



# **LETTING A WINDOW OF OPPORTUNITY TO FIX A BROKEN LOCAL GOVERNANCE SYSTEM SLIPPPED BY?**

## **REFLECTIONS ON THE NOVEMBER 2019 ABORTED REFERENDUM IN GHANA**

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The views expressed in this report are those of the authors and do not necessarily represent those held by STAR Ghana or ILGS.

## **ABBREVIATIONS AND ACRONYMS**

CDD	Centre for Democratic Development
CSOs	Civil Society Organisations
CRC	Constitutional Review Commission
DCEs	District Chief Executives
EC	Electoral Commission
FMCG	Federation of Muslim Councils in Ghana
GJA	Ghana Journalists Association
IDEG	Institute of Democratic Governance
LGs	Local governments
MLGRD	Ministry of Local Government and Rural Development
MMDCEs	Metropolitan, Municipal and District Chief Executives
NCCE	National Commission for Civic Education
NHC	National House of Chiefs,
NORSAAC	Northern Sector Action on Awareness Centre
NRC	National Redemption Council
PNDC	Provisional National Defence Council
PSC	Public Services Commission
RCC	Regional Coordinating Councils

## EXTENDED ABSTRACT

Ghana's local governance system is broken for decades. The governance system was supposed to be the bedrock for local development; providing opportunities for local governments (LGs), the citizens and their organisations at the community level to lead the processes of local development and democratically hold those leaders accountable to the outcome of that development. But over decades, the local governance system has failed not more than the national had in leading local development but when presented with the opportunity to fix a key component of the broken system through a national referendum and other legislative reviews, it botched and let that opportunity slipped by. Why did that happen and will such an opportunity ever return? What will influence that return and how should organisations interested in promoting local democratic governance pursue that agenda?

This paper analyses the causes of the December 2019 aborted referendum to amend article 55(3) of the national Constitution to allow political parties to participate in LG elections. The paper shows that lack of political consensus between the two major political parties or the inability of the ruling government to sustain any tacit agreement with the major opposition political party was the major cause of the collapse of the referendum. While NO votes stood no chance of winning, the implications of losing the referendum by default of not receiving the required 75% YES votes, one month before entering into an election year was a major drive that led to the referendum being aborted. Other contributing factors though not the primary cause, were: misinformation, inadequate stakeholder engagement, lack of local ownership and leadership, the fear of introducing into LG the politics of divisiveness, and sometimes violence as seen at the national level, and parochial party interest.

The paper concludes that the failure to prosecute the proposed referendum and other consequential legal reforms is a systemic problem in the larger context of an unchanging central-local power relationship that has now found a supporting base in a competitive and polarized multiparty system of democracy. Polarization of politics is the greatest threat to any attempt to reform article 55(3) or any major reforms in Ghana. The paper further reflects on the aborted referendum and speculates a number of scenarios that can play out leading to a return of it. It also provides a number of policy and practice considerations for any attempt to bring back the referendum.

## 1.0 INTRODUCTION

### 1.1 Background

Ghana's local governance system is broken for decades. The governance system was supposed to be the bedrock for local development; providing opportunities for local governments (LGs), the citizens and their organisations at the community level to lead the processes of local development and democratically hold those leaders accountable to the outcome of that development. But over decades, the local governance system has failed not more than the national had in leading local development but when presented with the opportunity to fix a key component of the broken system through a national referendum and other legislative reviews, it botched and let that opportunity slipped by. Why did that happen and will such an opportunity ever return? What will influence that return and how should organisations interested in promoting local democratic governance pursue that agenda?

This paper reflects on the 17 December 2019 aborted national referendum to amend article 55(3) of the 1992 Constitutions to pave the way for political parties to participate in LG elections. While the amendment of the entrenched clause was an important step, the ultimate outcome of that process was to provide opportunity for the citizens to directly elect their Metropolitan, Municipal and District Chief Executives (MMDCEs) or Mayors through a political party system. Unfortunately, on December 1, 2019 the President called off the referendum citing polarization to an exercise that he had thought to be a national consensus and suggested further consultations with all key stakeholders.

“It is with deep regrets that I have given instructions to the Minister of Local Government and Rural Development who will spearhead this process on behalf of government with commendable vigour and dynamism to abort the process and seek the withdrawal of the Bills for the amendment of the constitution both in respect of Article 243(1) and Article 55(3),” (President Nana Akufo Addo broadcast to the nation on 1/12/2019)

While over a century, Chiefs and traditional leaders had assumed leadership positions in communities, the formal structure of government had never believed in the ability of local people to lead their own processes of development. The central government had always assumed overwhelming control of LG leadership and decision-making powers, resources and responsibilities. Many reforms and laws had been introduced to promote decentralization and to streamline the centre-local relations but none has had overbearing influence



on promoting local democratic governance except to tinker around issues that do not significantly reduce the overwhelming dominance of the central government over LGs (Awortwi, 2010; 2011). There have been several political regimes since 1957 but none has had the political will to promote local democratic governance in a way that gives local residents or the citizens the power to directly elect their leaders. The 1992 Constitution while purport to provide the legal support to devolution, it rather made it extremely difficult for this to happen. With the return to multi-party democracy, the major political parties (New Patriotic Party - NPP and National Democratic Party-NDC) when in opposition promised to amend that part of the Constitutions to make Mayors electable directly by the people but none has had the political will to do so when in power because they benefited from the system.

“Further to government’s White Paper on the report of the Constitution Review Commission’s (CRC) Report, we will involve the people directly in the election of District Chief Executives and take responsibility for the payment of the remuneration of Assembly members” (NDC 2012 Manifesto, page 15)<sup>1</sup>.

“Oversee the direct election of Metropolitan, Municipal and District Chief Executives (MMDCEs) within 24 months of election into office, to coincide with the next District Assembly elections in 2019” (NPP Manifesto, 2016:41)<sup>2</sup>.

In 2019, Ghana witnessed a window of opportunity with a high degree of political will by the President to amend Articles 55(3) and 243(1) to allow the participation of political parties in local government elections and direct election of Metropolitan, Municipal and District Chief Executives (MMDCEs) respectively. Unfortunately, this political will could not translate into tangible results as the amendment bills were withdrawn about two weeks before the scheduled date of the referendum.

We posit that the failure to prosecute the proposed referendum and other consequential legal reforms is a systemic problem in the larger context of an unchanging central-local power relations. The study was based on desk reviews of workshop reports that reflected on the aborted referendum organized by Star Ghana and NORSAAC<sup>3</sup>, newspaper reports, reports of institutions that conducted studies on the referendum, video

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<sup>1</sup> NDC 2012 Manifesto ‘Advancing the better Ghana Agenda’.

<sup>2</sup> NPP 2016 Manifesto ‘Change: An Agenda for Jobs’

<sup>3</sup> First workshop in Accra on 14<sup>th</sup> February 2020 and second in Tamale on 18<sup>th</sup> February, 2020.

documentaries, the authors' own experiences during the organization of the referendum and publications on Ghana's decentralization (Awortwi, 2010; 2011).

We have analysed and presented the study in six sections after this introduction. In section, two we have provided a broader context of democracy, decentralization and central-local government relations based on which the ideas for reforms become imperative. We then followed up with a presentation of Ghana's central-local government relations in section three. Section four discusses referendum as a key instrument for major constitutional reforms and presents some factors that make its prosecution successful in a country. In section five, we analyse Ghana's 2019 aborted referendum and why it failed while section six reflects on the findings and conclusions to provide some policy and practice recommendations to guide any attempt to reintroduce it.

## **2.0 DEMOCRACY, DECENTRALISATION AND CENTRAL-LOCAL GOVERNMENT REFORMS**

### ***2.1 Democracy and Decentralisation***

Democracy and decentralisation are two governance concepts that enable the people and their organisations to be directly involved in solutions to problems that affect them in their immediate environment. There is a symbiotic relationship between democracy and decentralization though one does not cause the other (Lulipossa, 2004; Pandey, 2006). Decentralization promotes local self-governance; a key principle that is central to democracy. The right of the people to participate in the decision-making processes at every level of development solidifies democracy. In a democratic setting, citizens are given the power and opportunity to choose their leaders and representatives whom they can hold accountable. While democracy determines the relationship between the citizens and their political leadership, decentralisation defines the links between the central government and local institutions for self-governance. This relationship involves the powers that local institutions can wield in the decision-making, the finance and resources that the local institutions can mobilise and use, and the roles and responsibilities that each level of government can play.

One of the key outcomes of both democracy and decentralization is accountability. Accountability is effectively promoted in small groups where the governed and the governor are closer to each other; that there is ease of information flow that enables the people to internalize the cost and benefits of their decision making. When power to make decisions is coupled with responsibilities or functions, there are accountability relations between power holders and the people, which is the core principle of democracy. But accountability will not arise automatically unless the people can democratically exercise their prerogatives over their leaders. In democratic setting, election is one of the key instruments of disciplining leadership (Fukuyama, 2014). If the people cannot hold local officials accountable in democratic setting, the officials have no business to perform.

When decentralisation improves local service delivery and empowers LGs to be accountable to the citizens, trust is built between the people and their LGs. When that happens, the relationship between the citizens and the state as a whole is improved. While the authority of the central government (CG) may reduce because of decentralization, the legitimacy of the state as a whole is enhanced. This explains why decentralization strengthens and legitimizes the state in a context of socio-cultural differences among the people. Democratic decentralization promotes stability of a country as there is power sharing among political rivals at the local level, even if the centre is controlled by a single political party. This is because politics becomes localized.

More decentralized governance is likely to be more democratic than centralized system. It provides more opportunities and civic space for citizens to exercise their democratic choices (Michel & deGraaf, 2017). Democratic decentralization fosters political stability as they provide an institutional mechanism for bringing groups outside government into a formal bargaining process. They constitute an alternative to violent forms of opposition (Burki, 1999).

## ***2.2 Decentralisation, Subsidiarity Principles and Central-Local Relations***

The principle of subsidiarity is the central supporting argument for decentralization and local self-governance. The subsidiarity principles state that the smallest, lowest level of competent authority must handle decisions that affect the people at that level. That is, the government closer to the problem provides solutions in an efficient and cost-effective manner. Only the residual should be passed to the higher levels. Recognition of this fundamental principle would mean that LGs are in charge of local development on the basis of their proximity to locations where problems occur and where appropriate solutions may be found. It is on that basis that in many countries, LGs have been designated to provide localized services such as sanitation and solid waste collection, water provision, basic education and health services, social welfare, and housing.

Generally, under principle of subsidiarity, states have introduced decentralization as a way to bring government, service delivery and accountability closer to the people. Decentralisation is defined as a process of state reform composed by a set of public policies that transfer responsibilities, resources or authority from higher to lower levels of government in the context of a specific type of state (Falleti, 2005:328). It facilitates creation of smaller geopolitical jurisdictions to bring government, decision-making and services closer to the people (Awortwi, 2010; Awortwi & Helmsing, 2014). When decentralisation happens, there is a change in the organisation of the state, which involves the transfer of power or functions from the centre to sub-national levels or from sub-national level to another lower level. There cannot be decentralisation and still the organisation of the state remains the same.

## ***2.3 Decentralisation Policies, Major Types and Dimensions***

Depending on the balance of power between the centre and local governments, a small degree of decentralisation may take place in a country. This could be in the form of deconcentration where CG redistributes some of its decision- making authority, finance, and management responsibilities to field agencies in the regional or district offices. The field agencies have very limited authority and independence.

In this set-up, accountability of the staff at the local level is upwards to the CG that employs, hires, motivates and dismisses them (Olowu & Wunch, 2004).

Another type of decentralization is *delegation* where the roles and responsibilities of the central government are transferred to semi-autonomous organizations that are not wholly controlled by the CG but are ultimately accountable to it. In this type of decentralization, the local organizations have a great deal of discretion in decision-making, financing, administration of employees and management. The employees of the semi-autonomous organizations may be exempted from regular civil service personnel. Delegated form of decentralization gives more decision-making powers to local actors than deconcentration.

The third type of decentralisation and the most sought after by governments and many advocates and believers of decentralization is *devolution*. In devolution, the CG transfers not only responsibility but also leadership, authority for decision-making, resources, and accountability to 'autonomous' and legally constituted LG. The fundamental characteristics of devolution are that LGs are autonomous and clearly perceived as separate levels of government over which CG exercises little direct control; LGs have clear and legally recognized geographical boundaries within which they exercise authority and perform public functions; and LGs have corporate status and the power to secure resources to perform their functions.

There are varied rationales why a country embarks on decentralization but as decentralization progresses other rationales emerge to trigger a new dimension or forms (types) of decentralization policies. Irrespective of the type of decentralization a country practices, there are three dimensions to the policy (administrative, fiscal and political) that ultimately define the balance of power and relationship between the central and sub-national governments or agencies. Figure 1 shows the forms and types of decentralisation that take place between the centre and local governments. Note that market decentralisation in the form of privatisation and public-private partnerships (PPPs) is not considered as inter-governmental but rather state and market relations hence not included in this analysis.

The 1990s was the last wave of state-local reforms in Africa on the wings of democratic reforms where CG were compelled to promote democratic decentralisation and local self-governance after years of military and single party rules. Over three decades, democratic decentralization became the new development fad but

the conclusions that arose from many studies on the status of decentralization in Africa was that, on a whole CGs have been reluctant to decentralize power and resources to local entities (Crook, 2003; Awortwi, 2011).

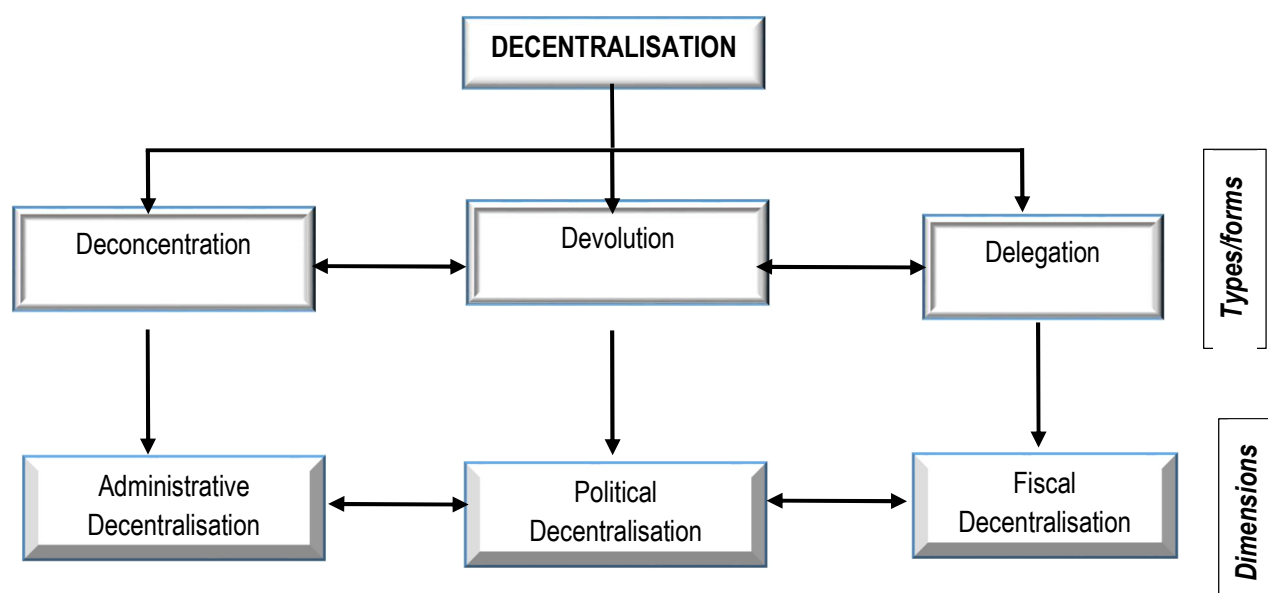


Figure 1: Different types and dimensions of decentralisation

Administrative dimension of decentralization transfers human resources and competences to LGs to implement policies and deliver social services to local people. Under delegation and deconcentration types of decentralisation, the human resources of the LGs are hired, remunerated, disciplined, transferred, and retired by the CG. Hence allegiance and accountability of the employees are to the centre that employed them than to the LGs that they work for. A devolved administrative structure would provide the space for LGs to hire, motivate, manage and fire local bureaucrats without CG interference but deconcentration will not give that powers to local agencies.

The political dimension of decentralization transfers some powers from CG politicians to elected LG politicians, who are given autonomy to determine all their local processes of development (Smith, 1996). Central-local government reforms that introduce political decentralization invariably involve a set of constitutional amendments, legal instruments and electoral reforms to open new or reactivate existing but dormant spaces for representation of LG politics. The reform may result in (a) election instead of appointment of mayors; (b) creation of LGs with the power to make laws and authorize the use of budgeted finance by executives; (c) enabling citizens to recall their councillors for underperformance or vote them out during elections; and (d) direct involvement of the residents in decision-making process (Falleti, 2005; Awortwi,

2010). Under delegation and deconcentration, local leaders are appointed by CG politicians usually the President or a regional governor to represent its interest at the local level. Such representation was akin during colonization and continued in post-independence era in Africa including Ghana.

Fiscal decentralization involves four policies to increase the fiscal autonomy of LGs: (i) expenditure assignment that clearly delineate the CG's and LGs' responsibilities for providing and paying for specific services to citizens; (ii) revenue assignment demarcating taxable revenue sources as well as tax-raising powers between the CG and LGs and possibly creating a new sub-national tax to strengthen the fiscal base of LGs and give them authority to decide how to spend their revenue; (iii) inter-governmental policy enabling a CG to transfer financial resources in the form of grants to LGs; and (iv) regulatory policy to monitor and set limits on LG finances (Awortwi, 2010:351). Under deconcentration, funds for local development are provided for and authorized for use by the centre but under devolution, CG subventions to LGs to deliver services become grants, which LGs may allocate in line with their local priorities.

In the three dimensions, political decentralization provides much autonomy and far reaching powers for local self-governance. Administrative decentralization is the weakest, as it sets up local governments with responsibilities but with little decision making powers. Much of the powers to promote local self-governance are retained by the centre; thereby making LGs servants of the centre. Fiscal decentralization gives financial resources to LGs. When LGs are given powers and resources, local autonomy and self-governance are improved. In many countries, the three dimensions are introduced sequentially and not simultaneously or what is called a big bang. The sequence of introducing decentralization dimensions influences the degree of local self-governance.

#### ***2.4 How the design of decentralization influences central-local power relations***

In the sequence of introducing central-local government reforms, Faletti (2005) and Awortwi (2010) show in their studies in Latin America and Africa respectively that if political and fiscal dimensions of decentralization policies are implemented before administrative, such a sequence builds and strengthens local autonomy of LG actors against CG control. Hence national politicians and executives prefer to start with administrative decentralization to fiscal decentralization (F), which in turn is preferred to political decentralization (P). The rationale for this ordering is that the national government seeks to divest itself of expenditure responsibilities first and foremost. If the CG is compelled to choose between surrendering fiscal and political authority, it will

choose to give away fiscal authority and retain political control, which may serve to influence the expenditure decisions made by LGs. LGs on the other hand would want to have political and fiscal decentralization and divest themselves from more responsibilities (administrative). If LGs have their powers directly from the people and not from the President (the president does not control the appointment and removal of Mayors), LG politicians can push forward for more resources and control of such resources in line with local preferences without fear of being sanctioned by the President.

The first decentralization policy sets constraints on what is feasible in the remainder of the sequences of decentralization reforms on inter-governmental balance of power. As Falleti argues, the level of government whose territorial interest prevails at the start of the policy is likely to dictate the pace and kind of decentralization policies that will follow. If LGs' interests predominate early on, political decentralization is likely to prevail. This will produce a policy ratchet effect that will enhance LG autonomy and strengthens mobilization of local support to bargain with the CG for resources. In subsequent reforms, LG politicians will most likely demand fiscal decentralization and influence its terms. Administrative decentralization will be the last and therefore be funded. This outcome of reforms is likely to result in a high degree of local self-governance. However, if the interests of CG politicians and bureaucrats dominate, administrative decentralization is likely to be the first. It will transfer more responsibility but less power and resources to LGs. Under-funding will affect the capacity of LGs to fulfil their responsibilities and make them dependent on the CG for grants, accepting conditions and dictates relating to the use of those grants. Subsequent reforms will involve a choice of resources over power. The outcome of this trajectory is likely to result in little or no change in the redistribution of power to LGs. Exogenous factors such as fiscal crises, democratization processes or general elections could produce reversal or alternative sequences that would compel the CG to cede more power or fiscal resources to LGs.

Given that one dimension of decentralization is preferred to the other, depending on the government whose interest prevails at the beginning of the reform, the introduction of decentralisation reforms in any country would involve political bargaining and strategic choices over the content and implementation strategy by the interest groups that initiate them. CG politicians have little wish to cede their vast powers, notably those over public finances, decision-making, hiring and firing, to the local level, so they can be expected to resist all three decentralization policies. If decentralization is gradual, CG bureaucrats and politicians may be given an opportunity to organize, and they are likely to build coalitions to circumvent reforms. A gradual approach



might work if a strong political commitment to reform were expected in the foreseeable future and adversely affected groups were unlikely to be able to organize against reform (Shah & Thompson, 2004: 18–20). Therefore any successful decentralization process would involve bargaining, manipulation and consensus-building between those who stand to lose and those who would gain from it.

### **3.0 CENTRAL–LOCAL GOVERNMENT RELATIONS IN GHANA**

Central-local government relations in Ghana have gone through several phases of reforms. The constitution and other legislative instruments define the relationship between the centre and local. Below we discussed some of the phases based on available literature and the authors' recollection of events.

#### ***3.1 Post-independence central-local administration (1957 – 1982)***

Post-independence central-local government relations in Ghana was designed and practiced along the lines of deconcentration where the CG machinery finds representation at the local level. Centrally appointed local officers administered local councils. This practice in fact was also picked from colonial administration during which the native administration hand-picked chiefs and community elders to assist centrally appointed local officials to administer law and order at the local level. After independence, the first state–local reform that took place was administrative deconcentration with sectoral ministries organized in territorial hierarchies whose apex was in the national capital (Accra), and agencies at the regional and local level (Ayee, 1994, 2008; Awortwi, 2010; CRC, 2011:458). The key objective of administrative decentralization was to expand public services to all parts of the country. Planning and implementation of development policies and programmes in education, housing, health, electricity, water and sewerage, roads, and postal and telecommunications services were transferred to parastatals and agencies attached to CG (Tordoff, 1980; Amonoo, 1981). From independence until the early 1970s various laws were passed to maintain a distinction between CG and LGs administration. Central bureaucracies with their headquarters in Accra and branches at the local level operate alongside 26 and later in 1972 to 65 defined territories as local councils. Indeed, such policies resulted in CG and its bureaucracy tightening their grip on regional and LGs (Ayee, 1997:330). This according to Ayee (1994) speaks volumes of the level of attention that successive governments post-independence had given to LGs in Ghana.

The regional offices and their civil servants became the conduits through which local councils reached the CG. The local councils were required to provide basic services and amenities in their localities but with little resources of their own. Unable to raise funds to meet their obligations, and attract competent officers, the local bodies only succeeded in creating for themselves an unpleasant image, in most cases, of ineptitude and incompetence. In 1974, the National Redemption Council (NRC) - a military regime, abolished the distinction between local councils and CG bodies at the local level and created a single structure called the district council and assigned to it the responsibility of the totality of government at the local level. Under this system, services such as agriculture, education, public health, the fire service, community development, town

and country planning, administration, etc. were transferred to district councils. The regime did not transfer political authority to the district councils to oversee implementation. That was left to CG appointed bureaucrats, who were the same persons who had always looked to the nation's capital (Accra) for instructions.

The functions that were transferred to the district councils (under NRC Decree 258) were also not accompanied by a simultaneous transfer of resources. During this period, attempts were successfully made to centralize even further in Accra functions, which had hitherto been exercised with moderate success by district councils, examples being public transport provided by the Omnibus Services Authority and the Ghana Education Service. Furthermore, the 10 regional administrations were made very strong and only became additional bureaucratic roadblocks in the attempt to decentralize to the local (district) level. In the perspective of Falleti's sequential theory the interest that prevailed in the first move from independence up until 1970s was that of the CG.

After two decades of implementing administrative decentralization (1957–1970s), central bureaucrats and politicians developed an affinity for it and because there was no strong endogenous and exogenous pressure to compel them to change direction, administrative or a weak form of LGs was practised and continued up until December 1982.

### ***3.2 Second Phase of Central-Local Government Reforms (1982-88)***

In December 1982, the PNDC regime issued an 11-point decentralization plan designed to reform the central–local relations and promote democracy, grassroots institutional empowerment for local self-governance, and greater government efficiency. The PNDC was seen as major regime change but its good intentions did not end with full devolution as it envisaged. The regime felt insecure and tinkered with political decentralization. The first reform that the regime undertook was again an administrative decentralization seeking to increase government efficiency and effectiveness in the face of dwindling state resources. It transferred 86 functions, including preparation and submission of development plans, resource mobilization, and provision of basic social infrastructure services among others, to LGs. The desire to change from their initial conception of political to administrative decentralization was reinforced by the prescription of a structural adjustment programme that was instigated by the World Bank in 1983 in a package that included rationalization, retrenchment and divestiture of some government services (Ayee, 1991; Herbst, 1992; World

Bank, 1993). In July 1985 the regime decreed that only 50 percent of the salaries and wages of LG employees (and the recurrent expenditure of 22 deconcentrated government departments) would be paid by the CG. This resulted in LGs unable to pay staff to perform basic service delivery like solid waste collection and sanitation.

In July 1987, with its power beginning to wane, the military regime launched a three-tier LG system that included some elements of political decentralization. In addition to the existing 65 local councils, it created 45 new LG territories under the jurisdiction of district assemblies (DAs). Regional councils were created to coordinate the LGs. In the nominal political decentralization that started in 1988, six years after the implementation of administrative decentralization reforms, 4846 Assembly members were elected most of them were members of the military regime's cadres called Committee for the Defense of the Revolution (CDR). To further strengthen their control at the local level, the regime appointed another 2423 Assembly members to make a total of 7269 nationwide. While the regime justified the need to appoint some technocrats and well-respected community members who were put off by the electoral process, the appointment of one-third of the representatives was to guarantee a place for the supporters of the regime, especially those who were not elected. The appointment of the Assembly members was also to build a locally based political class in anticipation of a future national democratization process (Gyimah-Boadi, 1990). The regime introduced PNDC Law 207, which made LGs the highest political and administrative authority at the local level and responsible for the overall development of local areas. Instead of allowing the Assembly members to elect one of their own to be the Mayor in a form of weak mayor system or direct election of Mayors (strong mayor system), the regime continued on the path where District Chief Executives or Mayors were appointed by the CG. The regime appointed politically loyal cadres to head the administration of the LGs who could only be removed by the head of State.

Three years after the PNDC regime started its version of political decentralization reform, it was compelled to return the country to multi-party democracy by (a) international donor pressure, (b) pressure from banned political groups, and (c) its need for legitimacy. However, it managed to exclude LGs from the multi-party process because donors and political groups were more concerned with national politics and less about LGs. When Ghana moved from a military rule to democracy, decentralisation and local governance as was designed in PNDC Law 207 was exported hook, line and sinker into the new Constitution and subsidiary legislation; Local Government Act, 1993, Act 462. As a result, a partisan CG political system was superimposed on a non-partisan LG system. The 1992 democratic constitution endorsed PNDC Law 207

(later transmuted to Act 462). While many researchers and practitioners acknowledge state-local reforms in 1988 as the most comprehensive of all decentralisation reforms in Ghana since independence, it failed to pursue devolution. A key architect of Ghana's decentralization in an interview in 2008 indicated:

"The regime was not allowed to develop the path that it wanted. The introduction of [the] constitutional era distorted the path that we had in mind. The PNDC did not have the support of CG bureaucrats; so, instead of [the] devolution that we wanted, civil servants found ways of dribbling us into implementing [a] deconcentrated system. Though in the spirit of the law the current decentralization aims at promoting devolution, [the] actual practice is deconcentration or at best nominal devolution (quoted in Awortwi, 2008:360)

### **3.3 Phase III (1994-2006)**

Fiscal reform was the last major central-local government reforms policy to be introduced. Until fiscal decentralization was introduced in 1994, there was no basis for calculating grants to LGs and only small amounts were given at the discretion of the LG ministry. Normally the CG would wait until November/December to transfer its unspent money to LGs. In 1990, the CG allowed DAs to collect some taxes until then collected by the internal revenue service. All the local councils shared this revenue according to a formula determined only by the LG ministry. In 1994 the ceded revenue was replaced by a constitutional provision mandating the CG to transfer 5 percent of the national revenue to LGs. An independent common fund administrator was appointed to develop a formula for sharing out the fund. Even though the constitution mandated 5 percent, only 3–4 percent of national revenue was actually transferred to LGs from 1994 to 2000 (Awortwi, 2003: 121). In 2000, when the New Patriotic Party (NPP) was voted into office, it promised to increase CG transfers from 5 percent to 7.5 percent, but that promise was not fulfilled until 2006. It also introduced a new source of funding (District Development Facility) to LGs.

### **3.4 Phase IV: Incremental phase (2006-2019)**

From 2006 to 2017 a number of decentralization policy documents (NDPF I/NDAP-2010-14; NDPF II/NDAP II-2015-2019; NDP-2020-2024) were developed and incrementally sought to improve local governance processes and development. All the policies were initiated from the centre in terms that central bureaucrats and politicians were comfortable to implement. During the period, two important institutions were established at the centre with substantial resources and authority. They were the Office of the Head of Local Governance

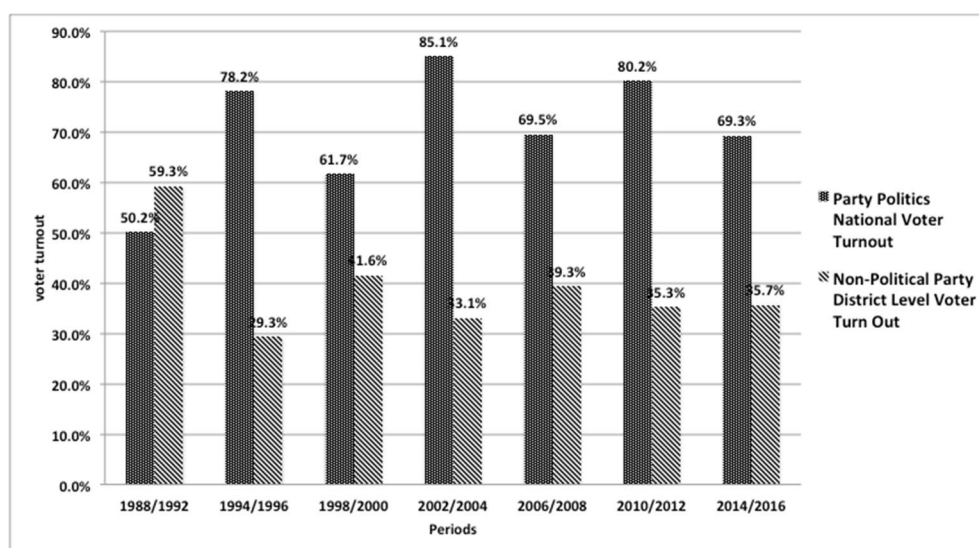
Service (OHLGS) and the Inter-Ministerial Coordinating Committee on Decentralisation (IMCC). The OHLGS was tasked with the responsibility to administer all human resources of the LGs. The IMCC was established to break the resistance of sectoral ministries to decentralize and to coordinate inter-sectoral ministries and agencies. To a large extent, the IMCC took away a large part of the overarching policy directive that the Ministry of LG exercises on decentralisation. The IMCC's Secretariat was to operate from the Office of the Presidents. Most of the central-local reforms that were implemented during this period had centred on administrative and fiscal dimensions and less on political as the centre maintained a tight lid on it.

### ***3.5 Nature of Ghana's Decentralisation Reforms and Implications for Local Governments Empowerment***

The above reconstruction of decentralization policies and practices in Ghana show that an initial path to LG political disempowerment was created when the CG implemented administrative decentralization reforms before political decentralization in the early years following independence, as well as subsequently (especially during the PNDC regime) when the possibility of breaking off and beginning a new path was not taken up. From that critical juncture onwards, decisions taken by CG politicians and bureaucrats increasingly made LGs powerless. All bureaucrats at the LG level and one-third of LG representatives (Assembly members) continued to be appointed by CG politicians and bureaucrats, which not only enables the CG to dominate the agenda of LGs but also leads to a system where accountability has always been upwards to CG politicians instead of downwards to the people. Until recently, majority of presiding members of District Assemblies were also government appointees, thus further weakening the link between electorate and council. In 2000, the NPP government that succeeded the Rawlings regime promised a constitutional amendment to make LG elections multi-party and the position of district chief executives electable, but it reneged on its commitment after winning power. The NPP government further enacted Local Government Service Act, 2003 (Act 656), recentralizing about 80 percent of government workers at the LG level and giving Regional Coordinating Councils (RCC) more powers to control LGs. The consequences of decades of centralization or disempowering of LGs in Ghana resulted in situations where LGs had no chance of influencing national policies that do not favour local territories. Budgets and by-laws that had only local significance even needed approval by CG agency.

Since 1992, Ghana's multi-party democracy has become very competitive to the extent that no political party has continued in government for more than two, four-year terms. The competitive nature of party politics has

led to every CG looking to enrol new supporters and/or maintain existing ones. The LG systems have been used as avenues to enlist new supporters and to reward party faithful through the appointment of 30% of all Assemblymen and women and Chief Executives (Mayors) of all the Metropolitan, Municipal and District Assemblies (MMDAs). It was expected that the enthusiasm that citizens show at national elections would translate also into the LG level. During the first LG election in 1988/89, 59 percent of the registered voters turned out to vote but in the second election in 1994, only 29 percent of the registered voters turned out. Since then the huge differences in citizens participation between national and LGs elections have been stark (see Figure 2). Partisan National elections have always had a higher turnout of voters than the non-partisan district level elections.



**Figure 2: Comparative analysis of citizens' participation in Central and Local Government elections in Ghana (1988-2016)**

National elections provide some excitement for the people and make them feel that their decisions matter. People feel empowered when they see national politicians groveling for their votes. The feeling is different in LG elections; campaigning is often boring and, to make matters worse, the LGs seem not to make much difference in people's lives. At least some Members of Parliament promise to have roads repaired and some fulfil their promise, but LG politicians promise nothing and deliver very little. The argument is that if they are elected, mayors worried about losing their jobs would be forced to make themselves more useful to the people.

The overwhelming dominance of CG over LGs means that CG politicians are fully paid from the national consolidated funds but LG politicians receive no payment from such funds. LG employees are appointed, posted, transferred, promoted, and disciplined by CG bureaucrats, who have little information about their work performance at the local level. Apart from political powers that are heavily skewed towards the benefit of the CG politicians, the fiscal decentralization dimension does not provide any comfort to LGs. The MMDAs account for a very low share of Ghana's economy. In 2012, the MMDAs had a total revenue of GHC622m (US\$207m) that represented less than 1% of Ghana's GDP; 3% of the GoG's budget; and 14% of total public investment. 80% of the MMDAs revenues are central government transfers, so on their own, the MMDAs revenue is only 1.3% of the total national revenue (World Bank, 2014). On average only about 50% of the CG grants to LGs are under the discretion of the LGs. Decentralization policies have degenerated into increasing concentration of power and resources in key central ministries, departments and agencies to the detriment of the 260 LG territories.

Under Chapter 20, Article 240(2)(a), the Constitution mandates Parliament to enact appropriate legislations "to ensure functions, powers, responsibilities and resources are at all times transferred from the CG to LG units in a coordinated manner". But Parliament does so selectively if it is convenient to CG politicians and bureaucrats. That is; if laws and resource transfers do not take power, resources and influence away from the centre. A Municipal Finance Bill that would have enabled LGs to borrow money from the private sector for local development has been in national Parliament for almost two decades without any sign that it would be passed because CG politicians and bureaucrats at the Ministry of Finance do not want that to happen.

Central government politicians have managed to keep LGs apolitical and used the structures to promote much of what the centre wants to be done at the local level. When in opposition, national politicians and their political parties promise to embark on devolution and facilitate citizens' direct election of their MMDCs but renege when they win power. They promise to pay LG politicians' remuneration but when they win power, they forget it. CG promise to undertake major central-local government reforms towards the interest of LGs are always postponed when in government but resurface when in opposition.



### **3.6 Constitutional Review Commission on Local Governance Reform**

In January 2010, a Presidential Commission of Inquiry, the Constitutional Review Commission (CRC) was established to consult with the people of Ghana on the operation of the 1992 Constitution and on any changes that need to be made to the Constitution. The Commission was also tasked to present a draft bill for the amendment of the Constitution in the event that any changes are warranted. In tracing the bottlenecks of Ghana's decentralization and local government system, the CRC stated:

“The politics of decentralization ensures that what are presented as decentralisation initiatives are actually attempts by central government to extend their power and influence to parts of the country and mobilise support for the ruling government. It is clear that only a brave and definitive reform of decentralisation in Ghana can free Ghana from the current political opportunism and inertia associated with the practice.” (CRC, 2013:459).

During the consultations held by the Constitutional Review Commission (CRC), the CRC discussed extensively Ghana's decentralization and local government system including the conceptual basis of decentralisation and LG; the mode of District Assembly elections; the mode of selecting Metropolitan, Municipal and District Chief Executives (MMDCEs); and issues of fiscal decentralization. The CRC made a number of recommendations. On the non-partisan nature of LG (article 55(3) which is of particular interest to this study, the CRC received calls by many Ghanaians to retain the non-partisan character of LG elections and an equally large groups also championed the introduction of partisan elections. The CRC recommended among others the following amendments:

- Article 248 to empower Parliament at any time, in the future, to make provision for partisan elections at the district and sub-district levels;
- Article 242(d) to vest the power to appoint the 30% membership of the Assemblies in the President, acting in accordance with the advice of the traditional authorities in the catchment area of the District.
- Consequential amendments to the Local Government Act to give effect to the constitutional changes proposed, in particular, legislation, pursuant to the amendment of Article 242(d) of the Constitution.
- Parliament should be empowered to determine specific mechanisms for choosing MMDCEs, which should vary according to Metropolis, a Municipality or a District. In Metropolitan areas, the Mayor should be popularly elected; in Municipalities, the President should nominate persons who would be vetted by the Public Services Commission (PSC) for competence, after which 3 nominees would contest in a public election in each Municipality; and in the case of District Assemblies, the President

should nominate a candidate for approval by a simple majority of the Assembly as DCE.

The politics of decentralization is that the centre does not wish to cede power and privileges such as appointments of mayors and civil servants to a lower level government. The CG tends to build strong systems and structures around such privileges that they become extremely difficult to break free from them. In a constitutional democracy, the CG politicians tend to solidify their hold on to power by making laws on the types of decentralization that they prefer. In many countries major reforms would require constitutional changes. For instance, local authorities in UK have used referendums to determine the direct election of mayors (Qvortrup, 2006).

#### 4.0 REFERENDUM AS AN INSTRUMENT FOR MAJOR CONSITITUTIONAL REFORMS

In a liberal democratic system, major reforms to the Constitution are determined by referendum. A referendum provides the electorate the opportunity to be heard on political issues and the power to directly make those decisions instead of deferring decision making to their representatives (Collin, 2019; Del Monte et al, 2019; Morel, 2007; Podolnjak, 2015; Qvortrup, 2006; Rose, 2019). Theoretically, referendum has three (3) dimensions. Referendum is conducted as a process to achieve a particular end. Again, referendum thus become an outcome of a process and the third is that a referendum can be used as a mechanism to trigger more profound reforms.

A referendum asks a political question to an electorate, and expects a direct response by the electorate. The outcome may result in the adoption of a new policy or specific law. Referendums are introduced on many issues such as joining a continental union, creating sovereignty, providing rights and creating territories. Globally, many countries have used referendums to change the governance systems and processes. Some of these referendums have been successful while others have failed to achieve their stated goals. It must be noted that, at any point in the process of a referendum, it is near impossible to have a consensus. Referendums by their nature are divisive. The subject will always be controversial. There will always be an opposition to the issue to be voted on. Indeed, some of the referendums have been reintroduced and have become successful after they failed in their first introduction. Since 1901, Australia for example has had 44 referenda but only 8 have been successful. Table 1 below shows countries and the number of referendums conducted.

*Table 1: Major National Referendum*

<b>Country</b>	<b>Since</b>	<b>Number of referenda</b>	<b>Number of successes<sup>4</sup></b>
Australia	1901 – 1999	44	8
Canada	1898 – 1992	3	2
South Africa	1960 – 1992	4	4
UK	1973 – 2018	3	3
Zimbabwe	1922 – 2013	9	8
Ghana	1960-2020	6	5

Various Sources: Wikipedia (2020)

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<sup>4</sup> Success in this report is defined as the Percentage of acceptance of the proposed reform. That is; when passed or approved by a majority of the voters as required by law.

#### **4.1 Factors that Promote Successful Conduct of a Referendum**

Referendum is generally a process of engagement to arrive at a decision. This process of engagement helps in identifying critical factors that need to be addressed or adopted to ensure successful conduct. The literature on referendum highlights some factors that lead to their success and failures. In the foregoing we discuss some of the factors:

##### **4.1.1 Bi-partisan Support**

Bi-partisan support is very fundamental and crucial to the success of any referendum. In a competitive political party system, there is always a political capital to derive from a successful referendum. The ruling government and opposition parties would need to come to the consensus that having the referendum is beneficial to both. Such a support is able to reduce resistance and campaign against its acceptance. Bi-partisan support creates conducive ambience for mobilization of political party members to also support the referendum. The position and recommendations of political parties are important to voters who rely on partisan directives (Del Monte et al., 2019; Jacobs, 2018; Jenssen & Listhaug, 1999). In that respect, a tacit agreement or consensus among major political parties is a good indication for the success of the referendum (Quinlan, 2012). Without bipartisan support, it is hard for a proposal to even pass through Parliament.

##### **4.1.2 Popular Ownership of the Referendum**

When citizens or the people initiate and lead the process of a referendum, it has the highest chance of succeeding. This comes from the theory of popular participation and ownership. Indeed, people-initiated referendum is the exercise of true legislative power (Morel, 2007). When citizens are championing the process, there is greater support that is likely to ensure the success of the referendum. Citizens 'initiated and lead' do not mean that they have to propose and introduce the referendum in Parliament but through extensive participation in debate, media discussions and campaigns, citizens express interest and support (Schuck & De Vreese, 2015). However, if the process of referendum is championed and hijacked by politicians and the political elites, popular ownership is lost and is likely to fail. The topic or the issue at stake to which a referendum is being organised and how much that issue affects people's emotions also influences people's enthusiasm for a referendum.

##### **4.1.3 Educational campaign**

Referendum leads to Constitutional reforms, which can be technical and complex for the people to easily understand and make sense of its implications. This requires 'breaking it down' to the people. Research has shown that, when a proposed referendum is well explained to the public, it increases the chances of people

participating in the voting process (Del Monte et al., 2019; Marzatico, 2011; Schuck & De Vreese, 2015). People with higher education and knowledge on the referendum are motivated to participate in referendums (Schuck & De Vreese, 2015). Greater understanding of the issues increases the enthusiasm and activism of the public to participate in the process. Hence a comprehensive education and communication strategy is essential to increase public awareness and participation in a proposed referendum. Designing jingles, radio and television discussions, and social media engagements are helpful to explain the issues clearer to the public. The active participation of Civil Society also contributes to the outcomes of the referendum (Quinlan, 2012). Advocacy, policy dialoguing and stakeholder engagements provide a better platform and opportunity to convince any group who is not in favour of the proposed referendum. The media is a critical institution in disseminating information and education to the citizens. Without the effective use of the media, apathy set-in and referendum fails.

#### **4.1.4 Timing**

Timing for introducing a proposed referendum can also affect its success. Referenda have been successful when it is the only activity to be conducted on the day. Generally, because of the cost involved in conducting elections, the electoral governing authority usually conducts referenda with other general elections. This situation may contribute to the failure of the referendum. It thus, shifts focus from the referendum to the main elections. When the timing of the referendum is wrong, there will be voter apathy.

#### **4.1.5 Clear Message**

The kind of message that is shared and campaigned on is critical for the success of the referendum. The various stakeholders usually will share the same message without distortion or mistrust. A clear campaign message will help inform citizens to make a decision on voting at the referendum (Bernhard, 2012; Jacobson, 2015; Del Monte et al., 2019; Laycock, 2013; Hobolt, 2009; Van Aelst, & De Swert, 2009). Confusing information is caused when more than one issue is raised in a referendum proposal. When this happens, voters agree with some parts of the proposal but disagree on others. When there is confusion, voters are likely to vote 'no' to force the withdrawal of the proposed constitutional reforms.

#### **4.1.6 High Threshold for its Acceptability**

Since referendum is a constitutional provision that requires direct citizens participation in decision-making and not simply a legislative majority decision, a high threshold of citizens' participation (voter turnout) is required in order for its outcome to be seen as popular. A high threshold of voter turnout and voting to accept

the changes would mean that such a referendum could fail if minor discontent set-in to sway a few organized groups to scuttle it success.

## 5.0 REFERENDA IN GHANA

The first 'Referendum' in present day Ghana was conducted in 1956. It was organized to integrate British Togoland, which is present day part of Oti and Volta Regions into Ghana. Since independence, there have been six proposed referenda including the November 2019 aborted one. The 1960 referendum successfully changed the nature of government in Ghana from a Constitutional Monarchy headed by the Queen of UK and Commonwealth to a republic with a Presidential system of government. The referendum was organized alongside a Presidential election and 88.4% of the voters voted YES in support of the proposal. The key factors that contributed to the success of the 1960 referendum were the popularity of the ruling Convention People's Party (CPP) and their leader President Kwame Nkrumah, the continuation of the independence euphoria; and the goodwill that the people had for the political leadership at that time. Four years after, in 1964 another referendum was organised to amend the Constitution to turn Ghana into one party state, with the CPP the only legally acceptable political party. That referendum was successful with almost 100% of voters affirming the proposal with a voter turnout of 96.5% (see table 2). The 1964 referendum aimed at reducing political tensions and divisions that arose from multi-party politics but was also to increase the powers of the President.

*Table 2: List of referendum in Ghana since independence*

Year of referendum	Focus of the referendum	Success/failure	Percentage Win
1960	Change of status from a constitutional monarchy to a Republic	Successful	88.47%
1964	Making Ghana a One-Party State	Successful	99.91%
1978	Union Government (UNIGOV), a non-party state	Successful	60.11%
1992	Return to Constitutional Rule (Multi-Party Politics)	Successful	92.59%
2018	Creation of 6 Regions	Successful	Above 99% in all proposed regions
2019	Amendment of Article 55(3) for Political Parties involvement in local elections	Aborted	-

In 1978 a referendum to change Ghana from a multi-party state system of government to a union government (UNIGOV) was proposed by the military government. The referendum posed the question:

- *Do you approve whether or not some form of Union Government would become the basis of Ghana's political system?*

The voting outcome indicated that, 60.1% of the voters voted YES while 38.9% voted NO. Though the referendum passed, the government could not implement the outcome, as a military coup ensued and subsequent government abandoned the union government idea. This referendum did not have the support of many citizens, as organized interest groups like students, teachers' union and remnants of the then political parties campaigned openly against the referendum. That referendum was the most divisive propositions in the country and the results showed. Two out of five voters did not approve of it.

In April 1992, Ghanaians were called once again to vote on a referendum to adopt a new Constitution. The main issues of the referendum were the reintroduction of multi-party politics and the division of powers between the President and Parliament. After more than a decade of military rule, the referendum was successful with 92.5% of voters approving the reform question and voted YES to adopt the constitution. A key factor of the success of the referendum was the weary of Ghanaians to military rule and their eagerness for a Constitutional rule. The referendum paved the way for Ghana to adopt the 1992 Constitution. The Constitution then provided the legal framework for organizing a successful referendum.

In 2018, the Electoral Commission organized a referendum to create 6 new regions in Ghana after a Commission of Enquiry had been established to receive petitions from the citizens, Chiefs and traditional councils. The referendum was organized for only the voters in the affected regions and it was a resounding victory for YES. The key success factor for that referendum was that the people demanded and owned the referendum. In addition, the CG devoted substantial resources for that project by creating a whole 'Ministry for Regional Reorganization and Development' to spearhead the execution of the project. About GH¢932 million was budget for the ministry to undertake the assignment.

### **5.1 The Referendum to Amend Article 55(3) of the 1992 Constitution**

The 1992 Constitution of the Republic of Ghana prohibits political parties to participate in local government elections. Article 55(3) states "subject to the provisions of this article, a political party is free to participate in shaping the political will of the people, to disseminate information on political ideas, social and economic

programmes of a national character and sponsor candidates for elections to any public office other than to District Assemblies or lower local government units” (Republic of Ghana, 1992:47).

This provision clearly bars the involvement of political parties in local level elections. That means political parties cannot organize primaries to elect a candidate to stand for local level elections on their ticket. They cannot provide a political platform for candidates to campaign for votes, or use the symbols of a registered political party for campaigns. In this regard, the proposed amendment was an attempt towards introducing multi-party democracy at local government elections. The proposed referendum was to amend Article 55(3) to ensure that registered political parties could sponsor candidates for LG elections.

Article 55(3) is one of the 41 entrenched clauses in the Constitutions, which means that a simple legislative instrument by Parliament is not enough to amend it. Article 290 of the Constitution prescribes the following processes for amending an entrenched clause:

- A bill for the amendment of an entrenched provision shall, before Parliament proceeds to consider it, be referred by the Speaker to the Council of State for its advice and the Council of State shall render advice on the bill within thirty days after receiving it.
- The bill shall be published in the Gazette but shall not be introduced into Parliament until the expiry of six months after the publication in the Gazette under this clause.
- After the bill has been read the first time in Parliament it shall not be proceeded with further unless it has been submitted to a referendum held throughout Ghana and at least forty percent of the persons entitled to vote, voted at the referendum and at least seventy-five percent of the persons who voted cast their votes in favour of the passing of the bill.
- Where the bill is approved at the referendum, Parliament shall pass it.
- Where a bill for the amendment of an entrenched provision has been passed by Parliament in accordance with this article, the President shall assent to it.

The above requirements suggest that towards amending Article 55(3), Parliament and the Government needed to collaborate to frame the amendment bill, the referendum question, and constitutionally define the timelines that involved publishing and gazette of the amendment bill (IDEG, 2018). CSOs joined in their support towards amending the Constitution.



“We urge all stakeholders to support the effective and timely implementation of this momentous decision in both Parliament and the national referendum. The amendment of this important Article would strengthen democratic stability, developmental governance and accelerated transformational and inclusive local economic development” (Dr. Emmanuel Akwetey, IDEG Executive Director, 2018)<sup>5</sup>.

At a convening meeting organized by STAR Ghana in Accra in August 2019, the Deputy Attorney-General and Minister of Justice indicated that government plans to amend about 14 entrenched clauses and further noted that, a referendum to amend article 55(3) to allow political parties participation in local level elections was crucial and could guide future referenda.

In a presentation at IDEG, the Director of the Institute of Local Government Studies argued that the amendment if passed is likely to be a game changer of central-local government relations that is overwhelmingly tilted against LG empowerments. It would trigger a new form of democratic decentralisation and end the country’s six decades of nominal devolution. It would shift accountability of political leadership from the centre to the grassroots and enhance greater citizen participation, inclusive democratic governance and development (IDEG, 2020).

#### **5.1.1 Roadmap towards the referendum to amend article 55(3)**

The Ministry of Local Government and Rural Development (MLGRD) developed a comprehensive road map to guide legislative reviews and stakeholder consultations towards the referendum in December 2019. At a stakeholder meeting, on 30<sup>th</sup> May 2018, the Ministry of Local Government and Rural Development indicated that a National Campaign Strategy to facilitate a successful national referendum to be conducted alongside the District Level Elections had been developed. According to the Ministry, the Roadmap shall be implemented in 3 phases (see Appendices 1 and 2 for details):

- Pre- Referendum Activities
- Referendum Activities
- Post Referendum Activities

The ministry achieved many of the milestones on the roadmap. The amendment Bill of Article 243 (1) on appointment of MMDCEs was approved by Cabinet, Gazetted, laid in Parliament, referred to the

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<sup>5</sup> <https://ideg.org/media-centre/ideg-in-the-media/ideg-rally-support-for-amendment-of-article-55-3-of-1992-constitution/>

Constitutional, Legal and Parliamentary Affairs Committee of Parliament, and debated in the full house of Parliament. The Attorney General and Minister of Justice duly presented the proposed amendments to Article 55(3) to Parliament for consideration. Upon the advice from the Council of State, Parliament sent the bills to the Electoral Commission to conduct the referendum. The EC put in place processes and logistics to ensure the conduct of the referendum.

### **5.1.2 The Role of Civil Society in the organization of the Referendum**

It must be stated that Civil Society Organizations (CSOs) in Ghana contributed significantly to ensure that the conduct of the referendum was successful (see annex 3). Organisations such as the Institute of Democratic Governance (IDEG), Centre for Democratic Development (CDD) Ghana, and Ghana Journalist Association (GJA) played significant roles in educational and awareness campaign on the referendum. A CSO Coalition was established purposely to support the successful organisation of the referendum. Spearheaded by IDEG and CDD, the coalition conducted series of meetings with the leadership of both the majority and minority sides of Parliament. Additionally, IDEG and CDD were in constant discussions with the leadership of NDC, NPP and other political parties outside Parliament to find a consensus on the referendum. IDEG and CDD were of the view that engaging the leadership of Parliament would ensure a smooth political settlement “on the participation of political parties in the election of MMDCes” in Ghana, which was long overdue (Interview with Mr. Johan of IDEG on 28/9/2020).

Both majority and minority parties in Parliament were in agreement for the referendum to be successful. However, the NDC side in Parliament raised concerns regarding the sequence of amendment of the Constitution. According to Mr Jonah:

The NDC wanted the powers of the President to appoint 30% of Assembly members amended (Article 242(d)) alongside the powers to appoint MMDCes before amendment of 55(3), that is, political parties’ participation in LG elections (Interview with the Authors on 28/9/2020).

Both the leadership of the majority and minority in Parliament agreed that there should be a timeline, thus within a month after the referendum, to amend all the consequential provisions. Such gentlemanly agreement provides a great window of opportunity for consensus building.

### **5.1.3 Arguments for the proposed amendment of Article 55(3)**

Proponents of the referendum provided a number of arguments in support of amendment of article 55(3):

*1. Multi-party participation will introduce competition and innovation into boring local governance politics*

Multi-party participation will introduce competition and innovation into mobilization for local action. With the participation of political parties, local government politicians through their campaign promises will be compelled to mobilise and deliver. Some will, many may not, but compared with the current apolitical system, MMDCs promise nothing and deliver very little, and without any accountability of their stewardship to the residents. Many MMDCs have no developmental agenda of their own before they were appointed. Hence their pre-occupation is working towards appeasing central government politicians that appointed them in order to keep their jobs. However, when multi-party is introduced into LG election, local politicians and their political party will be under pressure from electorate to deliver, leading to competition of ideas, mobilization and delivery.

## *2. Reducing the armchair politics of attrition and pontification*

The blame game and armchair politics of attrition associated with political parties in opposition will cease. Minority party politicians that always criticize ruling government politicians for not doing the right things would have no excuse to do armchair politics of pontification because their own political parties may be managing some districts and would be asked in real time if they had solved the problems in their own backyard. For instance, if NDC wins Ayawaso North Municipality, the party will be compelled to fix sanitation problems in Nima. They will have no guts to sit back and blame the ruling central government for the sanitation problems since they would be in charge and would have to prove to Ghanaians that the Party deserves to be in government to fix other national problems. The same would happen if NDC is the ruling government and NPP controls Accra Metropolitan Assembly with its perennial flooding. The NPP cannot accuse the NDC for not fixing local drainage. Partisanship that many Ghanaians loathe in the country would be reduced because the Armchair politicians in opposition cannot sit back in the comfort of their sofa and criticize. In real time, Ghanaians will have the opportunity to compare the two political parties. The quest of the political parties to undo each other will translate into competition of ideas and innovations that would benefit local democracy and development.

## *3. Unveiling the hypocrisy of apolitical local democracy*

The argument for YES campaign points to the flaws in the Constitution that provides that LG politics shall be devoid of political parties. The reality is that the assembly system is infiltrated by party politics, so much that the Constitutional provision has become an illusion making the citizens to understand what is not real. At the District Assembly level, everybody knew who was NDC or NPP Assembly Member. By amending article 55(3)

the Constitution would come to terms with an acceptable reality of something that is practiced at the national and sub-national level. It will unveil the hypocrisy surrounding the organization of local government election

#### *4. Consequential changes to laws that do not promote effective local governance and development*

Another argument for YES vote was that it would trigger all sorts of consequential reviews of laws to make devolution meaningful. For instance, a YES vote would have 'consequential' effect on article 243(1) which gives the power to the President to appoint MMDCs but a NO vote would foreclose that path as it was unlikely that the President having been defeated in a referendum would have the appetite to ask Parliament to amend article 243(1). This argument was made strong when the citizens realized that Parliament was playing 'wait and see' attitude towards amendment of article 243(1).

#### *5. Vote YES because it is unusual for a sitting President to let power go*

Decentralisation is generally a zero-sum game. No central government politician wants to see a powerful and resourceful local politician emerge to challenge the centre's control over resources and power. Ghana for so long had practiced deconcentration, a type of decentralization that does not provide power to LG politicians but responsibilities with little financial resources to back them. Globally it is very unusual that a sitting President would let go some of its privileges without being pushed by external forces or without domestic pressure from opposition. Many Latin American countries that adopted devolution and switched from appointment of Mayors to democratic election after the 1960 civil war did so as a condition to get the support of local politicians in order to guarantee the central government and national politicians own political survival. Venezuela in 1989; Columbia, 1986; Chile, 1992; Argentina, 1983; Peru, 1981; Bolivia, 1987 and Nicaragua, 1990 (Felleti, 2005; Burki, 1999). In Colombia, the institution of elected mayors, was in part motivated by the desire of central party leaders to gain grassroots support. Others switched when the ruling party knew that it had lost national election and needed a chance to control the management of local governments in their strongholds and use that to propel their come back. So, for the President to advocate for election of MMDCs without any political pressure from below or any threat to his government was a great opportunity that Ghanaians should not let it slip by, by voting NO. Central government politicians talk about devolution when in opposition but renege when they are in power. Therefore, it was a good time to seize the opportunity that the President provided. The opportunity cost for voting NO would be to keep the status quo of CG appointment of mayors amidst 'point 4 argument' above.

## *6. Political Mobilisation for Change*

Participation is one of the surest means through which citizens express their preference in a democracy. Political mobilization through party politics at the national level is heavily patronised by Ghanaian but when it comes to local government elections, participation has been extremely poor. So, there was contradiction that while people would prefer apolitical LG elections, they do not show that in terms of their participation in apolitical LG elections. The graph shown earlier (fig 2) demonstrates that Ghanaians prefer to participate in multi-party Presidential and Parliamentary elections at the national level and less so on apolitical district level election. Amendment of article 55(3) to allow political parties to participate in LG elections would bring enthusiasm to local mobilization for action. The political party structures would be used to mobilise grassroots participation in local politics, and is likely to strengthen the sub-structures of the LG system, which is currently one of the weakest links in Ghana's local governance system.

## *7. Early warning system would put ruling political parties on their toes for accountability*

Organising the LG elections through multi-party politics could also help the citizens to warn ruling central politicians or government that they would be voted out of government unless they change. The LG elections are normally held in mid-term, a year or two before the general Presidential and Parliamentary elections. When voters vote in mid-term elections, they would either be confirming or rejecting the CG ex-ante. They would be sending their frustration, disappointment or appreciation to the ruling central government. The proponents of the amendment argued that the future of accountability was bright with YES votes as CG politicians are put on their toes to deliver. So, amendment of article 55(3) would provide reverse effect of LGs on CG.

## *8. Promotion of Inclusive Governance*

The organization of LG elections through political parties' system would give minority parties an opportunity to be in government and possibly control small districts that they are popular there (electoral strongholds). As political parties outside the ruling government win power at sub-national level, this has the potential to reduce tension emanating from winner takes all system of governance in the country.

"The violence in our election will be curbed because there will be more positions, and there will be greater accountability; competition will shift from just elections, to delivering development." (Dr. Emmanuel Akwetey, 9/11/2019)<sup>6</sup>

#### *9. Opportunity for young politicians to learn party politics*

By allowing political parties to participate in LG politics, an opportunity is created for party foot soldiers and grassroots politicians to learn the trade of party politics and work with different political parties at the local level before rising to the level of national politicians. Such learning curve is needed for inclusive governance practices at the national level. Local level politicians would learn to be tolerant working with different political parties at the grassroots before rising to the national level.

#### **5.1.4 Argument Against the amendment**

Despite the above potential benefits, there were a number of arguments against amendment to article 55(3):

##### *1. Multi-party politics will introduce negative partisanship and polarization at LG level*

During the height of the debate, many Ghanaians expressed their indignation about NPP and NDC partisanship politics and the way central government politicians have conducted or misconducted politics in the country. While many connote "partisanship" as a blind support of a political party discourse, they argued that by opening the local government elections to political parties, the partisanship, the politics of attrition and polarization that is tearing down the country at the national level would be introduced on a landscape that has formally been devoid of politics.

"It is our well-considered view, and indeed that of well-meaning Ghanaians, that the needless NDC-NPP polarization at the national level should not be extended into the District Assemblies and Unit Committees, which is what will happen if we vote to make the local government system partisan"

"a YES vote will further polarize the nation, particularly local communities along the lines of NPP/NDC, and will likely lead to the creation of 'NDC Communal Labour day' and 'NPP Communal Labour day', as well as 'NDC market' and NPP market" (National Chairman of NDC, Samuel Ofofo Ampofo, 14/11/2019)

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<sup>6</sup> Dr. Emmanuel Akwetey, speaking at an IDEG event in Accra on 9/11/2019.

<http://www.businessghana.com/site/news/Politics/200079/Election-of-MMDCEs-is-a-compliment-to-the-anti-vigilantism-law-IDEG>

“Political party MMDCEs will not be accountable to the communities. They, like MPs, will be divisive, self-serving, promote unproductive parochial party interest above true community development and the Ghana agenda.” (Anyinini, 2019:1)

## *2. Amending article 243(1) is more important and agreeable so no need for article 55(3)*

No doubt, majority of Ghanaians want their MMDCEs elected<sup>7</sup> but uncomfortable with the use of party politics as the means through which these politicians are to be elected. They advocated for people to contest on their own merit and not through political party system. Amending article 243(1), which will strip the President’s power to appoint, did not require a referendum but rather a two-thirds majority decision in Parliament. If that were done (which Parliament was supposed to), there would be no need to organize the referendum.

“It is actually the amendment of article 243 that will make the position of the Chief Executives of the district assemblies elective. So, a “NO” vote does not change the decades-old demand for MMDCEs to be elected. A “NO” vote only means they will be elected but not on a partisan basis if article 243 is amended” (Anyenini, 2019).

“Most Ghanaians want their MMDCEs to be elected by themselves rather than by the partisan..... as stipulated in article 243(1) of the 1992 Constitution. We can achieve this objective by amending article 243(1) which is NOT entrenched..... without any costly referendum”

“Take away the President’s power to appoint MMDCEs. Let people contest in their individual capacities irrespective of their known or unknown political party affiliations, and let the people decide who they want as their MMDCEs”

If the system is not broken why fix it? We can choose who we want as MMDCEs without a referendum. Parliament should amend Article 243(1). Let’s push our MPs to do it... if our government wants the people to elect their MMDCEs” (Sulemana Braima, 24/11/19).

## *3. Do not contaminate LGs with corruption that is widespread at the national level*

Critics of the referendum and advocates of NO vote argue that multi-party elections would lead to widespread or decentralisation of corruption. At the moment more than 95% of the national revenue is managed by the central government. That is where corruption is. The 2018 Auditor General’s report shows that only GHC

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<sup>7</sup> In 2017, afro-barometer study shows that 69% of Ghanaians wanted their MMDCEs elected.

26.3m (2%) of the total revenue of GHC1.3billion at the MMDAs was unaccounted for (or embezzled) compared to GHC5.2billion unaccounted for at the central government level. They show that the bulk of the infractions are central where competitive party politics is the main cause of corruption. By amending article 55(3) to make it partisan, corruption is likely to be decentralized and that is not good for the country.

“Political party MMDCEs ... will spend money they don't have on MMDCE primaries, and buy votes to win only to overprice contracts and steal to recoup and pay their debts. The party businessmen who sponsor their campaigns will get the contracts and do shoddy work” (Anyinini, 2019:1)

#### *4. YES votes will spread vigilantism and political violence at the local level*

Advocates for No vote argued that competitive multi-party politics has resulted in increasing cases of vigilantism and political violence in the country. While the Vigilantism and Related Offences Act, 2019, bans act of vigilantism in Ghana including political party vigilantism, enforcement of laws that are related to party politics in Ghana was weak. Hence, it's better to prevent it, and one way of doing that is to avoid competitive party politics at the local level. By making LG politics partisan as the referendum seeks to achieve, advocates of NO vote argue that it would spread vigilantism to 260 districts in the country.

“If Parliament does the amendment, it reinforces the letter and spirit of the 1992 constitution to protect the governance at the districts' level from partisan polarisation, winner-takes-all, vigilantism, cronyism, corruption and lawlessness as we've all witnessed for the past 27 years in the 4th Republic” (Jacob Osei Yaw, 2012 and 2016 Independent Presidential Candidate).

#### *5. Potential pitfalls in amending 55(3)*

Advocates for NO vote argues that there were potential pitfalls in amending 55(3) without first amending those laws that will be consequential. For instance, the need to repeal Article 242(d) of the Constitution that requires the President to appoint 30% of the membership of the District Assemblies. That requirement was necessary when the District Assembly system was non-partisan. However, there is no indication that such laws will be amended if the referendum succeeds. This will give undue advantage to the President to appoint 30% of the membership, which will only go to swell up the overall number of his party members in the District Assembly. In addition, once the district level elections become partisan, political parties may be compelled to hold party primaries in order to select candidates for the District Assembly and Unit Committee. This is likely to increase the cost of party organization and given the nature of monetization of party primaries at the



national level, that will be extremely expensive for the country. However, the current apolitical LG election is less expensive as campaign is organized by the state.

### **5.1.5 Public Opinion Prior to the Referendum**

In the run-up to the referendum, anecdotal evidence from media discussions and various forums including the ones organized by IDEG and STAR Ghana; and a study by CDD suggested that majority of Ghanaians wanted their MMDCs elected but they were split on political parties' participation. In addition, the Constitution requires that at least 40% of the registered voters participated in the referendum out of which 75% must vote YES before that article can be amended. Given that voter turnout at LG election has averaged 39% over the last 7 elections, the requirements of the referendum to amend the entrenched clause could prove a difficult task. With this background, there was an urgent need to obtain information about the level of citizens' awareness of the referendum, their willingness to participate, how likely they intended to cast their vote in support or against the proposition of the referendum, and whether voters' preferences were likely to be shaped by age, education, and geographical location. Information on these could facilitate targeted campaign. Consequently, the ILGS conducted three opinion polls prior to the date of the referendum. The first opinion poll was conducted on 6-11 November 2019; the second on 22 to 25 November 2019; and the third, 26-28 November 2019.

The first opinion poll revealed that 66% of registered voters were aware of the referendum but only 54% could explain the essence of it. 43% of the respondents misconstrued the referendum to mean election of MMDCs. The youth group (18-30yrs) had the lowest awareness about the referendum by 8 per centage points below the national average of 66% while the middle-aged group 41-60 had the highest awareness. Also 67% of the voters responded that they would definitely turn out to vote in the referendum. In that case the referendum would likely pass the 40% threshold. Among the 67% of registered voters who said they would turn out to vote in the referendum, 75% indicated that they would vote "YES", 12% "NO" and 13% refused to disclose their voting preference. Given that the referendum required not less than 75% YES, there were a lot of hope for the YES campaigners with 4 weeks to the referendum.

The results of the first opinion poll showed that there was little difference between voters' preference for YES or NO votes in both NPP and NDC strongholds. Which meant that the referendum had not taken a political party angle and there appeared to be national consensus. However, a day after the study was completed, the NDC officially declared its preference for a NO vote. Two days after, the National House of Chiefs also issued a press statement calling for rejection of the proposed amendment. The extent to which these

pronouncements would influence voters' opinion and change their voting preferences necessitated a second opinion poll. Consequently, a follow up telephone interviews were made to all 6550 voters that the first opinion poll had covered to find out if the pronouncements had influenced their opinions. However, only 38% of the interviewees responded to the telephone interview.

Analyses of the follow-up telephone interviews showed that voter participation had increased by 6 percentage points as more voters became enthusiastic about the referendum. Voters that earlier had said they would not participate in the referendum (12%) had dropped by 2 percentage points to 10% whilst those that were undecided about their participation had dropped by 4 percentage points from 12% to 8% (see table 3).

*Table 3: Voters' interest in participation before and after the new conferences*

<b>Would you vote in the upcoming referendum?</b>	<b>Pre-News<sup>8</sup> Conference</b>	<b>Post News Conference</b>
YES	77%	82%
NO	12%	10%
Undecided	12%	8%
	100%	100%

Source: ILGS, 2019

The political parties' News Conferences, the statements by the NHC and subsequent discussions in the media as well as public education influenced voters' initial preferences for YES or NO vote. While 78% of the same voter would have voted YES had the referendum took place before the political parties and the NHC made their preferences known, after their news conferences those same voters had changed their preferences, and only 48% would vote YES. Many of the sampled voters shifted their preferences from YES to UNDECIDED. This outcome was similar to the findings of the third opinion polls that were conducted from 25-28 November, 2019 (ILGS, 2019c)<sup>9</sup>

<sup>8</sup> In the second opinion poll we cross tabulated the current preferences of the voter or the respondent (after the news conference) against their earlier preferences (before the new conference). And given that not all the respondents answered the calls, the original figures are not the same when cross-tabulated. IT however provides a better reflection of the change in opinion of the same respondents.

<sup>9</sup> ILGS (2019c). Ghana Speaks on the Upcoming Referendum: Third Report on Voters Opinion to Amend Article 55(3) of the 1992 Constitution

Undecided voters went up from 9% to 29%. In other words, 1 out of 3 registered voters were undecided in their votes to amend Article 55(3) of the Constitutions. While NO votes benefitted from the reduction in YES votes, the shift in voters' preferences was overwhelmingly UNDECIDED (see Figure 3).

Figure 3: Changing pattern of voters' preference before and after political parties' news conferences

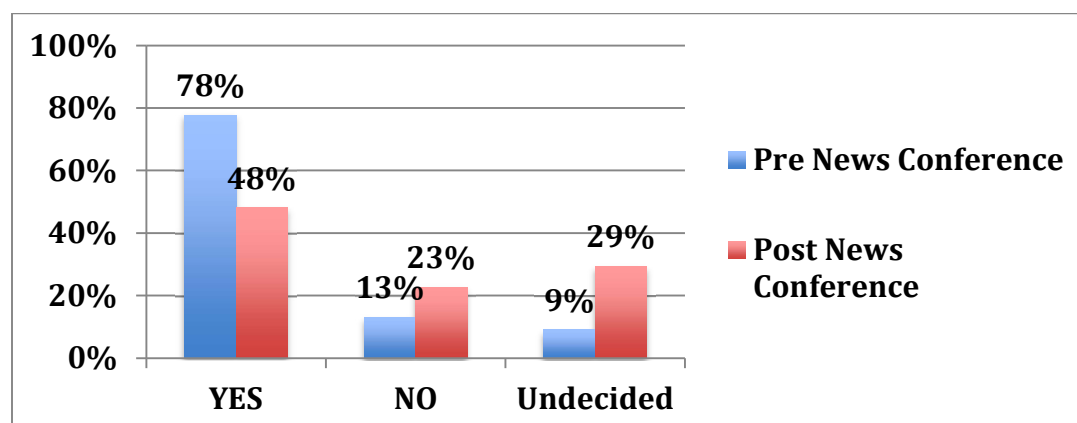


Figure 3: Changing pattern of voters' preference before and after political parties' news conferences  
Source: ILGS, 2019c

Voters' preference for YES also dropped in all regions. The most significant drop was Volta Region (53 percentage points), Upper West (47 percentage points), Western Regions (43 percentage points) and Greater Accra (43 percentage points). The least changed region was Ashanti Region (18 percentage points) and Ahafo (15 percentage points). See table 4 below.

Table 4: Voters preference for YES or NO votes by Region

	Pre-News Conference			Post News Conference		
	Yes	No	Undecided	Yes	No	Undecided
AHAFO	85%	8%	8%	70%	14%	16%
ASHANTI	81%	9%	9%	63%	16%	21%
BONO	74%	20%	6%	39%	24%	37%
BONO EAST	92%	6%	2%	68%	14%	18%
CENTRAL	78%	14%	8%	40%	13%	46%
EASTERN	78%	13%	8%	54%	18%	28%

GT. ACCRA	87%	9%	4%	43%	16%	40%
NORTH EAST	64%	23%	14%	39%	33%	28%
NORTHERN	56%	20%	24%	32%	33%	35%
SAVANNAH	65%	19%	16%	43%	38%	19%
UPPER EAST	72%	14%	14%	51%	24%	25%
UPPER WEST	79%	14%	7%	32%	47%	21%
VOLTA	87%	11%	2%	34%	33%	33%
WESTERN	83%	11%	6%	40%	28%	32%
WESTERN NORTH	75%	10%	15%	42%	21%	38%
NATIONAL	78%	13%	9%	48%	23%	29%

The regions with highest percentage of undecided voters were Central (46%) and Greater Accra (40%). See Figure 3.

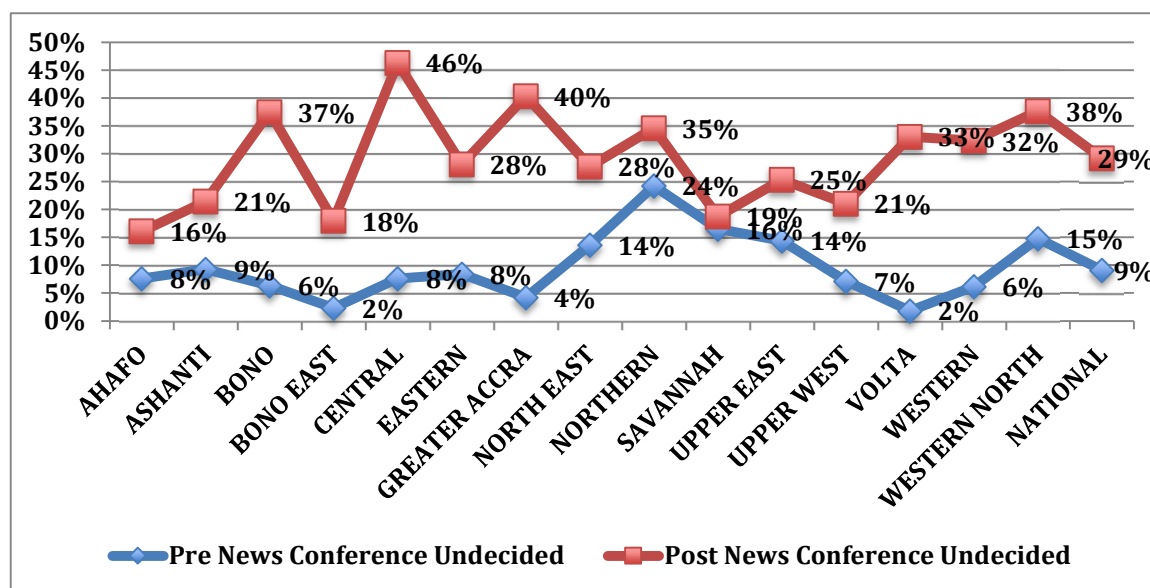


Figure 4: The pattern of Undecided Voters by regions

In areas that were considered NDC strongholds, 76% of the voters that earlier preferred to vote YES declined to 44% while in NPP strongholds, YES preference reduced from 80% to 52%. In both NDC and NPP

strongholds, UNDECIDED voters went up substantially. In NDC strongholds, UNDECIDED voters increased from 10% to 28% (18 percentage points) while in NPP areas it increased by 22 percentage points (see Table 4).

*Table 5: Changing voters' preferences for YES or NO Votes by political party strong holds*

	Pre News Conference			Post News Conference		
	Yes	No	Undecided	Yes	No	Undecided
NDC	76%	14%	10%	44%	28%	28%
NPP	80%	12%	8%	52%	18%	30%
NPP/NDC	75%	13%	13%	45%	19%	36%
NATIONAL	78%	13%	9%	48%	23%	29%

Clearly the news conferences by NDC and NPP to state their preferences for NO and YES votes respectively on the referendum, together with the statements by the National House of Chiefs and heightened media discussions significantly influenced voters' preferences on the referendum. In terms of participation, it saw a 6-percentage point's increase in voters' enthusiasm to participate in the referendum. People who did not intend to vote in the referendum or had not made up their minds to participate changed. Given the threshold of at least 40% participation, the increased in voters' enthusiasm was encouraging. However, the 75% threshold were highly unlikely to be achieved, as many people who earlier preferred to vote YES had changed their perspective to UNDECIDED. The implication was that many people needed time to understand the consequences of voting YES or NO. As voters got to hear the debate and the consequences of YES or NO votes, they had paused, wanting to know more before making up their minds. In a context where 1 out of 3 voters were undecided about YES or No, it was better that voters were given time to hear the argument for and against the propositions of the referendum before going to the poll to cast their vote.

The challenge to campaigners was how to explain the essence of the referendum without linking it to the election of MMDCEs because to the voter, the two were inter-related. The question of why the Constitutional amendment to article 55(3) was being proposed could not be answered succinctly without reference to election of MMDCEs and Assemblymen and women on political party system. It was therefore not surprising that 43% and 49% respondents of the 2 polls conducted misconstrued the referendum to mean election of

MMDCEs, Assembly and Unit Committee Members. Figures 4, 5, 6 show the results of the opinions of voters on three key aspects of the referendum.

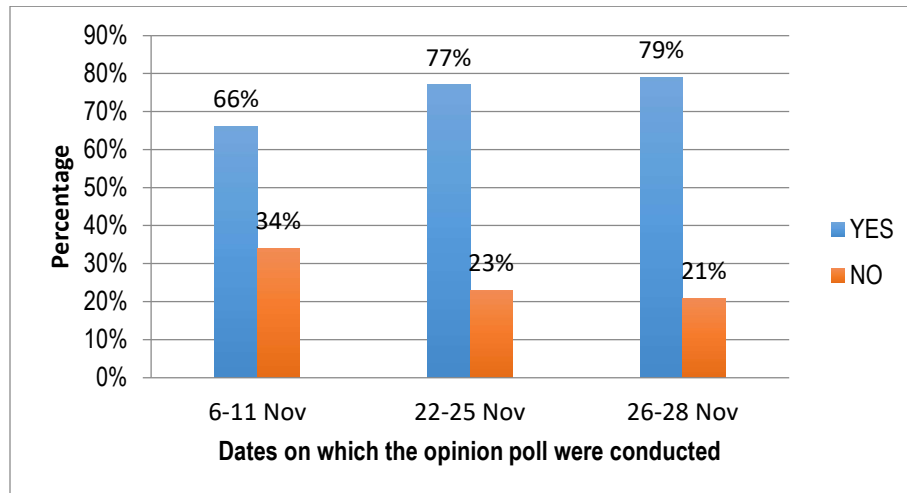


Figure 5: Are you aware of the upcoming referendum?

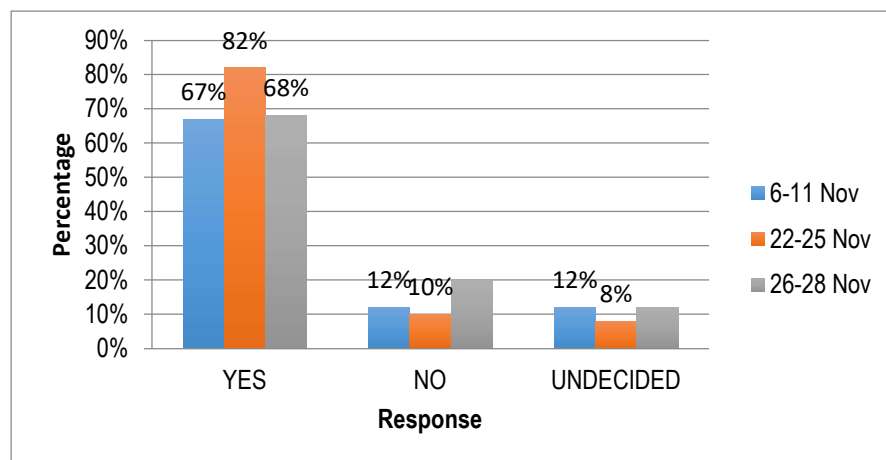


Figure 6: Will you vote in the upcoming referendum?

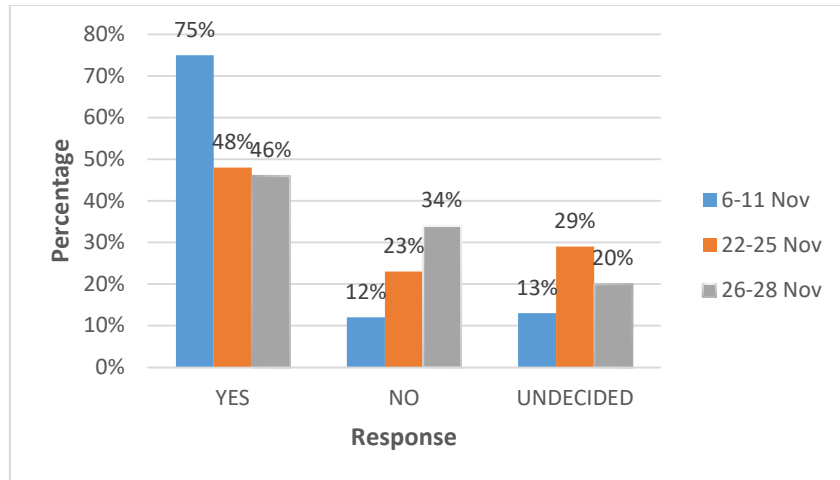


Figure 7: Will you vote YES or NO?

## 5.2 The Question of the Referendum

The question of the referendum was “Are you in favour of the bill to amend clause 3 of article 55(3) of the 1992 Constitution to allow political parties to sponsor candidates for election to District Assemblies or lower government units? See below



There was no ambiguity in the referendum question. It was simple, direct and concise.

### **5.3 Cancellation of the Referendum and Analyses of the Contributing Factors**

On December 1, 2019 two weeks before the date set for the polls, the President called off the referendum and recommended further stakeholder consultations.

“Fellow Ghanaians, it is with deep regret that I have given instructions to the Minister for Local Government and Rural Development, who has spearheaded this process, on behalf of government, with commendable vigour and dynamism, to abort the process, and see to the withdrawal of the bills for the amendment of the Constitution, both in respect of Article 243(1) and Article 55(3)” (President Nana Addo Dankwah Akufo-Addo, 1/12/2019).

The cancellation attracted mixed reactions from the public with many expressing fears of difficulty in building political consensus to amend entrenched clauses (STAR Ghana, 2020)<sup>10</sup>. Many factors contributed to the cancellation of this particular referendum.

The Constitutional (Amendment) Bill, 2018 that sought to modify Article 243 (1) to provide for the election of District Chief Executives by Universal Adult Suffrage was laid before Parliament and went through its First Reading on 20<sup>th</sup> February, 2019 (The Parliament of the Republic of Ghana, 2019a). On the 28<sup>th</sup> May, 2019, the Hon Deputy Attorney-General and Deputy Minister for Justice read for the first time the amendment of Article 55(3) to allow political parties to sponsor candidates for elections to any public office (The Parliament of the Republic of Ghana, 2019b).

From the initial discussions in Parliament, there appeared to be a general support from both sides of the House of the President’s call until the NDC declared its opposition to the amendment of Article 55(3) on November 12, 2019. Since then discussions in Parliament and among the MPs with regards to amendment of article 55(3) and other related laws became acrimonious. The division in Parliament also sent wrong signals to the followers of the two dominant parties that there was no consensus about the referendum. From that point onwards, discussions on radio, television and social media among the MPs were expressed in competitive divergence. Such was the disagreement among the MPs that it was not difficult to sense that the referendum was heading towards a total failure.

*Suspicion about the hidden intentions of the NPP and NDC Members of Parliament*

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<sup>10</sup> STAR Ghana (2020) Concept Note: Lessons from the aborted referendum.



The events leading to the referendum raised questions about the commitment of Members of Parliament to amending other consequential laws in the event that the referendum was not successful. Each political party played strategic 'wait and see' approach about the next move of their political opponents. For instance, while both the NDC and NPP were interested in amending Article 243(1) which would strip the President's power to appoint DCEs so that immediately after the referendum, irrespective of its outcome, the President would have no legal backing to continuously appoint DCE, and would have no choice than to call for election of DCEs with or without political party system. Amending article 243(1) required two-thirds (2/3) majority votes in Parliament but both parties never cooperated to get the required number to repeal that clause. The ruling NPP knew that in the event that Article 243(1) was repealed before the referendum, a NO vote would imply that the President's power would have ended in appointing and having lost their preference in the referendum would have been a double agony. The NDC on the other hand wanted amendments to article 243(1) in addition to article 242(d), which give the President power to appoint 30% of the members of District Assemblies. The NDC's game plan was to ensure that the consequential laws were amended before the referendum so that when the referendum fails, the power of the President to appoint would have been stripped off already. The strategic moves by the two parties led to the collapse of a key component of the whole reform, that is; amendment of article 243(1). To the ordinary citizens, if Parliament could not agree on an amendment of an article that did not require a referendum, it meant there was no national agenda for the referendum.

#### *Elite Consensus Was Not Enough*

There are many stakeholders in Ghana's political settlements. Some of the stakeholders though may not have strong interests or stakes at local government issues; their presence in negotiation is critical in any attempt to build a broad coalition for change. The National House of Chiefs (NHC), political parties in and outside Parliament, Catholic Bishops Conference Ghana, media houses, trade unions, students' unions, women groups, etc.

The President thought there was general consensus on the need to repeal article 55(3) of the Constitution after he had met the three former Presidents of the Republic:

"On Tuesday 18th April 2017, a little over 4 months into my mandate I held a meeting with my three predecessors; their Excellencies Jerry John Rawlings, John Agyekum Kufuor and John Dramani Mahama to seek their views and counsel on these issues.

"I came away from that meeting with a view that there was a consensus amongst us that the time

has come for political parties to participate openly in district assembly elections and local governance. Indeed, amongst the leadership of Parliament and amongst Members of Parliament on both sides, and amongst, virtually, all stakeholders who had been consulted either by him, or by the Minister for Local Government and Rural Development, the clear indications were that there was a broad national consensus for the repeal of article 55(3). It is on this basis that I proceeded in subsequently instructing the Minister for Local Government and Rural Development to initiate a parliamentary process for the repeal of Article 55(3) of the Constitution,"

Subsequently, on 2<sup>nd</sup> December, 2019, the Attorney-General and Minister for Justice, Hon Gloria Akuffo, withdrew the Constitution (Amendment) Bill, 2018 from Parliament (The Parliament, 2019). The current President seems to have overestimated the influence of the three former Presidents on their political parties and on the populace. The consensus of the three was not a reflection of the populace. There were many stakeholders whose consultation and inclusion in forging a broad consensus was needed but somehow their acquiesce was underestimated. While the MLGRD conducted a series of sensitization and consultations with key stakeholders such as the Parliamentary Select Committee on Local Government, National Commission for Civic Education (NCCE), Ghana Journalists Association (GJA), the Electoral Commission (EC), National House of Chiefs, Political Parties, Christian Council, Federation of Muslim Councils in Ghana and Professional and Civil Society groups, what was not clear was the extent to which the MLGRD got the acquiesce of these groups to go along with and the conditions set by some of the groups before the MLGRD could obtain their support; and whether there was any follow-up at all. For instance, during the latter part of the campaign and a few weeks to the referendum, the political parties and National House of Chiefs were reported to have given conditions for their support to the referendum.

While many varied stakeholders did not openly express their support for or against the referendum at the beginning, either because they were not keen in its outcome or did not analyse the implications of it, after the political parties started to diverge on their preferences, many stakeholders started to express misgivings about the referendum. Indeed, the 'behind the scene' prodding for consensus among varied interest groups was weak. The political elites thought it was a foregone conclusion that majority of the people would vote 'Yes' for the proposed reforms.

Many civil society and other non-state actors did not have the opportunity for their views to be heard. This point was echoed at two forums organized by Institute of Democratic Governance (IDEG) and Northern Sector Action on Awareness Centre (NORSAAC) to reflect on the aborted referendum. Indeed, many social

groupings were not offered the opportunity to share their understanding and views on the proposed referendum. Opposition to the proposed constitutional reforms grew with the National House of Chiefs openly campaigning for a 'No' vote. This led to a situation that people who expressed divergent views on issues were tagged, 'anti-democratic' or 'against'. Such comments strengthen the entrenched positions.

#### *Growing animosity for multi-party democracy among the middle class and new elites*

There appears to be growing dislike for multi-party democracy as it is practiced at the national level among Ghanaian middle class and new elites. Many of these new elites are university graduates in the private sector, news media and civil society organisations. The new elites show their disdain or indignation in what they see as politicians using their positions to amass wealth. To many of them, politicians don't care about fixing problems more than their personal wealth. During the referendum campaign, they expressed their indignations openly in newspapers and on radio, and that resonated with many Ghanaians and contributed to opposition to the referendum. Not only did such animosity affect the referendum but also served as a wakeup call to national politicians and the government about how the middle class feel about politics in the country.

#### *Public Education*

Public education was woefully inadequate to whip up enthusiasm for the referendum. Generally, understanding and knowledge of the referendum came too late in the entire process. The National Commission for Civic Education (NCCE) was late in coming to educate the people. The GJA made some efforts to educate citizens through the media though. Intensive education was visible only when the date for the referendum was getting close. As shown in the study by Institute of Local Government Studies (ILGS) (2019), four weeks before the referendum about 43% of the voters did not understand the essence of the referendum and the benefits to be accrued if they voted YES. There were inadequate leaflets available to the public to read and disseminate information. It suffices to say that, the initiators of the referendum thought it was going to be a roller-coaster just as it happened in the referendum that created the new regions. While multi-party democracy may have benefits, the ordinary persons could not associate the benefits of the referendum to their daily lives or their wellbeing.

#### *Ownership of the referendum: NPP political project or National Project?*

The referendum was seen as the project of the ruling NPP and not national or by the people. This was evident in the positions of the National House of Chiefs and some Civil Society Organisations (CSOs). As stated

earlier, popular ownership of a referendum is a contributory factor for the success of a referendum. In the 2019 Referendum that created the 6 regions, there was a clear grassroots ownership of the process. However, the proposed amendment of article 55(3) was perceived to be championed by the political elite without the involvement of the people (Gyampo, 2018). When the two political parties openly diverged in their preferences, the referendum ceased to be a national project and became the ruling NPP government fulfilling a campaign promise and to score political victory while the opposition NDC anticipating the chance to test its popularity with the people or do anything possible to derail the political victory of the NPP. So, what were thought to be a national project quickly became partisan discussions, position and interest to defend.

#### *Late campaign*

Though voter awareness of the referendum was 66% four weeks to the polling day, the campaign itself started late. The campaign needed to focus on explaining the essence of the referendum. The challenge to campaigners was how to explain the essence of the referendum without linking it to the election of MMDCs because to the voter, the two were inter-related. The question of why the Constitutional amendment to article 55(3) was being proposed could not be answered succinctly without reference to election of MMDCs and Assemblymen and women on political party system. It was therefore not surprising that 43% of the voters 4weeks to the referendum day misconstrued the referendum to mean election of MMDCs. After NDC opposed the referendum and declared its intention to vote NO, public education of the essence of the referendum and the importance of YES or NO vote was vigorously made. But that came too late.

#### *'Betrayal' of bi-partisan support or Partisan Strategic Interest?*

One of the critical factors that caused the cancellation of the referendum was lack of bi-partisan support. The ruling NPP and the main opposition party, the NDC agreed and later disagreed on the amendment of Article 55(3). While on the floor of Parliament both NDC and NPP representatives agreed to amendments of article 243(1) on the appointment of MMDCs and consequential laws (article 243(3), 246(8), etc. there was disagreement with regards to article 55(3). The NPP campaigned for 'Yes' while the NDC campaigned for 'No'. The NDC's campaign of 'No' vote was a serious blot to the success of the referendum. The President was of the impression that, there was a 'broad national consensus'.

"I also think that, on matters of such constitutional significance, there should be a broad, national consensus behind the repeal of an entrenched provision of the Constitution" (President Nana Addo Dankwah Akufo Addo, 1/1/2019).

Since the two major political parties did not agree on the constitutional amendment, it was very difficult to mobilise majority of the population to vote 'Yes'.



Comparing this aborted referendum to the earlier referendum on creation of 6 new districts, the major political parties realized that there was overwhelming demand from the citizens in those areas for which new regions were to be created to the extent that any opposition would cause disaffection for the opposing party and spell doom hence it was easier to agree than to oppose. Because of the bipartisanship support, political mobilization was easier and the message for the referendum was not distorted.

With regards to the referendum to amend article 55(3), the NDC felt it would lose significantly if it succeeds. In Ghana, major decentralization reforms had been associated with the (P)NDC. NPP has not been associated with decentralization and local governance reforms. The introduction of the referendum and consequent elections of DCEs would have been a major path departure and would have eclipsed the achievement of NDC in decentralisation. The opposition NDC and its supporters saw this as a major claim by the NPP on their legacy and turf. The NDC and the major architect of Ghana's current decentralization programme and the longest serving Minister of Local Government, Professor Kwamena Ahwoi had earlier endorsed the recommendation of the CRC that Parliament should amend Article 248 to make local governments system partisan. According to Professor Ahwoi, this would inevitably result in the election of district chief executives (DCEs) on a partisan basis. Writing in his latest book *'Decentralisation reforms in Ghana'* Professor Ahwoi commended the NPP government (the Seventh Republic) for pursuing the path of making LG politics partisan. He wrote:

“The CRC recommended that the Constitution should be amended so that, at a time in the future, Parliament may pass legislation to make the local government system partisan. The Seventh Government of the Fourth Republic has sent out very strong signals that perhaps the appropriate time is now....” (Ahwoi & Mahama, 2018: 162)

“If these initiatives would be pursued by the Seventh Government of the Fourth Republic, then the future of decentralization reforms in Ghana would be bright indeed as far as political decentralization is concerned” (Ahwoi & Mahama, 2018: 161).

Professor Ahwoi had earlier, in a radio programme, strongly opposed the proposed amendment. His book was launched five days after the referendum had been aborted. So, opposition to the referendum was a pure party politics more than the conviction that it won't help to strengthen local governance.

*Lukewarm support within the rank and file of the ruling party*

Within the ruling NPP, there were many political appointees that did not like the President's decision to make the position of the MMDCE's electable. Many DCEs knew that if the referendum passes, their positions as government appointees would be jeopardized either because the party structures would make it impossible for them to win party's nomination or because they were not competitive enough to win an open election. For instance, almost all the MMDCEs in the NDC strongholds felt they would lose their positions. So even as the President warned them of the consequences of not supporting the referendum, many of them were not enthusiastic about it. In addition, some of the Regional Ministers were not in support of it because the outcome would have had rippling effect on their positions. Once DCEs are elected based on other consequential reforms (article 243), the position and roles of the Regional Ministers would come under threat. Article 202(a) of the LG Act 936 states that the Regional Minister is responsible for supervising the work of the DCEs in the region. But when the people directly elect DCEs, an unelected Regional Minister cannot supervise the work of an elected MMDCE. The influence that Regional Ministers have over the MMDCEs would reduce substantially, so behind the scene, some Regional Ministers did not support the referendum. At the sub-national level, the Regional Ministers and MMDCEs command substantial influence because of the culture of patron-client relationship in the body politics of the country.

### *Misunderstanding and Disinformation*

One of the critical factors that led to the cancellation of the proposed Referendum was the level of disinformation of the entire process. There was misinformation that a YES vote would immediately translate into election of DCEs. The NO votes campaigners pursued a negative campaign that, a Yes vote will ensure that, only politicians associated with political parties would contest local government election. This caused disaffection for some local politicians who were contesting the local election and thought of starting a career in politics without openly attached to any political party. These political novices felt apprehensive that the participation of the political parties would take the possibility of contesting at the local level away from them since 'big men' at the party offices would be making choices about who could contest and who could not. By linking the processes of political party primaries and vote buying to the consequences of voting YES, the NO campaign succeeded in putting fear in local politicians.

The simultaneous pursuit of political process (campaign for the referendum) and the legal process and amendment of consequential laws caused a lot of confusion. There was lack of knowledge and understanding of the relationship that exist between the political process and the legal amendments that was on-going in Parliament. Information provided to the public was little and polarized largely on political party lines. In the debate of the constitutional reforms, there was the issue of amendments and consequential amendments being introduced by sections of the public. Citizens were not clear of exactly what they were voting for. Some argue that, citizens were going to vote for the amendment of Article 55(3) whereas others thought it was only for Article 243(1). The misinformation was aggravated with the view that, a 'Yes' vote will immediately ensure direct election of Metropolitan, Municipal and District Chief Executives (MMDCEs).

Surprisingly, the official portal of the Ministry of Local Government and Rural Development (MLGRD) on May 29, 2019 carried the headline "*Referendum on MMDCE Elections on Partisan Basis slated for Dec*"<sup>11</sup>. Similarly, Graphic Online<sup>12</sup> on August 16, 2019 had a headline: "Election of MMDCEs: EC sets referendum for Dec 17" with an opening statement as "*The Electoral Commission (EC) has now settled on December 17 this year for the referendum on the election of metropolitan, municipal and district chief executives (MMDCEs)*". Such headlines added to the confusion and disinformation.

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<sup>11</sup> <http://www.mlgrd.gov.gh/posts/news/117-referendum-on-mmdce-elections-on-partisan-basis-s/?plugin=264>

<sup>12</sup> <https://www.graphic.com.gh/news/politics/election-of-mmdces-ec-sets-referendum-for-dec-17.html>



People did not exactly know the implications of either voting YES or NO to the proposed constitutional reforms. The many unaddressed issues surrounding the reforms contributed towards the failure of the referendum. The NCCE though clarified any misinformation; it rather came too late and did not disabuse the minds of the public on some of the misinformation. In a Press Release, the NCCE indicated that:

“The NCCE has noted with concern misinformation in the media that the 17th December, 2019 referendum is to elect Metropolitan, Municipal and District Chief Executives (MMDCEs). The Commission wishes to clarify that the 2019 National Referendum is to enable citizens to vote on the proposed amendment of Article 55 (3) of the 1992 Constitution that currently bars political parties from participating in District Level Elections (DLEs). The proposed amendment is to introduce multi-party participation in the Local Government System in Ghana” (NCCE, 8<sup>th</sup> November, 2019).

“The misconception that the referendum was to change the Constitution to ‘elect local authorities’ instead of a change of Article 55(3) to make legal the participation of political parties in local governance elections was the wrong message that went out” (Kwesi Jonah, IDEG quoted by Graphic Online reporter, 15/2/20)

#### *Untimely period to organize the referendum*

The referendum was proposed to take place almost a year after the country had estimated to spend GH¢932 million on a similar referendum to create new regions in the country (GoG Budget 2018). Many critics of the referendum saw it as a waste of national resources. In addition, given that it was coming a year to the general election, any loss, if it would have rippling effect on the ruling political party (NPP) in the general election while a victory would be a momentum building. This led to both the ruling NPP government and the major opposition party –NDC to see the referendum beyond one off event but as a precursor to the party’s fortune in the 2020 general election. This heightened the negative campaign and misinformation to the public and public opinion began to change and pivoting away from what was initially considered a consensus. This gave the President a convenient argument to call off the referendum.

“The attainment of a broad consensus, for me, on a matter as important as the amendment of an entrenched provision of the Constitution, is critical. I do not believe that such an amendment should be driven as a party matter. There has to be a clear national consensus and agreement amongst the populace that a particular entrenched provision no longer serves the interest of the people, and, thus, has to be removed.”



“Just as there was a national consensus on the demand for the re-organisation of our regional structure, which enabled the creation of six (6) new regions... there was every reason for me to believe that there was a consensus on this matter too. It is on this basis that I proceeded... to initiate the parliamentary process for the repeal of Article 55(3) of the Constitution.

## **6.0 CONCLUSIONS, REFLECTIONS AND POLICY AND PRACTICE IMPLICATIONS**

A referendum provides an opportunity for citizens to directly review an entrenched provision in a Constitution instead of assigning that responsibility to their representatives. The Constitution of Ghana has 41 entrenched clauses, which means that reviews of these would require the conduct of referenda. Based on the review of available literature and the forgone discussions, the reader had noticed that many factors contributed to the aborted referendum to amend article 55(3) of the 1992 Constitution to make it possible for political parties to participate in LG elections. In this final section of the paper, we reflect on our findings to draw conclusions and provide some policy and practice implications for the future.

### **6.1 Conclusion**

Ghana's decentralization policy and practice have not transitioned to the level that the framers of the Constitution and the people of Ghana wanted. The constitution itself and subsequent legislations have been major obstacles and contributing factors to a weak local democratic governance and development in Ghana. There have been many decentralisation policies since 1992 but none has made serious inroads towards achieving the tenets of democratic decentralization or devolution. The centre has spearheaded central-local reforms in terms that favour the centre's continuous hold on to power and resources at the expense of LGs. There is little push from LGs and local institutions for better central-local government relations. As a result, any change that is likely to happen in that relationship would come from a willing national political leader that wants to create a new path for local government actors and institutions. By initiating a parliamentary process to amend constitutional provisions and a referendum to amend an entrenched clause to allow political parties to participate in LG elections, President Akufo Addo moved the commitment to promoting devolution in Ghana to a higher level than any previous President, but his efforts was not enough to bring into fruition what many believers of local democratic governance expected.

The major factor that led to the collapse of the proposed referendum was lack of political consensus between the two major political parties or the inability of the ruling government to sustain any tacit consensus that they had had with the major opposition political party -NDC. From the three opinion polls conducted a few weeks

before the due date of the referendum, NO votes stood no chance of winning but there was no way the referendum would have received the 75% YES votes needed after the NDC campaigned against its objectives. The implications of losing the referendum by default of not receiving the required 75% votes one month before entering into an election year would have been terrible for the ruling government. Hence the strategic decision by the President to call it off. Other contributing factors that caused the collapse of the referendum though not the primary cause were misinformation and inadequate public education, lack of local ownership and leadership, poor timing, inadequate stakeholder engagements, the fear of introducing to LGs the politics of divisiveness, hatred and violence as practiced at the national level, and parochial party interest.

The paper concludes from the analysis that the failure to prosecute the proposed referendum and other consequential legal reforms for partisan local elections is a systemic problem in the larger context of an unchanging central-local power relationship that has now found a supporting base in a competitive and polarized multi-party system of democracy. Polarization of politics is the greatest threat to any attempt to reform article 55(3) or any major reforms in Ghana. No doubt many Ghanaians including leading politicians feel that it is the greatest threat to the country quest for transformation, including reforming the nature of centre-local relations that undermine local democracy and development.

The relationship between the Centre and Local governments has become more of a master-servant relationship instead of a political developmental partnership. Many Ghanaians believe that, it is long overdue for citizens to directly elect their Mayors or District Chief Executive to increase the level of downward accountability and democratic governance. It is of that view that competition of ideas, freedom of association and participation in shaping the democratic will of the people should not be assigned to only national level politics but across the sub-national level as well. The cancellation of the referendum was a lost opportunity to fix many of the broken local governance and development challenges in the country. It is therefore important that, as soon as practicable the discussion on the involvement of political parties in the local government administration is reintroduced.

## **6.2 Reflections**

### **6.2.1 Electing MMDCEs without involvement of political parties?**

In a multi-party democracy, the only means by which citizens and their organizations mobilise for political leadership and change is through the party system. Ghana's multi-party democracy is irreversible despite its monetization and divisiveness. As indicated earlier, the way multi-party politics is organized is the greatest

threat to the country's development but to think that MMDCs can be elected on non-partisan support is an illusion. Non-partisan LG elections where people contested on their own merit without political parties' support in the context of multi-party national election is rare in the world. Reference is made to the United States of America where heads and boards of education districts are non-partisan but these are not general-purpose LGs. They are special-purpose LGs to provide education services that may cut across counties. However, the heads (Mayors) of general-purpose LGs like counties, towns and municipalities are elected on political party lines. Uganda abandoned the movement system where voters lined up behind their favourite local councillors in 2005 when it entered into multi-party democracy.

At the time that apolitical LG election was conceived in Ghana, party politics was banned so there was no way the military regime could have made LG elections partisan. During the transition to democracy, the whole of the PNDC law 207 was exported hook, line and sinker into the Constitution. Voters accepted the constitution as a whole but not everything in it was pleasant and consistent with the trajectory of liberal democracy. The monetization of multi-party politics, rancour and divisiveness are threats to many aspects of Ghana's transformation, and Ghanaians loathe seeing them formally exported to the local level. But instead of fixing the excesses in multi-party system of election especially party financing and have the courage to punish politicians for failing to adhere to the rules, an illusion is being created that apolitical or non-party system of electing MMDCs is possible and can co-exist alongside a competitive political party system at the national level. If DCs are elected on non-political party lines, they would be set up to fail. The reason being that they would not have any support in Parliament to make subsequent laws that are needed to fix a broken LG system. For example, fiscal decentralization laws are needed to improve the financial resources of LGs. Without fiscal support from the centre, independent Mayors would struggle to be relevant to the electorates.

### **6.2.2 A likely scenario to play out for re-introduction of the referendum to amend article 55(3)**

Both the leaderships of NPP and NDC have asked for further discussions on the referendum. After the President withdrew the amendment bill and aborted the referendum, there were media reports that suggested that the National Chairman of the NDC, Mr. Samuel Ofose-Ampofo, had written a letter inviting President Akufo-Addo for dialogue on the future of the withdrawn referendum and other related matters. On December 16, 2019, the President welcomed the invitation by the NDC for a dialogue on the amendment to the provisions regarding the elections of District Chief Executives on political party lines and the aborted

referendum. The Daily Graphic Newspaper<sup>13</sup> quoted the President as saying “though he had not heard about the invitation, he promised to find out, and that “I am very open to that. We should have that kind of dialogue.” It was late to restore the aborted referendum because all processes had been withdrawn”. President Akufo-Addo noted that he would take the invitation to mean that the NDC was prepared to engage him on the future of the provisions, and expressed his excitement about the development.

In December 2020 Ghanaians are going to the polls to elect President and 275 Members of Parliament. If the current President is re-elected and the NPP is retained with majority in Parliament, this is likely to keep the NDC in opposition for another four years. The winner takes all principles in Ghana’s system of governance and resource control will likely constrain the NDC and bolster the NPP to consider making a second attempt to introduce the referendum. The shadow of the future in terms of access to resource and government would compel the NDC to soften its stance against the amendment of article 55(3), knowing that it may open a window of opportunity for them to share government and resources at the local level especially in some of its strongholds. However, if NDC wins the elections, it is unlikely that the NPP will support any reintroduction of the referendum by the NDC. NDC may not introduce the referendum but may consider amendment of article 243 to elect MMDCs but not on party lines. Given that such an amendment would require two-thirds majority in Parliament, this scenario is highly unlikely to succeed since the NPP will not support NDC to repeal that section of the constitution and it’s highly unlikely that a single party may obtain two-thirds majority in Parliament.

### **6.3 Policy and Practice Implications**

Any attempt to bring back the referendum project would have to consider the following policy and practice implications:

#### **6.3.1 Informed public debate and discussions on the centre-local government relations**

Public understanding and appreciation of the merit and demerit of amending article 55(3) and other consequential constitutional and legal reforms would be better served if there were general discussions on the centre-local government relations. Currently, Ghanaians do not have a lot of confidence in their local governments so the tendency to turn to the central government for solutions to local problems without knowing that much of what does not work at the local government system is a result of centralization of

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<sup>13</sup> President Akuffo Addo accepts NDC's call for a dialogue.  
<https://www.peacefmonline.com/pages/politics/politics/201912/397518.php>

power, accountability, and resources in Accra. The CRC acknowledged this and made a number of recommendations that need to be revisited. Promoting a broad-based citizens' understanding of LG challenges will enable them to appreciate the merit and demerit of the amendment of article 55(3) and other consequential laws. Support to LG practitioners' forums, platforms and policy engagements on local governance issues in the country is needed so the public can appreciate the importance of decentralization and LG system. The referendum to amend Article 55(3) and other consequential laws on local governance and local transformation is not just a constitutional, legal and political process, but also socio-economic and cultural reform that will change the developmental paradigm of local governance in Ghana. Hence the discussions must be broad based and go beyond a single project of political party participation. It must be seen as, one Ghana project that is linked to the processes of local governance and development.

### **6.3.2 Forging a political settlements or elite consensus on article 55(3)**

The success of any referendum is hinged on broad-based participation and consensus building. In this regard, elite consensus or a top-down approach where the two major political parties agree on what they want and how to proceed with the process towards amending article 55(3) will be needed. The two major political parties (NPP & NDC) command more than 90% of dedicated Ghanaian voters who listen to the views of their political leaders. Given the constitutional requirement to repeal article 55(3), that is; 75% YES votes of the total votes cast, any attempt to re-introduce the referendum without prior agreement with the two parties will fail.

### **6.3.3 A blue print of the new democratic local governance system**

In a competitive party context that is characterized by mistrust and strategic political decisions among the major political parties, the promise of consequential amendments after referendum is hard to sell to political opponents. Hence any efforts to bring back the referendum should consider developing a blue print or a prototype of how Ghana's new democratic local governance system would look like. Such a blue print will be an outcome of series of consultations with stakeholders for their inputs and buy-in. That will reduce any suspicion that future review of consequential laws would not happen after the referendum. A blue print drafted by the ruling government and used for consultation with key stakeholders –political parties, NHC, religious organisations, local governments bodies, organized groups, CSOs, etc. will be needed. The blue print will then become a national project to pursue and because it has the inputs of all stakeholders, its prosecution will face less resistance.

#### **6.3.4 Bubble up (bottom-up) approach**

While political settlement or top-down elite consensus would be needed for any attempt to reintroduce the referendum, a simultaneous pursuit of a bubble-up approach will be needed to complement the top-down. A bubble-up approach is civic actions by a coalition of local institutions and actors that advocate for reforms in line with areas that promote local governance, local transformation and local development. The bubble-up involves negotiating with the central government on varied fronts (fiscal, political, economic, administrative, leadership and accountability) on terms that favour LGs. This will be needed because while national politicians and bureaucrats find it expedient to appear to support decentralization, they do not wish to see powerful LGs to emerge to challenge their privileges to resources, power and influence in society. A recentralization is taking place in the midst of decentralization because LGs are systematically and structurally weak. The centre is gradually taking back what it had earlier decentralized. For example, the recentralization of the 2.5% of the DACF.

A bubble-up approach would require that discussions on the merit and demerit of the referendum and consequential reforms of state-local relations be taken to the grassroots. Had grassroots institutions and actors stood up in support of the proposed reforms, there was no way the political parties would have pivoted the referendum towards their interest. A bubble-up approach involving grassroots organisations, institutions and actors would partly own the reforms. One of the factors that enabled Latin American countries to successfully initiate democratic local governance system and a switch from appointment of Mayors to direct election was the demand by local politicians and grassroots organisations. Ghana Assembly members need to be empowered to demand a better negotiation for new forms of decentralization that favour LGs.

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## Appendices

### **Appendix 1: Roadmap Implementation Process for Electing MMDCEs (2017-2021)**

<b>Phases</b>	<b>Activities</b>
Pre- Referendum Activities Undertaken in 2017	<ul style="list-style-type: none"> <li>• Establishment of Election of MMDCEs Committee.</li> <li>• Review of Legislations and Preparation of Background Documents.</li> </ul>
Pre-Referendum Activities Undertaken in 2018	<ul style="list-style-type: none"> <li>• Conduct 10 Regional Consultations and Sensitization to raise awareness and prepare for the Referendum.</li> <li>• Undertake Media Engagements on the Election of MMDCEs.</li> <li>• Meeting with Special Groups in Accra on election of MMDCEs in Accra.</li> <li>• Conduct a Final National stakeholders meeting on election of MMDCEs in Accra.</li> <li>• Draft the Bill for the amendment Article 55 (3), an entrenched provision of the 1992 Constitution.</li> <li>• Consensus Building and Consultations. <ul style="list-style-type: none"> <li>▪ Engage stakeholders on issues, procedures, feedback and inputs</li> <li>▪ Create awareness to engender mass and political support for the process</li> </ul> </li> <li>• Campaign Period (January – September, 2019) - cross party consensus- high turnout, merits of election of MMDCEs, massive involvement of key stakeholders in the referendum period.</li> </ul>
Referendum Activities	<ul style="list-style-type: none"> <li>• Submission of National Consensus Report and Proposed Bill for Amending Article 55(3) of the Constitution on Election of MMDCEs to Cabinet.</li> <li>• Submission of Proposed Bill to Speaker of Parliament.</li> <li>• Submission of Bill by Speaker to Council of State for Advice in line with Article 290(2 &amp;3) of the Constitution.</li> <li>• Council of State submits advice on Bill within 30 days upon receipt from the Speaker.</li> <li>• Bill to be published in the Gazette for 6 months.</li> </ul>
Referendum Activities In 2019	<ul style="list-style-type: none"> <li>• Bill sent to Parliament for first reading; paving the way for the Referendum.</li> <li>• EC prepares for the Referendum.</li> <li>• Referendum conducted in September 2019 alongside the District level Elections.</li> </ul>

	<ul style="list-style-type: none"> <li>○ Article 290 (4) requires that; <ul style="list-style-type: none"> <li>▪ at least 40% of the persons entitled to vote, voted at the referendum and</li> <li>▪ at least 75% who voted, cast their votes in favour of the Bill.</li> </ul> </li> <li>• Where the Bill is approved, Parliament shall pass it.</li> <li>• The Bill so passed by Parliament shall be assented to by the President.</li> </ul>
Post Referendum Activities in 2020	<ul style="list-style-type: none"> <li>• Key consequential laws to be amended; <ul style="list-style-type: none"> <li>○ Articles 242 Composition of Assemblies,</li> <li>○ 243 Appointment of District Chief Executives</li> <li>○ 248 Political Parties and Candidates for election to Local Government Units</li> <li>○ Local Governance Act 2016, (Act 936)</li> <li>○ The District Assembly Elections Act 1994, Act 473</li> <li>○ The Political Parties Act 2000, Act 574</li> <li>○ District Elections Regulations 2015 C.I 89</li> </ul> </li> <li>• Other laws to be reviewed include; <ul style="list-style-type: none"> <li>○ Section 8 (1) of the Securities and Intelligence Act. 1999, (Act 526)</li> <li>○ Section 202 of the Public Financial Management Act 2016(Act 936) on the role of the MMDCE as a Principal Account Holder and a Political Head of the MMDA.</li> <li>○ Schedule 1c of the Public Procurement Act, 2003 (As amended by Act 914) on the role of the MMDCE as the Chairman of the Entity Tender Committee.</li> </ul> </li> <li>• Organise national sensitization, education and awareness on the new arrangement for electing MMDCEs on partisan basis.</li> </ul>
Activities in 2021	<ul style="list-style-type: none"> <li>• Election of MMDCEs between June and July 2021 in line with time framework provided under Article 246(1).</li> <li>• Swearing in of new MMDCEs August 2021.</li> </ul>

**Appendix 2: Expected Roles of State Actor**

<b>Actors</b>	<b>Expected Roles</b>
Ministry of Local Government and Rural Development	“Shepherding” the process.
Attorney General:	Drafting of Bills.
Electoral Commission:	Organising the referendum.
National Commission for Civic Education:	Support public education and sensitization on the referendum.

**Appendix 3: Expected Role of Non-State Actors**

<b>Actors</b>	<b>Expected Roles</b>
Political Parties	Sensitization and education of members towards building consensus for a buy in.
Media	To support in the orientation, sensitisation and education of citizens.
Civil Society Organizations	Providing advocacy for ‘Yes’ Vote at the referendum.
Traditional Authorities	promoting the cause of the ‘Yes’ Vote
Citizens	Voting at the referendum

