



# Constitutional economics of Ghana's decentralization

Emmanuel Frimpong Boamah

Department of Urban and Regional Planning, Community for Global Health Equity, 226 Hayes Hall, University at Buffalo, The State University of New York, United States



## ARTICLE INFO

Article history:  
Accepted 30 May 2018

Keywords:  
Decentralization  
Constitutional economics  
Political economy  
Africa  
Ghana

## ABSTRACT

This paper concerns the rules that are often chosen to frame decentralization in Ghana. It perceives the challenges of multi-level governance in postcolonial sub-Saharan African countries, such as weak local government capacity for urban planning, as effects of ill-conceived constitutional rules. The paper draws ideas from constitutional political economy (CPE) to problematize the constitutional rules underlying Ghana's current state of decentralization. I argue that these constitutional rules, embodied in Ghana's 1992 Constitution and Local Government Act (462), evince both continued dominance of state control over local governance and a systemic transfer of the logics and instruments of the authoritarian Provisional National Defence Council (PNDC) military regime to the choice of constitutional rules for Ghana's decentralization. In other words, Ghana's decentralization patterns and processes must be examined in the context of the constitutional regime from which they were born. One such pattern is the creation of new local governments (a gerrymandering strategy) by successive governments without commensurate improvement in local democratic and pro-poor developmental outcomes. The paper's discussions, largely conceptual but interlaced with empirical moments, serve to stimulate debate about the relationships between the constitutional rules for decentralization and their socioeconomic and political effects. I conclude by reflecting on the conceptual and methodological challenges of using CPE to analyze constitutional rules for decentralization and offer ideas to address these challenges in future research.

© 2018 Elsevier Ltd. All rights reserved.

## 1. Introduction

"They [individuals] are independent units of consciousness, capable of assigning values to alternatives...they live together...But to do so, they must live by rules that they can also choose" (Buchanan, 1990, p. 18)

The institutional environment of Ghana's prevailing decentralization system is not predetermined. It emerges from deliberate choices of historically contingent constitutional rules, which are embedded in the country's political-economic and cultural history. This paper wrestles with the rules of the game that actors choose and with which they interact in Ghana's political decentralization paradigm. Specifically, rather than adopting a normative policy framework of decentralization (e.g., perceived advantages of local government being closer to the people), which often characterizes the discourse on Ghana's decentralization, this paper employs an analytical approach to pose deeper questions: What is the basis of the constitutional rules from

which decentralization develops? What are the procedural mechanisms for these rules? What are the effects of these rules on issues such as democratic governance? With these questions, this paper seeks to stimulate conversations on these and other questions about the relationships among constitutional rules, decentralization patterns, and the socioeconomic and political effects of such rules.

The paper begins by analyzing Ghana's prevailing decentralization doctrine from the 1980s, when the PNDC government, a military regime, established fundamental legislation, the Provisional National Defense Council Law (PNDC Law) 207, that undergirds current decentralization practices in Ghana (Gilbert, Hugounenq, & Vaillancourt, 2013). This initial legislation was later enshrined in Chapter 20 of the 1992 Constitution, which this same military regime also promulgated. The military regime, after winning the 1992 general election, transitioned to a democratically elected government called the National Democratic Congress (NDC). The Local Government Act of 1993, hereinafter referred to as Act 462, became the cornerstone legal instrument for Ghana's decentralization and consolidated the PNDC Law 207 and provisions in Chapter 20 of the 1992 Constitution (Ahwoi, 2010a). Focusing on these two constitu-

E-mail address: [efrimpon@buffalo.edu](mailto:efrimpon@buffalo.edu)

tional rules,<sup>1</sup> the paper explores the following broad, overlapping questions: Can there be a system of freedom and exchange in the choice of constitutional rules under a populist, authoritarian military regime? How are the constitutional rules for decentralization chosen under such an authoritarian military regime? What are the political, economic, and social effects of constitutional rules chosen under such a regime?

Scholars have extensively explored Ghana's prevailing decentralization doctrine, using different disciplinary perspectives and methodological approaches. For instance, some have sought to identify what, exactly, was decentralized—i.e., whether it is political, administrative, and/or fiscal decentralization (Awortwi, 2010; Debrah, 2014). Others have discussed the powers or lack thereof (e.g., taxation powers) of decentralized local governments (Awortwi, 2010; Inanga & Osei-Wusu, 2004; Moguees & Benin, 2012; Yeboah & Obeng-Odoom, 2010). Some have analyzed the relationship among decentralized local governments, local democracy, and pro-poor development (Aye, 2003; Crawford, 2009; Crook, 2003; Crook & Manor, 1998). Others still have probed the role of District Chief Executives (DCEs) (Debrah, 2016) and traditional chieftaincy institutions<sup>2</sup> in local politics and governance processes (Aikins, 2011; Lentz, 1998). The intersection of decentralization, state sovereignty, and Ghana's experience under structural adjustment programs (SAPs) has also been thoroughly discussed (Aye, 2001; Hoffman & Metzroth, 2010; Mohan, 1996). However, we have yet to analyze the problematic historically contingent rules within which actors interact and the process through which such rules have emerged to shape the country's decentralization paradigm.<sup>3</sup> These rules, and the processes of choosing them to shape the political-economic order of decentralization in Ghana, are the variables of analysis in this paper. By focusing on the constitutional regimes and the processes through which constitutional rules for centralization are chosen, this paper differs from earlier conceptual and empirical studies of decentralization, such as Falletti's (2005) sequential theory of Colombia's and Argentina's decentralization, which Awortwi (2011) uses in his comparison of Ghana's and Uganda's decentralization paradigms.

This paper first maps the theoretical landscape of CPE. It delineates three key elements for contextualizing the discussions on Ghana's decentralization. Next, the paper synthesizes, within these three CPE elements, a wide-ranging empirical literature on Ghana's decentralization. The analysis problematizes the constitutional rules that frame the prevailing decentralization paradigm in Ghana. It also stimulates conversations about how this framework helps to develop theoretically driven empirical narratives on the relationships between constitutional rules for decentralization and the socioeconomic and political effects of such rules. The paper is primarily conceptual rather than evidentiary. While limitations

exist in qualitative discussions of the relationships between constitutional rules and their effects, such narratives, interlaced with empirical details from the literature, are necessary for abstract discussion (see similar methodology in Elster, 1993) and the framing of questions for quantitative research. The paper concludes with reflections on the conceptual and methodological challenges of using CPE to analyze constitutional rules for decentralization, and offers ideas to address these challenges in future research.

## 2. Constitutional political economy: The institutional-constitutional structure of decentralization

“Constitutions are chains with which men bind themselves in their sane moments that they may not die by a suicidal hand in the day of their frenzy” (John Potter Stockton in Finn, 1991, p. 5)

A constitution “contains the rules and procedures for producing public goods” (Voigt, 1997, p. 23). Constitutional political economy, or constitutional economics, applies the rational choice method to analyze the choice of rules (Buchanan & Tullock, 1962; Kurrild-Klitgaard, 2012). Specifically, whereas standard economics applies rational choice to analyze *choices made within rules*, CPE applies this method to analyze the *choice of rules*. Individuals do not only make choices within rules, as though these rules were predetermined; they also choose the rules within which their choices are made. In reflections on the foundational text on CPE, *The Calculus of Consent* by Buchanan and Tullock (1962), Kurrild-Klitgaard (2012, p. 408) presents three overlapping lessons that ground the CPE literature: demand for symmetry in modeling human actors, economic analysis of decision rules, and economic consequences of constitutional rules. Symmetry in modeling human behavior means that individuals must be presumed to possess the same mindset and therefore be capable of exercising the power they possess, whether within market rules or political rules. However, the nature of the rules (i.e., the extent to which the rules constrain actions), not the mindset of individuals, determines the differences between individuals working within market rules and those working within political rules (Brennan & Buchanan, 1985). Because the rules vary across institutional settings (e.g., market and political settings), an economic analysis of rules must analyze how individuals act in accordance or conflict with the rules of their institutional setting, based on the cost of either complying with or violating those rules (Buchanan & Tullock, 1962; Buchanan, 2002). Finally, if individuals alter their actions based on the cost of violating or complying with those rules, then an economic analysis of constitutional rules must analyze patterns of outcomes (social economic, political policies, and governance systems) that emerge from different rules governing an institutional setting.

There are both normative and positive approaches to CPE analysis. The normative approach, based on contractarian political philosophy, seeks to propose “Pareto-superior rules” that serve as the basis for normative evaluation of constitutional rules (Voigt, 2011, p. 206).<sup>4</sup> Based on social contract theory, the normative approach to CPE interrogates whether constitutional rules are based on previous constitutional contracts agreed on by individuals (preconstitutional stage) operating within a system of freedom and exchange; if such

<sup>1</sup> Constitutional, constitutional level, or constitutional choice rules are synonymous terms that refer not only to the decentralization rules in the 1992 Constitution. This term derives from Ostrom's Institutional Analysis and Development (IAD) framework to describe the processes of defining and legitimizing collective-choice rules, such as the process of constituting relevant collective entities and actors in the making of policy decisions (McGinnis, 2011; Ostrom, 2005). Both the 1992 Constitution and the Act 462 (which is legislation) encompass the constitutional rules that set forth the entity and actors (e.g., the National Development Planning Commission) charged with making Ghana's collective choice rules (e.g., urban planning policy decisions).

<sup>2</sup> Chieftaincy institutions refer to the indigenous political institutions headed by a chief (king). The stool is a symbol of the chief's office in the southern parts of Ghana, and the skin of an animal symbolizes the chief's office in the northern parts (Northern,

<sup>3</sup> This is not to say that researchers have not studied the constitutional rules for Ghana's decentralization. For instance, Aye (1992a) uses empirical examples to discuss the constitutional rules on Ghana's decentralization. This paper builds on such contributions in the literature by discussing how CPE provides opportunities to further develop theoretical explanations of the relationships among constitutional rules, decentralization patterns, and the socioeconomic and political effects of such rules.

<sup>4</sup> Pareto-superior rules are based on Buchanan and Tullock's (1962) application of Wicksell's insights on *unanimity* to constitutional rules. From neoclassical economics, the logic of Pareto optimality implies that people would consent to rules when such rules are considered efficient—that is, consent flows from efficiency. However, Buchanan and Tullock (1962) stand this logic on its head by arguing that the rules that people consent to are inherently efficient (efficiency flows from consent), and such consent, according to the “Wicksellian efficiency” logic, must be obtained through a constitutional rule of unanimity, which is the basis for constitutional democracy (see detailed explication in Van den Hauwe, 1999).

Download English Version:

<https://daneshyari.com/en/article/7391388>

Download Persian Version:

<https://daneshyari.com/article/7391388>

[Daneshyari.com](https://daneshyari.com)