

Dealing with Ghana's Winner-Takes-All Politics: the Case for an Independent Parliament

*Ransford Edward Van Gyampo**

Abstract

The paper discusses how Winner-Takes-All politics in Ghana is promoted by the practice of appointing ministers from parliament. Having won elections and "taken it all", Ghana's 1992 Constitution mandates the President to appoint majority of his ministers from parliament. This cripples parliament as it inter alia, makes it subservient to the executive, thereby sacrificing parliamentary oversight responsibility as well as objectivity during parliamentary debates. The imbalance of power created between the executive and legislature, makes the executive too powerful and accentuates the feeling of marginalization associated with winner-takes-all politics. Thus the paper critically examines in detail, the specific and the peculiar challenges and dangers associated with the practice of appointing ministers from parliament in Ghana. It recommends measures to strengthen parliament to play its role as a countervailing authority to the powers of the executive as well as reduce the feeling of marginalization associated with Winner-Takes-All politics.

Introduction

The phenomenon of Winner-Takes-All (WTA) politics has not been much researched even though it continues to present a huge challenge to national development, cohesion and the need to check the unbridled exercise of power by presidents in many African states including Ghana. Few scholars who have written in this area include Oquaye (2013), Linton and Southcott (1998), Abotsi (2013), Prempeh (2003), and Ayelazuno (2011). These scholars have highlighted the pervasiveness and polarizing dangers of the problem of winner-takes-all politics in Ghana and in many other African countries.

* Lecturer, University of Ghana, E-mail: vangyampo@yahoo.com

R. E. Van Gyampo

Given that the problem has not been fully researched, anti-dotes to it has also been scanty.

This paper therefore operationalizes the concept of winner-takes-all in the Ghanaian perspective and discusses the appointment of ministers from parliament in Ghana as one of the major causes of the problem. The appointment of ministers from parliament weakens the legislature and undermines its capacity to exercise oversight responsibility over the powers of the executive. In the various public consultations held by the Institute of Economic Affairs (IEA) in 2010 to influence Ghana's constitution review process, the overwhelming view held by the citizenry was the need to abolish Ghana's hybrid or neo-presidential system¹ and separate the executive arm of government from the legislature in order to make the latter more independent in the exercise of its oversight role as well as check the practice of WTA politics.

However, in its report, the Constitution Review Commission (CRC) which was established to review and bring constitutional reforms in Ghana could not be emphatic about the need for the separation of the executive arm of government from the legislature. Its feeble recommendation was to the effect that *"the executive must not be compelled to appoint majority of its ministers from parliament."*² This recommendation which was accepted by the Government in its White Paper issued thereafter, does not adequately respond to the call for the separation of powers between the two main arms of government. Indeed, the recommendation could actually worsen the situation as it does not bar a daring or defiant president from also appointing all his ministers from parliament, a situation that can seriously cripple the legislature and place it fully in the manipulative palm of the executive.

How to ensure an independent parliament that works effectively to reduce WTA politics is the focus of this paper. Therefore, in this paper, WTA politics is fully explained as a distinct practice from the Winner-Takes-All Formula for selecting leaders into political offices, for example, parliament. The doctrines of Separation of Powers and Checks and Balances are also discussed briefly as frameworks of analysis. The paper also highlights in detail, the challenges and dangers associated with the practice of appointing majority of ministers from parliament and how it promotes WTA politics. The paper finally makes a case for a clear separation of the executive arm of government from the legislature in a manner that serves to reduce the

negative and divisive effects of WTA politics and strengthens parliament to serve as a separate check on the powers of the executive.

What is WTA Politics?

WTA politics connotes a "state capture"³ or the partisan monopolization of state resources, facilities and opportunities, as well as the exclusion of political opponents from national governance. It is a polarizing practice that grants certain exclusive rights to top party echelon and apparatchiks after elections to the neglect of the rest of the citizenry (Gyampo, 2010).⁴ Generally, post-electoral political transitions are the most stressful moments for many developing nations. Victorious political parties after elections quickly "sweep the political and economic stakes" of the state as they consolidate themselves in power (Abotsi, 2013). The process of state capture moves *in tandem* with the ruthless perpetration of a regime of victimization and recrimination against political "enemies" in opposing political parties and their associates in business, industry and commerce (ibid). The key effects of this anti-democratic and inhumane system of political transition include compulsory retirements; dismissals; termination of appointments; cancellations and withholding of entitlements; forcible ejections from duty-post accommodation; wanton seizure of state vehicles and property in the care of political opponents by party apparatchiks without recourse to due process of law; reckless abrogation of contracts; and wanton persecution of certain real and perceived political opponents. These negative tendencies are what many Ghanaians perceive as symptoms of WTA politics.

It is also a political sub-culture that excludes all other Ghanaians who are not part of the ruling party from national governance and decision making in a manner that polarizes the nation and dissipates the much needed talents and brains for national development. In effect, one omnibus feature and result of WTA politics is the "dangerous feeling of exclusion" from the governance process by those who are not part of the ruling party/government (Dennis, 2007; Dyck, 2006). It has been aptly argued that for the sake of responsiveness and political accountability, it may not be a sustainable proposal to call for "a purely all-inclusive governance system" where virtually "everybody across the political divide" is included in the governance process.⁵ Nonetheless, the visible and palpable feeling of exclusion from the governance process by those who are not members of the party in power often associated with WTA politics cannot also be part of good governance. Unfortunately, this phenomenon has characterized all the regimes of Ghana's Fourth Republic. Incoming governments have used their

R. E. Van Gyampo

victory to signal a new “era” and the fact of their control over power and resources. As has oftentimes been the case under all regimes in the Fourth Republic, the assumption of political authority has been used as means of demonstrating control and the consequent marginalization of perceived political opponents from access to key resources and occupation of certain offices (Abotsi, 2013; Linton and Southcott, 1998).

The Doctrines of Separation of Powers & Checks and Balances

The doctrines of Separation of Powers and Checks and Balances undergird this study. Generally, Separation of Powers refers to the division of powers and functions of the main organs of government, namely, the executive, legislature and judiciary, into three distinct compartments so that in terms of personnel and functions, each becomes independent of the other. It is a model of governance that determines who controls the state. It was developed by the French political thinker, Baron de Montesquieu (Cohler et al., 1989). Under this model, the state is divided into branches, each with separate and independent powers and areas of responsibility so that the powers of one branch are not in conflict with the powers associated with the other branches. In his book, *The Spirit of the Laws* (1978), Montesquieu described the separation of political power among a legislature, an executive, and a judiciary. Montesquieu's approach was to present and defend a form of government which was not excessively centralized in all its powers to a single monarch or similar ruler (Vile, 1998). He based this model on the Constitution of the Roman Republic and the British constitutional system. Montesquieu took the view that the Roman Republic had powers separated, so that no one could usurp complete power. In the British constitutional system, Montesquieu discerned a separation of powers among the monarch, Parliament, and the courts of law (Vile, 1998; Cohler et al., 1989).

To prevent one branch from becoming supreme, protect the "opulent minority" from the majority, and to induce the branches to cooperate, government systems that employ a separation of powers need a way to balance each of the branches. Typically this is accomplished through a system of "checks and balances", the origin of which, like separation of powers itself, is specifically credited to Montesquieu (Cohler et al., 1989). Checks and balances allow for a system-based regulation that allows one branch to limit another (Stewart, 2004). In this regard, even though the three arms of government are to be separated in terms of personnel and functions, each arm of government is expected to act as a check on the other. For instance, policies, contracts, agreements and budgetary proposals and from

the executive would require parliamentary approval. Similarly, bills deliberated upon and passed by parliament would require an assent from the president before they become laws. Again through the power of statutory interpretation and judicial review, the judiciary also acts as a check on the legislature and the executive.

The doctrines of Separation of Powers and Checks and Balances are very useful in promoting human liberties, constitutionalism, democratic rule as well as the orderly conduct of governance in a polity (Cohler et al., 1989). The two concepts are theoretically applicable in many countries that operate the presidential systems of government like the United States of America. In the United Kingdom, the systems seem practically inapplicable as the arms of government, particularly the executive and legislature are fused together.

In Ghana, the practice of appointing ministers from parliament by the executive weakens the doctrines of Separation of Powers and Checks and Balances. Such a practice, promotes WTA politics.⁶ After capturing the control of executive power through elections, the executive, through ministerial appointments, also takes absolute control over the legislature in a manner that renders parliament ineffective in checking and performing meaningful oversight responsibilities on the activities of the executive president. Fusion of powers and the practice of appointing ministers from parliament may work perfectly in developed democracies like Britain. However, in some fledgling democracies like Ghana, it promotes WTA politics and poses severe dangers and challenges to good governance and constitutionalism. The dangers and challenges are fully discussed in the next section of this paper.

The Dangers of Appointing Ministers from Parliament

What ought to be pointed out is that in a fledgling democracy like Ghana, politics tend to be a zero-sum game. Indeed, political power grants “ATMs on the verandas of those who gets them.”⁷ Consequently, there is often the desire on the part of politicians to strengthen their hold over power through a variety of compensatory schemes and tactically systematic means of depriving and excluding political opponents of all resources, entitlements and positions and ultimately weakening them (Abotsi, 2013; Linton and Southcott, 1998). Through this, governments strive to control all state apparatus and one key institution that is severely affected is parliament. Under the aegis of WTA politics, governments take control of parliament and render it as a mere rubber-stamp of its decisions and policies. Article 78 (1) of

R. E. Van Gyampo

the 1992 Constitution requires that a President shall appoint the “majority” of Ministers of State from among Members of Parliament. This clearly undermines the doctrines of Separation of Powers and Checks and Balances. It also makes parliament subservient to the executive. Indeed, scholars such as Hutchful (2007) and Prempeh (2003) have argued that appointing ministers from among MPs promote WTA politics as it enhances the executive’s dominance and control over parliament and weakens the latter.

Historically, the executive has had a huge control over parliament. The Nkrumah regime sought to control parliament when the president directly nominated people as parliamentarians. Again, all subsequent military takeovers also announced the suspension of parliament (Lindberg, 2008; Douglas, 1993). These practices coupled with article 78 (1) of the 1992 Constitution that requires the president to appoint “majority” of ministers from parliament promotes WTA politics and undermines the role of parliament in several ways. In the first place, the oversight role of Parliament is undermined. Oquaye (2013:2) sums the challenge as follows:

MPs who are also Ministers cannot ask colleague ministers questions on the floor of the House as expected. Notably, the minister/MPs lead, control, direct and influence the other MPs on the majority side. Furthermore, ministers owe collective responsibility for all government decisions and cannot, therefore, criticize the government on the floor of the House. An MP, once elected, owes his/her constituents deliberative and representational duties by standing in their stead in the House. Prior commitment to the executive authority of the State undermines this basic duty.

Secondly it is a common practice for the majority side parliamentarians to boot-lick and offer blind support to the executive in an attempt to gain ministerial appointments. The very respected and “well-to-do” MPs are perceived as those who catch the eye of the president and are made ministers and not those who perform excellently as members of parliament and constantly catch the eye of the Speaker (Oquaye, 2013:3; Lindberg, 2008). Consequently, the desire to build a career by Ghanaian MPs in parliament is undermined. Article 103 (1) provides: “Parliament shall appoint Standing Committees and other Committees as may be necessary for the effective discharge of its functions”. Article 103 (3): “Committees of Parliament shall be charged with such functions, including the investigation and inquiry into the activities and administration of ministries and Departments as

Winner-Takes-All Politics in Ghana

Parliament may determine; and such investigation and inquiries may extend to proposals for legislation". Under the Constitution (Article 103 (6)) such a Committee is so important that it has the powers, rights and privileges of the High Court. These powers granted parliament were to enhance its control over the executive.

However, it is obvious that the appointment of ministers from parliament has made it difficult for parliament to carry out these functions (Lindberg, 2008). As argued by Oquaye (2013:4), "... those who will lead the process to ensure the accountability of the executive and officials to parliament are constantly looking towards the executive rather than to parliament..." In the US for instance, the legislature through its appropriate committees is able to independently investigate the conduct of governments, and other agencies of state in a manner that makes its oversight role real.⁸ This can certainly not happen in Ghana where ministers are also parliamentarians.

Another monumental challenge posed by the practice of appointing ministers as parliamentarians is that the appointees tend to concentrate more on their role as ministers to the neglect of their parliamentary duties. As ministers, they attend several meetings and more often travel outside the country for other international duties. In the end, most of them are unable to attend parliamentary sessions and committee meetings. Indeed, sometimes parliamentary sessions are suspended because of the inability to start sessions with a quorum. Those who are able to attend parliamentary sessions are also caught in the web of divided attention and coupled with the fact that they are unable to conduct meaningful research to aid their contributions as a result of their work pressure as ministers, the quality of their contributions to debates on the floor of parliament is compromised (Lindberg, 2008; Douglas, 1993).

Again, executive dominance over parliament through appointments makes it difficult for the former to be held accountable to the latter. The history of Ghana's Fourth Republic show that elected political parties also dominate in parliament in terms of numbers. This makes it difficult for MPs who are part of the government to pass a vote of no confidence in their colleague MPs who are ministers. Whereas in Britain, a vote of censure by parliament can get a minister out of office, the constitutional arrangement in Ghana makes it difficult for a vote of censure to be passed. Even though article 82 provides that by a two-third majority, MPs can pass a vote of censure against a minister of state, it is practically impossible for MPs who are also part of

R. E. Van Gyampo

government to support any such move. What worsens the situation is that article 82 clause 5 provides: “where a vote of censure is passed against a minister under this article, the President may, unless the minister resigns his office, revoke his appointment as Minister”. According to Oquaye (2013), if the President does not revoke, Parliament labours in vain. But parliament is very unlikely to vote to impeach its own. Indeed, the majority side who are also members of the ruling government would not tolerate this. It must be noted that the appointment of ministers from parliament in Ghana is not necessarily coterminous with what pertains in Britain. Per the political arrangements in Britain, there is fusion of powers but this has not in any way undermined the independence of the British parliament. Indeed, the UK parliament is so strong and independent to the extent that it has been touted as being capable of “doing anything except to turn a man into a woman and vice versa.” In this regard, whoever wins elections in UK “does not take it all”. The UK parliament exists to check the powers of the executive.⁹

Moreover, the appointment of ministers from parliament undermines MPs’ freedom to vote. Indeed, it undermines the principle of secret balloting. In their quest to please the executive and benefit from appointments, MPs are sometimes whipped to show their votes on issues to their colleagues in a manner that does not only undermine their freedom to vote objectively on issues but also downplays the interest of the constituents who voted the MPs into parliament. This does not happen in the US where as a result of strict separation of powers, MPs are free to vote against their party positions.¹⁰ In this regard, article 97 (1) (g)¹¹ may have to be altered so that “whereas a member may be forbidden from joining another party once elected, he/she should be free to be an independent member. This will strengthen members to vote according to their conscience and not to be bullied into undue subjugation.” (Oquaye, 2013:11; Douglas, 1993).

Policy Recommendations- A Case for Clear Separation

From the foregone discussion, the following policy recommendations are proffered to strengthen parliament in effectively playing its role as a check on the executive and in reducing WTA politics. First of all, the executive must be completely separated from the legislature in a manner akin to what pertains in the US. The practice of appointing ministers from parliament must cease and any MP appointed a minister must vacate his seat. This would enable MPs to build a career as parliamentarians and be able to play their role as a countervailing authority to the powers of the executive. Under WTA politics, the president is very powerful and in the view of Lord Acton “power

Winner-Takes-All Politics in Ghana

corrupts and absolute power corrupts absolutely.” One key mechanism to bridle the excessive powers of the executive and to check the exercise of powers in a manner that excludes all brains and talents from the decision making process, is an independent parliament. And one practical way to create an independent parliament is to separate it from the executive.

A clear separation would also ensure that MPs have absolute freedom to vote according to their conscience and in a manner that reflects not only the interest of their parties, but the supreme interest of their constituents. It would indeed promote some objectivity in parliamentary deliberations. The excessive partisanship that continues to characterize parliamentary deliberations is partly as a result of the hybrid arrangement that renders many MPs zealous to please their party and president. Such entrenched partisan posturing sometimes results in boycotts of parliamentary sessions and other unhealthy practices that undermine dialogue, consensus building on key national issues and parliamentary democracy.

It must however be noted that even though the separation of parliament from the executive is desirable in checking WTA politics as well as executive excesses, water-tight separation of the two may not be absolutely possible. In this regard, some convergence between the executive and legislature may be tolerated and the framers of Ghana’s 1992 Constitution may have anticipated the need for such convergence when they made provisions in article III that:

The vice-president, or a minister or deputy minister who is not a member of parliament, shall be entitled to participate in the proceedings of parliament and shall be accorded all the privileges of a member of parliament except that he is not entitled to vote or to hold an office in parliament.

According to Oquaye (2013), the current constitutional arrangement deals effectively with the concerns of those who argue for some convergence between the two arms of government. Lindberg (2008) also argues that some convergence between the two is achieved when ministers per Ghana’s constitutional arrangements are given the opportunity to make statements on the floor of parliament; to contribute to discussions; and provide responses to issues during “Question Time” in parliament.

Moreover, separating parliament from the executive must lead to the restoration of the former’s powers that have been inadvertently or

R. E. Van Gyampo

deliberately taken over by the executive, i.e, legislation and control of the public purse. These are two key roles of parliament that have been surreptitiously usurped by the executive and accentuated the practice of WTA politics. In this regard, the interpretation given to article 108 of the 1992 Constitution must be reviewed to enable the legislature initiate the law-making process either directly by itself or through Private Members' Bill.¹² Again, the provision under Article 108 (a) (i) that parliament cannot engage in "the alteration of taxation other than by reduction", means that parliament cannot reduce budgetary allocation for one sector and use the money to increase that of another as it deems appropriate. However, an independent parliament should have the right to make provision in terms of increasing budgetary allocations in certain welfare areas and making deductions in certain areas so far as the total expenditure does not go beyond the projected revenue and expenditure base presented to parliament (Oquaye, 2013).

Conclusion

The woes of Ghana's parliament and its inability to perform its oversight responsibility to counter the powers of the executive and to check the practice of WTA politics largely lies in the nation's hybrid constitutional arrangement. This essentially undermines the independence of parliament. A clear separation of the two arms of government will go a long way to strengthen parliament vis-à-vis the executive, resulting in qualitative legislation and greater oversight responsibility and accountability in government. As aptly noted by J.H. Mensah, "one of the quickest ways for Ghana to climb up the ladder of democratic excellence is to strengthen its Parliament... Neither civic society pressures, nor random opinionating in the media can ever replace a well-functioning Parliament as the bulwark of People's control over Executive power."¹³

End Notes

1. This system of government being practiced in Ghana since 1992, combines the features of the US presidential and the UK parliamentary systems of government.
2. See CRC Report at <http://www.media.myjoyonline.com/docs/201112/scan0005.pdf>.
3. The author is grateful to Prof Ken Agyemang Attafuah, acting Dean of the Central University Law School for this view

Winner-Takes-All Politics in Ghana

4. It must be noted that Winner-Takes-All Politics is a coinage from Winner-Takes-All formula for selecting leaders into political offices. The latter highlights electoral victory of candidates who wins elections to Parliament by a simple majority vote and enjoys all the trappings of power alone to the neglect of all other candidates that contested the election. Winner-Takes-All politics presents a broader view of state capture and control by political elites and the exclusion of all other people who do not belong to the ruling party, from the governance process.
5. The author is grateful to Professor Aaron Mike Oquaye, Political Scientist and Former Deputy Speaker of Parliament of the Republic of Ghana for this view. According to him, it would be difficult to locate who is responsible for what and who must be accountable to Ghanaians when all across the political divide are made part of the ruling government.
6. Winner-Takes-All politics in this instance is promoted in the sense that the President “takes it all” not only at the executive level but also takes full control of parliament.
7. The author is grateful to Prof. Kwamena Ahwoi, of the GIMPA School of Governance and Leadership, for this view.
8. See www.uscongress.org
9. In the UK, the prime minister is only the head of government is not the head of state unlike a Ghanaian President who wields both powers. The prime minister who is himself an elected MP can lose his position if he loses his seat as an MP. He can be dismissed by parliament when necessary through a vote of no confidence. Most of the important appointments in the UK, which in Ghana makes beneficiaries subservient to the president, are influenced by other powerful forces outside the prime minister’s jurisdiction including the Queen’s Privy Council. Unfortunately, these checks are absent in Ghana.
10. The following excerpts from Mike Oquaye’s paper titled “Addressing the Imbalance of Power between the Arms of Government - A Search For Countervailing Authority”, No. 35, IEA Monograph, 2013,

R. E. Van Gyampo

highlights the problem in detail: According to Prof. Mike Oquaye who was an MP for the Dome-Kwabenya Constituency, “early 2005, MPs in Ghana assembled to elect a new Speaker. It was generally agreed among several members of the Majority and virtually all the Minority that the incumbent should be retained. Rt. Hon. Peter Ala Adjetey had done tremendous work in Parliament. He had stopped the practice of the Executive coming over to inaugurate Parliament. He had brought to the doorstep of the Ghanaian Parliament the best practices in global Legislatures etc. Nevertheless, the whip was stringently applied for all Majority MPs to vote against Mr. Adjetey. No one was allowed to vote according to his/her conscience. Members were directed to show their vote (which the law required should be secret) to those on their left and right. Order 9(1) of the Standing Orders of the Parliament of Ghana provides: ‘where more than one person is proposed (for election of Speaker) a motion shall be made and seconded in respect of each person, and the House shall proceed to elect a Speaker by SECRET (emphasis added) ballot...’. In order to protect the integrity of the secrecy provision, order 9(5) further provides that ‘Each ballot shall be folded so that the name written on it cannot be seen...’. The public saw what was happening through TV cameras. At this very moment, Ministerial appointments, Board membership and other nominations which were the preserve of the President were pending. Expectedly, the Executive had its way and the Speaker was voted out.”

11. Article 97 (1) (g) of the Constitution provides as follows: “A member of Parliament shall vacate his seat in Parliament if he leaves the party of which he was a member at the time of his election to Parliament to join another party or seeks to remain in Parliament as an independent member”.
12. Article 108 of the Constitution provides that: unless a bill is introduced or a motion is introduced by, or on behalf of, the president, then parliament cannot consider it once it has financial implications or will lead to any charge on the Consolidated Fund or other public fund. Unfortunately, the interpretation given to this provision since 1992 has been that since the passage and application of laws entail some state expenditure, only the executive can initiate legislation. This has also undermined the introduction of Private Members Bill in Parliament.

13. J.H Mensah's quotation was cited in Oquaye (2013:9)

References

- Abotsi, E.K. 2013. "Rethinking the Winner-Takes-All System" Paper Presented at a Constitutional Review Series Roundtable Organized by the IEA in Accra on 21st August, 2013.
- Ayelazuno, J. 2011. "Ghanaian Elections and Conflict Management: Interrogating the Absolute Majority Electoral System", *Journal of African Elections*, 10, (2): 22-53.
- Cohler, A., Miller, B., and Stone, H. 1989. *Montesquieu: The Spirit of the Laws*. Cambridge: Cambridge University Press.
- Dennis, P. 2007. *The Politics of Voting*. Toronto: Edmond Montgomery Publications.
- Douglas, A.J. 1993. *Real Choices/New Voices: The Case for Proportional Representation Elections in the United States*. New York: Columbia University Press.
- Dyck, R. 2006. "Studying Politics" in Rand Dyck (ed.) *Studying Politics: An Introduction to Political Science*, Toronto: Thomson Canada Ltd.
- Gyampo, R.E.V. 2010. "Political Apparatchiks and Governance in Ghana's Fourth Republic", *Educational Research*, 1, (11): 21-36.
- Hutchful, E. 2007. "Ghana" in Alan Bryden et al (ed), *Challenges of Security Sector Governance in West Africa*, (Lt: Verlag).
- Lindberg, S. 2008. "The Rise and Decline of Parliament of Ghana" available at http://users.clas.ufl.edu/sil/downloads/Lindberg_in_Barken_ed2008.pdf
- Linton, M and Southcott, M. 1998. *Making Votes Count: Case for Electoral Reform*. London: Profile Books Ltd.
- Oquaye, M. 2013. "Addressing the Imbalance of Power between the Arms of Government - A Search for Countervailing Authority", *IEA Monograph*, 35:1-11.
- Prempeh, K.H. 2003. "The Executive Legislature Relationship under the 1992 Constitution: A Critical Review", *CDD-Ghana, Critical Perspectives*, 15:4-10.
- Stewart, I. 2004. "Men of Class: Aristotle, Montesquieu and Dicey on 'Separation of Powers' and 'the Rule of Law'" *Macquarie Law Journal*, 4:187-223.
- Vile, M. J.C. 1998. *Constitutionalism and the Separation of Powers*. Indianapolis: Liberty Fund.