and 49(2) to (4); Articles 55 and 56 other than Articles 55(1) and (2); the entirety of Chapter 8 other than Articles 57(1), 58 and 66; Articles 174 and 187; Article 129 and Articles 145 to 146; Article 200; Article 210; Articles 216 and 225; Article 231; Articles 240 and 252; Article 280; Article 286; and Articles 293 and 299.

The Committee further recommends that all remaining provisions of the Constitution not listed as entrenched or semi-entrenched shall continue to be amended as non-entrenched provisions in accordance with the existing requirement of approval by not less than two-thirds of all Members of Parliament.

Popular Initiative in Constitutional Amendment

9.3. The Committee recommends the introduction of an Article establishing a citizen-initiated constitutional amendment mechanism under which a proposed amendment may be initiated by citizens upon the endorsement of not less than five percent of registered voters nationwide, with signatures collected physically or through a verified digital system. The proposal shall be transmitted to Parliament for formal tabling, public notice and mandatory public consultation, after which Parliament shall deliberate on the proposal and determine whether to adopt, amend or reject it, and any proposal approved by Parliament shall be required to satisfy the applicable parliamentary approval threshold, being not less than seventy-five percent of all Members of Parliament where a semi-entrenched provision is affected and not less than two-thirds of all Members of Parliament where the proposal concerns a provision that has always been non-entrenched.

The Committee also recommends that, Parliament be mandated to enact legislation to embed mandatory public participation in the amendment of non-entrenched provisions by requiring public consultations between the first and second Gazette publications, structured opportunities for citizens and stakeholders to submit views during and after Council of State review, and the publication of consultation reports as part of Parliament's deliberative record.

The Problem of Constitutional Obsolescence

9.4. The Committee recommends that Parliament be mandated to enact legislation providing for a structured system of periodic constitutional review conducted at intervals of 20 to 25 years by an appropriate institutional body, incorporating mandatory public participation and the publication of review reports to ensure that the Constitution remains aligned with evolving societal needs and expectations.

The Problem of Private Bodies in the Constitution

9.5. The Committee recommends amendments to the Constitution to remove all direct references to specific private associations in Articles 153, 157, 166, 201, 204, 206, 209, 259 and 261, replacing them with neutral formulations providing for representatives to be nominated in accordance with procedures prescribed by an Act of Parliament, and further recommends that the Act prescribe the procedures, criteria and safeguards by which recognised professional bodies, civil society organisations and other voluntary associations shall nominate representatives to constitutional bodies in a manner that ensures transparency, inclusivity and institutional continuity.