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TOPIC: REFLECTIONS ON THE GHANAIAN REGULATORY STATE

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SYNOPSIS

The concept of the regulatory state is seen by scholars as one that relies largely on authority rather than its organizational or its redistributive-financial resources to achieve policy outcomes. It is also regarded as an example of the “hollow state” in which activities are increasingly conducted outside the state but controlled through regulation. The concept was highly criticized globally largely as a result of the 2008 financial crisis and the failings of the Kyoto instruments to offer a meaningful and yet painful contribution towards mitigating climate change, which instead led to national debates characterised by exemptions and limited compliance.

In line with the global trend, the regulatory state in Ghana has equally attracted intriguing and yet inconclusive debate. As a contribution to the debate, this lecture examines the effectiveness or otherwise of the regulatory state in Ghana based on the following indices often used in the literature:

- (i) a growing trend towards privatisation and the creation of independent regulators (corporatization);
- (ii) the separation of operations from policy-making through the creation of statutory bodies;
- (iii) a trend towards the devolution of state regulatory power to lower levels of government; and
- (iv) the increasing use of formal rules as instruments of guidance.

The lecture argues that the crisis in Ghana’s regulatory state is largely due to three factors. First, the failure of specialised regulatory agencies to navigate or offer a “depoliticized” way out of highly political decisions. Second, the ineffectiveness of incentive-based regulation and “enforced self-regulation” to provide for more desirable results. Third, regulated organisations are unable and unwilling to regulate and risk manage themselves and the inability of customers or consumers to choose wisely, given insufficient information.

For a more effective regulatory state, the lecture recommends a reconstruction of the regulatory state in Ghana based on the following interventions: a comprehensive governmental approach and not a piecemeal one to regulatory reforms including enforcement/compliance; an adjusted relationship between the fields of study and practice through informing debates about institutional architectures of regulatory bodies; and the return of what one might call the strong state or the ushering in of the fatalistic “naked state” in the post-COVID-19 era.

REFLECTIONS ON THE GHANAIAN REGULATORY STATE

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Introduction

Even though the concept of the regulatory state was popularized by scholars of the change in the capitalist economy since the late 1970s (Moran, 2002), scholarly interest in it and regulatory authorities substantially increased in the 1990s (Loughlin and Scott 1997; Majone, 1994; 1997; McGowan and Wallace 1996). Two of the most important driving forces of this interest are the global wave of regulatory reforms and the establishment of autonomous regulatory institutions and the regulatory state as a mode of governance that deals with the changing role of the state and regulation over time and the shifting of emphasis to better regulation and good governance. Indeed, empirical evidence from around the world has suggested that good governance in general and regulatory governance in particular are critical to the process of sustainable development (Nicoletti and Scarpetta 2003; Estache 2004; Dollar and Kraay 2002). It has been pointed out that in search for better governance, regulatory reform is critical (Kirkpatrick, 2006). This is most true in developing countries like Ghana, where weaknesses in regulatory rule-making are pervasive and there is a lack of accountability, transparency and consistency in policy formulation and implementation. In addition, there are not only shifts in the robustness of the state over the years, in the area of its regulatory propensities but also of what has been regulated (or not) and why?

Against this backdrop and as a contribution to the debate over the state in general and the regulatory state in particular, the paper examines the practice of the regulatory state in Ghana based on some indices of the concept of the regulatory state using documentary sources and content analysis. It found that in spite of the progress made, the regulatory state in Ghana is in crisis largely due to three factors. First, the failure of specialised regulatory agencies to navigate or offer a “depolitized” way out of highly political decisions. Second, the ineffectiveness of incentive-based regulation and “enforced self-regulation” to provide for more desirable results. Third, regulated organisations are unable and unwilling to regulate and risk-manage themselves and the inability of customers to choose wisely, given insufficient information.

The paper is divided into four parts. First, it revisits the state debate considered to be one of the most intriguing one in Political Science. Second, there is a brief overview of the concept of the regulatory state. Third, based on the indices of the regulatory state, the paper examines the state of the regulatory state in Ghana with specific reference to the progress made and the challenges faced. Fourth, the paper highlights some lessons and makes some policy recommendations.

The State Debate

One of the deepest and most abiding divisions in Political Science is what is often referred to as the “state debate” (Heywood 2000). The state has been the subject of debate and interest among ancient and modern scholars largely because of its centrality to political analysis whereby politics is often understood as the study of the state. In fact, it has been pointed out that every human activity falls under the shadow of the state (Heywood 2007). Consequently, the controversy over

the nature of the power of the state has dominated Political Science and it is largely at the heart of the ideological and theoretical disagreements in the discipline.

The state debate may be divided into four areas. First is the emergence of four contrasting and rival theories of the state with each offering a different account of its origins, development and impact on society. They are (i) the pluralist state which holds that the state is a neutral body that arbitrates between competing interests of society; (ii) the capitalist state which according to Marxist is one that maintains the class system by either oppressing subordinate classes or ameliorating class conflict; (iii) the “leviathan state” which Thomas Hobbes saw as a gigantic monster is portrayed by the New Right as a self-serving monster that is intent on expansion and aggrandizement; and (iv) the patriarchal state is seen by feminist the supports a system of male power and dominance.

It is instructive to note that these contrasting theories were largely influenced by the different views of political thinkers in the origins or evolution of the state. For instance, Thomas Hobbes (1651) saw the state as a “leviathan”, that is, a gigantic monster; Max Weber saw it as instrument in domination which had the monopoly of the means of “legitimate violence”; Hobbes (1651), John Locke (1690) and Jean-Jacques Rousseau (1762) regarded the state as a social contract which demanded reciprocal obligations from both the governors and the governed. To Karl Marx, the state was an instrument of class oppression which would wither away after the proletarian revolution.

Second is the functional classification of the state, which comes in different shapes and sizes as follows:

- i. The minimal or “nightwatchman state”, which is advocated by the liberalists and New Right and provides a framework of peace and social order within which citizens can conduct their lives as they think best;
- ii. The bourgeois state whose role is to maintain stability within a system of unequal class power;
- iii. The developmental state found in Japan and East and Southeast Asian countries which operates through a close relationship between the state and major economic interests, notably big business to promote prosperity through transnational competition;
- iv. The social democratic or welfare state which intervenes in economic and social life to promote growth, maintain full employment, reduce poverty and bring about a more equitable distribution of social programmes through a range of social security, health, education and other services;
- v. The hollow state – the increasing cessation of the state as service provider and increasingly becoming the manager of a network of subcontractors and the use of third parties, often NGOs and CSOs to deliver services and act in the name of the state (Shafritz 2004);

- vi. The competition state is one which pursues strategies to ensure long-term competitiveness in a globalized economy;
- vii. Statism or what Mafeje (1977) refers to as “state capitalism”, in which the state becomes an entrepreneur is the intervention of the state in the economy by undertaking business and commercial activities and the means of production nationalized as state-owned enterprises. The economic policy and programmes of Kwame Nkrumah’s Convention People’s Party (CPP) through the setting up of state enterprises in the late 1950s and early 1960s were seen as state capitalism; and
- viii. Regulatory state: a mode of governance or public policy making whereby there is reliance on regulation rather than public ownership, planning or centralized administration. It replaces the interventionist or dirigiste state in which privatization and deregulation created conditions for its rise. Its key beneficent outcomes include enhanced power of rule-making, accountability, restraining the power to tax and spend, transparency and decentralization (Majone 1994; 1997).

Third is the negative characterization of the post-colonial state in developing countries especially Africa such as “prismatic” (Riggs 1964), “soft” (Myrdal 1968), “weak” (Jackson and Rosberg, 1982), “overdeveloped” (Leys 1976), “precapitalist affectation” (Hyden 1983), “anti-development” (Dwivedi and Nef 1982), “predatory” (Fatton 1986) and “vampire” (Frimpong-Ansah 1992).

Fourth, there are not only shifts in the robustness of the state over the years, in the area of its regulatory propensities but also of what has been regulated (or not) and why?

The Concept of the Regulatory State: A Brief Overview

The concept of the regulatory state could be traced to the 19th century when the state was seen as nightwatchman that provided the rules and enforcement through the courts to guarantee property rights for the growth of enterprises (Braithwaite 2000). Privatization, deregulation and the shift from direct to indirect or proxy government created the conditions for the rise of the regulatory state to replace the interventionist or dirigiste state of the past (Hood and James 1996). The regulatory state¹ is a distinctive mode of governance oriented towards the promulgation of rules that engages more or less systematic oversight of compliance with those rules by public agencies

¹ Braithwaite (2000) has pointed out that the development of the regulatory state starts with the nineteenth century and the idea of the state as a nightwatchman, providing the rules and enforcement through the courts to guarantee property rights and the enforcement of contracts sufficient to underpin the growth of enterprise. See J. Braithwaite ‘The new regulatory state and the transformation of criminology’, *British Journal of Criminology* 40: (2000): 222–38. doi. org/10.1093/bjc/40.2.222.

operating at arm's length from those they are overseeing.² While the interventionist or dirigiste state was characterized by a high level of centralization in administration and policy making, the regulatory state relies on extensive delegation of powers to independent institutions: regulatory agencies or commissions, but also the judiciary, which is becoming an increasingly active player in the regulatory game (Bressman et.al. 2019). It involves a shift in policy emphasis macro-economic stabilisation and redistributive welfare policies towards a greater concern with competitiveness and economic efficiency, and favouring legal authority and rule-making over alternative policy instruments such as public ownership, planning or centralised administration (Majone 1994, 77-80).

In short, the regulatory state is regarded as an example of the “hollow state” in which activities are increasingly conducted outside the state but controlled through regulation. The concept was highly criticized globally largely as a result of the 2008 financial crisis and the failings of the Kyoto instruments to offer a meaningful and yet painful contribution towards mitigating climate change, which instead led to national debates characterised by exemptions and limited compliance (Bressman et. al. 2019).

The main features of the regulatory state as discussed by a number of scholars (Bressman et. al. 2019; McConkey, 2003; Liora and Salter, 1997; Loughlin and Scott, 1997) can be summarised as follows: a growing trend towards privatisation and the creation of independent regulators; a trend towards the devolution of state regulatory power to lower levels of government; directions towards regulatory innovations; an emphasis on cooperation and co-management techniques between regulators and regulatees; a trend towards focusing on processes in regulatory operations; the separation of operations from policy-making; the increasing use of formal rules as instruments of guidance (Table 1). Indeed, some scholars have identified the “inner face” of the regulatory state to include: administrative decentralization and regionalisation; the breakdown of formerly monolithic entities into single-purpose units with their own budgets; delegation of responsibility for service delivery to private, for profit or not-for-profit organisations, and to non-departmental bodies operating outside the normal executive branch framework; competitive tendering and other contractual or quasi-contractual arrangements whereby budgets and decision making powers are devolved to purchasers who, on behalf of their client group, buy services from the supplier offering the best value for money (Hood and James 1996; Braithwaite 2000).

According to Parker (1999), a well-functioning regulatory system is one that balances accountability, transparency, and consistency. Similarly, effective regulatory agencies must not only operate within their legal powers but also be accountable for the consequences of their actions. Transparency relates to regulatory decisions being reached in a way that is revealed to all interested parties.

² See D. Levi-Faur, ‘The odyssey of the regulatory state: From a “thin” monomorphic concept to a “thick” and polymorphic concept’, *Law & Policy* 35: (2013): 29–50. doi.org/10.1111/lapo.12000; M. Loughlin and C. Scott, ‘The regulatory state’, in P Dunleavy, I Holliday, A Gamble and G Peele (eds), *Developments in British Politics. Book 5*. Basingstoke, UK: Macmillan, 1997, pp. 205–19. doi. org/10.1007/978-1-349-25862-8_10; and G. Majone, ‘The rise of the regulatory state in Europe’, *West European Politics* 17(3): 1994, pp. 77–101. doi.org/10.1080/01402389408425031.

Perhaps the biggest weakness of the regulatory state is its weak transparency and accountability (Majone 1994). Delegation of important policy-making powers to non-majoritarian institutions raises novel problems of democratic legitimacy which can be tackled not by limiting the independence of the regulators, but by strengthening the accountability structure.³ This can be done through the enforcement of Jeremy Bentham's famous canon that "the closer we are watched, the better we behave". This entails the enforcement of checks and balances among governmental organs, improved judicial review and improved executive oversight and coordination by using some of the new tools of public management like the regulatory budget (that is, policies that limit the total costs that an administrative agency may impose through rulemaking) or regulatory clearing house (a designated intermediary that validates and finalizes the transaction between a buyer and seller to ensure that they honour their contractual obligations). Perhaps a key instrument is the principal-agent relationship which strengthens the accountability relationship between the government as agents and citizens as principals to act and be accountable to the public interests (Lane 1993:114-116).

A regulatory state does not only mean the existence of the regulatory framework but the capacity to enforce it. The regulatory framework in Ghana does, in fact, exist. However, in the case of Ghana, the capacity to enforce the laws of the state to ensure compliance is weak.

Table 1: Features of the Regulatory State

Indicator(s)	Means of Verification
Main function	Correcting market failures
Instruments	Rule making
Main arena of political conflicts	Review and control of rule making
Characteristic institutions	Parliamentary committees, independent agencies and commissions, tribunals
Key actors	Single issue movements, regulators, experts and judges
Policy style	Rule-bound, legalistic
Policy culture	Pluralist
Political accountability	Indirect

Source: Majone 1997: 149

The State of the Regulatory State in Ghana: Robustness or Crisis?

There are several indices for measuring the regulatory state, which have been contested. However, the following four basic changes have been identified with the shift occasioned by the regulatory state for which there is consensus (Loughlin and Scott, 205-7):

³ Ibid

- (1) The separation of ‘provision’ from ‘production’, that is, the separation of policy-setting and operational activities, for example, through the transfer of state-owned enterprises to the private sector (‘privatisation’) but also through state-owned enterprise reforms, such as ‘corporatisation’;
- (2) The creation of free-standing (semi-) independent agencies to perform such activities as regulating prices, monitoring compliance with license provisions and handling consumer complaints;
- (3) A trend towards the devolution of state regulatory power to lower levels of government.
- (4) The increasing use of formal rules as instruments of guidance with a focus on regulatory operations

It is these four indices or analytical framework that the paper leans on for an assessment of the robustness or otherwise of the Ghanaian regulatory state.

Progress Thus Far

It is difficult to trace the trajectory of the regulatory state in Ghana particularly, in the immediate independence period because of regime changes, types and ideological inclinations (socialist, statist and liberal or laissez-faire policies). In addition to these, the regulatory state emerged in the late 1970s with several interrelated basic strategies: privatization, liberalization, deregulation; fiscal retrenchment, economic and monetary integration; and various policy innovations associated with the New Public Management paradigm (Majone 1997). Accordingly, the Convention People’s Party (CPP) government of Kwame Nkrumah cannot be blamed for not promoting the regulatory state while in office even though the Bank of Ghana and the Office of the President (which coordinated several state-owned enterprises, quasi-governmental institutions and specialized secretariats such as the State Planning Commission) were clothed with some regulatory powers to enhance national development (Amonoo 1981). The regime operated a centralized administration because of the 1960 First Republican Constitution combined with the policy of state capitalism through the setting up of state enterprises to fill the gap created by an infant indigenous private sector (Killick 2010; Ayee 1986). To Nti (1975: 169) the distinctive features of the period 1960-66 included the “assumption of a great deal of ministerial powers by the President, the proliferation of ministries, the creation of presidential secretariats and the very frequent reshuffling of ministerial portfolios”. It has been noted that the proliferation of parallel organizations and units often performing similar functions was not only expensive but also administratively pathological (Owusu-Ansah 1975).

The post-Nkrumah period and the introduction of structural adjustment programmes (SAPs) created the enabling environment to pursue features of the regulatory state through reforms. More liberal or market-oriented policies including privatization, commercialization, downsizing, contracting out of services especially during the SAP period from 1984 were designed and implemented largely to improve the effectiveness and efficiency of the public sector especially the restructuring of state-owned enterprises (SOEs) with budgetary deficits and accrued financial loss.

These were complemented by the New Public Management reforms including managerialism, creation of executive agencies outside the civil service structure, decentralization and performance contracts. These strategies and initiative called for the creation of arm-length regulatory agencies institutions (RAs/RIs).

Reform of SoEs through privatization and corporatization: The separation of ‘provision’ from ‘production’, that is, the separation of policy-setting and operational activities, for example, through the transfer of state-owned enterprises to the private sector (privatisation) but also through state-owned enterprise reforms in the area of corporatization, which involves a restructuring of SoEs into joint-stock, publicly listed companies in order to introduce corporate and business management techniques into their administration. The reform therefore entails the delegation of responsibility for service delivery to non-departmental bodies operating outside the normal executive branch framework.

Privatization of SoEs

State owned enterprises (SoEs) have dominated the political and economic history of Ghana since independence. They are involved In Ghana, they are involved in energy, petroleum, housing, road transport, railway, aviation, and the delivery of water. They also play important regulatory roles in the energy, financial, transportation, and insurance sectors. By the mid-1980s when the economic recovery programme (ERP)/structural adjustment programme (SAP) was implemented there were about 300 SoEs including joint ventures and reduced to 52 as at 2019 (Republic of Ghana 2019). They have an important role to play in the socio- economic development of the country through the provision of essential infrastructure, service delivery, job creation, skills development, delivery of services to citizens and create stability in crisis supply chain. This developmental burden placed on SoEs has not been met. Many of them “have been underperforming compared to their own objectives, while others are incurring losses” as recent as 2016 (Republic of Ghana 2016: 5). For instance, 18 SoEs were reported to have registered losses of nearly GH¢800 million (about US\$200 million), or about 0.5 percent of GDP in 2016 (Republic of Ghana 2016).

The poor performance of the SoEs naturally created the condition for their privatization with the implementation of structural adjustment programme (SAP) in the mid-1980s. To facilitate the privatization programme, the Provisional National Defence Council set up the State Enterprises Commission under the State Enterprises Commission Act, 1987 (PNDCL 170) as a central agency with oversight responsibility for Government’s interests in SOEs and to promote efficient and profitable operation of SOEs, utilising the tools of corporate planning, performance contracting, monitoring and evaluation; and (b) the Divestiture Implementation Committee (DIC) under the Divestiture of State Interests (Implementations) Act, 1993 (PNDCL 326). In spite of some progress, the privatization programme was largely seen as unsuccessful because of governance deficits such as such as lack of transparency, accountability, supervision, corruption, nepotism, non-conformity to standards, political interference, inadequate information on the assets of some of the SoEs and unclarity of government policies (Appiah-Kubi 2001; Handley 2007). The relatively bad experience with privatization in Ghana reinforces the political economy issues often associated in the literature as it can be a rent allocation strategy.

The Corporatization of State-owned Enterprises through Reform

There is the belief that SoEs reforms will improve the capacity of the state. Accordingly, “Given that most SOEs were initially created to fill gaps in the economy at a time when there were no private sector players with sufficient leverage to pursue such investment, it is increasingly making less sense for government to keep its interest in SOEs in sectors with strong private participation” (Bawumia 2017).

The value of state enterprises is estimated at GHS110 billion (USD18.2 billion), which represents approximately 27 percent of 2020 GDP. This means that 10 percent return on assets could generate 11 billion to the national coffers and SOEs could be employing more than 700,000 in the public and civil service (Ofori-Atta 2021). This notwithstanding, the SoEs recorded a net loss of ₦586.4 million (USD97 million) in 2019 in contrast to GHS188 million in 2018. In 2020, 19 entities alone lost some GHS1.6 billion (USD 265 million) though this was heavily impacted by the COVID-19 pandemic (Ofori-Atta 2021).

The continued poor performance of SoEs even after privatization meant that effective reforms needed to be implemented to address the fundamental governance weaknesses that faced the SoEs including lack of good corporate governance (multiple, often conflicting objectives; a lack of a proper legal and regulatory framework for effective state oversight; a lack of a strong coordinating entity to exercise the state’s ownership rights; a lack of financial and fiscal discipline; weak boards and management; political interference in day-to-day decision-making; and low levels of transparency and disclosure) which have led to operational inefficiencies and poor service delivery (Republic of Ghana 2016). The fragmentation of state’s ownership structure with multiple institutions including the Ministry of Finance, the State Enterprises Commission (SEC) and sector Ministries manage government’s ownership interests in these companies coupled with the absence of a clearly defined ownership framework limited government’s ability to effectively manage its equity investments, thereby leading to the inefficiencies and poor performance of many SOEs. This weakness may be addressed if a centralized agency (single entity) is set up with expanded oversight of Government’s commercial interests and combine an advisory role with effective portfolio management of the assets and liabilities of companies in which Government has full ownership, controlling or minority stake (Republic of Ghana 2017; 2018).

A number of reform initiatives were undertaken to make SoEs viable and reduce their indebtedness. First, the World Bank assisted the government of the New Patriotic Party (NPP) to undertake several corporate governance assessments, and then provide technical assistance (through the Economic Management Strengthening project, which allocated USD5.25 million for improving the governance of SOEs through reforms of the oversight mechanism including the setting up of the State Interests and Governance Authority (SIGA). In addition, the project supported the consolidation of the state’s ownership role through an equity study and was supporting the corporate governance improvements Second, the Ministry of Finance began an annual SoEs Policy and Governance Forum in 2017 which brings together key stakeholders in the SOEs sector for assessment in how well or otherwise the sector had performed in the past year and to discuss opportunities and challenges that affect performance.

Third is the publication since 2016 of The State Ownership Report (SOR) provides a comprehensive assessment of the financial and operational performance of entities in which the State has interest. These entities include State-owned Enterprises (SOEs), Joint Venture Companies (JVCs), and Other State Entities (OSEs), which are all collectively referred to as ‘Specified Entities’.

Fourth is the enlarged ownership portfolio of the State at the end of 2019 which consisted of one 175 Entities, consisting of fifty-two (52) SOEs; seventy-seven (77) OSEs and forty-six (46) JVCs (see Table 2). There are 44 commercial SoEs and 8 subvented agencies. Of the 77 Other Entities, 51 of them are regulators, 13 statutory corporations, 12 public corporations and one public trust. The joint venture companies are made up of 30 joint ventures and 16 mining companies.

Fifth, the setting up of the State Interests and Governance Authority (SIGA) by the SIGA Act, 2019 (Act 990) – centralized body and single entity to oversee and administer the State interests in state-owned enterprises, joint venture companies and other State entities referred to as specified entities. More specifically, SIGA is ensure that specified entities adhere to good corporate governance practices; in consultation with the respective sector Ministers evaluate the mandates of state-owned enterprises and other State entities and make recommendations to the relevant sector Minister; advise the sector Minister on policy matters for effective corporate governance of specified entities; assist the Minister for Finance to do three things, namely assess borrowing levels of State-owned enterprises and other State entities in accordance with the Public Financial Management Act, 2016 (Act 921); make a determination where a request for a government guarantee, financing of capital expenditure or investment plan is submitted by a specified entity; and to oversee the sale or acquisition of the State’s interests in specified entities (Republic of Ghana 2019). Even though the functions of SIGA are regulatory in nature, it is not listed as a regulator but a statutory corporation reporting to itself with no sector ministry in the 2019 State Ownership Report, which is bizarre (Republic of Ghana 2019). However, with the establishment of the Ministry of Public Enterprises, it is expected that SIGA will report to it.

Sixth, the ongoing development of a Code of Corporate Governance to guide and promote good corporate governance in Specified Entities. The Code is expected to establish the standards of good practice for corporate governance for compliance by Specified Entities.

Seventh, the development of the State Ownership Policy under consideration by Cabinet, which seeks to fully articulate how the State will exercise its ownership rights and promote good corporate governance practices in Specified Entities. It also highlights the government’s commitment to achieving public policy objectives and goals while acknowledging the profitability requirement as fundamental.

Eighth, the development of a comprehensive performance management framework and service charters to ensure the systematic tracking and monitoring of the performance of the Specified Entities. This framework, which will also facilitate the timely identification, assessment and mitigation of potential fiscal risks from the Entities, will articulate the underlying principles, components, structural and process relationships within the framework, as well as the performance management cycle. The development of performance management framework and service charters reinforces the fact the regulatory state formalises relationships within the policy domain, including

a shift from implicit understanding of norms of adequate service towards greater reliance on explicit formal rules and performance measures.

The 46 Joint Venture Companies (JVCs) reinforces the emphasis on cooperation and co-management techniques between regulators and regulates, public private partnerships and delegation of responsibility for service delivery to local and international corporate bodies and multinational corporations. In fact, it is a shift from direct to indirect or proxy government (Seidman and Gilmour 1986). Progress in this area rests on creating the enabling environment for the private sector which seems to have the capacity, expertise and resources. In spite of being regarded as an engine of growth by governments in the Fourth Republic, the participation of the private sector and public private partnerships have been inadequate. Some of the complaints from the private sector include being crowded out by the government in terms of access to credit facilities from the banks, high interest rates, inflation, inefficient service delivery, high cost of doing business and cumbersome legal framework especially over land. These complaints have been attributed to the inadequate facilitation of private sector development by the public sector including its quality, quantity and timeliness of support to the private sector which has been described as poor (Republic of Ghana 2017b). On the other hand, the private sector has also been often accused of poor corporate governance which has contributed to its ineffective performance (Republic of Ghana 2017c).

Ninth, the signing of performance contract agreement between SIGA and 71 State-Owned Enterprises (SOEs), Joint Venture Capitals (JVCs), and other state entities in 2021 which aims to evaluate and assess the performance of the CEOs.

Weaknesses of the reforms

In spite of some progress made towards corporatization of the SoEs, there are lingering challenges. First, there are problems over transparency and accountability. For instance, forty seven (47) SOEs since 2016 have failed to submit their annual financial statements to the Ministry of Finance in flagrant contravention of the Public Financial Management Act. Only 14 out of the 126 SOEs operating in the country responded to the MoF's directive to submit their annual statements in 2019. In the view of the current Minister of Finance "These statistics highlight the need for a renewed performance contract between the State and its Enterprises. To recover from the COVID-19 pandemic, we must pursue accountability, transparency, and responsible custodianship. Our public enterprises are not vehicles to enrich a minority. They are intended to be arms through which the state promotes equality of opportunity and presents its citizens the tools to shape their own lives..... the time has come to change the culture of our state enterprises" (Ofori-Atta 2021). The sanction for an infraction of either the financial statement, management practices, etc. is GHS12,000 for each.

Second, in spite of the setting up of the SIGA its authority has sometimes been undermined by the attitude of some CEOs of the specified entities. For instance, in the first week of September 2021, only a third of the CEOs of SOEs attended a workshop to deliberate on a draft code of corporate governance of the specified entities. This attracted comments of disappointment from the Director

General of the State Interest and Governance Authority (SIGA), Stephen Asamoah Boateng and attributed their absence to indiscipline and lack of commitment on the part of the absentee CEOs. In addition, even though some of the CEOs were consulted in the process to the design and passage of the SIGA Act, it received little attention from them and yet when it became law they expressed surprise at its contents (Ackah-Blay 2021).

Third is dismissal of CEOs after every transition from one government to the other, which has created instability and policy discontinuity in some of the institutions. This problem has been addressed by the unanimous decision of the Supreme Court in June 2019 which declared as unconstitutional and void Section 14 of the Presidential (Transition) Act 2012 (Act 845) which requires the chief executives or director-generals (however described) of public boards or corporations to cease to hold office upon the assumption of office by a person elected as President of the Republic of Ghana for being in contravention of articles 190 and 191 of the Constitution. According to the Court, the appointments of such public service officers were governed by Article 195 of the Constitution and therefore their removal must, therefore, be done in accordance with the terms and conditions of their contract of engagement or it must be justified, as stipulated in Article 191 of the Constitution. In addition, the governing board members and CEOs of limited liability companies incorporated under the Companies Act, Act 179, 1963 such as the GCB Bank, Agricultural Development Bank, Ghana Oil Ltd., State Company and National Investment Bank Ltd. are not affected by Section 14 of the Presidential Transition Act, act 845 and therefore can only be removed in accordance with the articles of incorporation of the company and the Companies Act. However, the board members of SoEs appointed by the President could be removed upon the election of a new President because they are not public service officers.

Fourth, the problem of fragmentation still persists in spite of the setting up of SIGA. The SoEs still respond in certain matters to their Sector Ministry, Ministry of Finance, SIGA and the newly created Ministry of Public Enterprises under the Office of the President.

From the progress and challenges, there are still governance weaknesses such as mandate overlaps, turf war and inadequate transparency and accountability. Some of these challenges have been acknowledged in a government publication:

The effective performance of public sector institutions is constrained by weak inter-sectoral coordination and clarity in roles and functions of the Ministries, Departments and Agencies (MDAs); duplication and overlap of functions among the MDAs; misuse and waste of resources; poor incentive structures; ineffective supervision; inadequate infrastructure to ensure an effective working environment; and lack of a comprehensive human resource development policy (Republic of Ghana 2017b: 49).

Table 2: The Ownership Portfolio: Types of Specified Entities

No.	TYPES	NUMBER	EXAMPLES
1.	Commercial SoEs	44	Bulk Oil & Storage Company, Consolidated Bank Limited, Bui Power Authority, Electricity Company of Ghana, Ghana Exim Bank, Ghana Water Company, Ghana Ports and Harbours Authority, Ghana National Petroleum Corporation, Graphic Communications Group

			Ltd, Social Investment Fund, State Housing Company Limited, Tema Oil Refinery, Volta River Authority
2.	Non-commercial SoEs (Subvented)	8	Community Water & Sanitation Agency, Ghana Broadcasting Corporation, Ghana Highway Authority, Ghana Meteorological Agency, Ghana News Agency, Irrigation Company of the Upper Region(ICOUR), National Theatre of Ghana, News Times Corporation
3.	Other State Entities (regulators; public corporations; and statutory corporations)	77	<p>(i) 51 Regulators include the Bank of Ghana, National Communication Authority, Media Commission, Public Utilities and Regulatory Commission, Ghana Tertiary Education Commission, National Insurance Commission, Lands Commission, Minerals Commission, Ghana Standards Authority.</p> <p>(ii) 12 Public corporations include Ghana Road Fund, GIMPA, Ghana AIDS Commission, CSIR, GETFund, National Vocational Training Institute)</p> <p>(iii) 13 Statutory corporations include Creative Arts Agency, Middle Belt Development Authority, Narcotics Control Board, National Service Secretariat, National Youth Authority, SIGA)</p> <p>(iv) 1 Public Trust: Social Security and National Insurance Trust</p>
4.	Joint Venture Companies (JVCs)	46	<p>(i) 30 Joint Ventures include Accra Abattoir Company Limited, AirTelTigo Ghana Ltd, ADB Bank, Africa Reinsurance Company, GCB Bank Ltd., GHACEM Ltd., Cocoa Processing Company, National Investment Bank, SIC Company Ltd., Standard Chartered Bank, Vodafone (Ghana Telecom)</p> <p>(ii) Mining Companies include Anglogold Ashanti Ltd., Ghana Bauxite Company Ltd., Ghana Manganese Company, Great Consolidated Diamonds Ltd., Goldfields Ghana Ltd (Tarkwa), Perseus Mining (Ghana) Limited</p>
5.	TOTAL	175	

Source: Compiled by the author from Republic of Ghana 2019a. 2019 State Ownership Report, pp. 303-313.

2. The separation of operations from policy making through the creation of free-standing (semi-) independent agencies to perform such activities as regulating prices, monitoring compliance with license provisions and handling consumer complaints

Regulatory agencies are not new; nonetheless their adoption in recent decades as a best practice suggests a reorganization of modern bureaucracy and a new division of power between politicians and bureaucrats within the modern administrative state (Rahman 2018).

The regulatory framework in Ghana is extensive and complex. It covers 25 sectors (Table 3). They include sectors including banking and finance, transport, communications, water, energy, health, education, trade and industry, lands and natural resources, transport, communication, labour,

development planning, utility services and governance. This may be described as the explosion of the process of ‘regulatory agencification’ and in this process regulation has become a distinct and salient function in the institutions of policy making. The establishment of these regulatory agencies in many different sectors in recent decades may be explained by the logic of policy diffusion in its all-encompassing significance (Jordana 2011) and developments in the Ghanaian context such as the promulgation of the 1992 Constitution and public sector reforms. For instance, the 1992 Constitution created some independent commissions such as the Electoral Commission, Commission on Human Rights and Administrative Justice (CHRAJ), National Commission for Civic Education, National Media Commission, Lands Commission, Public Services Commission and National Development Planning Commission (NDPC) except the NDPC (which is responsible to the President), which are not subject to the direction or control of any person or authority in the performance of their functions.

The constitutional commissions are charged with specific mandate and constitutes their membership in the sense that the members represent their governing body. Furthermore, the Constitution creates the legal entity but does not constitute its membership nor state its functions. The governing body is different from the Commission. These commissions are responsible for the regulation and management of the natural resources concerned and the coordination of policies in relation to them. They include the Minerals Commission, Forestry Commission and Fisheries Commission. However, Article 269 of the Constitution allows commissions not mentioned in the Article (eg. Petroleum Commission and Energy Commission) to be set up to regulate and manage the utilization of natural resources (Republic of Ghana 1992).

The complexity is compounded by the diversity of functions and different nomenclatures for the various organizations with different conditions of service. This is the case even though some of them are in the same sector—one of the reasons for the decline in government effectiveness in the past decade.

There are 15 categories of statutory bodies with different nomenclatures that are sometimes confusing. They are academy, agency, authority, board, college, centre, commission, corporation, council, fund, institute, office, organization, scheme and service (Table 4). Even though these nomenclatures depend on the legal instruments (whether being incorporated or unincorporated) that set up the organizations and their mandates, there are duplication and overlap in the mandates of some of them while the redesignation of nomenclature does not really improve their effectiveness as envisaged. The main reason for the creation of the regulatory bodies is to either delivery service or regulate, coordinate and supervise services in their sectors and thereby improve service delivery and promote best practice regulatory governance.

In spite of the existence of these regulatory bodies, there is weak effective service delivery and regulation. Complaints from succeeding presidents, citizens, the private sector and surveys conducted by some civil society organizations (CSOs) have shown that service delivery is unsatisfactory. The National Public Sector Reform Strategy, 2018-2023 has bemoaned that citizens are dissatisfied with the quality of public service because its delivery is “encumbered by several bureaucratic processes that necessarily waste their time and inefficiency has resulted in widespread emergence of middlemen who facilitate service delivery” (Republic of Ghana 2017b: 21-22).

The weaknesses of the public sector regulatory framework have been underscored:

The government lacks adequate and robust regulatory framework needed for defining and shaping the nature of work and service delivery and enforcing service delivery standards to citizens and the private sector. ... There are challenges for full implementation of the Client Service Charters (CSCs) currently in use by public service institutions, and the lack of enforcement mechanisms to ensure adherence to service standards (Republic of Ghana 2017b: 20-21).

Accordingly, Pillar 3 of the NPSRS, 2018-2023 is devoted to strengthened public sector regulatory framework consisting of two programmes, (i) revise Client Service Charters (CSCs) and institutionalize standards; and (ii) strengthen regulatory environment for delivery of public services including the development of adequate regulations for effective implementation of the CSC and Client Service Unit (CSU) initiatives and adequate compliance and enforcement mechanism to ensure adherence to service standards in public sector institutions (Republic of Ghana 2017b: 21).

The weaknesses are attributable to transition politics or political interference or political settlements which refers to the institutional structure that creates benefits for different classes and groups in line with their relative power. In the words of Aubynn (2018: 18):

There is a creeping ‘regulator uncertainty’ that occurs in the aftermath of political change. It is fast becoming a norm that new political parties, which win general elections, begin office with a significant dose of suspicion of the regulator and often question the regulator’s loyalty to the new government.¹³ In the event, some regulatory agencies become the punch-bag for needless public ridicule and opprobrium. During this period of ‘sparring’ for trust between political appointees and technocrats, instances of direct intervention in the day-to-day activities of regulators become common. ... These burgeoning attempts at interfering and truncating the activities of regulatory agencies during political transitions have occurred under the governments of both of the dominant political parties in Ghana, the NDC and the NPP. This has tended to directly affect not only the image and credibility of public institutions but also the psyche of employees who work in them and who feel unjustifiably victimized as a result of political change.

Political interference undermines regulatory consistency, which ensures predictability, a level playing field and legitimacy in that it alters the regulatory rules of the game for short-term political advantage.

In addition, some of the regulatory institutions lack the requisite financial, human and logistical resources as well as attractive conditions of service as noted in the 2019 SIGA Report and the 2017 Coordinated Programme of Economic and Social Development Policies, 2017-2024. This development is in contrast to the view that building effective regulatory structures in developing countries is not simply an issue of the technical design of the regulatory instruments but also involves the quality of the supporting regulatory institutions and their capacity (World Bank 2002: 152).

It is instructive to note that the regulatory state with the rise of neo-liberalism and expectations of state contraction should lead to deregulation, de-bureaucratization and improved service delivery. However, the Ghanaian experience on the scope of the creation of regulatory agencies suggests re-

bureaucratization, ineffective service delivery and, consequently, expansion in the regulatory capacities of the state.

There are additional layers of supervisory bodies which have remained largely ineffective in the performance of their mandates. They include the governing board, sector ministry and the office of the President. All the statutory bodies (SoEs and regulatory organizations) have a governing board and placed under sector ministry. The board of directors is the principal governing authority of the statutory bodies. Majority of the members are generally nominated and appointed by the government of the day. Political compulsions often outweigh managerial necessities. The powers and authority of the board are inadequately defined while tenure of members depends on the electoral cycle. As a result, most boards have found themselves literally helpless in the face of the political power exercised by the government of the day. It has been pointed out that effective boards make effective organizations while weak boards produce weak organizations (Fernandes 1986). Boards are in effect trustees.

However, the effectiveness with which the trust is fulfilled depends on the standing and credibility of the board vis-à-vis the management and the confidence placed in it by the government. This trust has sometimes been undermined by the attitude and direction of the government. In the case of Ghana, there are a few instances of a stand-off between the board and the chief executive officer and the government of the day went ahead to dissolve the boards thereby weakening their role and effectiveness. In other cases, as rightly pointed out by Yamson (2017) “Ministers are to deal with the Board but often times, ministers deal directly with CEOs; a practice totally in conflict with organizational structure in corporate governance”, ... In corporate governance, a board chairman is not entitled to have a permanent office but this has sometimes been overlooked, with some Board Chairmen demanding for office space in their respective Entities; walk directly to the ministers and brief them on all decisions taken at meetings, when their respective CEOs have not gotten a wind”.

The sector ministry, on the other hand, serves as a link between the government and the statutory bodies. According to the Civil Service Law, PNDC Law 327, 1993, a sector ministry performs three functions: (i) initiate and formulate policies taking into account the needs and aspirations of the people; (ii) undertake development planning in consultation with the National Development Planning Commission (NDPC); and (iii) coordinate, monitor and evaluate the efficiency and effectiveness of the performance of the sector (Republic of Ghana 1993). To assist the sector ministries in the performance of their functions, they are enjoined to set up a Ministerial Advisory Board (MAB) consisting of the Minister, Deputy/Deputies, Chief Director and three representatives each from public sector organizations and private sector organizations with which the Ministry has the most dealings. More specifically, an MAB is to (i) promote constant interaction between the Ministry and the users of its services; and (ii) advise the sector Minister on adjustments in policy direction, planning, objectives and operational strategies. The MAB meets at least once a quarter and its minutes are submitted to the Head of the Civil Service. MABs have been set up with media fanfare but their usefulness is often disputed given the infractions of the Procurement Act, 2003 and the Public Financial Management Act, 2016 which the Auditor General has pointed out in his report.

How well equipped are sector ministries prepared to perform their responsibilities? For instance, how well are they equipped to handle regulatory bodies which they supervise? In Table 3, the ministries of Finance, Health and Communications have 7, 6 and 5 regulatory bodies respectively reporting to them. Do they have the capacity to deal with the professional and technical expertise needed in the various areas? Admittedly, each ministry has four divisions, namely General Administration and Finance, Policy, Planning and Monitoring and Evaluation, Human Resources Development and Research, Statistics, Public Relations and Information but this alone does not seem to adequately equip the sector ministries in the light of serious deficiencies in their service delivery and internal structures and processes. Budgetary allocations to ministries have declined over the years leading to the failure to institutionalize and mainstream public sector reform outcomes, truncated reform implementation and prevented continuity and sustainability (Republic of Ghana 2017b).

It must be pointed out that the effectiveness of statutory bodies depends upon their own internal efficiency and on the nature of their relationships with the sector ministry. Accordingly, the performance evaluation of statutory bodies might turn out to be the evaluation of the effectiveness of the sector ministry itself.

Ghana has witnessed a litany of regulation failures in almost all sectors. For instance, the crisis in the banking and financial sectors is largely attributed to the weak regulation of the Bank of Ghana (BoG) as stipulated in the Bank of Ghana Act, 2002 (Act 612) and Banks and Specialized Deposits-Taking Institutions Act 2016 (Act 930). For instance, the BoG gave liquidity support without conducting due diligence expected of it to find out that the money to be given to the distressed banks is protected. Meanwhile, under the Bank of Ghana Act, Act 612, 2002, the BoG is to regulate, supervise and direct the banking and credit system and ensure the smooth operation of the financial sector; and license, regulate, promote and supervise non-banking financial institutions. The banking crisis of August 2017 to January 2020 is therefore largely attributed to non-adherence to policies of corporate governance and ineffective supervision by the Bank of Ghana. In other words, according a Bank of Ghana press release, “regulatory non-compliance, poor supervision, (questionable licensing processes and weak enforcement) led to significant build-up of vulnerabilities in the banking sector” (Bank of Ghana 2019)

Similarly, the Electoral Commission as a result of a host of demanding functions under the Electoral Commission Act, Act 1993 (Act 451) has failed to monitor the political parties in terms of the constitutional expectations of (a) declaring to the “public their revenues and assets and the sources of those revenues and assets”; and (b) publishing to “the public annually their audited accounts”. The result is that party and campaign financing has been abused and fraught with corrupt activities. This has in turn undermined internal democracy in the political parties because of the lack of equality of voice and access. The monetization of politics and the resultant cynicism of citizens of politics constitute a huge dent on the country’s democratic consolidation.

A regulatory state does not only mean the existence of the regulatory framework but the capacity to enforce it. The regulatory framework in Ghana does, in fact, exist. However, in the case of Ghana, the capacity to enforce the laws of the state to ensure compliance is weak. For instance, the mining and environment sector is challenged by its role in environmental degradation, poor compensation to affected communities and unaccounted financial flows of mineral resources. *Galamsey* (illegal artisanal mining) has led to the destruction of forests and farmlands and

pollution of water bodies. These problems have been attributed to “weak enforcement of the relevant environmental and mining laws and regulations” (Republic of Ghana 2017c), which include Minerals and Mining Act, Act 703, 2006; Petroleum (Local Content and Participation), Regulations LI 2204, 2013; the Extractive Industries Transparency Initiative; and the environmental impact assessment (EIA) of the Environmental Protection Agency (EPA).

Furthermore, the recommendations of the Auditor General on public accounts of Ghana are replete with sanctions against public officials who have engaged in rent-seeking activities such as corruption, misappropriation and misapplication of funds but have been left to gather dust on the shelves.

The country’s corruption record is not good. It has consistently performed below the average score of 50 as indicated by Corruption Perception Index of Transparency International. A National Anti-Corruption Action Plan (NACAP), 2015-2024 has been developed and the Office of Special Prosecutor has also been created to deal with corruption. However, the evidence and perception of corruption is still seen as high because of the politicization of corruption and the weak capacity of the Commission of Human Rights and Administrative Justice (CHRAJ) to enforce the NACAP. This nature and level of corruption in the country has attracted negative comments from the development partners.

The Office of Government Machinery (OGM), which serves as the Office of the President, provides accountable, transparent, managerial, technical and administrative services to the Presidency and other stakeholders for the attainment of government’s development agenda of improving the quality of life of Ghanaians (Republic of Ghana 2019c). This mandate is a loaded one and therefore accounting for the diversity of the organizations and institutions under the Office (Box 1). The Office of the Senior Minister used to be part of the OGM until it was abolished in the second term of the current administration of the New Patriotic Party of Nana Akufo-Addo. The nine core functions of the OGM (Box 2) have made the Office the most powerful regulatory and supervisory body in terms of monitoring, coordination and enforcement of compliance when necessary. It has become centralized oversight institution with close to over 100 staffers made up of advisors and aides. Given its functions and personnel and the various infractions or lapses in the regulatory governance in the country, there is a perception of ineffectiveness and inefficiency on the capacity of the OGM to perform its regulatory and supervisory responsibilities. The capacity for planning and policy coordination at the centre remains weak (Republic of Ghana 2017b).

Handling Consumer Complaints: The Ghanaian Consumers

Even though consumers are not regulators, regulation and the services provided by regulatory bodies affect consumers. How do those who are supposed to benefit from regulation actually engage with it? How have the Ghanaian consumers been conceived; and how does this link to the conception of vulnerable consumers? One nagging question is the weight regulators place on consumers’ views when taking practical decisions. Public consultation is important for improving regulatory transparency.

The Ghanaian consumers are left at the mercy of largely inefficient regulatory institutional framework. The Constitution Review Commission Report noted that consumers seem to have been protected by pieces of legislation but they have been uncoordinated leading to “poor enforcement and limited protection for consumers” (Republic of Ghana 2011: 742). Even though there is a Consumer Protection Agency, which was preceded by the Consumer Protection Society of Ghana and the Ghana National Association of Consumers, there is no general consumer protection law which has been on the drawing board for some time now even though consultations had been done with stakeholders on the draft Bill. The CRC report recommended the inclusion of provisions on consumer rights as part of the fundamental human rights and fleshing out consumer rights to include (i) information on competing goods and services; (ii) protection from misleading or false advertisements or labelling of goods and services; (iii) protection from dangerous or hazardous goods; (iv) unfair competition and anti-trust; and (v) safety of goods (Republic of Ghana 2011: 743). The fact that there is little or no protection of consumer interest and public participation undermines the transparency and accountability principles of the regulatory state.

Box 1: Office of Government Machinery

Vice President Secretariat, Office of the Chief of Staff Council of State, Cabinet Secretariat, Ghana AIDS Commission, Internal Audit Agency, National Identification Authority, State Interests and Governance Authority, Administrator General, Millennium Challenge Account, Millennium Development Authority, Micro-finance and Small Loan Centre (MASLOC), National Population Council, National Builders Corps, Public Sector Reform Secretariat, Scholarship Secretariat, Press Secretariat and Policy Coordinating Delivery Unit, COVID-19 Secretariat; Research Unit; Presidential Staffers including advisors and aides

Source: Compiled by the author from Republic of Ghana 2019c. Medium Term Expenditure Framework (MTEF) for 2019-2022 Office of Government Machinery. Accra: Ministry of Finance.

Box 2: Nine Core Mandates of the Office of Government Machinery

- Formulate, implement, co-ordinate, monitor and evaluate government policies and programmes
- Promote political tolerance, stability, security and peace in Ghana and the sub region
- Provide institutional capacity and an enabling environment for effective, efficient and sustainable service delivery
- Provide administrative, managerial and other support services to the Executive
- Develop Micro, Small and Medium Enterprises
- Establish an effective database for policy formulation and management
- Research into Population and HIV/AIDS issues
- Coordinate and monitor investment activities
- Award and monitor government scholarships

Source: Republic of Ghana 2019c. Medium Term Expenditure Framework (MTEF) for 2019-2022 Office of Government Machinery. Accra: Ministry of Finance, pp. 1-2.

3. A trend towards the devolution of state regulatory power to lower levels of government: the “subnational regulatory state”. Ghana has implemented policies and programmes to devolve state regulatory power to lower levels of government through regionalization (the creation of regions) and decentralization (the creation of semi-autonomous local government units and

decongestion of the national capital through ministerial restructuring). The 1992 Constitution and Acts of Parliament such as the Local Governance Act, Act 936 of 2016 and policy documents including national decentralization policy framework and action plan (NDPF/NDAP from 2010 to 2024) have provided the policy framework which have led to the implementation of regionalization and decentralization. The policy framework has devolved regulatory roles to the Regional Coordinating Councils (RCCs) and Metropolitan, Municipal and District Assemblies (MMDAs).

The Local Governance Act, Act 936 of 2016 has assigned the RCCs with the responsibility of monitor, co-ordinate and evaluate the performance of the District Assemblies in the region; monitor the use of moneys mobilised by the District Assemblies; or allocated and released to the District Assemblies by any agency of central Government; and review and co-ordinate public services generally in the region. The 16 RCCs are unable to properly perform their regulatory role because of budgetary constraints in spite of provisions made for their funding such as a percentage of the District Assemblies Common Fund determined by Parliament; grants and other donations; and budgetary allocations made annually to the Regional Coordinating Councils in the national budget in the Local Governance Act, Act 936.

On the other hand, the 261 Metropolitan, Municipal and District Assemblies (MMDAs) are responsible for the overall local development and are therefore political, executive, legislative, administrative, deliberative, planning and taxing authorities and are expected to provide guidance, direction and supervision to other administrative authorities in their jurisdictions. They also lack the resources needed to perform their regulatory roles. Almost all of them depend on the District Assemblies Common Fund which forms about 80% of their revenues but its disbursement is erratic. Therefore, in spite of the progress, there is incomplete political, administrative, fiscal and economic decentralization leading sometimes to recentralization. Fiscal decentralization does not go far enough. It has been conceded that “fiscal autonomy remains weak, arising out of low capacity and limited opportunity for mobilizing local revenue, while many expenditure decisions are taken at central government level” (Republic of Ghana 2017c: 49). Most MMDAs cannot enforce their by-laws sometimes due to the interference of politicians in cases of prosecuting in court the violators of the by-laws. Poor service delivery of most MMDAs have lost the trust and confidence of citizens and therefore the reluctance on the part of the citizens to honour their tax obligations to the MMDAs. The Local Economic Development (LED) and Public Private Partnership Policies which are meant to promote economic growth, job creation and income generation at the local level have not produced the expected results because the two policies cannot be operationalized because of their deficiencies.

The MMDAs have also demonstrated weak accountability. The appointment of the Metropolitan, Municipal and District Chief Executives and 30% Metropolitan, Municipal and District Assemblies members have tended to undermine accountability as these officials are more accountable to the President who has appointed them than the Metropolitan, Municipal and District Assemblies. Members of Metropolitan, Municipal and District Assemblies cannot also discharge their responsibilities to the electorate of consulting them before and after meetings because of financial constraints arising out of inadequate sitting allowances. In addition, a public hearing on any proposed district development plan by the Metropolitan, Municipal and District Assemblies is seldom conducted on financial grounds. The Metropolitan, Municipal and District Assemblies as corporate bodies are not financially accountable to the electorate. Their monthly trial balances and

annual audited accounts are not internally discussed but are rather sent to the Minister of Local Government and Rural Development and Parliament through the Regional Coordinating Councils respectively.

Thus, in spite of the trend towards devolving regulatory powers to lower levels of government over the years, the local regulatory state is ineffective similar to the national one. This is unfortunate because Ghana has implemented one of the most comprehensive decentralization policies on the African continent since 1988 and therefore should not be facing the teething problems even though one concedes that decentralization is a political and administrative reform with different interests and power politics at play.

These problems notwithstanding, one of the good things in the promotion of justice is the construction of 90 court houses and 121 residential facilities for the judiciary which started in October 2020 by MMDAs under the directive of the Ministry of Local Government, Decentralization and Rural Development from the District Assemblies Common Fund (Yeboah 2021). This is in line with the Local Governance Act, 2016 (Act 936) Section 12, (3) (h) which enjoins the Metropolitan, Municipal and District Assemblies to “ensure ready access to courts in the district for the promotion of justice”.

(4) The increasing use of formal rules as instruments of guidance with a focus on regulatory operations entails the existence of regulatory policies and institutions to promote regulatory reform: The Judiciary and Parliament are two important institutions that are mandated in designing regulatory policies and reform. Regulation involves setting rules and drafting provisions to back those rules with enforcement measures; therefore, any comprehensive discussion of regulation is intertwined with the legal system. In this regard, to what extent has the judiciary influenced regulations and the development of the regulatory state? The 1992 Constitution has vested judicial power in the judiciary and not even the Executive or Legislature has final judicial power. The power of judicial review of executive and legislative actions is an important mandate of the Judiciary through the “proper interpretation, application and implementation of the laws of Ghana” (Republic of Ghana 2020: 2). In addition, the Supreme Court serves as a constitutional court as it has jurisdiction in all criminal and civil matters including matters relating to the Constitution. In this way, the judiciary shapes and reviews regulation. The number of constitutional and Supreme Court cases concluded is 91 and 69 respectively for 2018 and 2019. For the High Court the number of land, civil, criminal and human rights cases concluded is 724, 19,936, 2,993 and 1,027 respectively for 2018 and 2019 (Table 5).

The most common discussion of judiciary within the regulatory process concerns its position as a reviewer of regulatory decisions and as a venue for appealing decisions. However, it is worth recognising that the judiciary may be creators of regulation or at least significantly shape the form of regulation that is implemented (Popelier, 2012). The legal decisions made by judiciary can have a fundamental influence on subsequent regulatory activity. Also, by allowing aggregate litigation and private enforcement courts may provide an alternative venue for ‘regulatory’ decisions (Kovacic, 2002).

An important part of the debate about the role of the judiciary is whether it can overcome issues of regulatory capture and to what extent it is itself subject to capture. There is the potential for judiciary, when reviewing decisions, to alter decisions that have been ‘captured’ (Helland and Klick, 2012). However, there is no reason why the judiciary itself cannot be captured or act in a self-interested manner (McCown, 2009). Indeed, a growing realisation that the judiciary may be captured by particular interests is seen as having shifted power back to regulatory agencies (Glaeser and Shleifer, 2003).

A number of legal reforms have been implemented to promote the regulatory state through access to justice by all citizens including the vulnerable and the rule of law. They include the modernization of some court processes such as automation, the creation of specialized courts such as the commercial, land, labour, human rights courts, gender-based violence and child friendly courts, expanding the alternative dispute resolution (ADR) mechanism to enable all district and circuit courts to be connected, strengthening the Legal Aid Scheme and introducing special programmes such as “Justice for All”. Even though these initiatives have made some impact, there is some evidence and perception among citizens that the administration of justice is not only expensive but also slow (Republic of Ghana 2017c). In addition, there is also the perception of corruption while some magistrates and judges were dismissed in 2015 as a result of the undercover investigation of Tiger Eye.

The independence and accountability of the Judiciary have been the subject of debate with opinions highly polarized along partisan lines and depend on either favourable or unfavourable judgement. The independence and accountability of the Judiciary are important for the regulatory state if, indeed, the constitutional tenets of “justice emanates from the people” and “citizens may exercise popular participation in the administration of justice” are to be realized.

Parliament

The 1992 Constitution vests legislative or law-making power in Parliament. Parliament also performs oversight, financial and regulatory functions. For instance, appointments of ministers of state are subject to parliamentary approval while the appropriations bill can only be passed by Parliament. It also makes laws to regulate professional, trade and business organizations. It promotes public accountability by public institutions through the annual public hearings of the Public Accounts Committee (PAC) on the Auditor-General’s reports.

This notwithstanding, several studies have shown that Parliament has been ineffective and weak in performing its oversight and regulatory roles (Constitution Review Commission 2011; Srem-Sai n.d.; NCCE 2015; Armah et. al. 2017). For instance, the CRC Report emphasized that:

Although it is recognised that the formal authority of Parliament is relatively strong, Parliament has in practice not developed into that autonomous, independent and vital institution capable of asserting its authority and discharging its constitutional functions. Its oversight functions, for example, have been asserted only in very minimal terms. The relative weakness of Parliament has been further deepened by one of the most prominent features of the constitutional arrangements under the 1992 Constitution: executive dominance. For example, Parliament has virtually no real financial power. Under the current constitutional arrangement, Parliament is denied the power to influence its own institutional budget. Like a lot of state institutions, the budget of Parliament is

made subject to the item-by-item control of the Ministry of Finance ..., and it has to appear occasionally before the Executive to ask for funds.

This is evidenced by the approval of some appointments, bills and loan agreements, which are thought to be questionable without due diligence. Most members of Parliament have attributed some of these challenges to inadequate resources, the use of the party whip and the constitutional provision of appointment of majority of ministers from Parliament.

From Table 6, the performance of Parliament may be said to be satisfactory. It was able to approve 199 international agreements, passed 67 and 88 legislative instruments and bills respectively and undertook 96 committee monitoring visits from 2013-2017. These have contributed to the regulation regime of the regulatory state. Ensuring standards of legal quality including the compliance of procedures for draft regulation and for reviewing the appraisal of new regulations for conformity to these procedures has been left to the Legal Drafting Division of the Office of Attorney General. This role seems to have been played quite reasonably well even though sometimes there are complaints from some of the committees of Parliament about the draft bills and loan agreements sent to Parliament. More work therefore had to be done by the appropriate committee to improve their quality.

Notwithstanding its performance, the credibility of Parliament is sometimes dented by allegations of bribery and corruption with some of them being made by some members of Parliament themselves. In addition to this, the House sometimes was not able to transact business because of lack of quorum.

Table 5: Performance of the Supreme Court and High Court of Ghana, 2018-2019

SUPREME COURT				
Main Output	Output Indicators	2018	2019	TOTAL
Interpretation and enforcement of the Constitution	Number of constitutional cases filed	51	63	114
	Number of constitutional cases concluded	33	58	91
	Number of appeals from the Appeal Court	102	110	212
	Number of appeals from National House of Chiefs	9	15	24
	Number of Supreme Court reviews filed	39	32	71
	Number of Supreme Court cases concluded	25	44	69
HIGH COURT				
Main Output(s)	Output Indicators	2018	2019	TOTAL
Provide access to justice in specialized areas of law	Regular High Court cases	10,230	8,180	18,410
	Commercial and specialized High Court cases	3,480	3,780	7,260
	Land	832	892	1,724
	Economic Crimes	84	103	187

	Probate and Administration	1,154	1,130	2,284
	Divorce and Matrimony	401	579	980
Original Jurisdiction in Civil and Criminal Cases	Number of civil cases filed	11,882	11,920	23,802
	Number of civil cases concluded	10,508	9,428	19,936
	Number of criminal cases filed	1,828	1,626	3,454
	Number of criminal cases concluded	1,499	1,494	2,993
Human Rights (HR)	Number of Human Rights cases filed	516	539	1,055
	Number of Human Rights cases concluded	496	531	1,027
Appellate jurisdiction of the lower courts	Number of civil cases filed from the lower courts	410	451	861
	Number of civil appeals concluded from lower courts	357	421	778

Source: Republic of Ghana 2020. Medium Term Expenditure Framework (MTEF) for 2020-2023 Judiciary and Judicial Service. Accra: Ministry of Finance. pp. 23 and 29.

Table 5: Performance of Parliament, 2013-2017

PERFORMANCE AREA	NUMBER					
	2013	2014	2015	2016	2017	TOTAL
Committee Sittings	380	302	310	281	236	1,509
Plenary Sittings	100	90	106	107	90	493
Committee Monitoring Visits	13	25	31	27	96	192
Committee Reports	18	60	166	151	103	498
International Agreements	15	49	11	115	9	199
Bills Laid	27	24	25	40	16	132
Legislative Instruments	13	1	12	39	2	67
Number of Bills Passed	15	10	19	33	11	88

Source: Republic of Ghana, MTEF for 2018-2021: Parliament of Ghana. Accra: Ministry of Finance, 2018, p. 7.

Conclusion: The Reconstruction of the Ghanaian Regulatory State: Lessons and Recommendations

The paper has shown that the regulatory state in Ghana is diverse and complex. Even though some progress has been made to build a resilient regulatory state including the trend towards corporatization, the setting up of statutory bodies, an independent judiciary and parliament, there are several weaknesses and challenges which lead one to conclude that there is, indeed, crises in

the Ghanaian regulatory state. Like most developing countries, it has suffered from weaknesses in pervasive regulatory rule-making and a lack of accountability, transparency and consistency in policy formulation and implementation.

The twin values of the regulatory state, independence and accountability, have been sacrificed sometimes because of political settlement or what is generally referred to as competitive clientelism. It refers to the way political and organizational power is organized, maintained and exercised including who is included, what are the conditions that determine inclusion/exclusion). In short, the ideas and beliefs of the political elite have shaped the policy action that have been undertaken.

The Ghanaian case also illustrates the institutional tensions (duplication of roles and responsibilities and weak institutional coordination) that regulatory agencies in developing countries confronted after their creation Often, once the top politicians that had created them disappeared from the political scene, other political leaders not involved in the previous arrangement did not share the same views about the role of the agency; and the bureaucratic apparatus of the state also managed to rearrange the distribution of administrative power.

In short, the crises in the Ghanaian regulatory state are the result of three factors. First, the failure of specialised regulatory agencies to navigate or offer a “depolitized” way out of highly political decisions. Second, the ineffectiveness of incentive-based regulation and “enforced self-regulation” to provide for more desirable results. Third, regulated organisations are unable and unwilling to regulate and risk manage themselves and the inability of customers to choose wisely, given insufficient information.

Reconstructing the Ghanaian Regulatory State through Drivers of Change and Development

Given the crises in the regulatory state, there is the need to reconstruct it through the following drivers of change and development:

Regulatory reform is critical for better governance

A comprehensive governmental approach and not a piecemeal one to regulatory reforms including enforcement/compliance must be set in motion. The policy and institutional framework of regulatory governance needs an urgent reform through harmonization of the legal framework setting up the regulatory bodies to remove the institutional constraints such as duplication of roles and responsibilities and weak institutional coordination including lines of reporting and authority. This reform should also entail a rationalization of the state ownership sector through a proper and well-coordinated audit and monitoring. A needs assessment of the regulatory bodies will have to be undertaken which will lead to capacity development interventions including the provision of adequate and timely resources as some of the institutions lack the capacity to perform their mandates. Effective reform of Ghana’s state ownership sector will require strong political commitment, which must be sustained over political cycles.

The balance between independence, accountability, transparency and consistency

According to Parker (1999), a well-functioning regulatory system is one that balances accountability, transparency, and consistency. Similarly, effective regulatory agencies must not only operate within their legal powers but also be accountable for the consequences of their actions. Transparency relates to regulatory decisions being reached in a way that is revealed to all interested parties. In this connection, the accountability structure of all the institutions should be strengthened through proper monitoring and supervision. In this connection, the regulatory institutions need to demand timely information and report from those institutions they are regulating. In terms of good corporate governance, the capacity of boards and management should be developed to be more alive with their responsibilities. Finally, no regulatory state or framework exists without monitoring, enforcement and sanctions. The success of all countries hinges on these three pillars of any public administrative system. This is the stark lesson we have learnt from the unfortunate developments of the banking sector. As a country, we should learn to develop a culture of effective implementation, monitoring, evaluation and enforcement.

Striking the balance between accountability, transparency and consistency means that we should internalize some of the value statements of Jeremy Bentham and Louis Brandeis: “The more we are watched, the better we behave” (Bentham 1981); and “Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman” (Brandeis 1913) respectively.

Moe (1987) has noted that the key normative problem of the regulatory state is how agency independence and democratic accountability can be made complementary and mutually reinforcing rather than antithetical values. Independence and accountability can be reconciled by a combination of control mechanisms rather than by oversight exercised from any fixed place in the political system: clear and limited statutory objectives to provide unambiguous performance standards; reasons-giving and transparency requirements to facilitate judicial review and public participation; due-process provisions to ensure fairness among the inevitable winners and losers from regulatory decisions; professionalism to withstand external interference and reduce the risk of an arbitrary use of agency discretion. When such a system of multiple controls works properly, no one controls an agency, yet the agency is 'under control' (Majone 1997).

The right combination of saints, wizards and systems to deal with the demons

In my first inaugural lecture at the University of Ghana in May 2000, I called for the right combination of saints (committed politicians and bureaucrats), wizards (appropriate policy analysts with available information) and systems (the insulation of the policy environment from the vagaries of implementation) to deal with the many demons (hostile, apathetic and corrupt groups) to be able to facilitate the realization of the goals of public policies and programmes (Ayee 2000). An effective and reconstructed Ghanaian regulatory state will need the services of saints, wizards and systems to be able to deal with the many demons, latent and manifest. The complexity and diversity of the regulatory state have created an administrative maze that will need transformative leadership to sanitize. The policy and institutional framework is operated by men and therefore attitudinal change by all is important stepping stone to address the weaknesses.

The return of what one might call the strong state or the ushering in of the fatalistic “naked state” in the post-COVID-19 era.

The global financial crises of 2008 and Ghana’s own in 2018 have brought the “state back in” whether in terms of ownership or in terms of financial intervention in the corporate sector. Accordingly, there is the return of what we may refer to as the re-emergence of the strong state. However, climate change and COVID-19 and other global challenges have led to a resource-depleted, highly debt-laden and inward-looking states across the global including |Ghana. The post-COVID-19 points more to an age of the “naked” state than an age of the strong state, which is not particularly unattractive as it will lack the capacity and capability to perform its core mandates. This also goes to the heart of the future state and its implications for all citizens and the international community. It might also challenge academics and practitioners to start rethinking about two questions: what has been regulated (or not) and why?

An adjusted relationship between the fields of study and practice through informing debates about institutional architectures of regulatory bodies

The crises in the Ghanaian regulatory state call for a new kind of relationship between academics and practitioners (a bringing of the town and gown relationship) on how to fine-tune or reconstruct the regulatory state. Accordingly, scholars in public administration, public policy, economics and law will need to engage in interdisciplinary informing debates about institutional architectures of regulatory bodies in the post-COVID-19 period, which create opportunities and challenges to all countries including Ghana. These debates will lead to gain a complete picture of the regulatory state and room.

APPENDIX

Table 3: Regulatory Bodies in Ghana

No.	Name	Sector(s)	Sector Ministry
1.	i. Bank of Ghana ii. Financial Intelligence Centre iii. National Insurance Commission iv. National Lottery Authority v. National Pensions Regulatory Authority vi. Public Procurement Authority vii. Securities and Exchange Commission	Finance & Banking	Ministry of Finance
2.	Copyright Administrator	Legal	Ministry of Justice & Attorney-General's Department

3.	i. Driver and Vehicle Licensing Authority ii. Ghana Maritime Authority iii. Ghana Shippers Authority	Transport	Ministry of Transport
4	i. Data Protection Commission ii. National Communications Authority iii. National Identification Authority iv. National Information Technology Agency v. Postal and Courier Services Regulatory Commission	Communications	Ministry of Communications
5.	i. Energy Commission ii. National Petroleum Authority iii. Petroleum Commission	Energy	Ministry of Energy
6.	Environmental Protection Agency	Environment, Science and Technology	Ministry of Environment, Science and Technology
7.	Fisheries Commission	Fisheries	Ministry of Fisheries
8.	i. Food and Drugs Authority ii. Health Facilities Regulatory Agency iii. Mortuaries and Funeral iv. Facilities Agency (MoFFA) v. Pharmacy Council vi. Traditional Medicine Practice Council	Health	Ministry of Health
9.	i. Forestry Commission ii. Ghana Cocoa Board iii. Ghana Irrigation Development Authority iv. Grains and Legumes Development Board	Food and Agriculture	Ministry of Food and Agriculture
10.	i. Gaming Commission of Ghana ii. National Commission on Small Arms and Light Weapons	Interior	Ministry of Interior
11.	Ghana Civil Aviation Authority	Aviation	Ministry of Aviation
12.	i. Ghana Export Promotion Authority ii. Ghana Free Zones Authority iii. Ghana Investment Promotion Centre iv. Ghana Standards Authority	Trade and Industry	Trade and Industry
13.	i. Ghana Museums and Monuments Board ii. Ghana Tourism Authority iii. National Commission on Culture	Tourism, Culture & Creative Arts	Ministry of Tourism and Culture
14.	Ghana Railway Development Authority	Railway	Ministry of Railway Development
15.	i. Land Use and Spatial Planning Authority ii. Lands Commission iii. Minerals Commission iv. Office of the Administrator of Stool Lands	Lands and Natural Resources	Ministry of Lands and Natural Resources
16.	National Film and Television	Information	Ministry of Information

	Institute National Media Commission		
17.	Ghana Tertiary Education Commission	Education	Ministry of Education
18.	National Sports Authority	Youth and Sports	Ministry of Youth and Sports
19.	Water Resources Commission	Water Resources & Sanitation	Ministry of Water Resources & Sanitation
20.	Electoral Commission, Commission on Human Rights and Administrative Justice, National Commission for Civic Education,	Governance	Independent
21	Public Services Commission	Human Resources	Independent
22.	National Development Planning Commission	Development planning	Not independent in the performance of its functions
23.	National Labour Commission (NLC) Fair Wages and Salaries Commission	Labour and wages	Independent (NLC) Ministry of Employment and Labour Relations
24	Public Utilities Regulatory Commission	Utility services by public utilities to consumers	Independent
25.	National Commission on Small Arms	Small arms	Ministry of Interior

Source: Compiled by the author from Republic of Ghana 2019a. 2019 State Ownership Report pp. 307-310.

Table 4: 15 Categories of and Nomenclatures for Statutory Bodies in Ghana

No.	Nomenclature	Synopsis on Nomenclature	Examples
1.	Academy	It is a corporate body that promotes the study, extension and dissemination of knowledge in the Arts and Sciences.	Ghana Academy of Arts and Sciences (NLCD 291), 1968
2.	Agency	It is an establishment that performs specialized functions or assists in the implementation of government policy in a specialized area dealing with inanimate objects. It performs regulatory and coordinating functions and some generate funds through the collection of fees and levies.	Environmental Protection Agency (Act 490), 1994; Internal Audit Agency (Act 658), 2003; Ghana Meteorological Agency (Act 682; National Information Technology Agency (Act 770), 2008
3.	Authority	It is a body corporate and service-oriented which performs regulatory, supervisory and management functions and responsible for licensing and monitoring. It generates funds internally by charging fees for the issue of licences on behalf of the government while others do not. The Bui Power Authority operates as a commercial entity	Driver and Vehicle Licensing Authority (Act 569), 1999; National Petroleum Authority (Act 691), 2005; Millennium Development Authority (Act 702), 2006; Bui Power Authority (Act 740), 2007; National Communications Authority (Act 769), 2008
4.	Board	It refers to an incorporated or unincorporated body. In addition, it also refers to the governing body of an establishment. The incorporated and unincorporated body charges fees in the performance of its functions. The Ghana Cocoa Board operates as a commercial entity.	Ghana Cocoa Board (PNDCL 81), 1984; National Board for Professional and Technician Examination (Act 492), 1994; The defunct National

			Accreditation Board (Act 744), 2007
5.	College	<p>It is a corporate body that promotes specialist education eg. Medicine. According to Parker (1999), a well-functioning regulatory system is one that balances accountability, transparency, and consistency. Similarly, effective regulatory agencies must not only operate within their legal powers but also be accountable for the consequences of their actions. Transparency relates to regulatory decisions being reached in a way that is revealed to all interested parties. It is also a tertiary institution that offers teacher training education.</p>	College of Physicians and Surgeons (Act 635), 2003; Colleges of Education (Act 847), 2012
6.	Centre	<p>It is an incorporated body or set up that encourages or promotes a particular activity</p>	Centre for National Culture set up under Section 9 of the National Commission on Culture Law (PNDCL 238), 1990; Public Employment Centre under Section 2 of the Labour Act (Act 651, 2003; Ghana Investment Promotion Centre (Act 865), 2013
7.	Commission	<p>The 1992 Constitution used the term in three senses: (i) It is an independent body and not subject to the direction of any person or authority in the performance of its functions. The constitutional commissions are charged with a specific mandate and constitutes its membership. The members represent the governing body of the Commission</p> <p>(ii) The creation of a legal entity by Article 269 of the Constitution but does not constitute its membership nor state its functions with distinct governing body from the Commission. It is an Act of Parliament which specifies its functions, membership and governing body. It is responsible for the regulation and management of the utilization of the natural resources. The Article allows the setting up of other commissions to perform the same functions (Petroleum Commission and Energy Commission</p> <p>iii. Article 278 which empowers the President to set up by constitutional instrument (CI) a commission of inquiry into a matter of public interest. The names of the commissioners and life span of the commission are mentioned in the CI</p> <p>iv. A corporate body with a distinct governing body referred to as a Board but does not fall under Art. 269 because it does not relate to natural resources</p>	<p>i. Constitutional Commissions: Electoral Commission (Act 451), 1993 (Art. 43); CHRAJ (Act 452), 1993 (Art. 216); NCCE (Act 452), 1993 (Art.231); NMC (Act 449), 1993 (Art. 166); Lands Commission (Act 767), 2008 (Art. 258); Public Services Commission (Act 482), 1994 (Art. 194); NDPC (Act 452) (Art 86 but reports to the President)</p> <p>ii. Minerals Commission (Act 450), 1993; Forestry Commission (Act 571), 1999; Fisheries Commission (Act 625), 2002; Energy Commission (Act 541), 1997; Petroleum Commission (Act 821), 2011</p> <p>iii. Constitution Review Commission (CI 64), 2010); Commission of Inquiry into Payments</p>

			from Public Funds arising from Judgement Debts and related Processes Instrument (CI 79), 2012 iv. Public Utilities Regulatory Commission (Act 538), 1997; Labour Commission (Act 651), 2003; National Commission on Small Arms (Act 736), 2007; Fair Wages and Salaries Commission (Act 737), 2007; Ghana Tertiary Education Commission (Act 1023), 2020
8.	Corporation	It is a body corporate which operates as a commercial entity.	Ghana Broadcasting Corporation (NLCD 226), 1968; New Times Corporation (Act 163), 1971
9.	Council	It is an entity that regulates professionals or an academic and research institution. It also refers to the governing body of academic institutions such as universities and training colleges	Medical and Dental Council, Pharmacy Council and Nursing and Midwifery Council under the Health Professions Regulatory Act (Act 857, 2013; Council for Scientific and Industrial Research (Act 521), 1996; Council for Technical and Vocational Education and Training (Act 717), 2006
10.	Fund	It is an incorporated or unincorporated body that provides money for a particular purpose. The governing body is a board of trustees or Board. It does not generate funds internally	Road Fund (Act 536), 1997; Ghana Education Trust Fund (Act 581), 2000; Student Loan Trust Fund (Act 829), 2011
11.	Institute	It is an academic or learning institution or an institution created to do research into specific topics	Ghana Institute of Languages (NLCD 324), 1969; Institute of Local Government Studies (Act 647), 2003; GIMPA (Act 676), 2004; Institute of Journalism (Act 717), 2006
12.	Office	It refers to a collective authority of a government department	Presidential Office (Act 463), 1993; Economic and Organize Crime Office (Act 804), 2010; Office of the Administrator of Stool Lands (Act 481), 1994
13.	Organization	It is an unincorporated body which manages a particular situation or an occurrence	Ghana Reinsurance Organization (PNDCL 79), 1984; National

			Disaster Management Organization (Act 157), 1996
14.	Scheme	It is a systematic plan or an arrangement for the provision of a particular service for the benefit of a particular group of people	Ghana National Service Scheme (Act 426), 1980; Legal Aid Scheme (Act 542), 1997
15.	Service	(i) Services created by Article 190 of the Constitution (ii) Services created by an Act of Parliament (eg. Local Government Service)	Judicial Service (CA 10), 1960; Legal Service (PNDCL 320), 1993; Civil Service (PNDCL 327), 1993; Parliamentary Service (Ac 460), 1993; Immigration Service (PNDCL 226), 1989; Local Government Service (Act 656), 2003 Ghana Education Service (Act 506), 2010;

Source: Nomenclature for Statutory Bodies in Ghana nd. Attorney General's Office

REFERENCES

- Ackah-Blay, Joseph 2021. "If you cannot do the job, leave – SIGA boss tells CEOs of State-owned Enterprises. Available: <https://www.myjoyonline.com/if-you-cannot-do-the-job-leave-siga-boss-tells-ceos-of-state-owned-enterprises/>
- Amonoo, Benjamin 1981. *Ghana 1957-1966: The Politics of Institutional Dualism*. London: Allen & Unwin.
- Appiah-Kubi, K. (2001). State-Owned Enterprises and Privatization in Ghana. *The Journal of Modern African Studies*, 39(2), 197-229. <https://doi.org/10.1017/S0022278X01003597>
- Armah, Ernest, Kwabena Sarfo-Kantankah, Gretchen Bauer and Gifty Mensah 2017. *Odekro: Report on the First Session of the Seventh Parliament, 2017*. Accra: Odekro.
- Aubynn, Tony 2018. Regulatory Structures and Challenges to Developmental Extractives Some Practical Observations from Ghana. In Tony Addison and Alan Roe (eds.) *The Management of Resources as a Driver of Sustainable Development*. Oxford: Oxford Scholarship on Line. DOI:10.1093/oso/9780198817369.003.0013: 1-25.
- Ayee, Joseph 1986. Some Thoughts on the use of the Profitability Criterion in Evaluating State Enterprises in Ghana. *Journal of Management Studies*, 3rd Series, Vol. 3, January-December: 142-162.

Bank of Ghana 2019. “Bank of Ghana collapses 5 banks into Consolidated Bank, Ghana Ltd”. Available at: <https://www.graphic.com>. Retrieved 8 October 2021.

Bawumia, Mahamudu 2017. Keynote address to the Policy and Governance Forum organized by the Ministry of Finance for CEOs of SoEs to deliberate on how to reform SoEs to play a more strategic role in Ghana’s Development on September 17, 2021.

Bentham, J. 1981. *The Collected Works of Jeremy Bentham*: Correspondence Volume 4: October 1788 to December 1793, ed. Alexander Taylor Milne. London: The Athlone Press, 1981: 5.

Brandeis, Louis 1913. “Sunlight is said to be the best of disinfectants” in a 1913 Harper’s Weekly article, entitled “What Publicity Can Do.” Transparency and sunshine in government is certainly something that we need right now and always”.

Bressman, L.S., E.L. Rubin, K.M. Stack. 2019. *The Regulatory State*. 3ed. Philadelphia: Wolters Kluwer.

Deller, David and Francesca Vantaggiato 2016. Revisiting the Regulatory State: A Multidisciplinary Review Establishing a New Research Agenda. University of East Anglia, Centre for Competition Policy (CCP) *Working Paper 14-9*: 1-77.

Dwivedi, O.P. & Nef, J. 1982. “Crises and Continuities in Development Theory and Administration: First and Third World Perspectives”, *Public Administration and Development*, Vol. 2, No. 1: 59-77.

Fatton, R. Jr. 1992. *Predatory Rule: State and Civil Society in Africa*. Boulder, Co: Lynne Rienner.

Fernandes, Praxy 1986. *Managing Relations Between Government and Public Enterprises*. Geneva: ILO.

Frimpong-Ansah, J.H. 1992. *The Vampire State in Africa: The Political Economy of Decline*. Trenton, NJ: Africa World Press.

Glaeser, E.L. and A. Shleifer 2003. The Rise of the Regulatory State’, *Journal of Economic Literature*, 41(2): 401-425.

Handley, A. (2007). Business, Government, and the Privatisation of the Ashanti Goldfields Company in Ghana. *Canadian Journal of African Studies*, 41(1). Canadian Business & Current Affairs Database.<https://doi.org/10.1080/00083968.2007.10751350>

Helland, E. and J. Klick 2012. Why Aren’t Regulation and Litigation Substitutes?: An Examination of the Capture Hypothesis. In C. Coglianese (ed.) ‘Regulatory Breakdown: The Crisis of Confidence in US Regulation’, Philadelphia: University of Pennsylvania Press, pp. 227-244.

Heywood, A. 2000. *Key Concepts in Politics*. New York: Palgrave.

- Heywood, A. 2007. *Politics*. New York: Palgrave Macmillan.
- Hobbes, T. 1651. *Leviathan*. Harmondsworth: Penguin (ed. by C.B. Macpherson).
- Hyden, G. 1983. *No Shortcuts to Progress: African Development in Perspective*. London: Heinemann.
- Jackson, R.H and C.J. Rosberg. 1982. *Personal Rule in Black Africa*. Berkeley: University of California Press.
- Jordana, Jacinth 2011. The Institutional Development of the Latin American Regulatory State. In David Levi-Faur (ed.) *Handbook on the Politics of Regulation* (156-172). Cheltenham: Edward Elgar
- Killick Tony 2010. *Development Economics in Action A Study of Economic Policies in Ghana*. 2ed. London: Routledge.
- Kovacic, W. E. 1994. Post-Appointment Preference Shaping and Its Influence on Judicial Analysis of Economic Regulation Issues. In M. A. Crew and P. R. Kleindorfer (eds.) *Commercialization of Postal and Delivery Services: National and International Perspectives*, Topics in Regulatory Economics and Policy, Volume 19, Springer, pp. 93-108.
- Lane, J-E. (1993). *The Public Sector: Concepts, Models and Approaches*. London: SAGE.
- Leys, Colins (1976) “The ‘Overdeveloped’ Post-Colonial State: A Reevaluation”, *Review of African Political Economy*, No. 5 (January-April): 39-48.
- Locke, J. 1690/1965. *Two Treatises of Government*. New York: New American Library.
- Loughlin, Martin, and Colin Scott. (1997). The Regulatory State, in Patrick Dunleavy, Ian Holliday, Andrew Gamble, and Gillian Peele (Eds.). *Developments in British Politics 5*. Basingstoke: Macmillan.
- Mafeje, A. 1977. “Neo-Colonialism, State Capitalism or Revolution” in P. Gutkind & P. Waterman (eds.) *African Social Studies*, London, Heinemann, Chapter 3.
- Majone, G. 1994. The Rise of the Regulatory State in Europe. *West European Politics*, 17(3): 77-101, DOI: 10.1080/01402389408425031
- Majone, G. 1997. From the Positive to the Regulatory State: Causes and Consequences of Changes in the Mode of Governance. *Journal of Public Policy*, 17 (2): 139-167
- Marx, K. & F. Engels. 1848/1967. *Communist Manifesto*. Harmondsworth: Penguin.

McCown, M. 2009. Interest Groups and the European Court of Justice. In D. Coen and J. Richardson, *Lobbying the European Union: Institutions, Actors, and Issues*, Oxford: Oxford University Press

McGowan, F. and Wallace, H. 1996. Towards a European Regulatory State, *Journal of European Public Policy*, 3(4), 560-576.

Moe, Terry 1987. Interests, institutions and positive theory: the politics of the NLRB. *Studies in American Political Development* 2: 236-299.

Moran, Michael 2002. Understanding the Regulatory State. *British Journal of Political Science* 32: 391-413.

Myrdal, G. 1968. *The Asian Drama: An Enquiry into the Poverty of Nations*. New York: Random House.

National Commission for Civic Education 2015. *Assessing the Effectiveness of Parliament in Ghana's Democracy*. Accra: NCCE.

Nti, James 1975. Ghana's Experience in Administrative Reform of the Central Bureaucracy. In Anthony Rweyemamu and Goran Hyden (eds.) *A Decade of Public Administration in Africa*. Nairobi: Kenya Literature Bureau. pp. 167-176.

Ofori-Atta, Ken 2021. "47 public enterprises fail to submit financials to government in 6 years – Ofori-Atta". Speech delivered at the 2021 Performance Contract Signing Ceremony for CEOs of State-owned Enterprises. Available at: <https://citineWSroom.com/2021/07/47-public-enterprises-fail-to-submit-financials-to-government-in-6-years-ofori-atta/>

Owusu-Ansah, K.A. 1975. Administrative Reform at the Grass Roots: The Ghanaian Experience. In Anthony Rweyemamu and Goran Hyden (eds.) *A Decade of Public Administration in Africa*. Nairobi: Kenya Literature Bureau. pp. 177-184.

Parker, D. 1999. Regulation of Privatised Public Utilities in the UK: Performance and Governance. *International Journal of Public Sector Management*, 12 (3): 213-235.

Popelier, P. 2012. Preliminary Comments on the Role of Courts as Regulatory Watchdogs, *Legisprudence*, 6(3): 257-270.

Rahman, Sabeel 2018. Book review Reconstructing the Administrative State in an era of Economic and Democratic Crisis: Constitutional Coup: Privatization's Threat to the American Republic. By Jon D. Michaels. Cambridge, Mass.: Harvard University Press. 2017. *Harvard Law Review*, 131: 1671-1712.

Republic of Ghana 1992. *Constitution of the Republic of Ghana*. Accra: Ghana Publishing Corporation.

Republic of Ghana 1993. *Civil Service Law, PNDC Law 327*. Accra: Ghana Publishing Corporation.

Republic of Ghana 2011. Constitution Review Commission. *Report of the Constitution Review Commission: From a Political to a Developmental Constitution*. Presented to HE the President of the Republic of Ghana, Professor J.E.A. Mills on Tuesday, 20 December 2011,

Republic of Ghana 2016. *SOE Annual Aggregate Report*. Accra: Ministry of Finance.

Republic of Ghana 2017a. *2017 State Ownership Report*. Accra: Ministry of Finance.

Republic of Ghana 2017b. *National Public Sector Reform Strategy (NPSRS), 2018-2023*. Accra: Office of the Senior Minister.

Republic of Ghana 2017c. *The Coordinated Programme of Economic and Social Development Policies, 2017-2024* presented by Nana Addo Dankwa Akufo-Addo, President of the Republic of Ghana to the 7th Parliament of the 4th Republic, 20th October, 2017.

Republic of Ghana 2018a. *2018 State Ownership Report*. Accra: Ministry of Finance.

Republic of Ghana 2018b. *Medium Term Expenditure Framework for 2018-2021: Parliament of Ghana*. Accra: Ministry of Finance.

Republic of Ghana 2019a. *2019 State Ownership Report*. Accra: Ministry of Finance.

Republic of Ghana 2019b. *State Interest and Governance Authority Act, Act 990, 2019*. Accra: GPCL, Assembly Press.

Republic of Ghana 2019c. *Medium Term Expenditure Framework (MTEF) for 2019-2022: Office of Government Machinery*. Accra: Ministry of Finance.

Republic of Ghana 2020. *Medium Term Expenditure Framework (MTEF) for 2020-2023 Judiciary and Judicial Service*. Accra: Ministry of Finance.

Riggs, F. 1964. *Administration in Developing Countries: The Theory of Prismatic Society*. Boston: Houghton Mifflin.

Rousseau, J-J. 1762/1913. *The Social Contract*. London: Dent. (trans. G.D.H. Cole).

Seidman, Harold and Robert Gilmour 1986. *Politics, Position and Power*, 4th edn. New York: Oxford University Press.

Shafritz, J.M. 2004. *The Dictionary of Public Policy and Administration*. Boulder, CO.: Westview.

Srem-Sai, Justice n.d. Parliamentary Oversight in Ghana: A Brief Review. Accra: Friedrich Ebert Foundation.

Weber, M. 1948. *From Max Weber: Essays in Sociology*. London: Routledge/Kegan Paul.

World Bank 2002. *World Development Report, 2002: Building Institutions for Markets*. Washington, DC: World Bank.

Yeboah, Anin 2021. Keynote Address by the Chief Justice of the Republic of Ghana, His Lordship Justice Anin Yeboah, delivered at the opening of the 38th Annual General Meeting of the Association of Magistrates and Judges of Ghana on September 29, 2021.