

The Legal and Institutional Frameworks Governing Sovereign Debt Contraction and Management in Ghana



AFRICAN FORUM AND NETWORK
ON DEBT AND DEVELOPEMNT





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1. Introduction

Most discussions about Africa's debt crisis begin in the 1980s, when structural adjustment programmes swept across the continent. However, the story is much older and far more complex. To understand the debt crisis in Ghana, we must begin not with fiscal statistics but with history.

Colonial rule did not just extract Africa's raw materials; it also stripped the continent of the ability to govern its economic affairs independently. During colonialism, financial institutions were deliberately established and structured to facilitate control over colonised territories and promote their economic dependence on the colonising power. This was achieved through various mechanisms, including controlling monetary policy, establishing debt systems, and favouring the flow of resources towards the coloniser's economy. At independence, African governments inherited states that were politically sovereign but economically fragmented and fiscally fragile. Thus, debt was not simply a development tool – rather, it was a substitute for political and economic sovereignty.

At independence, Ghana initially resisted borrowing, relying instead on cocoa export earnings to fund its industrial ambitions. However, when world prices collapsed in the early 1960s, the need for external finance was quickly identified. Since then, Ghana has entered a familiar cycle: debt accumulation, crisis, restructuring and further indebtedness. While Ghana's legal and regulatory framework aim to ensure transparency, sustainability and accountability, in practice, these frameworks are frequently undermined by institutional weaknesses, limited enforcement, and a political economy that favours short-term spending over long-term planning.

Although Ghana has adopted a wide array of legal instruments that set out clear roles for Parliament, the Ministry of Finance, and oversight bodies such as the Auditor-General and the Public Debt Management Office, these are insufficient. What matters is how these laws interact with the realities of political incentives, executive dominance, and weak public scrutiny. Moreover, loopholes—such as the ability to suspend fiscal rules in times of crisis—have often been exploited, with significant consequences for debt sustainability.

This study explores these dynamics through a legal lens. It does not dwell on the morality of debt or the geopolitics of lending. Rather, it interrogates the role that Ghana's legal and institutional architecture played in enabling, managing (or failing to manage) its public debt. Drawing on the African Borrowing Charter developed by AFRODAD, the analysis evaluates the effectiveness of Ghana's debt governance from a constitutional, statutory, and procedural perspective.

The study is structured in five parts. This first section serves as the introduction. Second, it presents a brief history of Ghana's sovereign debt, situating it in the post-colonial transition. Third, it examines the institutional framework for debt contraction, identifying who does what and with what checks. Fourth, it evaluates the legal rules themselves, including a close look at Article 181 of the Constitution and the evolving jurisprudence around public borrowing. Fifth, it summarises the findings in preceding sections. Finally, it offers policy recommendations to strengthen legal safeguards, reduce political interference, and restore public trust.



2. Brief history of sovereign debt in Ghana

In March 1957, Ghana became the first African country to gain independence from European colonial rule. The birth of the new nation came with immense aspirations of infrastructural development to provide the foundation for a strong and self-sufficient economy driven by industrialisation. Initially, funding was raised from foreign exchange derived from cocoa exports. As such, there was minimal incentive for newly independent Ghana to resort to creditors—external or internal—to fund its programs and projects in the early post independent years.¹ However, the Kwame Nkrumah's government's reliance on the proceeds from the cocoa exports implied that a slump in the world market would adversely impact the economy and the government's ability to fund its ambitious agenda of industrialization. Indeed, by 1960—three years after Ghana's independence—the price of cocoa in the world market fell significantly. By 1964, the price of cocoa had fallen by a whopping 45% leading the government of the day to experience balance of payments difficulties as witnessed by the current account deficit of about \$542 million.² To address this deficit, the government had to resort to short- to medium-term debts to address dwindling imports in essential consumer goods as well as to fund development projects. By the end of 1965, total debt was pegged at \$505 million in principal and \$79.6 million in interests.³

The reliance on creditors to finance government projects and programs survived the Nkrumah government which was overthrown in a coup d'état in February 1966 because of what was described largely as the mismanagement of the economy.⁴ In the immediate aftermath of the overthrow, the military government of the National Liberation Council (NLC) engaged the International Monetary Fund (IMF) to help manage Ghana's debt and reestablish its creditworthiness with Western creditors.⁵

In 1993, after several years of military rule interspersed with a few years of democratic rule, Ghana returned to democracy. Prior to that, Ghana was under democratic rule for a cumulative period of only 54 months. The governance structure up to that point meant that there was little to minimal accountability on how debt was contracted and managed. Indeed, in 1972, the military head of state of Ghana, Colonel Ignatius Acheampong unilaterally repudiated Ghana's loan obligations to most of its foreign creditors. Indeed, in one case he refused to honour the terms of over \$90 million owed to the British government.⁶



1957:
Ghana becomes first African country to gain independence from colonial rule.



1960 - 1964:
The price of cocoa falls. The government experiences balance of payment difficulties and resorted to borrowing. By 1965, public debt reached \$505 million in principal and \$79.6 million in interests.



1966:
The Nkrumah government is overthrown in a coup d'état citing mismanagement of the economy. The IMF is engaged to help manage Ghana's debt and re-establish creditworthiness with western creditors.



1972:
Ghana repudiates loan obligations to most of the foreign creditors. In one case over \$90 million owed to the British government.

¹ Osei, B. (2000). "3 Ghana: The Burden of Debt-Service Payment Under Structural Adjustment". In *External Debt and Capital Flight in Sub-Saharan Africa*. USA: International Monetary Fund

² Libby, R. T. (1976). THE INTERNATIONAL MONETARY FUND'S 'REHABILITATION' OF GHANA, 1966-69. *The African Review: A Journal of African Politics, Development and International Affairs*, 6(4), 65-76.

³ Ibid. p 69

⁴ Pupilampu, B. B. (2004). A political and economic history of Ghana, 1957–2003. In *International Businesses and the Challenges of Poverty in the Developing World: Case Studies on Global Responsibilities and Practices* (pp. 64-74). London: Palgrave Macmillan UK.

⁵ Herbst, J. I. (1993). *The politics of reform in Ghana, 1982-1991*. Univ of California Press.

⁶ Goldworthy, D. (1973). Ghana's Second Republic: a post-mortem. *African Affairs*, 72(286), 8-25.

An increased reliance on debt required a robust framework for debt management, a review of Ghana's debt structure from independence to date paints a rather bleak picture on the sustainability of debt management in Ghana. Between independence and 2023, Ghana has had to undergo about 16 debt restructurings, with the periods between 1980 and 2000 being the pinnacle of Ghana's debt crisis.⁷

To address these challenges, Ghana, under the direction of its multilateral undertook to chart a new path of sustainability through the structural adjustment programs within the larger scope of economic recovery from 1983.⁸ This sought to provide a more accountable and regulated framework for debt governance and management as Ghana prepared to return to democracy. Consequently, the 1992 Constitution was promulgated, ushering in a new era of economic freedom and prudence. However, Ghana has struggled to reap the rewards of these structural and legal interventions as is evidenced by Ghana's subscription to the Highly Indebted Poor Countries (HIPC) initiative in the early 2000s.

HIPC had two functions—to address Ghana's unsustainable debt portfolio through debt relief and to set the tone for poverty reduction through the Poverty Reduction Strategy Programs.⁹ This aimed at reducing the net present value (NPV) of external debt to a maximum of 150 per cent of exports or, for small open economies to 250 per cent of government revenue at the point of the HIPC completion.¹⁰ In 2004, when Ghana reached the completion point, the NPV of the external debt-to-exports ratio significantly reduced from the pre-HIPC levels of above 200 per cent to below 125 per cent after the completion point.¹¹

As a result of Ghana's "satisfactory performance" at its completion point under the HIPC initiative, the IMF announced in December 2005, that its Executive Board had approved debt relief under the Multilateral Debt Relief Initiative (MDRI) to the tune of approximately US\$381 million.¹² Despite the glowing reviews about Ghana's performance under the HIPC initiative which led to her participation in the MDRI, Ghana's history of unsustainable debts did not end. Between 2005 and 2022, Ghana has had to resort to the IMF for debt-induced economic assistance in the form of extended credit facilities in 2009, 2015 and 2023.



1983:
Ghana enters structural adjustment programs in the pursuit of economic recovery



1992:
A constitution is promulgated and Ghana returns to democracy.

HIPC

2000:
Ghana joined the Highly Indebted Poor Countries (HIPC) initiative to reduce the unsustainable debt burden and reduce poverty through the Poverty Reduction Strategy Programs.

MDRI

2005:
Ghana qualifies for debt relief under the Multilateral Debt Relief Initiative (MDRI) to the tune of approximately US\$381 million.

IMF

2005 - 2022:
Ghana has resorted to the IMF for debt-induced economic assistance in the form of extended credit facilities in 2009, 2015 and 2023.

7 Abotebuno Akolgo, I. (2023). Ghana's Debt Crisis and the Political Economy of Financial Dependence in Africa: History Repeating Itself?. *Development and Change*, 54(5), 1264-1295.

8 Sandipani Dash, "Introduction of Structural Adjustment Program in Ghana: A Dichotomy Between a Structured Economy and an Elected Polity," *Int.J.Afr.Stud.* 2(1) (2022) 1-9, <[https://www.svedbergopen.com/files/1659684018_\(1\)_JAFRS1832022PL9G_\(p_1-9\).pdf](https://www.svedbergopen.com/files/1659684018_(1)_JAFRS1832022PL9G_(p_1-9).pdf)>.

9 Osei, R., & Quartey, P. (2001). The HIPC initiative and poverty reduction in Ghana: an assessment (No. 2001/119). WIDER Discussion Paper.

10 Bank of Ghana. (2005). The HIPC initiative and Ghana's external debt an empirical assessment and policy challenges.

11 Ibid.

12 Press Release: IMF to Extend 100 Percent Debt Relief to Ghana Under the Multilateral Debt Relief Initiative, December 22, 2005.

In July 2022, the government of Ghana announced it had taken formal steps to engage the IMF to extend credit facility to it and help negotiate debt-restructuring as it had reached unsustainable debt levels which undermined its ability to service debts as they fell due. This announcement came after years of excessive borrowing following reduction in Ghana's debt stock through the HIPC initiative and the ensuing MDRI. A huge contributing factor to the present situation is the changing profile of Ghana's creditors. In the post HIPC and MDRI era, Ghana's creditors changed from bilateral and multilateral creditors to commercial creditors such as banks, mutual funds and pension funds etc.¹³ As of 2023, about 57% of Ghana's total debt is commercial, with bilateral and multilateral debt together making up about 34% and export credits and other concessional debts hovering below 10%.¹⁴

As of December 2023, Ghana's total public debt stood at approximately GH¢610 billion (~\$40 billion), representing 72.5% of its GDP. This was a significant increase from the GH¢446.3 billion (~\$29 billion) recorded in December 2022. The external component of Ghana's debt at the end of 2024 was about GH¢350.3 billion (~\$30.1 billion), accounting for 41.6% of GDP. Domestically, the debt amounted to GH¢259.7 billion (~\$17 billion), or 30.1% of GDP. Projections for the end of 2024 indicated a further increase in the debt-to-GDP ratio, with estimates suggesting it could rise to approximately 98.7%.¹⁵ By December 2024, Ghana's total public debt was at GH¢726.7 billion (~\$47 billion), equivalent to 61.8% of GDP.¹⁶ This reduction was influenced by economic expansion and debt restructuring efforts, including agreements covering \$5.4 billion in bilateral debt and \$13 billion in Eurobond debt.¹⁷

Several reasons for the high levels of indebtedness have been put forward. These may be broadly classified as either structural determinants that relate to external constraints on the domestic economy or to structural determinants where the proximate causes relate to domestic fiscal and monetary policies.¹⁸ The prevailing explanations both underscore the role of the institutional and legal frameworks in policy making and its effect on the debt stock and its management.



2018:

Ghana enacted the Fiscal Responsibility Act (Act 982), mandating a cash-basis deficit cap of 5% of GDP and a positive annual primary balance to enforce fiscal discipline and prudent debt management. A suspension clause for force majeure or public health emergencies, however, later enabled rule suspension (notably in Aug 2020), which contributed to the subsequent fiscal crisis despite Ghana having exited an IMF program two years earlier.



2022:

Facing rising rates, a depreciating currency and falling investor confidence, Ghana suspended most external debt payments and entered G20 Common Framework negotiations, effectively defaulting in December 2022.

The government sought an IMF program (announced July 2022) as debt became unsustainable. Analysts attribute the crisis less to mismanagement than to structural vulnerability to external shocks and a shifted creditor base - In the post HIPC and MDRI era, Ghana's creditors changed from bilateral and multilateral creditors to commercial creditors such as banks, mutual funds and pension funds etc.

13 Abotebuno Akolgo, I. (2023). Ghana's Debt Crisis and the Political Economy of Financial Dependence in Africa: History Repeating Itself?. *Development and Change*, 54(5), 1264-1295.

14 Ibid.

15 Atuahen, R., Agyei, I. K., & Frimpong, K. B. (2024). Ghana's Public Debt crisis: Lessons for the present and the future.

16 Dorcas Agambila, "Ghana's public debt declines by GH¢15.8 billion in December 2024," *Business Insider Africa*, 28 Mar. 2025, accessed 4 Apr. 2025, <<https://africa.businessinsider.com/local/markets/ghanas-public-debt-declines-by-ghcent158-billion-in-december-2024/ewnv7bq>>.

17 "The World Bank in Ghana," World Bank Group, 12 Feb. 2025, accessed 4 Apr. 2025, <<https://www.worldbank.org/en/country/ghana/overview>>.

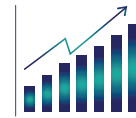
18 Abotebuno Akolgo n13

In the recent crisis, the structural determinants have been attributed to the COVID-19 pandemic and the Russia-Ukraine war. The World Bank and IMF both highlight how COVID-19-induced spending and the disruptions to global trade from the Russia-Ukraine war have contributed to the current debt distress.¹⁹ From a proximate cause perspective, it is argued that the current legal framework has contributed to the current crisis.

In 2018, Ghana passed into law the Fiscal Responsibility Act 2018 (Act 982) that imposed an enforceable obligation on the Minister of Finance requiring him to ensure (a) the overall fiscal balance on cash basis for a particular year shall not exceed a deficit of five percent of the Gross Domestic Product for that year; and (b) an annual positive primary balance be maintained. This undoubtedly was a substantial intervention in ensuring fiscal discipline and prudent debt management. However, the provision in Act 982 which allows the Minister of Finance to suspend the fiscal responsibility rules in the event of force majeure, public health emergencies etc. has largely contributed to the current crisis. This is evidenced by the suspension of the fiscal responsibility rules by the Minister of Finance in August 2020.²⁰ This was just two years after Ghana had concluded its most recent IMF program.

In December 2022, Ghana became the latest casualty in the long list of developing countries forced into sovereign default—not because of profligacy or incompetence, as is often suggested, but because of a structural setup that leaves them chronically vulnerable to external shocks. Under immense pressure from rising interest rates, a depreciating currency, and declining investor confidence, the country suspended payments on most of its external debts and entered negotiations under the G20 Common Framework.²¹ What followed was a familiar script: multilateral institutions called for fiscal consolidation, while creditors—public and private—sought to minimise their losses.

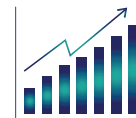
By October 2024, Ghana had secured agreement to restructure over \$13 billion of international debt, including Eurobonds, achieving participation rates of over 90%.²² However, the real story lies in what this tells us about the global financial architecture. Rather than providing meaningful policy space for structural transformation, the prevailing system reinforces dependency—on external borrowing, on commodity exports, and increasingly, on commercial creditors. For Ghana to avoid yet another round of debt restructuring in the future, what it needs is not just fiscal discipline, but a strong institutional framework which prioritises accountability, transparency, and sustainable economic growth.



2023:

As of December 2023, Ghana's total public debt stood at approximately GH¢610 billion (~\$40 billion), representing 72.5% of its GDP.

57% of Ghana's total debt is commercial, with bilateral and multilateral debt together making up about 34% and export credits and other concessional debts below 10%.



2024:

By December 2024 Ghana's public debt stood at GH¢726.7bn (~\$47bn), equivalent to 61.8% of GDP. The external component was GH¢350.3bn (~\$30.1bn; 41.6% of GDP) and domestic debt GH¢259.7bn (~\$17bn; 30.1% of GDP). Earlier projections had the debt-to-GDP ratio rising to about 98.7%, but GDP growth and active debt-restructuring reduced that trajectory.

Restructuring agreements reached in 2024 covered \$5.4bn of bilateral claims and roughly \$13bn of Eurobonds; by October 2024 participation rates on the international debt deals exceeded 90%, helping stabilize debt dynamics and improve near-term financing prospects.

¹⁹ World Bank (2022) 'The World Bank Annual Report 2022: Helping Countries Adapt to a Changing World'. Washington, DC: World Bank. <https://documents1.worldbank.org/curated/>

²⁰ Section 2 Fiscal Responsibility Act 2018, (Act 982).

²¹ "Ghana's debt restructuring takes another step forward," Reuters, 24 June 2024, accessed 3 Apr. 2025, <<https://www.reuters.com/markets/ghanas-debt-restructuring-takes-another-step-forward-2024-06-24/>>.

²² Anait Miridzhanian, Duncan Miriri and Karin Strohecker, "Ghana says bondholders have signed off on \$13 bln debt overhaul", CNBC Africa, 3 Oct. 2024, accessed 3 Apr. 2025, <<https://www.cnbc.com/2024/ghana-says-bondholders-have-signed-off-on-13-bln-debt-overhaul/>>.

When African governments contract debt, the decision must be guided not simply by access to finance but by a clear constitutional commitment to sustainable development, institutional accountability, and intergenerational equity. Debt should only be taken when it demonstrably contributes to long-term productive capacity and public value, not merely to plug budget deficits or fund politically expedient projects. AFRODAD's African Borrowing Charter emphasises the need for ex-ante project appraisal, transparency in contractual terms, and full parliamentary oversight.²³ These are not just procedural formalities, rather, they are legal and democratic safeguards against fiscal imprudence. In practice, this means strengthening domestic debt management offices, mandating periodic audits of public debt portfolios, and ensuring full public disclosure of loan agreements and contingent liabilities. Countries must also weigh the hidden risks of market-based instruments—such as Eurobonds and public-private partnerships—which often escape conventional oversight but can generate unsustainable obligations due to foreign exchange exposure or off-budget guarantees. Ultimately, borrowing decisions must be anchored in a coherent debt strategy that is legally binding, fiscally prudent, and publicly accountable—because the costs, as history shows, fall not on lenders, but on citizens. The ensuing sections will thus explore Ghana's existing institutional framework for public debt contraction and what needs to be done to escape the recurring vicious cycle of indebtedness.



[The African Borrowing Charter.](#)

23 AFRODAD, The African Borrowing Charter (AFRODAD, 2018), <https://afrodad.org/sites/default/files/advocacy-documents/AFRODAD-COMBINED-CHARTER.pdf>.



3

Institutional framework for debt contraction and management in Ghana



In Ghana, sovereign debt can be contracted in one of two ways. The first is the contraction of debt by the central government and the second is the contraction of debt by other agencies such as local governments, parastatals, public corporations and state-owned enterprises.

Primarily, the Minister of Finance has the authority to contract loans on behalf of the central government locally or externally and in any currency.²⁴ As an agency under the Ministry of Finance, the Public Debt Management Office is responsible for the daily management of public debt contraction. Local government and parastatal institutions such as public corporations and state-owned enterprises may borrow in their own names without recourse to the central government but subject to the approval of the Minister of Finance and in compliance with the Public Financial Management Act, 2016 (Act 921).²⁵ For local government, they are limited to only borrowing from the domestic market whereas public corporations and state-owned enterprises may only borrow from the external market with the approval of the Minister of Finance. Parliament has the ultimate responsibility to approve borrowing on behalf of the State—either by the central government or through other State agencies.²⁶

From the review of Ghana's Public Financial Management Act, 2016 (Act 921), the institutions that play a direct role in contracting debt on behalf of the state are the central government through the Minister of Finance, local government²⁷—Metropolitan, Municipal and District assemblies created pursuant to the dictates of the Constitution—, public corporations and state-owned enterprises.

The Parliament of Ghana, in the exercise of its oversight responsibilities over the executive and other arms of government, and specifically in respect of its mandate pertaining to settlement of financial matters, must approve any loan raised by the central government. The requirement of parliamentary approval for loans extends to both borrowing and lending by the government. For borrowing, no loan can be raised other than under an authority of an Act of Parliament. Additionally, individual loans contracted by the central government must be approved through a resolution passed by Parliament.

The important role of Parliament in exercising oversight responsibilities over the executive and to hold it accountable to Constitutional and statutory standards have often been hampered by what may be described as the executive chokehold on Parliament. This has led to the erosion of separation of powers thus undermining checks and balances. In Ghana, the President is required to appoint majority of Ministers from among members of Parliament, an arrangement that increases executive control over parliamentary functions. Additionally, strong party identities in Ghana means that, the members of Parliament consider their primary loyalty to the party and not their constituents allowing the executive to control the outcome of Parliamentary processes.²⁸ This has led to a situation where Parliament has become a conduit for rubber stamping loan agreements presented by the Executive without necessarily taking into account prudent financial and fiscal considerations.

The work of Parliament is complemented by the role of the Auditor General whose duties extend to the accounts of all public offices, including the central and local government administrations, public corporations, etc.²⁹ The Auditor-General's role may be described as post facto to the process of contracting public debt. Its mandate is limited to ensuring prudent financial management and accounting measures were complied with during the process. Ultimately, the report the Auditor-General presents to Parliament assists Parliament to perform its oversight responsibilities pertaining to public debt management.

24 Section 55(1) of the Public Financial Management Act, 2016 (Act 921)

25 SS 73, 74 and 76 of Act 921.

26 Article 181 of the 1992 Constitution.

27 Article 241(1) of the 1992 Constitution.

28 Brierley, S. (2012). Party unity and presidential dominance: Parliamentary development in the fourth republic of Ghana. *Journal of Contemporary African Studies*, 30(3), 419-439.

29 Article 187 of the 1992 Constitution



Another important institution in the debt contracting and management regime in Ghana is the Public Debt Management Office of the Ministry of Finance. The mandate of the Public Debt Management Office is to, among other things, handle the debt management operations of the government of Ghana through risk and feasibility assessment of borrowing and all other forms of credit agreements entered into by the government.³⁰ The potential of the Public Debt Management Office in the sustainable management of public debt cannot be over emphasised. However, the architecture of the Public Debt Management Office is such that its operations and policy interventions are within the broader framework of the Ministry of Finance. Consequently, there arises a situation where the Minister of Finance, who is the primary borrower and issuer of government credit instruments wields ultimate control of the Public Debt Management Office. The same is under the supervision of the Chief Director of the Ministry of Finance who is in turn under the Supervision of the Minister of Finance.³¹ The overriding control of the Ministry of Finance over the Public Debt Management Office appears to be the trend in many jurisdictions including in OECD countries, where the Ministry of Finance and the Central Bank often play the role of debt management.³²



30 Section 54(2) of the Public Financial Management Act, 2016 (Act 921).

31 Section 54(1) of the Public Financial Management Act, 2016 (Act 921).

32 Kalderen, L. (1997). 3 Debt Management Functions and Their Location. In Coordinating public debt and monetary management. International Monetary Fund.





4

Legal framework for debt contraction and management in Ghana



Debt Contraction

As a sovereign nation, Ghana's legislative authority is vested in Parliament, which has the primary mandate to approve the financial and fiscal policy of the government every year. Public debt and its management fall within the scope of financial and fiscal policy and ultimately falling within Parliament's authority under Ghana's Constitution.³³ The Constitution of Ghana, being the supreme law of the land, serves as the primary legal instrument regulating public debt and its management in Ghana. All other legislative instruments derive their validity from the Constitution to provide on specific matters relating to public debt.

In addition to the Constitution, the following pieces of legislation address specific areas of public debt management in Ghana:

- Public Financial Management Act, 2016 (Act 921)
- Public Financial Management Regulations, 2019 (L.I. 2378)
- Fiscal Responsibility Act, 2018 (Act 982)

For clarity, Ghanaian law describes public debt to include any financial liability on the State created by:

- Borrowing
- Credits accepted under supplier's credit agreements
- The issuance of debt securities;
- Assumption of the payment obligations under a guaranteed loan³⁴

As the primary law, the Constitution sets the tone for the legal framework regulating the contracting of public debt and its subsequent management. Accordingly, it provides that no loan shall be raised by the government of Ghana on behalf of itself or any other public institution or authority otherwise than by or under the authority of an Act of Parliament.³⁵ Pursuant to the Constitutional requirement to have all loans contracted by the government for itself or on behalf of any other public institution or authority under the authority of an Act of Parliament, the Public Financial Management Act 2016 (Act 921) was enacted to allow the Minister of Finance and other public institutions to contract debt. Further to the requirement that debt must be contracted under the authority of an Act of Parliament, the Constitution requires the authority undertaking the borrowing to provide the terms and conditions of the loan to be laid before Parliament for its approval via a resolution passed to that effect.

This notwithstanding, governments have sometimes tried to contract debts out of this constitutionally sanctioned requirement. In 2014, the Ghana National Petroleum Corporation (GNPC) sought to secure a loan of \$700 million from the international market to support its operations without Parliamentary approval.³⁶ In justifying this decision, GNPC relied on a legal opinion by the then Attorney-General who is the principal legal advisor to the government. This raised a lot of criticism from civil society organisations and the then opposition political party—the New Patriotic Party led by the current president Nana Akufo-Addo.

Consequently, three members of Parliament belonging to the opposition party—now the ruling government—brought an action before the High Court seeking an order restraining the GNPC from contracting, securing, procuring or drawing down on the loan facility of \$700 million or any other loan from any financial institution without prior parliamentary scrutiny and approval. The High Court denied the prayers of the Applicants by holding that GNPC as a statutory body had a distinct legal personality from the central government and was thus capable of acting on its own and did not need Parliamentary approval in the manner provided for in the Constitution under Article 181.

³³ Article 179 of the 1992 Constitution.

³⁴ Section 102 of the Public Financial Management Act, 2016 (Act 921).

³⁵ Art 181(3) of the 1992 Constitution

³⁶ "GNPC's Loan Facility and Parliamentary Approval: Comments by the Africa Centre for Energy Policy" ACEP, 14 Nov 2014, accessed 18 May 2025, <<https://acep.africa/gnpcs-loan-facility-and-parliamentary-approval-comments-by-the-africa-centre-for-energy-policy-acep/>>.

In the aftermath of the High Court’s decision, legal commentators called for an opportunity to bring the matter before the Supreme Court for a conclusive interpretation on the true meaning and scope of the constitutional provision requiring parliamentary approval of loans. This was because the Supreme Court has exclusive jurisdiction in interpreting and enforcing the Constitution. This was because the Supreme Court has exclusive jurisdiction in interpreting and enforcing the Constitution. It took almost a decade after this call for the Supreme Court to conclusively provide the true and proper interpretation of the Constitutional provision requiring parliamentary approval of loans. In 2024, a citizen of Ghana brought an action in the Supreme Court in the case of *Elikplim Agbemava v. Attorney General*³⁷ seeking an interpretation of article 181(3) and (4) of the Constitution which provides:

(3) No loan shall be raised by the Government on behalf of itself or any other public institution or authority otherwise than by or under the authority of an act of Parliament.

(4) An Act of Parliament enacted in accordance with clause (3) of this article shall provide— that the terms and conditions of a loan shall be laid before Parliament and shall not come into operation unless they have been approved by a resolution of Parliament; and that any moneys received in respect of that loan shall be paid into the Consolidated Fund and form part of that Fund or into some other public fund of Ghana either existing or created for the purposes of the loan.

The real controversy in the case was that the Petroleum (Exploration and Production) Act 2016 (Act 919) granted an exemption to the Ghana National Petroleum Corporation (GNPC), the Ministry of Finance, Petroleum Commission or any other organ of State from seeking Parliamentary approval before raising loans up to an amount of \$30 million. This, the Plaintiff contended was contrary to Article 181 of the Constitution, and that the said provision should be struck out as unconstitutional.

Upon evaluating arguments of the parties in the suit, the Supreme Court in its judgement delivered on May 22, 2024 held as follows:

A plain casual reading of article 181 leaves no doubt that the operative phrase therein is “Government”. The article comes into operation when government is “raising loans on its own behalf or on behalf of other public institutions and authorities.” Since the draftsman is explicit that the article becomes operational in two different circumstances, to wit, when government itself is borrowing or where it is borrowing on behalf of other public institution[s], we find it hard to accept the arguments of the plaintiff that the two circumstances mean the same thing. The provision does not say anything about where the other public institution or authority itself is borrowing for itself but the plaintiff is inserting it in article 181 and we are unable to accept that.

In effect, the Supreme Court drew a distinction between central government as opposed to “...operationally autonomous agencies of government.” Consequently, the latter may contract loans without Parliamentary approval and oversight. The challenge with the above ruling is that it gives the executive a window to escape parliamentary approval and oversight by using public institutions to contract debts.

The takeaway from the case against the GNPC is that despite the undesired outcome, the courts are willing to exercise jurisdiction and pronounce themselves on matters relating to sovereign debt. Thus Ghanaians can exercise their constitutional right to bring an action in the Supreme Court for any alleged violation of the Constitution.³⁸ Similarly, the High Court has jurisdiction to entertain cases alleging violations of legislations by statutory bodies under its inherent jurisdiction.³⁹ This provides an important avenue for citizens and civil society to actively hold government accountable in its debt contracting and management mandate.

37 Suit NO. J1/05/2017

38 Article 130 of the 1992 Constitution

39 Article 140 of the 1992 Constitution



Another crucial aspect of the regulatory framework as provided under Act 921 is the scope and extent to which government and other state agencies may contract debt. For local governments, they are limited to only contract debt in the domestic market.⁴⁰ The Minister of Finance is empowered to set the limit of what a local government may borrow in a manner consistent with the medium-term debt strategy in place at the time. Similarly, a public corporation or a state-owned enterprise may only borrow within the limits approved by the Minister of Finance. They are however permitted to borrow from the foreign market unlike the local governments.

A review of the legal framework governing public debt management in Ghana reveals that, there is no specific provision on the quantum of debt that may be contracted in any given law. Any standard to be adhered to regarding any limitation on the amount or percentage of debt contracted is to be contained in the debt management strategy in place at any given time. With a key objective to impose a de facto 5% cap on fiscal deficits and a 65% cap on debt-to-GDP ratio in any given year, the Fiscal Responsibility Act, 2018 (Act 982) provides that an annual positive primary balance—which measures the net borrowing or lending by government— shall be maintained.

Debt Management

The Public Financial Management Act, 2016 (Act 921) complements the framework provided for in the Constitution by making specific provisions for the areas of debt management that have not been addressed in the Constitution. Although the Constitution is the primary legal document, Act 921 is considered the primary law regulating the contracting of debt by government and other state agencies.

Act 921 specifically states the Act is to ensure that public funds are sustainable and consistent with the level of public debt. Consequently, provisions were made to address public debt management. It also stipulates the requirement for the Ministry of Finance to develop and publish an Annual Borrowing and Recovery Plan to keep the public abreast of Ghana's debt obligations and borrowing strategies.

Some of the key interventions made in Act 921 are the delimitation between debts of the central governments from that of local government, public corporations and state-owned enterprises. It has also provided for the extent these institutions may borrow and from whom they may borrow. The most significant of the interventions has been the establishment of the Public Debt Management Office and the mandate assigned to it. Although the limitations of the Public Debt Management Office have already been articulated above, it serves as a highly useful agency in ensuring a sustainable public debt regime. Its full potential may be realised if the necessary reforms are made to insulate it from undue partisan interference by the executive led by the Minister of Finance.

Act 921 provides an elaborate framework for both policy and compliance by the Government in its debt operations. On the policy side, it spells out the objectives for the debt management to include ensuring the financing needs of the Government are met in a timely manner, to ensure borrowing costs of the Government are as low as possible as well as ensuring the local debt market is promoted.⁴¹ These responsibilities are primarily within the remit of the Executive and do not impose any legally enforceable action in the event of non-compliance.

In the past, a citizen of Ghana brought an action to the Supreme Court⁴² on similar policy objectives applicable to the Bank of Ghana as provided for in the Constitution. The Plaintiff filed a lawsuit against the Attorney-General and the Bank of Ghana, claiming that the Bank of Ghana has not maintained a stable currency for the Republic of Ghana. The Plaintiff requested a declaration that the Bank of Ghana has failed to maintain a stable currency and a writ of mandamus to order the Bank of Ghana to provide a stable currency among others.

40 Section 74 of the Public Financial Management Act, 2016 (Act 921)

41 Section 58(1) of the Public Financial Management Act, 2016 (Act 921)

42 *Baiden v. Attorney-General & Bank of Ghana* Suit No. J1/7/2014.



The Bank of Ghana objected to the jurisdiction of the Supreme Court, arguing that the plaintiff's claim is not a matter of Constitutional enforcement and that the court does not have the authority to interfere with the Bank's monetary policies. The court held that determining what constitutes a stable currency is not a justiciable matter but a political question falling within the remit of the Executive and dismissed the Plaintiff's claim. With the posture of the courts in its reluctance to meddle in policy matters, the only viable and realistic means to working towards the objectives spelt out in Act 921 will be through active citizen participation and advocacy through the collaborative efforts of civil society as there is no explicit provision to engage the public directly in debt management operations.

On the compliance side of Act 921, the Public Debt Management Office is enjoined to develop a Medium-Term Debt Management Strategy to be submitted to the Minister of Finance who shall review it and submit the same to Cabinet for approval.⁴³ Future debt management operations shall be undertaken in compliance with the approved Debt Management Strategy. It is further provided that the Debt Management Strategy must be updated at least once a year.

In addition to the requirement to prepare a Debt Management Strategy, the Public Debt Management Office is mandated to prepare an Annual Borrowing and Recovery plan. This should be based on the Debt Management Strategy and should include planned borrowing over the year, the borrowing instruments to be used and the times of borrowing.⁴⁴ This plan is meant to be updated every six months and must be published on the Ministry of Finance's website. Thus far, only annual plans for 2021 and 2024 are currently in the public domain. Sanction Regime of Public Debt Management in Ghana

Sanction Regime of Public Debt Management in Ghana

Although the legal and regulatory framework of public debt management in Ghana provides for sanctions in the event of non-compliance, an enforcement of these provisions is yet to be seen. Act 921 provides that, a person who contravenes or knowingly permits another person to contravene a provision of the Act commits an offence and may be liable to a conviction of a fine, prison sentence or both.⁴⁵ Additionally, the offending person shall be personally liable for any liability accruing to the government by virtue of the contravention.

Similarly, the Fiscal Responsibility Act empowers Parliament to pass a vote of censure on the Minister of Finance where he contravenes the provision requiring the maintenance of a positive primary balance.⁴⁶ However, the Fiscal Responsibility Act was suspended from 2020 pursuant to Section 3 due to the COVID pandemic according to which the Minister of Finance may suspend fiscal responsibility rules as a result of force majeure, natural disaster, public health pandemic, etc. While scholars and economists have been urging the government to reinstate the Act, no specific timeline has been announced as to its reinstatement as of April 2025.⁴⁷

43 Section 59 of the Public Financial Management Act, 2016 (Act 921)

44 Section 60 of the Public Financial Management Act, 2016 (Act 921)

45 Section 98 of Public Financial Management Act, 2016 (Act 921)

46 Section 4 of the Fiscal Responsibility Act, 2018 (Act 982)

47 [Daniel Sackitey](https://citinewsroom.com/2025/02/reinstate-fiscal-responsibility-rules-ahead-of-imf-exit-lord-mensah/), "Reinstate Fiscal responsibility rules ahead of IMF exit – Lord Mensah," Citi Newsroom, 20 Feb. 2025, accessed 4 April 2025, <<https://citinewsroom.com/2025/02/reinstate-fiscal-responsibility-rules-ahead-of-imf-exit-lord-mensah/>>.





5

Summary of findings



- 1** At the heart of responsible debt management lies a set of foundational principles: that debt must serve the public interest, be subject to parliamentary oversight, and rest on transparent, accountable, and legally grounded processes. As outlined in AFRODAD's African Borrowing Charter, African governments have a duty to ensure that all borrowing is sustainable, strategically justified, and aligned with long-term development goals. This requires a robust legal framework, institutional integrity, and meaningful public engagement to safeguard present and future generations from unsustainable fiscal burdens. The 1992 Constitution of Ghana is the primary document regulating the contracting of debt by the state. It puts the primary oversight of public debt on Parliament. Consequently, Parliament through its law-making powers enacted the Public Financial Management Act, 2016 (Act 921) to provide an elaborate regime for the contracting and management of public debt, among other things. In so doing, the Public Debt Management Office has been created with the mandate to lead the Government's Debt Management Strategy and to provide policy guidelines through a series of policy documents within prescribed timelines. Indeed, this mandate has largely been adhered to. Since 2015, the Public Debt Management Office has published and updated the Medium-Term Debt Management Strategy as required by Act 921. Additionally, there has been consistent publication of Annual Debt Reports since 2016. With the Debt Management Strategy serving as the primary policy framework for the contraction of debt by government. The recent debt crisis that led the Government to request the IMF for a bailout and the announcement of a domestic debt restructuring programme has led many to question the effectiveness of these strategies. However, there is still room for improvement in the consistency and quality of published data on debt. While the terms of the loan agreements are generally accessible to the public, the published data—given its aggregated nature—does not consistently disclose all the foreign creditors, debt due dates, and particulars related to the borrowing pursued by state-owned enterprises. Also, only the 2021 and 2024 Annual Borrowing and Recovery Plans are currently made public despite the fact that the Ministry of Finance is expected to publish them annually.

- 2** Despite the elaborate and comprehensive laws that regulate the management and contraction of debt in Ghana, there have been instances where the Government has been accused of violating some of these legal provisions. While these violations are not necessarily indicative of corruption, they do leave room for corrupt practices. In September 2023, the minority in Ghana's Parliament accused the state oil company, the GNPC of seeking a loan without Parliamentary approval. However, these fears were allayed as the Ministry of Energy issued a statement indicating the proposed loan will be laid before Parliament.⁴⁸ In 2014, GNPC was at the centre of another alleged violation of the Constitution by failing to lay before Parliament a loan. This was subsequently brought before the High Court, which held that the said loan was valid notwithstanding the failure to seek parliamentary approval as required by the Constitution.



- 3 Ghana's Constitution grants standing (*locus standi*) to all citizens to bring actions before the Supreme Court for alleged violations of provisions of the Constitution. In this regard, where there is an allegation of a violation of a provision of the Constitution applicable to the contraction of debts by the Government, the Supreme Court would have jurisdiction to entertain an action challenging such violations. In exercise of this jurisdiction, the Supreme Court may make declarations and orders to give effect to the declarations. Failure to comply with these orders constitutes a high crime with a maximum conviction of 10-year imprisonment.⁴⁹ Similarly, the High Court under its powers of judicial review may entertain actions alleging violations of laws regulating the contraction of debts in violation of the Constitution. Ghanaian law does not specifically provide for limits to borrowing by the central Government. The Medium-Term Debt Management Strategy and the fiscal strategy documents guide the permitted level of indebtedness in Ghana. However, local governments are specifically barred from contracting loans from the foreign market.
- 4 Parliament has the primary oversight responsibility to approve all borrowings done by the government. No loan shall be raised by the government of Ghana on behalf of itself or any other public institution or authority otherwise than by or under the authority of an Act of Parliament.⁵⁰ Further, an Act of Parliament authorising the government or authorities under the government to borrow must provide that the terms and conditions of the loan be laid before Parliament and shall not come into operation unless they have been approved by a resolution of Parliament.
- 5 The Minister of Finance is required at the invitation of Parliament to present any information concerning any discrepancies relating to the granting, repayment and servicing of loans as well as payment into the public fund of moneys derived from loans raised from institutions outside of Ghana.⁵¹ The Auditor General is authorised under the Constitution to audit the public accounts of Ghana and report periodically to Parliament drawing attention to any irregularities in the accounts audited and to any other matter which in the opinion of the Auditor General ought to be brought to the notice of Parliament.⁵² Further notification and reporting requirements are provided in the Public Financial Management Act which mandates the Minister of Finance to present to Cabinet a Fiscal Strategy Document spelling out a Medium-Term Debt Management Strategy every four years and publish the Annual Borrowing and Recovery Plan annually.⁵³
- 6 There is very little to no public participation or consultation in the debt contraction and management processes before domestic and foreign borrowing decisions are made. Because the decision to borrow can only be made by the Executive, proposals to borrow are presented to Parliament on a "take it or leave it" basis and often under certificates of urgency which gives very little time to Parliament to consider the loan proposals or receive input from the public. Debt information is however accessible by the public. The Public Debt Management Office is required by law to, at half year intervals, prepare statistical bulletins that provide accurate and timely information in respect of debt stocks, debt service cost and risk measures of the debt portfolio of Government among others.⁵⁴ That information is available on the Government of Ghana's website, the Ministry of Finance website and other mediums.

49 Article 2(5) of the 1992 Constitution.

50 Art 181, Cl. 3

51 Art 181, Cl. 7

52 Art 187, Cl. 2 & 5

53 Public Financial Management Act, 2016, Act 921, Section 15(f).

54 Public Financial Management Act, 2016, Act 921, Section 17





6

Recommendations



If there is one lesson to draw from Ghana's repeated experiences with debt distress, it is this: *debt is never just about numbers – it is about power, governance, and development choices.* A country's approach to borrowing reveals what kind of future it imagines for itself—and who that future is built to serve. The following recommendations are not mere technical adjustments. They are about restoring a sense of national purpose, building institutions that serve the public interest, and ensuring that borrowing decisions strengthen, rather than undermine, economic sovereignty.

1 Strengthen Parliamentary Oversight and Capacity

- Parliamentary approval of loans should be more than a rubber-stamping exercise. Parliament must have the institutional capacity and political independence to assess whether borrowing serves long-term developmental needs.
- To that end, dedicated legal and financial advisory units should be created to support Members of Parliament, especially when reviewing complex or high-risk contracts.
- Model contract clauses and templates should be developed and made available to legislators to encourage greater coherence, transparency, and public interest alignment.
- Independent experts should be invited to review the Annual and Medium-Term Debt Strategies and report their findings to Parliament.

2 Reclaim the Autonomy of the Public Debt Management Office (PDMO)

- The PDMO cannot play its role effectively while operating under the shadow of the very institution that borrows which is the Ministry of Finance. Legal reforms should guarantee its autonomy, starting with an independent appointment process. This should be accompanied by safeguards against ministerial interference.
- The PDMO should be resourced—not just with funding but with technocratic independence—to undertake real risk analysis, particularly in relation to currency risk, foreign exposure, and loan conditionalities.
- Given that the vast majority of Ghana's debt is denominated in foreign currency, the PDMO should develop a dedicated currency risk management framework, including strategies for hedging, scenario planning, and stress testing. Currency depreciation remains one of the most significant threats to debt sustainability and must be addressed through proactive, legally mandated planning.

3 Make Public Participation Real, Not Symbolic

- Citizens have a right to know and to shape how public debt will affect their futures. The terms of loan agreements should be made publicly available and be subject to public consultations, especially where loans are collateralised with public resources or where the projects carry significant social or environmental risks.
- A user-friendly, publicly accessible Debt Register should be established to disclose all debt obligations, including state guarantees and SOE liabilities.
- Civic education and media engagement must become part of Ghana's debt governance strategy.
- Debt data, loan agreements, and the Annual Borrowing and Recovery Plan must be published in a timely, consistent, and disaggregated manner to allow for meaningful public scrutiny and oversight.

4 Enforce the Rules, Don't Just Write Them

- Legal frameworks are only as strong as their enforcement. Article 181 of the Constitution should be enforced without exception. Legislative reform is needed to close the loophole allowing state institutions to borrow without Parliamentary oversight.
- Enforcement should not rely solely on Government goodwill. Citizens and CSOs must be empowered legally and financially to pursue public interest litigation in debt-related cases.
- Sanctions for breaches of debt rules should be real, enforceable, and publicised.

5 Introduce Appropriate Debt Limits and End Executive Discretion

- Ghana needs a legally binding debt ceiling, developed by independent economic experts and reviewed periodically.
- The power to suspend fiscal rules should not lie with the same office that benefits from their suspension. Parliament must have the final say.
- Clear rules must be introduced to regulate domestic borrowing by SOEs and subnational governments, with guarantees included in public debt ceilings.



6 Equip the State to Negotiate on its Own Terms

- There should be balanced bargaining power during the negotiation of debt contracts. To do so, Ghana needs to invest in ensuring that it has the requisite resources and capacity to negotiate loan contracts rather than being forced to accept terms that do not benefit the country. This could be achieved by investing in a permanent legal and economic advisory body capable of reviewing all loan contracts before they are signed.
- The Attorney General's Office and Ministry of Finance must receive training and resources to negotiate equitable contracts, including in resource-backed lending.

7 Ensure That Borrowed Money Does What It Is Supposed to Do

- Ghana must establish an independent loan monitoring body to track the implementation of projects financed through debt.
- Annual audits must be conducted on all externally funded projects and made available to the public.
- Contracts should include legally binding performance and disbursement timelines, with penalties for non-compliance.

8 Plan for the Inevitable—Shocks Will Come

- A credible debt strategy must include contingency planning. The Medium-Term Debt Management Strategy should be revised to include risk simulations for pandemics, wars, climate shocks, and global interest rate hikes.
- Loan agreements should contain clauses allowing for renegotiation or temporary suspension of repayment obligations during national emergencies.

9 Make the Hidden Visible: Guarantees and SOE Liabilities

- The government must stop off-balance sheet borrowing where monies borrowed are not directly recorded on official public figures. All guarantees extended to SOEs and private entities must be disclosed and accounted for in the public debt register.
- Parliament should be involved in the approval of all such guarantees, with accompanying risk assessments.

10 Prepare for Disputes and Restructuring—Before They Happen

- Ghana needs a national framework for debt restructuring that includes legal guidance, institutional coordination, and capacity-building for engagement with international creditors.
- Future debt contracts should include fair and transparent dispute resolution mechanisms, including arbitration clauses that avoid creditor-friendly jurisdictions.
- Lessons from the G20 Common Framework must be institutionalised to inform future restructuring efforts.

In conclusion, debt must not be seen as a technical issue left to economists and accountants. It is a matter of democratic accountability, national development, and institutional reform. Ghana's future depends on getting this right—not just for today's budget, but for generations to come.





The Legal and Institutional Frameworks
Governing Sovereign Debt Contraction
and Management in Ghana

