OFFICE OF THE ATTORNEY GENERAL
AND MINISTRY OF JUSTICE

GOVERNMENT POSITION PAPER ON THE FINAL RECOMMENDATIONS OF THE CONSTITUTION REVIEW COMMITTEE

(JULY 28, 2026)

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1. INTRODUCTION

1.1. Background

The 1992 Constitution of the Republic of Ghana has served as the supreme law of the land for over three decades. It has provided the framework within which Ghana has consolidated its democratic governance, conducted successive peaceful transfers of power, and advanced the rule of law. The Constitution, however, has not been immune to criticism. Over the years, citizens, civil society organizations, legal practitioners, academics, and political actors have identified provisions that require reform to address governance deficits, strengthen accountability, deepen decentralization, and respond to the changing needs of Ghanaian society.

The present effort at constitutional review is not the first. In 2010, the Government of President John Evans Atta Mills established the Constitution Review Commission ("CRC-1"), chaired by Professor Albert Fiadjoe. That Commission submitted its report in December 2011. The Government issued a White Paper in response in June 2012. A Constitution Review Implementation Committee (CRIC) was subsequently established to implement the accepted recommendations. More recently, the 2023-24 Constitution Review Consultative Committee (CRCC) undertook further consultations and produced additional proposals for reform.

On 19 January 2025, His Excellency President John Dramani Mahama appointed a new Constitution Review Committee to undertake a comprehensive review of the 1992 Constitution. The Committee was inaugurated at a formal ceremony at Jubilee House on 30 January 2025. Its members subscribed to their oaths of office and commenced work immediately.

This Position Paper sets out the considered response of the Government to the Final Recommendations of the 2025 Constitution Review Committee.

1.2. Terms of Reference of the Constitution Review Committee

The letters of appointment issued to the members of the Committee set out the following specific terms of reference. The Committee was mandated to:

(i) review the reports and other outputs of the 2010 Constitution Review Commission (CRC-1), the related Constitution Review Implementation Committee (CRIC), and the 2023-24 Constitution Review Consultative Committee (CRCC);

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

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

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

1.3. Composition of the Committee

The President appointed an eight-member Committee composed of the following persons:

(i) Professor Henry Kwasi Prempeh (Chairman), Executive Director, Ghana Center for Democratic Development;

(ii) Dr. Rainer Akumperigya, Esq. (Secretary), Private Legal Practitioner and Founding Partner, Partners and Associates;

(iii) Her Ladyship Justice (Mrs.) Sophia O. A. Adinyira, Retired Justice of the Supreme Court of Ghana;

(iv) Professor Kwame Karikari, Former Director General of the Ghana Broadcasting Corporation;

(v) Ms. Charlotte Kesson-Smith Osei, Esq., Private Legal Practitioner and Former Chairperson of the Electoral Commission;

(vi) Dr. Esi Ansah, Executive Director, Center for Leadership, Ashesi University;

(vii) Alhaji Ibrahim-Tanko Amidu, Executive Director, STAR-Ghana Foundation; and

(viii) Dr. Godwin Dzokoto, Esq., Senior Lecturer, University of Ghana School of Law.

A Secretariat was established with the approval of the Office of the Attorney-General to support the work of the Committee. The Secretariat comprised a Project Coordinator, a Research Team of junior lawyers and law interns, working under the supervision of a senior lawyer, a Digital Communications and IT Support Specialist, and Administrative Assistants. The Government provided the Committee with office space at the Office of the President Annex on Abdul Diouf Road, Ridge, Accra.

1.4. Submission of the Report

The Committee submitted its Final Report to His Excellency the President on 22 December 2025. The Report is titled "Transforming Ghana: From Electoral Democracy to Developmental Democracy." What was presented was a summary of the recommendations of the Committee which comprised 127 pages. The Committee submitted the full report to Government on February 10, 2026. It comprises 518 pages exclusive of appendices and is organized into 9 chapters, containing over 147 recommendations for amendments to the

1992 Constitution. The Committee also proposes the insertion of about 59 new provisions into the Constitution. The Presidency published the full Report and released it to the public.

The Government acknowledges the extensive consultative process undertaken by the Committee. The Committee organized 10 thematic stakeholder engagements involving over 500 experts and practitioners, 17 engagements with identifiable groups reaching over 21,500 people, engagements with 11 eminent persons with intimate involvement in Ghana's constitutional development, and 10 zonal public engagements across the country. The Committee also received 785 written submissions from the public. The breadth and depth of these consultations reflect the national significance of the constitutional review process.

1.5. Scope of the CRC Report

The CRC Report covers a wide range of constitutional subjects organized into nine chapters. Each chapter addresses a distinct theme of governance reform. The chapters are as follows:

(i) **Chapter One: Towards an Effective Presidency.** This chapter addresses the presidential term of office, presidential transition, immunities, conditions of service, appointments, the role of the Vice-President, the National Security Council, the Attorney-General, the Council of State, emoluments of Article 71 officeholders, and the National Development Planning Commission.

(ii) **Chapter Two: Towards a People-Centered Democracy.** This chapter covers Parliament, the electoral system, political parties, the Electoral Commission, citizenship, and public participation in the legislative process.

(iii) **Chapter Three: Harnessing Our Collective Resources, Finances, and Investments for Sustainable Development.** This chapter addresses national development planning, public financial management, land and natural resources, and state enterprises.

(iv) **Chapter Four: Restoring Trust in the Institutions of Accountability.** This chapter addresses the Council of State, the judiciary, the Attorney-General, and the proposed Anti-Corruption and Ethics Commission.

(v) **Chapter Five: Towards a Well-Governed, Capable and Effective Public Service.** This chapter covers the public services, the Public Services Commission, the Head of Civil Service, the code of conduct for public officers, and asset declaration.

(vi) **Chapter Six: Leaving No One Behind: Towards a Just and Equitable Society.** This chapter addresses fundamental human rights, including the death penalty, rights of women, children, persons with disabilities, the elderly, and youth, as well as economic, social, and cultural rights.

(vii) **<u>Chapter Seven: All Development is Local.</u>** This chapter deals with decentralization, the election of District Chief Executives, the composition of District Assemblies, fiscal decentralization, and a proposed Devolution Commission.

(viii) **<u>Chapter Eight: Securing and Safeguarding Our Democratic Peace, Freedoms, and Stability</u>.** This chapter covers the police service, the prisons (correctional) service, the armed forces, and the proposed Independent Security Services Oversight Commission.

(ix) **<u>Chapter Nine: A Living Constitution</u>**. This chapter addresses the constitutional amendment process, including the proposed semi-entrenched category, citizen-initiative mechanisms, and periodic constitutional review.

The recommendations span entrenched provisions (which require a national referendum for amendment under Article 290), non-entrenched provisions (which require a two-thirds parliamentary majority for amendment under Article 291), and entirely new provisions that the Committee proposes to insert into the Constitution.

1.6. Methodology of this Position Paper

The Government took a decision to issue a Position Paper on the recommendations of the Committee instead of a White Paper, which usually follows the submission of the report of a commission of inquiry. In doing so, the Government adopted the following methodology:

(i) **Review of the CRC Final Report**: The Government undertook a careful review of the complete CRC Report, including its recommendations, supporting analysis, and comparative references.

(ii) **Review of the 1992 Constitution**: Each recommendation was examined against the relevant provisions of the 1992 Constitution to assess the nature, scope, and implications of the proposed amendment.

(iii) **Review of prior reform efforts:** The Government considered the reports and outcomes of the 2010 Constitution Review Commission (CRC-1), the 2012 Government White Paper, and the work of the Constitution Review Implementation Committee (CRIC) to ensure continuity and consistency in the reform process.

(iv) **Legal and constitutional analysis:** Each recommendation was subjected to legal analysis, including an assessment of whether the proposed amendment touches on entrenched or non-entrenched provisions, whether it is consistent with the foundational principles of the Constitution, and whether the intended objective can be achieved through existing statutory or administrative mechanisms without resort to constitutional amendment.

(v) **Policy and fiscal considerations:** The Government considered the policy implications of each recommendation, including fiscal costs, institutional capacity requirements, and the potential for unintended consequences.

(vi) **Formulation of alternatives:** Where the Government does not accept a recommendation, it has formulated alternative approaches that are designed to advance the underlying objectives of CRC's proposals through statutory, administrative, or institutional means.

1.7. Structure of this Position Paper

This Position Paper is organized into six parts. Part 1 is this Introduction. Part 2 provides a summary of the CRC Report. Part 3 contains the Government's responses to the CRC's recommendations, grouped by subject matter so that all proposals affecting a given institution, theme, or constitutional provision are read together. Part 4 sets out cross-cutting observations on recurring themes. Part 5 outlines the implementation roadmap for accepted reforms, and Part 6 is the Conclusion.

For each recommendation in Part 3, the Government states its position in one of three forms: the Government accepts the recommendation; the Government accepts the recommendation in principle, subject to modification; or the Government does not accept the recommendation. Where the Government accepts a recommendation, it provides a brief statement of endorsement. Where the Government accepts in principle, it explains the modifications it considers necessary. Where the Government does not accept a recommendation, it provides a rationale and, where appropriate, proposes an alternative approach that achieves the same policy objective through other means.

The Government's overarching approach is guided by the following principles. First, the Constitution is the supreme law, and amendments to it must be approached with caution. Second, where the normative significance of a proposed amendment is not high, or where the intended objective can be achieved through ordinary legislation or administrative action, the Government favours the statutory route over constitutional entrenchment. Third, for proposals touching on fundamental human rights, the Government accepts the spirit of the CRC's recommendations but proposes enacting a comprehensive Human Rights Act pursuant to Article 33(5) of the Constitution as the preferred means for giving effect to these rights. Fourth, the Government does not accept proposals that would create entirely new constitutional chapters or bodies where the normative justification for such additions is not compelling.

2. THE REPORT

2.1. Overview of the CRC Report

The title of the CRC Report reflects the Committee's central thesis: that Ghana's constitutional framework must evolve beyond the structures that have sustained electoral democracy since 1992, towards a governance architecture that delivers sustained development outcomes for the people.

The Committee adopted a problem-solving approach. Rather than undertaking an exhaustive clause-by-clause review of the entire Constitution, the Committee focused on identifying specific governance problems arising from the Constitution's text or operation and proposing targeted solutions. This approach was informed by the extensive ground already covered by the 2010 Constitution Review Commission and the subsequent Constitution Review Consultative Committee.

The Committee's methodology consisted of four sequential steps: a desk review and documentary analysis of prior reform reports, constitutional scholarship, comparative constitutions, and Supreme Court jurisprudence; targeted stakeholder engagements with experts, practitioners, and institutional actors; public engagements and submissions across all regions of Ghana; and internal deliberation and consensus-building among the eight members of the Committee.

The Committee was guided by a set of principles that informed its deliberations. These included preserving and strengthening the democratic gains made under the Fourth Republic, strengthening checks and balances at all levels of government, enhancing respect for the rule of law and the independence of the judiciary, deepening decentralization, promoting professionalism in the public services, reducing the cost of politics, and promoting a more equal and just society with enhanced respect for fundamental human rights and freedoms.

The Committee resolved that no recommendation would have the purpose or effect of giving any particular person or political party an unfair political advantage. The Committee adopted deliberation and consensus as its primary decision-making rule, with provision for majority voting where consensus could not be reached.

2.2. Categories of Constitutional Amendment

The 1992 Constitution establishes two routes for constitutional amendment. The first route applies to entrenched provisions. Article 290 requires that any bill to amend an entrenched provision must, after publication in the Gazette, be referred to the Council of State for its advice. The bill must then be approved at a referendum by at least 40 percent of persons entitled to vote, with at least 75 percent of the votes cast in favor of the amendment. The entrenched provisions include, among others, the Preamble, Chapter 1 (The Constitution),

Chapter 5 (Fundamental Human Rights and Freedoms), Chapter 7 (Representation of the People), and Chapter 25 (Amendment of the Constitution).
The second route applies to non-entrenched provisions. Article 291 provides that a bill to amend a non-entrenched provision requires the votes of at least two-thirds of all the Members of Parliament. This route does not require a referendum. Most of the provisions of the Constitution, including some relating to the Executive, the Legislature, the Judiciary, and the Decentralization and Chieftaincy chapters, fall within this category.

The CRC proposes introducing a third amendment route. This route would create a category of "semi-entrenched" provisions. Under this proposal, certain provisions that can only be amended through a referendum would instead require an enhanced parliamentary majority of at least 75 percent of all Members of Parliament to be amended. The CRC reasons that some entrenched provisions, while important, are not so foundational as to require a referendum. This third route would allow such provisions to be amended through a less costly, less cumbersome process, while still requiring a supermajority higher than the two-thirds threshold for non-entrenched provisions.

In addition to these three routes, the CRC also recommends adopting entirely new constitutional provisions. These proposals do not amend existing articles but introduce new provisions into the Constitution.

3. GOVERNMENT'S RESPONSES TO THE CONSTITUTION REVIEW COMMITTEE'S RECOMMENDATIONS

This section sets out the Government's position on each recommendation in the CRC's Final Report.

3.1. The Presidency

3.1.1. Presidential Term of Office (Article 66(1))

The Committee recommends the amendment of Article 66(1) to extend the duration of a President's term from four to five years. The Committee also recommends an amendment to Article 113(1) and (2) to extend the term of Parliament from four to five years, to correspond with the proposed extension of the presidential term.

The Government accepts the recommendation to extend the presidential term from four to five years. It also accepts in principle the corresponding extension of the parliamentary term to five years. A longer term provides a more realistic timeframe for the formulation, implementation, and assessment of government policy. The current four-year cycle limits the period available for governance, as the early months of each administration are consumed by transition, while the final year is largely focused on the elections. A five-year term will afford the President and Members of Parliament greater opportunity to deliver on their mandates.

3.1.2. Minimum Age Qualification for the Presidency (Article 62(b))

The Committee recommends amending Article 62(b) to reduce the minimum age of eligibility for election as President from forty years to thirty years.

The Government accepts this recommendation in principle, subject to modification. The current minimum age of forty years excludes qualified citizens from seeking the highest office on the basis of an arbitrary age threshold. The Government proposes, however, that the minimum age be reduced to 35 rather than 30. A reduction to 35 years is consistent with the trend in modern democratic constitutions towards greater inclusivity, while ensuring that a candidate for the highest office has attained a measure of maturity and experience. A citizen who is old enough to serve as a Member of Parliament should not be constitutionally barred from contesting for the Presidency on account of age alone.

3.1.3. Scheduling the Presidential Election (Article 63(2)(a))

The Committee recommends amending Article 63(2)(a) to provide that the presidential election shall be held on such day in the first week of November as the Electoral Commission may, by constitutional instrument, specify.

The Government accepts this recommendation. Fixing the election period within the first week of November provides certainty and predictability in the electoral calendar. It allows the Electoral Commission, political parties, civil society organizations, and international observers to plan in advance. The Committee's proposal provides more specificity and certainty. A fixed period also facilitates the orderly transition of government by ensuring an adequate interval between the election and the inauguration of the incoming President on 7 January.

3.1.4. Presidential Election Petition (Article 64)

The Committee recommends amending Article 64 to provide that any Ghanaian citizen may challenge the validity of a presidential election in the Supreme Court within fourteen days of the official declaration of results. The Committee further recommends that the Court be required to determine the petition within thirty days of its filing. The Electoral Commission would be obligated to promptly disclose to the court and parties all relevant data pertaining to the election results.

The Government accepts this recommendation. The current framework does not prescribe a specific timeline for determining presidential election petitions or for the Electoral Commission to disclose election data and related evidence. The proposed amendments will promote the timely resolution of election disputes and enhance public confidence in the integrity of the electoral process. The fourteen-day filing period and thirty-day determination period strike a reasonable balance between the need for expedition and the requirement of procedural fairness. The mandatory disclosure obligation will ensure that petitioners have access to the evidence necessary to prosecute their claims.

3.1.5. Conditions of Service of the President (Article 68(5))

The Committee recommends the amendment of Article 68(5) to require the President to pay tax on salary, allowances, and other facilities, as well as on retirement gratuity and pension. The Committee also recommends that the President be subject to indirect tax on goods and services, including import duty.

The Government accepts the principle that the President should not enjoy tax exemptions by virtue of office alone. This is consistent with the broader principle that public officeholders should not receive preferential treatment in matters of taxation. Accordingly, the Government accepts that the President should pay tax on salary and allowances, as well as the applicable indirect taxes on goods and services. The Government, however, does not accept the proposal to impose tax on the President's retirement gratuity and pension. The Government will further propose modifications to the specific formulation of the amendment to ensure that the tax obligations imposed on the President are clear, workable, and consistent with the country's tax laws. The details of the President's tax liability should be determined by the relevant tax laws rather than by detailed constitutional prescription.

3.1.6. Emoluments of Article 71 Officeholders (Articles 71(1) and (2))

The Committee recommends that Article 71(1) and (2) be amended to provide that the salaries, allowances, facilities, and privileges of public officers generally, including the President and other Article 71 officeholders, shall be determined by an Independent Public Emoluments Commission to be established under the Constitution.

The Government accepts this recommendation. The current arrangement under Article 71, where a committee appointed by the President determines the emoluments of officeholders, including the President, creates a structural conflict of interest. An independent commission with a clear constitutional mandate to determine the remuneration of all public officers will promote transparency, public confidence, and equity in the determination of public sector emoluments. The establishment of such a commission will also remove a persistent source of public dissatisfaction with the emoluments of Article 71 officeholders.

3.1.7. Presidential Appointments (Article 70)

The Committee recommends the amendment of Article 70(1) and (2) to limit the President's appointment powers. It proposes that the President's discretion in making constitutional appointments should vary according to the level of political or functional independence required for each office. The Committee proposes four categories of public offices with corresponding appointment procedures: executive office, independent office, hybrid-independent office, and hybrid-executive office. For executive offices, the President would have broad discretion, sometimes subject to parliamentary approval. For independent offices, appointments would follow a competitive process led by an independent nominating body. For hybrid-independent offices, nominations would come from governing councils after merit-based selection. For hybrid-executive offices, appointments would require consultation with relevant oversight bodies.

The Committee further recommends fixed, renewable, or non-renewable terms for holders of independent and hybrid-independent offices, with such

terms not tied to the President's tenure. It also recommends that vacancies in independent or hybrid-independent offices be filled with a mandatory substantive appointment within ninety days, and that interim or acting appointments be prohibited until all prescribed procedural steps are completed.

The Government accepts the principle that the President's appointment powers should, in certain cases, be subject to greater institutional checks. This is necessary to safeguard the independence of constitutional bodies whose effectiveness depends on their autonomy from the Executive. However, the Committee's proposed four-tier classification of offices presents significant practical difficulties. The distinction between the categories is not very clear, and the classification does not accord with established comparative practice. The Government will therefore accept the recommendation in principle but proposes to work with the Constitution Review Implementation Committee (CRIC) to develop a more workable classification framework that achieves the same objective of limiting presidential discretion where appropriate, while remaining implementable in practice.

3.1.8. Presidential Immunity (Article 57(6))

The Committee recommends that Article 57(6) be amended to allow civil proceedings against a person for actions done before or during the person's tenure as President to be instituted at any time, subject to applicable statutes of limitations. The Committee also recommends that the provision be amended to allow criminal proceedings to be instituted against a former President within four years after leaving office, for any acts or omissions that occurred before or during the presidential term.

The Government rejects this recommendation. Article 57(6), as it currently stands, does not confer permanent immunity. It only suspends civil and criminal proceedings during the President's tenure. Once a President leaves office, the person may be sued or prosecuted for acts done before or during the presidency. The existing framework strikes an appropriate balance between the need to protect the office of the President from vexatious litigation or prosecution during the term of the President and the principle that no person is above the law.

3.1.9. The Vice President: Caretaker Period (Articles 60(11), (12), and (13))

The Committee makes two recommendations relating to the Vice-President. First, it recommends an amendment of Article 60(8) and (11) to provide that the President or the Vice-President shall not be deemed "unable to perform the functions of the President" by reason only of not being physically present in Ghana. Second, it recommends amending Article 60(11), (12), and (13) to allow Cabinet to elect one of its members to serve as President for a three-

month caretaker period when both the offices of President and Vice-President become vacant simultaneously.

On Article 60(8) and (11), *the Government accepts the recommendation*. The current provision is at odds with the realities of modern governance. The President and Vice-President must be able to travel abroad without triggering a constitutional succession mechanism. The amendment reflects sound practice and removes an outdated constraint.

Regarding Article 60(11), (12), and (13), *the Government does not accept the recommendation*. The simultaneous vacancy of both the presidency and the vice presidency is an extraordinary event for which the Constitution already provides an order of succession. Vesting in Cabinet the power to elect one of its own members to act as President, even for a limited period, would confer executive authority on a person who has not been elected to that office and would lack sufficient democratic legitimacy. The Government considers that the existing constitutional arrangements for succession are adequate and that the proposed caretaker mechanism is neither necessary nor desirable.

3.1.10. Ministers of State (Articles 78(1) and 78(2))

The Committee makes three recommendations concerning the appointment of Ministers. First, it recommends that Article 78(1) be amended to bar Members of Parliament from being appointed as Ministers of State, Deputy Ministers, or Regional Ministers. It further recommends that a Member of Parliament who resigns from office should also be barred from appointment as a Minister during the term of the Parliament to which the member was elected. Second, the Committee recommends that Article 78(2) be amended to cap the total number of Ministers of State at three times the Cabinet size. Since Article 76(1) limits Cabinet Ministers to nineteen, the overall number of Ministers would not exceed fifty-seven. The President would also be barred from appointing Deputy Regional Ministers. Third, the Committee recommends amending Article 82(5) to require the President to revoke the appointment of any Minister who is censured by Parliament, and to bar such a Minister from reappointment for the remainder of the President's or Parliament's term.

On Article 78(1), *the Government does not accept the recommendation*. The President should retain the discretion to appoint members of the Government whether from within or outside Parliament. A bar on the appointment of Members of Parliament as Ministers would deprive the Executive of the legislative experience and constituency knowledge that parliamentarians bring to ministerial office. The hybrid system of government is a uniquely Ghanaian arrangement that strikes a balance between strict presidentialism and the parliamentary system of government, and it should be preserved. The Government proposes instead that the words "except that the majority of Ministers of State shall be appointed from among members of Parliament" be deleted from Article 78(1). The effect is that the President may appoint any proportion of Ministers of State from among Members of Parliament, from none to all. The choice is left to the President, and the Constitution no longer requires that the majority of Ministers be drawn from Parliament. The Government further affirms that a Member of Parliament who is appointed a Minister shall not thereby abdicate the parliamentary seat to which the member was elected.

Regarding Article 78(2), *the Government accepts the recommendation in principle*, subject to modification. The Government agrees that a ceiling on the total number of Ministers is desirable to prevent a bloated Executive arm of government. However, rather than fixing the cap at three times the Cabinet size, the Government proposes a cap of 60 Ministers of State. This provides the President with some flexibility while still imposing a meaningful constraint.

3.1.11. Removal of Censured Ministers (Article 82(5))

The Committee recommends amending Article 82(5) to require the President to revoke the appointment of any Minister who is censured by Parliament, and to bar such a Minister from reappointment for the remainder of the President's or Parliament's term.

On Article 82(5), *the Government accepts the recommendation*. Where Parliament has censured a Minister in accordance with the processes prescribed in Article 82, the President should be required to revoke the appointment of that Minister, and the Minister so removed should be barred from reappointment for the remainder of the term of the President or of Parliament. A censure by Parliament is a serious finding against a Minister, and attaching this consequence to it will strengthen accountability and reinforce the oversight role of Parliament over the Executive.

3.1.12. Membership of the National Security Council (Article 83(1))

The Committee recommends amending Article 83(1) to provide for the inclusion in the membership of the National Security Council of the Attorney General, the National Security Coordinator, Comptroller General of the Ghana Immigration Service, the Director-General of the Narcotics Control Commission, the Chief Fire Officer, the Director-General of the Cybersecurity Authority and a representative of the National House of Chiefs. The Committee reasons that the growing importance of cross-border threats, immigration security, and drug trafficking to national security necessitates expanding the membership of the National Security Council.

The Government accepts this recommendation in principle. The inclusion of the Attorney General, the Comptroller-General of the Ghana Immigration Service, the Director-General of the Narcotics Control Commission, the Chief Fire Officer and the Director-General of the Cybersecurity Authority in the National Security Council reflects the evolving nature of national security threats and ensures that the Council has the appropriate range of expertise. However, Government does not accept the inclusion of the representative of the National House of Chiefs on the National Security Council. The Report of the Committee lacks sufficient justification for the representation of the National House of Chiefs on the National Security Council.

3.1.13. Presidential Transition

The Committee recommends adding a new provision to Chapter 8 to restrict the President or other members of the Government from taking certain actions during the post-election transition period. The proposed restrictions would prohibit appointments, or employment offers extending into the next administration, unapproved contracts or financial commitments, the sale or lease of public lands or assets, and the introduction of bills under certificates of urgency.

The Government accepts the principle that the President and other members of the Government should be restricted from taking certain actions during the post-election transition period. The Government does not, however, accept that this requires a constitutional amendment. The Presidential (Transition) Act, 2012 (Act 845) already provides a statutory framework for the orderly transfer of power. Act 845 may be amended to incorporate the specific restrictions proposed by the Committee. Embedding such detailed operational rules in the Constitution would reduce the flexibility needed to adapt transition arrangements to changing circumstances. The Government therefore proposes that the Committee's concerns may be addressed through amendments to Act 845 and will work to ensure that the amendment is presented to Parliament to give effect to the proposals of the Committee.

3.2. Parliament

3.2.1. Parliamentary Term of Office (Article 113)

The Committee recommends an amendment to clauses (1) and (2) of Article 113 to extend the term of Parliament from four years to five years. This corresponds with the Committee's proposal under Chapter One to extend the presidential term to five years. The Committee further recommends an amendment to Article 112(4) to provide that the general election to elect Members of Parliament shall be held on the same day as presidential elections.

The Government accepts in principle the recommendation to extend the parliamentary term from four to five years. This position is consistent with the Government's acceptance, in principle, of the proposed extension of the presidential term under Article 66(1). Aligning the parliamentary and presidential terms will promote coherent governance and planning across the executive and legislative branches. *The Government also accepts the recommendation to amend Article 112(4) to provide that the election of Members of Parliament shall be held on the same day as the presidential election*. Although the two elections are in practice already held on the same day, the Government considers that expressly providing for this in the Constitution will place the matter beyond doubt and safeguard the alignment of the two electoral cycles.

3.2.2. Size of Parliament (Article 93(a))

The Committee recommends amending Article 93(a) to provide that Parliament shall consist of not more than two hundred and seventy-six elected members, thereby capping the number of Members of Parliament at the present level. The Committee further recommends, as a companion amendment, appropriate amendments to Article 47 to provide that the Electoral Commission shall, in reviewing the division of the country into constituencies after a census, apply such criteria, rules, and methodology, including appropriate deviations from the population quota, as shall be prescribed in relevant legislation to ensure fair representation and prevent gross malapportionment among the constituencies.

The Government accepts this recommendation, subject to modification. The Government agrees that the membership of Parliament should be capped but proposes that the ceiling be fixed at 300 members rather than 276. Of the 300, 276 would be elected directly through competitive constituency elections, while the remaining 24 would be elected through proportional representation among women, persons with disabilities, and the youth. An independent study is to be commissioned into the feasibility of proportional representation. Capping the membership of Parliament in this manner is a cost-saving measure with positive fiscal consequences, and it will promote greater accountability by preventing the proliferation of constituencies. The corresponding amendment to Article 47, requiring the Electoral Commission to apply legislatively prescribed criteria when reviewing constituency boundaries, will introduce greater transparency and objectivity into the boundary delimitation process.

3.2.3. Dual Citizenship and Parliamentary Membership (Articles 8 and 94)

The Committee recommends amending Article 94(2)(a) to provide that a citizen of Ghana by birth who otherwise meets all other qualifications shall not be precluded from contesting for election to Parliament merely by virtue

of holding the citizenship of another country. The person shall not be required to renounce the other citizenship either before contesting or upon election as a Member of Parliament.

The Government accepts this recommendation. The current disqualification of dual citizens from parliamentary membership is inconsistent with Ghana's increasing engagement with its diaspora and the realities of modern citizenship. Removing this barrier will broaden the pool of qualified candidates and strengthen the representative character of Parliament. The Government notes that a Private Members' Bill on the same subject is currently before Parliament, and the Constitution Review Implementation Committee will take account of that Bill in the formulation of the final amendments to the Constitution.

3.2.4. Qualifications for Parliamentary Membership (Article 94(3)(b))

The Committee recommends amending Article 94(3)(b) to bar members of the security services, public services, and employees of state-owned or publicly funded entities from engaging in active party politics or contesting elections unless they first resign from their positions. The Committee further proposes a twelve-month cooling-off period after resignation before such individuals may contest national, parliamentary, or party elections. This proposed amendment would overturn the holding of the Supreme Court in *Kwadjoga Adra v. Attorney-General (2015)* to the effect that public servants whose employer-institutions are not listed in Article 94(3)(b), as currently written, may participate in partisan politics without resigning.

The Government accepts this recommendation, subject to modification. Members of the security services, the public services, and employees of State-owned or publicly funded entities should not engage in active party politics or contest elections unless they first resign from their positions, and a twelve-month cooling-off period should apply after resignation before such persons may contest national, parliamentary, or party elections. The cooling-off period should not, however, apply to persons appointed to political office by the President, including the heads and deputy heads of agencies. Those appointees are not career members of the public services or of the security services. They hold office at the pleasure of the appointing authority, and they leave office with the Government that appointed them. The neutrality which the cooling-off period is designed to protect is not engaged in their case. The requirement that they resign before contesting an election is sufficient. The provision should be framed by reference to participation in active party politics. This amendment will safeguard the political neutrality of the public and security services while preserving the right of those who choose to enter partisan politics to do so upon resignation.

The Committee also recommends amending Article 94 to remove all disqualifications for membership of Parliament that are triggered

exclusively by sentences linked to capital offences. The purpose is to align eligibility rules with a post-death-penalty constitutional framework.

The Government does not accept this recommendation. The Government considers that the existing disqualifications for membership of Parliament triggered by sentences should be maintained. The removal of the death penalty as a form of punishment does not, of itself, require the removal of the disqualifications attaching to the underlying offences, and the current provisions of the Constitution on this matter should be retained.

3.2.5. Carpet Crossing (Article 97(1)(g))

The Committee recommends strengthening the anti-carpet-crossing provisions of Article 97(1)(g) to address situations in which a Member of Parliament resigns from, or is expelled by, the political party on whose ticket they were elected, and subsequently affiliates with, or actively supports, another political party. The Committee further recommends that the amended provision should address the position of independent Members of Parliament who formally align with a political party during their term of office.

The Government does not accept the recommendation. The constitutional prohibition on carpet crossing in Article 97(1)(g) is a foundational feature of Ghana's party-based parliamentary democracy, and it ensures that Members of Parliament honour the mandate conferred on them by their constituents under a specific party affiliation. The Government considers, however, that the current constitutional provision on this issue is adequate and should be maintained.

3.2.6. Parliamentary Independence

The Committee makes several recommendations to strengthen Parliament's institutional independence and accountability. These address caucus leadership, voting procedures, conflict of interest, Private Members' Bills, the contempt power of Parliament, the timely implementation of enacted legislation, and the emoluments of Members of Parliament. The Government's responses to each are set out below.

The Committee recommends a new provision in Chapter Ten requiring Members of Parliament to form Majority and Minority caucuses based on party strength. Each caucus would elect its leaders by secret ballot. The leaders may be removed and replaced by an absolute majority of caucus members in a special election initiated by at least one-quarter of the caucus.

The Government rejects this recommendation. The formation of caucuses and the election of caucus leaders is the current practice in Parliament. Parliament's

Standing Orders provide a sufficient basis for the regulation of these matters. Constitutionalizing the internal workings of Parliament is unnecessary.

The Committee recommends amending Article 104(4) to limit secret voting in Parliament to matters involving the election or removal of persons. All other votes, including those on constitutional amendment bills, would be open, recorded, and publicly disclosed.

The Government accepts this recommendation. Open and recorded voting on legislative and constitutional matters deepens democracy and advances the core values of transparency and accountability.

The Committee recommends amending Article 98 to strengthen conflict of interest rules for Members of Parliament. Members would be barred from serving on boards or procurement bodies of publicly funded entities, representing professional or business interests adverse to the State, and accepting substantial gifts or inducements linked to parliamentary matters. The recommendation further prohibits any person or entity with a stake in a matter before Parliament from offering such benefits to Members of Parliament or their staff.

The Government accepts the principle underlying this recommendation. Strengthening the rules on conflict of interest for Members of Parliament is necessary to promote integrity in the legislative process. The Government considers, however, that the Code of Conduct for Public Officers Bill which has been laid before Parliament already contains sufficient provisions on conflict of interest, and that a constitutional amendment is not required to achieve the objective of the recommendation.

The Committee recommends an amendment to Article 108 to permit Members of Parliament to introduce Private Members' Bills or motions on any matter within Parliament's legislative authority. The Speaker would determine whether a proposed Bill falls within the stated exceptions, namely, Bills that create new public offices or bodies, impose recurring expenditure for which no appropriation exists, or require new taxes or levies.

The Government accepts this recommendation. The amendment will provide clarity on the scope and procedure for Private Members' Bills and will deepen effective representation of the people in the legislative process.

The Committee recommends amending Article 122 to affirm that the constitutional rights to freedom of speech and expression, and freedom of the media, are not subordinate to Parliament's contempt powers. The contempt power would not be available to punish persons or media

organizations for speech or publications perceived as unfair, untrue, critical, or offensive to Parliament or its Members.

This recommendation is not accepted. Parliament rarely exercises its power to commit for contempt, and the existing provision remains important in safeguarding the authority of Parliament as an institution. The Government expects that Parliament will continue to exercise its contempt powers responsibly and with due regard for the constitutional guarantees of freedom of speech and expression and of the media. Freezing the power of Parliament to commit for contempt may have the unintended consequence of damaging its standing as the fulcrum of our democracy.

The Committee recommends a new provision in Chapter Ten requiring any Act of Parliament whose implementation depends on Regulations to specify a deadline of no later than twelve months from the Act's effective date for the preparation and laying of such Regulations. Non-compliance would trigger a vote of censure on the responsible Minister.

The Government rejects this recommendation. Parliament has already commenced the practice of setting deadlines for the passage of subsidiary legislation in the body of Acts. Providing for this in the Constitution is unnecessary. It would also raise justiciability concerns. A constitutional deadline could expose the Executive to litigation each time a deadline is missed, even where the delay is attributable to legitimate practical or consultative constraints. The existing statutory approach provides sufficient discipline without creating an additional ground for constitutional challenge.

The Committee recommends amending Article 114(1) to replace end of term gratuities for Members of Parliament with a pension, retiring benefit, or superannuation scheme. The scheme would be developed and determined by the proposed Independent Public Emoluments Commission as part of its general mandate.

The Government accepts this recommendation, consistent with its acceptance of the establishment of the Independent Public Emoluments Commission.

3.2.7. Certificate of Urgency (Article 106(13))

The Committee recommends amending Article 106(13) to include safeguards against the misuse or abuse of the certificate of urgency. The proposed safeguards include a legislative definition of "urgency" limited to genuine emergencies such as natural disasters, public health crises, and immediate national security threats; a requirement for a detailed, publicly accessible justification for each certificate; mandatory cross-party approval at a higher threshold; a guaranteed minimum scrutiny period, including an

abbreviated committee review; a requirement for stakeholder input even in urgent cases; and the exclusion of certain categories of Bills, including Bills altering human rights, the Constitution, or natural resource agreements, from the certificate of urgency process.

The Government accepts in principle the recommendation to introduce safeguards against the misuse of the certificate of urgency procedure. The certificate of urgency under Article 106(13) was designed to enable Parliament to respond swiftly to genuine national emergencies. The Government notes that this mechanism has been invoked in circumstances that do not meet the standard of a genuine emergency. This deprives Parliament of adequate time for scrutiny and undermines the quality of legislation. The Government supports the introduction of a clear definition of urgency, a minimum scrutiny period, a higher approval threshold, and the exclusion of constitutionally sensitive categories of legislation, including constitutional amendment bills, from the certificate of urgency process. The Government considers, however, that Parliament, through its Standing Orders, is better positioned to determine which bills may properly be taken under the certificate of urgency. The specific legislative design of these safeguards will be developed by the CRIC in consultation with Parliament.

3.2.8. International Business Transactions (Article 181(5))

The Committee recommends amending Article 181(5) to mandate Parliament to enact, by legislation within a prescribed timeframe, a comprehensive law regulating international business transactions.

The Government shares the Committee's view that a comprehensive legislative framework for international business transactions is necessary. Parliament has already commenced work on the legislation to regulate international business transactions in fulfillment of the existing mandate under Article 181(5). A constitutional amendment imposing a prescribed timeframe is not necessary to achieve this objective, given that the legislative process is already underway. Moreover, prescribing a fixed timeframe in the Constitution will raise practical difficulties if Parliament fails to meet the deadline. The resulting constitutional breach would expose the State to litigation without advancing the substantive policy objective. The Government considers that the appropriate course is to allow the ongoing legislative process to reach completion through ordinary parliamentary procedure.

3.2.9. Public Participation in the Legislative Process

The Committee recommends a new provision in Chapter Ten to constitutionally guarantee public participation in the legislative process. Parliament and its committees would be required to take affirmative steps to facilitate meaningful public and stakeholder consultation in lawmaking.

The Committee further recommends that Members of Parliament hold at least one in-person town hall engagement with their constituents during each parliamentary recess, funded as part of the NCCE's or Parliament's operating budget.

The Government rejects this recommendation. Public participation in the legislative process is already the practice of Parliament. Constitutionalizing this obligation will not, in and of itself, guarantee more meaningful participation. It would, however, expose Parliament to constitutional challenges by citizens or civil society organizations for alleged non-compliance with the consultation requirement. Such challenges could delay the legislative process and create legal uncertainty around the validity of enacted legislation. The requirement for town hall engagements during parliamentary recess is not necessary. This matter can be addressed in the Representation of the People Law or through administrative practice.

3.3. Elections, Political Parties, and the Electoral Commission

3.3.1. The Electoral Commission (Articles 43 and 70)

The Committee makes several recommendations concerning the composition, appointment, tenure, and removal of members of the Electoral Commission. First, the Committee recommends amending Article 43(1) to provide that the Commission shall comprise a Commissioner and two Deputy Commissioners, thereby removing the four other members currently prescribed. Second, the Committee recommends amending Article 43(2) to reform the appointment process. The President would appoint nominees selected by the Council of State and approved by Parliament. The Council of State would conduct an open, competitive, and merit-based recruitment process, administered on its behalf by the Public Services Commission. Third, the Committee recommends that the Commissioner and Deputy Commissioners serve a single, non-renewable term of ten years or until attaining the age of sixty-five, whichever occurs first, with a three-year cooling-off period upon leaving office. Fourth, the Committee recommends a structured removal procedure comprising petitions to the Council of State, a preliminary review, and an investigation by an independent five-member tribunal.

The Government accepts the recommendation to streamline the composition of the Commission to a Commissioner and two Deputy Commissioners. The Government does not accept the recommendation to reform the appointment process by vesting the recruitment and selection of the Commissioner and Deputy Commissioners in the Council of State. For the reasons given in section 3.5.2 of this Paper, the Council of State is not better suited than the President to recruit and select for these offices. The Government also does not accept that the recruitment should be administered by the Public Services Commission. The existing arrangement under Article 70(2), by which the President appoints the members of the Commission acting on the advice of the Council of State, should be maintained. The President may adopt an open, competitive and merit-based process, including public advertisement, to identify qualified candidates. As regards tenure, the Government accepts, in principle, the proposal for a single, non-renewable term of ten years or until the age of 65.

The Government, however, does not accept the proposed three-year cooling-off period. The cooling-off period is unjustified and would impose an undue restriction on the right of former Commissioners to serve in other public offices.

Regarding the proposed removal procedure, the Government notes that Article 146 of the Constitution already provides a structured mechanism for the removal of holders of public office. That Article prescribes a process involving a petition, a preliminary determination of a prima facie case, and a hearing before a committee or tribunal. This procedure applies to the Electoral Commissioner and Deputy Commissioners and affords adequate procedural safeguards. The existing framework may be augmented by statutory or other legislative measures where necessary.

3.3.2. Regulation of Political Parties and Campaigns

The Committee recommends a new provision in Chapter Seven of the Constitution to establish an Independent Registrar and Regulator of Political Parties and Campaigns ("IRRPC"). The IRRPC would assume and expand the Electoral Commission's role in registering and regulating political parties, with enhanced enforcement powers to monitor compliance and sanction violations. The Committee further recommends that Parliament enact or amend legislation to control the cost of electioneering and political campaigns, including restrictions on campaign periods, expenditure caps, disclosure requirements, and sanctions for abuse of incumbency. The Committee also proposes amending Article 55 to require all registered political parties to afford their members in good standing equal voting rights in the selection of parliamentary and presidential candidates. Finally, the Committee recommends establishing a Democracy Fund, administered by the IRRPC, to support political parties' non-electioneering activities.

The Government accepts in principle the establishment of an independent body to register and regulate political parties. The Government considers, however, that a Political Parties Regulatory Commission ("PPRC") is a more appropriate designation than the nomenclature of "Registrar and Regulator." The Government accepts the recommendation to deepen internal party democracy under Article 55 by expanding the right to elect party executives and candidates to all members in good standing. As regards the regulation of campaign financing, the Government does not accept that a constitutional amendment is necessary for this purpose. Campaign financing regulation is a rapidly evolving field that requires the flexibility of ordinary legislation. Expenditure caps, disclosure thresholds, and enforcement mechanisms must be capable of adjustment as political and economic conditions change. Parliament can enact the requisite legislation using its residual constitutional and lawmaking powers. The proposed PPRC Bill provides the appropriate legislative vehicle for these matters. The establishment of a Democracy Fund will also be considered in the context of that legislation.

3.3.3. By-Elections

The Committee recommends amending the constitutional provisions governing by-elections to impose a prescribed period within which a by-election must be held following the vacation of a parliamentary seat. The Committee further recommends that no by-election shall be held within twelve months of a scheduled general election. Where a vacancy arises within that period, the seat shall remain vacant until the general election.

The Government accepts in principle the recommendation to regulate the timing of by-elections. By-elections impose significant financial costs on the State and can disrupt local governance, particularly when held in the period immediately preceding a general election. The Government supports the principle of restricting the conduct of by-elections within a defined period before a scheduled general election. Currently, the Constitution requires that, upon the occurrence of a vacancy in Parliament, a by-election be held within thirty days of the occurrence of the vacancy but prohibits the holding of a by-election within three months of a general election. The Government notes that the recommendation extends this blackout period to a full year, which is concerning. One year without representation in Parliament has serious consequences for affected constituents. The Government settles on a period of six months rather than the twelve months proposed by the Committee. No by-election shall be held within six months of a scheduled general election, and a seat that falls vacant within that period shall remain vacant until the general election.

The Government will consult the Electoral Commission and other relevant stakeholders on the practical arrangements for giving effect to this position.

3.3.4. Death of a Presidential Candidate (Article 50)

The Committee recommends amending Article 50 to require the Electoral Commission to publish, by constitutional instrument, clear procedures for addressing the death of a presidential candidate prior to a presidential election.

The Government rejects this recommendation. The Electoral Commission already possesses the power to enact constitutional instruments to regulate the conduct of elections. A constitutional instrument can be enacted to address the specific procedural gap identified by the Committee without the need for a constitutional amendment. The substance of the Committee's proposal is a procedural regulation, not a constitutional principle. The appropriate instrument for such a regulation is a constitutional instrument or an Act of Parliament, not the Constitution itself.

3.3.5. Electoral System: Proportional Representation

The Committee endorses proportional representation as a means of enhancing opportunities for women, youth, and other politically marginalized groups, including smaller political parties, to gain representation in Parliament. The Committee recommends that the Government commission an independent study and investigation into the suitability of proportional representation for Ghana, having regard to the presidential system of government and the longstanding use of the first-past-the-post electoral system.

The Government accepts the recommendation. As set out in section 3.2.2 of this Paper, the Government proposes that the membership of Parliament be capped at 300 members, of whom 276 would be elected in constituency elections and the remaining 24 elected through proportional representation among women, persons with disabilities and the youth. Proportional representation is accepted to that extent. The Government will commission an independent study into the design of the proportional representation element, including the method of allocating the seats, the arrangements for selecting candidates and any transitional measures required. The study will inform the detail of the amendment. It will not reopen the question whether proportional representation is to be adopted.

3.4. Citizenship

3.4.1. Constitutional Right of Abode for Persons of African Descent (Article 8)

The Committee recommends amending Article 8 by expanding it to recognize a constitutional right of abode for persons of African descent in the Diaspora, subject to conditions set by Parliament, with this right eventually enabling eligibility for Ghanaian citizenship through a heritage-based pathway. Parliament would be required to legislate the criteria, procedures, and safeguards governing both the right of abode and the citizenship process.

The Government accepts this recommendation. Ghana has a proud tradition of welcoming members of the African Diaspora. Constitutionalizing a right of abode, subject to parliamentary regulation, provides a principled and transparent framework for the Year of Return and 'Beyond the Return' initiatives. Parliament will legislate the detailed criteria, procedures, and safeguards as required. The Government will also introduce measures to control the entry of persons who come to the country for economic reasons. The details of these measures will be provided in subsidiary legislation. This will ensure that the right of abode is not abused.

3.4.2. Gender-Neutral Spousal Citizenship Regime (Article 7)

The Committee recommends amending Article 7 to create a fully gender-neutral spousal citizenship regime by removing the residency requirement that applies only to men and requiring Parliament to harmonize citizenship and immigration laws with substantive gender equality to prevent discrimination against Ghanaian women in the transmission of citizenship to foreign spouses.

The Government accepts this recommendation. Article 7 should be amended to create a gender-neutral spousal citizenship regime by removing the residency requirement that applies only to men. To that end, the word "man" in Article 7(6) should be replaced with the word "spouse", so that the provision applies equally to a man or a woman married to a citizen of Ghana. Parliament will harmonise the citizenship and immigration laws accordingly to give effect to substantive gender equality in the transmission of citizenship.

3.5. The Council of State

3.5.1. Council of State and the Appointment and Removal of Public Officers (Articles 90 and 91(1))

The Committee proposes amending Articles 90 and 91(1) to expand the Council of State's role in appointing and removing key constitutional officeholders, including recruiting and vetting nominees, handling removal petitions, and making binding recommendations. It also assigns broader advisory functions on presidential pardons, treaties, natural resource contracts, conflict mediation, and general matters of state.

The Government supports strengthening the Council's advisory and vetting role to promote transparency and merit-based appointments. However, it does not accept making the Council's recommendations binding, as this would unduly limit executive authority and disrupt the constitutional balance. The Council's role should remain advisory, with final decisions retained by constitutionally mandated authorities. The Constitution Review Implementation Committee will work with the Chairperson and members of the Council of State to refine these proposals to enhance institutional effectiveness without compromising the constitutional balance of power.

3.5.2. Appointment to Key Constitutional Offices (Articles 70, 72(1), 90, and 91(1))

The Committee recommends amending Articles 70, 72(1), 90 and 91(1) to empower the Council of State to recruit, select, and submit nominations to the President for appointment to key constitutional and public offices, including the Chief Justice, Electoral Commission, CHRAJ, Auditor-General, and others, subject in many cases to parliamentary approval.

<u>The Government does not accept the recommendation.</u> The Government is not persuaded that the Council of State is better suited than the President to undertake recruitment and selection for these offices. The President, as the nationally elected executive, is best placed to ensure accountability in appointments and may adopt transparent processes, including public advertisement and merit-based selection, to identify qualified candidates. These objectives can be achieved without restructuring the Constitution to shift core executive functions to an advisory body.

Further, comparative experience does not support the necessity of this approach. In jurisdictions such as Kenya, structured appointment processes, particularly for offices like the Chief Justice, are implemented through judicial service commissions and statutory frameworks, not by advisory councils analogous to the Council of State. This suggests that the Committee's objective of transparency and merit can be achieved through alternative institutional arrangements without displacing the President's constitutional role.

The Government considers that any enhancements to transparency or merit-based appointments should be pursued through statutory or administrative reforms rather than constitutional amendment. Accordingly, the Government maintains that the existing constitutional framework strikes an appropriate balance between executive authority and institutional checks and does not warrant the proposed changes.

3.5.3. Composition of the Council of State (Article 89(2))

The Committee recommends that Article 89(2) be amended to create a 33-member Council of State comprising: three presidential appointees; two former MPs from different parties nominated by Parliament; the President of the National House of Chiefs; a former National Chief Farmer; representatives of industry and commerce, organised labour, faith-based

bodies, professional associations, academia, and civil society; plus one regional representative from each region.

The Government acknowledges the Committee's objective of strengthening the Council of State's independence from presidential influence and partisan politics. However, it does not accept that the current constitutional arrangement gives rise to such concerns or that the proposed reconstitution is warranted.

Under the existing framework, the composition of the Council of State already reflects a deliberate balance that limits executive control. With the current sixteen regions, each represented by one member selected through regional processes determined by the Electoral Commission, a substantial portion of the Council is independent of presidential appointment. In addition, while the President appoints a total of fourteen members to the Council, this discretion is not unfettered. Three of those who come onto the Council by virtue of presidential appointment are drawn from narrowly defined constitutional categories, namely, persons who have previously held high public offices of Chief Justice, Inspector-General of Police, and Chief of Defence Staff. This structure significantly constrains the President's influence over the Council's overall composition.

Accordingly, the President does not command a dominant or controlling bloc within the Council. On the contrary, the design ensures that presidential appointees constitute a minority within a broader body that includes regional representatives and ex officio members with independent institutional standing. The Government, therefore, does not accept the premise that the Council of State, as presently constituted, is controlled by the Executive.

3.5.4. Tenure of Council of State (Article 89(5))

The CRC recommends amending Article 89(5) to extend the tenure of Council of State members to one term beyond that of the President. It further proposes that, except for members appointed by the President or Parliament, members may serve a maximum of two terms, which need not be consecutive.

The Government does not accept the proposal due to the significant political and institutional risks it creates. Extending the tenure of Council members beyond that of the appointing President would require a newly elected President to work with advisors appointed under a previous administration, potentially from a different political orientation. These risks undermine trust, cohesion, and the effective functioning of the advisory process at the highest level of the Executive.

The current framework, which aligns the Council's tenure with that of the President, ensures coherence between the advisory body and the elected Executive while preserving diversity through its mixed composition. The

Government, therefore, considers the existing arrangement more consistent with the ideals of effective governance.

3.5.5. Proceedings of the Council of State (Chapter 9)

The Committee recommends that a new provision be added to Chapter 9 to provide that the proceedings of the Council of State shall be held in-camera, however, its decisions (including advice and recommendations) shall be made public, except in the case of non-binding advice sought by or provided confidentially to the President.

The Government does not accept the proposal on the basis that it is unnecessary to constitutionalize matters relating to the internal procedures of the Council of State. The Constitution already permits the Council to regulate its own proceedings, and such issues are more appropriately addressed through subsidiary legislation or internal rules, including existing Constitutional Instruments governing its operations. The Government considers that procedural matters of this nature do not carry sufficient normative weight to justify constitutional amendment. Where greater transparency or clarity is desired, this can be achieved through revisions to the Council's regulations without entrenching rigid requirements in the Constitution.

3.6. The Judiciary

3.6.1. Tenure of Chief Justice (Article 145)

The Committee recommends amending Article 145(2) to provide that the Chief Justice shall hold office for a single, non-renewable term of ten years or until the retirement age, whichever occurs first.

The Government supports the introduction of a fixed, non-renewable term for the Chief Justice for the reasons advanced by the CRC. This will ensure predictable transitions and reduce the risk of prolonged or indefinite occupancy of the office. The Government notes that Article 127(5) provides that the conditions of service of a Justice of a Superior Court shall not be varied to his disadvantage. That provision does not stand in the way of the amendment. Article 127(5) operates within the Constitution as it stands. An amendment alters the constitutional text itself and takes effect as part of the supreme law of Ghana. A term fixed by amendment is therefore not a variation made in breach of Article 127(5).

3.6.2. Procedure for Removal of Justices of the Superior Courts (Article 146)

The Committee recommends amending Article 146 to introduce a structured process for removing the Chief Justice and other Superior Court Justices. This includes submission of confidential petitions to the Council of State, a

prima facie **assessment within seven days, suspension pending inquiry where warranted, and the establishment of tribunals with defined composition to investigate and report within specified timelines. The Council of State would forward recommendations to the President for action, and affected judges would be entitled to the tribunal's report.**

The Government accepts the need for clarity and timeliness in the removal process for judicial officers, while safeguarding due process and judicial independence. However, it considers that aspects of the proposal, particularly procedural details such as timelines, petition handling, and tribunal processes, may be implemented within the existing constitutional framework through subsidiary legislation or procedural rules. Accordingly, the Government will explore whether these objectives can be achieved, in whole or in part, through a Constitutional Instrument or other regulatory mechanism, thereby avoiding unnecessary constitutional amendment while still strengthening the integrity and efficiency of the removal process.

3.6.3. Composition of the Supreme Court (Article 128)

The Committee recommends amending Article 128(1) to cap the membership of the Supreme Court at fifteen Justices, comprising the Chief Justice and no more than fourteen other Justices.

The Government supports the proposed cap as a prudent measure to promote efficiency and manage public expenditure. The Government considers, however, that the membership of the Supreme Court should be capped at nineteen Justices, comprising the Chief Justice and eighteen other Justices, rather than the fifteen Justices recommended by the Committee. Limiting the size of the Supreme Court in this manner will help contain the costs associated with judicial administration while maintaining a bench sufficiently robust to discharge its constitutional mandate effectively.

3.6.4. Creation of Divisions of the Supreme Court (Article 128)

The Committee recommends amending Article 128 to divide the Supreme Court into two permanent divisions: an Original Jurisdiction Division and an Appellate Jurisdiction Division, with the Chief Justice serving on both.

The Government does not accept the proposal, as it considers it unnecessary to constitutionalize the Supreme Court's internal arrangements. The creation of divisions within the Court relates to matters of practice, procedure, and judicial administration, which can be effectively addressed through Constitutional Instruments or rules of court without amending the Constitution.

3.6.5. Jurisdiction of the Court of Appeal (Article 131)

The Committee recommends amending Article 131 to make the Court of Appeal the final appellate court for most civil and criminal matters, with appeals from lower courts ending there. The Supreme Court would only handle constitutional interpretation or enforcement issues, or novel points of law, or issues of public interest from High Court cases, without rehearing the full case. It also proposes internal review mechanisms within the Court of Appeal, to allow the full bench of the Court of Appeal to review its appellate decisions in matters commenced at the High Court.

<u>The Government rejects this recommendation.</u> The Government appreciates that the underlying objective of the recommendation is to bring finality to litigation and reduce the Supreme Court's caseload by limiting routine appeals. However, the Committee does not provide sufficient justification for its recommendation, for instance, by pointing to the structural inefficiencies in the current design of our judicial architecture, particularly the appellate system. The government is of the view that such a justification will require empirical evidence of delays, litigation costs, and excessive appeals to the Supreme Court. Moreover, even where the empirical evidence exists, the Government notes that these problems can be addressed through less radical reforms, such as stricter rules on leave to appeal, tight statutory timelines, case management reforms, and limiting appeals relating to minor issues of law.

3.6.6. Composition of the High Court and Court of Appeal and Leadership of Courts (Articles 136(1) and 139(1))

The Committee recommends amending Articles 136(1) and 139(1) to remove the Chief Justice as a member of the Court of Appeal and the High Court. It further proposes the creation of a President of the Court of Appeal (as the most senior Justice) to oversee empanelment, supported by the next two most senior Justices. For the High Court, it proposes a supervising judge for each region. It also recommends constitutionally mandating objective rules for the empanelment of judges.

<u>The Government does not accept the proposal to remove the Chief Justice from the High Court and Court of Appeal.</u> The current constitutional arrangement, which allows the Chief Justice to sit in these courts, provides valuable flexibility and has been beneficial in practice. In our history as a country, there is precedent for this arrangement. Chief Justice Apaloo sat as a High Court judge when it became necessary and brought his rich experience to bear on the High Court bench (See the case of *Republic v. Director of Prisons; Ex Parte Allotey & Another (No. 2) [1974] 2 GLR 385-388*). This shows the practical utility of retaining the Chief Justice within the judicial hierarchy across all superior courts.

The Government is also not persuaded that the proposed restructuring of court leadership and empanelment requires a constitutional amendment. Matters relating to court administration, including empanelment procedures and internal leadership structures, are more appropriately addressed through legislation, such as the Courts Act, or through judicial practice directions.

3.6.7. Disestablishment of Regional Tribunals

The Committee recommends the disestablishment of Regional Tribunals from the Constitution, effectively removing them from the structure of the superior courts.

<u>The Government does not accept the proposal to remove Regional Tribunals from the constitutional framework.</u> While it is acknowledged that, in recent practice, Regional Tribunals have not been regularly constituted by the Chief Justice and are therefore not currently in active use, this does not diminish their institutional value. The Tribunals were designed to ensure citizen participation in the administration of justice, which, according to the Constitution, emanates from the People. Also, the Regional Tribunals were designed to play a complementary role in the administration of justice, particularly in handling specialized matters and easing the burden on the mainstream court system. Their continued constitutional recognition preserves an important mechanism that can be reactivated to enhance efficiency, improve access to justice, and address case backlogs, as needed. The Government considers that the issue is therefore not one of constitutional relevance, but of implementation. The appropriate response is to ensure the proper constitution and utilization of Regional Tribunals within the existing framework, rather than to abolish them altogether.

3.6.8. Reclassification of Courts (Articles 126, 148, 149, 150, 151, and 152)

The Committee recommends amending Articles 126, 148, 149, 150, 151, and 152 to reorganize the judiciary into: (a) the Superior Courts of Judicature (Supreme Court, Court of Appeal, High Court), (b) Primary Courts (Circuit and District Courts), and (c) such lower courts as Parliament may establish.

<u>The Government does not accept the proposal because it has minimal normative significance.</u> The proposed restructuring does not materially alter the jurisdiction, powers, or functioning of the courts, but largely reflects a change in classification without substantive legal effect. The normative value of the proposed changes is minimal and does not compel amendments to the Constitution.

3.6.9. Qualification for Appointment of Chief Justice and Supreme Court Justices (Article 128(4))

The Committee recommends amending Article 128(4) to require that the Chief Justice be a Ghanaian citizen who is either a sitting Supreme Court Justice or a legal practitioner with at least fifteen years' post-qualification experience and no disciplinary record. It further proposes that other Supreme Court Justices be drawn from the Court of Appeal or be legal academics or practitioners with at least fifteen years' experience.

The Government notes that Article 128(4) provides for the qualification to be a justice of the Supreme Court, and that applies to the Chief Justice. The Committee does not state with clarity whether its recommendation is in addition to the criteria for the appointment of other justices of the Supreme Court or is narrowly tailored to the appointment of the Chief Justice. Be that as it may, the Government is of the view that the recommendation narrows the pool of eligible candidates from the judiciary that may be appointed to the position of Chief Justice more than is absolutely necessary. A brilliant justice of the High Court or Court of Appeal with an impeccable judicial track record and who is a person of high moral integrity should qualify to be appointed Chief Justice if that would serve the public interest. The same logic applies, without modification, to the recommendation to limit the appointment of Supreme Court Justices to Justices of the Court of Appeal. Accordingly, the Government rejects the recommendation.

3.6.10. Qualification for Appointment to the Court of Appeal (Article 136(3))

The Committee recommends amending Article 136(3) to provide that a person qualifies for appointment to the Court of Appeal if he or she is a High Court judge, legal academic, or practicing lawyer with at least twelve years' experience at the Bar.

The Committee does not specify whether this recommendation is in addition to or exclusive of the requirement that a person qualify for appointment to the Court of Appeal by being of high moral character and proven integrity. Government notes that, in providing justification for the proposed amendment, the Committee considered the need to safeguard integrity in judicial appointments, especially in relation to appointments to the superior courts. However, in its recommendations, the Committee omits to state with specificity the requirement of moral character and proven integrity. Government accepts the recommendation, subject to maintaining this important requirement.

3.6.11. Qualification Criteria for High Court Judges (Article 139(4))

The Committee recommends amending Article 139(4) to provide that a person qualifies for appointment to the High Court if he or she is a Circuit Court judge, practicing lawyer, or legal academic with at least ten years' experience at the Bar.

The Government does not accept the proposal on the basis that the current constitutional provision is adequate and well-calibrated. The existing framework has proven effective in ensuring that appointments to the High Court are based on appropriate experience, competence, and professional development within the legal system. The Government is not persuaded that the proposed amendment would materially improve the quality or integrity of appointments. In the absence of any demonstrated deficiency in the current arrangement, it considers the proposed constitutional amendment to be unnecessary.

3.6.12. Qualifications, Appointment, and Conditions of Service of Judges of Circuit and District Courts (Chapter 11)

The Committee recommends amending Chapter 11 to specify qualifications for Circuit and District Court judges (five- and three-year's experience at the Bar, respectively), establish a dedicated procedure for their appointment and removal, and harmonize their conditions of service with those of Superior Court Justices.

The Government does not accept the proposal as these matters are already adequately governed by statute. The qualifications, appointment processes, and conditions of service for judges of the lower courts (what the CRC proposes to be recalibrated to Primary Courts) are currently provided for within the existing legal framework (the Courts Act) and can be adjusted as needed through legislation.

3.6.13. Process for Appointing Chief Justice (Article 144(1))

The Committee recommends amending Article 144(1) to establish a structured, multi-stage process for appointing the Chief Justice. This includes public advertisement by the Judicial Council, shortlisting of candidates, in-camera interviews by a Council of State committee, and submission of two ranked nominees to the President. The President would then nominate one candidate for parliamentary approval, with timelines for replacement if rejected, and a requirement that the appointment be completed within 90 days.

The Government rejects this recommendation. The Government considers that the existing constitutional framework for the appointment of the Chief Justice, under which the President appoints the Chief Justice acting in consultation with the Council of State and with the approval of Parliament, should be maintained. The introduction of a structured, multi-stage appointment process of the kind proposed requires further deliberation, and the Government does not consider that a constitutional amendment is warranted at this stage.

3.6.14. Procedure for Appointment of Justices of the Supreme Court (Article 144(2))

The Committee recommends amending Article 144(2) so that, upon a vacancy on the Supreme Court, the Judicial Council, acting in consultation with the Council of State, considers qualified candidates and submits two nominees per vacancy to the President. The President then selects one nominee for parliamentary approval by a simple majority, after which the formal appointment is made.

The Government does not accept this recommendation. The Government considers that the existing constitutional process for the appointment of Justices of the Supreme Court should be maintained. The current framework, under which the President appoints Justices of the Supreme Court acting in consultation with the Judicial Council and on the advice of the Council of State, and with the approval of Parliament, adequately balances merit, executive responsibility, and legislative oversight, and does not require amendment.

3.6.15. Procedure for Appointment of Justices of the Court of Appeal and High Court (Article 144(3))

The Committee recommends amending Article 144(3) to require the Judicial Council to publicly invite nominations and expressions of interest when vacancies arise in the Court of Appeal or High Court. In consultation with the Judicial Committee of the Council of State, the Judicial Council would screen applicants and submit nominees to the President, who would then appoint them subject to parliamentary approval by a simple majority.

The Government does not accept this recommendation. While the objective of enhancing transparency and merit in judicial appointments is sound, the President must retain the discretionary power to decline to appoint a nominee, subject to compliance with the requirements of Article 296 of the Constitution, so that the power is not exercised in an arbitrary or capricious manner. The Government is also concerned that subjecting the appointment of every superior court judge to parliamentary vetting and approval would significantly increase the workload of the Appointments Committee and impose considerable financial costs, without a commensurate benefit. The existing framework for the appointment of Justices of the Court of Appeal and the High Court should accordingly be maintained.

3.6.16. Membership of the Judicial Council (Article 153)

The Committee recommends amending Article 153 to revise the composition of the Judicial Council to include the Chief Justice (as Chair), a Supreme Court Justice nominated by peers, the President of the Court of Appeal, the Chief Judge of the High Court, the Minister for Justice, the Judicial Secretary, a representative of lower court judges, two practising lawyers of different genders, a legal academic, a representative of the National House of Chiefs, and the Chairperson of the Legal Aid Commission.

The recommendation to broaden the representation and strengthen the institutional composition of the Judicial Council is commendable, and it is accepted by the Government in principle. The Government accepts that the composition of the Judicial Council should be broadened and agrees that at least two of its members should be women. Modification is nonetheless required to ensure consistency with the Government's position on related proposals. In particular, the proposal assumes the creation of the office of President of the Court of Appeal and that of Chief Judge of the High Court. As the Government has not accepted that proposal, the composition of the Judicial Council shall be adjusted accordingly. As the Constitution should no longer name particular professional associations, the two seats presently held by representatives of the Ghana Bar Association should be filled by two practicing lawyers of good standing appointed by the President, at least one of whom shall be a woman.

3.6.17. Office of Judicial Secretary

The Committee recommends amending the Constitution to formally establish the office of Judicial Secretary, including provisions on appointment, qualifications, and functions.

The Government does not accept the recommendation as the current legal and administrative framework governing the office of the Judicial Secretary is sufficient. The office already exists and functions effectively under existing statutory and administrative arrangements. See the Judicial Service Act, 2020 (Act 1057).

3.6.18. Revision of the Budget of the Judiciary (Article 179(5))

The Committee recommends amending Article 179(5) to require that the estimates of administrative expenses of the Judiciary be laid before Parliament by the President without any revision or alteration.

The Government does not accept the proposal on the basis that it adds little to the current constitutional position. Under the existing framework, the President is already required to submit the Judiciary's budget to Parliament without alteration or revision, but with only a limited ability to make recommendations.

3.7. The Attorney-General and Anti-Corruption Architecture

3.7.1. Attorney-General's Prosecutorial Powers (Article 88(3) and (4)

The Committee recommends amending Article 88(3) & (4) to remove the Attorney-General's authority to prosecute corruption and corruption-related offences, and to require that any discontinuance of a prosecution be subject to leave of court.

<u>The Government does not accept the proposal to remove the Attorney-General's prosecutorial authority over corruption offences.</u> The powers of the Attorney-General can effectively coexist with those of other anti-corruption agencies. In practice, a single set of facts may give rise to multiple offences, including corruption and other related crimes. Removing the Attorney-General's authority in such cases would create practical difficulties, including fragmentation and inconsistency in prosecution.

The Government notes that the Committee also proposes to compel the Attorney General to seek leave of the court to discontinue a prosecution. In the best traditions of the common law, this is an untenable proposition. Seeking leave of the court not only places a fetter on the discretion of the Attorney General to decide whether or not to continue a prosecution, but it also indirectly compels disclosure of the reasons for the discontinuation of prosecution. That raises practical difficulties for the prosecution, especially in respect of highly sensitive criminal prosecutions. The Attorney General should definitely act reasonably and comply with the requirements imposed by law. But the discretion to disclose reasons for dropping a prosecution should remain with the Attorney General to do so on a case-by-case basis.

In order to address the concerns of the Committee regarding the fact that, as a Cabinet Minister, the Attorney General cannot prosecute members of the government, the Government proposes that the Constitution be amended in Article 88(1) to remove the requirement that the Attorney General be a Minister of State. A separate portfolio of Minister of Justice shall then be established to oversee the justice sector whilst the Attorney General retains his role as principal legal advisor of the Republic and the repository of the prosecutorial authority of the State. Government further proposes that, to guarantee the prosecutorial independence of the Attorney General, a new clause be inserted in Article 88 to the effect that the Attorney General shall have the same terms and conditions of service as a Justice of the Supreme Court.

3.7.2. Remove CHRAJ's Anti-Corruption Mandate (Article 218(b))

The Committee recommends amending Articles 218(b) and 218(e) to remove the power of the Commission on Human Rights and Administrative Justice (CHRAJ) to investigate corruption.

The Government supports removing CHRAJ's corruption investigation mandate to allow for clearer institutional focus and reduce overlap with other bodies tasked with anti-corruption enforcement. The focus on human rights and administrative justice will reduce the workload of the Commission and promote the efficient attainment of its constitutional mandate.

3.7.3. Establishment of Anti-Corruption and Ethics Commission

The Committee recommends establishing an Independent Anti-Corruption and Ethics Commission with the power to investigate and prosecute corruption and to assume the functions of the Office of the Special Prosecutor.

The Government accepts the proposal in principle. Government however takes the view that the intended objectives of the proposed amendment can be achieved without a constitutional amendment. An Anti-Corruption and Ethics Commission can be established under the Conduct of Public Officers Bill and be vested with the power to investigate and prosecute corruption and involving public officers. The government will amend the Conduct of Public Officers Bill to establish a Public Ethics Commission with the power to investigate and prosecute acts of corruption and conflict of interest involving public officers and their collaborators in the private sector. Its mandate would be similar to the Corrupt Practices Investigation Bureau (CPIB) of Singapore, but, unlike the CPIB, it would be independent of executive control.

3.7.4. Persons Required to Declare Assets (Article 286(5))

The Committee recommends amending Article 286(5) to expressly expand the categories of public officers required to declare assets, including members of the military and police, other security services, independent constitutional officeholders, members of statutory regulatory bodies, and District Chief Executives, while retaining a residual category for future expansion.

The Government does not accept the proposal on the basis that Article 286(5)(j) already permits the expansion of the categories of persons required to declare assets through legislation. Indeed, pursuant to this constitutional provision, the Public Office Holders (Declaration of Assets and Disqualification) Act, 1998

(Act 550), provides a more expansive list of public office holders required to declare assets than the Constitution. Accordingly, the Conduct of Public Officers Bill, which is before Parliament, will be passed to strengthen the regime on asset declaration. That is, in the considered view of the Government, a more efficient, flexible, and appropriate mechanism to broaden the scope of coverage without amending the Constitution.

3.7.5. Unexplained Wealth and Asset Declaration Regime (Article 286(4))

The Committee recommends strengthening Article 286(4) by operationalizing the presumption that unexplained increases in a public officer's wealth are unlawfully acquired, including through lifestyle and unexplained wealth audits with a reverse burden of proof, subject to safeguards. It further proposes empowering oversight bodies to conduct such audits, requiring detailed legislation on procedures and protections, and introducing stricter timelines for asset declaration, within 15 days of assuming office, annually, and within 30 days after leaving office.

The government rejects this recommendation. The government appreciates the objective of holding public officers accountable for unexplained increases in their wealth and agrees that Article 286(4) needs to be strengthened for that purpose. However, Government takes the view that it is always better to supplement foundational principles of the Constitution, such as Article 286(4), with statutory provisions that can be easily revised as our society evolves and develops. Australia has some of the best unexplained wealth laws in the world, but they are not contained in the Australian Constitution, but in statutes across the Commonwealth of Australia. Unexplained wealth provisions will be comprehensively incorporated into the Conduct of Public Officers Bill for passage by Parliament.

3.7.6. Conflict of Interest Rules (Article 284)

The Committee recommends amending Article 284 to operationalize conflict-of-interest rules and establish a constitutional Code of Conduct for public officers, including mandatory disclosure and recusal, sanctions for breaches, and minimum ethical standards. It further proposes an enforcement framework led by an Anti-Corruption and Ethics Commission, supported by legislation such as a Public Ethics Act.

<u>The Government does not accept the proposal because the existing constitutional framework is already sufficient and can be effectively supplemented through legislation.</u> The detailed standards, procedures, and enforcement mechanisms proposed are better suited to a comprehensive statutory regime. Accordingly, the Government considers that the Conduct of Public Officers Bill provides the

appropriate vehicle to flesh out these matters without a constitutional amendment.

3.8. Public Financial Management and the Economy

3.8.1. Public Financial Management (Article 174)

The Committee recommends amending Article 174 to classify all tax exemptions, waivers, reliefs, concessions, and variations as tax expenditures. The Minister responsible for Finance would be required, subject to parliamentary approval, to specify an annual ceiling for tax expenditures in the Appropriation Act. The Minister would also submit an Annual Tax Expenditure Statement as part of the annual budget presentation, setting out estimates of all exemptions, waivers, and special tax regimes proposed for the ensuing financial year, disaggregated by sector and beneficiary class, together with a retrospective analysis of tax expenditures granted during the preceding five financial years. A contemporaneous public record of every tax exemption granted would be maintained and submitted to Parliament and the Auditor-General.

<u>The Government acknowledges the Committee's concern about the fiscal impact of tax exemptions and the need for greater transparency in how they are granted.</u> However, these matters are more appropriately addressed through the Public Financial Management Act, 2016 (Act 921) and its accompanying regulations. The Act already provides a framework for fiscal discipline, budgetary reporting, and parliamentary oversight of public expenditure. In particular, sections 13 to 18 set out the fiscal principles, objectives, and indicators that govern fiscal policy. Section 21 prescribes the annual budget process. Embedding detailed procedural requirements such as annual ceilings, retrospective analyses, and contemporaneous record-keeping in the Constitution would make the fiscal framework excessively rigid. Public financial management is a technical field that requires periodic adjustment as fiscal conditions and international best practices evolve. The specific transparency measures the Committee proposes can be incorporated through amendments to the Public Financial Management Act by ordinary legislative process, without the procedural burden of constitutional amendment under Article 291 of the Constitution.

3.8.2. Internally Generated Funds (Article 176)

The Committee recommends amending Article 176 to require that the amount of internally generated funds a public entity may retain for operational or administrative purposes be authorized annually by Parliament through the Appropriation Act. All retained amounts would be reported to Parliament during the financial year. Retention authority would be conditional upon compliance with public financial management and fiscal

rules, and non-compliance could result in suspension or revocation of that authority. The Committee further recommends that Parliament prescribe an aggregate cap on earmarked taxes and earmarked statutory funds as a proportion of total tax revenue. All earmarked funds would be subject to a sunset clause and would lapse upon expiry unless renewed by Parliament on a reasoned request from the Minister responsible for Finance.

The Government recognizes the Committee's concern about the proliferation of earmarked funds and the fiscal risks that arise when public entities retain internally generated funds without adequate oversight. These are legitimate concerns. However, the Public Financial Management Act, 2016 (Act 921) already provides the statutory framework for managing internally generated funds and earmarked statutory funds. The Act addresses the authorization, reporting, and oversight of funds retained by public entities. Section 47 governs the collection, deposit, and retention of government revenue, including internally generated funds. The detailed conditions the Committee proposes, including annual parliamentary authorization, compliance-based suspension, aggregate caps, and sunset clauses, are matters of fiscal policy that require flexibility to respond to changing economic conditions. Constitutionalizing these requirements would entrench specific fiscal rules that may become obsolete or counterproductive as macroeconomic circumstances change. The appropriate course is to strengthen the existing statutory framework by amending the Public Financial Management Act, which Parliament can adjust through the ordinary legislative process.

3.8.3. The Contingency Fund (Article 177)

The Committee recommends amending Article 177 to define "urgent and unforeseen" expenditure as a circumstance that could not reasonably have been anticipated through routine risk assessment, intelligence gathering, or expert analysis, and that presents a clear, imminent, and grave threat to national security, public health or public safety, or the economic stability of the nation. The Committee further recommends setting the Contingency Fund at between 1 and 3 percent of total budgetary expenditure. Withdrawals would require a formal written request from the Minister responsible for Finance, accompanied by a written justification, and would be subject to joint review by the parliamentary committees responsible for financial measures and public accounts within five business days. A supplementary estimate to replace the amount advanced would be laid before Parliament within thirty days.

The Government acknowledges the Committee's concern about the absence of a clear definition of "urgent and unforeseen" expenditure and the potential for misuse of the Contingency Fund. However, the interpretation of "urgent and unforeseen" is a matter for the courts to develop incrementally through judicial interpretation, taking into account the particular facts of each case. Section 36 of the Public Financial Management Act, 2016 (Act 921) already regulates payments and advancements from the Contingency Fund. A rigid constitutional definition risks excluding genuine emergencies that do not fit neatly within the prescribed categories. The procedural safeguards the Committee proposes, including the percentage range, the formal request process, the five-day review period, and the thirty-day supplementary estimate requirement, are operational details that belong in the Public Financial Management Act, 2016 (Act 921), not in the Constitution. Constitutional provisions should state principles, while implementing procedures should be left to statute, where they can be adjusted as experience and evolving fiscal practice dictate.

3.8.4. Controller and Accountant-General (Article 178)

The Committee recommends amending Article 178 to designate the Controller and Accountant-General as the chief accounting officer of the Government, appointed by the President acting in accordance with the advice of the Council of State, for a single non-renewable term of eight years or until attaining the age of sixty-five, whichever occurs earlier. The Controller and Accountant-General would be responsible for the custody, management, and accounting of the Consolidated Fund and all other public funds and accounts, including the authorization and approval of withdrawals and commitments. No withdrawal from, or commitment against, any public fund would be permitted without the prior approval of the Controller and Accountant-General. The Controller and Accountant-General would submit to Parliament, not later than the thirty-first day of March each year, an annual report detailing withdrawals and commitments, comparing them with parliamentary appropriations, and explaining any material variances.

<u>The Government acknowledges the Committee's objective of strengthening commitment control and enhancing the accountability of public funds management.</u> However, the specific institutional arrangements the Committee proposes, including the appointment mechanism, the eight-year non-renewable tenure, the detailed custodial responsibilities, and the annual reporting obligations, can be adequately addressed through the Public Financial Management Act, 2016 (Act 921), and other relevant statutes. Article 178, as currently framed, already provides for the office of the Controller and Accountant-General and its core function of ensuring that no withdrawal is made from the Consolidated Fund except in accordance with law. Section 8 of the Public Financial Management Act, 2016 (Act 921) further elaborates on the Controller and Accountant-General's appointment, four-year tenure, and custodial responsibilities. The detailed operational framework for the office does not require constitutional entrenchment. Constitutionalizing a specific tenure and appointment procedure would reduce the flexibility available to future

Governments to restructure public financial management arrangements as institutional needs evolve. The Government prefers to address these matters through statutory reform, which allows for adjustment through the ordinary legislative process. Moreover, the recommendation to have the Controller and Accountant report directly to Parliament will significantly weaken the Minister of Finance's control over fiscal policy.

The Government notes that the absence of the Internal Audit Agency from the Constitution is a weak link in the accountability framework of the country. The Constitution Review Implementation Committee should therefore consider and make proposals for inclusion of provisions in the Constitution on an Internal Audit Agency.

3.8.5. Medium-Term Economic Framework (Article 179)

The Committee recommends amending Article 179 to require the President to cause a medium-term economic framework, covering a period of not less than three years, to be prepared and laid before Parliament at least 2 months before the presentation of the annual budget. The framework would include medium-term projections of key macroeconomic variables such as gross domestic product growth, inflation, and public debt ratios; projections of revenues, expenditures, fiscal balances, and public debt; and a fiscal strategy setting out the Government's fiscal policy objectives and targets over the medium term. Parliament would approve the framework by resolution before proceeding to consider the Appropriation Bill. At the time of laying the annual estimates, the Minister responsible for Finance would submit a statement demonstrating alignment between the proposed estimates and the approved medium-term economic framework and explaining any material deviation or inconsistency.

<u>The Government acknowledges the Committee's objective of strengthening the link between medium-term fiscal planning and the annual budget process.</u> However, these requirements can be implemented through the Public Financial Management Act, 2016 (Act 921), without a constitutional amendment. The Act already provides the framework for medium-term expenditure planning and fiscal responsibility. Section 15 requires the Minister to prepare and lay before Parliament a Fiscal Strategy Document that sets out the medium-term macroeconomic framework and fiscal targets. The specific procedural details the Committee proposes, including the two-month deadline, the parliamentary resolution requirement, and the alignment statement, are operational matters that benefit from the flexibility of statutory regulation. Fiscal planning methodologies and timelines evolve with changes in macroeconomic conditions and international standards. Constitutionalizing these details would constrain future Governments from adjusting the budget preparation process to suit prevailing

circumstances. The Government prefers to address these matters through amendments to the Public Financial Management Act.

3.8.6. Bank of Ghana (Articles 183 and 184)

The Committee recommends amending Articles 183 and 184 to strictly limit the Bank of Ghana's ability to grant direct advances or credit to the Government or any public entity. Under the proposed amendment, the Bank of Ghana would not carry out a directive to grant such advances or credit unless the directive is in writing from the Minister responsible for Finance, is authorized under an emergency clause contained in applicable law, and Parliament, upon being fully notified, votes to approve the request by at least a sixty percent majority. The Committee further recommends that the Committee of Parliament responsible for Finance monitor and, upon request, be granted access to the foreign exchange receipts, payments, and transfers of the Bank of Ghana, and report to Parliament once every quarter rather than once every six months.

<u>The Government acknowledges the Committee's concern about the risks of central bank financing of Government expenditure and the need for robust parliamentary oversight of foreign exchange operations.</u> However, the Bank of Ghana Act, 2002 (Act 612), as amended, already regulates the Bank's relationship with the Government, including restrictions on advances and credit to the public sector. The specific safeguards the Committee proposes, such as the written directive requirement, the emergency clause authorization, the sixty percent majority threshold, and the quarterly reporting obligation, are operational matters that can be addressed through amendments to the Bank of Ghana Act. Central banking regulation is a specialized field that requires the flexibility to respond to evolving monetary policy conditions, financial stability risks, and international best practices. Constitutionalizing these detailed procedural requirements would constrain the Government and Parliament's ability to adjust the regulatory framework for the Bank of Ghana as circumstances require.

3.8.7. Government Statistician (Article 185)

The Committee recommends amending Article 185 to rename the Government Statistician as the State Statistician, to be appointed by the President acting in accordance with the advice of the Council of State. The State Statistician would hold office for a single, non-renewable term of ten years or until attaining the age of sixty-five, whichever is earlier.

<u>The Government rejects this recommendation.</u> The proposed change in nomenclature from "Government Statistician" to "State Statistician" carries little normative significance. It does not alter the functions, powers, or independence of the office. The appointment mechanism and tenure arrangements proposed by

the Committee can be addressed through amendments to the Statistical Service Act, 2019 (Act 1003), which already provides for the establishment, functions, and governance of the Ghana Statistical Service. The Government does not consider it necessary to amend the Constitution for this purpose.

3.8.8. The Auditor-General (Article 187)

The Committee recommends amending Article 187 to provide that the Auditor-General shall be a qualified professional accountant, appointed by the President acting in accordance with the advice of the Council of State. The Auditor-General would hold office for a single, non-renewable term of ten years or until attaining the age of sixty-five, whichever is earlier, and could not be removed from office except in accordance with the procedure prescribed in Article 146 of the Constitution.

The Government accepts the principle of strengthening the independence and security of tenure of the Auditor-General. The professional qualification requirement and the appointment of the Auditor General on the advice of the Council of State will achieve this objective. The Constitution currently provides for the application of the Article 146 removal procedure to the Auditor General, and the Government supports maintaining the status quo. On the question of the tenure of office of the Auditor General, the Constitution does not provide for the retiring age of the Auditor General. Under the Audit Service Act, 2000 (Act 584), the Auditor General retires at the age of sixty years but may be granted an extension by the President to retire upon attaining the age of sixty-five years. The proposal of the Committee for a fixed non-renewable term of ten years and or a retirement age of sixty-five years provides security of tenure for the Auditor General, and the Government supports that.

3.8.9. Public Debt Management

The Committee recommends that a new provision be introduced requiring Parliament to enact legislation establishing a public debt management framework, including the adoption of one or more debt anchors or fiscal sustainability rules, to ensure prudent, transparent, and sustainable public borrowing. The Constitution would not prescribe any specific debt management tool. The Minister responsible for Finance would be required to submit to Parliament, at intervals and in a form prescribed by law, comprehensive information relating to public debt, including the terms, amounts, maturity profiles, and purposes of all loans and guarantees contracted or issued by the State, and any material variation, restructuring, or assumption of debt obligations. All contingent liabilities of the State, including fiscal risks arising from guarantees, indemnities, public-private partnerships, and the obligations of State-Owned Enterprises and State-controlled joint ventures, would be disclosed to Parliament. The Committee

further recommends that the Constitution expressly authorize Parliament to establish, by legislation, an Independent Fiscal Council to promote fiscal responsibility, sustainability, transparency, and independent fiscal analysis.

The Government acknowledges the Committee's concern about the need for a robust legal framework for public debt management and fiscal transparency. However, the Public Financial Management Act, 2016 (Act 921) already provides the statutory basis for fiscal responsibility, debt management, and parliamentary oversight of public borrowing. The Act addresses borrowing limits, reporting obligations, and contingent liability disclosure. Sections 54 to 72 establish a comprehensive regime for public debt management, including the requirement for a debt management strategy (section 59) and an annual report to Parliament on the public debt (section 72). The specific reforms the Committee proposes, including adopting debt anchors, establishing fiscal sustainability rules, enhancing disclosure requirements, and establishing an Independent Fiscal Council, are matters of fiscal policy that can be addressed through amendments to the Public Financial Management Act.

3.8.10. The Independent Public Emoluments Commission

The Committee recommends the establishment of an Independent Public Emoluments Commission, which shall be given a broad mandate to rationalize the distortions in the public wage bill. The Commission is intended to address the disparities in the emoluments of public officers, including those whose conditions of service are determined under Article 71 of the Constitution. The Committee's proposal is linked to its recommendation under Article 71(1) and (2), which proposes that the salaries, allowances, facilities, and privileges of public officers generally shall be determined by this Commission rather than by the existing arrangement under which Article 71 officeholders effectively determine their own conditions of service.

This recommendation is accepted. The Government accepts the establishment of an Independent Public Emoluments Commission. The proposals of the first Constitution Review Commission (CRC-1) and the Government's White Paper issued in response to that Commission's Report provide a useful reference point for the design and mandate of this body.

3.9. National Development Planning

3.9.1. Development Planning Commission (Articles 86 and 87)

The Committee recommends that Article 87 be amended to affirm that the National Development Planning Commission (NDPC) shall serve as the central coordinating, monitoring, and evaluation body for the National

Development Plan, while responsibility for implementation shall remain with Ministries, Departments, and Agencies (MDAs) and Metropolitan, Municipal, and District Assemblies (MMDAs), acting within their respective mandates. The Committee also recommends a new provision prescribing a procedure that will be the only way the National Development Plan may be amended. The Committee further proposes amending the composition of the NDPC to include the Minister responsible for Finance and Economic Planning, the Governor of the Bank of Ghana, the Government Statistician, the Head of the Land Use and Spatial Planning Authority, the Head of the Environmental Protection Authority, and representatives from academia, organized labor, civil society, the National House of Chiefs, and the engineering profession, among others.

This recommendation is rejected. The reasons given by the Government in the White Paper issued in response to the first Constitution Review Commission (CRC-1) remain applicable. In that White Paper, the Government rejected the proposal to convert the NDPC from an advisory body into an independent body with executive powers. The Government's position was that such a conversion would place executive power and functions in the hands of technocrats without a mandate to govern. The Government also rejected the constitutional entrenchment of the National Development Plan on the grounds that it would amount to a command model of development planning and tie the hands of successive governments to the ideological interests and policies of a particular political party. Those concerns apply with equal force to the current Committee's proposals and Government stands by that position.

Government also notes that Article 87(2) of the Constitution provides for the membership of the NDPC and indeed leaves room for the appointment of additional persons to serve on the Commission by the President based upon their expertise. Nothing prevents the President from appointing the officeholders mentioned in the recommendation of the Committee using his power under Article 87(2).

With respect to the functions of the NDPC, the National Development Planning Commission Act and the National Development Planning (System) Act provide a sufficient statutory basis for the NDPC's operations. The Government will, however, consider strengthening those statutes to address any gaps identified by the Committee.

3.9.2. Directive Principles of State Policy and National Development Planning (Article 34)

The Committee recommends amending Article 34 to require Parliament to enact framework legislation governing national development planning. The Committee further recommends strengthening Articles 34(2) and 67 to

require the President to submit an annual written report to Parliament on progress towards the realization of the policy goals set out in the Directive Principles of State Policy. The Committee also proposes requiring the Minister responsible for Finance to present an annual budget that expressly indicates how proposed expenditures advance the Directive Principles. Additionally, the Committee recommends that political parties and presidential candidates be required, not later than six months before a general election, to submit their programmes to the National Development Planning Commission for certification of formal consistency with the National Development Plan.

<u>The Government does not accept these recommendations.</u> The existing legal and institutional framework already aligns with the Committee's proposed approach. The National Development Planning Commission Act and the National Development Planning (System) Act provide the statutory basis for national development planning. The President's annual State of the Nation Address to Parliament serves the reporting function that the Committee seeks to constitutionalize. A constitutional amendment is not necessary to achieve these objectives. As regards the obligation on political parties to submit their manifestos to the NDPC for certification, the Government considers that this matter is more appropriately addressed through a new political parties statute. Constitutionalizing it would raise concerns about the NDPC's institutional neutrality and the scope of judicial review over political programs.

3.10. Lands and Natural Resources

3.10.1. Lands and Natural Resources (Articles 257 to 269)

The Committee recommends a comprehensive reform of the constitutional framework for lands and natural resources. The Committee proposes amending Article 257 to remove the vesting of public lands in the President and to vest them instead directly in the people of Ghana, to be held and managed in trust for present and future generations. Article 258 would be revised to establish the Lands Commission as the primary constitutional trustee and manager of public lands. A new constitutional provision would impose direct fiduciary obligations, including duties of loyalty, transparency, and sustainability, on all public authorities involved in land administration. The Committee further recommends removing the exhaustive constitutional prescriptions for the membership and composition of the Lands Commission under Articles 258, 259, and 264, and instead providing that the composition, qualifications, and appointment processes be determined by an Act of Parliament. The Committee also proposes amending Article 20 to strengthen the regime for compulsory acquisition, including requirements for prior payment of compensation, resettlement planning, and enforceable reversionary rights.

The Government rejects these recommendations. Public lands are vested in the President in trust for the people of Ghana under the existing constitutional arrangement. The President does not hold a personal title or interest in public lands. The vesting is fiduciary in nature. Legislation can elaborate on the concept of the public trust without altering the constitutional vesting. The Lands Commission is already an administrative body that manages public lands on behalf of the President as trustee. The Committee has not demonstrated that the existing arrangement has been abused in a manner that warrants the fundamental restructuring proposed. As regards the composition of the Lands Commission and the regime for compulsory acquisition, the Lands Act, 2020 (Act 1036) already provides a comprehensive statutory framework. The Committee's detailed reforms regarding fiduciary duties, reversionary rights, and compensation can be addressed through that Act and its regulations. A constitutional amendment is not necessary to achieve these objectives.

3.10.2. Stool Lands and Revenue Management (Article 267)

The Committee recommends several amendments to Article 267. First, it proposes removing the Office of the Administrator of Stool Lands as a separate constitutional office under Article 267(2) and vesting responsibility for the collection, management, and disbursement of stool land revenues in the Lands Commission. The Office would be absorbed as a division of the Lands Commission, renamed the Rent Management Division, with an expanded mandate to collect revenue from family lands, clan lands, quarter and Tindana lands. Second, the Committee proposes amending Articles 267(1) and 295 to replace the term "subjects of the stool" with "members of the stool community." Third, the Committee recommends amending Article 267 to expressly provide that the stool, acting through its occupant and the relevant traditional authority, holds stool lands in a fiduciary capacity subject to duties of loyalty, good faith, accountability, and intergenerational equity. The Committee further proposes that Parliament provide by law for consequences and remedies for breach of fiduciary duty by traditional authorities. The existing stool land revenue-sharing formula under Article 267(6) would be retained with minor consequential amendments.

These recommendations are rejected. As regards the merger of the Office of the Administrator of Stool Lands into the Lands Commission, the current regime promotes specialization. The Office of the Administrator of Stool Lands performs a distinct revenue-collection and disbursement function that benefits from its institutional focus. Merging it into the Lands Commission would dilute that focus without a demonstrated improvement in service delivery. Regarding the replacement of "subjects of the stool" with "members of the stool community," this is a change in nomenclature with minimal normative significance. The procedural burden of a constitutional amendment under Article 291 is not justified for a terminological revision that does not alter substantive rights. As regards the proposed fiduciary framework and remedies for breach of duty by traditional authorities, these matters can be addressed under the Lands Act, 2020 (Act 1036) and its regulations. A constitutional amendment is not necessary to achieve the Committee's objectives.

3.10.3. Non-Citizen Land Ownership (Article 266)

The Committee recommends amending Article 266 in two respects. First, Article 266(2) would be amended to provide that any agreement, deed, or conveyance that purports to grant a freehold interest in land to a non-citizen shall not be void but shall, by operation of law, be deemed to confer a leasehold interest for a period of fifty years at a time. Second, Article 266(4) would be amended to provide that where a leasehold interest granted to a non-citizen exceeds the constitutionally permitted duration of fifty years, the lease shall automatically be reduced to the maximum allowable term, with the excess duration rendered of no legal effect. The Committee further recommends elevating sections 10(9) and 10(10) of the Land Act, 2020 (Act 1036), which regulate joint ownership between citizens and non-citizens, to the status of constitutional law.

The Government rejects these recommendations. Regarding Article 266(2), the current provision renders void any agreement that purports to grant a freehold interest in land to a non-citizen. The Committee's proposal to convert such agreements into fifty-year leasehold interests by operation of law would create an incentive for parties to violate the constitutional prohibition, knowing that the consequence would not be nullity but rather the automatic grant of a valuable leasehold interest. This would undermine the policy purpose of the prohibition. Regarding Article 266(4), the current provision is sufficient. Any necessary elaboration can be addressed through the Lands Act, 2020 (Act 1036) and its regulations. As regards the elevation of sections 10(9) and 10(10) of the Land Act to constitutional status, the Government does not consider that constitutionalizing statutory provisions that are already in force and that can be amended by ordinary legislative process would add normative value. The statutory framework provides the flexibility to adjust the rules governing joint ownership as circumstances require.

3.10.4. Natural Resources Governance (Articles 268 and 269)

The Committee recommends several amendments to the constitutional framework for natural resources governance. First, the Committee proposes amending Article 268 to require that parliamentary ratification of natural resource transactions be exercised in accordance with prescribed constitutional principles, and that prior parliamentary approval precede the signing of any natural resource concession or grant by the Executive.

Second, the Committee recommends amending Article 269 to require Parliament to enact legislation establishing a coordinating authority for natural resources, mandated to promote coherence, coordination, and compliance with constitutional principles across all sectoral institutions and regulatory bodies. Third, the Committee proposes amending the natural resources vesting provisions under Article 257(6) to align with a proposed public trust framework. The Committee also recommends the incorporation of basic principles governing natural resources, a dedicated provision on ocean governance and the blue economy, the creation of an offence of ecocide, and the allocation of a percentage of gross mineral revenue to mining communities.

The Government does not accept these recommendations. As regards Article 268, the Supreme Court in *Ndebugre v Attorney-General* has already interpreted the scope of parliamentary ratification of natural resource transactions. The existing constitutional text, as interpreted by the Court, provides a workable framework that does not require amendment. As regards Article 269, the establishment of a new coordinating authority for natural resources would add another layer of bureaucracy on top of the existing commissions and regulatory bodies. The heads of these commissions are appointees of the President, and coordination can be achieved through executive direction without creating an additional constitutional institution. As regards the proposal to re-vest natural resources in the various sectoral commissions rather than in the President, the trusteeship system as currently constituted has not been abused. Vesting natural resources across multiple commissions may lead to administrative fragmentation and competing claims of authority. The proposals on ocean governance, ecocide, mineral revenue allocation, and basic principles of natural resources governance can be addressed through the various existing statutes, including the Minerals and Mining Act, 2006 (Act 703), the Fisheries Act, 2002 (Act 625), the Petroleum Revenue Management Act, 2011 (Act 815), and the Environmental Protection Act, 2025 (Act 1124). A constitutional amendment is not necessary to achieve these objectives.

3.11. The Public Services

3.11.1. Removal of Named Private Associations from Constitution (Articles 153, 157, 166, 201, 204, 206, 209, 259, and 261)

The Committee recommends amendments to the Constitution to remove all direct references to specific private associations in Articles 153, 157, 166, 201, 204, 206, 209, 259 and 261 replacing them with neutral formulations providing for representatives to be nominated in accordance with procedures prescribed by an Act of Parliament, and further recommends that the Act prescribes the procedures, criteria and safeguards by which recognized professional bodies, civil society organizations and other

voluntary associations shall nominate representatives to Constitutional bodies in a manner that ensures transparency, inclusivity and institutional continuity.

<u>The Government accepts this proposal</u> as it promotes neutrality, fairness, and flexibility in relation to the constitutional treatment of private associations within civil society. Removing specific references to private bodies avoids the risk of entrenching particular associations while allowing Parliament to design transparent and inclusive processes for representation on state entities where necessary. This approach also ensures that the system can evolve over time without the need for repeated constitutional amendments. Finally, the constitutionalization of the roles of certain private associations in the affairs of state institutions has inevitably created a sense of entitlement on the part of these associations, which is unhealthy. There should be equality of treatment for all private associations under the Constitution and laws of Ghana.

3.11.2. Parliament to Determine Retirement Age for Public Officials (Article 199)

The Committee recommends amending Article 199 to empower Parliament to determine the mandatory retirement age for public officeholders by law, including the ability to increase the age or grant special dispensations for specific groups, provided no appointive office extends beyond age 70.

<u>*The Government accepts this proposal, as it introduces the necessary flexibility in managing public service retirement policy.*</u> Allowing Parliament to adjust retirement ages by law enables the State to respond to changing demographic, economic, and workforce conditions. Comparative experience, including recent reforms in Singapore aimed at raising the retirement age, demonstrates the practical value of such flexibility. Article 199(1) presently retires a public officer at sixty except as otherwise provided in the Constitution. The power which Parliament would acquire under the amended Article 199 does not extend to the offices whose retiring ages are fixed by the Constitution, or by the conditions of service which the Constitution attaches to them. The retiring ages of the holders of those offices are dealt with in the provisions of this Paper relating to each office.

3.11.3. Membership of the Public Services Commission (Article 194(5))

The Committee recommends amending Article 194(2) to reconstitute the Public Services Commission as a full-time body comprising a Chairperson, Vice-Chairperson, and up to five other Commissioners, appointed through a merit-based process. It also proposes a single non-renewable ten-year term (or retirement at age 65).

The Government agrees with the proposals aimed at strengthening the institutional capacity and professionalism of the Public Services Commission. The Government accepts the reconstitution of the Commission as a full-time body comprising a Chairperson, a Vice-Chairperson, and up to five other Commissioners, appointed through a merit-based process, and accepts that its members should hold office for a single, non-renewable term of ten years or until attaining the age of sixty-five, whichever occurs first. The Government proposes that the membership of the Commission be limited to seven, and that Article 194(2)(b), which allows Parliament to prescribe additional membership, be removed, in order to maintain efficiency and clarity in composition.

3.11.4. Regulations of the Public Services Commission (Article 191)

The Committee recommends amending Article 191 to require the Public Services Commission to issue regulations, by Constitutional Instrument, detailing protections for public servants and establishing procedures and timelines for resolving grievances, with a right of appeal to CHRAJ.

The Government does not accept the proposal. The Constitution and the Public Services Commission Act, 1994 (Act 482) do not bar the Commission from, in the performance of its constitutional and statutory functions, formulating regulations addressing the protection of public servants and related grievance procedures. As a matter of fact, Article 197 empowers the Public Services Commission to make regulations by constitutional instrument to regulate the performance of its functions. As such, the matters proposed can be effectively handled within the existing legal framework.

3.11.5. Prior Approval from the President by the Public Services Commission to Make Regulations (Article 197)

The Committee recommends amending Article 197 to remove the requirement that the Public Services Commission obtain prior approval of the President before making Regulations by Constitutional Instrument for the effective discharge of its functions.

The Government does not accept the proposal on the basis that the current arrangement does not present any demonstrated problem requiring constitutional amendment. The existing requirement for presidential approval has not been shown to impede the functioning or independence of the Public Services Commission. In the absence of any clear deficiency in the current framework, the Government considers that there is no need to amend the Constitution.

3.11.6. Appointment of Head of Civil Service (Article 193(1))

The CRC recommends amending Article 193(1) to require that the Head of Civil Service be appointed by the President on the advice of the Council of State following an open, competitive, merit-based process conducted by the Public Services Commission. It also proposes specified qualification requirements and a single non-renewable ten-year term or retirement at age 65, whichever occurs first.

The Government does not accept the proposal on the basis that the Constitution, as it is, does not preclude a merit-based appointment process. Such procedures, including competitive recruitment and qualification requirements, can be effectively provided for under the Civil Service Act through an amendment of that Act, instead of through constitutional amendment.

3.11.7. Appointments to Public Service (Article 195)

The Committee recommends amending Article 195 to clarify appointment powers within the public service. It proposes that appointments to governing councils be made by the President or a designated Minister in consultation with the Public Services Commission (PSC); that governing councils appoint chief executives and senior management through merit-based processes with PSC involvement; that political party officials be barred from such appointments; and that lower-level appointments be handled by councils and management subject to PSC regulations.

The Government accepts the proposal, subject to modification. In practice there is ambiguity about the point at which the Public Services Commission intervenes in appointments, and about who finally decides on the appointment of chief executives and their deputies. The Commission has been issuing the final letters of appointment. Article 195(1) should therefore be amended by inserting the words "which advice should be" between the word "concerned" and the words "given in consultation with". The provision would then read that the power to appoint vests in the President, acting in accordance with the advice of the Governing Council of the service concerned, which advice should be given in consultation with the Public Services Commission. This puts beyond doubt that the duty to consult the Commission attaches to the Governing Council, and that the Commission does not itself make the appointment. The Government does not accept the remaining elements of the recommendation. The detail of appointment processes, the role of governing councils and the exclusion of political party officials can be provided for by legislation without amending the Constitution. Government will take steps to initiate the necessary legislative reforms to attain the stated objective of the recommendation of the Committee.

3.11.8. Governing Councils of Public Entities (Article 190(3))

The Committee recommends amending Article 190(3) to require that any Act of Parliament establishing a public entity must specify whether the entity will have a governing council and provide reasons for that choice.

The Government does not accept the proposal on the basis that it misconceives the structure and intent of Article 190(3). Article 190(3) contemplates public services created pursuant to Article 190(1)(d), which is designed to cover a specific class of entities, public services that stand on the same constitutional footing as those expressly listed in Article 190(1)(a)-(c). Public services established pursuant to Article 190(1)(d) are therefore expected to have governing councils as part of their institutional design, just like the analogous public services expressly mentioned in the preceding paragraphs of Article 190(1). However, Parliament's legislative power is not confined to establishing entities under Article 190(1)(d) alone. As affirmed in *Amegatcher v Attorney-General and Others (J1 1 of 2012) [2012] GHASC 26 (09 May 2012)*, Parliament possesses broad legislative powers. As such, in creating public entities outside of the Public Services contemplated by Article 190(1), Parliament retains full discretion to determine the appropriate governance structure, including whether a governing council is necessary.

3.11.9. Regulation of State-Owned Enterprises

The Committee recommends amending Chapter Fourteen to create a distinct constitutional framework for State-Owned Enterprises under a retitled chapter, Public Services and State Enterprises. It further proposes establishing the State Interests and Governance Authority (SIGA) as a constitutional body to oversee government ownership interests in SOEs and related ventures.

The Government does not accept the proposal, as Parliament already has residual authority to establish and regulate public entities such as SIGA. The elevation of SIGA to constitutional status is not justified by any demonstrated institutional vulnerability or threat to its existence within the current political and legal framework.

3.11.10. Depoliticization of State-Owned Enterprises

The Committee recommends constitutional amendments to professionalize and depoliticize State-Owned Enterprises (SOE) governance by barring Ministers, Deputy Ministers, and MPs from serving on boards, requiring merit-based appointments, vesting boards with authority over CEOs and senior management, and assigning SIGA a coordinating role. It also

proposes restrictions on political actors in SOE leadership and imposes fiduciary duties on directors and officers.

The Government does not accept the proposal because these matters can be effectively addressed through legislation rather than a constitutional amendment. Issues relating to qualifications, appointment processes, governance standards, and fiduciary duties are operational in nature and are better suited to a statutory framework that allows for flexibility and periodic reform.

3.11.11. Public Servants and Active Party Politics

The Committee recommends introducing a new constitutional clause prohibiting public servants from engaging in active party politics or displaying partisan affiliation while in service.

The Government does not accept the proposal on the basis that existing jurisprudence developed by the Supreme Court already provides sufficient guidance on the political neutrality expected of public servants. The current legal framework adequately addresses this issue without the need for further constitutional amendment. (See *Civil and Local Government Staff Association of Ghana (CLOGSAG) v Attorney-General and Others [2017] DLSC 2590*). Be that as it may, the concerns raised by the Committee are better addressed by refashioning the existing statutory framework, such as the Civil Service Act, to incorporate prohibitions against public servants engaging in active partisan politics or displaying partisan affiliation while in service.

3.12. Fundamental Human Rights

3.12.1. Abolition of the Death Penalty (Articles 3, 13, 19, and 72)

The Committee recommends that Article 13 be amended to delete all language permitting the intentional deprivation of life pursuant to a sentence of a court. It further recommends amending Article 3 to remove constitutional implications that high treason or treason may attract capital punishment and to delink the protection of the constitutional order from the availability of the death penalty as a punitive instrument. The Committee recommends consequential amendments to Article 19 to remove all procedural provisions that presuppose capital punishment as a sentencing outcome, and to Article 72 to reframe the prerogative of mercy solely in relation to non-capital criminal penalties.

The Government accepts this recommendation. The death penalty is inconsistent with the constitutional right to life and with Ghana's international human rights obligations, including under the International Covenant on Civil and Political Rights. Offences that previously attracted the death penalty will instead attract life imprisonment, in accordance with the relevant constitutional and legislative provisions. The consequential amendments to Articles 3, 19, and 72 are also accepted to ensure internal consistency in the constitutional framework.

3.12.2. Application of Fundamental Rights (Article 12)

The Committee recommends reformulating Article 12(1) to establish a strong constitutional presumption that fundamental human rights must be respected and upheld by all branches of government and by any person or institution exercising power over others, including traditional authorities, political parties, and private entities.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The language of Article 12(1) already provides that the fundamental human rights and freedoms apply to all persons, both natural and legal. The horizontal application of fundamental rights to non-State actors is an evolving area of constitutional jurisprudence that is best developed through judicial interpretation and through statutory provision. The Government will accordingly give effect to the objective of this recommendation through the enactment of a comprehensive Human Rights Act, rather than through a constitutional amendment.

3.12.3. Personal Liberty and Bail (Article 14)

The Committee recommends amending Article 14 to establish a constitutional presumption in favour of bail, allowing remand only where the prosecution proves that detention is strictly necessary to prevent flight or interference with justice. Bail would be automatic for misdemeanors and non-violent offences except in exceptional cases. The Committee also recommends requiring Parliament to enact a comprehensive legal framework on arrest, bail, remand, and pre-trial detention.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The Government accepts the objective of strengthening the protection of personal liberty and the right to bail. These are matters that are more appropriately addressed by statute, and the detailed framework on arrest, bail, remand, and pre-trial detention proposed by the Committee will be given effect through the Criminal and Other Offences (Procedure) Act or a dedicated bail reform statute, rather than through a constitutional amendment requiring a referendum.

3.12.4. Basic Necessities in Custody (Article 14)

The Committee recommends reinforcing Article 14 to explicitly recognize that no deprivation of personal liberty shall operate to suspend or diminish a person's entitlement to the basic necessities of life, including adequate food, and to affirm that conditions of detention are subject to direct constitutional scrutiny.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The right to humane conditions of detention, including access to food and the basic necessities of life, is already protected under existing constitutional and statutory norms. The Government will give detailed legislative effect to this protection through the proposed Human Rights Act, rather than through a constitutional amendment.

3.12.5. Human Dignity and Conditions of Detention (Article 15)

The Committee recommends expanding Article 15 to expressly recognize that the denial of adequate, safe, and nutritionally sufficient food to a person in custody constitutes a violation of human dignity, and to affirm that custodial hunger, intentional starvation, or nutritionally degrading detention conditions amount to cruel, inhuman, or degrading treatment.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The proposed Human Rights Act is the appropriate vehicle for giving effect to this recommendation. Custodial welfare standards are operational matters that benefit from the flexibility of legislation, which can be updated as standards develop, rather than from constitutional entrenchment.

3.12.6. Non-Discrimination and Affirmative Action (Article 17)

The Committee recommends amending Article 17 to provide an explicit constitutional foundation for temporary special measures and affirmative action aimed at achieving substantive gender equality in political representation, public appointments, education, employment, and economic participation.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The constitutional framework, reinforced by existing case law, already provides a basis for targeted affirmative action programmes. The Government will give effect to this recommendation through statutory provisions enacted under the proposed Human Rights Act, which will provide the explicit legislative basis required to implement temporary special measures and affirmative action, rather than through a constitutional amendment requiring a referendum.

3.12.7. Privacy and Data Protection (Article 18)

The Committee recommends modernizing Article 18 to constitutionally guarantee informational and digital privacy, including control over personal data and explicit protection of biometric, financial, metadata, and electronic communications. The Committee further recommends a new clause requiring Parliament to enact a comprehensive framework on data protection, surveillance, and communications interception, and a democratic safeguard clause treating surveillance or data practices that chill free expression or political participation as compounded constitutional violations.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The objective of strengthening the protection of informational and digital privacy will be achieved by statute rather than by constitutional amendment. The Data Protection Act, 2012 (Act 843) and the Electronic Communications Act, 2008 (Act 775) already provide a regulatory framework for data protection and communications, and these statutes will be strengthened, together with the proposed Human Rights Act, to give effect to the recommendation. The case of Raphael Cubagee v. Yeboah Asare & 2 Others demonstrates that the existing constitutional provisions already protect informational privacy, and judicial interpretation will continue to develop the law in this area.

3.12.8. Right to Trial within a Reasonable Time (Article 19)

The Committee recommends amending Article 19 to guarantee the right to a criminal trial within a strictly reasonable time, with Parliament required to set binding timelines for investigations, prosecutions, and case resolution. Where delays are not caused by the accused, courts must grant effective remedies such as dismissal, exclusion of evidence, or sentence reduction. Public officers whose unjustified actions cause unconstitutional delay would face personal liability.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The Government accepts that delay in the conduct of criminal trials is a serious concern. This is, however, more appropriately addressed through procedural reforms to the Courts Act and the Criminal and Other Offences

(Procedure) Act, which can establish binding timelines and case management rules, rather than through a constitutional amendment requiring a referendum.

3.12.9. Prevention of Homelessness Arising from State Action (Article 20)

The Committee recommends amending Article 20 to prohibit State actions that cause homelessness, require suitable alternative accommodation whenever displacement occurs, and impose a direct constitutional duty on the State to prevent homelessness arising from compulsory acquisition, evictions, redevelopment, or disasters.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The objective of preventing homelessness arising from State action will be given effect through housing legislation and through the proposed Human Rights Act, and the underlying principle will also be incorporated into the Directive Principles of State Policy. A referendum is not justified for what is, in substance, a matter of housing policy that is appropriately regulated at the statutory level.

3.12.10. Freedom of Religion and Belief (Article 21)

The Committee recommends amending Article 21 to prohibit discrimination based on religion, belief, or non-belief; require the State to refrain from coercing or promoting any religious or belief system; and mandate equal treatment of all faiths and non-belief, barring the State from privileging the institutional interests of any religious community in the exercise of public power or resources.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The existing constitutional framework already protects freedom of religion and non-discrimination on grounds of religion or belief. The Government will give practical effect to the principles underlying this recommendation through the proposed Human Rights Act, rather than through a constitutional amendment.

3.12.11. Property Rights of Spouses (Article 22)

The Committee recommends amending Article 22 to constitutionally affirm equal ownership, control, and inheritance rights of spouses within marriage and upon dissolution, including protection against indirect economic disinheritance of women, and to require Parliament to enact comprehensive legislation governing matrimonial property regimes, spousal consent protections, and equitable division of marital assets.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. Article 22 already mandates Parliament to enact legislation on the property rights of spouses, and what is needed now is legislative clarity rather than a constitutional amendment. The Government will give effect to the objective of this recommendation through comprehensive matrimonial property legislation, including under the Matrimonial Causes Act, enacted through the ordinary parliamentary process. Given the plethora of Supreme Court decisions on this issue, the Government notes the urgent necessity of bringing forward legislation on the property rights of spouses.

3.12.12. Right to Education (Article 25)

The Committee recommends amending Article 25 to require all educational institutions to fully respect fundamental rights while preserving their denominational identity, guarantee that no student is compelled to participate in religious activities, and prohibit religious discrimination in admissions, boarding, discipline, student leadership, or participation in school activities.

The Government accepts this recommendation. The issues identified by the Committee, including the protection of fundamental rights within educational institutions and the prohibition of religious discrimination, require an amendment of the Constitution to provide clarity on this matter of grave national importance. Additionally, the proposed Human Rights Act will comprehensively address the question of the right to education, including the prohibition of religious discrimination in admissions, boarding, discipline and participation in school activities. These would be supplemented by subsidiary legislation and administrative directives issued by the Ghana Education Service.

3.12.13. Rights of Women (Article 27)

The Committee recommends reformulating Article 27 by replacing references to "traditional care for children" with gender-neutral caregiving responsibilities; expressly guaranteeing women's equal autonomy, economic independence, and political participation; and imposing a constitutional duty on the State to prevent and address gender-based violence, including domestic and sexual violence, harmful practices, and workplace harassment.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The Government will include comprehensive provisions on gender equality, the autonomy and economic independence of women, and the prevention of gender-based violence in the proposed Human Rights Act.

3.12.14. Protection of Children's Bodily Integrity (Articles 28, 15, and 30)

The Committee recommends strengthening Article 28 to guarantee every child's right to bodily integrity, prohibit irreversible non-consensual medical or surgical procedures unless strictly necessary to prevent serious harm, and provide special constitutional protection for intersex children against medically unnecessary "normalizing" interventions before they can give informed consent. The Committee recommends harmonizing Article 15 to reinforce that non-consensual medical alteration of a child's body constitutes a violation of human dignity. It further recommends expanding Article 30 to mandate stronger consent safeguards and independent medical review for treatments with long-term bodily consequences for children, and to require Parliament to enact specialized legislation regulating medical and surgical decision-making affecting minors.

The Government rejects this recommendation. The Government accepts the principle that children must be protected from non-consensual, non-therapeutic medical procedures. However, the Government notes the political and cultural sensitivities of this recommendation as well as its medico-legal implications. The Government's considered position is that the substantive objectives can be fully achieved through the proposed Human Rights Act or through targeted amendments to the Children's Act, without requiring a constitutional amendment. Ordinary legislation provides the necessary flexibility to define categories of protected procedures and establish consent frameworks as medical standards evolve, without triggering a politically contentious referendum.

3.12.15. Rights of Persons with Disabilities (Article 29)

The Committee makes several recommendations on Article 29: renaming the heading from "Rights of Disabled Persons" to "Rights of Persons with Disabilities" in line with contemporary human rights standards; removing the "as far as practicable" qualifier in Article 29(6) and replacing it with a firm constitutional duty on the State to ensure accessibility in all public spaces, services, and infrastructure; requiring mandatory pre-construction disability access audits for all publicly funded projects; and requiring Parliament to establish effective complaint, inspection, sanction, and compensation mechanisms for disability rights violations.

The Government accepts the policy objectives but rejects the proposed constitutional amendments. The objectives will instead be implemented through legislation. These objectives, including accessibility standards and the audit and enforcement mechanisms proposed by the Committee, will be given effect through the Persons with Disability Act, the Public Procurement Act, and the relevant building codes and planning regulations, together with the proposed Human Rights Act, rather than through a constitutional amendment requiring a referendum.

3.12.16. Enhanced Custodial Welfare (Article 30)

The Committee recommends amending Article 30 by expanding it to provide that persons whose liberty has been lawfully restricted are constitutionally entitled to enhanced protection of their basic survival needs, including food, water, and essential nutrition, and to require that institutional custody triggers a heightened constitutional duty of care on the part of the State.

The Government accepts the policy objective but rejects the proposed constitutional amendment. The objective will instead be implemented through legislation. The proposed Human Rights Act is the appropriate vehicle for the detailed custodial welfare standards contemplated by this recommendation. These are operational matters that benefit from the flexibility of legislation rather than from constitutional entrenchment.

3.12.17. New Justiciable Rights and General Limitation Clause

The Committee proposes inserting several entirely new provisions into Chapter Five. These include: a standalone right to food while in custody; a justiciable right to progressive access to adequate housing; a new constitutional provision on youth rights; a new provision on the rights of older persons; a justiciable right to healthcare, including emergency, mental health, maternal, and reproductive care; a justiciable right to a clean, healthy, and sustainable environment; a general limitation clause to replace the seemingly scattered limitation clauses currently attached to individual rights in Chapter Five; and a prohibition on discrimination based on hometown, indigeneity, or ethnicity in access to public services and civil registration.

The Government accepts the policy objectives but rejects the proposed constitutional amendments. The objectives will instead be implemented through legislation. Chapter Five is entrenched, and submitting each of these new rights to a national referendum would impose a procedural burden that is disproportionate to the gain of constitutional, as opposed to statutory, entrenchment. All of these rights and protections, including the right to food in custody, the right of access to adequate housing, the rights of the youth and of older persons, the right to healthcare, and the right to a clean and healthy environment, will be provided for comprehensively in the proposed Human Rights Act, which will be justiciable, enforceable, and capable of amendment through the ordinary legislative process as international standards and Ghana's institutional capacity develop. The general limitation clause proposed by the Committee will likewise be incorporated into the Human Rights Act pursuant to Article 33(5) of the Constitution.

3.13. Local Government and Decentralization

3.13.1. Phased Election of District Chief Executives (Article 243)

The Committee proposes a phased approach to electing DCEs as part of a broader decentralization and devolution package. The right to elect a DCE would be tied to a district's capacity to assume greater financial and administrative responsibilities, meaning not all districts would qualify to elect their DCE at once. The proposed Devolution Commission would manage and guide the process based on constitutional or statutory criteria.

<u>The Government accepts this recommendation in principle.</u> Electing DCEs deepens democracy and aligns local executive accountability with the democratic values of the Constitution. Government however takes the position that all District Chief Executives should be elected. The President would nominate five (5) persons, two (2) of whom shall be women. Out of the five (5) persons, three (3) would be shortlisted, one of whom shall be a woman. A vetting committee comprising representatives from the Ministry of Local Government, the Public Service Commission, and the Local Government Service would vet and approve the persons nominated by the President who shall be the candidates for election of the District Chief Executive.

Government recognizes the fact that the phased approach to the election of District Chief Executives recommended by the Committee is laudable as it acknowledges the fiscal and administrative constraints that many districts face. However, Government notes the significant political costs of creating a distinction between voting and non-voting districts, which may be perceived as discriminatory treatment of citizens. Election of District Chief Executives along the lines proposed by Government minimizes these costs.

3.13.2. Term Limit for District Chief Executives (Article 246(2))

The Committee recommends amending Article 246(2) to limit a DCE to no more than two terms of five years, regardless of whether they occur consecutively or non-consecutively.

<u>*The Government does not accept this recommendation*</u>. The Government does not accept the proposal to limit a District Chief Executive to two terms of five years, whether consecutive or non-consecutive. The Government considers that the tenure of District Chief Executives is more appropriately determined within

the broader framework governing local government, and that a constitutionally entrenched term limit is not warranted.

3.13.3. Creation of Deputy District Chief Executive Position

The Committee recommends introducing a new constitutional provision creating the position of Deputy District Chief Executive. The Deputy DCE shall be elected on the same ticket as the DCE but shall not be of the same sex as the DCE.

The Government does not accept this recommendation. The Government does not accept the creation of a new constitutional office of Deputy District Chief Executive elected on the same ticket as the District Chief Executive and required to be of a different sex. The creation of such an office is not warranted, and the objective of continuity in local executive leadership can be met within the existing framework of local government.

3.13.4. Election of Presiding Member by Simple Majority (Article 244(2))

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

The Government accepts this recommendation. The Presiding Member of a District Assembly should be elected by a simple majority of the members present and voting, provided that at least two-thirds of all the members of the Assembly are present and voting. This reduces the cost and administrative complexity of electing Presiding Members and facilitates more efficient local governance, while the quorum requirement preserves the legitimacy of the election. The current supermajority requirement has, in practice, created unnecessary difficulty in constituting District Assemblies in a timely manner and has increased the costs involved in the election of Presiding Members.

3.13.5. Revised Composition of District Assemblies (Article 242)

The Committee recommends amending Article 242 so that 30 percent of District Assembly members are appointed based on a structured allocation: 25 percent from traditional authorities, 20 percent from local women leaders, 20 percent from small business owners, 20 percent from persons with disabilities and youth under 35, and 15 percent from community-based NGOs. The proposed Devolution Commission would design the selection process for all appointed members except traditional authority representatives.

The Government does not accept this recommendation. The Government considers that the existing arrangement, under which one-third of the members of a District Assembly are appointed, should be maintained. The specific allocation of the appointed membership among traditional authorities, women, business owners, persons with disabilities, the youth, and non-governmental organisations raises practical difficulties of implementation, and the modalities for the two-thirds elected membership are more appropriately left to the Local Government Act.

3.13.6. District Assembly Common Fund (Article 252)

The Committee recommends amending Article 252 to: increase the District Assembly Common Fund to at least 10 percent of total national revenue; integrate the Fund Administrator into the proposed Devolution Commission as its intergovernmental fiscal arm; prohibit the central government from spending or committing a district's allocation on its behalf; and bar any DACF allocations to Members of Parliament.

The Government does not accept this recommendation. The Government does not accept the proposal to increase the District Assembly Common Fund to at least ten percent of total national revenue, or to bar allocations from the Fund to Members of Parliament. The Government notes that, under current arrangements, up to eighty percent of the District Assembly Common Fund is transferred directly to the Assemblies. Government proposes that Article 252 be amended to specifically provide that 80% of the District Assembly Common Fund shall be transferred directly to the District Assemblies for their development.

On the question of allocation of part of the Common Fund to Members of Parliament, Government takes the view that Members of Parliament have, by default, become development agents in their constituencies, and the funds channeled through them are applied to local development purposes in accordance with the applicable accounting and audit rules of the various District Assemblies.

3.13.7. Fiscal Decentralization for Voting Districts

The Committee recommends a new provision providing that, for Voting Districts, all salaries and allowances of the DCE and staff of the Assembly, and the allowances of Assembly members and staff, shall be paid solely from the Assembly's internally generated funds and a corresponding local tax base ceded to the District Assembly.

The Government does not accept this recommendation. In line with its rejection of the distinction between voting and non-voting districts, Government does not accept the proposal to tie the payment of the salaries and allowances of District Chief Executives, Assembly members, and staff in Voting Districts to internally generated funds and a ceded local tax base. The remuneration of these officeholders will be addressed within the mandate of the Independent Public Emoluments Commission, which will ensure equity and guard against the disadvantaging of poorer districts.

3.13.8. Establishment of an Independent Devolution Commission

The Committee recommends the establishment of an Independent Devolution Commission as a permanent, constitutionally protected body to lead Ghana's decentralization agenda toward genuine district-level devolution. The Commission would serve as the central technical authority for designing, coordinating, and overseeing local government structure, capacity, performance, and intergovernmental relations, with funding charged to the Consolidated Fund to ensure independence.

<u>The Government does not accept this recommendation.</u> The Government's overarching policy is that new institutions should be established by statute rather than by constitutional amendment, unless there is a compelling normative justification for entrenchment. The Ministry of Local Government and Rural Development or the Local Government Service can discharge the coordination functions of the proposed Commission. Alternatively, a Devolution Commission may be established through an amendment to the Local Governance Act or dedicated devolution legislation, providing flexibility to adjust its mandate and composition as the decentralization process evolves. The Government further notes the significant fiscal implications of creating yet another permanent constitutional body with independent funding from the Consolidated Fund.

3.14. The Police Service

3.14.1. Appointment of Inspector-General of Police (Article 202(1))

The Committee recommends amending Article 202(1) to provide that the Inspector-General of Police (IGP) shall be appointed by the President from a shortlist of at least three senior police officers, not below the rank of Commissioner, nominated by the Police Council.

<u>*The Government does not accept this proposal*</u>. The appointment of the Inspector-General of Police falls within the constitutional prerogative of the President, and the Government does not consider that a constitutional amendment prescribing appointment from a shortlist nominated by the Police Council is warranted. The objectives of merit, transparency, and internal career progression within the Police Service can be secured through the Police Service Act and the administrative practices of the Service without amending the Constitution.

3.14.2. Removal and Tenure of Inspector-General of Police

The Committee recommends introducing a new Article 202A to provide for a fixed, single non-renewable term of six years for the Inspector-General of Police (IGP), or until the attainment of the age of 65, whichever occurs earlier. The proposal further restricts removal from office to specified grounds, misconduct, incapacity, violation of the Constitution, or inability to perform official functions, subject to a formal investigation by the Police Council.

The Government does not accept this proposal. While a fixed tenure may advance institutional stability and continuity, the Government does not consider that the tenure and removal of the Inspector-General of Police should be entrenched in the Constitution. These matters are more appropriately regulated by the Police Service Act, which provides the flexibility necessary to preserve both the operational independence of the office and effective executive oversight in exceptional circumstances.

3.14.3. Duties of Inspector-General of Police (Article 202(2))

The Committee recommends amending Article 202(2) to impose an express constitutional duty on the Inspector-General of Police (IGP) to ensure that policing activities protect fundamental human rights, operate within the bounds of lawfulness and proportionality, and comply with constitutional principles governing law enforcement.

The Government rejects this proposal. While the objectives of the proposal are sound, elevating detailed operational and managerial duties of the IGP into the Constitution is unnecessary. The Constitution already provides a general framework for the protection of fundamental rights and the rule of law, which binds all state institutions, including the Police Service. The intended objectives, rights-based policing, proportionality, and lawful enforcement should instead be reinforced through amendments to the Police Service Act, internal police regulations, training frameworks, and oversight mechanisms.

3.14.4. The Role and Resourcing of the Police Service (Article 200(1) and (3))

The Committee recommends an amendment to Article 200(1) of the Constitution to expressly provide that "There shall be a Police Service of Ghana which shall be the primary and principal institution responsible for civilian law enforcement in the Republic." The Committee recommends further that Article 200(3) be amended to say, "The Police Service shall be adequately equipped, resourced, and maintained to perform its primary and principal functions of maintaining law and order, protecting life and property, preventing and detecting crime, and ensuring public safety in accordance with this Constitution." The intent is to constitutionally affirm

the central role of the Police Service in maintaining law and order and to clarify its primacy in civilian policing functions.

The Government rejects the proposed amendment. Article 200(1), as currently drafted, already establishes the Police Service as part of the Public Services of Ghana, thereby conferring constitutional recognition and legitimacy on it. Further specification of the "primary and principal" role of the Ghana Police Service is a matter of operational definition rather than constitutional necessity. Embedding such functional detail in the Constitution departs from the principle that the Constitution should set out broad institutional mandates, leaving specific roles and responsibilities to be elaborated in legislation, in this case the Police Service Act. This ensures flexibility and allows for adaptation to evolving law enforcement needs.

Additionally, the issue of "adequate" resourcing is inherently contingent on the availability of national resources and broader fiscal conditions, which vary over time. Embedding such an obligation in the Constitution imposes an open-ended and potentially unfulfillable duty on the State. Moreover, the concept of adequacy is subjective and difficult to define with precision, making it unsuitable for constitutional formulation. Failure to meet this standard in practice would render the provision largely ineffective, thereby undermining the credibility of the Constitution as an enforceable legal instrument.

The Government therefore recommends that such matters related to adequate resourcing of the Police Service are better addressed through policy, budgetary processes, and statutory frameworks rather than constitutional entrenchment.

3.14.5. Composition of the Police Council (Article 201)

The Committee recommends amending Article 201 to restructure the composition of the Police Council. Key elements include: filling the seat currently reserved for a nominee of the Ghana Bar Association through a democratic contest open to qualified lawyers; removing the representative of retired senior police officers; adding a former Inspector-General of Police appointed by the President in consultation with the Council of State; introducing three serving Police Service representatives nominated by the Police Management Board (with requirements for inclusion of at least one junior-ranked officer and gender balance); and reducing the President's discretionary appointments from two to one, subject to consultation with the Council of State.

The proposal is accepted in principle but requires modification. In light of the broader recommendation to remove specific professional and trade associations from constitutional recognition, it is inappropriate to retain a reference to the Ghana Bar Association. Instead, the provision should be reframed to allow participation by any lawyer in good standing who meets the prescribed criteria, without tying eligibility to a particular association. However, the Government takes the view that a democratic contest to select such a lawyer would be costly and time-consuming. Instead, it is more efficient to vest the President with the power to appoint a lawyer of good standing to the Council.

The Government does not accept the remaining elements of the proposal. The representation of serving and retired police officers on the Council is a matter of internal organisation which is more appropriately addressed through the Police Service Act. Save for the appointment of a lawyer of good standing set out above, the existing constitutional composition of the Police Council should be maintained.

3.14.6. Regulatory Powers of Police Council (Article 203)

The Committee recommends amending Article 203 to empower the Police Council to make regulations, by Constitutional Instrument, for the performance of its constitutional and statutory functions, as well as for the effective and efficient administration of the Police Service. The exercise of this power is to be undertaken in consultation with the Police Management Board and the proposed Independent Security Sector Oversight Commission (ISSOC).

The Government does not accept this proposal. The Government does not consider that a constitutional amendment is required to empower the Police Council to make regulations for the performance of its functions and for the administration of the Police Service. These matters can be adequately provided for through the Police Service Act, and the existing constitutional framework should be maintained.

3.14.7. Composition of Regional Police Committees (Article 204)

The Committee proposes a reconfiguration of Regional Police Committees through the removal of the Minister of State and the representative of the Ghana Bar Association. In their place, the proposal introduces two serving police officers from the region, one junior-ranked officer and one Divisional Commander appointed by the Inspector-General of Police on the advice of the Police Management Board, as well as a representative of CHRAJ. Additionally, the most senior regional police officer is to serve as Chair of the Committee.

The Government rejects this proposal. The proposed restructuring may undermine the civilian oversight character of Regional Police Committees by disproportionately enhancing internal police representation and leadership. The removal of the Minister of State and the legal profession's representation weakens the multi-stakeholder composition intended to ensure accountability, transparency, and public confidence in policing structures. This may lead to an over-centralization of influence within the Police Service at the regional level, thereby diminishing independent scrutiny of police conduct and operations. Moreover, vesting chairmanship in the most senior regional police officer further consolidates operational control within the Police Service, contrary to principles of external oversight and democratic policing. The Government proposes, however, that the seat on each Regional Police Committee presently held by a representative of the Ghana Bar Association be filled by a lawyer of good standing in the region nominated by the Police Council. This preserves the representation of the legal profession without tying the seat to a named association.

3.15. The Prisons (Correctional Services)

3.15.1. Change of Name of Prisons Service to Correctional Service (Article 205)

The Committee recommends amending Article 205 to rename the "Prison Service" as the "Correctional Service." The objective is to reflect a modern, rights-based and rehabilitation-focused penal philosophy aligned with constitutional values, international human rights standards, and broader goals of public safety, reintegration, and social cohesion.

<u>This proposal is accepted in principle.</u> The proposed amendment is constitutionally and institutionally significant in its normative orientation. It reflects an evolution in penal policy language from a custodial, punitive framework to a rehabilitative, restorative justice model. This is consistent with the broader constitutional commitment to human dignity and the reintegration of offenders into society. The renaming should be accompanied by substantive reforms in rehabilitation programmes, prison conditions, and post-release reintegration systems, ensuring that the change is not merely terminological but reflects genuine transformation in penal practice. The Government prefers, however, that the Service be named the Prisons (Correctional) Service rather than the Correctional Service. Retaining the word "Prisons" maintains some of the deterrence factor.

3.15.2. Appointment of Director General of Prisons (Correctional) Service (Article 207(1))

The Committee recommends amending Article 207(1) to introduce a structured appointment process for the Director-General of the Prisons (Correctional) Service. The President would appoint from a shortlist of at least three qualified senior officers, not below the rank of Director, nominated by the Prisons Service Council. The Committee further proposes

strengthening Article 207 to expressly require the Director-General to maintain strict political neutrality in the discharge of his or her functions.

<u>*The Government does not accept this recommendation*</u>. The appointment of the Director-General of the Prisons (Correctional) Service falls within the constitutional prerogative of the President, and the Government does not consider that a constitutional amendment prescribing appointment from a shortlist nominated by the Prisons Service Council is warranted. The objectives of merit, professionalism, and political neutrality in the leadership of the Service are more appropriately secured through a new Ghana Prisons (Correctional) Service Bill than through the Constitution.

3.15.3. Removal and Tenure of Director-General of the Prisons (Correctional) Service

The Committee recommends inserting a new Article 209A to provide the Director-General of the Prisons (Correctional) Service with a single, fixed, non-renewable term of six years, or until the attainment of the age of 65, whichever occurs earlier. Removal from office would be limited to specified grounds, misconduct, incapacity, violation of the Constitution, or inability to perform official duties.

<u>*The Government does not accept this proposal*</u>. While a fixed tenure may promote stability and independence in the leadership of the Prisons (Correctional) Service, the Government does not consider that the tenure and removal of the Director-General should be entrenched in the Constitution. These matters are more appropriately regulated through the Ghana Prisons (Correctional) Service Bill, which allows the flexibility necessary to preserve both institutional independence and effective oversight.

3.15.4. Role of Director-General of Prisons (Correctional) Service (Article 207(2))

The Committee recommends amending Article 207(2) to vest exclusive operational control of prisons in the Director-General of the Prisons (Correctional) Service. This includes authority over inmate custody, security, welfare, and rehabilitation, subject only to the Constitution and law. The proposal further bars the President, Ministers, and other state authorities from giving directives on specific prison operations, while limiting the Prisons Council to policy formulation, governance, discipline, senior appointments, and oversight functions.

<u>This proposal is rejected by the Government</u>. The existing constitutional and statutory framework already provide an adequate balance between operational independence and institutional oversight within the Prisons Service. Introducing an express constitutional prohibition on executive involvement in operational

matters is unnecessary and risks rigidifying administrative arrangements that are better regulated through ordinary law and established governance conventions. The current structure allows for effective accountability while preserving sufficient managerial autonomy for the Service.

3.16. The Armed Forces

3.16.1. Restricting the Domestic Role of the Armed Forces (Article 210)

The Committee recommends amending Article 210 of the Constitution to narrowly define the role of the Armed Forces as strictly limited to the defence of Ghana's sovereignty. Under the proposal, deployment of the Armed Forces in aid of civil authority would be permitted only in exceptional circumstances where the Police Service is unable to manage a serious threat. In such instances, the Armed Forces would operate under the command of the Police, adhere to civilian law enforcement standards, and respect fundamental human rights, including strict limitations on the use of force. Additionally, the proposal seeks to prohibit the Armed Forces from engaging in private security services or providing protection to civilians or public officials, except for limited protection of the President and the Minister responsible for Defence under regulated conditions. Military personnel assigned to such roles would be required to operate in civilian attire.

The Government rejects the proposed constitutional amendment as it is unduly rigid and risks undermining the operational flexibility necessary for national security management. While the objective of preventing militarization of civilian spaces is commendable, embedding such detailed operational restrictions in the Constitution is inappropriate. Article 210, as currently framed, provides sufficient latitude for the Armed Forces to be deployed in support of civil authority, when necessary, subject to executive control and existing legal safeguards. Constitutionalizing these restrictions may create ambiguity in command structures during emergencies, potentially compromising coordinated responses to threats such as terrorism, civil unrest, or natural disasters. Furthermore, the prohibition on certain protective roles may conflict with evolving security needs and practical arrangements required to safeguard key state actors and institutions.

3.16.2. Composition of the Armed Forces Council (Article 211(d))

The Committee recommends amending Article 211(d) so that the composition of the Armed Forces Council is restructured in line with the Committee's proposals for the Police Council.

The Government does not accept this proposal. Article 211(d) provides for two other persons appointed by the President acting in consultation with the Council of State. It does not reserve a seat for the nominee of a named professional association, so the difficulty which arises under Article 201(e) in relation to the Police Council does not arise here. The remaining elements of the Committee's proposals for the Police Council concern the representation of serving and retired officers. For the reasons given in section 3.14.5 of this Paper, those are matters of internal organisation, which are more appropriately addressed through the legislation governing the Armed Forces than through the Constitution. The composition of the Armed Forces Council under Article 211 should be maintained.

3.16.3. Independent Security Services Oversight Authority (ISSOA)

The Committee recommends the insertion of a new constitutional article directing Parliament to establish a seven-member Independent Security Services Oversight Authority (ISSOA) to provide independent civilian oversight over the conduct of security services in their interactions with civilians, with a mandate limited to oversight of civilian-facing security operations. The membership would include a retired Superior Court Justice, a human rights lawyer, a CHRAJ representative, a retired senior police officer, a retired senior military officer, a civil society representative, and a licensed clinical psychologist.

The Government does not accept the proposal to establish ISSOA. The Government takes the view that the current constitutional and legislative architecture on oversight of the security sector is adequate and robust. The National Security Council provides overarching oversight of the security sector, whether civilian-facing or not. The proposed Independent Security Services Oversight Authority will be just another layer of bureaucracy, with significant fiscal implications for the country. In any case, if the establishment of the ISSOA is absolutely necessary, it can be established through ordinary legislation without constitutional entrenchment. Establishing the Authority by statute provides Parliament with the flexibility to adjust its composition, mandate, and operational parameters as security oversight needs evolve.

3.16.4. Principles of Law Enforcement

The Committee recommends the insertion of a new Article 35A to establish binding constitutional principles for all law enforcement and security agencies. The article would affirm that their primary role is to protect people and uphold human dignity and rights, with security concerns never overriding constitutional freedoms. All enforcement actions must be lawful, proportionate, and subject to civilian control, parliamentary oversight, and judicial scrutiny.

The government rejects this proposal. While the necessity for these principles is acknowledged, they can be part of the New Human Rights Act. The view of the government is that it is better to legislate these guidelines into the Human Rights Act than to make them constitutional principles.

3.17. The National Media Commission

3.17.1. The National Media Commission (Articles 164, 166, 167, and 173)

The Committee makes several recommendations concerning the National Media Commission. First, the Committee recommends amending Articles 167 and 173 to strengthen the mandate, powers, and effectiveness of the NMC. The NMC would be empowered to receive complaints and initiate investigations into threats to press freedom, summon persons and documents, conduct hearings, issue protective and cease-and-desist directives subject to judicial review, and institute or support legal proceedings in cases of serious or systemic threats. Second, the Committee recommends amending Article 166 to include the Executive Secretary of the NMC as an ex-officio member of the Commission. Third, the Committee recommends amending Chapter 12 to formally provide for the appointment, tenure, and removal of the Executive Secretary. Fourth, the Committee proposes anti-concentration measures, including limits on cross-media ownership and enhanced transparency in media financing. Fifth, the Committee recommends a technology-neutral definition of "media" covering all forms of content dissemination. Sixth, the Committee recommends that the NMC's budget be constitutionally ring-fenced.

<u>The Government rejects these recommendations</u>. The existing constitutional framework for the National Media Commission, supplemented by the National Media Commission Act, 1993 (Act 449) and the National Communications Authority Act, 2008 (Act 769), provides a sufficient basis for regulating the media landscape. The proposed expansion of the NMC's mandate under Articles 167 and 173 can be achieved through legislative amendment to the NMC Act. A constitutional amendment is not required for this purpose.

<u>The recommendation to include the Executive Secretary as an ex officio member of the Commission under Article 166 is rejected</u>. The Executive Secretary is a staff member of the Commission. The Secretary's primary duty is to manage the day-to-day administration of the Commission along the lines determined by the Commissioners, who are the directing minds of the institution. This arrangement is consistent with global corporate governance practice. A secretary is not, and cannot be, a member of the body he or she serves. No comparable constitutional commission in Ghana follows such an arrangement.

<u>The remaining Chapter 12 proposals are similarly rejected.</u> The formal constitutionalization of the appointment, tenure, and removal of the Executive Secretary can be provided for in the NMC Act. Anti-concentration measures,

including limits on cross-media ownership, can be addressed through antitrust legislation or through amendments to the NMC Act and the NCA Act. The proposal for a technology-neutral definition of "media" is unnecessary. The existing legislative framework can accommodate technological developments without a constitutional amendment. The proposal to ring-fence the NMC's budget is rejected. Constitutional ring-fencing of institutional budgets constrains the fiscal flexibility of the Executive and Parliament. The NMC's budgetary needs can be addressed through the ordinary appropriation process and, where necessary, through legislative safeguards.

The Government, however, considers it necessary to reform the National Media Commission along the following lines. First, the National Media Commission should be a purely regulatory body. Its mandate should be limited to broadcasting regulation, media standards, and content. Chapter 12 should be amended to provide for that role.

Second, the Commission should have the power to compel the state-owned media to give fair and equal coverage to all political parties. Article 163 already requires the state-owned media to afford fair opportunities and facilities for the presentation of divergent views and dissenting opinions. That obligation should be matched by an express power in the Commission to enforce it.

Third, the Commission should no longer manage or supervise the state-owned media. That role should be vested in the Ministry of Information or the Government office responsible for the sector, and in the State Interests and Governance Authority. The President should have the power to appoint the boards and management of state-owned media, as he does for other State-owned enterprises. A regulator should not manage the bodies it regulates.

Fourth, the Commission's membership should be reduced from eighteen to five. A commission of eighteen members is too large for a regulator and is costly to run. The five Commissioners should be appointed by the Public Services Commission or another independent body through a merit-based, transparent and competitive process, and not by the Government.

3.18. The National Commission for Civic Education

3.18.1. The National Commission for Civic Education (Articles 232 to 236)

The Committee makes several recommendations concerning the composition, functions, appointment, tenure, and removal of members of the National Commission for Civic Education. First, the Committee recommends amending Article 233 to expand the NCCE's functions to include organizing national presidential debates and convening civic forums and town hall meetings. The Committee also proposes renaming the

Commission the "National Commission for Civic Engagement." Second, the Committee recommends amending Article 232(1) to provide that the Commission shall comprise a Commissioner and two Deputy Commissioners, thereby removing the "four other members" from the composition. Third, the Committee recommends amending Article 232(2) to reform the appointment process. The President would appoint nominees selected by the Council of State and approved by Parliament. The Council of State would conduct an open, competitive, and merit-based recruitment process, administered on its behalf by the Public Services Commission. Fourth, the Committee recommends amending Article 235 to provide that the Commissioner and Deputy Commissioners serve a single, non-renewable term of ten years or until attaining the age of sixty-five, whichever occurs first, with a three-year cooling-off period upon leaving office. Fifth, the Committee recommends amending Article 236 to provide a structured removal procedure involving petitions to the Council of State, preliminary review, and investigation by an independent five-member tribunal. The Committee further recommends that the NCCE receive subventions or grants from the proposed Democracy Fund.

The Government's response to the Committee's recommendations on the NCCE is as follows:

The recommendation to expand the functions of the Commission under Article 233 is accepted. The Government accepts the amendment of Article 233 to expand the functions of the National Commission for Civic Education, including the organisation of national presidential debates and the convening of civic forums and town hall meetings. The proposal to rename the Commission is, however, rejected. The current name accurately describes the Commission's constitutional mandate, and a change of name carries no normative significance and does not enhance the Commission's capacity to perform its functions.

The recommendation to alter the composition of the Commission to provide for only a Commissioner and two Deputy Commissioners is not accepted. The Government considers that the existing composition of the Commission should be maintained.
The Government also accepts, in principle, the recommendation to reform the appointment process through the Council of State. The Government will, however, propose modifications to the specific procedure, drawing on comparative practice.

As regards tenure, the Government does not accept the proposal for a single, non-renewable term of ten years or until the age of sixty-five. The existing tenure arrangements for the members of the Commission should be maintained. The Government also does not accept the proposed three-year cooling-off period, which is unjustified and would impose an undue restriction on the right of former Commissioners to serve in other public offices.

Regarding the proposed removal procedure under Article 236, the Government notes that the Commissioner and Deputy Commissioners of the NCCE hold office on terms and conditions equivalent to those of Justices of the Court of Appeal and the High Court, respectively. They are therefore already subject to the removal procedure prescribed in Article 146 of the Constitution. That procedure provides a petition, a prima facie determination, and a hearing before a committee or tribunal. No separate removal mechanism is required.

<u>The recommendation to provide for subventions from the proposed Democracy Fund is rejected</u>. This matter can be addressed through ordinary legislation and does not require a constitutional provision.

3.19. Constitutional Amendment and Periodic Review

3.19.1. Introduction of Periodic Constitutional Review

The Committee recommends mandating Parliament to enact legislation establishing a structured system of periodic constitutional review at intervals of twenty-five years. The review is to be conducted by an appropriate institutional body and must incorporate mandatory public participation, as well as the publication of review reports, to ensure that the Constitution evolves in line with societal needs and expectations.

<u>The Government does not accept this proposal</u>. The Government does not consider it necessary to mandate, by legislation, a structured system of periodic constitutional review at fixed intervals. The Constitution already provides adequate mechanisms for its own amendment, and the reform process may be undertaken as and when the need arises, without embedding a fixed cycle of review in the law.

3.19.2. Creation of a Citizen-Initiative for Constitutional Amendment

The Committee recommends introducing a structured citizen-initiative mechanism for constitutional amendments under Chapter 25. This would allow citizens to propose amendments upon securing the support of at least 5% of registered voters nationwide, subject to minimum regional representation and a gender-balancing requirement that ensures neither gender falls below one-third of signatories. The proposal also suggests mandatory public participation for amendments to non-entrenched provisions.

The Government accepts this proposal. The Government accepts the introduction of a structured citizen-initiative mechanism for constitutional amendment under Chapter 25, which will allow citizens to propose amendments upon securing the support of registered voters, subject to minimum regional representation and a gender-balancing requirement. The Government considers, however, that the threshold of support should be increased from five percent to ten percent of registered voters, so that the mechanism is invoked only where a proposal commands substantial national support. The detailed thresholds and procedures will be crafted with care to ensure that they can be operationalised and verified in practice. The mechanism will apply to both entrenched and non-entrenched provisions. A citizen initiative will be triggered through the Council of State.

3.19.3. Introduction of Semi-Entrenched Constitutional Provisions

The Committee recommends amending Chapter 25 to introduce a third category of constitutional provisions, "semi-entrenched provisions." These would comprise non-foundational or less foundational provisions currently requiring amendment by referendum but, under the proposal, could instead be amended by an enhanced parliamentary majority of not less than seventy-five per cent of all Members of Parliament.

The Government rejects this proposal. Chapter 25 itself is entrenched and any modification to the amendment procedure necessarily requires a referendum. Beyond this procedural hurdle, the proposal introduces conceptual and doctrinal uncertainty into Ghana's constitutional architecture. The Constitution currently maintains a clear binary distinction between entrenched and non-entrenched provisions, which promotes certainty and predictability. The introduction of a third category, "semi-entrenched," lacks definitional clarity and risks undermining the coherence of the amendment regime.

4. CROSS-CUTTING OBSERVATIONS

4.1. The Comprehensive Human Rights Act

The Government proposes to enact a comprehensive Human Rights Act pursuant to Article 33(5) of the 1992 Constitution. This Act will serve as the primary legislative vehicle for giving effect to the Committee's recommendations on fundamental human rights and freedoms.

The Committee's Report contains numerous proposals to expand constitutional rights. These include strengthened protections for the right to life, personal liberty, and human dignity; expanded protections against slavery, servitude, forced labour, and human trafficking; a broader non-discrimination framework; enhanced rights of persons with disabilities; women's economic rights; children's rights; economic, social, and cultural rights, including the right to housing; youth rights; rights of older persons; the right to healthcare; the right to a clean environment; the right to food in custody; a general limitation clause; protections against discrimination based on hometown or indigeneity; and binding law enforcement principles.

The Government acknowledges the underlying policy objectives of each of these proposals. Chapter Five of the Constitution, however, is entrenched and any amendment to its provisions requires a national referendum under Article 290. In view of the fact that Article 33(5) of the Constitution provides for the inclusion of fundamental rights and freedoms not expressly mentioned in Chapter 5, a comprehensive Human Rights Act offers an alternative that achieves the same substantive objectives without the procedural burden of constitutional amendment. Parliament will enact the Act under its existing legislative authority. The Act will elaborate on the rights already guaranteed under Chapter Five, provide detailed enforcement mechanisms, and extend protections to new categories of rights identified in the Report of the Committee. It will also incorporate Ghana's international human rights obligations under treaties and conventions to which Ghana is a party.

The Human Rights Act will address, at a minimum, the following matters: the progressive realization of economic, social, and cultural rights; the rights of women, children, persons with disabilities, older persons, and youth; the right to healthcare and the right to adequate housing; protections against discrimination on expanded grounds; law enforcement principles; and a general limitation framework for the restriction of fundamental rights.

The statutory approach preserves the flexibility to amend the Act as international standards evolve and as Ghana's fiscal and institutional capacity develops. Constitutional provisions are rigid by design. A statute can be amended through the ordinary legislative process to respond to changing circumstances.

4.2. Statutory Alternatives to Constitutional Amendment

The Government's overarching approach to the Committee's recommendations is guided by the principle that the Constitution should state foundational principles, while detailed operational provisions should reside in statute. Where the normative significance of a proposed amendment is not high, or where the intended objective can be achieved through ordinary legislation or administrative action, the Government favours the statutory route over constitutional entrenchment.

This principle recurs throughout the Government's responses in Section 3. In the area of public financial management, the Government has consistently deferred the Committee's proposals to the Public Financial Management Act, 2016 (Act 921). The Act already provides a comprehensive framework for fiscal discipline, budgetary reporting, debt management, and parliamentary oversight. The Committee's proposals for annual tax expenditure statements, contingency fund safeguards, medium-term economic frameworks, and public debt management rules are matters of fiscal policy that require the flexibility of statutory regulation. Constitutionalizing these details would entrench specific procedural requirements that may become obsolete as macroeconomic conditions change.

In the area of institutional governance, the Government has declined to constitutionalize bodies that already exist under statute. These include the State Interests and Governance Authority, the Legal Aid Commission, and the Office of the Special Prosecutor. The Government's position is that these bodies can discharge their mandates effectively under their existing statutory frameworks. Elevating them to constitutional status would introduce rigidity without a demonstrated improvement in institutional performance.

In the area of the public services, the Government has deferred proposals on appointment procedures, qualification requirements, and codes of conduct to the Civil Service Act, the Public Service Act, and the Conduct of Public Officers Bill. These statutes provide the appropriate legislative vehicles for detailed operational provisions that require periodic adjustment.

The Government's preference for the statutory route is not a rejection of the Committee's recommendations and their underlying objectives. It reflects a considered judgment about the most appropriate legal instrument for achieving those objectives. Legislation offers the flexibility to adapt to changing circumstances, to correct deficiencies through amendment, and to incorporate lessons from implementation. Constitutional provisions, by contrast, require the supermajority or referendum procedures prescribed in Articles 290 and 291. These procedures are appropriate for foundational principles but not for detailed operational rules.

4.3. Entrenched, Non-Entrenched, and Semi-Entrenched Provisions

The Committee's recommendations span all three categories of constitutional provision: entrenched, non-entrenched, and the proposed semi-entrenched category. The applicable amendment route for each provision has direct implications for the reform process, its feasibility, cost, and timelines.

Entrenched provisions under Article 290 require a national referendum. The threshold for approval is demanding, at least 40 percent of persons entitled to vote must participate, and at least 75 percent of votes cast must favour the amendment. The cost of organizing a national referendum is substantial. These factors impose a practical discipline on the reform process. The Government must prioritize those entrenched amendments that command the broadest national consensus and that address the most pressing governance challenges.

Non-entrenched provisions under Article 291 require the votes of at least two-thirds of all Members of Parliament. This route is less costly and less cumbersome. The Government will pursue accepted non-entrenched amendments through the parliamentary process.

The practical consequence of these two routes is that the reform process will proceed in phases. Amendments to non-entrenched provisions can proceed through Parliament once the necessary political consensus is secured. Amendments to entrenched provisions will require a referendum. The Government will coordinate with the Electoral Commission to determine the appropriate timing and sequencing of any referendum.

4.4. Fiscal and Institutional Implications

The Committee's Report proposes the creation of several new constitutional bodies. These include an Independent Anti-Corruption and Ethics Commission, an Independent Devolution Commission, an Independent Security Services Oversight Authority, and an Independent Registrar and Regulator of Political Parties and Campaigns. The Government has accepted the establishment of the Public Ethics Commission, the Political Parties Regulatory Commission together with a Democracy Fund to be established through ordinary legislation as opposed to constitutional amendment. It has, however, not accepted the constitutional establishment of the Independent Devolution Commission or the Independent Security Services Oversight Authority, whose functions can be discharged within the existing institutional framework.

The Government's position is that new institutions should be established by statute rather than by constitutional amendment, unless there is a compelling normative justification for constitutional entrenchment. A constitutional body is entrenched in the governance architecture. Its mandate, composition, and functions can only be altered through the constitutional amendment process. This creates rigidity. A statutory body, by contrast, can be restructured, merged, or reformed through ordinary legislation as institutional needs evolve.

The fiscal implications of the Committee's proposals are also relevant. Each new constitutional body requires staffing, office accommodation, operational budgets, and administrative support. The cumulative fiscal cost of establishing four or more new constitutional bodies is significant. The Government must weigh these costs against competing national priorities, including infrastructure development, healthcare, education, and social protection.

The Government has instead opted to strengthen existing institutions where a new constitutional body is not warranted. The Inter-Ministerial Coordinating Committee on Decentralization, the Ministry of Local Government, Chieftaincy and Religious Affairs, and the Local Government Service can discharge the coordination functions of the proposed Devolution Commission, and the existing security-sector architecture, together with parliamentary committees and the Commission on Human Rights and Administrative Justice, can provide the oversight that the proposed Security Services Oversight Authority would have exercised.

This approach achieves the Committee's underlying policy objectives while avoiding the rigidity and institutional costs of creating new constitutional bodies. It also avoids the proliferation of constitutional institutions, which can lead to overlapping mandates, jurisdictional conflicts, and administrative fragmentation.

4.5. Constitutional Legitimacy and Public Confidence

The constitutional review process derives its legitimacy from wide public participation. The Committee conducted extensive consultations across all regions of Ghana. The Government acknowledges this effort and recognizes that the Committee's recommendations reflect the views and aspirations of a broad cross-section of Ghanaian society.

The Government's responses in this Position Paper are not a rejection of the public's aspirations. Where the Government does not accept a specific recommendation, it has in each case provided a reasoned explanation and, where appropriate, proposed an alternative approach. The Government's overarching objective is to ensure that constitutional amendments are well-considered, fiscally sustainable, and capable of effective implementation.

The Government is committed to ensuring that the reform process continues to command public confidence. The publication of this Position Paper is a first step.

The Government also recognizes that constitutional reform is not a single event but a continuing process. The Constitution must remain a living document that responds to the needs, aspirations, and circumstances of each generation of Ghanaians.

5. IMPLEMENTATION ROADMAP

Cabinet approves the Government Position Paper

↓

Position Paper published together with the CRC Final Report

↓

President swears in the Constitution Review Implementation Committee (CRIC)

↓

CRIC prepares TWO Constitution (Amendment) Bills simultaneously

↓

The two Bills proceed simultaneously along two separate routes

BILL No. 1 — Constitution (Amendment) (No. 1) Bill 2026 *Non-entrenched provisions · Article 291*	**BILL No. 2 — Constitution (Amendment) (No. 2) Bill 2026** *Entrenched provisions · Article 290 · Referendum required*
↓	↓

First publication in the Gazette

↓

Second publication in the Gazette
at least 3 months after the first publication

↓

Wait at least 10 days after the second publication

↓

Laying (first reading) in Parliament

↓

Speaker refers the Bill to the Council of State
after the first reading

↓

Council of State renders advice within 30 days

↓

Second and third readings
passed by at least two-thirds (2/3) of all MPs

↓

Bill presented to the President

↓

President assents — Bill enacted
Target completion: February 2027

Speaker refers the Bill to the Council of State for advice
before Parliament proceeds to consider it

↓

Council of State renders advice within 30 days

↓

Publication in the Gazette for six (6) months
reckoned from November 2026 (Parliament in recess till October); period expires about May 2027

↓

Bill introduced in Parliament — first reading (laying)
after expiry of the six-month period (about May 2027)

↓

REFERENDUM held throughout Ghana
to be held together with the 2027 District Assembly elections
At least 40% of eligible registered voters must vote, and at least 75% of votes cast must be in favour

↓

If approved at the referendum, Parliament passes the Bill

↓

President assents — Bill enacted
Speaker's certificate and Electoral Commission certificate required (Article 292)

Cabinet granted its approval of the position of the Government captured in this Paper on July 14, 2026. Pursuant to that approval, the Attorney General is publishing this paper together with the Final Report of the Committee.

Following the publication of the Government Position Paper, the Constitutional Review Implementation Committee (CRIC) will be sworn in by the President and tasked with implementing the recommendations of the Committee accepted in principle and those accepted subject to modification.

The CRIC will be tasked, among others, with considering 2 sets of Constitution Amendment Bills. The first Bill will consist of amendments to the non-entrenched provisions of the Constitution and will follow the procedure set out in Article 291 of the Constitution:

a. Publication in the Gazette with the second publication following at least 3 months after the first;
b. Laying in Parliament after 10 days of the second publication;
c. Referral to the Council of State by the Speaker of Parliament after 1st reading;
d. Upon receipt of the advice of the Council of State within 30 days of the referral, the Bill is approved by its 2nd and 3rd reading stages by 2/3 majority of the Members of Parliament; and
e. Presentation of the Bill to the President for assent.

The timeframe for the preparation and enactment of the Constitution (Amendment) (No. 1) Bill 2026 is six months (August 2026 – Febuary 2027).

The second Bill will focus on the entrenched provisions of the Constitution, as based on the Committee's accepted recommendations. The Constitution (Amendment) (No. 2) Bill will follow the procedure set out in Article 290 of the Constitution. These are as follows:

a. Referral of the Bill by the Speaker to the Council of State for advice;
b. Council of State to render advice within 30 days;
c. Publication in the Gazette for a period of six months, after which the Bill is introduced in Parliament;
d. This is followed by the 1st reading (laying) of the Bill in Parliament;
e. Upon the 1st reading, the Bill will be submitted to a referendum to be held throughout the country; forty percent of eligible registered voters must turn out to vote and of that number at least 75% must vote in favour of the Bill; and
f. Upon approval at the referendum, Parliament is mandated by proposal to pass the Bill and the President must assent to the Bill.

The preparation of the Constitution (Amendment) (No. 2) Bill 2026 should take place simultaneously with the preparation of the Constitution (Amendment) (No. 1) Bill 2026. In essence, the draft Bill should be ready by October 2026 at the latest for this process to commence.

The Government takes the view that, to save the enormous cost associated with organizing a referendum for the sole purpose of approving the Bill, the referendum on the Constitution (Amendment) (No. 2) Bill should happen simultaneously with the District Assembly elections in 2027. The Government will work closely with the Electoral Commission to schedule the calendar of the local government elections and the referendum on the Bill.

As this Position Paper has made clear, there will be complementary non-constitutional or legislative reforms in situations where the Government considers that the objectives of the CRC's recommendations are sound but constitutional change is not necessary. Government will put in place the necessary legislative proposals to amend existing laws (e.g. the PFMA) or enact new legislation (e.g. the Human Rights Act) to give effect to the recommendations of the CRC.

CONCLUSION

The Government acknowledges and commends the work of the Constitution Review Committee. The Committee's Report is a comprehensive, well-researched, and consultative contribution to Ghana's ongoing process of constitutional development. The breadth and depth of the Committee's consultations reflect the national significance of the exercise.

The Government's overarching approach is guided by the principle that the Constitution should enshrine foundational values and institutional structures, while detailed operational provisions should be set out in legislation. This approach preserves the flexibility that a developing nation requires to adapt its governance framework to changing circumstances.

The publication of this Position Paper marks the beginning of the next phase of the reform process. The Government is confident that this process will produce constitutional amendments that strengthen Ghana's democratic governance, deepen accountability, and advance the welfare of the Ghanaian people.

OFFICE OF THE ATTORNEY GENERAL AND MINISTRY OF JUSTICE