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A Historical-*Cum*-Political Overview of Ghana's National Health Insurance Law*

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Abstract

In 2003, the Parliament of Ghana passed the National Health Insurance Scheme (NHIS) bill, which was signed into law by President John A. Kufuor. The law provides health coverage for most illnesses of all residents of Ghana. The fact that this relatively small and materially-poor country in West Africa has been able to enact such a law is, in itself, a great feat because it is probably one of the few, if not the only, African country to have enacted such a law. Additionally, it is also a feat that has eluded a materially-rich nation like the United States of America for a considerable length of time. The purpose of this essay is to explore how Ghana was able to pass the NHIS bill into law. Scholars, who have looked at why several major countries, including the U.S., do not have comprehensive health care programs for their citizens have attributed the failure to several factors, including the distinctive political cultures or what some scholars have called the "exceptionalism" of the countries concerned, the impact of interest groups in the internal politics, and the prevailing political institutions. Consequently, we argue that the passing of Ghana's NHIS into law is largely because of the country's current political institutions, particularly the special provisions incorporated into the Fourth Republican Constitution to strengthen the law-making powers of the head of the executive branch of government, headed by a very strong executive President.

Keywords

parliament, insurance, materially-poor, materially-rich, colony, institutionalism, exceptionalism, instability

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Introduction

Our purpose in this study is to explain, with some basic empirical data and national policy information, why Ghana, a comparatively and materially-poor country, has a National Health Insurance Scheme (NHIS). Furthermore, based on these data and their political and institutional explanations, we will also make a general claim why some materially-rich countries, including the United States of America, do not consistently have such schemes. Although this is not a full comparative study, some logistical dissimilarities have been explained as well as underscoring the fact that the provision of healthcare for the citizenry of any country is very important, hence U.S. President Harry Truman was on target when he, *inter alia*, noted that "[a] healthy citizenry is the most important element in [America's] national strength." Consequently, it is necessary for the United States of America to "develop a national health program which will furnish adequate public health services, and ample medical care facilities for all areas of the country and all groups of… people."[1] In Ghana, high cost of health care has been one of the perennial arguments the military has used to justify their many *coups d'état*.[2]

Ghana was the first British colony, south of the Sahara, to gain political independence (on March 6, 1957). It is also the only West African country to have enacted a comprehensive health insurance law.[3] The post-independent history of the various countries in the sub-region is filled with stories of *coups d'état* and other forms of political upheavals. Ghana also has had some extremely violent military *coups d'état* as well. Admirably, the countries in the sub-region began to embark on democratic reforms, including return to civilian, constitutional rule from the early 1990s. Ghana, in common, shares many characteristics with the other English-speaking countries in the geographic

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[1] M. M. Poen, *Harry S. Truman Versus the Medical Lobby: The Genesis of Medicare* (University of Missouri Press, 1979). pp. 113-114.

[2] The instability that engulfed Ghana from 1966-1992, and continues to ravage many more African countries, has been attributed to an apparent lack of effective or productive governments; that is governments that are incapable of making economic and social policies that would truly make a difference in the lives of their citizens. For more on this point, see A. A. Boahen, *The Ghanaian Sphinx: Reflections on the Contemporary History of Ghana, 1972-1987* (Ghana Democratic Movement, 1989)., p. 36; William D. Graf, *The Nigerian State: Political Economy, State Class and Political System in the Post-Colonial Era* (London: James Currey Ltd, 1988)., p. 41; George B. N. Ayittey, *Africa Betrayed* (New York: St. Martins Press, 1992)., pp. 135-157.

[3] Of the sixteen countries in the West African sub-region, five are officially listed as English-speaking (The Gambia, Ghana, Liberia, Nigeria, and Sierra Leone); eight are French-speaking (Benin, Burkina Faso, Guinea, Ivory Coast, Mali, Niger, Senegal, and Togo); two are Portuguese-speaking (Cape Verde and Guinea-Bissau); and one is Arabic-speaking (Mauritania).

area.[4] Those commonalities could have been sound basis for a comparative study of why Ghana has been successful in enacting a NHIS law but the others have not. However, several factors, including political instability, various types of political culture, weak national economies in the sub-region, do not justify a well-developed comparative analysis despite the richness of such an approach in many other studies.

Toward this end, we define a stable country as one that has had its government complete, at least, a term of its constitutionally mandated tenure in office and has successfully handed over power to another constitutionally-elected government peacefully.[5] Although the implications and the significance of political stability in any country go beyond the pragmatism of governmental institutions, in Africa, this stability is an important stage towards possible formulation and implementation of expected social policies. Thus, we have decided to examine several aspects of Ghana's achievement in this area of comprehensive health insurance law. The instance of the United States, whereby the Clinton administration could not achieve a similar healthcare miracle, is used simply as a limited yardstick and a denominator in looking at what the Ghanaian political leaders have done. It is only a reflective reference that takes the analysis into the realm of the dynamics of the national politics.

There is a massive literature on the studies of healthcare systems and practices among industrialized countries because the healthcare issue is a policy dimension of the foundation of liberal and social welfare states. However, concerning an African country, this study, as readers would realize, seems to be both, to a large extent, novel and possibly ahead of its time because it was rare to find similar studies from which to cite. After all, unlike our study, similar studies about welfare policies, of which healthcare is a part, has typically compared one materially-rich country to another,[6] or have examined why a materially-rich country does not have a comprehensive welfare policy.[7]

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[4] With the exception of Liberia which has American colonial past, the rest were colonies of Britain, and all have variant of presidential system of government.

[5] Only Ghana meets this criterion. The National Democratic Congress (NDC) party government under President Rawlings completed its maximum of two terms of four years each and handed over power to the National Patriotic Party (NPP) under President Kufuor in January 2000.

[6] See for instance, G. F. Anderson et al., "Health Spending and Outcomes: Trends in OECD Countries, 1960-1998," *Health Affairs* 19, no. 3 (2000); G. Esping-Andersen, *The Three Worlds of Welfare Capitalism* (London: Polity Press 1990); E. Huber, C. Ragin, and J. D. Stephens, "Social Democracy, Christian Democracy, Constitutional Structure, and the Welfare State," *American Journal of Sociology* 99, no. 3 (1993); P. Pierson, "The New Politics of the Welfare State," *World Politics* 48, no. 2 (1996).

[7] See for instance, Suzanne Mettler, "Bringing the State Back in to Civic Engagement: Policy Feedback Effects of the G.I. Bill for World War Ii Veterans," *American Political Science Review* 96,

Indeed, our initial attempts to do a comparative analysis of Ghana and the United States, whereby the healthcare provisions are concerned, prompted us to use the nations' constitutions as a basis, as there are dissimilarities such as the following: 1) that the American Constitution provides for a federal system of government, whereas the Ghanaian Constitution provides for a unitary system; 2) the United States legislature (Congress) is bi-cameral and the Ghanaian legislature (Parliament) is unicameral, and 3) the United States Constitution has been in existence for over two centuries, whereas Ghana's fourth attempt at constitutional rule under the Fourth Republican Constitution is only fifteen years old. Nevertheless, we found some dimensions of the comparison useful because, as we amply show in the study, the Ghanaian constitution is modeled on or after the American one, albeit with some modifications.

Using the new institutionalism approach, part of our argument is that Ghana has NHIS because of its 1992 constitutional provisions, and that the lack of a comprehensive healthcare program in the U.S. can be attributable to the country's institutions. By institutions, we mean "formal or informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political structure."[8] However, we have chosen to concentrate on only the formal aspects of institutions in this study. The establishment of formal political institutions is founded on constitutions; there-

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no. 2 (2002); J. Pontusson, "At the End of the Third Road: Swedish Social Democracy in Crisis," *Politics & Society* 20, no. 3 (1992); Theda Skocpol, "Targeting within Universalism: Politically Viable Policies to Combat Poverty in the U.S.," in *Social Policy in the U.S.: Future Possibilities in Historical Perspectives*, ed. Theda Skocpol (New Jersey: Princeton University Press, 1995); S. Steinmo and J. Watts, "It's the Institutions, Stupid! Why Comprehensive National Health Insurance Always Fails in America," *Journal of Health Politics, Policy and Law* 20, no. 2 (1995).

[8] Peter A. Hall and Rosemary C. R. Taylor, "Political Science and the Three New Institutionalisms," *Political Studies* 44, no. 5 (1996), p. 938; For more on how institutions shape policy, see for instance J. G. March and J. P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: Free Press, 1989); J. G. March and J. P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," *American Political Science Review* 78, no. 3 (1984); Paul Pierson and Theda Skocpol, "Historical Institutionalism in Contemporary Political Science," in *Political Science: The State of the Discipline*, ed. Ira Katznelson and Helen V. Milner (New York: W.W. Norton & Company, 2002); M. M. Atkinson, *Governing Canada: Institutions and Public Policy* (Harcourt Brace Jovanovich, Canada, 1993); Steinmo and Watts, "It's the Institutions, Stupid! Why Comprehensive National Health Insurance Always Fails in America"; Kathleen Thelen and Sven Steinmo, "Historical Institutionalism in Comparative Politics," in *Structuring Politics: Historical Institutionalism in Comparative Politics*, ed. Sven Steinmo, Kathleen Thelen, and Frank Longstreth (New York: Cambridge University Press, 1992); K. A. Shepsle, "Studying Institutions: Some Lessons from the Rational Choice Approach," *Journal of Theoretical Politics* 1, no. 2 (1989).

fore, constitutions provide legitimacy and authenticity to institutions.[9] We posit that, at least, one important provision in the Ghanaian constitution – the exclusive authority of the president (or her/his) designee to introduce all bills of appropriation in parliament – make the ruling president a lot more *powerful* than the American counterpart.[10] This provision ensures that if a sitting president does not want a policy, requiring appropriation, to be discussed in parliament (i.e. congress), the party faithful will ensure that it will not be discussed. To the extent that a governmental system that has a weak executive is unstable,[11] this study could have enormous implications for several countries in the West African sub-region, especially if one considers the political instability that has characterized the area in the last couple of decades.

Meanwhile, this study has been divided into five parts. In part 1, we will examine three arguments that have been advanced to explain why a country may or may not have a comprehensive healthcare program, and we further suggest that none of them adequately explains why Ghana has a comprehensive healthcare program but others, like the U.S., do not. Using the typology of regime types, advanced by Shuggart and Carey (1992), we will examine in part 2 the Constitutions of the United States and Ghana, whereby we will suggest that Ghana has a different type of presidential system of government, which is akin to the British model of governance as well. To the extent that we argue that institutions shape policy, and that constitutions provide legitimacy to institutions, evidence that the constitution of Ghana grants the president sufficient power to push through his legislative agenda in parliament is important.

In part 3, we will discuss the history of healthcare in Ghana from independence in 1957 to 2003 when the NHIS law was enacted. We will provide an institutional argument to explain how NHIS law was enacted in part 4. We conclude, in part 5, by arguing that the NHIS law could not have been enacted without the political institutions with a parallel argument that political

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[9] The British do not have a written constitution because their system was, unlike other countries, not "engineered". Rather, the British system evolved, and continues to evolve. For more on this see R. K. Weaver and B. A. Rockman, "Assessing the Effects of Institutions," in *Do Institutions Matter?: Government Capabilities in the United States and Abroad*, ed. R. K. Weaver and B. A. Rockman (Washington, D.C.: Brookings Institution, 1993), p. 4.

[10] We use *power* in the context of Shugart and Carey's simple interval scoring method. See M. S. Shugart and J. M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (Cambridge University Press, 1992), p. 155.

[11] K. Boafo-Arthur, "Ghana: Structural Adjustment, Democratization, and the Politics of Continuity," *African Studies Review* 42, no. 2 (1999); M. J. Kurtz, *Free Market Democracy and the Chilean and Mexican Countryside* (Cambridge University Press, 2004).

institutions could explain the lack of such legislation in the U.S. Meanwhile, the data for this study will be drawn mainly from government document sources, media reports, scholarly articles and other secondary accounts.

Theoretical Debate and Interest-Group Politics

Several theories have been advanced to explain why some countries may or may not have a comprehensive healthcare program. In this section, we will explore three of the theories, namely a) interest group argument, b) economic growth argument, and c) the cultural argument. A fourth theory, the institutionalist argument, will be discussed in part 4 as we examine the passing of the healthcare law in Ghana.

Proponents of this argument generally contend that since legislatures are primarily to translate the wishes of mobilized power into desired policies and reforms in a democracy, a determined interest group opposition will result in a non-passage of the proposed legislation. The reverse is true: legislators will pass into law a bill that is supported by mobilized power.[12] Thus, despite President Truman's strong belief in the necessity of a national healthcare program, he was known to have settled on a less ambitious healthcare plan due to strenuous opposition from the medical lobby and other interest groups.[13]

For example, J. Peter Nixon and Karen M. Ignagni have argued that the powerful medical lobby and divisions within President Jimmy Carter's own Democratic Party made a comprehensive healthcare delivery system in America impossible.[14] In fact, Pauline Vaillancourt Rosenau was also very optimistic that comprehensive healthcare reform legislation would be passed by Congress and signed into law by President Bill Clinton, hence, among other details, she said: "If the possibility of health system reform depends on there being a consensus across divergent interests, then success may be within reach. The health reform perspectives of business and trade unions presented here suggest that the differences are not that great."[15]

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[12] Esping-Andersen, *The Three Worlds of Welfare Capitalism*.

[13] Poen, *Harry S. Truman Versus the Medical Lobby: The Genesis of Medicare*., pp. 113-114. See also, J. Quadagno, "Why the United States Has No National Health Insurance: Stakeholder Mobilization against the Welfare State, 1945-1996," *Journal of Health and Social Behavior* 45, no. Supplement 1 (2004), where she contends that powerful stakeholder groups have made universal healthcare coverage for Americans impossible.

[14] J. Peter Nixon and Karen M. Ignagni, "Healthcare Reform: A Labor Perspective," *American Behavioral Scientist* 36, no. 6 (1993), p. 817.

[15] P. Vaillancourt Rosenau, ed., *Health System Reform in the Nineties* (Thousand Oaks, California: Sage, 1994), p. 4.

However, as later events have shown, the Clinton healthcare plan failed miserably.[16] While the interest group politics explanation is persuasive, it provides too little analytical leverage to understand why a richer country like the United States does not have a comprehensive healthcare plan. After all, there is no evidence that countries that have comprehensive National Health Insurance (NHI) legislations did not have strong opposition from interest groups.[17]

The Economic Growth Argument

Proponents of this argument contend that welfare programs, of which provision of healthcare is a part, is dependent on states with strong economies or levels of economic development, usually measured by Gross Domestic Product (GDP) per capita.[18] On the surface, this argument seems rock solid. However, as Blake and Adolina pointed out the U.S. has been one of the wealthiest countries during the post-war era; the same period that other advanced industrial democracies adopted comprehensive NHI policies. Thus, the economic growth is unsustainable.[19] Indeed, Anderson *et al* found in their 2000 study of healthcare spending of 23 Organisation for Economic Co-operation and Development (OECD) countries that the United States spent 14% of its GDP on healthcare in 1998, compared with an average of 8% in OECD countries.[20] Yet, the United States had (and still has) a less comprehensive healthcare program. Also, the argument does not explain the differences within advanced industrial democracies, although it might explain differences between rich and poor countries.[21] Furthermore, health funding, as Navarro

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[16] Kenneth Janda, Jeffrey M. Berry, and Jerry Goldman, *The Challenge of Democracy*, Sixth ed. (New York: Houghton Mifflin Company, 1999), p. 329. Here the authors argue that advertising campaigns of interests groups such as the Health Insurance Association of America (HIAA) contributed to the defeat of President Clinton's comprehensive healthcare plan.

[17] Steinmo and Watts, "It's the Institutions, Stupid! Why Comprehensive National Health Insurance Always Fails in America"; p. 335.

[18] See for example, H. Wilensky, *Rich Democracies. Political Economy, Public Policy and Performance* (Berkeley: University of California Press, 2002); H. L. Wilensky, *The Welfare State and Equality: Structural and Ideological Roots of Public Expenditures* (1975); M. I. Roemer, *Comparative National Policies on Healthcare* (M. Dekker New York, 1977); P. Flora, *The Development of Welfare States in Europe and America* (1981).

[19] C. H. Blake and J. R. Adolina, "The Enactment of National Health Insurance: A Boolean Analysis of Twenty Advanced Industrial Countries," *Journal of Health Politics, Policy and Law* 26, no. 4 (2001), p. 683.

[20] Anderson et al., "Health Spending and Outcomes: Trends in OECD Countries, 1960-1998", pp. 150-151.

[21] Pierson, "The New Politics of the Welfare State", p. 147.

pointed out, is primarily determined by political forces rather than economic and other factors.[22]

The Culture Argument

Supporters of this view argue that the political culture of a nation may affect what welfare programs are pursued. Thus, Seymour Martin Lipset has argued that cross-national polls have continuously shown that Americans are less receptive to an active role for government in the economy and large welfare programs than Canadians and Europeans.[23] Similarly, Lawrence Jacobs has made the case that the distinctive traditions of American individualism and personal freedom make them weary of more governmental involvement in their lives.[24] As a consequence, the culturalists contend Americans want individuals to be responsible for their own health insurance. The cultural argument does not only fail to explain why certain welfare programs (for example, Social Security and Medicare) are passed but it also is not in conformity with the fact that Americans have consistently craved for a comprehensive healthcare program.[25] It is undoubted that different polities have different political cultures; what is questionable is whether culture can sufficiently explain particular policy outcomes, including the existence or absence of a comprehensive NHI in any country. Above all, the argument does not fully explain the fact that politics is an iterative process; that government builds support when it does well; and that failure of a government to act properly – as defined by the public – will result in the loss of faith in public institutions by the electorates.

As evidenced from the above discussion, none of the theories satisfactorily explains why several major nations, including the U.S., do not have a compre-

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[22] V. Navarro, "Why Some Countries Have National Health Insurance, Others Have National Health Services, and the Us Has Neither," *Social Science Medicine* 28, no. 9 (1989), p. 889.

[23] S. M. Lipset, "American Exceptionalism Reaffirmed," in *Is America Different? A New Look at American Exceptionalism*, ed. B. E. Shafer (New York: Oxford University Press, 1991), p. 40.

[24] L. R. Jacobs, "Health Reform Impasse: The Politics of American Ambivalence toward Government," *Journal of Health Politics, Policy and Law* 18, no. 3 (1993). For a similar argument see Victor R. Fuchs, *The Health Economy* (Cambridge, MA: Harvard University Press, 1986).

[25] See Navarro, "Why Some Countries Have National Health Insurance, Others Have National Health Services, and the Us Has Neither." p. 888; Quadagno, "Why the United States Has No National Health Insurance: Stakeholder Mobilization against the Welfare State, 1945-1996," p. 26; Paul J. Feldstein, "Why the United States Has Not Had National Health Insurance" in *Changing to National Healthcare: Ethical and Policy Issues*, ed. Robert P. Huefner and Margaret P. Battin (Sault Lake City: University of Utah Press, 1992); Steinmo and Watts, "It's the Institutions, Stupid! Why Comprehensive National Health Insurance Always Fails in America," pp. 331-333.

hensive health insurance program that would be similar to that of tiny Ghana. We suggest that the new institutionalist approach provides a satisfactory explanation. First, though, we demonstrate that the Ghanaian constitution provides for a presidential system of government patterned on that of the U.S., the former contains modifications that reflect its contemporary historical past.

Examining Ghana's Fourth Republican Constitution

Matthew S. Shugart and John M. Carey have posited four-regime types in democratic political systems. These are: presidentialism, parliamentarism, premier-presidentialism, and president-parliamentarism. The main features of presidential systems of government are a) a separate election (directly or indirectly) of the chief executive and the assembly; b) a fixed term of office for both the chief executive and the assembly; c) the chief executive names and directs the composition of government, and d) the chief executive possesses some constitutionally granted law-making powers. They further suggest that separation of powers and the theory of checks and balances are what distinguish presidentialism from parliamentarism.[26]

In his discussion of the doctrine of separation of powers, M. J. C. Vile argued that the doctrine arose out of a belief that to establish and maintain political liberty, machinery of government must be divided into three branches, the legislature, the executive, and the judiciary. That to each of these branches of government there must be a corresponding identifiable function(s), and none of the branches must encroach upon another in exercising its own function(s). Finally, individuals must be disallowed to be members of more than one branch of government at the same time. This representation of the doctrine of separation of powers, in the view of Vile, is extreme, and notes that it has rarely been held in this extreme form, much less in practice.[27]

Vile observed that a variety of modifications of the doctrine have been employed. Two of the most important of the revised versions are 1) the amalgamation of the doctrine with the theory of mixed government; and 2) the amalgamation of the doctrine with the theory of checks and balances. The former allows for sharing of the legislative function, but keeps the other

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[26] Shugart and Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*, pp. 18-27. For other definitions of presidentialism, see A. Lijphart, *Democracies: Patterns of Majoritarian Consensus Government in Twenty One Countries* (New Haven: Yale University Press, 1984), pp. 66-71.

[27] M.J.C. Vile, *Constitutionalism the Separation of Powers* (Glasgow: Oxford University Press, 1967), p. 13.

functions strictly separate. Thus, members of the legislature may also be members of the executive but not the reverse. The latter, however, gives each branch of government the power to exercise a degree of control over another's function. The legislature is empowered to ratify treaties made by the executive, the executive wields the power to veto legislation, and the judiciary interprets the *spirit of the laws*. Through this mechanism, it was hoped that each branch of government would check the other to ensure liberty and prevent abuse of power.[28] Indeed, it is this latter view that was argued by Madison, and accepted by the federalists during the formulation of the American constitution.[29]

However, the Fourth Republican Constitution of Ghana provides that a separate election of the chief executive and the legislature must be held with fixed terms of office.[30] Article 78(1) provides that appointment of ministers of state shall be made by the president following approval by parliament.[31] Like the American president, the president of Ghana has constitutionally-granted law-making powers, including a package veto. Also, the Ghanaian president is empowered by the constitution to execute or cause to be executed treaties, agreements, and conventions in the name of Ghana subject to ratification by parliament. Article 93(2) confers legislative authority to the parliament of Ghana. On the basis of the above provisions, it is clear that Ghana has a presidential system of government.

A careful perusal of the constitution, however, reveals additional significant powers of the president. First, the constitution provides that members of parliament may be appointed by the president to executive positions without having to resign from the legislature.[32] On this point, the constitution is even

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[28] Ibid., p.18.

[29] Federalist Papers, No. 47. See also, A. Lijphart, *Parliamentary Versus Presidential Government* (Oxford University Press, 1992), p. 20; For more on the suggestion that the Madisonian view of separation of powers is the basis of the American constitution, see Shugart and Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*, p. 21. This interpretation of separation of powers incorporates the two very important requirements that there must be separate election of the president and the legislature, and the requirement that ministers must not be members of the legislature at the same time.

[30] Article 66(1) provides that the president shall be elected to hold office for a four-year term, and (2) provides that the president shall not be elected for more than two terms. Article 113(1) provides that parliament shall sit for four years after which it shall stand dissolved for a new parliamentary election.

[31] Articles 79(1) and 14 empower the president to appoint deputy ministers of state to the superior courts of the judicature. For other appointments by the president see Article 70.

[32] Article 78(1) of the constitution reads as follows: "Ministers shall be appointed by the president with the prior approval from among members of Parliament or persons qualified to be elected as members of Parliament, except that the majority of Ministers shall be appointed from among members of Parliament."

clearer in its provision regarding the appointment of deputy ministers. Article 79(2) reads: "A person shall not be appointed a Deputy Minister unless he is a Member of Parliament or is qualified to be elected as a Member of Parliament." Second, Article 108 of the constitution reserves the authority to introduce a bill or motion on financial matters to the president or representative thereof. The importance of this provision is explained below in a quote from the constitution of Ghana:

> Parliament shall not, unless the bill is introduced or motion is introduced by, or on behalf of, the president –
>
> (a) Proceed upon a bill including an amendment to a bill that, in the opinion of the person presiding, makes provision for any of the following:
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> (i) The imposition or alteration of taxation otherwise than by reduction; or
> (ii) The imposition of charge on the Consolidated Fund or other public funds of Ghana or the alteration of any charge otherwise by reduction; or
> (iii) The payment, issue or withdrawal from the Consolidated Fund or other public funds of Ghana of any moneys not charged on the Consolidated Fund of any increase in the amount of that payment, issue of withdrawal; or
> (iv) The composition or remission of any debt due to the Government of Ghana; or
>
> (b) Proceed upon a motion, including an amendment to a motion, the effect of which, in the opinion of the person presiding, would be to made for any of the purposes specified in paragraph (a) of this article.

The two foregoing provisions are very significant in relation to the powers of the president. Indeed, not only does it appear that Article 79(2) disregards the doctrine of separation of powers with the theory of checks and balances, which as alluded to previously, is the bedrock of pure presidentialism. Article 108 gives the president tremendous law-making power over the legislature, but the reality in politics is that the branch of government that controls financial matters essentially dictates law-making.[33]

Indeed, B.G. Peters has argued that powerful political officials demonstrate their power in the budgetary process by dictating how tax dollars are spent.[34] Francis Bennion too has observed that "Money is the life-blood of a State",[35]

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[33] See Shugart and Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*, p. 151, where they argue that the power to initiate a bill enables the president to control agenda-setting and that nothing would be discussed in the legislature if the president did not want it discussed.

[34] B. G. Peters, *The Politics of Bureaucracy* (London: Routledge, 2001), p. 253.

[35] F. A. R. Bennion, *The Constitutional Law of Ghana* (London: Butterworth & Co (Publishers) Ltd., 1962), p. 252.

as the machinery of government cannot operate without money. Kernaghan and Siegel have written about the same point in these words, "[e] establishing a budget is certainly one of the single most important acts that any government performs."[36] Indeed, the power of the executive to introduce legislation is very important because the executive then becomes a central player in the legislative process. The power is further enhanced when the executive has the exclusive right to introduce the legislation. When a bill is initiated by the legislature, the executive can only respond to the bill so introduced without much input. However, when the executive introduces a bill, the opportunity to include programs of its liking is increased. The legislature is forced, then, to play a reactionary role in a process it is supposed to control.

In the foregoing regard, the exclusive authority to introduce bills relating to financial matters necessarily makes the president of Ghana the most important legislative actor in that field, especially if only because the legislature can only make amendments to the bill. However, the legislature is restricted on what amendments may be made, as paragraph a (1) of Article 108 indicates. Even so, it is to be noted that the president can still veto the bill if the legislature presents a watered-down version to him or her. This point is crucial because, as it is made very clear, the constitution of Ghana provides for a presidential system of governance that is similar to that of the United States, yet it is crafted in such a way that the Ghanaian president is a lot more powerful than that of the United States because of his (or her) constitutionally-derived agenda-setting authority. It is in the context of this constitutional framework that the enactment of the NHIS law became very easy for Ghana, as opposed to what prevails in other nations.

A Brief History of Healthcare in Ghana, 1957-2003

Following the country's independence in 1957, Ghanaians had access to improved and, indeed, free healthcare that the departing British colonial leaders left behind. Given the smaller size of the country, with the then population of about 8 million people, it was not impossible for that to prevail. Toward that end, all Ghanaians could seek medical attention in any government-run hospital or health center and pharmacy at no financial cost to the individual. However, hospital fees were re-introduced in 1969 and continued in some variety until the introduction of the "cash and carry" system in 1985.

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[36] K. Kernaghan and D. Siegel, *Public Administration in Canada: A Text* (Scarborough, Ontario: Nelson Canada Ltd., 1991), p. 563.

Meanwhile, governmental expenditure on healthcare was quite high between the late 1960s and the mid-1980s. For example, per capita health expenditure in 1970 was $10, compared to between $5 and $6 in the 1990s.[37] In 1983, the Rawlings administration adopted the International Monetary Fund (IMF) and World Bank-promoted the Structural Adjustment Program (SAP). Since a key component of the SAP was to reduce government expenditure to the barest minimum, the full burden of paying for healthcare was borne by patients. Government expenditure on health was reduced from 10% of the national budget in 1982 to 1.3% in 1997.[38] As many people could not afford to pay the requisite fees at point of delivery to seek medical attention, they avoided going to hospitals and health centers. Instead they engaged in self-medication or other cost-saving behaviors or practices.[39] As a result, in 2003, the Kufuor administration introduced in parliament and subsequently passed into law the National Health Insurance Scheme (NHIS) bill designed to cover all Ghanaians who join the program. However, the implementation of the law did not take effect until March 2005.

Making the Institutional Argument

Essentially, the historical institutionalist argument contends that political institutions, which are guided by continued historical events and punctuated by 'critical junctures', do propel substantial institutional change(s) to create a 'branching point' from which a country's historical development moves onto a new path in order to shape effective policy.[40] If so, how does the enormous legislative power of the president of Ghana, therefore, explain the passing of the NHIS bill? Evidence that the constitution grants the president sufficient power to push through his legislative agenda in parliament will support our assertion that the NHIS (law of 2003) could not have been enacted without, primarily, the very strong executive-centered legislature in Ghana under the Fourth Republican Constitution.

When party politics remerged in Ghana in 1992, the country was, at the time, under a military dictatorship called Provisional National Defence Council

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[37] Frank Nyonator and Joseph Kutzin, "Health for Some? The Effects of User Fees in the Volta Region of Ghana," *Health Policy and Planning* 14, no. 4 (1999), p. 330.

[38] Kwadwo Konadu-Agyemang, "The Best of Times and the Worst of Times: Structural Adjustment Programs and Uneven Development in Africa: The Case of Ghana," *Professional Geographer* 52, no. 3 (2000), p. 476.

[39] W. Asenso-Okyere et al., "Cost Recovery in Ghana: Are There Any Changes in Healthcare Seeking Behaviour?," *Health Policy and Planning* 13, no. 2 (1998), p. 188.

[40] Hall and Taylor, "Political Science and the Three New Institutionalisms", pp. 941-942.

(PNDC), which had been in power since December 31, 1981, with Flight-Lieutenant Jerry John Rawlings as the leader of and, indeed, the *de facto* Head of State. In the end, Rawlings would run for his own political party, known as the National Democratic Congress (NDC), which won the 1992 presidential and parliamentary elections. At the time, Ghana's main opposition party (the NPP) boycotted the parliamentary election altogether, following the presidential election that had been held weeks earlier. Consequently, the 200-member parliament consisted of NDC and members from its alliance parties (together called the Progressive Alliance), except for two independent parliamentarians. As Boafo-Arthur has analyzed, the 1992 parliament was not known to have opposed any bill presented by the Rawlings government, maybe because they all supported the government's policies.[41]

Additionally, when the government proposed bills that were believed to be controversial, their consideration and debate in parliament were delayed until parliament was, reportedly, about to go on a recess and, as a result, got it debated and passed under a "Certificate of Urgency."

Even, in the 1996 presidential and parliamentary elections, President Rawlings was re-elected for another four-year term and his NDC party won 133 seats in parliament while the NPP opposition party won 61 seats. Yet, nothing was done with respect to passing any national health scheme law. Instead, to the chagrin and protest of Ghanaians, it was a Value Added Tax (VAT) bill that was debated and passed rather convincingly in 1997 by 107 to 55 votes.[42]

However, the opposition saw a way to show that it was different from the ruling NDC regime, hence as part of its campaign promise in the 1996 and 2000 elections, respectively, the NPP leaders, led by now President Kufuor, promised the Ghanaian electorate that a win for them would mean the introduction and passing of a comprehensive health insurance for all residents of Ghana, instead of the much maligned cash and carry system instituted by the PNDC regime. In fact, the NPP campaigning manifesto called the cash and carry system "callous and inhuman", thus promising an equitable healthcare-financing system (*NPP Manifesto* 1996: 36-37). Unfortunately, the NPP failed to win the 1996 election until the 2000 presidential elections, which enabled the party leaders to assume office in January 2001.

High on the NPP government's immediate agenda was the introduction of the NHIS bill, which was met with determined opposition from the powerful

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[41] Boafo-Arthur, "Ghana: Structural Adjustment, Democratization, and the Politics of Continuity", p. 61.

[42] Ibid., p.61.

Trade Union Congress (TUC), the International Monetary Fund (IMF) and opposition parties in Ghana's parliament (*Public Agenda*, Jan., 20, 2004; *Daily Graphic*, Sept., 23, 2003). The IMF opposition was from the perspective of limited resources. However, once the new president and his political party had parliamentary majority, passing the NHIS bill was a certainty for the Joint Parliamentary Committee on Health and Finance, which visited several regional capitals of the country to solicit views on the NHIS bill in public forums. These forums resulted in 44 proposed amendments to the bill, of which 30 were actually adopted, thus showing a democratic process.[43]

The opposition was not at all timid in the new parliament. For instance, the same opposition boycotted debate on the Representation of the People Law Amendment Bill (ROPA), which sought to grant absentee voting rights to Ghanaians living abroad. According to the bill, Ghanaian diplomatic missions abroad would be used as registration and voting centres with employees serving as vote counters. NDC vehemently opposed this bill, including boycotting parliamentary debate of it, arguing that the government would use it to rig future elections through that process. Nevertheless, the government persisted, and that bill was also passed to receive presidential assent (or approval) on February 24, 2006 (*Africa Research Bulletin*, March 1-31, 2006).

Many arguments have been advanced to explain how the Kufuor government succeeded in introducing the NHIS law. One cannot use availability of resources, especially since Ghana is one of the less affluent countries in the world, with a GDP per capita of $2,130 in 2002, and also ranked 112th in the world in terms of affluence (UN Common Database/World Bank, 2002). President Kufuor, however, explained to his countrymen and women that the approximately $13 million a year program would be financed, in part, by imposing a 2.5% NHIS levy, taking 2.5% of the funds from the existing social security funds as well as from the National Insurance Trust (SSNIT), $5 million from the Highly Indebted Poor Country (HIPC) index and individual-member contributions.

Conclusion

It has amply been shown that political will and resilience are important in developing any society. Furthermore, one learns that Ghana and her citizenry had to work very hard to attain the National Health Insurance Scheme

[43] USAID. "Success Stories: National Health Insurance Bill." http://africastories.usaid.gov/earch_details.cfm?storyID=220&countryID=8&sectorID=0&yearID=4. Accessed on April 21, 2007.

(NHIS), and that the country's Fourth Republican constitution, with its strong powers given to the executive, made the process a lot easier. In the end, the ruling NPP regime and its officials were also able to fulfill its pledge to the Ghanaian electorate, as it promised in its political manifesto that such a scheme would be in place during their leadership. Hopefully, our study would provide ample research avenues for future scholars or students, who are interested in knowing a lot more about Ghana's National Health Insurance Scheme (NHIS). Above all, countries of the West African sub-region can learn from the Ghanaian scheme, as what has been demonstrated is the fact that, with political will, a lot can be attained in developing societies.

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