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### **Fiscal responsibility legal framework: New paradigm for fiscal discipline during elections in Ghana?**

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#### **Abstract**

Ghana has suffered from large fiscal volatility for the past three decades. This volatility has been identified as one of the key challenges to her development. This study was based on the presupposition that Ghana's democracy since 1993 continue to witness a trend whereby various governments have failed to maintain fiscal discipline during election years. This paper however, sought to examine the extent to which the newly set up fiscal council, the Public Financial Management Act, 2016 (Act 921) and the Fiscal Responsibility Act, 2018 (Act 982) have corrected this trend. The study however, revealed that notwithstanding the various control mechanisms put in place, financial discipline and sustainability have rarely been achieved. The study recommends a strong sanctioning regime and the consolidation of independent fiscal institutions.

**Keywords:** Fiscal responsibility law, fiscal institutions, public finance sustainability, fiscal risks

#### **Introduction**

Acceptance of democratic governance in 1993, underpinned by the 1992 Constitution ushered Ghana to use elections as the legal means to change political power. As a result, the country has experienced eight competitive and multiparty elections, scheduled every four years (as happened in 1992, 1996, 2000, 2004, 2008, 2012, 2016 and 2020). Ghana's eight consecutive elections have not been largely tormented by any nationwide violence, making the country's electoral processes peaceful. However, Ghana's democratic electoral processes over the last three decades is degenerating into a two-horse competition between the New Patriotic Party (NPP) and the National Democratic Congress (NDC). Consequently, electioneering campaigns are characterized by intense struggle for power, due to the glamorous nature of the political system – winner-takes-all (Anaman and Bukari 2019) <sup>[8]</sup>.

Political parties' campaign to attract voters' attention, but a serious bone of contention in Ghana's electoral processes centers on the factors that determines voter choice, which drives parties' or governments' attention. Generally, the literature on voting behaviour have been grouped into two strands: on one hand, some scholars believe that voters pay attention to economic welfare in voting (economic voting), based on reward-punishment hypothesis between politicians and voters. Another group of scholarly works reiterate that politicians and voters are interlocked in what is literary known as 'political business cycle'.

On the side of economic voting, the work of (Lewis-Beck and Stegmaier, 2000; Lewis-Beck and Stegmaier, 2008; Dutch and Stevenson, 2010; Nadeau, Lewis-Beck, and Belanger, 2012; Leighley, 2013; Lewis-Beck *et al.*, 2013; Lewis-Beck and Whitten, 2013; Dassonneville and Lewis-Beck, 2014a; Dassonneville and Lewis-Beck, 2014b; LeDuc *et al.*, 2014; Dassonneville *et al.*, 2017) <sup>[29, 30, 17, 37, 28, 32, 31, 13, 14, 27, 15]</sup> have emphasized that economic performance of governments determines voters' choice in elections. This imply that voters' strongly act on the 'reward-punishment hypothesis' by voting for incumbent governments seeking re-election when the country's economy is in good condition, and turn to vote against governments on the eve of economic downturns (Bukari, 2017) <sup>[12]</sup>. The economic voting literature has therefore been spearheaded by the incumbency-oriented hypothesis, where voters' reward or punish government according to economic performance at the ballot box.

This line of argument marks the background of the second school of thought which extended the 'reward-punishment hypothesis' by instigating that incumbent governments targeting to retain power manipulate or manage a country's economy for electoral gains (political

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business cycle) (Hibbs, 1977; Hibbs, 1987; Gonsalez, 2002; Brender and Drazen, 2005; Brender and Drazen, 2008; Libich, Savage, and Stehlik, 2010; Dewan and Shepsle, 2011). [22, 23, 20, 10, 11, 31, 16]. This phenomenon where incumbent governments hijack the economy for electoral purposes has often been accentuated by fiscal malfeasance particularly during election years. From the perspective of the political business cycle, incumbent government yearning for re-election bid tactically adopt policy strategies such as altering of fiscal responsibility and public financial management frameworks or institutions, and turn to overspend by providing social interventions in the wake of election years to boost their chances of victory. Bizarrely, this dangerous opportunistic measure designed essentially for electoral purposes precipitates post-election year's economic downturns and fiscal indiscipline (Bukari, 2017) [12].

Like many other developing countries, a growing empirical literature reiterate the fact that Ghana's multiparty democracy since 1993 continue to witness a trend where all governments have been unable to maintain fiscal discipline during election years (Asiama *et al.*, 2014; Mosley and Chiripanhura, 2016; Anaman, 2016; Bukari, 2017; Osei-Assibey, 2018; Eklou and Joanis, 2019; MoF, 2019; Abdulai and Mohan, 2019; Anaman and Bukari, 2019; Abdulai, 2020; Sackey, 2021) [9, 36, 7, 12, 39, 18, 34, 1, 8, 3, 31]. Thus, the challenge about fiscal indiscipline in Ghana has historical underpinnings, embodied by governments' reckless election-driven overspendings without recourse to the years' budget (Osei-Assibey, 2018) [39]. For instance, the deficit-to-GDP ratio moved from a low rate of 1.8 percent of GDP in 2005 to a high of 8.5 percent in 2008 which happened to be an election year. It then fell again in the subsequent years until another election year, 2012 when it increased sharply to 10.1 percent (Osei-Assibey, 2018) [39]. Accordingly, Ghana's fiscal deficit was persistently high for three (3) consecutive years, 2012, 2013, and 2014, averaging about 8.1 percent of rebased GDP, before reducing to 4.9 percent of GDP in 2015, on the back of the IMF-supported fiscal consolidation programme (MoF, 2019) [34]. The fiscal deficit soared again to 7.3 percent of GDP in 2016, which happened to be election year, as fiscal consolidation derailed, but reduced to 3.9 per cent of GDP at the end of 2018 (MoF, 2019) [34], while fiscal deficit reportedly stood at 4.7 per cent of GDP in 2019 (MoF, 2020) [35]. Table 1 confirms Ghana's election year patterns of fiscal deficit against inflation rates. In fact, apart from 2004, there is a negative budget balance of not less than 4 percent of GDP all election years since 1993.

**Table 1:** Fiscal Balance/Deficit of GDP in Election Years and Inflation Rates

Election Year	Fiscal Balance/Deficit of GDP	Inflation
1992	-4.3%	10.6%
1996	-7.7%	46.6%
2000	-8.5%	25.2%
2004	-3.2%	12.6%
2008	-8.5%	16.5%
2012	-10.1%	11.4%
2016	-7.3%	15.4%
2020	-16.0%	10.4%

**Source:** (Alagidede *et al.*, 2013; Osei-Assibey, 2018; Aimola & Odhiambo, 2021; World Bank, 2021; GSS, 2021) [6, 39, 4, 42, 21].

On the basis of the great fiscal volatility surrounding Ghana's electoral cycles, successive governments have promulgated certain statutory institutions and or legislations to ensure fiscal discipline especially during election years. As noted by the Fiscal risk statement of 2018 by the Ministry of Finance (MoF, 2019) [34], "after years of persistent fiscal deficits and fiscal dominance, the government has committed to promote fiscal discipline, ensure debt sustainability, promote prudent use of Ghanaian taxpayers' money, and safeguard the interest of future of generations" (p. 10). Against this background, this article seeks to investigate the extent to which the Public Financial Management Act, 2016 (Act 921) and the Fiscal Responsibility Act (FRA), 2018 (Act 982) have ensured fiscal responsibility, by contextualizing the efficacy of their applicability within Ghana's electoral cycle.

**Theoretical Underpinnings**

This study proceeds within the theoretical lens of the Political Business Cycle (PBC) Theory. Generally, models of political cycles were precipitated by economists' attempts to explore variations in macroeconomic variables by contextualizing it between the interaction of government behaviour and market forces. The thrust of the PBCs hinges on recurring changes in macroeconomic variables such as inflation, unemployment, interest rate, GDP, etc. as a result of the electoral cycle (Iddrisu & Bokpin, 2018) [24]. Names such as Hibbs (1977) [22] and Nordhaus (1975) [38] are closely linked to the PBC theory. The theory states that incumbent governments are known to stimulate their economies in pre-election and election years with the intent to secure their re-election bid, which causes downturns in economic growth in post-election years (Nordhaus, 1975) [38]. Thus, the theory explains that competitive elections lead to unfavourable economic outcomes, including post-election recession or high inflation rates. The PBCs proceeds within the theoretical frameworks of the Political Business Cycle Theories. First is the Non-Rational Opportunistic Model which argues that incumbent government seeking re-election creates vote gaining incentives characterized by expansionary economic policies when election is approaching. Second, is the Rational Business Cycle Models which focused on incumbents' fiscal manipulation with the object to secure re-election (Enu and Okonkwo, 2015) [19]. Thus, as a broad theory, two models have emerged from the PBC theory – non-rational opportunistic and rational or partisan political business cycle theories (Bukari, 2017; Iddrisu & Bokpin, 2018) [12, 24].

Pioneered by Nordhaus (1975) [38], the traditional or non-opportunistic cycles manifest when the incumbent government seeking re-election employ expansionary economic policies and social interventions in managing the economy with the object to improve voters' economic fortunes in election times. According to the theorist, opportunistic behaviour of governments inures them to carve expansionary economic policies in election years in order to capture political power, which result in high unemployment rate, inflation, high budget deficit and low economic growth in post-election years. Put differently, the non-rational opportunistic theory explains that ruling governments employ expansionary policies ahead of elections in order to increase their popularity and brighten their chances of being re-elected, while in the immediate

period after elections, the government causes a recession through contractionary monetary policies directed to halt inflationary anticipations (Idrisu & Bokpin, 2018) [24].

The non-rational theory in the context of Ghana explains why some scholars argue that the Covid-19 relief packages of the government such as free water, cut in electricity bills, distribution of food items, among others were all directed to convince Ghanaian voters ahead of elections 2020. In fact, recent 'fix the country' movement, government's attempt to introduce e-levy, increases in fuel prices and general cost of living represent post-election crisis as stipulated by the non-rational theorists. Post-election challenges in Ghana, though can be associated with the Covid-19 pandemic. Again, the theory postulates that voters might not necessarily understand shocks in the economy due to government control over monetary and fiscal policy instruments. Thus, for example, many voters may not be aware of the ramifications surrounding the suspension of the FRA 2018. Non-rational opportunistic theory of the PBC however, has been criticized by Hibbs (1977) [22] on grounds that it is silent on partisan preferences of politicians. This argument spearheaded the partisan theory pioneered by Hibbs (1977) [22]. The partisan theory based its argument on the assumption that variations in macroeconomic variables is caused by differences among parties in their philosophy and economic goals. It argues that different governments select different policies and produce different results that reveals the preferences of their class-defined electorates (Idrisu & Bokpin, 2018) [24].

### Research Methodology

This article employed the qualitative research method approach to enhance a deeper understanding of the extent to which fiscal frameworks have corrected fiscal indiscipline in Ghana. Data was retrieved from two main sources – primary and secondary. Primary data was collected via face-to-face interviews with key experts and stakeholders in the area of Public Financial Management. A total of sixteen (16) participants including policy makers from the Ministry of Finance and Economic Planning, Bank of Ghana, members of parliament that served on the draft Committee of the PFMA and FRA Acts of 2016 and 2018 respectively and members on the Fiscal Council, were selected using purposive sampling technique. Purposive sampling was preferred because the aforementioned people are considered to have first-hand information and deeper understanding on the subject matter. Data generated by the use of semi-structured interview guides were interpreted under major themes, using content analysis. Primary data was synchronized and discussed vis a viz. secondary data from Bank of Ghana, Ministry of Finance and Economic Planning, journal articles, book chapters, reports from newspapers and working papers on public financial management and elections.

### Legal and institutional frameworks for fiscal sustainability in Ghana

Legal frameworks include the Public Financial Management Act, 2016 (Act 921), Fiscal Responsibility Act, 2018 (Act 982) and the Public Financial Management Regulations, 2019, (L. I. 2378). The Institutional framework covers the re-launch of the Economic Policy and Coordinating Committee (EPCC); the establishment of the Presidential Advisory Fiscal Council and the Financial Stability Council

in December 2018 to keep government finances in check and to also help sanitize the financial sector (MoF, 2019) [34]; the creation of the Fiscal Risks Unit (FRU) within the Ministry of Finance in 2018 with responsibility for coordinating fiscal risks management, including identifying, analyzing, disclosing, and proposing measures to manage fiscal risks culminating in the publication of a Fiscal Risks Statement (MoF, 2019) [34]; the establishment of the Fiscal Risks Committee; the amalgamation of the Ghana Integrated Financial Management Information System (GIFMIS) among others, aims at ensuring public financial sustainability or fiscal governance in Ghana.

The Public Financial Management Act of 2016, seeks “to regulate the financial management of the public sector within a macroeconomic and fiscal framework; to define responsibilities of persons entrusted with the management and control of public funds, assets, liabilities and resources, to ensure that public funds are sustainable and consistent with the level of public debt; to provide for accounting and audit of public funds and to provide for related matters” (P.5).

Thus, the main import for the enactment of the PFMA, 2016 (Act 921) is to promote efficient and effective public financial management in Ghana (MoF, 2019) [34], and to regulate public financial management in the country by forms of specifying the responsibilities of people mandated to take charge of public sector financial management (Pimpong, 2017) [40]. In a corroborative argument, Osei-Assibey (2018) [39] avers that the government of Ghana responded positively to a recommendation by the Institute of Economic Affairs (IEA) about the need for a Fiscal Council (FC) by passing a Fiscal Management Act in 2016, which is coupled with fiscal rules known as the Public Financial Management Act (PFMA), (Act 921). The Act inter alia aims at regulating the financial management of the public sector, and a framework that supports a sound fiscal policy in the country.

In December 2018, the Fiscal Responsibility Act, 2018 (Act 982) was passed by Parliament. According to Akobeng (2019) [5], the passage of the Fiscal Responsibility Act and the establishment of the Fiscal Responsibility and Fiscal Stability Advisory Councils in Ghana to anchor fiscal discipline and ensure prudence in public financial governance has been greeted with euphoria. Mainly, the Fiscal Responsibility Act, 2018 (Act 982) establishes two numerical fiscal rules directed at limiting the overall fiscal deficit on a cash basis to 5 percent of GDP and mandating a positive primary balance (IMF, 2019) [25]. The Fiscal Responsibility Act, (Act 982) of Ghana ideally caps in any fiscal year, the annual fiscal deficit at five percent of GDP, where governments are equally responsible for ensuring that positive primary balance on annual basis are maintained (Abdulai & Sackeyfio, 2021) [2]. Given the fact that fiscal rules set numerical limits on budgetary aggregation (i.e., growth of public expenditure, level of public debt, deficit) (IMF, 2020) [26], the FRA, 2018, in its Section (2) enjoins government to ensure that “the overall fiscal balance on cash basis for a particular year shall not exceed a deficit of five per cent of Gross Domestic Product for that year” (P.2).

### Conclusion and Policy Recommendations

In an attempt to address the fiscal conundrum during election years, the NPP government passed the Fiscal Responsibility Act that establishes both the Fiscal Council

and the Financial Stability Council with the mandate to develop and recommend to the President fiscal responsibility policies for the maintenance of prudent and sustainable levels of public debt. The study however revealed that both Councils have a huge task in ensuring that fiscal expenditures remain within budget. The Council has a daunting task to keep the powerful executive arm of government in check. Most important, the independence of both Council is in doubt as its members are directly appointed by the executive body which the Council is expected to advise.

Secondly, the PFM Act of 2016, inter alia, seeks to regulate the financial management of the public sector within a macroeconomic and fiscal framework, and to ensure that public funds are sustainable and consistent with the level of public debt; to provide for accounting and audit of public funds and to provide for related matters. However, regime sanctions under the new PFM Act, 2016 (Act 921) are not deterrent enough. The minimum of six months and maximum of five years custodial sentence for public officials engaged in financial malpractices needs to be revisited.

Addressing Ghana's fiscal challenges requires an ambitious fiscal consolidation strategy. This study recommends that the established Fiscal Councils must be devoid of partisanship and must have less interference from the executive branch of government.

The Council should also be given the necessary legal backings to bind the government on fiscal targets being proposed or recommended by the council. The current advisory role assigned to the council is not sufficient as it leaves room for the executive to disregard the recommendations and fiscal targets set by the council. The underlining principle here is that rules entrenched within a stronger legal framework are more difficult to reverse.

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