

Colonialism and Institutional Persistence: Mixed Legislative Legacies in Ghana and Kenya

Ken Ochieng' Opalo*

November 16, 2021

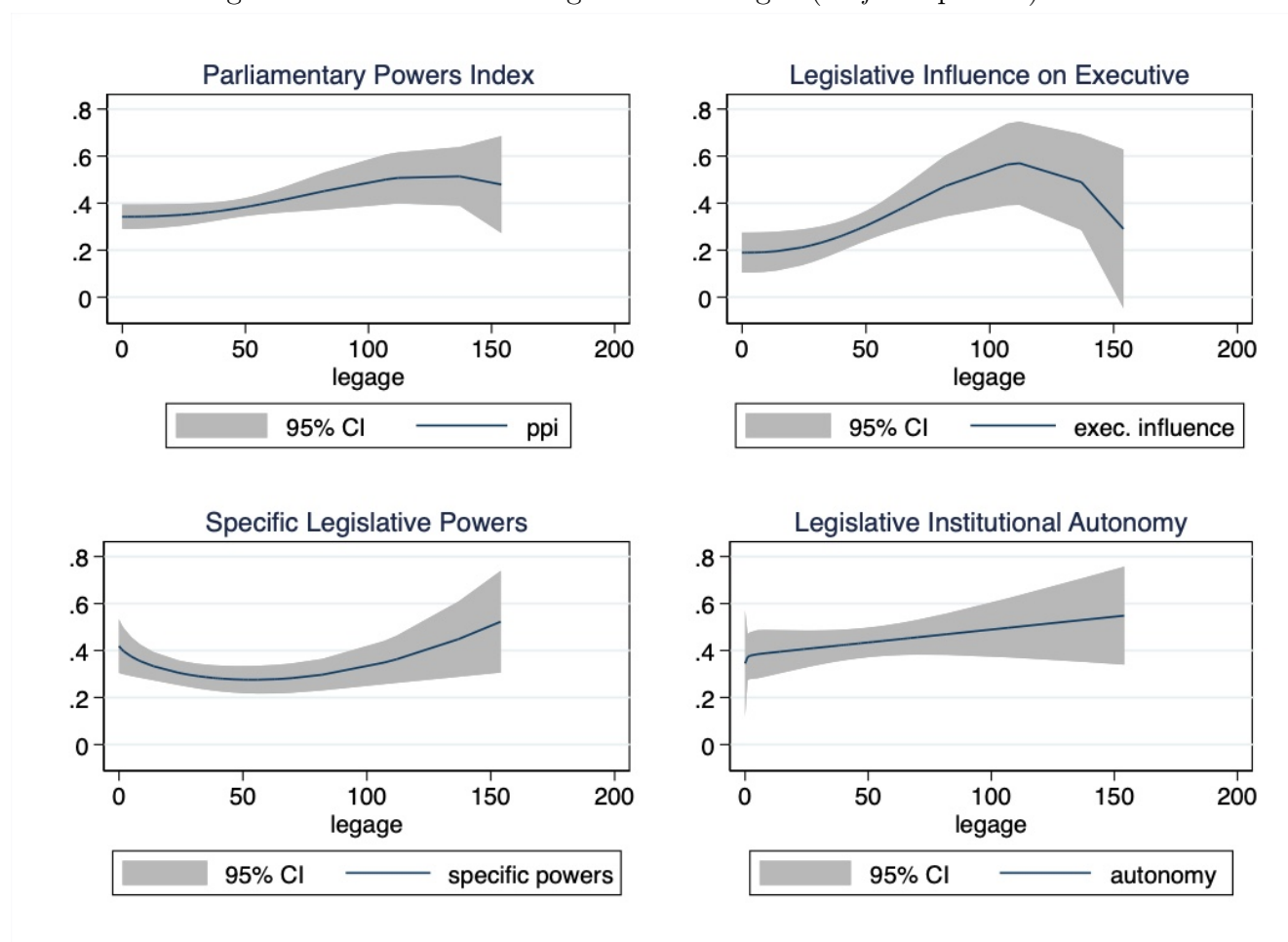
ONLINE APPENDIX

*Walsh School of Foreign Service, Georgetown University. 3700 O Street, NW. Washington, DC 20057
USA; koo6@georgetown.edu

1 Legislative Institutionalization and Strength

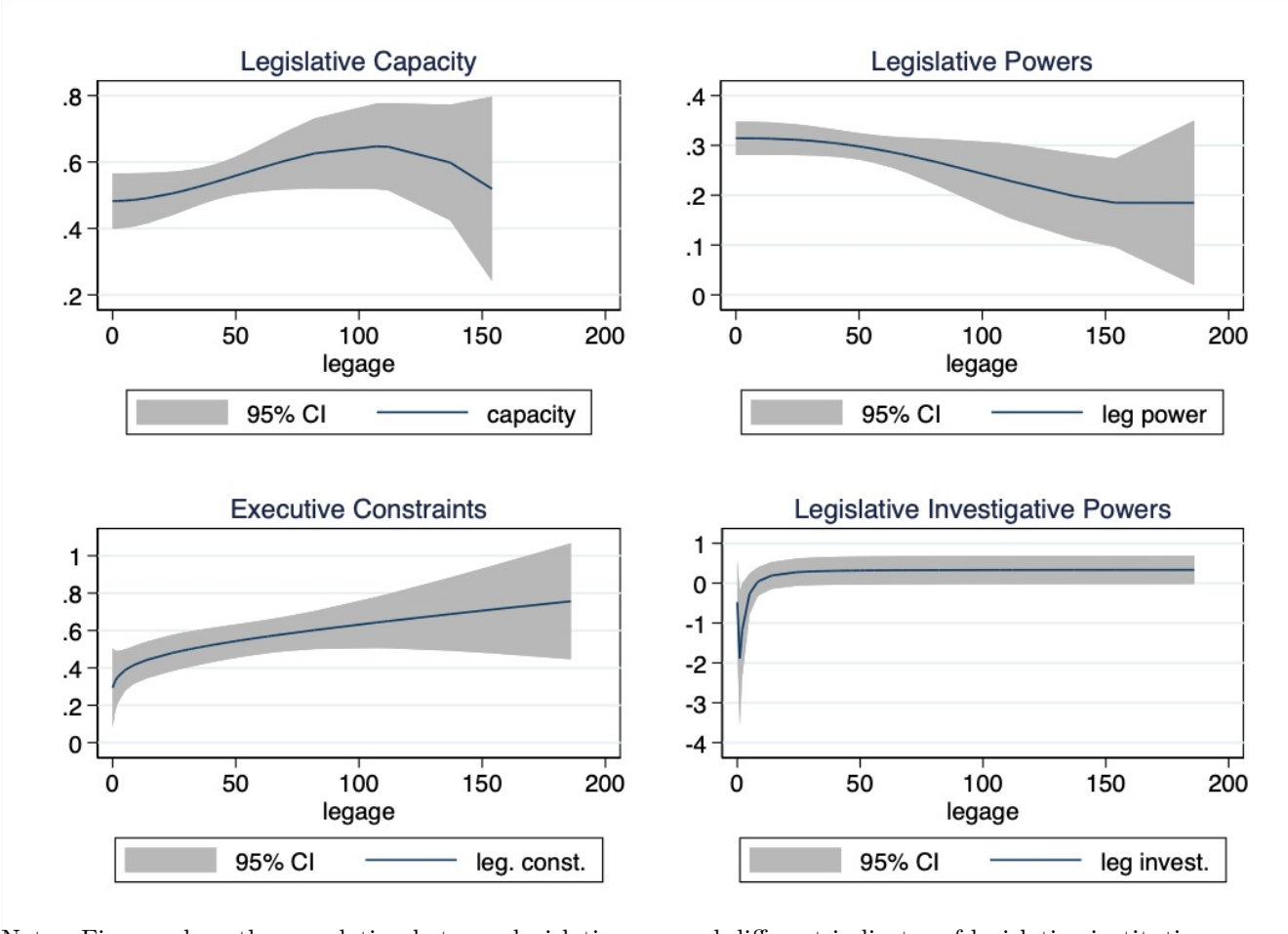
The correlation between colonial legislative institutional antecedents and contemporary measures of legislative institutionalization is tenuous and sensitive to measurement. This section shows bivariate plots depicting the correlations between different indicators of legislative institutional and legislative age (Figures A1-A3). The main point is to illustrate the contingent correlation between different indicators of legislative institutionalization and historical experience – hence the mixed legacies of colonial legislatures in African states. Postcolonial legislative development has since attenuated the effects of colonial institutional design. Furthermore, the impact of intra-institutional politics are not always observable through cross-sectional measures. This calls for more detailed country-case legislative histories.

Figure A1: Correlates of Legislative Strength (*de facto* powers)



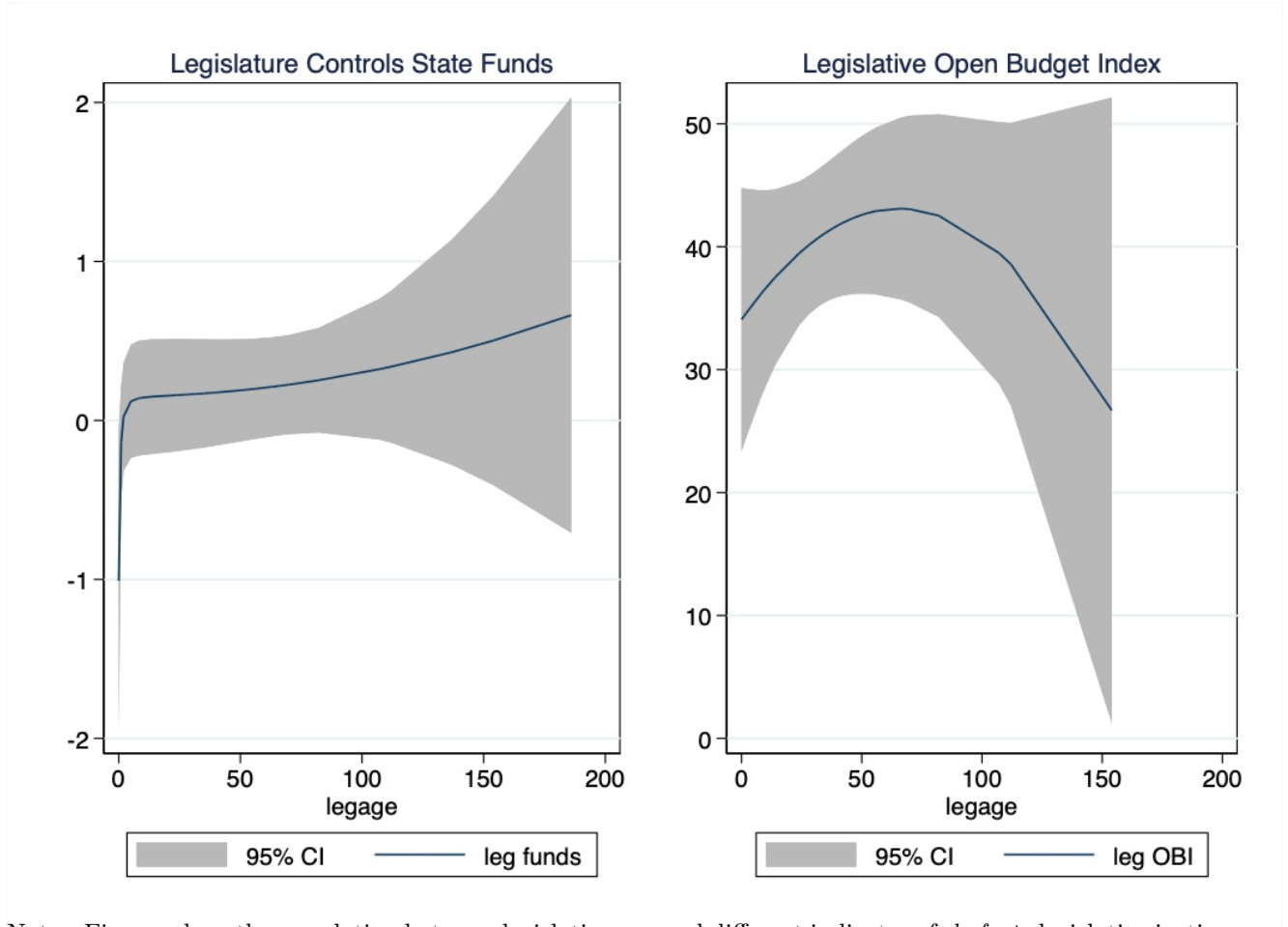
Notes: Figures show the correlation between legislative age and different indicators of *de jure* legislative institutionalization and strength. Data from (Fish and Kroenig, 2009)

Figure A2: Correlates of Legislative Strength (*de facto* powers)



Notes: Figures show the correlation between legislative age and different indicates of legislative institutionalization and strength. Legislative Capacity data are from Fish and Kroenig (2009); Legislative Power data are from the Comparative Constitutions Project (<https://comparativeconstitutionsproject.org/>), and data on executive constraints and legislative investigative powers are from (Coppedge et al., 2021).

Figure A3: Correlates of Legislative Budgetary Strength



Notes: Figures show the correlation between legislative age and different indicators of *de facto* legislative institutionalization and strength. Data from (Coppedge et al., 2021) and the International Budget Partnership's Open Budget Index (<https://www.internationalbudget.org/>).

2 Comparative Study of Ghana and Kenya

Figure A4 compares the relative postcolonial institutional stability of Kenya’s legislature compared to Ghana’s volatility. This paper argues that in Kenya decolonization was led by an institutionalist (KANU) majority whose internal politics was conducive to the maintenance of the legislature as the main arena for conducting intra-elite politics (Opalo, 2014, 2019, 2020). Ghana on the other hand was led into independence with a radical new elite that sought to uproot the entrenched power of chiefs in the both the LegCo and local authorities. The attempt to realize this goal weakened the independence legislature vis-à-vis the CCP and created significant intra-elite political instability as Nkrumah battled chiefs, remnants of the UGCC (including the National Liberation Movement, NLM), and other opposition parties in the postcolonial period (Allman, 1993). The 1957 constitutional amendments that scrapped the regional assemblies and several constitutional safeguard against centralized rule signified the lack of elite consensus on the nature of Ghana’s constitutional (and legislative) order.¹

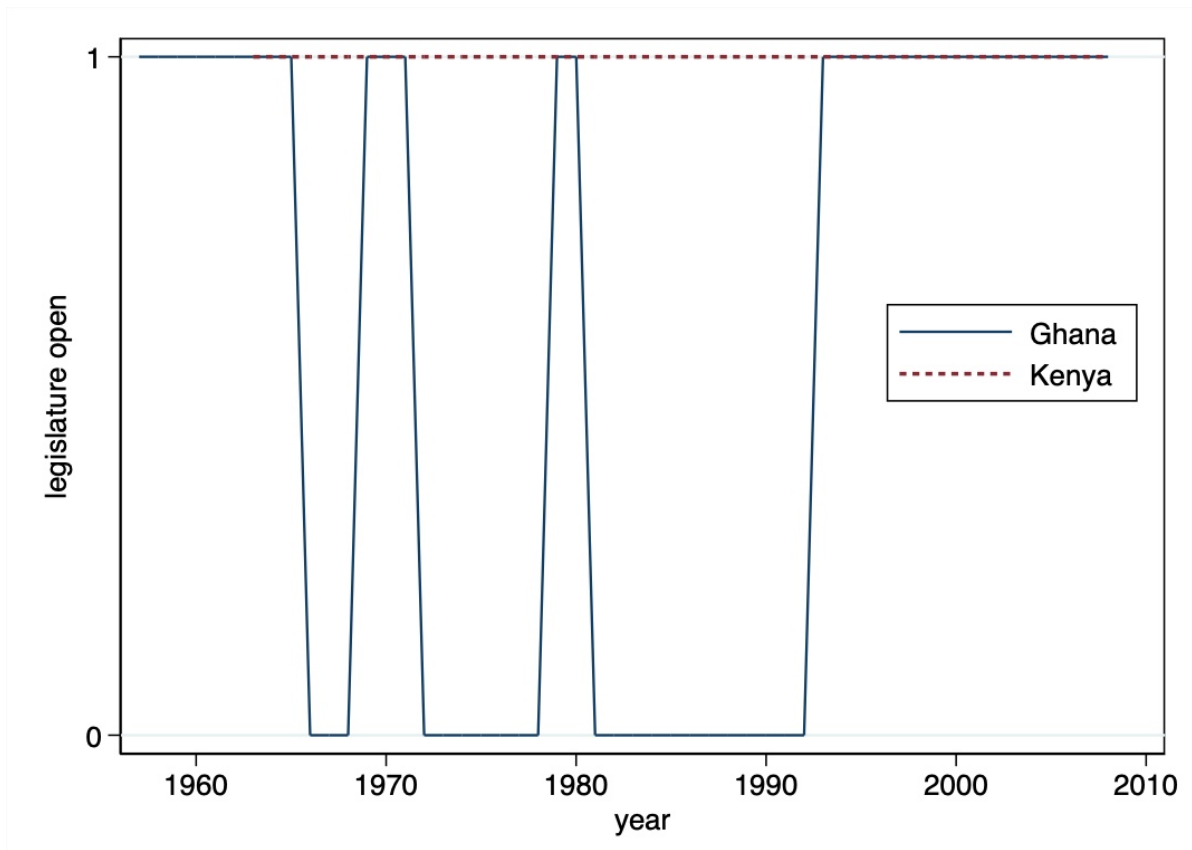
The status reversals show in Table A1 mirrored changes in the colonial administrations basis of local linkage to African society. Austin (1970) (p. 22-28) documents the status reversals between “commoners” and chiefs in great detail. At first, the colonial administration favored non-chiefs at the expense of chiefly authority. Consequently, many non-chiefs prospered in the trading sector and other professions. The politicization of this class and the threat of linking up with the wider public (and causing unrest that threatened colonial authority) led the colonial administration to empower chiefs as a counterbalance. The policy of indirect rule further strengthened chiefly authority. Because of the close association of chiefs with colonial district administrations, it was possible to successfully mobilize against their authority following the advent of mass politics in the late 1940s. The CCP championed the idea that “chiefs no longer sit on Stools but on Gazettes” to mock chiefs’ reliance on colonial power, often against the interests of their own people (Austin, 1970, p. 2). The UGCC on the other hand thought of politics in terms of “the people and their chiefs.”² In the end, the “Coussey Constitution” set the ball rolling on the separation of “traditional” authority and the Ghanaian state. Chiefs were systematically sidelined in both local governments (which they previously headed) and in the national legislature (they failed to get their desire for a bicameral legislature, a federal system, or presence in the lower house).³ As (Apter, 1955) observes, “[u]p until the basic structural change imposed by the Local Council Ordinance of 1951, which abolished the native authorities system, *the period of indirect rule was structurally characterized by a system of native authorities having financial, judicial, administrative, and policy powers*” (p. 135).

¹It is worth noting that despite its surprise success in 1951, the CCP did not completely vanquish the opposition. For example, in 1957 the party managed 57% of the vote share amidst stiff, albeit geographically concentrated, opposition from the NLM and other parties.

²Boahen, Adu. 1975. *Ghana: Evolution and Change in the Nineteenth and Twentieth Centuries*, London, UK: Longman (p. 160)

³Apter, David. 1955. *Ghana in Transition*, Princeton, NJ: Princeton University Press; Sackeyefio-Lenoch, Naaboroko. 2014. *The Politics of Chieftaincy: Authority and Poverty in Colonial Ghana, 1920-1950*, Rochester, NY: University of Rochester Press

Figure A4: Existence of Functional Legislatures in Ghana and Kenya



Notes: Figure shows the existence of functional legislatures in Ghana and Kenya. Notice the multiple closures of the Ghanaian legislature beginning in 1966. Data are from [Cheibub, Gandhi and Vreeland \(2010\)](#).

2.1 Alternative Explanations

To recap, this paper argues that colonial legislative institutional development in the Gold Coast (Ghana) and Kenya was driven by dynamics of factional politics within the two institutions. This section briefly considers alternative explanations for the institutional divergence between the legislatures in Ghana and Kenya. The point is not to provide an exhaustive account of all potential alternatives, but rather to address the most likely competing explanations besides the one offered in this paper.

2.1.1 Interest Group Politics

Bates (1981) argues that a key difference in agricultural policy outcomes in Ghana and Kenya was the structure of interest group politics in the two countries.⁴ In Ghana, dispersed cocoa farmers did relatively poorly in extracting policy concession from the government, compared to Kenya's large-scale farmers who did better. One might argue that these dynamics also

⁴Bates, Robert. 1981. *Markets and States in Tropical Africa: The Political Basis of Agricultural Policies*. Berkeley, CA: University of California Press.

Table A1: African Representation in the Gold Coast Legislative Council

LegCo Member	Appointed	Profession/Constituency
James Bannerman	1850-6	Merchant
George Blankson	1861-73	Merchant
Robert Hutchison	1861-3	Merchant/Cape Coast
F. C. Grant	1863-6, 1869, 1871, 1873, 1887	Merchant/Cape Coast
S. C. Brew	1864-6	Merchant/Anomabu
G. F. Cleland	1886-7	Merchant/Division Chief, Accra
W. Hutchison	1887	Merchant/ Cape Coast
John Sarbah	1887, 1888-92	Merchant/Anomabu & Cape Coast
J. H. Cheetham	1893-8	Merchant/Accra
J. Vanderpuiye	1894-1904	Merchant/Division Chief, Accra
T. Hutton Mills	1898-1900, 1909-18	Barrister/Accra
J.. Mensah Sarbah	1900, 1901-10	Barrister/Cape Coast
J. P. Brown	1904-9	Teacher/Cape Coast
Nene Mate Kole	1911-16, 1921-26	Paramount Chief/Manya Krobo
Nana Amonoo V	1916-21	Paramount Chief/Anomabu
Togbui Sri II	1916-21	Paramount Chief/Awunaga
Nana Ofori Atta	1916-26	Paramount Chief/Akim Abuakwa
E. J. P. Brown	1916-26	Barrister/Cape Coast
J. E. Casely Hayford	1916-26	Barrister/Sekondi
Dr. B. W. Quartey-Papafio	1919-24	Medical Practioner/Accra
C. J. Bannerman	1921	Barrister/Accra
Nana Essandoh III	1921-6	Paramount Chief/Nkusukum
J. Glover-Addo	1924-6	Barrister/Accra
H. Van Hien	1924-6	Merchant/Cape Coast & Elmina
E. C. Quist	1925	Barrister/Accra

Notes: Table shows the African membership of the Gold Coast Legislative Council through the mid 1920s. Among non-chiefs, notice the dominance of merchants in the early years, and their replacement by lawyers in the latter period.

influenced the institutional development in the two countries' LegCos – perhaps through their influence on legislative factional politics.

While the electoral connection is not a core focus of this paper, it is worth exploring how the linkage between members of the LegCo and their constituents might have influenced legislative institutional development in the two colonies. Might organized large interest groups have had a stabilizing effect on Kenyan legislative development, while Ghana's dispersed farmers caused instability?

To answer this question, it is worth looking at the manner of composition of the two LegCos. In Kenya, elections were conducted since 1920 under a qualified franchise (with most Europeans qualifying). Africans joined elective politics in 1958, with universal suffrage being achieved in the early 1960s. In Ghana African elective politics commenced in 1925

under qualified franchise, with universal suffrage being achieved in the 1950s. It is unlikely that elective politics alone structured the Ghanaian LegCo's development. This is because the dominant faction in the institution comprised the Chiefs, who represented corporate interests of Provincial Councils – much in the same way that organized farmers in Kenya may have influenced proceedings in the LegCo. Also notice that the vast majority of rural farmers fell under the jurisdiction of Chiefs. Furthermore, before the 1950s African political mobilization was almost exclusively limited to the urban areas of Accra, Cape Coast, and Sekondi. Initial political development was fragmented. Because of the limited franchise in the urban areas, Ghana's political parties were subnational, urban, and inherently elitist.⁵ The UGCC and CPP were the first truly national parties in the colony.⁶ Other gradualist or collaborationist political formations were swept away by the 1951 elections.⁷

2.1.2 The Structure of the Economy

Ghana was an archetypical extractive colony – hence the name the Gold Coast. Kenya was a settler colony. Might the structure of the two colony's economies influenced the evolution of the legislature, especially since commercial interests were directly represented in the Ghanaian LegCo?

The simple answer is no. First, the heyday of the power of the merchants ended in the late 19th century. Afterwards they were replaced by lawyers and then Chiefs as the dominant faction within the LegCo. Furthermore, the system of indirect rule expanded Chiefs' institutional powers in their respective domains – a fact that forced Governors to pay attention to the Chiefs. Second, cocoa quickly became the dominant export from the so-called Gold Coast (Beckman 1976).⁸ Figure A5 shows the share of questions raised in the LegCo, reflecting the dominance of the Cocoa industry to LegCo members (especially African members). Like in Kenya, farming and not mining, was the mainstay of the colonial economy. Therefore, in both colonies the administration had to pay attention to agrarian interests as opposed to merely collecting rents from mineral exports.

2.1.3 Settler Colony Status

Might the existence of European settlers served to strengthen institutional development in Kenya in ways that were not possible in Ghana?

Not likely. To understand why, it is important to appreciate the mechanisms at play. Without paying attention to the specifics of the case, Kenya might look like the case that was more likely to experience postcolonial institutional instability. The LegCo was dominated by foreigners for 50 years who only relinquished their power at the end of colonialism. It

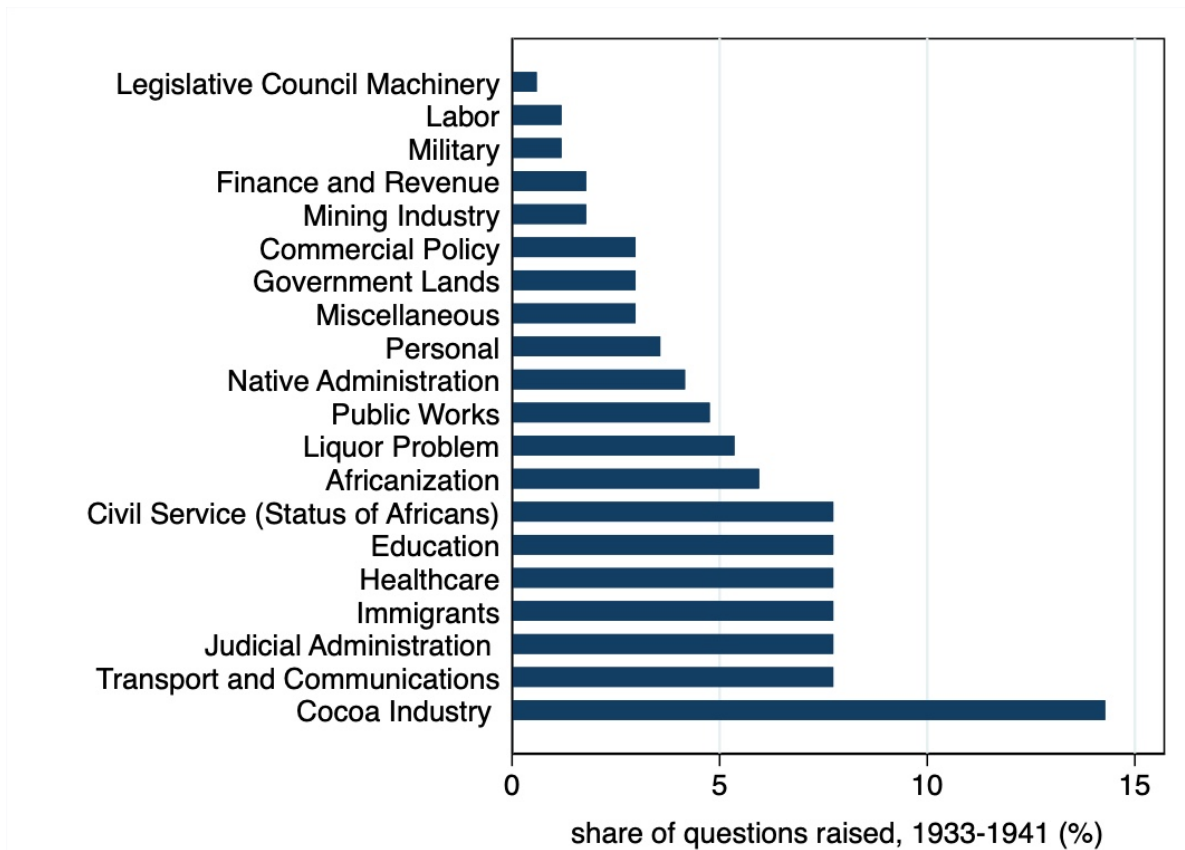
⁵Quarcoopome, Samuel S. 1988. "Party Politics in Accra: 1927-1945." *Universitas*, Vol. 10 p. 152-165

⁶Manu, Yaw. 1975. "Reflections on Nationalism in the Gold Coast (Ghana) 1944-1951," *Journal of the Historical Society of Nigeria*, Vol. 8, No.1 pp. 117-131

⁷Hove, Jon Olav and Kofi Baku. 2017. "Conservatism in Gold Coast Politics: From Ku-Hee (New Party) to the National Democratic Party, 1943-1951," *Transaction of the Historical Society of Ghana*, No. 17 pp. 27-62

⁸Beckman, Bjorn. 1976. "Organizing Farmers: Cocoa Politics and National Development in Ghana," Uppsala, Sweden: Scandinavian Institute of African Studies.

Figure A5: Share of Issue Areas in Questions Asked in the LegCo



Notes: Figure shows the issue area share in questions raised in the Legislative Council between 1933 and 1941. Notice the dominance of cocoa. The vast majority of questions were raised by African LegCo members. Data from [Wight \(1946\)](#).

was possible for Kenya to experience a discontinuous legislative institutional change, as had happened in both Northern Rhodesia (Zambia) and Southern Rhodesia (Zimbabwe). Ghana on the other hand had more than a century of African representation in the LegCo, with Chiefs (respected sociocultural leaders) being at the heart of institutional development. Therefore, it is Ghana and not Kenya that ought to have had a smooth legislative institutional transition at independence.

The core difference was in the preferences of the factions that dominated the two legislatures over time. In Ghana, independence was marked by a factional shift, with the CPP being anti-institutionalist and revisionist. In Kenya, KANU reflected the independence compromise and accepted the important role of the legislature as the main arena for managing intra-elite politics. Thus Kenya avoided the fates of the legislatures in Zimbabwe and Zambia, fellow former British settler colonies ([Opalo, 2019](#)).

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