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Protecting Auditor Independence by Means of Company Law: The Case of the Companies Code of Ghana

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Abstract

A content analysis of the Companies Code (Act 179 of 1963) of Ghana has been used to determine the extent to which company law in Ghana protects the auditor's independence. It was determined that the present law, the Companies Code, does not make adequate provision to protect Auditor independence in Ghana. The practical implication of this finding is that the law relating to company audits in Ghana requires an update to strengthen the auditor's independence in Ghana. The value of this paper lies in its contribution to the debate on auditor independence and how it can be improved under a reviewed Companies code of Ghana.

Key words: Audit, Audit independence, Agency problem, Peer Review, Auditor Rotation

1. Introduction

The concept of auditor independence has been strongly brought to the front burner of the auditing profession and theory in recent years because of the Enron Scandal in the US. This scandal gave rise to the Sarbanes-Oxley Act, SOX, (2002) in US (Gray & Manson 2008) and sent several auditing firms, accounting professional bodies and authorities ducking for cover under new auditing legislation and standards. But the importance of the concept is even more relevant in the third world in general and Ghana in particular, where the business environment is characterised by mistrust for management by the users of the financial statements they (management) produce to explain their stewardship to them as suspicion of fraud in general and corruption in particular rage unabated. This typifies situations which widen the credibility gap between auditors and the users of their reports. The question of impartial, objective and effective audit is therefore worth examining in the Ghanaian context.

In 1963 the Companies Code of Ghana was promulgated by an Act of Parliament (Act 179 of 1963) popularly dubbed, Companies Code 1963, as the basic law governing the preparation, audit and presentation of financial statements by all companies in Ghana, both private and public. It has been suggested that the requirements of the Code is now outdated having seen no amendment since 1963 such that currently, they do not conform to modern corporate governance practice (Rahman 2004). There are chances that the prescription of the obsolete law on independence must also be stale with changing circumstances and corporate environment. A review of the law which was inaugurated in 2004 is still in progress. Since the law is under review, there are prospects to make changes in the law to strengthen independence of the Ghanaian auditor.

In this paper, an attempt has been made to examine the concept of auditor independence in Ghana in the context of capacity of company legislation to promote its existence. Specifically, the paper is presented on the following structure:

- A review of the Concepts of Audit and Auditor Independence.
- An examination and discussion of the proposition that the Companies Code of 1963 has provisions which seek to ensure the independence of the Ghanaian auditor.
- An identification of the various weaknesses in the Companies Code of 1963, with regards to auditor independence.
- A conclusion that the law in Ghana on independence does not protect the auditor enough such that it requires a complete overhaul in tow with others in the global village.

- Finally, suggestions for a general review of the provisions of the law to promote the auditor independence in Ghana.

This paper is intended to arouse a fresh debate on auditor independence in Ghana. It has exposed the weaknesses in the present law with regards to corporate financial audit and provided suggestions on what auditing requirements to introduce to promote auditor independence under a revised Companies Code.

2. Why Should the Auditor be Independent?

The reason why the auditor must be independent can be traced to the purpose of auditing itself. A logical consequence of the inception of company form of business in the 17th century for trading and other purposes was the unprecedented need for accountability in business. The company form of business had made it possible for people to invest in a business without directly engaging in its management (Solomon 2007). Further developments had led to a complete split between management, now recognised in law as the Board of Directors, and the Shareholders (the owners of the business). The essence of this development was that management had the responsibility for putting to use the resources provided by shareholders.

Whenever one person employs another to perform some tasks on his behalf, the "Agency" problem arises (Cosserat 2004; Gray & Manson 2008; Volosin 2008; Solomon 2007). In a principal-agent relationship, the agent may seek to benefit at the expense of his principal who, under normal circumstances would look for protective means to extricate himself from a potential unfaithful agent. The agency problem gives rise to the ways and means by which the principal will ensure that he does not lose out in the likely event of a principal-agent conflict.

2.1 The Need for Audit

The relationship between management and shareholders gives rise to an agency problem. In a company form of business, the logic of the agency theory dictates the need for a means by which the shareholders could hold management accountable for their stewardship. This need is met by the preparation and submission of accounts (financial statements) by management to shareholders. This arrangement has been made mandatory under almost every legal regime. In the case of Ghana, the Companies Code 1963 section 122 makes it mandatory for directors of companies to prepare financial statements each year to be presented to the shareholders at the annual general meeting.

It is only natural that the story of accountability as narrated by management in the financial statements presented to the shareholders and other stakeholders could be doubtful to the later (if not incredible) unless they are assured that there was no doubt. This assurance came to be provided by an audit. Generally, the "Agency problem" gives rise to accountability achieved through the preparation of financial statements by management, which may not be considered credible unless an auditor has pronounced an opinion on it. Thus it can be postulated that the process of accountability cannot be complete without an audit.

During an audit, an independent, detached and competent auditor throws an investigative "searchlight" on the financial activities of the company over the period under review and issues a report informing the shareholders (or stakeholders) as to whether the financial statements presented to them is a reflection of what happened or not. Thus it can also be argued that auditing is a logical appendage of the process of accountability in businesses.

Under contemporary corporate governance paradigm, assurance by Audit is not required for accountability to shareholders (i.e. providers of capital) alone but to diverse groups who are interested in the organisation now referred to as stakeholders under the stakeholder theory of corporate governance (Solomon 2007). The stakeholder paradigm of corporate governance identifies various groups for whom management must provide information to enable them decide on their continuing relationship with the organisation. Thus an important role of auditing suggested by Flint as cited in Gray & Manson (2008) is that it is a means for ensuring and monitoring accountability to diverse groups who by extension of the agency theory can also be classified as principals. Examples of stakeholders to whom accounting through management must provide information to enable them take informed decisions are shareholders, prospective shareholders, suppliers, the government, bankers and other providers of credit, employees community-based pressure groups, environmental advocates etc. These groups are served by accounting information which is found to be more credible if they are audited and less credible in unaudited state.

Although the agency theory has been frequently presented as a justification for company audit, other justifications have been cited in the literature. These include information hypothesis (Gray & Manson 2008), insurance hypothesis (Brown *et al* 2008), credibility enhancement theory (Leung *et al* 2012), the theory of rational expectations (Limperg 1932) and the provider of value-added services theory, the so-called non-audit services (Boynton & Raymond 2005). It appears however that the agency problem underlies all these other theories.

2.2 The Concept of Auditor Independence and its Significance

It is now clear that the process of accountability in business is not complete without an "Audit". But for an Audit to be meaningful the one performing it must be and be seen to be independent. The more independent an Auditor is seen to be the more the confidence reposed in him by the users of his report.

The nature and essence of an audit are such that the person performing it, the auditor, must not be influenced by "previous involvement in the subject of audit, uncompromised by vested interest in the outcome or its consequences, unbiased and uninfluenced by considerations extraneous to the matter at issue" (Gray & Manson *2008*). An independent auditor is expected to be impartial and free from all direct and indirect influence from those affected by his work. Generally, the independence of the auditor requires him "to be free from situations and relationships which would make it probable that a reasonable and informed third party would conclude that the auditor's objectivity is either impaired or could be impaired" (Gray & Manson 2008). When an environment is created to insulate the auditor against these influences then he is said to be independent.

It is emphasised that all forms of independence may be represented in a continuum ranging from zilch to absolute, although the concepts of nothingness and absolutism are unlikely phenomena with regards to auditor independence under contemporary corporate governance systems. They are therefore mentioned for academic purposes.

The concept of independence is fundamental to auditing. It provides the basis for the public to have confidence in the auditor's pronouncement on the financial statements he attests to (Lindberg & Beck 2004). If an auditor is not independent, then the essence of his appointment is completely lost because, the credibility gap that created the need for auditing in the first place will linger on. Consequently, his report will be perceived as unreliable.

There are two aspects to independence which the auditor should be aware of, namely, mental and physical independence, which Cosserat (2004) refers to as "actual independence and perceived independence" respectively. The mental independence is a matter of the mind bordering on the auditors' strength of character and his ability to withstand pressure, maintain his integrity and neutrality, enabling him to report only what he has seen. Physical independence is how others see the auditor as a "disinterested" provider of the audit service. Physical independence is largely a function of the perception of users of audit report. While users of auditor's report cannot objectively assess actual independence they can at least perceive its appearance (Lindberg & Beck 2004). Take a hypothetical case of an engagement partner who takes as a wife, the Chief Finance Officer of the audit client in the course of the audit. No matter how actual the independence of the auditor could be, the public would perceive lack of independence. Then also, if the audit fee from a particular engagement is seen to be too important to let go, the public would perceive lack of independence even if it actually exists. Earlier on in history, the auditor could be one of the shareholders (Gray & Manson 2008). However, today, if the auditor is found to be a shareholder of his audit client company, it will be considered so abominable that independence would appear totally absent no matter how much actual independence exits even if the law does not prohibit it.

Various concepts have been raised in existing literature to describe matters that may threaten auditor independence and which they must be aware of to enable them remain independent. Such threats to the auditor's independence identified in the literature include, certain relationship between the auditor and client from which the auditor may benefit (Gray & Manson (2008) (Conflict of interest situations); certain services offered to the client which enables him to form opinion on his own work (e.g. provision of non-audit services) (Baker 2005; Lindberg & Beck 2004; Lee & Ali 2008; Ainul *et al.;* 2005); the familiarity threat arising from being placed on an audit engagement for a long tenure (Hudaib & Cooke 2005); competition in the auditing profession (Gray & Manson 2008; Beattie *et al*. 1999; Salehi *et al* 2009), the fear that the auditor might lose clientele (the economic bond theory) (Beattie *et al*. 1999; Salehi *et al.* 2009); ineffective legal and professional sanctioning regimes (Beattie *et al*. 1999; Salehi *et al.* 2009). Gray & Manson (2008) recognise the need for more research to find out the strength of the impact of these factors on independence.

Of particular interest in this review is the issue of ineffective legal sanctioning regimes. Whilst the law can be used to affect appearance of independence it may not be as feasible in the case of mental independence. Although admittedly, it may not be possible to make and enforce laws to cover every conceivable factor affecting independence an effective legal environment should lay appropriate emphasis on the factors referred to above, particularly, those that affect appearance of independence.

In auditing, the importance of independence is so overwhelming that various attempts have been made by law-makers, accounting bodies and professional audit firms to regulate its existence. There are two main sources of regulation affecting auditor's independence. These are the regulatory framework provided by the law and that provided by the accounting profession in the form of professional ethical standards and guidelines. Generally, the legal framework provides the minimum requirements to ensure appearance of independence and the professional bodies attempt to augment the legal framework by providing rules to cover perceived weaknesses of the law in a self-regulatory mode. Professional ethics may not be enforceable in the court of law although during litigations the court may rely on them in deciding guilt or otherwise. However, a matter provided under the law makes non-compliance an illegality. The emphasis in this paper is the framework provided by the law rather than the profession although, some references have been made to the professional framework to enhance understanding of some concepts.

Despite the importance of the concept of independence to the process of audit, Mills *et al*. (2012) caution that "audit quality is also affected by many factors other than auditor independence". The implication of this for the debate on the importance of auditor independence is that rules on independence must not be over-emphasized to the neglect of these other factors.

I now turn to the various approaches by the Companies Code to the solution of the auditor independence problem in Ghana.

3. Can the Companies Code 1963 Protect the Independence of the Ghanaian Auditor?

3.1 How the Companies Code 1963 Protects the Independence of the Ghanaian Auditor

The Companies Code of 1963 is the basic law which regulates activities of companies in Ghana. It has various provisions, the totality of which has been proposed to ensure at least the appearance of independence.

The provisions affecting independence are those relating to:-

- The Auditor's Appointment (section 134)
- The Auditor's Remuneration (section 134)
- The Disqualification Clause (section 196 (2)).
- The Duties and powers of the Auditor (section 136)
- The Auditor's Removal (section 135)

Section 134 of the Code expressly provides that Auditors must be appointed by shareholders at the annual general meeting. However, first, auditors can be appointed by directors (section 134) and casual vacancies can be filled by either the directors or the Registrar as the case may be. Appointments by directors are subject to ratification at the succeeding annual general meeting. Thus in principle it is the shareholders who are allowed by the Code to appoint auditors for their company. The implication and objective of this rule is that the directors will not have the opportunity to use the power to appoint, to appoint Auditors that they can control. The section therefore establishes an appearance of independence.

Under the Code, the auditor's remuneration is to be fixed by his appointee. This means that in a greater number of cases remuneration is expected to be fixed by the shareholders. Again, the principle here is that if the auditor's remuneration is fixed by the directors, he could be manipulated by the use of the 'Carrot or Stick'. For example, directors can fix high remuneration to solicit for favours and fix low remuneration when the favours are not forthcoming.

Section 136 of the Code gives various rights to the auditor which are designed to strengthen him and enable him to decide on his own procedures, what to investigate and what matter he will report on without any interference. For example, he has the right of access to all material information, he can ask for explanation from any officer on any matter he deems necessary, he can attend general meetings of the company and above all make representation at

the meeting where he is proposed to be removed. He is also required as a matter of duty, to report on his findings to the shareholders.

Furthermore, section 196 of the Code makes illegal, the existence of certain relationships between the auditor and his client company. It disqualifies officers and servants of the company and their employees or partners from being appointed as auditors of the company. The implication of this provision on the auditor's independence is very obvious. If it were possible for those relationships to exist between the auditor and his client company, there would be conflict of interest and his independence, both mental and physical, could be brought into dispute. A little stretch of the imagination of the suspicious Ghanaian corporate observer could lead to one obvious conclusion: how can the auditor be objective if he is an officer, employee or servant of the company?

Section 135 on removal appears to be the most serious effort of the Code towards assuring the Auditor's independence. The section grants that only shareholders can remove auditors. The principle is that if Director's can remove auditors, they may be in a position to use that power to manipulate them. Strengthening him further, is the provision which gives him the right to attend the meeting at which he is to be removed and to make verbal and written representations.

From the above discussion one can argue that the Companies Code of 1963 is intended to ensure that auditors are independent and are seen to be so. However, as demonstrated below, the practical application of the law can enable the intention of the law to be flouted or at best be avoided at will.

3.2 The Failures of the Companies Code 1963 as a Protector of Auditor Independence in Ghana

In the case of Ghana, several loopholes can be identified with the practice and theory of the law with regards to auditor independence. Take the disqualification provision as an example. The disallowed relationships are limited to only a few of the relationships cited as threat to independence. Auditors can legally do business with their client companies. Relatives and friends of officers, servants and partners and their employees barred by section 196 can be appointed as auditors. Moreover, auditors can own shares in the audited companies. It has been argued that if the auditor holds shares in the client company he will have the incentive to act against the interest of both other existing shareholders and future shareholders through series of manipulations resulting from insider knowledge.

Secondly, apart from auditing the accounts of client companies, auditors can perform other non-audit services to the company. Indeed, the auditor is specifically authorised under section 136 (7) to either "expressly or impliedly undertake obligations to the company in relation to the detection of defalcations, and advise on accounting, costing, taxation, raising of finance and other matters". In practice, several more examples of these non-audit services can be identified, namely, share registration, preparation of accounts, financial management consultancy and the installation and maintenance of management information systems. A quick glance at some of these services indicates that in most cases their performance could be at variance with the professed independence of the auditor since by their nature, the auditor cannot offer them and claim to be independent.

Thirdly, the appointment, removal and remuneration provisions as practised show clearly that they are incapable of ensuring the auditor independence. In practice, the powers vested in the shareholders on appointment, removal and remuneration can be hijacked by the directors. Although the directors do not have the power to appoint and remove, they can and they in fact do recommend to the shareholders on such matters. It has been observed and suggested that through apathy or ignorance, shareholders tend to rubber-stamp directors' recommendations. Moreover, because of their transient nature and large numbers, shareholders cannot effectively exercise this power (McInnes 1993). There are research findings that have concluded that company directors are aware that they are the real power behind appointment, removal and fee-fixing of auditors (Beattie & Fearnley 1998; McInnes 1993; Abdel-Khalik 2002).

As regards the law on remuneration, the practice is that almost in all cases directors are delegated to fix the remuneration. One only needs to look at the published agenda for annual general meetings of Companies to confirm that in almost all cases, there is an inclusion of an agendum to authorise directors to fix the remuneration of auditors. As a result, the intention of the law to reduce directors' influence in the remuneration of the auditor by giving the shareholders the powers to do so can be circumvented in practice. That apart, it has been observed that entertainment and other favours granted auditors by directors can be used to influence them more than the remuneration. In some cases, income from non-audit services could be far more significant than audit fees. Since

such incomes are fixed by directors, it can be deduced that the directors can be far more influential in the income-earning capacity of the auditor than the shareholders.

From the foregoing arguments it can be concluded that auditors are indirectly dependent on directors for continued appointment and good remuneration. As long as the auditor remains under the influence of management as described, real independence would be elusive and difficult to achieve. Indeed, empirical research evidence exists to suggest that auditors may be rendered powerless in the face of overbearing management influence, a situation that can undermine their independence (Green 2006).

Fourthly, the law allows re-appointment of auditors for indefinite number of times. The familiarity problem which arises when an auditor is appointed several times may render the auditor less independent (Mautz and Sharaf 1961). Abdel-Khalik (2002) concluded that "long-term auditor-client relationships might significantly increase the likelihood of an unqualified opinion".

Lastly, it has been argued that the Code over-emphasises shareholders interest to the detriment of other users of the auditor's report. Such emphasis, can lead to bias against other users. It can also be argued that, if shareholders appear to be powerful on paper but abdicate to the directors in practice as shown above, then Auditors could easily succumb to the pressures of the directors.

It has been clearly demonstrated from the above discussion that the Companies Act of 1963 can be criticised as being inadequate in ensuring the auditor's independence. Perhaps our law that regulates the audit profession has become anachronistic and needs urgent review. It is indeed, bereft of modern concepts for legislating for independence.

4. Suggestions for Improving the Law in Ghana

The literature on auditor independence is replete with several suggestions for improving independence. These and good practices from some countries will form the foundation of my suggestions for the improvement of the law on auditor independence in Ghana.

4.1 Make Ethical Standards the Subject of Legislation.

Unlike countries where ethical standards violators can be punished under the law, the Ghanaian Company law does not enforce ethics in Auditing. Rather, violators in Ghana are supposed to be disciplined by their professional body, the Institute of Chartered Accountants of Ghana (ICAG). Unfortunately, the effectiveness of discipline exacted through professional self regulation is not effective even in advanced countries. It is suggested that the areas where appearance of independence are obviously absent and which presently are regulated under ethical and professional guidelines should be codified in legislation to ensure their legal enforceability. It has been suggested that Auditors will take ethical prohibitions more serious if they know that they will breach the law by non-compliance. This will obviously enhance appearance of independence. Ghana should therefore follow countries with laws that penalise ethical violators under the law by for example:

- Making it Unlawful for Auditors to have Financial Interest in their Client Companies.

Auditors should be legally prevented from having financial interest of any sort in the client company. Financial interest should include shareholdings and borrowing from or lending to the client.

- Making it Unlawful for Auditors to Provide Non-Audit Services to Audit Clients

As already stated Ghana has adopted the IFAC code of conduct which disallows the provision of non-audit services which are perceived to be offensive to independence. These must be given legal backing under a revised Companies code.

- Making compromising personal and family relationships between the auditor and the client unlawful.

4.2 Subject Audit Findings to Peer Review.

Peer review process is where another auditor of similar competence is elected to have another look at the work of the audit firm under review. The peer review methods have been successfully deployed in the academia and

medical field to maintain standards of performance. In the US the peer review function is performed by the Public Company Accounting and Oversight Board (PCAOB) created to inspect and review the work of public company audit firms. It is suggested that the use of peer review mechanism should be provided for under the law in Ghana.

Critics of the Peer Review mechanism have suggested that where it has been used, the procedures used for reviews are such that they leave loopholes for the reviewed firms to hide deficiencies (Hilary 2005). Moreover reviewing audit firms have been criticised for not being independent enough because of the natural tendency for them to protect their own. Inspite of criticisms against peer review mechanism, evidence appear to suggest that peer reviews must be decision relevant in determining audit quality (Hilary 2005). Hilary (2005) confirmed this in a survey to determine how credible the information on audit quality provided by peer reviewers to clients was. The survey suggested that peer review opinions were credible source of information on "quality differences between audit firms" although they did not guarantee the flawlessness of the mechanism.

4.3 Mitigate the Familiarity Problem by Rotating Audit Appointment

In order to ensure that auditors do not take their tenure for granted a legal provision should be made to ensure that auditors are permitted to audit a client for only a specified number of years after which they will be moved to other clients. Such a law will reduce the familiarity problem (Mills *et al*. 2012). Moreover an auditor who knows that his tenure is not permanent would have no motivation to attempt to entice management for retention. It has also been suggested that when audit firms are rotated there will be other benefits apart from improved independence. For example the new auditors could act as a check on the work of the previous auditor; they are likely to bring fresh ideas, audit plans, programmes and possible innovation to bear; besides rotation may lead to reduced complacency on the part of auditors (Gray & Manson 2008; Mills *et al*. 2012).

An obvious disadvantage associated with rotation often cited against this suggestion is that anytime there is rotation, there will necessarily be a set up cost to be incurred by the incoming auditor (Mills *et al*. 2012). Thus it is claimed that rotation could increase audit production cost (Arrunada & Paz-Ares 1997). However it is expected that the impact of rotation on independence and the quality of audit may be worth the increased cost. But this optimism is not shared by Arrunada & Paz-Ares (1997) who concluded that despite the tendency to increase production cost it does not yield commensurate positive impact on audit quality.

4.4 An Independent Body to Administer Appointment, Removal and Remuneration of the Auditor

If the present state of the law on appointment, dismissal and the remuneration can make management influential at the expense of independence, then replace it with another which gives those responsibilities to a body that cannot be influenced by management. It has been suggested that the audit committee is well-suited for this purpose. It will then be appropriate to make the creation of an audit committee a legal requirement for companies. The solution recommended by Moizer (1997) is that the independent body must be governmental body set up purposely for the appointment, dismissal and remuneration.

5. The Complementary Role of the Institute of Chartered Accountants, Ghana

Elsewhere in this paper it has been stated that when the law exhibits inadequacies in dealing with problems of independence like the case of Ghana, professional self regulation is resorted to. In the Ghanaian experience, the only professional body, the ICAG, has been the focus of self-regulation. It is the main professional regulator of accounting and auditing practice in Ghana. It has been issuing non-statutory ethical guidelines for members to follow. Since Ghana is a committed member of the International Federation of Accountants (IFAC) and therefore receptive to the convergence of accounting practice among nations the ethical requirements of the IFAC's International Auditing and Assurance Standards Board (IAASB) are expected to apply to the Ghanaian accountant.

Admittedly, the IAASB has pronouncements on most of the areas of deficiency in the Company law of Ghana in its ethical and professional standards. By its membership of IFAC it can be argued that the various difficulties with the law as enumerated above can be abated by the interventions of the ethical prohibitions of IAASB. However, that does not resolve the proposition that if ethical issues are so important, then they must be codified under the criminal laws of Ghana to render them more effective. Moreover, it is observed that the current prohibitions and ethical guidelines do not cover adequate areas of importance to the independence principle. In addition to that, monitoring by ICAG is known to be difficult (Rahman 2004) whilst sanctions for breach at best, appears not likely to bite hard enough. It is hoped that in future, more areas would be covered by the guidelines and breach would be

made enforceable in court. To succeed, the institute is implored to vigorously pursue the implementation of its ethical guidelines.

6. The Role of Ghanaian Academia in the Quest for Improvement in the Law on Independence

In sharing the blame of lethargy on the part of the law on independence, the accounting academia in Ghana can also be cited for failing to provide the necessary academic leadership by way of research to support the drive towards achievement of auditor independence. Whilst in countries like the US and the UK, academics are constantly researching and providing sound academic rationale and basis for legislation on areas affecting independence, the inactivity of academics in Ghana in this area in particular and the accounting profession in general, is glaringly obvious as I could not locate any research on the subject by a Ghanaian academic. It is suggested that Government should provide dedicated grants for research into company and audit practices which are known to be inimical to the auditor independence. The ICAG should set up a research forum dedicated to accounting research in collaboration with the Universities. In Nigeria, for example there is a vociferous group of accountants in the Universities, under the umbrella of Nigerian Accounting Teachers Association (NATA) which carries on research and makes academic pronouncements on accounting practice. The American counterpart is the American Accounting Association (AAA). It is not progressive to learn that professionalism in accounting is not encouraged or given the deserved place in the institutions of higher learning in Ghana. It is suggested that the availability of academics with professional accounting qualification is made a condition for giving accreditation for accounting programmes in the Universities and Polytechnics. This way, it can be ensured that the Universities and Polytechnics would build a reservoir of academics that are interested in professional matters and are able and willing to engage in research activities which will promote professionalism in accounting.

7. Conclusion

The auditor independence is important for an audit to serve its role to society at large and the stakeholders of the company in particular. It is a fundamental principle that laws are made to cure societal mischief. In this regard, company legislation in Ghana has failed because it has not done enough to ensure independence of the auditor. Until the various loopholes in the law are blocked, the onus would continue to rest with the accounting profession in Ghana represented by the ICAG which is expected to vary its self-regulation mechanisms and professional ethical guidelines in such a way as to minimise the threats to independence identified in this paper.

The current role of ICAG in this regard may be found in the dissemination and enforcement of professional ethical requirements of the IFAC's IAASB affecting auditor independence. Non-conforming members are expected to be disciplined by the Institute. These ethical requirements are expected to supplement the provisions of the Code. However, I believe that the success of the Institute would lie in their ability to push for company legislation that protects the auditor independence. Therefore, they must step up efforts to get statutory provisions to cover as many areas as possible identified as threats to independence. It is only then, the Institute's role in relation to auditor independence in Ghana would be meaningful.

A contribution to knowledge in this paper is its provision of theoretical support for the need to improve the independence of the Ghanaian auditor by means of Company law. The stage is now set for empirical research in this area to confirm the applicability of research findings abroad in the Ghanaian environment so that much more grounded support can be provided for changes in the law to bring up to date the state of independence in Ghana.

References

Abdel-Khalik, A.R. (2002). Reforming corporate governance post Enron: shareholders' board of trustees and the auditor. *Journal of Accounting and Public Policy*, 21: 97-103.

Arrunada, B. & Paz-Ares, C. (1997). Mandatory Rotation of Company Auditors: A Critical Examination. *International Review of Law and Economics*, Elsevier Science Inc., 17:31-61

Baker, R.C. (2005). The Varying Concept of Auditor Independence: Shifting with the Prevailing Environment. *The CPA Journal Online.* [Online]. Available at http://www.nysscpa.org/cpajournal/2005/805/infocus/p22.htm. Retrieved on January 15, 2013

Beattie, V. & Fearnley, S. (1998). Auditor changes and tendering. *Accounting, Auditing & Accountability Journal,* 11 (1): 72-98.

Beattie, V., Brandt, R. & Fearnley, S. (1999). Perceptions of Auditor Independence: UK Evidence. *Journal of International Accounting, Auditing and Taxation,* 8(1): 67-107

Boynton, W.C. & Raymond, N.J. (2005). *Modern Auditing: Assurance and the integrity of financial reporting.* New York, John Wiley and Sons Inc.

Cosserat, G.W. (2004). *Modern Auditing (2nd).* Chichester, Wiley and Sons Inc.

Gray, I. & Manson, S. (2008). *The Audit Process: Principles, Practice and Cases*. London, Thomson Learning.

Green, D.L. (2006). Auditor Independence in Canada: A historical perspective- From Shareholder Auditors to the Morden-day Audit Committees. *Canadian Accounting Perspective,* 5(1), 37-65

Hilary, G. (2005). The Credibility of self-regulation: Evidence from the accounting profession's peer review program. *Journal of Accounting and Economics,* 40 (2005) 211-229.

Hudaib, M. & Cooke, T.E. (2005). *Qualified Audit Opinion and Audit Switching.* Paper Number: 02/05. Exeter, University of Exeter.

Lee, T. & Ali, A.M. (2008). The Expectation Gap: A Review of the Contributing Factors. *Journal of Modern Accounting and Auditing*, 4(8) (Serial No. 39), 30-37.

Leung P., Coram, P., & Cooper, B.J. (2012). *Modern Auditing and Assurance Services (5th ed.).* Australia, John Wiley and Sons.

Limperg, T. (1932). *Theory of Inspired Confidence*. University of Amsterdam

Lindberg, D.L. & Beck, F.D. (2004). Before and After Enron: CPAs' Views on Auditor Independence. *The CPA Journal Online.* [Online]. Available at http://www.nysscpa.org/cpajournal/2004/1104/essentials/p36.htm. Retrieved on January 15, 2013

Mautz, R. K. & Sharaf, H.A. (1961). *The Philosophy of Auditing*. Sarasota, FL: American Accounting Association.

McInnes, W. M. (1993). *Auditing into the twenty-first century*, A Discussion Documents by the Research Committee of the Institute of Chartered Accountants of Scotland, Edinburgh: Institute of Chartered Accountants of Scotland.

Mills, P.W., Bruschett, W.R., Thornton, G., Crowley, P., Hannaford, G.B., Kinney, J.E., Kriegler, A.J. & Weiss, P.R. (2012). Enhancing Audit Quality: Canadian Perspective-Auditor Independence, Discussion Paper prepared by the Independence Working Group (IWG) of the under a collaborative initiative by the Canadian Institute of Chartered Accountants (CICA) and the Canadian Public Accountability Board (CPAB).

Moizer, P. & Porter, B. (2004). *Auditor Resignations and Dismissals in the UK.* London, Institute of Chartered Accountants, England and Wales.

Moizer, P. (1997), Independence, in Sherer, M. and Turley, S. (eds), *Current Issues in Auditing,* 3rd edition, London, Paul Chapman Publishing.

Rahman, M.Z., van der Linde, G., & Yankey, F. (2004). *Report on the Observance of Standards and Codes (ROSC): Ghana- Accounting and Auditing*. ROSC. Prepared under the initiative of the World Bank and IMF. Available at http://www.worldbank.org/ifa/rosc_aa_gha.pdf Retrieved on January 31, 2013

Salehi, M., Mansoury, A., & Azary, Z. (2009). Audit Independence and Expectation Gap: Empirical Evidences from Iran. *International Journal of Economics and Finance*, 1(1), 165-74. Available at http://ccsenet.org/journal/index.php/ijef/article/view/218. Retrieved on January 15, 2013

Solomon, J. (2007). *Corporate Governance and Accountability.* Chichester, John Wiley and Sons Ltd.

Volosin, E. (2008), "The Theories of Audit Expectations and the Expectations Gap", Seminar Paper on Issues in Auditing, GRIN Verlag, ISBN-10: 3640192311.

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