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THE CONSOLIDATION OF DEMOCRATIC GOVERNANCE IN GHANA:

HOW CAN USAID RESPOND?

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EXECUTIVE SUMMARY

Ghana, having pioneered political trends in Africa many times before, is now embarking on its fourth attempt since independence to achieve a workable democratic system. It starts with the advantages of experience, a long-standing democratic thread in the polity and rich human capital, an economy that is back from the brink of collapse and a strong sense that, in order to avoid the fate of surrounding countries, this time they must succeed in working together. In 1992 a new Constitution took effect that is now generally accepted as legitimate and a good basis for returning to constitutional rule. The presidential elections in late 1992, which were won by the incumbent head of state Flight-Lieutenant Jerry Rawlings, were not accepted as fair by the opposition parties, who then boycotted the parliamentary elections.

Findings of this rocky start, one-and-a-half years later there are encouraging signs that a democratic system is taking hold. Parliament has proved to be surprisingly effective in spite of being almost without an opposition. The independent newspapers are carrying out a watchdog function, although they are too inclined to make allegations without evidence. Confidence in the independence of the judiciary has been partially restored by the Supreme Court's rulings against the government in some test cases. The government accepted these decisions and its duty to respond to parliamentary questions and, although it is perceived as unresponsive by many civil society groups, it is seen to be generally supporting constitutional rule. Groups in civil society, particularly church, legal and women's groups, are using the more open public realm to contribute to dialogue between the government and the citizenry and to begin legal awareness and civic education programs.

The transition to democratic rule has begun but the process is fragile. The years of military rule created a culture of silence (unwillingness to speak out against abuses) and mistrust (based on the abuses suffered by individuals and the partisan distortion of political processes like voter registration). Ghanaian political behavior is governed by three competing sets of rules: democratic norms, traditional cultural norms and authoritarian norms. Dissent has not been legitimized; the process of debating government policies in public is still regarded as dissent rather than a contribution to democratic governance. The distrust creates a need for extremely transparent processes, which are expensive and require information that is often not available. The competing rules create misunderstandings and hesitancy about using the provisions of the new constitution to discipline those who are not using their authority as the constitution allocates it. The lack of appreciation for dissent and differences in views has created a very partisan polity, with all those who are not for the government held to be against it and, consequently, the rational choice of many citizens is to refuse to participate in public discussions for fear of being labelled as partisans of one side or the other.

The constitution, on the whole, does a good job of allocating authority and protecting civil and human rights; there are, however, some ambiguities and areas where the independence of mandated institutions is not sufficiently guaranteed. This is particularly true of the budgets of parliament and the national commissions; they are allocated by the Ministry of Finance in competition with all the executive branch's budget components. The courts are hampered by

all sorts of material difficulties, but the foremost impediment is the lack of clarity about how the 1993 Courts Act will work and the reservations of the legal community about its design.

Recommendations with the USAID mission that it is appropriate for a bilateral donor to meet the pressing need to compile a new electoral register for the 1996 national elections. This includes participation by the opposition parties in the decision-process and training party pollwatchers, as well as training staff of the Electoral Commission to carry out the registration process and to safeguard the integrity of the election process.

The team recommends to USAID and to donors in general that they take heed of the role that many of the Ghanaians we interviewed would like to see them play: that they stand up for the basic principles of democratic governance. In our view this means four things. First, donors should develop their own capacity to analyze democratic transitions and they should agree on a set of criteria and a set of responses to problems. We believe that the framework of "democratic disciplines" in six dimensions of democracy that is the theoretical basis for this report can be a useful instrument for such analysis.

Second, donors should support the efforts of Ghanaians to hold dialogues in a non-partisan manner about the current issues they face and about their assessment of the progress towards democratic governance. This can be done both formally by supporting institutions with this objective and informally as opportunities arise.

Third, donors can support the production of more information on which rational dialogue can be based. They can do this through existing projects, by supporting civil organizations' production of information and by training the press in better investigative journalism techniques and more understanding of economic issues. They can provide publications and data-bases in appropriate locations to allow Ghanaians to find out what is happening elsewhere.

Fourth, they can be flexible in their support of organizations within the government and civil society who propose good ideas that further the transition, deepen understanding about democratic systems or improve governance. The team strongly recommends that donors support activities rather than organizations. This encourages healthy competition for funds and allows small new organizations to prove themselves while keeping larger organizations on their toes.

Democracy is hard work. The 1992 Constitution is right to call on all Ghanaian citizens to take part in implementing it. The transition process requires courage and good judgement, mostly from Ghanaians but also from donors. Establishing democracy is an iterative process: Ghanaians and other can look at the changes in relationships and behavior and judge whether they meet the original objectives. If they do not, then people need to agree on what further actions might help - from amending the constitution to enforcing laws to education in democratic values. The themes of our recommendations are more information, more dialogue (some of it based on the increased information), stronger civil society and linkage institutions to carry out the dialogue, and enforcement of the democratic rights and limits to authority laid out in the Constitution and the body of Ghanaian law. These call for a different kind of USAID project, needing clear

criteria for what kinds of activities to support but a lot of latitude to choose between organizations in order to be more responsive to changing circumstances and less dependent on picking a major stakeholder as a vehicle. Donors can only influence democratic transitions at the margins, but marginal differences can be critical.

I. INTRODUCTION: GHANA'S QUEST FOR DEMOCRACY

Ghana has pioneered political trends in sub-Saharan Africa since its inception. In 1957, it became the first country in the region to win its independence from colonial rule. In 1959, it emerged as one of the first (de facto) postcolonial one-party states in Tropical Africa. In 1966, the country was among the first to suffer a coup d'etat. In 1969, Ghana led the region in the return to constitutional government in its Second Republic. And in January 1993, the country again established a precedent - the first sub-Saharan country to choose democratic government for the fourth time in the form of the Fourth Republic.

Will Ghana also be among the first African countries to establish an enduring democracy? The stakes in this experiment in governance are high. Ghanaians look back at their own history and around the region and shudder at the likely consequences of failure to achieve a workable governance structure. There is thus fairly wide agreement that the change to constitutional rule is what is needed and is preferable to the status quo ante. There are people with the commitment and the energy to work through the implications of switching to democracy. Given Ghana's advantages, if democracy cannot survive in Ghana, where in West Africa are the prospects for durable democracy any better?

With the possible exception of Senegal, Ghana possesses the most propitious conditions for democratic success in this entire sub-region. Its people have had a longer experience of political organization and democratic contestation than any other colony with the exception of Senegal. The Ashanti of central Ghana, for instance, had maintained a complex monarchical order with significant accountability for two centuries before their defeat in the Ashanti wars of the late - nineteenth century. The first Ghanaian lawyers qualified in 1884 and, in addition to a strong legal tradition, Ghana has a rich body of law relating to constitutional rule from its first three republics. Nationalist organization and protest were features of colonial life almost from the outset. As a result, adult suffrage was introduced in municipal elections as early as 1943. A new constitution in 1946 inaugurated the first stage of representative government: a single legislature for the colony and Ashanti region with a majority of elected 'unofficial' members. Even this achievement was soon superseded when riots in 1948 pushed the British towards granting internal self-government and general elections in 1951. With six years of self-government, Ghana became independent in 1957 with more experience of the demands of constitutional rule than the other African colonies.

Ghana's advantages extend beyond experience with constitutional rule. The country has rich human resources. As well as lawyers, a Western-educated urban intelligentsia emerged in the nineteenth-century Gold Coast, and Africans had assumed senior positions in the colonial administration, the judiciary, the professions, journalism and business long before independence. With the economic decline that set in during the early 1970s, many educated Ghanaians have emigrated. Yet many remain, some have returned from abroad, and many more may return when circumstances improve further. Notwithstanding the current ethnic conflict in the North, Ghana has also escaped the deep and irreconcilable ethnic/regional/religious cleavages that

bedevil so many other countries. Regions tend to vote for 'favorite sons', but this tendency does not predetermine political outcomes at the national level.

Equally favorable to democratic consolidation is a political culture characterized by civility in contestation. Until 1979 at least, even autocrats recognized some limits upon the state's treatment of opposition and dissent. Dissidents might have been imprisoned without trial, but they were rarely tortured or put to death. Much of the distrust of President Rawlings and the NDC party stems from their violations in their early years of this civil tradition. Many people still bitterly recall the AFRC's summary execution of three former heads of state (and others) in 1979, and the PNDC's human rights abuses after Rawlings's 'Second Coming' in the coup of December 31, 1981. The current political culture of deep mistrust stems from this recent period; whether Ghanaians can regain their former faith in political procedures and politicians is an important question, but many Ghanaians do remember a time when the political process was perceived to be fair. They know what it is that they want in the political realm: free and fair elections, an independent judiciary, a responsive and responsible executive and legislature, and guaranteed civil and human rights.

They also want better economic circumstances and more jobs; any catalogue of Ghana's comparative advantages in successful democratization should refer to recent economic improvements. In the early years of PNDC rule the country hovered on the brink of economic collapse. It has since achieved some economic rehabilitation with programs of market-based reform heavily supported by the World Bank, the International Monetary Fund, and bilateral donors. This has not so far meant prosperity for the business community or most ordinary Ghanaians. However, even a meager economic recovery distinguishes Ghana from its neighbors, who labor under even more onerous economic difficulties. Ghanaians do give the PNDC government credit for maintaining order and building physical infrastructure; the donors credit the government with holding to the structural adjustment program.

In light of its relative advantages, where is Ghana's democratic experiment heading? To the extent that genuine opportunities inhere in the current transition, how can the USAID and other donors encourage better governance and more democratic practices? They must act now, early in the process of democratic consolidation, and their strategies will be the more effective the more accurate the analysis on which they are based. The assumption that underpins this report is that a democratic system, in order to work, requires certain relationships and rules to be in place, starting with an open public realm, a constitution and free elections, but going beyond these to elaborating and testing sets of rules that clarify who has what authority within what limits and how dissent, local autonomy and contestation are incorporated into the policy decision and implementation processes. Such an assessment requires a description of the macro-political actors and processes at one point in time and then a look at the current political behaviors and rules in the context of the country's history and characteristics. The assessment goes on to measure recent changes in governance institutions against an ideal democratic structure to pinpoint country-specific strengths and constraints, and then to suggest activities that are appropriate for bilateral donors.

II. THE CONSOLIDATION OF DEMOCRATIC GOVERNANCE: IN PRINCIPLE

II.A. Introduction: USAID and Democratic Governance

The United States government and USAID are officially committed to a policy of promoting "sustainable development" which entails improving the long-term prospects of four inter-related processes: economic development, improvements in population and health, improvements in managing natural resources and the environment, and furthering democratic governance. For AID, the promotion of democracy is understood to be both an objective in its own right and the most fundamental means by which other development objectives can be achieved in a sustainable manner. Above all, democratic development means development in which opportunities for meaningful participation are enhanced and institutionalized. It also implies the acceptance of legitimate and regular processes whereby people get the opportunity to choose their leaders in an open, and at least potentially competitive manner. For democratic development, and hence sustainable development to be feasible, the U.S. Government strongly believes that a minimum standard of behavior assuring basic human rights must be maintained.

Various policy papers which have emerged both at the Agency level (USAID) and specifically within the Africa Bureau of AID also suggest that successful democratic development is closely linked to improvements in governance. Governance can be viewed abstractly as the means by which societies organize themselves for the management of their "public" or collective resources. At the minimum, good governance (or better governance) implies management which is effective, efficient and responsive. In addition, most analysts and donors also include in their understanding of good governance some "process" dimensions which spell out how effectiveness and responsiveness should be undertaken and how accountability for performance should be enhanced (Crook, 1993). The elements of this improved process are described minimally as transparency, and financial accountability (World Bank, "Managing Development: The Governance Dimension", 1992). Often, however, additional elements are suggested for what constitutes good governance, including, in the Anglophone tradition, "fairness" and "due process," and in the Francophone tradition, the establishment of widely known and accepted legal limitations on abuses of office and authority (the *Etat de Droit*).

While it is possible conceptually to treat democracy and good governance as separate dimensions of societal development, the two notions have significant areas of overlap, particularly if the process dimension of governance is included. In fact, the Africa Bureau of AID has been focusing on the convergence of these two notions in its emphasis on "democratic governance"-- a form of improved governance which maximizes democratic processes to improve governance performance and to help insure that responsiveness, transparency and accountability are made meaningful (AID/AFR Concept of Governance Paper, 1992). The underlying assumption of this notion is that if governance decisions are to be truly responsive to public values, the public must have meaningful ways in which to express those values, and to obtain information about the performance of actors who act on their behalf. The notion of democratic governance employed here, therefore, focuses not only on the efficiency and financial accountability of the public sector, but on the opportunities of citizens to participate: to test current interpretations of

constitutional arrangements and the resulting legislation, to enforce rules, e.g., sanctions for poor performance, and to choose those domains of public resource management over which they wish to limit the role of central government, i.e., to expand self-governance. In other words, democratic governance implies relationships between self-interested actors that result in a system that encourages these same actors to guard and balance the interests of most citizens.

II.B. The Processes of Democratic Consolidation

The transition from authoritarian to consolidated democratic governance is uncertain, multifaceted, and lengthy. Change usually begins with a "democratic opening" - either the collapse of an authoritarian regime or a decision by incumbents to allow a new, more open, political order. To qualify as starting a democratic transition, the government must recognize political and civil liberties, legalize political parties, and promise free and fair national elections. The consolidation of democratic governance, if it is achieved, may easily take a further two or three decades; in European societies, this process typically entailed more than a century of struggle. A democracy is consolidated when

none of the major political actors, parties, or organized interests, forces, or institutions consider that there is any alternative to democratic processes to gain power, and that no political institution or group has a claim to veto the action of democratically elected decision makers. This does not mean that there are no minorities ready to challenge and question the legitimacy of the democratic process by nondemocratic means. It means, however, that major actors do not turn to them, and they remain politically isolated. To put it simply, democracy must be seen as the 'only game in town' (Linz 1990:158).

Needless to say, most democratic transitions in the Third World have never reached this stage of consolidation; most fall prey to authoritarian reactions.

Four interrelated processes contribute to the consolidation or institutionalization of democratic governance.

- The completion of the transition to broadly accepted sets of constitutional rules which (a) guarantee human rights, the rule of law and an independent judiciary and legislature, (b) ensure that contestation for political power is open, non-violent, and fair to all contesting groups, and (c) discipline the exercise of power by those who win the contest for public office and those who implement government policy.
- The development of organizations in civil society that are strong enough to defend the rules of contestation and limits on exercise of power and to influence the application of these rules to policies and practices affecting the interests of social groups. When these groups are themselves run democratically, they broaden the opportunities for citizens to uphold democratic values and procedures.

- The formation of 'linkage' institutions whose task is to publicize the actions of government and civil society actors, to aggregate and articulate the interests and visions of interest groups, and, if necessary, to galvanize public opposition to abuses of power.
- The creation of local governing bodies which both reduce the concentration of power at the center of the polity, and give meaning to democracy by allowing local self-determination in matters that directly engage the interests and knowledge of communities.

Although democratic consolidation depends upon progress in all four processes of institutionalization, they proceed at different rates in all societies and progress is far from assured.

II.B.1. Completing the Transition to Democratic Ground Rules

There are six sets of rules relating to six dimensions of democratic behavior which must be established for a democratic transition to fulfil its promise. Each set of rules serves to 'discipline' (by defining acceptable behavior) those who participate in political life and governance. Each set of rules can be analyzed separately, but is incomplete and vulnerable in the absence of progress in the other dimensions. The critical sets of rules are these:

1. Constitutional Limits: The development of a set of institutional relationships that specifies the basic authority structure and places limits on each institution's exercise of power. These authorities are acknowledged as being embedded in a fundamental law, superior to ordinary law, that requires a fairly broad level of agreement to create or modify.

There are several critical roles which constitutional limits must play. Above all, the constitution must establish and maintain working agreements on divisions of authority and limits to authority. Second, constitutional rules must give assurances that citizens can invoke constitutional law in order to ensure compliance by government officials. Third, they must establish the principle that no one is above these rules, including those who make them and the other laws which follow from constitutional principles.

2. Popular Limits: The development of rules which impose popular limits on the exercise of authority.

These rules provide a basis for public accountability by creating incentives on the part of those chosen or delegated to exercise authority to take into account the interests of ordinary citizens. Regular, competitive elections are the principal instrument for exercising popular limits, but other mechanisms can also be employed such as referenda, recall and popular initiative. Popular limits are sustained by constitutional rules which broadly define the rights to vote, to contest elections, to be represented in a particular manner, and to gain recourse against elected officials.

3. Deliberative Limits: The development of rules which assure that the public not only can limit authorities occasionally when it makes electoral choices, but can have a voice in the ongoing process of law-making.

In a republican form of government, these rules govern the rights of people designated as representatives to deliberate on the merits of the issue, including their rights to discuss and to participate in decision making in the interests of their constituents and the nation, not just their party. The principal instruments for exercising deliberative rights is a legislature which has and can exercise meaningful deliberative capability, can exercise oversight of the executive and includes procedures that allow citizens to lobby for their interests. A legislature that allows the party or the executive to make all major decisions or that allows the bureaucracy to design all operational principles is not carrying out due deliberation.

4. Judicial Limits and the Rule of Law: The development of rules which assure that when disputes over rights occur, either between members of the public or between an individual and the state, the dispute can be resolved on the basis of an impartial judgment. The rule of law reduces arbitrariness and unpredictability: the application of general principles to specific cases builds a body of law that applies to all.

The principles which must apply in order for the power of adjudication to be democratically limited are that no one is fit to judge his own cause (independence), and that judicial procedures must be agreed upon in advance to be fair (due process). The principal instrument for exercising judicial limits has historically been an independent judiciary committed to applying a body of law in an impartial and fair manner. Independence of the judiciary is insufficient, if the judge is ignorant or unable to know the law, or believes himself/herself to be the law. For judicial limits to function, people must also have reasonable access to the courts to initiate judgments in cases of disputes of rights. Finally, the executive branch must dependably implement court orders and use its powers of coercion within prescribed procedures, e.g., those for obtaining search warrants.

5. Open Public Realm: Limits on Control of Expression and Association: The development of rules which assure the classical rights of a liberal democracy to free and open discussion of issues facing a society.

These rules are vital to assuring an open public realm - the basis for the meaningful exercise of popular limits and deliberative processes. They are also the basis of regime transparency. Holders of positions of authority must be limited by law in their ability to interfere with free speech, free press and free assembly. They must also be required by law to provide sufficient access to information on their performance so that there can be a basis on which discussions of public issues can take place.

6. The Practice of Democracy at Multiple Levels: Limits on Centralization of Decision Making: The development of rules that protect the autonomy of local governing bodies in order to assure

that to the extent possible decisions can be made at the lowest level of those affected and at the level appropriate for their execution.

The right to form new autonomous units in certain circumstances should be guaranteed by the constitution. Failure to set these limits on the central state's authority both removes governance from the vast majority of the public, and almost certainly assures that policy will respond less fully and effectively to their needs.

II.B.2. Building a Democratic Civil Society and Political Culture

A second process in the consolidation of democratic government involves the building of a democratic civil society and political culture. It is doubtful whether the formal democratic rules of the game will long survive without a vigilant and organized civil society with the institutional means to monitor, publicize, and penalize abuses of power. Civil society constitutes the sphere of more-or-less autonomous social organizations which lie between the family, on the one hand, and the state on the other.

Authoritarian regimes typically regulate, undermine, or absorb autonomous civil associations in their drive to centralize power and pre-empt dissent and opposition. Yet, even in such repressive circumstances, some courageous voices refuse to conform. The public media are usually state-controlled or cowed into submission but bar associations, trade union federations, women's groups, student and faculty associations, human rights organizations and others may continue to speak out on political issues. A democratic opening often witnesses a resurgence of civil society: new organizations surface, old ones assert their independence, and the press begins to voice criticisms of governmental policy and practices. This is the recrudescence of social pluralism upon which political pluralism ultimately rests.

The consolidation of democratic governance is supported by the democratization of civil society as well as its strengthening. Civil associations that are intolerant of opposing views (for example, fundamentalists of all religious faiths), wedded to patriarchal domination, autocratic in their internal affairs, or ethnically or racially exclusivist do not teach democratic values. It is, therefore, often not only the political regime that requires democratization. Democratic values must flourish outside the state if they are to survive within. For this reason, the consolidation of democracy is a long term process.

The strengthening of civil society, as distinct from its democratization, encompasses three related dimensions. One is the growing density of civil associations, not just the politically engaged sort such as human rights associations, pressure groups, and professional associations, but also the ostensibly apolitical ones such as trade unions, women's associations, religious groups, environmental groups, development-oriented nongovernmental organizations and village or community improvement associations. Though 'apolitical', these organizations constitute ready-made means of popular mobilization against tyrannical or inept governance - as dictators well know. Another important dimension of organizational strength is autonomy. Civil associations must become independent of the direct or indirect influence of government and individual

political leaders. Independence eventually demands that associations minimize their reliance on outside sources of funds - a difficult task for associations in poor African countries. Finally, effective civil organizations depend heavily upon the development of competent and committed leadership. Leadership training is one area in which international NGOs have often played an important role.

II.B.3. Developing Linkage Institutions between State and Society

A third crucial process is the emergence and growing effectiveness of 'linkage structures', i.e., those institutions that link civil society to the state. These institutions are invaluable because they monitor the performance of government, publicize inept policies or abuses of power, transmit to the political authorities the views of key constituencies, and, if needed, mobilize resistance to an incompetent or repressive regime.

Three key types may emerge as the political opening widens. The first type is explicitly political, such as political clubs and parties. For conceptual reasons it is preferable to think of these as discrete from civil society, since their principal task is often to take control of the state and to rewrite the rules of the governance game. As liberalization proceeds, these actors often develop out of civic-minded associations and economic interest groups which become politicized, identify with a particular, usually oppositional point of view, and may become an important element in an electoral or revolutionary party movement. If parties do evolve in this manner, they have the potential for providing linkages between civil society actors and the state. All parties, however, are not linkage institutions: if they represent only the power struggles of narrow elites, factions of the ruling elite, or mere personalities, they are not. The character of parties must therefore be closely analyzed to determine whether in fact they can and do play a linkage role.

A second type of linkage actor is the media, which, while functioning as a business enterprise, or the expression of an interest group (such as a religious group) or even political party, can play a critical role in monitoring governmental performance. The media can pose questions which, prior to the successful completion of a democratic transition, are difficult for any other civil society actors to pose and publicize as effectively.

Still a third type is represented by forums, alliances, and umbrella organizations which bring together a variety of groups or interests (which are not necessarily political), either with one another, or with representatives of political institutions such as parties, officials of the executive branch, legislators or judges. State officials may intend such forums or umbrella organizations to enhance "management"; yet they open channels for influence and potential civil empowerment and may begin to strengthen valuable mechanisms for managing conflict peacefully.

II.B.4. Fostering Decentralization of State and Society

Building governance institutions at levels below the central state is the fourth facet of movement to consolidated democracy. This is important for three reasons. First, local government that

rests on constitutionally prescribed jurisdiction and independent resources limits the power of the central government. Secondly, decentralization may spread democratic skills and values. Both of these potential effects contribute to political pluralism. Thirdly, institutions of local self-determination may facilitate the merging of the system of Western-style, multiparty democracy and locally accepted ways of organizing and solving problems. Periodic and fair national elections may well improve governance, but will distant parliamentary or presidential institutions capture the enthusiasm of ordinary people? Illiterate or semi-literate peasants are not in a position to participate in arcane national debates on foreign policy, development strategy or the appropriate sequencing of macroeconomic policies. Peasants, however, are experts on issues directly affecting their own communities, including mutual aid, measures to safeguard food security, and even environmental protection. Local communities also include educated people whose understanding of both local conditions and national issues make them worthy leaders of their communities. Local communities are linked to the regional and national level through town chapters of development associations, their chiefs and their churches, as well as through government structures. To build a firmer basis for democratic governance, therefore, democrats may gamble on empowering communities to make many decisions from the bottom up.

Conclusion

To enumerate the various processes of democratic consolidation is to indicate the enormity of the challenge. But with the well-being of so many linked to the installation of stable democratic governance, that challenge is well worth taking up.

On 7 January 1993, after relatively peaceful national elections, Ghana embarked on its fourth experiment with democratic governance. The next section of the report analyzes the progress of democratic consolidation so far. Throughout, the report identifies ways in which USAID might assist the process. A final section summarizes and sets priorities among these many useful democracy and governance projects.

III. THE CONSOLIDATION OF DEMOCRATIC GOVERNANCE IN GHANA: IN PRACTICE

III.A. Introduction: Ghana's Ambiguous Record

Ghana has made great progress in taking the formal steps along the path to constitutional rule. The major elements are now in place. It is also clear, however, that what has been done so far has not yet produced an environment in which political partisanship is confined to the open contestation of elected office and participation in policy making deliberation, or that dissent has been legitimized, or that the fear of intimidation has been completely dispelled. On the one hand, the government is maintaining a formal economic recovery program, but on the other hand, it is widely perceived to be using the resources of the state to discriminate in favor of its supporters. This is not building confidence in the business community, and seems short-sighted given the emphasis ordinary Ghanaians put on judging their political leaders by the economic improvements they produce.

The main constraint to economic development is probably that the structure of economic opportunities still favors investment in trade, treasury bills and property rather than more - productive activities. A preference for low-risk investments may be partly a question of confidence in the durability of democratic government and in President Rawlings's commitment to non-partisan practices that encourage private sector growth. There is apprehension that politics--differences between the members of the government and members of the Ghanaian business elite--could affect the private sector as a whole. The slow progress of civil service reform and privatization means that the dominant role of the government in the economy continues to impede rather than facilitate economic growth. The economic recovery program has generated serious political irritants: the flood of imports in the face of unemployment, the perception of growing wealth inequality, the questions surrounding the sale of national assets.

Economic constraints and attendant retrenchment of government expenditures are also likely to reduce the funds available for adequately installing and equipping the many new institutions of democratic governance mandated by the 1992 Constitution. As a result, the full operation and - effectiveness of these institutions are likely to be delayed.

Political constraints to the consolidation of democratic governance are headed by the anomalous situation created by the opposition parties' boycott of the parliamentary elections: there are opposition parties but channels for expressing opposition are somewhat ad hoc, and the situation probably retards the development of political parties as organizations of democratic governance. Given the numbers of people who at some point were adversely affected by actions of the PNDC, there is a residual fear of what the NDC might do in the future, in spite of its good record on human rights in the last four years. Because there is often little generally accepted information available and politics is personalized, there is a political culture of suspicion of hidden agendas, heated rhetoric and unsubstantiated allegations. There is also a tradition of hierarchy and respect for authority that regards criticism as disrespectful. Between the two, it is hard to develop the middle ground of constructive critical dialogue and watchdog activities

that preserve democratic processes. It may also be difficult to re-establish an attitude of involved citizenship after years of dependence on government or withdrawal from the reach of government. Elected representatives seem to be judged primarily on their ability to bring resources to their constituents; this narrow instrumental view is a constraint to tackling national issues.

The popular perception of the economy is that purchasing power has dropped in the last year. People are able to feed their families, but cash for school fees or medical expenses is hard to find. A physician interviewed was clear that people are increasingly avoiding coming to doctors or coming when they are sicker. The owner of a private nursery school for middle-class children and the principal of a secondary school both said that parents this year are having a harder time coming up with their children's fees and that the schools are giving parents more extra time to pay. The owner of a business supplying building materials to private contractors in Takoradi estimated that volume was down by about half and turnover time more than double compared to the same period last year, largely because government had not paid contractors for work contracted shortly before the 1992 elections.

People are concerned about the long-term effects of so many years of scrambling at the survival level in an increasingly urban society: the breakdown of the extended family (families who don't look after aged parents or AIDS victims, teenage pregnancies and irresponsible fathers). There is a lot of concern about both the individual and social consequences of so many unskilled young people coming onto the job market (and what the government is doing with the ex-members of the CDRs, CDOs and Mobisquads). The strategy of working and middle class couples is often to limit the number of children and sacrifice to send them to private schools because the government schools are perceived to teach children very little. This concentration of resources on the nuclear family leaves little for relatives.

There was also the perception in Takoradi and Kumasi that government contracts would not be awarded to identified members of opposition parties. Representatives of one of the companies that President Rawlings called last year for Ghanaians to boycott and the company of one of the opposition presidential contenders were interviewed. One, selling a consumer product with low import content, reported that the business had not been adversely affected by the President's remarks. The other, whose product is import-intensive and sold primarily to a state-owned enterprise, reported that they were having great difficulties getting Customs to honor an agreement to rebate some customs duties, in getting equal tariff treatment with foreign competitors and in bidding for their long-time customer's orders, even though with equal tariff treatment their prices would be highly competitive.

It is possible to argue that the positive trends of the first year-and-a-half ensure that democratic consolidation will continue, but there is also a sense that the time has been just too short for the new Constitution to become in practice the arbiter of behavior and the set of rules for "the only game in town." For a start, there are important questions of the interpretation of the Constitution that have been raised and not yet settled, and it is likely that important issues will continue to be raised for some time until ambiguities of wording or intention are resolved.

There is also the inevitable ambiguity of a newly democratic state headed by its previous military regime's leaders. This is not to fault the government's performance so far, but to say that questions about its degree of commitment to democratic processes are both natural and answerable only by its actions over time.

The following sub-sections detail Ghana's progress toward the consolidation of democratic governance.

III.B. PROCESS 1: Completing the Transition to Democratic Rule

III.B.1. The Constitutional Rules and the Democratic Disciplines

Introduction

Ghana's 1992 Constitution is its fourth since independence, and its 210 pages reflect lessons learned from previous experiences with constitutional democracy and hopes for the future. Legacies from the Nkrumah period include a constitution that is very difficult to amend but very easy to interpret and enforce through the Supreme Court, and an anomalous Council of State, created originally to serve a non-executive president and remaining in a conventional presidential/parliamentary hybrid form of government. The hopes for the future are exemplified in the directive principles of state policy, which are probably not justiciable but center policy on achieving human rights, a healthy economy and the rights to work and to health care and education.

The 1992 Constitution contains all the parts that are necessary for constitutional rule; it provides an effective blueprint and set of safeguards. The one area where it appears to be weak is in the financial accountability of the Executive: Parliament's power of the purse strings is limited, and the financial independence of non-executive branch institutions, including Parliament itself and the constitutionally created commissions, is limited by the power of the Ministry of Finance to allocate the Consolidated Fund from which their expenditures are financed. In some areas, inevitably, the Constitution reflects the priorities of its framers (e.g., its strong human rights emphasis) and in some places it is either unclear, internally contradictory or out of step with political realities. This is to be expected in a document of such complexity; given the difficulty of amending it, the burden of translating its intentions into working rules falls largely on citizens to bring test case cases to the Supreme Court. The work of crafting constitutional rules never ends; after more than 200 years under one constitution, the US Supreme Court is still kept busy full-time interpreting the constitution. The 1992 Ghanaian Constitution provides an effective starting point for working out how Ghanaians can govern themselves democratically. The question now is how to make the constitution the driving force in the political arena, i.e., not just accepted in principle but enforced so that the constitution, and not the prevailing political practices, provides the environment for governance.

It is one thing to have the enabling environment enshrined in the constitution and another to have the political milieu encourage vigilance and consistency between constitutional prescriptions and

political reality. There are two reasons why the agreements on the constitutional rules does not automatically produce the commitment to those rules that sustains effective democratic governance. First, pre-transition rules, usually those of authoritarian modes of governance, inculcate habits, attitudes and behaviors that are hard to change. Second, the constitutional rules which produce democratic transitions are prescriptions about future behavior, that is, the rights and responsibilities of the government and the governed and the related terms of state-society relations that are enshrined in the constitution become operational only after the transition to democratic governance is successfully completed. Transitions to democratic governance, especially in the early stages, are, therefore, highly uncertain and ambiguous situations in which vestiges of pre-transition rules continue to shape the perceptions of social actors even as they attempt to operate the newly-installed rules of democratic governance.

Ghana exists in such a situation today. By many indications, it has begun a successful, and peaceful, transition to democratic governance. The 1992 Constitution established the overall enabling environment for this transition. Despite early opposition by important segments of Ghanaian society to the way it was produced, it has come to be widely accepted as the legitimate normative framework for the organization and conduct of public affairs in the country. However, the authoritarian vestiges of pre-transition rules continue to influence the attitudes and behaviors of some political actors. Therefore, the extent to which a democratic polity will be institutionalized and effective democratic governance sustained in Ghana will depend on the extent to which the enabling environment (the macropolitical order) established by the 1992 Constitution is consolidated.

Consolidating the enabling environment entails two interrelated processes. The first involves strengthening the institutional mechanisms of democratic governance, specifically, those which protect civil and political rights, constrain the arbitrary exercise of executive power, facilitate legislative deliberation, ensure fiscal accountability, promote transparency and popular participation in the policy process, and expand opportunities for self-governance. The second involves the development of an abiding commitment among social actors to the rules of democratic governance.

During its first year and a half, the 1992 Constitution has involved the Ghana Bar Association, the leading opposition party, the NPP, and the Supreme Court in seven test cases. The results are mixed: the Supreme Court, by repeatedly deciding against the government, has increased confidence in its independence and its ability to translate the intentions of the constitution into rulings in specific circumstances. However, the government has chosen to interpret the Supreme Court's rulings in the narrowest possible fashion, pointing towards the necessity for future cases on virtually the same grounds for equal treatment of political parties in the electronic media and the use of state funds on anniversaries of PNDC coups. The government has made it clear that it regards the bringer of a test case as an opponent, not a concerned citizen. There appears to be some absence of burning zeal in the legal profession to bring the provisions of the constitution and political reality into line, e.g., calling for an amendment to the constitution to reflect the reality of partisan district assembly elections. The danger would seem to be a drift into general acceptance that the constitution will not be fully enforced, with the consequent ambiguity about

who will choose to try to enforce which provisions under what circumstances. Many Ghanaians interviewed were clear that the government was not carrying out the letter and the spirit of all the provisions of the constitution, were willing to allow some time for attitudes to change and were afraid that pushing the government too hard would provoke an end to constitutional rule. Several people, describing the situation in mid-1994, referred to the fable of the mice and the cat and asked "Who is going to bell the cat?"

Constitutional Limits and Test Cases

Ghanaians take seriously the return to constitutional rule and are clear about the differences between military and constitutional decision-making. The notion that constitutional law supersedes all other laws and directives is well understood. The constitution enjoins all Ghanaians to take responsibility for seeing that the constitution is enforced, and there can not be an easier mechanism to bring constitutional questions to the Supreme Court, which has original and sole jurisdiction on constitutional questions. Any citizen may bring any constitutional question straight to the Supreme Court and is entitled to legal aid by the constitution in order to do so, or to defend him or herself in a constitutional case. Constitutional questions that arise in cases in other courts must be referred to the Supreme Court. The Supreme Court may interpret, enforce and supervise the enforcement of the constitution by government agencies. However, the Supreme Court does not initiate any action on constitutional questions; the question must be brought to the Supreme Court by an individual or group.

Amendment of the constitution is extremely difficult for the entrenched provisions (spelled out in Article 290 and including the human rights provisions). Amendment requires approval by 75 per cent of at least 40 per cent of the registered voters in a national referendum; if the amendment is approved by referendum parliament is required to pass it. Other parts of the constitution can be amended by a two-thirds vote in parliament after a lengthy period to allow public discussion. Amendments can be initiated by any Member of Parliament, so the executive can not dominate the amendment process.

So far, there have been no moves to amend the constitution in parliament. There have been seven formal test cases of the constitution (plus a couple of instances where constitutional principles were re-affirmed), brought by the opposition NPP party and by the Ghana Bar Association. Six have been decided so far, and most have gone against the government's accepted practices. Several cases were about the technicalities of the appointment process. An important case, which has changed police procedure, ruled that police permits were not necessary for public meetings. The Committees for the Defense of the Revolution were ruled not to be NGOs; there is a perception that the government has not entirely ceased to fund the CDRs and other ex-revolutionary organs but hard evidence is not available. The Supreme Court ruled that it was inappropriate to use state funds for the celebration of the anniversary of the second Rawlings coup on the 31st of December; the government withdrew both that date and the 4th of June (the anniversary of the first coup) from a list of national holidays presented in a bill to parliament, but staged an elaborate ceremony on June 4, 1994, which aroused suspicions that state funds might have been used. The NPP asked for a ruling on equal time for political

parties to present their views on television on the 1994 budget; the Supreme Court ruled that there should be equal time given to the NPP because the NDC had presented its position. Some justices' opinions advocated a general principle of equal time; the government, having complied with the specific decision, is reckoned to have continued to allow the Ghana Broadcasting Corporation to favor the NDC. The seventh case involves the handling of pending cases during the transition from the old Courts Act to the new one, and may bring up some of the issues presented by the new Courts Act that the legal community is troubled by. An important new filing is the NPP's challenge to the enabling legislation for the Confederation of Indigenous Business Associations (CIBA) on the grounds that requiring certain organizations to join violates their right to freedom of association.

In practice, the Supreme Court has not been the only forum for encouraging adherence to the constitution: the parliamentary committees have been active, and the body of Ghanaian law has been called informally to the NDC's attention, as when the NDC National Executive Committee suspended an MP in early 1994 for an inflammatory statement about the civil disturbance in Northern Region and was reminded that suspension from the party did not imply suspension from his seat in parliament. The establishment of the precedence of the national constitution over the party constitution through earlier decisions has the effect of making party discipline under a constitution that does not allow MPs to change political affiliations while in office less intimidating than in Zambia and Tanzania.

The constitution clearly encourages an active citizenry to hold government agencies responsible for carrying out their duties and staying within the limits of their authority. The problem currently is that the government apparently does not perceive the process of hammering out the implications of the constitution in practice to be a constructive, mutual process; the perception of many Ghanaians is that the government views challenges as enmity. The constitution opens the door to citizens; it requires, however, considerable courage to step through.

Legislative Deliberation

Considering Parliament's handicaps as an institution (a long hiatus, few staff, and two independent Mps as the sole opposition), debate in Parliament and use of the powers of parliamentary committees has been surprisingly vigorous. Although proportional representation was suggested by the religious bodies as a solution to enable all parties to contest the 1992 parliamentary elections, all the political parties proved reluctant, and representation continues to be from single-member constituencies. The NDC has not been seen to be heavy-handed in applying party discipline, and committees and Mps during Question Time have worked hard to hold government bodies and ministers to their commitments in the last budget.

Individual MPs may introduce legislation and Private Members Motions and may amend government bills (at their own expense); they have done so, but the bulk of their deliberations are over government-introduced legislation. Parliamentary committees are using their powers (which include subpoena powers) to bring in expert advice and to vet and amend bills (and build consensus) before they are debated; some NGOs (notably the Institute for Economic Affairs) and

advocacy groups are using the two-week interval between publication of a government bill in the Gazette followed by up to three months in committee before the first floor debate to lobby and publish their views. Parliamentary committees are thus beginning to be seen as appropriate fora to find policy solutions. A recent example was the call for a parliamentary committee to bring together education experts and Ministry of Education staff to devise short and long term solutions to the crises in state education. Parliamentary committees, like the advocacy groups and the general public, are handicapped by the paucity of regularly published information from government agencies.

Parliamentary procedures and privileges appear to be on the standard British model. A number of donors have organized trips and workshops for MPs. The Standing Orders are not widely available, and most Ghanaians appear to be unsure about the details of procedures like the appointment of MPs to committees or the recall of MPs, which could be used to limit the authority of MPs. Part of civic education, particularly for advocacy groups, should be more awareness of the rules that govern the legislative process or that may influence the ability of MPs to express their views frankly. The Gazette is being produced on time, although groups outside Accra do not receive it promptly; Hansard and the publication of newly passed legislation are much delayed by the government printers, to the point that the delays weaken both the deliberative process and the ability of judges to stay current with the law.

Given the competing demands for budget allocations, it is particularly important that Parliamentary staff and Mps' salaries and allowances be removed from any possibility of discretion or delay in payment by the Ministry of Finance in order to remove any appearance of leverage over the legislative branch by the executive branch. The thorny issue of how to achieve financial independence for parliament and the various national commissions without diluting the fiscal responsibility and accountability of the executive branch is exercising the minds of a number of Mps.

The constitution gives parliament limited powers of the purse strings. Parliament can not introduce new taxes or raise existing taxes, nor can it increase expenditure. It can reduce proposed expenditure but not otherwise alter expenditure, which implies that it can not shift expenditure from one area to another. In a sense, this clarifies that the Ministry of Finance is the responsible agency, with parliament given considerable authority to hold the executive branch accountable for its use of state funds. In practice, although the Auditor-General's report, which showed lax procedures in a number of government agencies, was taken very seriously by parliament, and parliamentary censure was heeded by some of the ministries, it is not yet clear how parliament can use its watchdog power effectively. The next budget cycle and Auditor-General's report should show whether parliament can develop its powers into effective instruments.

For a detailed description of parliament's operations, see the section on parliament.

Deliberation is also carried out in the public realm through the media, through lobbying by interest groups and through formal and informal discussions between MPs, members of the

executive branch and members of the public. This process has begun to occur in Ghana; it is inhibited by two factors: the shortage of publicly available information that is accepted as accurate and the tendency of the press to make allegations without evidence as a substitute for adequate information and the attitude of many members of the party in power that dissent and contestation are not to be welcomed as helpful but regarded as enmity. The process of passing legislation does allow time and opportunities for the public to make its views known, and this is happening. There are more problems with feedback to the executive on the public's reactions to its ongoing policies. Dialogue as a standard procedure has not yet taken root.

Rule of Law

Like the concept of constitutional rule, the rule of law is well-understood and well-established in principle, but having been vitiated during periods of military rule, is being applied somewhat gingerly and with some allowances for the time needed to change attitudes from authoritarian to constitutional. Many of the problems of re-establishing a rule of law are practical: the new Courts Act needs to be made workable; there are too few judges and lawyers, so cases are likely to take at least two years; the Law Review is 12 years behind in publishing new laws and judges' opinions; the Attorney-General's office has not yet revised the body of law to make it consistent with the new constitution; judges and courts operate with little equipment and staff; new laws do not reach judges as quickly as they do private lawyers, etc.

A positive change since the constitution came into effect has been the effective insulation of the judges from executive discretion in general and in particular over such matters as extending service beyond retirement age. This, plus the decisions of the Supreme Court in the constitutional test cases brought so far, have changed the public's perception of judges from intimidated to relatively independent. Standing and access to the courts are not problematic in theory. The business community does use the court system to settle contract disputes, but the legal system is generally considered to be expensive and slow. The discovery process, as in the British system, takes place after the two sides first present their cases. That government-funded legal aid is available is not widely known and it is only available to near-destitutes; private groups like FIDA with more generous means tests have been overwhelmed with cases. The police are considered to have improved significantly in their adherence to proper procedures, particularly if a lawyer is engaged. Truck and taxi drivers still appear to face illegal search procedures. The Ghana Bar Association's regional human rights committees are concentrating on making citizens and drivers aware of their rights with regard to the police. Several people mentioned that the police policy established some years ago of hiring some first degree law graduates is now paying off in better understanding within the police force of the limits to its authority. Both the GBA human rights committees and the National Commission on Human Rights and Administrative Justice are getting some complaints about the police, but not in large numbers.

As was discussed above, the government is perceived to be somewhat grudging rather than enthusiastic about enforcing all the changes in behavior implied by the rule of law. One interesting area is the financial disclosure called for in the Public and Political Office Holders

(Declaration of Assets and Liabilities) Law of 1992 and the Political Parties Act. If the required disclosures have been made, they have certainly not been available for public scrutiny, hence the endless allegations and speculations in the press about the holdings and financing of powerful individuals, parties and NGOs. There is no Ghanaian equivalent of the American Freedom of Information Act; how the government handles questions about financial disclosure will be a good measure of its commitment to depoliticizing governance. It is also necessary for successful capital markets that the major political figures, as well as publicly owned enterprises, are seen to be making money in transparent ways.

For a detailed description of the functioning of the judiciary, see the section on the courts.

Open Public Realm

There are no serious limitations on freedom of assembly and speech in the 1992 Constitution. Chapter 5 guarantees the Fundamental Human Rights and Freedoms and provides for their protection and enforcement. In particular, Article 21(1) guarantees freedoms of association, assembly, speech, religion, thought, information and movement. Section 3 of Article 21 guarantees the right to form or join political parties and to participate in political activities. While the constitutional guarantee of freedom of association under Article 21(1e) provides generally for the freedom to form or join a trade union, Article 24(3) specifically guarantees the right of every worker to "form or join a trade union of his choice for the promotion and protection of his economic and social interests."

The 1992 Constitution also spells out both specific and general provisions for securing and enforcing these guarantees. Specifically, Article 33 guarantees the right to secure protection and enforcement of civil and political rights in the High Court in the first instance, with the right of appeal to higher courts. It also invests the High Court with discretionary authority to take appropriate legal measures to accommodate such redress petitions. More generally, Article 1 establishes the Constitution as the supreme law of Ghana," while Article 2 authorizes persons who allege violation of any provision of the Constitution to "bring action in the Supreme Court for a declaration to that effect." Article 218 authorizes the constitutionally-mandated Commission on Human Rights and Administrative Justice to investigate, among other things, violations of fundamental human rights and freedoms and, if necessary, to secure their protection and enforcement through the courts.

There are some factors which undermine these rights. First, the Constitution itself contains provisions which could potentially impede the growth of effective democratic governance. These provisions reflect the centralized state orientation held in Ghana since independence, particularly under various military as well as the PNDC governments. For example, while Article 21(1) guarantees fundamental rights and freedoms, Section 2 and four separate clauses of Section 4 of the same Article restrict freedom of movement or residence for reasons of public safety, public order, or national defense. While such restrictions do not necessarily amount to a denial of civil and political rights if they are imposed by due process to ensure public safety and national security, they do provide a constitutional rationale for the arbitrary exercise of state

power. In particular, they provide opportunities for intimidation and harassment by security forces, especially since the Ghana police continues to set up check-points for random checks of vehicles even after the installation of constitutional democracy in the country.

Central oversight is evident in the constitutional provisions related to the organization and operation of professional, trade and business associations. Thus, even as Article 23(3) guarantees the right of workers to join or form trade unions, Section 4 of the Article restricts this right in the "interest of national security, or public order, or for the protection of the rights and freedom of others." More generally, Article 109(1) authorizes Parliament to regulate professional, trade and business associations, while Section 2 of the same article requires the internal affairs of these associations to be conducted along democratic lines. It is arguably preferable to have these associations conduct their affairs democratically. But constitutionally mandating the internal forms and processes of such associations grants the state unwarranted powers of intervention in the affairs of otherwise private associations whose autonomy is presumably guaranteed by a Constitution that is informed by liberal-democratic traditions.

Such sentiments perhaps reflect deeper cultural norms which value hierarchy. They reflect a more general orientation in Ghanaian political culture toward the state (or the national level executive) as a central actor in the organization and management of public affairs. The churches and civil society groups also find hierarchical structures with a national executive and regional and district branches a natural way to organize. The need to legitimate dissent applies to the state particularly, but also to other organizations that stress obedience to authority. "It is better to be in there (meaning in power) instead of out here (meaning out of power)," noted a prominent NPP official when reminded of the burdens and responsibilities of incumbency. While such orientation is tempered by the recognition of potential abuse of state power, a recognition reinforced by experience, it nevertheless precludes appreciation of the capacity of civil society for self-governance and of its critical role in checking state power in a constitutional democracy.

Local Autonomy

In spite of eight years of phased decentralization and new legislation that empowers local government to choose which centrally organized services with what staffing levels are appropriate for the district, local government autonomy has not yet been achieved. Some progress has been made: a fund for district governments has been established independent of the Ministry of Finance (but probably not independent of the new Commission for Development Planning); District Assemblies have achieved local legitimacy (although they meet for only a few days a year and the most powerful figure in district government is a presidential appointee ratified by the District Assembly. The new legislation increasing the powers of district government versus the line ministries is not well-known, and the ministries continue to present a major obstacle to effective devolution. What we found in the field continues to be district-level civil servants who are unhappy at being posted to rural areas and have insufficient funds to provide services to the district population. The problems with implementing the new education system have led to communities being given a little control over their schools but

probably not enough to make head teachers and teachers responsive to community demands for quality education.

The freedom of association guaranteed by the constitution protects the formation of informal groups, and many communities have realized that the government will not provide the services they want. Community development associations continue to be strong in well-organized communities; District Assembly members are sometimes organizing services like community security patrols that their constituents want.

The principle of subsidiarity is not a driving principle in policy decisions; at the same time, there are fewer obstacles now than before the 1992 Constitution came into force to preventing local self-governance initiatives from becoming established.

III.B.2. The Judiciary

The judiciary has the tasks of protecting the fundamental rights and freedoms of citizens in a constitutional democracy and of applying the general principles of the laws to specific cases in a coherent fashion. For it to perform these tasks effectively, the Constitution and the enabling legislation authorized by it must spell out the composition, organization and procedures, as well as the general terms of reference for the judiciary in a manner that safeguards its autonomy from other branches of government, especially the executive. The system should also provide for relatively easy citizen accessibility to the machinery of justice, and invest the judiciary with sufficient authority and institutional capacity to deliver justice quickly and inexpensively.

Independence of the Judiciary

Chapter 11 of the 1992 Constitution spells out the rules and conditions governing the composition, structures and procedures, and the general terms of reference for the Judiciary in Ghana. Article 125(3) invests the judicial powers of the country in the Judiciary, and explicitly proscribes the President, or Parliament, or any organ or agency of the President or Parliament from possessing or exercising final judicial power. It guarantees the independence of the Judiciary in the jurisdiction and exercise of judicial powers, in the administration and financial control of the Judiciary, and in the appointment, removal and remuneration of judicial officers.

Composition and Jurisdiction of the Judiciary

To give effect to the provisions of Chapter 11 of the 1992 Constitution, Parliament passed the Courts Act, 1993 (Act 459), which repeals the Courts Act, 1971 along with a series of Courts (Amendment) Decrees and Laws related to Public Tribunals and District and Community Tribunals passed by the PNDC government. The provisions of the Courts Act, 1993 went into effect in January 1994, but is considered by many in the legal profession to be unworkable (See below.)

The Judiciary of Ghana consists of (a) the Superior Courts of Judicature comprising the Supreme Court, the Court of Appeal, and the High Court and Regional Tribunals, and (b) a set of lower courts comprising the Circuit Court and Circuit Tribunals, Community Tribunals, the National House of Chiefs, Regional Houses of Chiefs and every Traditional Council with jurisdiction over all matters affecting chieftaincy, and such other lower courts or tribunals Parliament may establish. The Chief Justice is the Head of the Judiciary and is responsible for the administration and supervision of the Judiciary.

The Judiciary has jurisdiction in all civil and criminal matters, including all matters relating to the Constitution, and such other jurisdiction as Parliament may by law confer on it. In the exercise of its judicial powers, the Judiciary, in both its judicial and administrative functions, including financial administration, is subject only to the Constitution. No person or authority may control or direct the Judiciary (Article 127[1]).

Appointment and Removal of Judicial Officers

The Chief Justice is appointed by the President acting in consultation with the Council of state and with the approval of Parliament. Supreme Court judges are appointed by the President on the advice of the Judicial Council, in consultation with the Council of State and the High Court. Chairmen of Regional Tribunals are appointed by the President acting on the advice of the Judicial Council. Panel members of Regional Tribunals other than the Chairmen are appointed by the Chief Justice in consultation with the Regional Coordinating Council for the region and on the advice of the Judicial Council (Article 144).

There are clear legal criteria for the removal of Judges and judicial officers. A Judge or judicial officer can only be removed from office on grounds of stated misbehavior, incompetence, or an inability to perform his functions due to physical or mental infirmity. In addition, judicial officers can only be removed upon a resolution supported by the votes of not less than two-thirds of members of the Judicial Council (Articles 146[1] and 151[1]). There are also clear legal procedures for the removal of the Chief of Justice, Justices of the Superior Courts and Chairmen of Regional Tribunals. In the case of a petition for the removal of the Chief Justice, the President, acting in consultation with the Council of State shall appoint a Committee consisting of two Justices of the Supreme Court and three other persons who are not members of the Council of State, nor Members of Parliament, nor Lawyers. The Committee investigates the petition and recommends to the President whether the Chief Justice ought to be removed. The President is required in each case to act in accordance with the recommendations of the Committee. The President, upon receipt of a petition for the removal of a Justice of a Superior Court or Chairman of a Regional Tribunal should present the petition to the Chief Justice who would determine whether a prima facie case exists. Upon determination that there is a prima facie case, the Chief Justice should set up a Committee consisting of three Justices of the Superior Courts or Chairmen of the Regional Tribunals, or both, appointed by the Judicial Council and two other persons who are not members of the Council of State, nor Members of Parliament nor Lawyers, and who are appointed by the Chief Justice acting on the advice of the Council of State.

Remuneration of Judicial Officers

The administrative expenses of the Judiciary, including salaries, allowances, gratuities and pensions payable to persons serving in the Judiciary is charged to the Consolidated Fund. The Constitution also provides that the salary, privileges and rights connected with leave of absence, gratuity, pension and other conditions of service of a Justice of the Superior Court or any judicial officer shall not be varied to his disadvantage. A Justice of the Superior Court upon retirement is entitled to a gratuity as well as a pension equal to the salary payable to a Justice of the Superior Court from which he retired. This payment of pension is conditional upon his having served as a Justice of the Court for ten or more continuous years, or alternatively, he should have served for twenty years or more in the public service, at least five continuous years of which were as a Justice of the Superior Court. Furthermore, the Justice should not hold any private office of profit or emolument whether directly or indirectly.

In sum, the 1992 Constitution contains adequate provisions to ensure the independence of the Judiciary. These provisions have been an integral component all Ghanaian Constitutions since Independence, and provide the necessary framework for the Judiciary to play the role expected of it. The stipulated conditions and procedures for the appointment and removal of the Chief Justice, Judges and other judicial officers provide security of tenure. The remuneration of judicial officers and the guarantee of comfortable retiring awards for Superior Court Judges affords them adequate protection. This latter guarantee is much better than what pertains to other public servants who receive pensions and do not retire on their salaries.

Judicial Review

A key indicator of the independence of the judiciary in practice is the constitutional guarantee of its powers of judicial review. Articles 2(1), 11(5), 33, 130 and 133 are the relevant provisions of the 1992 Constitution which deal with judicial review. They establish the supremacy of the Constitution over all other law, invest the protection of human rights in the High Court with right of appeal to the Court of Appeal and the Supreme Court, entrust the judicial power of the State on an independent judiciary, and give original jurisdiction to the Supreme Court over all matters pertaining to the Constitution.

The Supreme Court has been called upon to exercise its power of judicial review in a number of significant, perhaps precedent-setting, cases in the brief period of less than a year since the promulgation of the Fourth Republican Constitution on January 7, 1993. These cases have been discussed above. They provide strong and positive indication that the Judiciary in its judicial review functions has proved capable of fulfilling its constitutional responsibility. In the GBC and the demonstration permit cases, in particular, the Supreme Court seems to have established a precedent for upholding the fundamental freedoms of assembly and speech and the right to participate in the political process.

For a variety of reasons, however, it may be premature to conclude that the Judiciary has firmly established a pattern of independence in deciding broad constitutional issues. In particular, the

Judiciary has not yet directly challenged the powers of the other branches of government, particularly the executive, for its judicial review capacity to be tested. Given the opportunity to launch such a challenge under the 1957, 1960, 1969 and 1979 Constitutions, for example, the Supreme Court took a narrow instead of an expansive view of its judicial powers. In these earlier cases, (e.g. Lardan v. Attorney-General [1957], Re Akoto [1961], Captan v. Minister of Home Affairs [1970], Sallah v. Attorney-General [1970], and the celebrated case of Tuffuor v. Attorney-General [1980]), the Ghanaian Judiciary limited the exercise of its judicial powers to narrowly constructing and interpreting various statutes rather than dealing with overall constitutional principles, such as rule of law, human rights and natural justice, particularly in cases in which the Judiciary found itself confronting the authority of the executive. So far under the 1992 Constitution, the Supreme Court has confronted the executive over the relatively innocuous issue of presidential nominations of district chief executives, which it declared unconstitutional. The other cases decided by the Supreme Court, while upholding important constitutional principles of civil and political rights, do not really challenge the substantive powers of the executive branch.

The efficacy of the exercise of judicial review by the Judiciary under the 1992 Constitution depends on how it interprets and applies its mandate and the constraints placed on it by the Constitution. For instance, Section 34 of the transitional provisions of the Constitution indemnifies past military governments and their functionaries for all unlawful acts and omissions by them and no court may entertain any action with respect to these acts and omissions. Also, Section 35 of the transitional provisions renders irreversible by legislative or legal instrument all confiscations by the Armed Forces Ruling Council (AFRC) and the Provisional National Defence Council (PNDC), unless the confiscated property was acquired before the person assumed public or political office. On the one hand, it can be argued that excessive litigation can be harmful and diminish the political neutrality of the judiciary since it would involve an unmanageable intrusion of essentially political struggles into the judicial process. Hence, the need for such indemnity. On the other hand, constitutional restrictions on the judiciary's scope of action can hinder the evolution of a viable democracy.

The judicial passivity of the Ghanaian Judiciary can, in large part, be attributed to the influence of British legal tradition, which frowns on judicial activism. Yet in the past decade, even the British judiciary has actively challenged executive power through statutory reviews of administrative regulations. In continental Europe, where judicial activism is also frowned upon, the courts have become more than mere instruments of narrow legal interpretation. They are now crucial arenas for civil society actors to press political claims as well as to force transparency in the governance functions performed by the legislature and executive agencies. As a result, American-style judicial review has become an integral component of jurisprudence in countries where such practice historically has not formed part of the legal tradition. In both Britain and Western Europe, this increase in judicial activism has thrust the judiciary in a new and co-equal policy role with the other branches of government. In both regions recently, and in the United States over the past three decades, as a result of the progressive democratization of civil society, constitutional politics has become a crucial mechanism for articulating

specifically political demands and resolving attendant political conflicts (Shapiro and Stone 1984).

Democratization of the Delivery of Justice

The Courts Act, 1993 (Act 459) enacted under the authority of the 1992 Constitution, provides, among other things, for the establishment of Tribunals and specifies their composition and jurisdiction. The tribunals operate a panel system consisting of a chairman who is a lawyer and at least two other lay panelists. The rationale behind the panel system, and the Tribunals generally, is that the administration of justice is not hindered by legal technicalities, and that the litigants understand the proceedings.

The establishment of Regional, Circuit and Community Tribunals by the Courts Act is designed to ensure the operation of one judicial system under the authority of the Chief Justice as the Chief Administrator of the system. This is quite distinct from the parallel systems of tribunals and traditional courts which prevailed under PNDC rule.

The Courts Act, 1993 invests the Chief Justice in consultation with the Regional Coordinating Council for the region and on the advice of the Judicial Council the power to appoint panelists for the Regional Tribunals. According to the Act, the Chief Justice or any Justice of the High Court or Court of Appeal nominated by the Chief Justice may sit as a Chairman of a Regional Tribunal. Subject to the approval of the President, the Chief Justice on the advice of the Judicial Council has the power to appoint the Chairman of a Circuit Tribunal. Panel members of a Circuit Tribunal are to be appointed by the Chief Justice, acting in consultation with the relevant Regional Coordinating Council and on the advice of the Judicial Council.

The proposed tribunal system has engendered considerable controversy in the legal community in Ghana. Proponents point to the tribunals as an essential ingredient in the democratization of the judicial system, since a body delivering justice should not be accused of being a persecutorial arm of the state. The spread of lower courts--Community Tribunals--in each district of Ghana which are vested with civil and criminal jurisdiction is likely to increase access to the law courts. This, according to proponents, brings the means of delivering justice practically to the door-steps of the citizenry, and represents an improvement over the current District Courts Grades I and II which serve larger concentrations of people and which will be abolished when the provisions of the Courts Act 1993 go into effect. The civil and criminal jurisdiction in the tribunal system is structured in such a way that all primary disputes and criminal offenses can be dealt with by Community Tribunals, whose powers have been enhanced to cover claims not exceeding five million Cedis. This enhanced power presumably represents an improvement in the powers of the lower courts, and equips them to handle matters with greater efficiency. Proponents argued successfully in the Consultative Assembly, which was responsible for the Draft Constitution, that with the panel system at the tribunals, the "wheels of justice are not clogged by legal technicalities," which ensures that litigants follow and understand the proceedings at this level where many more people come face to face with the legal system. Thus the tribunal system which was established by the PNDC government and which operated alongside the traditional

courts, but without their cumbersome legal procedures, has apparently had an impact on the delivery of justice in Ghana to justify its retention under a constitutional government.

The Ghana Bar Association is the leading opponent of the tribunal system established by the Courts Act, 1993. On November 25, 1993, following a one-day conference organized by the GBA specifically on the Courts Act, 1993, the GBA issued a strongly worded statement which claimed the whole of Part II of the Act, covering the lower courts and the tribunals, to be unconstitutional. The statement claimed further that the lower courts and the tribunal system to be established by the Act were "thoroughly unworkable and would create so much confusion that many valuable years would be wasted in vain attempts to find solutions to the confusions created by (them)." Specifically, the statement claimed, among other things, the following: (a) that Section 15(1c) of the Act, which removes the jurisdiction of the High Court to entertain appeals from a decision of a Community Tribunal in criminal matters violates Article 141 of the 1992 Constitution which confers on the High Court supervisory jurisdiction over all lower courts and any lower adjudicating authority; (b) that Section 57 of the Act which removes the original and appellate jurisdictions of the High Court and the Court of Appeals over all matters relating to chieftaincy violates Article 140(1) of the Constitution; and (c) that the expansion in the number of Community Tribunals (110 Districts plus 12 in Accra, 6 in Kumasi and 2 in Sekondi-Takoradi) and the attendant required expansion in the number of panel members on both the Community and Regional Tribunals would impose excessive financial and logistical burdens on a system that is already severely strained and barely able to provide of accommodation, books and office space in the lower courts.

During parliamentary committee hearings on the Courts Act, 1993 in Parliament, the Legal Committee of the Ghana Bar Association gave testimony against the provisions of the Tribunal system in the Act. That the provisions were retained in the Act over the objection of the GBA was due in part to the presence of only four lawyers on the Committee on Parliamentary and Legal Affairs which had jurisdiction over the Bill. (Incidentally, there are only 16 lawyers in the current Parliament, a dramatic change from earlier parliaments in Ghana). The Act has also apparently produced a great deal of confusion in the lower courts, especially in criminal matters. In anticipation of the implementation of the provisions of the Courts Act, 1993, which would either abolish them or transfer their authority to the tribunals, lower courts with criminal jurisdiction have, on orders from the Chief Justice, stopped taking on additional cases. But the Constitution requires that persons arrested on criminal charges must be brought to court within 48 hours. As a result, the police has had to release persons arrested for criminal behavior, which may have prompted Jerry Rawlings's comment about "constitutional lawlessness!" The administrative chaos in lower courts is due in large part to the absence of any transitional provisions in the Courts Act, 1993, a gross error that can only be attributed to editorial oversight in drafting the Bill and the absence of legal competence in Parliament.

Largely to control the administrative chaos in the lower courts and speed up criminal prosecution, and partly in response to GBA's strongly-worded public claim about the potential unconstitutionality of major sections of the Courts Act, 1993, the government has drafted an amendment to the Act which it intends to introduce in Parliament. One section of this

amendment, while retaining the Tribunal system, will replace the three-member panel with a single judicial officer who will be a lawyer.

At present, the Ghanaian Judiciary, especially at the lower levels, lacks the institutional capacity to deliver justice speedily and inexpensively. The Tribunal system introduced by the Courts Act, 1993 seems to be an innovative way to provide accessible justice, especially to the largely illiterate population in the rural areas who are not interested in the arcane reasonings and legal niceties favored by the GBA and professional lawyers. But in pointing out potential areas of conflict between the Courts Act, 1993 and the Constitution, the GBA has certainly raised the level of public discussion and brought attention to the need to undertake a major review of the judicial system.

III.B.3. The National Commission on Human Rights and Administrative Justice

The 1992 Constitution mandates the establishment of the Commission of Human Rights and Administrative Justice comprised of a full-time Commissioner and two full-time Deputy Commissioners, who are appointed by the President in consultation with the Council of State. Accordingly, Parliament passed The Commission on Human Rights and Administrative Justice Act, 1993 (Act 456). This enabling legislation invests the Commission with broad powers to investigate, mediate, and take legal action on complaints and incidents of violations of fundamental human rights, corruption, abuse of power, and unfair treatment of persons by public officials as well as private enterprises. It invests the Commission with quasi-judicial powers as well as autonomy to set procedures and regulations to carry out its functions. Both the Constitution and the enabling legislation guarantee the independence of the Commission and the Commissioners by establishing the same terms and conditions of the service and removal of Commissioners as those governing the justices of the Court of Appeal and the High Court.

A quick review of the constitutional provisions and the enabling legislation governing the composition, organization, and functions of the Commission suggests a powerful agency with the potential to act forcefully to ensure fundamental human rights in Ghana. Since the Commission is not required to make its decisions public and since, unlike a court, it does not carry out its functions in public, there is potentially the danger that it could become a "Star Chamber", an arbitrary, secret body. The safeguards against this are the independence of the Commissioners and the right to take any case from the Commission to the courts. The Commissioner has reportedly suggested that decisions should be registered in court in order to become part of the body of law; this would be a safeguard against arbitrary or inconsistent rulings.

The Commission has taken over the functions of the Ombudsman established by the Ombudsman Act, 1980 (Act 400) with enlarged functions. The Ombudsman could only investigate and make recommendations, but could not pursue the matter in court in case its recommendations were ignored. The Commission on Human Rights and Administrative Justice can sue in court to enforce its recommendations.

As with the other constitutionally established commissions, there is some concern that the Commission's financial dependence on the Ministry of Finance may vitiate its autonomy. Because its operating expenses are paid out of the Consolidated Fund, it submits its budget request to the Ministry of Finance and competes for funds with all government agencies included in the central budget. Direct parliamentary authorization of the Commission's operating expenses would more effectively protect the Commission's independence.

While the Commission possesses enormous powers, its standard operating procedure is mediation in the first instance, followed by investigative actions through the use of its quasi-judicial powers, and finally the institution of judicial proceedings in a court of law. The Commission faces a "herculean task," in the words of its Chairman, largely because of the historical legacy of gross human rights abuses. In its first seven months (until March 1994), the Commission headquarters had received about 600 new complaints, in addition to the back-log of about another 200 cases it inherited from the Ombudsman Office, which was responsible for abuse of office cases but which was abolished by Act 456. About half of these cases concern allegations of wrongful dismissal. Twelve percent are complaints that an employer has failed to pay, or had delayed payment, of gratuities or pensions. Another 17 percent relate to charges of concerning 'redeployment' or an employer's refusal to pay benefits other than pensions and gratuities. Harassment by the police or others in authority features in about six percent of the cases. Perhaps the politically most controversial cases are the two percent of the total that concern demands for the return of assets seized by the PNDC in the 1980s. The Commission has begun to mediate in many of the 800 cases and, where that has failed, to undertake an investigation. It receives new complaints and enquiries about procedures for submitting complaints on a daily basis.

Educating the public and key governmental agencies on human rights issues is an important task of the Commission. Toward this end, the Commission held a workshop on human rights for its regional staff in January 1994. It intends to conduct other workshops on a regular basis. One series of workshops is planned for the police between July and December 1994. This series will focus on Police Inspectors and the human rights violations that may occur in police stations. The Commission also has held discussions with the Ministry of Education with a view to grafting human-rights education onto existing courses in history and social studies. It also envisages collaboration with the Media Commission and the National Commission on Civic Education in a coordinated effort to educate the Ghanaian public on human rights issues. The Frederick Ebert Foundation is sponsoring workshops which will bring these three commissions together to sort out their respective responsibilities in the field of human rights.

The Commission is fully operational at its spacious national headquarters in the Old Parliament Building in downtown Accra. The Commission's organizational structure consists of a Department of Operations and Legal Affairs under the direction of one Deputy Commissioner (Mr. B.K. Oppong) and a Department of Administration and Finance under the direction of another Deputy Commissioner (Ms. Dormakyire). The Department of Operations and Legal Affairs has an impressive support staff of 10 investigators and 10 legal officers. The Department of Administration and Finance includes a Registration Office which records all complaints. The

Commission is mandated to have offices in each of the ten Regions of the country and in all 110 Districts. Financial constraints, however, preclude such comprehensive coverage at the present time. Offices have been set up in all the Regions but in only 26 of the Districts. The Commission aims to open at least three District offices in each Region, and phase in the others as financial constraints ease.

The need for more public awareness of the Commission's mandate was clear in the regional capitals of Western and Ashanti Regions: the Commission's regional offices had been open only since January 1994; they were operating fully but none of the citizens we talked to mentioned the Commission as a noteworthy change brought about by the 1992 Constitution. Both regional offices had some contact with the Ghana Bar Association's regional human rights committees. Both were planning awareness campaigns once the new offices were established. In Ashanti Region the Commission had sent letters to the churches, the District Assemblies and district administrative offices describing the Commission's services, and were hoping that District Assembly members would spread the message. The staff's perception was that there were high expectations for the Commission in the region.

Western Region was one of the two to have a regional Ombudsman Office, headed by the current Commission Regional Director from its opening in 1987; the Commission took over the offices in the regional administration complex and the staff. The director hopes to move the office: the staff has increased from 5 to 10, and the full complement for a regional office is 19 (9 senior and 10 junior), so the office is now crowded and lacks equipment. They do not have a vehicle but depend on the help of the regional and district administrations. There are officers in two districts; their function is to carry out investigations only, with all other parts of the procedure concentrated in the regional office. The situation in Ashanti Region is similar: there are 10 staff crowded into small offices in the regional administration complex with little equipment and no transport. They would like to rent offices in a private building to underline their independence from the regional administration but are inhibited by the deposit requirement.

The Western Region office had received 20 new cases between January and late May 1994. Most had originated locally, a few had been sent by the national headquarters, and the director estimated that about half of the 20 were human rights cases (including property grabbing from widows and unnecessary detention by the police). Six cases had been resolved and sent to headquarters for final approval. Taking a case to court is seen as a last resort. The Commission will bring in respected community figures (chiefs, pastors, etc.) when appropriate to help resolve disputes and will pay their transport costs. The director views the Commission's work as helping ordinary people who cannot afford court fees. Ashanti Region has had 28 new cases since January; two-third are administrative justice. They have not had any human rights cases with political overtones; there is one case of police harassment, the rest are family disputes.

There have been two in-service training seminars in Accra for regional staff since January, and staff feel that they have been well supplied with clear guidelines, manuals and materials. In Western Region the core staff came from the Ombudsman's Regional Office and, although the Commission's mandate is much broader, the procedures are little changed. The Western

Regional Director was a secondary school headmaster before heading the regional Ombudsman's office. The Ashanti regional office is headed by a lawyer and the staff have been drawn from the GES, regional administration financial monitoring positions, the police (retired) and social welfare. Both offices appeared to be functioning well, both want better working conditions; the suggested solutions were donor aid with equipment and a budget process that is independent of the executive branch. In both offices there seemed to be good rapport with headquarters and enthusiasm and a sense of the importance of their work.

It is still too early to draw conclusions about the Commission's effectiveness. Will the Commission be able to deliver quickly on its mandate? Current budgetary constraints pose a problem, as does the Commission's dependence on the Finance Ministry for operating expenses. Also, what kind of pressures the Commission will face in investigating highly placed public officials and whether it will be capable of withstanding such pressures are questions that cannot yet be answered. Nevertheless, the establishment of the Commission and the dedication of its officers represent a promising start.

III.B.4. Elections and the Electoral System

Although Ghana's constitutional order is admirable in many ways, few would deny that some electoral reforms are needed. To say this is not to imply that one accepts the myriad of charges of electoral malpractice by the NDC contained in the NPP's The Stolen Verdict. The authors of this report are neither in a position to evaluate the various allegations, nor have they been asked to do so. Nonetheless, at least three related grievances of the opposition parties must be dealt with before 1996 if there is to be a free, fair, and contested election.

First, the opposition parties are united in their view that the voters' register used in the 1992 elections is quite inadequate. This register was originally created in connection with a referendum in 1988, and was subsequently updated to some extent. It apparently contains duplicate (or more) listings of individual voters, and names of deceased and 'ghost' voters. There must be a new voters' register which can be verified by the opposition if the 1996 elections are to be contested. The Electoral Commission accepts this view, and is planning to compile a new voters' register in 1994 or 1995.

Secondly, the opposition parties have long demanded that all voters be issued with an photo-identification card, to prevent impersonation on polling day. Although the government has not objected to such an identification card in principle, it has maintained that the cost of issuing identification cards to all Ghanaians - \$15-20 million - is well beyond its means. There the issue has rested until April 1994.

The third controversy has concerned the Electoral Commission, in particular the alleged bias of Chairman K. Afari-Gyan and of lower-placed officials in favor of the governing party. Opposition party officials have contended that, to ensure the independence of the Electoral Commission, the government should consult them concerning who to appoint as chairman and deputy-chairmen. Though not required by the constitution, this procedure, they claim, is

consistent with the spirit of fair play. This did not happen. The President nominated Dr. Afari-Gyan and his deputies, and the Council of State confirmed the appointments. The NPP also has a specific complaint against the chairman that is recorded in The Stolen Verdict: that he played a key role in rigging the presidential election. Hence, the opposition has not had confidence in the EC chairman, and has demanded that he resign.

A breakthrough on these issues was achieved in April 1994. The chairman of the Electoral Commission convened a meeting including the U.S. ambassador, a team from the International Foundation for Electoral Systems, and representatives from the five main parties. Following a discussion of the various options relating to an identification-card system, the EC chairman recommended that the political parties constitute an advisory body to advise the Electoral Commission on the registration exercise and to liaise with the Commission on the planning and execution of the program. The first inter-party advisory committee meeting, held on April 28th under the auspices of the Electoral Commission, arrived at a compromise that all parties were willing to accept. Photo-identification cards would be issued to the inhabitants of the ten regional capitals. If however only the United States government was willing to contribute to the scheme, the photo-identification cards would be limited to the inhabitants of only four selected urban areas. All remaining Ghanaians would receive an identification card with thumbprint and special security marks. The photo-identification system would be extended to the rest of the country as finances permitted. Later, the U.S. government also offered to help finance the training of those who would undertake the registration, as well as the agents of the major parties who would monitor the registration process. To ensure that the 1996 elections would proceed fairly, the U.S. government would also seek to strengthen the institutional capacity of the Electoral Commission, and to support the training of polling-station observers from all political parties.

This agreement seems to have cleared away the major obstacles to a fair and contested election in 1996. Although none of the parties received precisely what it wanted, they are all reasonably satisfied with the outcome. The two main opposition parties consider that they will have no problem mobilizing 18,000 workers to act as poll observers, or to organize their training. They are relieved that their agents will monitor the registration process and have an opportunity to verify the voters register. The cooperative attitude of Dr. Afari-Gyan and the establishment of the inter-party advisory committee have persuaded even the NPP that they can work with both the Electoral Commission and its controversial chairman.

Recommendations

The United States government has adopted a course of action on electoral reform that fully meets the needs of the situation. It should now use its resources and influence to see that the program as sketched above is actually implemented. However, it is also important to recall that a free and fair election is just the first step - albeit an important one - toward the consolidation of democratic governance. Hence, a focus upon electoral reform should not divert attention from the importance of longer-term programs, such as those designed to strengthen civil associations, linkage institutions, and local self-government. It is to these longer-term institutional changes that this report now turns.

III.B.5. Parliament

The legislature occupies a distinct position in the institutional framework of a democratic polity. More than the executive and the judiciary, the legislature in its structure, operation and responsibility straddles state and civil society. Its role in formulating laws makes it an integral part of the state. As an elected assembly, it is directly linked to the divergent social and economic interests that comprise civil society. As a deliberative body, it facilitates and mediates the peaceful expression and debate of conflicting and particular interests in civil society. In democratic polities, the legislature is traditionally vested with constitutional responsibility over national finance. This responsibility, combined with its role as a deliberative body, enables it to impose fiscal discipline and accountability on state agencies and the executive. The legislature, in other words, is the only branch of government which combines legislative, representative, and oversight functions.

Because it performs these multiple functions which are usually incompatible, Parliament's effectiveness depends critically on institutional (physical, human and financial) resources that promote coherence and efficiency of its structures and procedures, while ensuring its responsiveness to constituents in civil society. Attaining this balance is problematic in the best of circumstances. It is particularly so in the early stage of democratic transition, a stage in which Ghana exists today.

The Parliament of Ghana consists of 200 seats. In the current Parliament, which was elected in December 1992, the National Democratic Congress (NDC), the government party, occupies 189 seats, the National Convention Party (NCP) has 8 seats, the Egle Party (EP) has 2 seats, and Independents have 2 seats. NDC, NCP and EP have joined to form the Progressive Alliance, the governing coalition in Parliament.

While hard data are not available, interview data indicate a wide variation in educational background of Members of Parliament (MPs). Several MPs (figures unavailable) reportedly have no school education and can barely read or write. Only two current MPs have served in a previous national parliament. Observation and interview data indicate that the wide variation in socioeconomic backgrounds of the MPs, as well as their lack of previous legislative experience, have not hampered them from taking their responsibilities seriously or from performing their required functions. Members of the Commonwealth Parliamentary Association delegation, which organized a seminar on parliamentary procedures for the MPs, expressed surprise at the MPs' knowledge of these procedures. The MPs had attended an initial orientation session on parliamentary procedures which was organized at the insistence of the Speaker.

Parliament-Executive Relationships

Chapter 10 of the 1992 Constitution deals with the legislature in Ghana. Article 93(2) invests the "legislative power of Ghana in Parliament." The rest of the chapter elaborates the rules and terms of reference governing the composition, procedures, and organization of Parliament. Article 110 authorizes Parliament to regulate its own affairs.

With respect to the relationship between the legislature and the executive, the 1992 Constitution blends parliamentary and presidential forms of government. As a former British colony, Ghana adopted a Westminster model at independence. The 1969 Constitution, which ushered in the Second Republic, retained with only slight modifications the Westminster model. The 1979 Constitution which ushered in the Third Republic, however, introduced a presidential form of government in which the President possessed constitutionally-sanctioned executive authority and Ministers of State were appointed from outside the legislature. Members of Parliament who were appointed to the cabinet lost their parliamentary seats. The 1992 Constitution (Chapters 8 and 9) retains the basic provisions of the 1979 Constitution with respect to executive authority of the President, but includes a notable departure from the 1979 document with respect to the membership and participation of cabinet ministers in Parliament. Article 78 (1) of the 1992 Constitution authorizes the President to appoint Ministers of State with prior approval of Parliament. While the President may appoint cabinet ministers from outside Parliament, Article 78 (1) requires that the "majority of Ministers of State shall be appointed from among members of Parliament." Article 79 (1) and (2) specify similar conditions for the appointment of Deputy Ministers, but does not specify whether the majority shall be MPs. Article 111 entitles the Vice-President and non-MP Ministers of State and Deputy Ministers of State to sit in Parliament, to participate in its proceedings, and to all the privileges accorded to an MP, except that they cannot vote or hold office in the legislative body.

This mix of presidential and parliamentary forms of government in the 1992 Constitution resulted from a compromise between proponents of the two forms in the Consultative Assembly, according to an MP who participated in the Consultative Assembly deliberations. He had supported mixing the two forms on the grounds that it would (a) subject the executive to regular scrutiny through MP's questioning cabinet ministers and (b) permit MPs serving in the cabinet to bring the viewpoints of Parliament to bear on cabinet deliberations. The working of the mixed system has produced mixed results, however. On the one hand, cabinet ministers, both MPs and non-MPs, have been subjected to unexpectedly pointed questioning by MPs, not only on specific issues related directly to the individual constituencies, but also more generally to secure candid explanations of national issues. In the earlier sessions of Parliament, ministers were reportedly quite uncomfortable with the tone of the questions as well as unprepared to respond to them. On the other hand, several interviewees indicated that MPs serving in the cabinet were split in their roles as MPs and cabinet ministers. They had "divided loyalties," said the MP who had supported the mixed system in the Consultative Assembly, but has since changed his mind on the grounds that such divided loyalties undermine the institutional integrity and autonomy of Parliament.

Naturally, in a House overwhelmingly dominated by a single party, there are limits to the independence MPs can exercise in legislative matters. However, the current Parliament is not a rubber-stamp legislative body. NDC MPs are particularly sensitive to the charge that they mindlessly toe the party line. In debates over procedural issues in the early sessions of Parliament, several NDC MPs expressed strong reservations about the Appointments Committee's decision to review presidential nominations to the cabinet in closed-door meetings - on the grounds that such procedures not only violated the requirement of transparency, but was

the "surest way of identifying this House as a rubber-stamp" (Parliamentary Debates, vol. 1, no. 3, cols. 51-52). That the government could not rely on the automatic support of NDC MPs for its policies was most clearly manifest in the rejection in mid-1993 by the House of the government's proposed increase in the fuel tax. What is interesting about this rejection is that the Finance Committee, which reviewed the proposal and was itself overwhelmingly opposed to it, was lobbied intensely by the government to support it. In response to this pressure, the Finance Committee offered a compromise proposal that allowed for the tax increase only if world oil prices increased and/or the value of the Cedi dropped further. But the House simply ignored the recommendations of its own Finance Committee and handed the government what amounted to a major defeat over an important policy. Finally, due to widespread public opposition, MPs expressed serious reservations about the government-sponsored Serious Fraud Office Bill, and added amendments to the Bill that caused the government to withdraw it.

Parliamentary Committees

The substantive work of Parliament related to its representative, oversight and legislative functions is organized and performed through ten Standing Committees and 15 Select Committees (see Table below). The Standing Orders of the Third Republic currently govern the standard operating procedures of Parliament, although these are being revised and updated. Of the 10 Standing Committee, 6 deal with organizational and procedural issues related to how Parliament conducts its business. Three Standing Committees--Foreign Affairs, Finance, and Public Accounts--deal with substantive policy issues. The Appointments Committee is responsible for vetting presidential appointments to the cabinet (Ministers of State and Deputy Ministers of State), the Supreme Court, and the Council of State.

PARLIAMENTARY COMMITTEES

| <u>Standing Committees</u> | <u>Select Committees</u> |
|---|---|
| Selection Standing Orders Privileges Appointments Business House Public Accounts Finance Foreign Affairs Members Holding Office for Profit | Subsidiary Legislation Health and Education Defence and Interior Roads and Highways Works and Housing Youth and Sports Trade, Industry and Tourism Land and Forestry Environment, Science and Technology Food, Agriculture and Cocoa Energy and Mines Employment, Social Welfare, and State Enterprises Transport and Communication Information, Legal & Parliamentary Affairs Local Government & Development |

The Finance Committee is responsible for all budgetary and economic issues that come before Parliament. Parliamentary procedure set out in Standing Orders requires that the Finance Committee review the government's budget estimates after the budget is formally introduced by the Minister of Finance. Following this review, the Committee submits the budget for general debate in Parliament, after which it is distributed to respective functional and inter-ministerial parliamentary committees. These committees are charged with scrutinizing their portions of the budget, including receiving testimony from government ministries and agencies, and reporting their recommendations to the full House. House debate and approval of these recommendations result in the final passage of the budget. The Constitution authorizes Parliament only to pass fiscal legislation introduced by the executive. It can reduce spending or taxes but not increase them (Article 108a). MPs believe that Parliament can move monies between line items, although the wording in the constitution is unclear.

The 1994 budget is the first budget for which the current Parliament will be fully responsible. In 1993, the Finance Committee undertook a "post-mortem" review of the 1993 budget prepared by the PNDC government before the inauguration of the Fourth Republic. While the government was not constitutionally required to submit this budget for parliamentary approval, President Rawlings, in his inaugural address before Parliament on January 7, 1993, had promised to submit it to Parliament for information. The Minister of Finance presented the government's 1994 budget proposals on November 30, 1993 in order to meet the constitutional mandate, which requires the government to submit the following year's budget proposals at least

one month before the end of the current fiscal year, which corresponds to the calendar year. The 1994 budget proposals remained in the custody of the Speaker until Parliament resumed in January after the Christmas break. At that time, the Finance Minister formally introduced the budget in Parliament to begin the procedure described above.

The Finance Committee did not review any of the World Bank loan agreements in 1993 before their passage by Parliament. It will be interesting to see whether such oversight increases.

The Public Accounts Committee (PAC) is responsible for reviewing the two annual reports the Auditor-General is required by the Constitution to submit to Parliament. The Committee initially had 32 members, which was reduced by one when one member was killed in an automobile crash. The current membership of the Committee stands at 25, including 2 NCP Mps, largely on the insistence of the Committee Chair who is also the Minority Leader. He would prefer a membership of 20 in order to limit the number of people with access to the Auditor-General's Report to be reviewed by PAC. Transparency is assured by the public discussion in Parliament of the Committee's report.

The Public Accounts Committee submitted its first report to Parliament on December 2, 1993. This 26-page report contains a candid and critical review of the Auditor-General Report on Ghana's national accounts. The Auditor-General's Report contained two parts, one covering the 1979-1989 period (during which no audit of central government accounts had been conducted) and an interim report covering the 1990-92 period. The Public Accounts Committee's reviewed the overall condition of central government's accounts as well as a selected number of government departments and agencies. Its general conclusion was that Ghana's national accounting system is in total disarray, with "defects of weakness, lapses, and omission and non-strict adherence to generally accepted accounting standards laid down in existing financial regulations" (First Report of the Public Accounts Committee of Parliament, November 1993, p. 2.) It noted the total breakdown of internal controls and gross mismanagement of national funds. It attributed these problems to the "brain drain" of central government's accounting staff to private firms, to the lack of equipment in the Controller and Accountant-General's Department, and perhaps most critically, to the lack of cooperation among the Ministry of Finance and Economic Planning, the Controller and Accountant-General's Department, and the Auditor-General's Office.

In presenting the PAC Report to Parliament, the Committee recommended the formation of an audit task force comprised of representatives from the Controller and Accountant-General's Department, the Auditor-General's Office, the Ministry of Finance and Planning, and the Bank of Ghana. Interviews in ministries after the release of the report showed that senior officials were already taking steps to supervise expenditure more tightly, apparently as the result of a Cabinet decision.

The Public Accounts Committee worked under severe resource and time constraints to produce its report. It is assisted by two members of the parliamentary staff, and lacks independent research and analysis capability to access information and verify and evaluate the figures

reported in the Auditor-General's Report. It relied on the Auditor-General and related government agencies to secure relevant information. Given these constraints, the Committee seems to have done a large amount of work in a very short time. In 19 separate meetings between February and end-November 1993, including 9 after the Auditor-General formally submitted his Report to Parliament in June 1993, PAC received testimony from appropriate ministries and agencies (including the Finance Minister and the Governor of the Bank of Ghana) who were invited to defend and comment on the issues in the Report. The Auditor-General or his representative, the Controller and Accountant-General or his representative, the Deputy Finance Minister, and the Budget Director of the Ministry of Finance regularly assisted PAC in its deliberations.

Parliamentary Committees have constitutionally sanctioned subpoena powers to receive testimony. Committee hearings are usually open to the public. The date, time, and place of the meetings are displayed in the hall of the International Conference Center, where Parliament currently meets, and announced in the media. Press reports, observation and interviews all point to the transparency, responsiveness and accessibility of Parliament and its working organizations and procedures, including its committees. The widely-publicized testimony given by the NPP, as well by the Trades Union Congress, the Ghana Bar Association, and the Civil Service Association, before the Finance Committee on the 1993 PNDC budget is one of several notable examples of its openness. In response to widespread public interest and significant opposition to the Serious Fraud Office (SFO) Bill, the Committee on Information, Legal and Parliamentary Affairs, which is responsible for the Bill, extended its hearings for two weeks beyond the established deadline to receive additional testimony from the public.

Members of Parliament and the Public

Organized civil society actors are not the only ones with access to Parliament. Individual constituents also have easy access to Members of Parliament. A walk through the halls of the International Conference Center reveals a substantial number of constituents seeking audience with their MPs. Both observation and interview data suggest that MPs, while not entirely happy to be besieged by a crowd of constituents in the middle of Parliamentary sessions, are loathe to turn constituents away and meet personally with almost all of them. While such access is one of the more visible indicators of democratic governance in practice, MPs clearly feel constrained by the incessant flow of constituents demanding solutions to what one MP described as "petty personal problems." MPs point to the heavy demand placed on their time and money (constituents sometimes expect MPs to pay for food and lodging in Accra and return bus fare) not only in Parliament, but also in their districts. Most MPs reportedly visit their constituencies almost every weekend, except for those from the far north. The latter group of MPs usually make the trip about once a month. When NDC MPs visit their constituencies, they are reportedly asked over and over "Where are the jobs?" Both MPs and local party officials try to lower expectations but are left in no doubt about the forceful pressure of their constituents' concern. That such individualized lobbying and responsiveness reflect traditional patron-client ties should not detract from their contribution to a learning process for both constituents and MPs that is essential to the institutionalization of democratic governance.

The transparency and responsiveness of the formal parliamentary structures and procedures are reinforced by the expressed commitment of MPs to the norms of democratic governance. "MPs are quick learners and do not wish to repeat the mistakes of the past," according to the Majority Leader. Despite their reservations about the lack of constituents' knowledge and appreciation of national issues, MPs view the representation of local constituency interests as a critical component of their role. "I owe them (constituents) my allegiance," said one. Most view their representative role in terms of facilitating constituency access to government resources rather than prioritizing or solving constituency problems. They also view it to be their responsibility to lower constituents' expectations about the government's ability to satisfy all public demands and to impress upon constituents the importance of devising local solutions to local problems.

MPs recognize the need to strengthen civil society, especially groups with the ability to lobby Parliament. They tend to view lobbying as an informational activity which provides them with valuable information on the divergent interests and concerns of organized civil society actors. This sentiment is not mere political posturing and rhetoric. MPs are reported to have approached individual members of organized groups in civil society to express their reservations about the 1993 PNDC budget and the Serious Fraud Office Bill and to encourage public criticism of the government's position. It should be noted, however, that some MPs, particularly long-time PNDC activists, favor government initiatives in organizing small entrepreneurs, such as canoe owners, fishermen, and petty traders.

In general, however, transparency and responsiveness seem to be important features of Parliament in Ghana, even though there are limits to independence from NDC policy decisions. Members of Parliament express a strong commitment to the norms of democratic governance, exhibit this commitment by ensuring that these norms inform parliamentary proceedings and committee hearings, and recognize that their actions as well as parliamentary structures and procedures must not only be informed by democratic norms in practice, but must be perceived by the public to be so informed. Given the recency of the democratic transition, however, it remains unclear whether the positive tendencies toward the norms of democratic governance visible in parliamentary organizations and procedures and in the attitudes and behavior of MPs reflect the euphoric fascination with a new dispensation or an abiding commitment rooted in a deeper understanding of democratic process.

Parliament's Institutional Capacity

At present, the Parliament of Ghana suffers from an institutional deficit. That is, it lacks adequate staff, equipment, office space, and research and analysis capability. To be sure, this deficit has not hampered the creation of structures and procedures in Parliament that are informed by norms of democratic governance. But precisely because the norms of democratic governance--transparency, accountability and responsiveness--require attending to a variety of divergent interests in civil society and in the state structure that Parliament needs to develop its institutional capacities to manage its work.

Parliament currently meets in its temporary home in the International Conference Center. The State House across the street will be its permanent home. Renovation is slated to be completed in mid-1994. This deadline is unlikely to be reached, however, because of financial constraints. Only the parliamentary officers (The Speaker, the First Deputy Speaker, the Second Deputy Speaker, the Majority Leader, the Minority Leader, and the Clerk of Parliament) have their own offices with a secretary and a clerk. Neither the MPs nor parliamentary committee chairpersons have office space. Parliamentary sessions are held in the main hall of the Conference Center.

Surrounding the main hall are four meeting rooms of different sizes where parliamentary committees hold their hearings.

The parliamentary support staff is headed by the Clerk of Parliament who is directly responsible to the Speaker. A dedicated and experienced person who served on the parliamentary staff in the First and Second Republics, and as Deputy Clerk in the Third Republic, he heads a staff of 16 Assistant Clerks, four of whom record the parliamentary proceedings while the other twelve assist the parliamentary committees. Each committee is officially assigned a Senior Assistant Clerk and a Deputy Assistant Clerk. With 10 Standing Committees and 15 Select Committees, the Assistant Clerks are spread thin, with each serving more than one committee. The Clerks rely on a pool of about 20 typists to prepare the Standing Orders, the daily business schedule of the House, Committee Reports, and motions and statements requested by the MPs. The size of the current support staff is clearly inadequate in view of the inordinate amount of work that must be routinely completed on schedule every day. MPs are severely affected by the inadequate size of the support staff.

Weak logistical support delays the production of Hansard. Currently, the Hansard staff consists of an Acting Editor, an Acting Sub-Editor, and a Sub-Editor. They are assisted by a pool of 10 experienced parliamentary reporters who work in pairs to record the daily parliamentary proceedings. Four additional parliamentary reporters are currently in training. The proceedings are transcribed, edited and typed manually at the end of each day and transported to the government printer for printing. The current Acting Editor, who served on the Hansard staff in the first Republic and as editor in the Second and Third Republics, was brought out of retirement and given a temporary appointment to head the Hansard staff and oversee the production of the parliamentary debates. He and his staff work long hours, usually past midnight, to prepare the daily parliamentary proceedings for printing. However, administrative bottlenecks and equipment problems in the printing division of the Ghana Publishing Corporation, the government printer responsible for printing the parliamentary debates, then delay production. A staff member from the government printer works in Parliament with the Hansard staff to coordinate the preparation of the transcripts for printing, but this has not resulted in the timely publication of parliamentary proceedings. To date, parliamentary debates through May 1993 are the only ones available to the public.

Timely publication of parliamentary proceedings is key to effective public lobbying on bills and an indicator of the efficiency and transparency of Parliament. Yet the Hansard staff is not only hampered by inadequate size and the use of outmoded equipment (reporters use short-hand to

record parliamentary debates and manual typewriters to transcribe the records), its dedication and diligence in preparing the debates for printing are undermined by obsolete printing facilities. Recently, the British Office of Development Assistance provided one computer with desk-top publishing capability. This assistance will facilitate the work of the Hansard staff, but will not solve the problem of the government printers.

Inadequate resources related to research and analysis also weaken the institutional capacity of Parliament. The parliamentary support staff includes a competent librarian and an assistant librarian, as well as an archivist. A new Research and Information Office was recently established and a retired head of civil service and former official in the Ministry of Finance was appointed as Interim Director. The resources available to these offices are meager. The library lacks books and reference materials as well as equipment, although the British are providing some small assistance in this area. Research and analysis capability is nonexistent. The Speaker is reportedly committed to building up the institutional capacity of Parliament. The new Research and Information Office was established on his initiative. He has also initiated discussion within Parliament about the need to create an in-house system to produce Hansard, as well as the need to create a Parliamentary Budget Office to undertake independent review and analysis of the government's budget proposal.

Two areas of special concern to the parliamentary staff are (a) parliamentary practice and procedures and (b) developing substantive expertise in specialized areas, such as economics, accounting and law. Several staff members expressed the need to develop these areas even before the Parliamentary Board, which will oversee the creation of a professional Parliamentary Service, is created. Assistance in these areas has been provided to the MPs. For example, the Commonwealth Parliamentary Association has organized a seminar for MPs on Parliamentary procedures, and USAID has funded a pilot program to provide economic expertise to new MPs. No such training has been provided for the parliamentary staff. This is an area where assistance can help to develop the institutional capacity of Parliament.

Parliament has no public relations office. At least one parliamentary officer expressed the need for one, especially for handling reporters and responding to unsubstantiated charges. There is a press office in Parliament, but it is usually empty; hence, it was difficult to verify the information that 40 reporters usually cover parliamentary proceedings. There is inadequate reporting of parliamentary business in the media, except for sensational items. Several private newspapers now publish weekly summaries of parliamentary proceedings; coverage of parliament increased between our first and second visits. The state-owned People's Daily Graphic reports on major policy issues discussed in Parliament and also publishes a column summarizing the previous week's business, but with less editorial comment than The Chronicle. Ghana Broadcasting Corporation's radio broadcasts a summary of parliamentary debates at the end of each day Parliament is in session.

Budgetary constraints are likely to slow the development of institutional capacity of Parliament. Article 124 of the 1992 Constitution mandates the creation of a Parliamentary Service under the direction of a Parliamentary Service Board chaired by the Speaker. In mid-November,

Parliament passed the Parliamentary Service Bill. MPs, as well as the current support staff, recognize the need to build the institutional capacity of Parliament and would prefer the quick implementation of the provisions of the Parliamentary Service Bill. But there is also the widespread recognition that current budgetary constraints will hamper quick implementation.

Inadequate organizational resources affect a central component of institutional capacity: the ability to secure, process and utilize information to draft or amend legislation. In this respect, the Ghanaian Parliament is woefully weak, especially in its relationship with the executive. A legacy of British parliamentary practice, MPs can initiate legislation only through a Private Member's Motion. But preparing such a motion is expensive for most MPs, who have to personally defray the cost of paper, drafting and duplicating their motions. In performing its oversight function, Parliament has so far relied on the ministries for information.

Some MPs have devised innovative ways to surmount the problem of poor access to information. Some MPs have approached individuals and groups in civil society to secure data and analysis to inform debate Parliament. One MP pays modest remuneration to Legon students from her constituency to conduct research for her on specific issues. The Institute for Economic Affairs offers a subscription service to "Legislative Alerts", analyses of major bills as they are gazetted. MPs are quite conscious of the need to maintain the institutional autonomy and integrity of Parliament, especially vis-a-vis the executive. They are frustrated about their inability to have independent access to information.

The institutional balance is clearly tilted in favor of the executive at the present time. If Parliament is to be an effective player in democratic consolidation and in sustaining an enabling environment for democratic governance in Ghana, then it needs to develop its institutional capacity. It can then exercise an effective check on the executive and perform its legislative functions more effectively. In addition, such capacity will also enable Parliament to be more judicious in responding to excessive and unrealistic demands by the public and withstand criticism when these demands are not readily satisfied. In sum, strong institutional capacity will enable Parliament to balance the conflicting pressures inherent in its mediating role between state and civil society.

Recommendations

Once the question of the independence of parliament in terms of its budget and the service conditions of parliamentary staff is settled and implemented, the need to build capacity can be addressed. The staff of Parliament cannot serve Parliamentary committees and back-bench MPs properly because there are too few of them, they lack some of the skills to do analysis and research (particularly in economics and law), and they are under-equipped and without library resources. In interviews the staff identified three pressing needs: (a) training of Parliamentary staff in parliamentary procedures and substantive policy issues; (b) research and analysis capability (which the EEC plans some support to address); and (c) production of Hansard. The question of the number of staff and their qualifications is a matter for Parliament itself, although training to improve research and analytical skills could be appropriate. USAID could consider

how the Congressional Research Service (CRS) could help. CRS personnel can provide technical assistance in this area by training Ghanaian staff, either in the United States or in Ghana, in the production of informational materials for MPs and parliamentary committees on a regular basis or on request.

Assistance in developing research and analysis capability involves support for improving the collection of books and reference materials in the parliamentary library.

Finally, support for the timely production of Hansard is crucial for ensuring the accountability and responsiveness of Parliament and for allowing the public to contact MPs with their views while legislation is under debate. The ODA provision of one desk-top publishing computer is useful but insufficient. The Indian government has reportedly provided training to the Ghanaians in the production of Hansard in the past, and the Ghanaians should perhaps approach them again.

Part of the delay in producing Hansard is caused by the problems of the government printers, who are operating with inadequate and obsolete equipment. The delay in production of many government documents is an obstacle to the smooth operations of government and to its accountability to the public. The team did not look at the government printers as an organization, but recommends that this be done, keeping in mind that contracting out printing work is preferable to installing huge printing capacity.

One key assumption motivates these recommendations. A democratic polity is by definition a knowledge-based polity in which the free flow of information is essential to sustaining an open public realm and constraining the arbitrary exercise of state power. Historically, the state in Ghana has monopolized the production and dissemination of information, which in part has also produced the weak capacity of civil society actors to secure and utilize information as a basis for coherently articulating group interests and communicating them to state actors.

The result is a definition of politics exclusively as the monopoly and exercise of state power and the practice of politics only in terms of confrontation between state and society. Consolidating democratic governance, however, depends critically on altering this relationship. The proposed recommendations are aimed at doing so. Because Parliament straddles state and civil society with its combination of legislative, representative and oversight functions, Parliament's capacity to develop and maintain its own means of producing and utilizing information is particularly critical for consolidating and sustaining democratic governance.

III.B.6. The Executive and the Policy Process

The party in power must use the executive machinery to formulate policy, make and communicate decisions, and implement those decisions. The party can be sure that part of the calculation that voters will make will be based on their perceptions of whether the party in office has done a good job of managing the economy, providing services and infrastructure, and maintaining orderly and fair institutions. The dilemma for the leaders is that the party in office

is expected to be responsive to the people and to various interest groups, but it alone is judged by the voters on the results of its actions. The ways out of this dilemma are 1) good communications - framing the issue well, talking about the constraints the leaders face, and the reasons for the choices they make, 2) a talent for "the art of the possible" and for finding - acceptable, innovative solutions, and 3) delivering good results in public services, economic management and orderly institutions. For the first two the party can use its own human resources; for the last, the party in power must depend partly on the public service (and the donors) and what it can motivate them to accomplish.

This section addresses some questions about the functioning of the executive: does the Cabinet process encourage sound decision-making because it emphasizes the importance of well-prepared Cabinet memoranda? can the policy decisions made in Cabinet be implemented by the civil service? Can the various parts of the executive report to the public or its representatives on how public resources have been used? These are governance issues as well as efficiency and political credibility issues.

How much operations in ministries have changed in response to the change to constitutional government is a measure of how responsive the leadership is to the change and how successful Parliament and non-governmental pressure groups are at keeping the ministries on their toes. One does not expect bureaucracies to change overnight, nor have they. In fact, it may be becoming more openly acknowledged that reinvigorating a demoralized public service is necessary.

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Policy-Making: The Cabinet Process

The Cabinet process is new (or, more correctly, revived after a long lapse) and seems to be functioning vigorously. Cabinet meets every two weeks; its five Cabinet committees are meeting regularly between Cabinet meetings; and the Cabinet Secretary is reportedly keeping operations running smoothly.

Constitutionally, the Cabinet "shall assist the President in the determination of the general policy of the Government" (Article 76.2). [The responsibility to "initiate and formulate policy options for the consideration of government" and to "initiate and advise on government plans" is given to the civil service by the Civil Service Law, 1993 (PNDCL 327) II.3.1.a and b.] The President chairs Cabinet meetings (the Vice President chairs in the President's absence), and the Constitution implies that the President is ultimately responsible for the determination of policy. In practice, Cabinet's responsibility is to make decisions collectively on changes in legislation, the budget, a medium-term plan for all ministry activities and priorities, and other matters. Cabinet is acting as a clearinghouse and coordinating body for the ministries, according to several ministers.

The Constitution requires that changes in legislation brought by the Government to Parliament be accompanied an "explanatory memorandum setting out in detail the policy and principles of the bill, the defects of the existing law, the remedies proposed to deal with those defects and the necessity for its introduction" (Article 106.2.a). One function of Cabinet is to ensure that the explanatory memoranda are well presented.

To bring an item before Cabinet, an individual Minister originates a Cabinet memorandum with the help of staff in the ministry and in consultation with any ministries that are affected by the recommendation. The Cabinet memorandum analyses the problem, presents options and recommends that Cabinet decide to take a certain action or amend or write new legislation, and gives reasons for the Minister's recommendation. The Cabinet memorandum then normally goes to the appropriate Cabinet committee. The Cabinet committee examines the strength of the justification given in the memorandum for its recommendation. The committee can send the memorandum back to the Ministry for further work, can require that the Ministry include evidence in support of its recommendation, and can bring technical experts in to question or strengthen the Ministry's position. After finishing its work, the Cabinet committee writes a recommendation to Cabinet. The Ministry's memorandum and the Cabinet committee's recommendation are discussed in Cabinet, and a decision reached.

The Cabinet's decision is conveyed to the Ministry (or Ministries) concerned, and the Cabinet Office monitors the implementation of Cabinet decisions and reports periodically to Cabinet.

The process, with a strong Cabinet Secretary and committee system, seems well designed to ensure that the Cabinet has properly prepared memoranda as the basis for its discussions. Cabinet Office is ensuring that Ministers receive Cabinet Papers in good time for the next meeting, so that Ministers can prepare themselves to deal with the agenda items. It seems clear that legislation is being discussed in Cabinet before presentation to Parliament. A senior official in the Ministry of Finance could recall only one matter besides the budget that the ministry has brought before Cabinet. However, an official in another ministry said that his minister had brought about 20 recommendations to Cabinet this year, some of them representing a backlog of changes needing approval. It was clear from him that the ministry put in a good deal of work drafting the memoranda and consulting with affected ministries to make sure that they concurred with the recommendation before taking the matter to Cabinet.

The Government and its ministers have implemented a sound Cabinet process in a remarkably short time. The Cabinet's role in policy-making is somewhat ambiguous because it is not constitutionally the sole policy-making body. It is not clear that all important policy decisions are being made in Cabinet. The perception of the business community, in particular, is that, although they have good access to the Minister of Trade, they have had little access to the "real" decision-makers in the Ministry of Finance and the President's Office. Their concerns may be addressed by the new arrangement to hold quarterly meetings with the President and the business community, but this bears out the perception that Cabinet is not the single locus of policy decisions.

Policy Implementation: The Budget Process

The budget process is an annual exercise, culminating in the passage of an appropriations bill by Parliament. In 1993 the necessity to present the budget to Parliament for the first time caused ministers to become more involved in the process, but the process itself and the relationship of the spending ministries to the Ministry of Finance did not change significantly. Efforts underway to reform the budget process and the civil service should have more effect on the budget process in 1994 and subsequent years. The publication of the parliamentary Public Accounts Committee's report on the deficiencies of expenditure control seems to have made ministers and senior civil servants determined to try to avoid an embarrassing repetition next year. Parliament's debate on the budget will begin after the Christmas recess, and this first instance of parliamentary scrutiny under the new constitution may also affect the budget process and expenditure controls in 1994.

The process in 1993 and previous years has been that Ministry of Finance sends out budget guidelines to the ministries. The ministries prepare first for Manpower hearings: each ministry's budget should reflect the posts established for the various parts of the ministry, the correct grades and costs (using a formula that projects annual median expenditure) and the timing of bringing in new recruits. The Ministry of Finance actively cross-checks the information, and

may go to the district level to check faces against names and official structure. The ministries also set spending priorities and defend their programs in hearings. The Ministry of Finance can reject or redesign the Ministry's submission. At the end of the process, when the Ministry of Finance has held all its hearings and has finalized its revenue projections, the Budget Office tells each ministry: "This is what we can make available; you have to live with it." For 1994 the Ministry of Finance gave sector ceilings to be shared between ministries and the agencies under them, including subvented organizations.

Even though they are not part of the civil service, all the new commissions come for budget hearings because they are funded from the Consolidated Fund. The judicial service comes under the President, who approves its budget. As other parts of the report note, it is unclear what form competition for allocations from the Consolidated Fund between ministries, commissions and subvented organizations may take in future, or how the final decision will be made.

If the Ministry of Finance must impose cuts, its policy is to treat all entities funded from the Consolidated Fund alike. All have budget ceilings, and cuts are not made by across-the-board percentages but by deferring the implementation of specific programs according to the priorities of the organization. However, in 1993 the development budget was suspended in mid-year, and recurrent spending was cut back, both cuts apparently across-the-board. The result was that, as in past years, personal emoluments were funded at the expense of recurrent expenditures, and that ministries that had cut personnel in order to have more funding for recurrent expenditure suffered just as badly as those who had not. There is at present no mechanism that allows savings by an agency on one item (personnel) to be applied to another item (recurrent inputs). The shift to constitutional government has not changed the format of the budget.

Constitutional government now requires a number of additional steps before the budget goes into effect. Now, when the Ministry of Finance has completed its revenue projections and its budget negotiations with all the spending agencies, it presents its recommendations to Cabinet. Cabinet discusses the budget and re-allocates expenditure. The Ministry of Finance receives Cabinet's decision, makes any changes, and readies the budget for presentation to Parliament. In 1993 the Government did meet its deadline of November 30 for submitting the budget to Parliament. The Cabinet debate and Ministry of Finance revisions all took place in the week before November 30. Parliament did not debate the budget until after the Christmas recess. A continuing appropriation allowed public expenditure to continue for the first quarter of 1994.

Although the formal design of the budget process seems to require in-depth planning for the ministry's activities, people in a number of interviews agreed that in practice the budget exercise was not taken seriously and was often delegated to junior people in the ministries. In some ministries the process of preparing the budget in 1993 was given attention from the beginning by the Minister and Deputy Ministers, who realized that they would be defending their budget personally to the Ministry of Finance, in Cabinet and in Parliament.

The budget process has been weak because there has been little connection between what a ministry requests, what it is actually allocated and what it actually spends. Expenditure control

has divided responsibilities illogically. The ministries have no discretion over salaries. The staff of the Controller and Accountant-General's Department come under the Ministry of Finance and are seconded to every ministry and regional and district government. The Budget Office does not allocate funds directly to ministries, but via the Accountant-General, a procedure that causes some problems. The Budget Office does not impose sanctions against accounting units that do not submit their expenditure reports on time; reports that are months late are not usable instruments for expenditure control. Cash flow projections are not required, and no accrual accounting is done, so ministries don't know what their position is. The fact that some expenses, like their telephone bills, are paid centrally from the Consolidated Fund, adds to the lack of a sense of accountability.

There appears to be some confusion in the civil service about who in the ministries is the Spending Officer or Vote Holder, the Minister or the Chief Director. In some interviews I was told that the Minister is the Spending Officer, but that the authority may be delegated to the Chief Director; in others I was told that it was inappropriate for a politician to be Spending Officer, and that the Chief Director was legally the Spending Officer, although some ministers insisted on acting as the Spending Officer. The point is important for expenditure control: one of the loosest areas of control is the ability of ministers or senior civil servants to enter into contracts or authorize standing orders on behalf of the ministry and thus exceed budget limits.

Since the budget was usually reported as being in surplus, its problems did not surface until the 1991 Public Expenditure Review revealed them. ODA is the donor most involved in assistance to the budget process. There has been an ODA adviser in the Office of the Accountant-General and ODA is preparing plans for training projects and technical assistance with financial management. A concrete step towards better budgeting and expenditure control is the installation, funded by ODA, of an integrated, computerized payroll and personnel record system, now largely completed.

The civil service reform effort has paid some attention to budgeting but its emphasis on "inventorying" institutions, setting priorities and targets, doing value-for-money appraisals, etc. has not so far been supported by the process actually used by the Budget Office, which continues to encourage ministries to come in high with their proposed requirements and settle for less. The process does not look at the previous year's results in terms of achieving targeted outputs with a specified amount of inputs and then base the next year's allocation on the previous year's results.

The comments of members of the Parliamentary Public Accounts Committee, as reported in The People's Daily Graphic on December 2, 1993, emphasized the seriousness of the deficiencies of the public accounting systems and practices. The Committee's recommendation that four government agencies (the Controller and Accountant-General's Department, the Auditor-General's Department, the Ministry of Finance and the Bank of Ghana) form a task force to ensure that the government's accounts are properly prepared and audited is relevant, as is one member's statement that "democracy will mean nothing if members of the House looked on unconcerned for state revenue to find its way into individual pockets."

The reaction of officials in some ministries has been to tell the accountants to be careful not to overspend, to do a better job of keeping ledgers accurate and up to date, and to warn them that the private press is hovering everywhere. Ministers and senior civil servants acknowledged that public accounts are public information, and that to be found presenting it other than truthfully would be a disgrace.

In fact, there is a technical group already working on some of the budget process and expenditure control issues: the Budget Improvement Working Group, with members from the divisions of the Ministry of Finance, the Bank of Ghana, the Accountant-General's Office and the Office of the Head of the Civil Service, and observers from the World Bank and ODA. It is looking at mechanisms for ensuring that the budget process provides matching funds where donors require them, and for tying the budget allocation to actual expenditure and achievement of intended results. One of the group's objectives is to produce a Broad-Based Budget document for 1994, which would accompany the appropriations bill, showing the macro picture more clearly, and capturing the donors' contribution. The group is also working on public expenditure control policies and institutional arrangements. In 1994 accounting responsibilities will be decentralized to three ministries (Health, Information and Education) as a pilot project to see whether it works better and provides better financial management information to the ministries. The group is also looking to see whether normal ratios of personal emoluments to recurrent spending can be established for different ministries or units of ministries.

Recommendation

While USAID may not be directly involved with improving the budget and expenditure control processes, USAID project officers and the local accounting firms they are using to audit government accounts related to USAID projects may be able to contribute their expertise to government task forces or public accounts projects funded by other donors. In one interview a worry was expressed that donors may be contributing to divergences in accounting practices in different ministries that could lead to difficulties in compiling standard expenditure reports. Since it may be some time before the Accountant-General's Department really regains control over the public accounting system, it behooves USAID consciously to avoid unilateral "innovations" that could cause trouble. Given the problems caused by the lack of information produced by government agencies, USAID (and other donors) should push for the production of publicly available information by the agencies with which they work.

Policy Implementation: Civil Service Reform

Civil service reform is generally a slow, messy business because the individuals in the bureaucracy perceive, usually correctly, that they will be asked to take more responsibility, do more work and be evaluated more stringently in exchange for the promise of better pay and working conditions at some unknown time in the future. The interest of the government in pushing reform can be more to satisfy donor demands for budget cuts and public complaints about the delivery of services than conviction that reform makes sense, because reform often involves the politically painful step of firing large numbers of public servants. Reform certainly

means fewer opportunities for making patronage appointments, interfering in transactions, and controlling resources at the center. In Africa civil service reform also goes against several unwritten rules held by a significant number of civil servants, particularly in situations like Ghana's, where personnel appraisal, information and supervision procedures have essentially broken down: the "zero-sum" and conformist norm against striving for individual success, the perceived danger of retribution for disciplining poor performance, the colonial-era norm that cheating the modern government, a foreign institution, is acceptable, and the notion, even in hard times, not that one is lucky to have a job at all, but that if one is poorly paid, one is entitled not to work wholeheartedly. Civil service reform is more than retrenchment; it is reprofessionalizing people in systems that work in the local culture while meeting high standards.

Although the question of whether Western-style institutions are appropriate in Africa comes up, few people in the public service usually deny the current problems or the need for, say, fairer and more objective standards for promotion. Most people will talk about the need for a general change in attitude. The problem is that there are so many inter-related, entrenched problems to solve more or less simultaneously that reform requires a huge and sustained expenditure of energy at the top.

In Ghana civil service reform began at least five years ago. The ODA and World Bank 5-year programs that ended September 1993 were considered to be partially successful at best. As one donor representative remarked, "It is easy to be critical and to feel that things are getting worse when, in fact, what is happening is that people are beginning to try to deal with long-standing problems." However, people interviewed on the first trip, both from donor agencies and from within the civil service, felt that the top political leadership was not providing the impetus for civil service reform. At a meeting in September with the donors, the government was asked what it would like to do next in carrying reform forward. Government representatives asked for time to answer. The new Head of the Civil Service, Dr Robert Doodoo, appointed in November 1993, has initiated a new effort. At the time of the second visit, a macro reform plan was being designed and agreed on within the President's Office. World Bank "structural benchmarks" represent donor pressure to meet conditions regarding civil service changes for the release of funds.

What the previous civil service reform activities have done is to give a number of people in the civil service a sense of the dimensions of the problems and possible solutions - "the blocks are on the table, now how do we get take-off?" They agree that the new Head of the Civil Service must first make some strategic decisions and lay out a program and then find the right people to implement the program, that the program itself will need the strong support of the political leaders and that the top levels of the civil service must be convinced that the program makes sense and deserves their support. In Zambia, after Cabinet gave its approval, the Public Service Reform Program was launched in November 1993 with a three-day workshop opened by the President, who emphasized the importance of reform to the economy and service delivery and promised that politicians would not interfere. The eighty-odd top civil servants discussed the planned measures for "right-sizing" and reprofessionalizing the public service, and formally pledged to implement them. In Ghana the same links exist between civil service reform, the

economy and service delivery. There is also the need to create public awareness and ownership of a reform program.

The Ghanaian team that has implemented ODA's Integrated Payroll/Personnel Document project appears to have been successful in accomplishing its objectives. It could serve as a model for managing the implementation of a complex change in procedures in a number of government agencies. The system is also producing useful monthly information.

Recommendation

Members of the team were impressed by the number of Ghanaians who analyze their problems in the light of their history and culture. The self-conscious analysis of what management practices are best suited to Ghana may be an area where Ghanaians can lead Africa. There is a small body of work on what is important to good management in Africa (Ekeh, Leonard, Klitgaard, etc.); Mamadou Dia's World Bank project, "African Management in the 1990s," is well underway; and there are now Ghanaians at senior levels of the civil service with several sorts of comparative experience: of the immediate post-independence period, in international public and private organizations and through management training in industrialized countries. It was remarked a number of times in interviews how well Ghanaians do abroad, but how hard it is for them to be effective at home. The Public Service Committee's report on the public accounting system, donor and local academic reports on various parts of the civil service and interviews all agree that systems are not working well: management information is not being collected and used, there is little effective enforcement of many rules, workers are demoralized and unmotivated. These are all symptoms of ineffective management and inappropriate design, as well as lack of resources. The result is poor service delivery. Poor service delivery by the public service is likely to be a larger and larger problem for the government in its relations with voters and donors. Part of the problem is undoubtedly the shortage of trained managers, but it seems unwise to push ahead without also asking "What works best in Ghana?"

ODA's IPPD project successfully brought Ghanaians to the forefront of planning and managing the change to a new structure. In other parts of the civil service, a small cadre of highly qualified Ghanaians and donor technical assistants seems to be trying to transfer systems wholesale. In interviews it seemed that these well-trained people were frustrated at the inability to install the systems that they know. At the same time they recognize that the work culture in the Ghanaian civil service has serious problems. People were interested in listening to the techniques that Zambian senior civil servants have articulated as useful in increasing worker productivity in Zambia, and agreed that some of them are also culturally important here, eg, managers' taking the time to understand "where their workers' lives are at," supervising closely while avoiding being perceived as "bossy," dealing constructively with hierarchical behavior, etc. It is clear that in Zambia good management involves spending more time with one's subordinates than it does in the United States; this may well be true in Ghana too.

Taking cultural realities into account does not mean lowering standards or changing overall objectives; it means using existing social capital - the techniques people have evolved to solve

problems and get things done, in other contexts than the civil service - to accomplish civil service objectives. This is not to suggest that there is an easy answer to getting people to behave accountably and transparently but that some ways will work better than others. Discussions, with Ghanaians taking the lead, of what incentives, techniques, or organization structures or decision processes could be used to get people working constructively in units would allow Ghanaians to start to articulate the problems of fitting together the civil service requirements and the behavior of civil servants in terms of making incremental changes.

While a seminar series is one useful way to discuss these issues, some case studies of units of government or interviews with Ghanaian civil servants with reputations as good managers, concentrating on management information, productivity and problem-solving, could help to keep the discussions focussed on current happenings rather than management theory. The participants should be primarily civil servants with management responsibilities. The Office of the Head of the Civil Service would be the appropriate government unit to organize work along these lines. The outputs should be documentation of current practices and "rules-in-use," the ideas of people at lower levels about what can be done to meet objectives, and suggestions for new ideas into effect.

In Zambia in 1993 the World Bank funded a large random-sample survey of civil service attitudes and attitudes of the public towards the civil service. The questionnaire was designed primarily by Zambian civil servants. For a cost of about \$300,000 the study not only provides extensive base-line data, but was one of the first random-sample surveys done in Zambia, and has equipped and taught survey techniques to a unit in the National Institute of Public Administration. When the report is publicly released it should form a good basis for discussions on incremental change. A similar effort in Ghana might provide useful information for both donors and government officials.

III.B.7. The National Security Apparatus and Democratization

No institution is more closed to public scrutiny than the military; yet no institution is more critical to the consolidation of democratic governance in Ghana. On five occasions since independence the armed forces have carried out successful coups d'etat. Attempted but unsuccessful coups have been even more numerous. As recently as April 1994 the state-owned Daily Graphic claimed to have uncovered a plot to overthrow the government. Hence, any serious report on democratization must pose the question: how can Ghana assure the loyalty of the armed forces to the constitution in the Fourth Republic?

What makes this question particularly sensitive is the origins of the PNDC regime in the coups of both June 4th, 1979 and December 31st, 1981. In the early years of 1982-83, the power base of Flt.-Lieut. Rawlings prominently included the junior officers and ranks of the Ghanaian armed forces, in addition to the radical intellectuals centered around the universities and the urban workers who hoped to see an end to the erosion of their wages. The PNDC's accommodation with the International Monetary Fund in 1983 and the adoption of structural adjustment programs alienated the radical intelligentsia and many workers. Yet, with party politics outlawed, the

regime could not move to create a mass party that would organize a new constituency. Thus, many observers described the PNDC regime in the last half of the 1980s as a government isolated from society, a government that had not found a way to institutionalize its support. The provision of rural infrastructure created rural support, and the 31st December Women's Movement brought projects and attention to women, particularly rural women. The government did organize the Committees for the Defence of the Revolution (which, like young men's wings elsewhere, presents an ongoing problem for the government in the absence of jobs for unskilled workers), and it could depend upon the willingness of many Ghanaians 'to let the young man have a chance' to prove himself. But it could not have survived without the support of special security and intelligence agencies and of the junior officers and rank and file of the armed forces.

Rawlings' revolution was in part a revolution against the established military hierarchy. This aspect of the revolution was manifest in the authority exercised within a highly politicized military by the Armed Forces Defence Committees. It was also evident in the purges of senior officers undertaken in 1983 and 1984 and the replacement of these officers by others who were presumed to be loyal to Rawlings and the PNDC.

Since the NDC has succeeded the PNDC by way of a multi-party electoral process, the government has not apparently followed a consistent formula for reform of the armed forces. It seems reluctant to abandon its base in the military. A report prepared for the government by a committee headed by Gen. Erskine recommended in the early 1990s that the model of a politicized military should be abolished along with all paramilitary units and the Armed Forces Defence Committees. The report apparently advocated a return to the professional, hierarchical command system. It claimed that what was wrong with the old command system was the individuals in command, not the system itself. However, the report does not seem to have produced any fundamental change. The NDC government may have accommodated itself to the military hierarchy while distancing itself from the ranks. But it has not yet abandoned the model of a politically engaged armed forces in favor of a professional, apolitical, and hierarchical military establishment.

Hence, the consolidation of democratic governance must necessarily involve a clear definition of the role and mission of the armed forces within the current constitutional system. When the government undertakes this exercise, it may welcome external assistance in the reorganization of the command system or the demobilization of military personnel. Such assistance should obviously have the highest priority. Civil organizations, such as the Christian Council, are invited to speak on civic education issues occasionally; if requested, assistance to expand such efforts or to buttress civic education within the curriculum of the staff colleges and among the ranks would be worthwhile.

A number of Ghanaians mentioned the improvement in the police force's adherence to the rules of search and arrest. No one claims that the lower ranks always follow prescribed procedures, but senior officers know correct procedures and try to enforce them. Regional GBA members

say that they are often hired to ensure that arrest procedures are performed correctly which, with a lawyer present, they are, in contrast to the situation before the 1992 Constitution.

III.C. PROCESS 2: BUILDING A DEMOCRATIC CIVIL SOCIETY

III.C.1. Introduction: The Role of Civil Society

The liberalization of the political sphere restores "political space" in which non-state actors can pursue their social, economic, and political activities. They can form associations and seek to influence government. Liberties that create "space" involve freedom of speech and association, and protection from arbitrary arrest, intimidation, and punishment without due process of law. In the recent past many African governments, however, sought to dominate most of the key associational groups in order to monopolize all major public arenas and to prevent social groups from mobilizing to contest government policies or to demand public resources. The essence of political liberalization is, then, to expand the political space in which individuals and groups can exercise political liberties and contest for power and influence, and consolidation of democracy involves defining and preserving public political arenas.

However, state and society rarely occupy entirely separate "areas". Rather, they are interpenetrated, so that individuals with state offices may partly use such offices to pursue private purposes, e.g., civil servants may organize in associations to pursue higher pay or prerequisites, military groups or units may combine to seek larger budgets to advance their careers or to foment coups. This institutional interest group activity is noted because in the Second and Third Republics the threats to democracy in Ghana did not flow primarily from gradual government encroachment upon the political liberties and public spaces of Ghana's citizens, as occurred in 1959-1966. The Second and Third Republic governments in Ghana were greatly weakened by sharp declines in the economy. In this context, major struggles developed between the state and some institutional interest groups, as well as societal interest groups. These conflicts were seized upon by military groups or factions as a rationale for terminating political parties and conflicts, and not incidentally democratic liberties and constitutions. Hence, - "civilianizing" or controlling certain institutional groups within state structures can also be crucial to strengthening democracy.

Political life in all democracies involves a multiplicity of activities, in which distinctive actors play varying roles. In election periods, political parties tend to play the dominant role, and between elections political parties may also play a significant role in the allocation of public resources. However, between elections associational and institutional interest groups, as well as individuals, tend to become major players in the political arena, trying to influence the allocation of public resources and the distribution of power, or forcing public discussion about the government's sectoral policies and activities.

There are some points to remember about nurturing a democratic culture. Some groups interact with the state at the level of elites and some groups are involved in the political process at the mass and local levels. Intra-elite cooperation and trust is imperative if democratic institutions

are to be rooted, but it is also imperative to strengthen the autonomy, capacities, and relative power of civil associations so that they can resist abuses of democratic rules and maintain open political spaces.

It is also important to observe the internal political lives of groups in civil society. Those which are democratic and participatory in their internal lives are likely to nurture those skills and values that help to root democratic institutions in society at large. Faced with authoritarian - regimes in Ghana for most of the postcolonial era, a number of important associational groups have tried to maintain their organizational autonomy and right to choose their own leaders. However, leaders of some associational groups, particularly the trade unions, were compelled to contain their mobilization of members and activity levels in order to survive intact. This involved a reduction in their level of responsiveness to their own members.

There are varying opinions regarding how strong or weak are the associations in Ghana's civil society. There are a large number of very small and localized associations, which are useful to members, but generally these have relatively few capabilities and are too small and weak either to bring pressures to bear on the state or government or to protect the open political space. Thus, our focus is primarily upon those groups that have played an important role in Ghana's associational and political life in the last thirty years. These key groups include lawyers and the Ghana Bar Association (GBA), the press and Ghana Journalist Association (GJA) - a critical 'linkage' institution - trade unions, the teachers association, university student associations, business associations, women's groups, and churches and religious associations.

These politically significant groups and actors are not identical in their roles and activities vis-a-vis their members and the state, or in their linkages to society as a whole.

- The GBA and lawyers are fundamentally involved in defining and defending the constitutional and legal rules of the game. Changes in the legal/constitutional order affect their professional lives. They are also concerned with the speedy dissemination of new legislation and judges' decisions in important cases. They have a professional incentive to increase citizens' awareness of their rights.
- Journalists (print and media) are involved in communicating political information, as well as reporting events. Press censorship fundamentally restricts how they do their work and the values that they have about their work.
- Other groups are primarily intermediaries between their members and the state or other employers with regard to the distribution of public or private revenues (e.g., trade unions, teachers associations) or regulations governing such relationships or contracts between members and the state (e.g., Chambers of Commerce, the Association of Ghanaian Industries, and other professional associations).

- A final set of associations primarily interacts with members but is affected by some state regulations and practices and may possess certain norms and values which orient them toward the defence of human rights, e.g., the Christian Council and the Catholic Bishops Conference.

So far, the return to constitutional rule has most profoundly affected the Bar Association and journalists, the groups most dependent upon the maintenance of the fundamental rules of the polity. However, members and leaders of the other sets of groups see relatively little change in their interactions with the government. It is true that the range of their choices has widened slightly, as will be noted, but what is fundamentally involved for these groups is whether the government is acting differently in terms of responsiveness, the transparency of its behavior, and its sense of accountability. In these domains, these groups see little, if any, change.

For each of these key groups, we will discuss the following: a brief background; relative autonomy, strength, and societal reach; institutional capacities and degree of internal democracy; current government-association relationships; and potential areas for strengthening democratization (or the institutional capacities of democratic forces).

III.C.2. Ghana Bar Association (GBA) and Lawyers

The GBA has had members active in public political life since the 1950s. The GBA and members of the Bar under successive regimes, civilian and military, have been active in efforts to sustain the rule of law and to limit executive powers, especially with relation to civil liberties and detention. While members of the Bar have been members of both of the two main political traditions in Ghana, the staunchest supporters of civil liberties have been in the Danquah-Busia tradition; but the GBA also contested the Busia government while it was in power on some issues. During the PNDC regime the GBA was able to mobilize its members in a sustained boycott against participation in the Public Tribunal system which was established to bypass the regular court system and did not observe the rule of law, due process, or established rules of evidence. The GBA has by now a firm, long-established tradition of struggling against dictatorial regimes on behalf of civil liberties and constitutional rights, and it persists in these efforts regardless of the arrests and harassment of its leaders.

Relative Autonomy, Strength, and Societal Reach

From the beginning of PNDC rule on December 31st, 1981, the GBA demanded a return to civilian constitutional rule, an immediate handover to a transitional committee. There are few practicing lawyers in the northern regions, but lawyers in the GBA with constitutional and civil liberties concerns have grown in number and can be found in all regions of the country.

As an institution, the GBA is probably one of the strongest civil associations in Ghana and is highly resilient. The arrest of its leaders does not lead to a diminishment of the effort of other lawyers. However, this is not true of other professional associations which are organized in the Association of Recognized Professional Bodies (ARPB), whose persistent organizer has been

Sam Okudzeto. He has tried to build a broader basis for constitutionalism among professionals by linking them together. While they joined efforts against the Acheampong regime in 1977-78, the arrest of the ARPB's president, Okudzeto, in 1982 by the PNDC and the harassment of many professionals and managers during the period of class conflict in 1982-83 induced a sense of caution among the doctors, surveyors, engineers, accountants, and others. However, the number of professionals in most domains has grown, though their interests do not involve them in the rule of law as do those of lawyers.

Institutional Capacities/Internal Democracy

The GBA and regional bar sections are run on a democratic basis and normally involve competitive elections for the office holders.

The GBA has quite high institutional capabilities, in large measure because it can depend upon the international legal norms which are part of the professional norms of many Ghanaian lawyers. The GBA has limited administrative capacities to sustain large projects, but it has the energetic support of many leading lawyers.

The GBA has organized itself to monitor the constitutionality of the behavior of the current government in a number of important ways that indicate an ability to monitor public affairs in their domains of interest, publicize problems, mobilize member and GBA resources to deal with them (in court, before Parliament, in the press), and to mount pressure for the observance of constitutional norms.

- The GBA has reconstituted its National Human Rights Committee, now composed of thirteen members. It has also set up regional Human Rights Committees. Head of the Greater Accra Regional Branch is law professor Kofi Kumado, who was also elected chairman of the National Media Commission.
- A GBA legal team, headed by Peter Ala Adjetey, who heads the GBA's National Human Rights Committee, will a) monitor government activities for violations of the constitution; and b) monitor all bills placed before Parliament for possible constitutional violations and will draft memoranda regarding such bills and appear before the relevant National Assembly committee to comment on them. It has already lobbied in the case of Courts Bill and the Serious Fraud Office Bill.
- The Human Rights Committee of the GBA has undertaken to mount a defense of anyone whose human rights and liberties are infringed, and to do so for free.
- The regional branches of the Human Rights Committees interviewed were all involved in legal aid and legal awareness programs.

The success of the GBA in several of the cases that it has brought before the Supreme Court contesting the constitutionality of government law or behavior indicates its capacity to try to enforce the constitution.

Relationship with the NDC Government and Perceptions of the Government

The GBA was a constant critic of the Rawlings/PNDC government, its civil liberties violations, and its close control over the democratic transition process. It rejected participation in the Consultative Assembly and punished members of the Bar who participated in PNDC institutions that denied civil liberties to others.

Nonetheless, the GBA prizes the Constitution of the Fourth Republic and has become its vigorous advocate and enforcer. Many lawyers find that the Constitution sustains important civil liberties and constitutional safeguards. The 1993 annual GBA conference indicated that it was "desirous of ensuring that the democratic structures established under the Republican Constitution survive and grow." It called upon "Government and the Opposition to make best efforts to co-operate in finding solutions to the problems of the nation." The GBA has already taken and intends to take opportunities to lobby for its constitutional views before Parliament, as the Legal Committee of the General Council has done, and to ask MPs to enter amendments to bills the GBA wants modified. However, only seven and a half percent of the Parliament are lawyers (15 of 200 members), in contrast to roughly one-third of the MPs in 1969-71. Moreover, only 2 of 16 members of the Committee on Information, Legal and Parliamentary Affairs are lawyers - the committee to which the GBA is addressing its observations.

The GBA is also lobbying the Judicial Council and Chief Justice to ensure that appointments to the new court system are on the basis of merit.

The current GBA president, Nutifafa Kuenyehia, a strong defender of the GBA and of constitutional government, is committed to protecting the Constitution and to building bridges to the NDC government and other groups and institutions in order to do so. The GBA president believes that the government leaders understand that times have changed and the Constitution enshrines new rights. The GBA leadership thinks that the government has not reacted badly to recent unfavorable Supreme Court decisions. The GBA manifests a hopeful and cooperative attitude, had built a good relationship with the Attorney General (who has now resigned), and wishes to extend its relations with lawyers in the Castle. It would prefer a quiet approach to working out problems, not public denunciations and posturing, although the GBA annual meeting continues to pass critical resolutions regarding government behavior.

Areas for Strengthening Democratization

Many GBA activities deserve support, especially when linked to other institutions, because of the broad constitutional and human rights impact of these activities and the energy which GBA leaders bring.

1. One such activity is the organizational and educational work of the GBA's national and regional committees of Human Rights.

2. The GBA president anticipates a major program of "legal literacy," which will be primarily concerned with education on civil and human rights under the constitution and related court rulings. It would include several elements: a brief booklet summarizing constitutional and civil rights and liberties, in English and in some key local languages; broad based training of facilitators who would then hold meetings and seminars.

Both printing literature and training facilitators would need funding, which the GBA could not provide on its own. For the dissemination of literature, there are key organizers in a number of large and small voluntary and other associations who are available for training and who, as part of their normal work, give talks to important groups in Ghana.

Ideally, these activities would be linked to the work of the Commission on Human Rights and Administrative Justice and to the Commission on Civic Education.

3. More advanced training in "legal literacy" for Members of Parliament, and access to legal advice and legal drafting by Parliamentary Committees could strengthen the legislative function.

4. Inclusion of leading lawyers in the Castle and Attorney General's Department in non-partisan meetings and seminars organized by the GBA would be highly desirable, as would IVPs for these top government lawyers to US legal institutions.

5. Legal training programs on the Constitution for local judges and senior police officers would contribute to the Constitution becoming understood at the local level.

III.C.3. Trade Union Congress (TUC)

The TUC has long been the largest, most highly organized and most influential association group in Ghana. Indeed, it is one of the largest, most highly organized and independent trade union movements in Africa. For this reason, it has intermittently been the target of repressive efforts by Ghanaian governments. It became large and well organized but not influential under the Nkrumah regime; it redeveloped its institutional autonomy from 1966 but faced the containment measures of the NLC military in 1966-69, and then the hostility of the democratic PP government in 1970-71, as economic conditions declined. Legally dissolved by this government in 1971, it welcomed the military government in 1972 and initially benefitted from it but then was forced to contain its activities. The TUC and its national unions have been unable to come close to sustaining real worker wages during the long down-swing in the Ghanaian economy. The TUC has sought to safeguard institutional autonomy while protecting its collective

bargaining and other legal rights, but it has done so at the cost of restraining the mobilization of its membership to apply pressures on government.

The PNDC government was the most repressive that the TUC has faced: the PNDC overthrew the entire leadership by force in 1982 and tried to restructure the union movement. Resistance from below and the democratic norms of the movement compelled the government to permit elections to union offices in 1983. Since then a mixture of old and new leadership - but one united by an insistence upon TUC autonomy and demands for increased real wages - had led to relatively unfriendly and hostile relations between unions and government. The government used a variety of pressures to contain trade union demands and pressures, so that from 1982-92 there was the lowest number of strikes, men on strike, and man-days lost on average under any regime in the last 40 years except for the repressive 1960-66 period. Invariably, when civil liberties are broadened and coercive pressures lifted, the level of strikes increases, as has already occurred in 1993 and 1994. In dealing with union demands regarding wages and benefits and other questions, a major tactic of the government was to delay responses for very long periods - as it still does. National union leadership has been extremely moderate, but in this new era it will feel much stronger pressures from the rank and file.

Relative Autonomy, Strength, Societal Reach

Since 1966 the TUC and its national unions have been quite successful in rebuilding their organizational autonomy. Despite tendencies to oligopoly in some national unions, there is a great deal of democratic life within the union movement; and democratic elections at all levels, often contested, are the norm. In part because of the Industrial Relations Act (1958 and amendments), the unions in the past actually organized a rather large percentage of the eligible wage labor force. There is union organization in all major cities and towns, and in all regions. Most of the seventeen national unions have a regional organizations in most of the regions; they have a capacity to assist the local units of national unions in negotiations and grievances. Under many past regimes unions demonstrated a significant capacity to pressure Ghanaian government in behalf of specific grievances. On the other hand, since 1966, the union movement has tried, on the whole, to be non-partisan (with a slight deviation in 1979) on the grounds that it did not want to be divided by partisan political divisions which were not relevant to the major union issues.

The TUC has represented a united union front and managed to prevent the splintering off of unions until recently. The expulsion of some union leaders from the Industrial and Commercial Workers Union led in 1991 to the organization of the small Textile, Garment and Leather Employees Union (TGLEU), which now has a collective bargaining certificate as well.

In size, the union movement has long been the largest associational group in Ghana. For years it had over 700,000 members, but its numbers undoubtedly fell below 600,000 in 1992-93. The official figures for 1988-mid 1993 are as follows:

1988 - 594,983

1989 - 707,940

(because of a 2 year jump in the Private Road Transport Union from 24,000 to 93,000, then back to 37,000 by 1991, and an inexplicable 60,000 member jump in the Public Service Workers Union.)

1990 - 707,610

1991 - 645,472

1992 - N.A.

1993 - 554,357

The decline in membership follows government retrenchment policies, low hiring in all sectors, and the relatively low rates of economic growth. The large number of layoffs and low level of formal sector job creation has reduced the ability of trade unions to pressure employees over specific issues and problems and partly contributed to the small number of strikes. This reduction in membership size has also put pressure on trade union finances in recent years, though the TUC has been able to pay its bills.

Institutional Capacities/Internal democracy

The TUC and its national unions have substantial institutional capacities to carry out their roles of collective bargaining, dealing with employee grievances on a local plant level, and articulating major issues of concern to labor in the wider socio-economic and political system when external conditions permit. Some of the seventeen national unions clearly have more capacities in their areas than others. However, the TUC does not have highly trained persons in its secretariat headquarters to meet some overall union needs. One of its greatest weaknesses has been in the area of economic research and information, where its one research person has usually relied on the skimpy government information that was made public. In addition, some regular turnover of employees and hence of local union leadership requires constant educational efforts at the local and regional level. Such education is a regular part of union work, and the African-American Labor Center (AALC) has long made some contribution to funding such work.

A major strength of the union movement has flowed from the fact that all union leaders have many years of experience and have merged from within the labor movement. They have not been parachuted in as occurs in some other countries, where commitment to labor is then lower. A second major source of strength is the long-term development of a strong participant democratic tradition. In some unions general secretaries have acquired a status and strength that has discouraged leadership competition. But there is a great deal of evidence that many unions are able to keep union leaders accountable through the work of national executive committees, and there is turnover of leaders at the top. The democratic tradition and ethos enabled unions to resist, ultimately, the 1982-83 takeover of the unions and to re-elect their own leaders in 1983 in the national unions and the TUC itself. This democratic ethos is also why union leaders have been responsive to workers' grievances and why the TUC regularly articulated the need for a return to democratic and constitutional rule.

By 1991 constant government pressures against the unions and some penetration of the union leadership by the government had created a widespread dispiritedness among union leaders and sharply declining confidence in the TUC leadership. This is partly also why the unions played a less strong than expected role in the demands for a democratic transition in 1991-92. The August 1992 TUC delegates conference has resulted in some significant leadership renewal.

The TUC has also long made efforts to link its public policy concerns with those of other associational groups, especially the Ghana National Association of Teachers (GNAT) and the Civil Service Association (CSA). More recently it has joined in a Labor Forum with GNAT, CSA, and the Registered Nurses Association (RNA). The Labor Forum meets irregularly but there is significant cooperation among the top leaders of several of these groups. There is also a TUC person who liaises with other associational groups, including the Ghana Bar Association and the National Union of Ghanaian Students (NUGS).

Government-Trade Union Relations

Although there was some easing of government-union tensions in 1990-91, relations between the unions and government, as a whole, remain poor. (There are exceptions: the Ghana Mine Workers Union has benefitted from the new investment in gold mines, and the Ghana Private Road Transport Union has gained from the close political relations of its leaders with the PNDC and its role as tax collector and lorry park police.)

Union leaders were asked if they felt that government was responsive (in the sense of dealing with, not meeting all, claims), if government activities were transparent and visible, and if government leaders acted as if they were publicly accountable.

Almost universally union leaders find government leaders literally unresponsive: they fail to respond to letters, memoranda, and calls, and they are often unreachable. Union leaders hear little about government activities and behavior pertaining to their concerns. They perceive that government leaders do not act as if they are accountable. Moreover, the union leaders see no significant change between 1989-92 and the 4th Republic in 1993. The Constitution and a free press have not helped the unions to deal more readily with the government on the issues of concern to them. The same applies to GNAT and National Union of Ghanaian Students. It is true that the union movement can get its press releases and statements published in the private press, whereas before the TUC's views went unreported. In addition, the TUC has assigned a secretariat person to maintain regular contact with the new Parliament. The TUC testified to a parliamentary committee on its concerns with the 1993 budget after its attempts to talk with the Ministry of Finance proved fruitless.

Two instances of TUC frustration with attempts to communicate with the government may be noted. First, beginning in July 1992 the TUC has sought to have the government convene a meeting of the Tripartite Negotiating Committee to revise the legal national minimum wage. A series of TUC letters were sent to the then Secretary for Mobilization and Social Welfare. Only after an April 1993 appeal to the National Assembly Speaker was a response elicited.

Meetings of the Tripartite Committee and the Technical Subcommittee have since occurred, but without resolution. Second, many union leaders, high and low, have felt insulted by various anti-labor statements of the President from December 1992 to 1993. The TUC as part of the Consultative Forum of Ghana Labor has sought to meet with the president to clarify these problems and relations. There has been no direct response from the President, only an invitation to meet with the Minister of Employment which the TUC does not regard as an adequate response.

Potential Areas for Strengthening Democracy

1. The unions are candidates to participate in educational programs on constitutional rights and to have their own union and TUC regional organizers participate in seminars that would train them to deal with these issues in their many talks to local branches and District Councils of Labor.
2. The AALC has long assisted the Ghana TUC in the areas of education and equipment. This aid has certainly helped the unions to become more effective and to communicate among their subunits more effectively. AALC assistance declined in the 1980's because of US-Ghana tension. But the AALC could do much more if it again had an office in Ghana, or if its representative visited Accra more often. The TUC badly needs educational aids at its Labor College and for its regional seminars. A recent week-long course on health and safety was being taught with few written materials and no audio-visual aids.
3. Ghanaian union leaders have benefitted enormously in the past from U.S. International Visitors Programs and from short (3-4 month) courses in the U.S. with AALC or U.S. Government support. These external experiences have more impact - in terms of learning about union organization and democratic/participatory norms - than do in-country meetings.
4. The unions should be included in any broadly based educational programs on the constitution, democratization, and even the press (the TUC is now producing the best newspaper that it has ever produced).

III.C.4. Business Community and Business Associations

There are several key points that explain the role businesses and business associations have played in the political economy since independence:

- The characteristic business environment has been a long economic downslide, in which many legitimate businesses failed or struggled to survive. The Economic Recovery Program is not perceived by many manufacturers as a help to them: they feel that they face floods of imports with a tariff structure that does not allow them to compete on equal terms.

- Since the early 1960s, there have been many state controls on businesses and on the economy as a whole that made it difficult to conduct business. In addition, the state's arbitrary application of the controls created an unstable environment in which to do business.
- In the early 1980's, there were harsh attacks upon businesses and businessmen and women, including beatings, forced sales of goods, and losses of assets. There were shocks to the banking system, a flight of capital from banks, and an exceptionally low level of confidence in government management of the economy.
- Since 1984 there has been a more stable macro-economic and political environment. On many occasions the government and the World Bank have said that they want the private sector to become the leading engine of growth in the economy. However, the government's actions and the President's speeches have not always been consistent, and dialogue with the business sector has been limited. The government appears to be simultaneously following contradictory policies: it has a good record of carrying out macro-economic measures, but the extent to which it favors its political supporters undermines business confidence in an evenly administered and competitive business environment.
- In recent years, there has been a declining rate of economic growth and a good deal of demand restraint in the economy which has curtailed growth in the business sector. While commerce has grown, manufacturing has remained at extremely low levels of production.

Relative Autonomy, Strength (Durability, Bargaining), and Mobilization of Members

There is a wide range of businesses that belong to associations in Ghana. The Chamber of Commerce and the Association of Ghanaian Industries (AGI) include multinational firms and Ghanaian firms, large firms as well as medium-sized firms. The larger firms, multinational and Ghanaian, have a capacity to pursue their own interests in lobbying ministries and other state agencies that smaller firms do not possess. Moreover, member firms have divergent interests: some are engaged in importing and want trade liberalization, whereas others are involved in producing for the internal market and believe that they need more protection. Hence, while it is clear that both business associations do some things and not others, their failure to do certain things may flow from the divergent interests of their members, not inability or lack of resources.

A very different sort of business association that has assumed increasing importance since its inauguration in 1992 is the Council of Indigenous Business Associations (CIBA). CIBA in principle is a linkage institution, representing the interests of 20 associations of small entrepreneurs from the informal sector before governmental agencies. It is also designed to promote the common interests of their members through the construction of industrial estates for informal-sector enterprises, the provision of low-interest credit, and the regularization of tax-collection from members. In practice, however, CIBA is a governmental, not a

non-governmental organization (though its constituent associations are registered NGOs), and is controlled by the governing party. The PNDC promulgated the law creating the Council as one of its last acts of government in early 1993. Its president and founder is a deputy minister, Mr. Peter Vaughan-Williams, and its chair is Nana Konadu Agyeman Rawlings. The government in 1993 donated c150 million to the fledgling organization as a "capacity-building grant".

Critics assume that the real purpose of CIBA is to serve as part of the NDC's patronage machine to generate a support base for the 1996 elections. Ten of the constituent associations seem to be captives of CIBA, as they are listed in the schedule of the enabling bill as members of the Council and no provision is made for withdrawal. Many of the constituent associations have been granted the (questionable) right to collect taxes from their members on behalf of the Internal Revenue Service and/or the municipal assembly, in exchange for a commission. CIBA itself now collects rates in Kumasi on behalf of the (irate) Kumasi Municipal Assembly. The Council receives a ten percent commission. Clearly, this 'tax-farming' creates many jobs for potential NDC supporters, as well as substantial revenues for compliant associations.

Since CIBA is not an NGO (and thus not actually part of civil society), it will not be considered further in this report. The need for the artisanal trade associations to group together for mutual support is real and acknowledged by the associations; governmental support for CIBA may make it difficult for the non-governmental Association of Small-Scale Industries to establish itself in the industries and trades that CIBA wishes to represent. CIBA's enabling legislation is the subject of a court action by the NPP questioning the requirement for the constituent associations to join CIBA when the constitution guarantees freedom of assembly. One member of an association in CIBA told us that CIBA was misrepresented to them and they would now like to leave CIBA. It was not clear whether the association had taken concrete steps to withdraw.

Only since the mid-1980's have the GNCC and AGI possessed substantial internal autonomy. In the early 1980s, both the business community and business associations had been subject to political attacks by the PNDC. Even later in the 1980s, however, they were limited by prevailing political conditions in their ability to mobilize their members behind issues of concern and to articulate publicly their disagreement with government policies.

The major impediments at present to organizational autonomy and mobilization of members behind issues of concern appear to be the limited resources of the associations, or the willingness of members to allocate resources to the organizations. It is difficult to make estimates of strength, but the declining membership figures of the GNCC and the annual turnover of up to one half of its members through failure to pay dues (which are not high for smaller members) suggests that the GNCC has limited strength.

Annual membership figures in GNCC are as follows :

| | | |
|---------|---|-----|
| 1968/87 | - | 550 |
| 1987 | - | 413 |
| 1990 | - | 356 |

1991 - 465
1992 - 421 members

As of December 31, 1991, 271 of the 465 members were in arrears on their dues, while there were 173 new members. The dues are so modest for the two lower categories of members (C10,000 and C20,000 per annum) that it is possible that firms permit membership to lapse out of lack of interest and a belief that the GNCC is of limited utility to them.

There is little evidence that either the GNCC or the AGI have demonstrated significant bargaining strength vis-a-vis the government on key issues. It is clear that certain ministries have been attentive to some of their interests, but on key issues of concern the GNCC has often felt that it did not have access to the minister that counted, the Minister of Finance and Economic Affairs, Dr. Kwesi Botchwey.

Regional branches of the AGI contribute their opinions on national issues to the Accra headquarters but leave lobbying largely to the national office. The regional branches do discuss the problems of their members with the local metropolitan assemblies. In both Takoradi and Kumasi the metropolitan assemblies have raised taxes significantly, using old and new instruments, while services, particularly sanitation, have declined. Both regional groups would like to examine the metropolitan assembly finances, but is not clear how hard they are prepared to push. Monthly meetings are regarded as fora to help each other by exchanging ideas. They would like to do training courses for members in accounting topics and aspects of feasibility studies. The business community in general regards the business environment as difficult for two sets of reasons: economic (interest rates, exchange rates, the tariff structure and government regulations are changing too frequently to allow for proper planning, and there is a cash and credit squeeze) and political (the NDC is perceived to favor its supporters and discriminate against its known opponents to such an extent that investment seems too risky to undertake.) The AGI president is looking forward to the beginning of quarterly meetings with President Rawlings, which the government has promised to institute.

Given the small size, and high turnover, of its membership, the GNCC does not have far-reaching societal influence. The AGI has an even smaller membership. Status counts for a great deal in Ghanaian society, and certainly the heads of the member businesses enjoy relatively high status and economic standing in Ghanaian society. But they do not have institutional impact or influence upon government policies relative to their economic strength and status. And they know this.

Institutional Capacities

If one reads the annual reports of the GNCC and the AGI, one can see the range of their interests and the central tasks that their secretariats carry out. The GNCC is older and more established and performs decently for its members such activities as putting them in contact with visiting trade delegations and representing their concerns to the relevant ministry.

However, leaders in both the commercial and industrial sectors expressed a strong concern for certain key aspects of macro economic policy and the damaging impact of these policies upon themselves:

- **High interest rates:** These were at 20% in 1992 and have since moved up to 35%. As an official of the GNCC noted, "There is nothing on this earth that you can buy and sell and make (afford) that rate of interest." No businessman that I spoke to suggested that he would or did borrow money at the current rates of interest.
- **Trade liberalization:** While this is of particular concern to some sectors of manufacturing, even persons in commerce wondered how Ghana could survive with the current flood of imports, many of which are regarded as of inferior quality. The large number of layoffs of workers was noted in connection with trade liberalization.
- **The fall of the cedi,** which greatly increases costs to importers and manufacturers. Indeed, the sharp devaluations have led to the decapitalization of some firms and their inability to continue in business. It was believed that the government did little or nothing to offset the impact of this macro-economic factor over which local businesses had no control.

The key point is that on these critical economic issues, members of the GNCC and the AGI did not feel that they had access to the government or that the government heard or was responsive to their concerns and grievances. The failure of the government ministries, and some ministers, to respond at all to letters and memoranda was regarded as normal with this government. Nor did businessmen see a change from the PNDC military government to this elected NDC government.

Business' Relationship with the Government

On the macro-economic issues noted above, many members of the business community thought that the government as a whole was unresponsive. They were appreciative of the fact that some ministers were trying to be more responsive. The President's chief advisor, P.V. Obeng had told business people that he was available if they needed access. The new Trade and Industries Minister has indicated that she measures her success by the success of Ghana's entrepreneurs, and she does see business groups. The government was seen to be responsive to some business interests, e.g., through the Private Sector Advisory Group, which was able to clear away some old laws which could potentially be used against the private sector. Unfortunately, this was not as germane as perceived unresponsiveness re the government's macro-economic policies.

A number of top Ghanaian business figures are clearly aligned with the NPP, and this has created tensions on both sides, business and government. President Rawlings's off-the-cuff comments that business people are out to steal, references to "poisonous institutions" and his

June 1993 suggestion that Ghanaians boycott the products of some Ghanaian manufacturers have raised tensions. However, one clearly pro-NPP businessman was concerned, in the national interest, that the government was not trying harder to create a supportive business constituency. He argued that the business community would support this government's policies if they were more attentive to the needs of businesses, but his key point was that government and the business community needed each other. There were indications that the business groups planned to lobby Parliament in ways that other groups were doing.

Areas for Strengthening Democratic Forces

1. USAID has already taken a large number of steps to help Ghanaian businesses in various areas, especially with regard to exports.
2. The GNCC and AGI will only be able to lobby for economic policies that they consider important if they possess the economic talent to make their arguments well and with the proper amassing of evidence. Neither the GNCC nor the AGI appear to have the institutional capabilities to buttress their economic concerns. The Projected Private Enterprise Foundation is now targeted to have one senior economist, which seems inadequate considering the needs of the private sector. However, the new Center for Policy Analysis may fill this gap.
3. Structural adjustment will only be successful when it has increased business confidence and investment. The U.S. supports the reasoning behind the government's macro-economic policies. Some of the policies and their effects are highly politically contentious, and the logic of the policies, their cause-and-effect relationships and the policy alternatives are not well understood. There may be opportunities to sponsor well-structured discussions about, say, what has to happen before interest rates can come down without causing credit distortions; appropriate use of tariffs, or whether it is ever appropriate for the central bank to intervene in the exchange rate. A format that keeps the light on and the heat down, like the Worldnet discussion of the Serious Fraud Office bill, would be appropriate.

III.C.5. Ghana National Association of Teachers (GNAT)

GNAT was organized in 1963, when teachers were permitted to break from membership in the Teachers and Educational Workers Union and create an organization exclusively for teachers. At all times, GNAT has been a non-partisan organization and, unlike the union movement, has not been politicized. GNAT tries to negotiate with the Ghana Educational Service (GES) on the terms and conditions of employment of teachers, and represents teachers publicly on other issues of concern. However, there has been no formal negotiating machinery. GNAT has for years sought the establishment of a Ghana Education Services Council, through which it could formally meet with the government and negotiate. The governments of Ghana declined to establish such a council until the Constitution of the Fourth Republic mandated it. When the exam results of the first group of Senior Secondary School students to use the new system were

published in May 1994 and showed by the high failure rate that there were major problems with the new system, most education experts began to press for a serious role for the council in dealing with the crisis in education.

On Dec. 30, 1992 the PNDC set up Public Service Negotiating Committees, under PNDC Law 309, for GNAT, the Civil Service Association, and the Registered Nurses Association (RNA). However, it is a measure of the non-responsiveness of the government that despite letters from GNAT on this matter the NDC government has not formally set up the Negotiating Committee.

Relative Autonomy, Strength, Societal Reach

GNAT has been able to maintain a substantial degree of organizational autonomy, although it has had its up and downs in terms of organizational strength, depending on the time period and the quality of leadership. Teachers have not been very militant in pursuit of their interests, in part because Ghanaian teachers are not very militant, in part because GNAT has confronted highly repressive regimes. However, when worker/teacher discontent is allowed to fester, strikes can break out, as they did in 1978, 1991 and now threatened in 1994.

GNAT probably has more strength than it demonstrates. It does have a nation-wide organization, with full-time regional secretaries and significant levels of organization at the district level. GNAT has periodically sought to increase its links with other organizations that negotiate with the government. Intermittently, it has consulted with the TUC and the TUC Secretary-General. More recently the GNAT signed a "Memorandum of Understanding in respect of the Consultative Labor Forum" which has been established between GNAT, the CSA, and the Registered Nurses Association.

Institutional Capabilities/Internal Democracy

GNAT is a mass membership organization which has long practiced democratic procedures in the GNAT organization and office holding. There is a regular biennial congress of delegates which holds the elected leadership accountable for a broad and specific range of tasks which the leadership has been assigned to deal with by the prior national congress and by the quarterly National Executive Committee meeting. Like the TUC and most unions, the GNAT is regular in its observance of its procedures, and it prepares detailed records of its meetings and work in order to ensure accountability.

GNAT over the years has developed extensive institutional capabilities, especially in the domain of regular, frequent seminars and education for the member teachers, and in the organization and servicing of teacher interests. It possesses a substantial bureaucracy in Accra which shows some important indications of being responsive to its membership. It pursues on a continuing basis the fulfillment of major GNAT requests with a highly unresponsive GES/Ministry of Education. It has ample organizational skills for drawing teachers together in regular seminars, throughout Ghana, and for communicating with the teachers in general.

Relationship with the Government

Under the last couple of years of the PNDC government, GNAT had rather unsatisfactory relations with the regime. The government did not respond to GNAT's repeated requests for attention to outstanding issues, from wage negotiations to arrears in leave allowances to a wide range of other matters. Ultimately, in spring 1991 some teachers in several regions offered resolutions that the government either act on salary questions or a strike would occur. GNAT national headquarters was itself under strong regional pressure to give the government deadlines, which it did. There is a powerful tendency within the GES to ignore requests and letters from GNAT, so incessant delays on the part of GES was nothing new. Teachers in several regions went on strike briefly, which raised a flurry. Later, there was an official BNI investigation into GNAT finances, which was dropped with no findings. GNAT officers were threatened that the teachers' CDR in Tema was going to come to Accra and beat them up. That is, the government dealt with pressures for negotiations on professional issues with measures of intimidation.

The leadership of GNAT does not perceive that the current government is any more responsive than the prior PNDC government. GNAT has not received responses to serious letters and memoranda, even though one of two Deputy Ministers in the Ministry of Education is a former General Secretary of GNAT. Consequently, strike threats are again part of the scene in mid-1994, although public sympathy for teachers is much less than for the striking doctors since many teachers in government schools are correctly perceived to be doing little to educate children.

GNAT leadership does believe that the political environment has changed, that the Constitution and assurance of rights have provided protection against some forms of intimidation. Some fears are gone. The private press provides a conduit for GNAT pressure on the government, e.g., a private letter from GNAT Secretary General to the Minister of Education was recently printed in a private weekly. GNAT will also make use of Parliament. The education crisis brought to public attention by the SSS students' exam results may well result in a parliamentary committee investigation into the sector's problems.

Measures for Strengthening Democracy

1. GNAT can provide an important organizational base for the distribution of information and materials for mass strengthening of democracy through civic education. There is no doubt that GNAT would be willing to cooperate with other groups in the dissemination of information regarding the constitution. GNAT and the GES should be consulted at the planning stages with respect to what materials would be useful.
2. USAID has made a major investment in the upgrading of education in Ghana at the primary school level. Nonetheless, it is clear that a great deal remains to be done, not least in terms of teacher motivation. Since most work has been done through the GES, perhaps one should see what kind of program might be worked out with GNAT with regard to improving teaching. Many existing studies explain what the problems are, not

why they have remained and resisted solutions despite huge expenditures. GNAT indicated that it would be willing to work with the Ministry of Education, GES and donors to recommend a teacher incentive structure.

III.C.6. National Union of Ghanaian Students and the Universities (NUGS)

NUGS and university students have intermittently played a significant role in Ghanaian politics for almost three decades, since roughly the end of the Nkrumah/CPP regime. NUGS has been politically significant because it has represented the material interests of students to the governments of Ghana, because student leaders tend to be idealistic and critical of social and governmental hypocrisy and shortcomings, because they represent democratic norms in authoritarian politics, and because student groups are difficult to repress. Although there is an annual turnover in student leadership and lapses in organization, new uncoerced leaders emerge year after year. And, in the case of NUGS, there has been substantial organizational continuity over a large number of years and between the NUGS chapters at the three major universities and the vocational institutes. In addition, there have been important linkages between past and present NUGS leaders, since past NUGS leaders have often gone on to serve in important positions in the press, Ghana Bar, and government. For instance, a significant number of former NUGS leaders of ten to fifteen years ago have served in the PNDC government or been linked with it, including P.V. Obeng, Nana Agyeman Rawlings, the President's wife, and the Minister for Information, Kofi Totobi Quakyi.

NUGS protested against aspects of Nkrumah's authoritarian rule in the early 1960s, became inactive, and reemerged during military rule, 1966-69. Although it welcomed the return to democracy under the Progress Party (PP), the PP's austerity budget of 1971 prompted it to end some major allowances to university students and institute student loans to replace the allowances. Students' opposition to reductions in subsidized higher education and paying for fees or food and lodging through loans has been perhaps the major continuing source of - NUGS/government conflicts. NUGS opposition to the student loans scheme made it welcome the military regime of Col. I.K. Acheampong in 1972 and trade its support for his regime for his promise to end the charges an student loan program. However, by the mid-1970s NUGS had moved strongly into opposition to Acheampong's military regime, not least because of - deteriorating conditions at the university and hyper-inflation. Students initiated the protests in early 1977 denouncing food prices and the Acheampong government. NUGS was a strong supporter of the brief Armed Forces Revolutionary Council junta in mid-1979 and of AFRC's - somewhat bloody and militant efforts to uncover corruption and force down market prices. Some parts of the NUGS leadership continued to support Rawlings after he withdrew and civilian democratic government was restored in September 1979. In the 1979-81 period some parts of the NUGS leadership became quite radicalized and supported revolutionary changes in Ghana. When Rawlings again seized power on December 31st, 1981, the existing NUGS leadership was the first group which rallied to the support of the PNDC. One of the ex-NUGS leaders, Chris Atim, served on the PNDC itself and was the link to the new NUGS leadership.

At first, student leaders accepted that students should abandon their studies briefly and help in the rehabilitation of the shattered Ghanaian economy, e.g., helping to haul out cocoa and fill holes in the roads, soon, however, student interests reasserted themselves. Most students withdrew their support in light of the PNDC's authoritarianism, violence, the murder of the judges, and PNDC inability to resolve Ghana's intractable problems. In a hotly contested contest for leadership at the 1983 NUGS conference, which PNDC leaders sought to influence, a somewhat anti-PNDC slate of officers was elected. From this time, NUGS leaders supported calls for a return to constitutional, democratic and civilian rule in Ghana.

Relative Autonomy, Strength, and Societal Reach

NUGS has been able to maintain its autonomy during most of the 1970s and 1980s. From time to time a group of leaders becomes close to and supports a regime; leadership is briefly coopted. But the pressure of democratically--selected students groups in the base institutions -- the Student Representative Councils (SRCs) in the universities and technical institutes -- reasserts itself and ensures that leadership remains responsive to the students, not to the government.

It is difficult to estimate NUGS' strength and influence, though they are certainly disproportionate to the number of its members. At major points NUGS has appeared to have strong support from the student bodies at the universities, especially when it is representing issues which are central to student concerns. Its strength is also reflected in the ability of its leadership to consult closely with meetings of students at the universities and then articulate a decision at the national level. Clearly, NUGS tends to represent the most activist sections of the students population, particularly when it takes political stands which might make it unpopular with the government. But NUGS is usually taken by governments to represent student views. Moreover, NUGS leaders and organizers have, at various times, been very active in coordinating their views with other groups. The relatively small size of the university population (under 10,000 students in total) belies the societal reach of NUGS. A significant portion of the student body comes from homes in the upper middle class, so NUGS views or sympathy for them are often felt in this important sector. In addition, NUGS has during important protests has communicated its protests to the secondary school populations from which NUGS members were drawn.

Institutional Capacities/Internal Democracy

NUGS is democratically organized, and democratic norms are nurtured among its students leaders by the democratic processes in which they have been engaged as student leaders. Major residence halls elect their leaders; hall leaders together constitute the Student Representative Council (SRC) at different institutions, and representatives from each university and technical institution become part of the NUGS executive. Leadership is rotated annually among the three major universities: University of Ghana/Legon; University of Science and Technology/Kumasi; and University of Cape Coast.

NUGS does not have a bureaucracy, but its institutional capacities for representing and articulating students' views are well-developed. All universities (with a recent small departure) have involved residential students; as such, during the school year, students are easy to organize for SRC meetings, particularly in behalf of key issues that involve students, such as declining living conditions, eroding purchasing powers of allowances, inadequate facilities, and the student loan schemes. NUGS has an annual conference of delegates where major NUGS positions are hammered out. Students are skilled at issuing press releases and statements and have occasionally published magazines. Moreover, for some years now, about ten university graduates have been allowed to do their national service by working for NUGS in a secretariat located in ministries in downtown Accra. State provision of an office has not dampened the critical spirit of NUGS.

Relationship with the Government

As noted previously, NUGS was in an oppositional stance to the PNDC government for some years in two major domains: first, on the issue of deteriorating university facilities, declining value of student allowances, and, most prominently, the ultimately successful effort by the PNDC government to have university students pay for some fees and food and lodging; second, on the question of democratic constitutional rule. It is the first issue regarding student interests which has animated the largest number of protests by students, but the strength of these protests was certainly increased by the belief that the PNDC was not an elected government. In the mid-1980s there were some open conflicts at the UST between bussed-in supporters of the PNDC and student opponents, but most conflicts have not involved physical conflict. There were repeated protests in the latter half of the 1980s by students both to increase the size of student allowances and to resist the replacement of government subsidies for food and lodging with a student loans scheme under which students would pay these costs. This loan scheme was inaugurated in 1988-89, but conflicts continue regarding the size of the loans and who will pay the interest until students are employed and in a position to repay (the government has been paying). Struggles over the loan scheme and size of the student loans caused repeated suspension of classes at the universities, most recently in early 1993 after the police shot and wounded several students during a peaceful protest over the size of student loans.

NUGS played an important and vocal role in demanding democratic and constitutional rule in Ghana and, along with the Ghana Bar Association and TUC, was quite steadfast in this position. It was angered by the PNDC's close control of the transition process. NUGS was strongly supportive of the oppositional coalition, Movement for Freedom and Justice (MFJ) in 1991, alerting its students to join MFJ rallies. Moreover, it took a strong stand against the largely PNDC-appointed Consultative Assembly. NUGS was the only organization apart from the Ghana Bar Association which refused to accept its single seat in the Consultative Assembly, on the grounds that a constitution made in this fashion was non-representative. NUGS was nonpartisan in the 1992 elections.

Currently NUGS leaders have not found that the newly democratic government is any more responsive than the prior PNDC government in dealing with its concerns and interests. In late

1992 NUGS communicated with the Ministry of Education with regard to increasing the size of student loans from C900,000 to C200,000. It was the lack of a response of any kind from the Ministry of Education that moved NUGS in March, 1993 to support a demonstration in behalf of its demands. It was at this peaceful demonstration that armed police intervened and shot several students. After the shooting, the Minister of Education did meet with NUGS leaders to discuss an increase in the student loan for 1992-93 academic year. NUGS accepted a government offer of C150,000, contingent on future annual reviews. However, in discussions on the loan size for 1993-94 (the current year), the government has simply stated that it is willing to extend the loan limit to C200,000 if students are responsible for all of the interest on the additional C50,000. (As of now, as in the US, the government pays virtually all of the extremely high interest on the student loans until students graduate. Students pay about 3%, while the government pays about 30%. The government in Ghana is suggesting the students would have to pay about 33% per year on the additional C50,000.)

Some of the students who were shot received court-ordered compensation from the government in mid-1994 but NUGS found that the government previously unresponsive or accountable by its refusal to have a formal investigation into the shootings. Nor do NUGS leaders find the government's activities transparent and clear. It should be noted that the student leaders interviewed appeared non-militant, quiet, and circumspect, there was no apparent anger or anti-government animus. On the other hand, students do feel highly constrained by the facilities at the universities. As the government moves to increase the number of non-residents at the University of Ghana, it has failed to find off-campus housing for them, so "perching" (larger numbers of students per room) has increased, making accommodations more and more crowded.

NUGS leaders did see some important changes under the new democratic order. They felt that there was a greater access to the courts, that people are freer to air their views, and that "people are prepared to take risks because of that document," i.e., the constitution.

Areas for Strengthening Democratic Processes

The USAID might facilitate the reduction of tensions between the government and university students and NUGS by helping to reduce certain kinds of shortages at the university. There would appear to be great scope for doing this in the area of books and other learning materials. Shortages of reasonably up-to-date books in a wide range of subjects gives both African students and professors a sense that their universities are in a terribly neglected state. The university at Legon badly needs a telephone system; without minimal communications, it is not able to contribute to public debates effectively.

III.C.7. Women's Associations

Women in Ghana, as in many other countries, confront various impediments to their achievement of equality with men in all spheres of life. A number of women's associations have emerged to assist women in coping with the economic, social, and legal barriers they face. Some of these associations are truly non-governmental organizations; others lack independence from

the government/governing party and indeed are highly partisan. Even the latter, however, may serve useful functions for certain categories of women.

In the economic sphere, Ghanaian women have assumed more independence from men than in most other societies. Women traditionally have traded or farmed, and have had full control of their earnings. Nevertheless, women have had to operate largely in the informal sector and mainly in insecure and low-income occupations. This is because women generally have had less access to education than men, and thus less access to more highly paid professional and other formal-sector jobs. Women have also borne heavy burdens as a result of the country's economic decline and the economic stabilization measures associated with structural adjustment since 1983. Particularly in the urban areas, they have had to feed, clothe, educate, and nurse their families while their real incomes shrank and public services declined and became expensive to use.

Various organizations have responded to the economic needs of women. The National Council for Women and Development (NCWD), a governmental agency created in 1975, has economic and social functions in addition to its primary role of co-ordinating the activities of all the women's associations within the country. It operates in all the regions to promote income-generating projects for women, to encourage family planning and good health, and to assist in reducing illiteracy among women. The 31st December Women's Movement (31DWM), the largest women's organization in Ghana, generates or controls many of the development projects aimed at women, especially in the rural areas. In addition, many smaller groups focus on income-generating projects for women, for example, the Christian Council of Ghana Northern Region Rural Integrated Programme and Global 2000, an international NGO which fosters agricultural ventures. Women's World Banking is active and successful in a number of cities, as are a number of groups involved in credit and saving schemes.

Women must deal with de facto legal barriers to equal treatment with men, in spite of their constitutionally guaranteed equality. Women's ignorance of their basic legal rights often places them at a disadvantage, especially on questions concerning inheritance. A uniform law on intestate succession that preserves the rights of spouses and children came into force in 1985 but is still not known to or accepted by all Ghanaians. Women's groups complain that the male-dominated police force and judiciary show little understanding or concern for crimes against women such as domestic violence and rape. The scarcity of women in positions of political power means that women's concerns may not be reflected in new laws and regulations. (There are, for instance, only 16 female Mps among the 200 members of parliament.)

There are two new women's organizations that seek to address these legal disadvantages. The International Federation of Women Lawyers, Ghana Branch (FIDA) engages in legal aid and counselling to poor women and legal-rights education annual campaigns in the regions of the country. Women in Law and Development in Africa (WILDAF), which is part of a network of similar national organizations for mutual self-help, also engages in rights-awareness and eventually research on women's legal issues. Both organizations also, along with the NCWD, lobby for legislative changes to improve the status of women.

Many other women's organizations exist in addition to the few mentioned above. For instance, in the Accra-Tema area alone, the NCWD lists 119 members in 1994. These include dozens of "ladies clubs" associated usually with a workplace, several professional women's associations, some associations based on craft (such as the hairdressers and beauticians), and many associations based on religious affiliation and often oriented to service activities. This report, however, will focus on those organizations directly concerned with women's economic and legal status.

Relative Autonomy, Strength, Societal Reach

Women not closely associated with the governing party regard the NCWD with some skepticism. This governmental organization fell under the sway of NDC activists in 1992-93. First, Mrs.- Agnes Akuffo was replaced as Executive Secretary by a person closely identified with the governing party. This was followed by the replacement over time of the chairperson and board members by activists associated with the NDC, the 31st December Women's Movement (itself akin to a women's wing of the NDC), or both. Consequently, the NCWD, being led by people close to the government, does not strongly challenge the government on women's issues. As well, the NCWD works hand in hand with the 31DWM on many of the latter's projects, though the credit for these projects redounds to the latter. Nonetheless, even the skeptics allow that the NCWD continues to carry out some useful functions. It has developed a resource center on women's issues. It attracts donor funding to some worthwhile rural projects. It uses its regional directors and district offices or committees (where they exist) to coordinate regional women's groups and to help organize local activities by Accra-based women's groups, for example, FIDA. It works quietly with government to propose needed legislative changes. And it provides a monthly forum in which the representatives of women's groups can work out any problems.

At the regional level, NCWD can play an important coordinating role in spite of its limited staff. (For Western Region NCWD's paid staff consists of a Director, a secretary, several National Service assistants, and a driver for the one vehicle.) NCWD tries to bring together representatives of all the district-level women's groups for monthly meetings and sometimes provides materials or suggested topics. Where the NCWD regional director is respected by the professional women of the community, she can promote links between educated and uneducated women.

Women's groups within the GES and the churches also link educated and uneducated women, and professional women are recruited to speak as individuals on their areas of expertise by a wide variety of women's groups, by churches, by chiefs and queenmothers and by NCWD. Almost every professional woman interviewed was an active member of a church group; however, some businesswomen said flatly that they avoided any other sort of women's group in order to avoid any political identification (which could be bad for business). Only one professional or businesswoman was a member of 31st December, although some do make the point that the publicity that 31st December receives has helped to raise public awareness about women.

The 31st December Women's Movement is Ghana's only mass women's movement. It claims over a million members, both directly and indirectly through its 28 affiliated women's groups. Most of the rural 'members' remain inactive, however, until a visit by Nana Konadu Agyeman Rawlings and other dignitaries galvanizes them into action. In both districts we visited the number of 31DWM branches was less than 10 percent of the number of villages in the district. The affiliated groups under the 31DWM umbrella are diverse in membership and function; they include, for instance, the Hairdressers and Beauticians Association, the EP Church Women's - Union, the Police Wives Associations, the Nurses Association, and numerous "ladies clubs" organized in government departments or parastatals. This constitutes quite a formidable network of groups whose mobilization in the event of an election may provide significant support for the NDC. The Movement has an organizational presence throughout the country. It boasts offices with paid staff in Accra, the regional capitals, and all districts. It also claims to have organizers and volunteers active in most zones and even units (villages) of the 110 districts.

The 31DWM has undertaken a variety of projects throughout Ghana designed to create economic opportunities for women or provide them with important facilities. The Movement has been associated with the construction of storage silos, gari processing and palm-oil processing mills, the growing and spinning of cotton, the promotion of craft industries such as pottery, weaving, and tie-and-dye clothing, the organization of revolving-credit schemes for members, and the building of day-care centers.

How has the 31DWM financed these activities as well as its own extensive organizational grid? Certainly, membership dues are insignificant since, as the Movement's headquarters noted, many members never pay any dues. The donors constitute one important source of funds as they have sponsored many of the Movement's rural projects. PAMSCAD has also contributed to the support of a number of the organization's projects. Contributions from independent businesspeople, the profits generated from certain businesses owned by 31DWM (especially a bakery and kenkey factory), and the repayment of loans which the Movement has extended for the construction of productive facilities, such as gari processing mills, yield considerable income for the organization. Finally, the Movement benefits from collaborative projects with government departments, for example the Ministry of Health, where the expenses are borne by the department. The 31DWM states that it does not receive any direct grants from the government.

Although the Movement undertakes some useful activities, critics among women activists and broader political circles object to the political ends to which the 31DWM uses its influence. Indeed, it appears that the Movement is one of the key organizations through which the governing party is building a popular constituency in preparation for the 1996 elections. The Movement claims to be an NGO, but the evidence of its close links to the government/NDC is clear. The Movement was born as one of the "revolutionary" organizations inspired by the 31st December revolution that brought the PNDC to power in 1981. The NDC insignia today appears on the main door of the organization's headquarters, with further NDC insignia and posters on the doors inside. President Rawlings' wife heads the Movement. Mrs. Cecilia Johnson is General Secretary of the 31DWM, National Women's Organizer of the NDC, Deputy Minister of Local

Government, and a member of the council of the NCWD. The Movement works closely with the NDC-dominated NCWD. The latter employs funds from donors and/or government to undertake "pilot projects", for example a day-care center, which it then passes on to an implementing agency to complete. Not only is the 31DWM often selected as the implementing agency but, critics claim, the Movement eventually takes credit for the project.

Finally, the 31DWM continues to claim "political awareness" as one of its principal objectives. In its Programme of Work issued during the days of the PNDC, it declared that "women would be encouraged to become politically conscious so that enemies of the revolution may be identified." Its more recent booklet states only that "the political education of women [remains] a vital function." In both districts we visited 31DWM was working, often with church women groups, to inform women of their legal rights. In one of the districts they had also done education on voter rights and procedures.

Do the political attachments of the Movement matter? Does it not provide useful services regardless of its political objectives? The Movement does provide some useful projects, but at some cost to the development of civil society. First, women activists claim that competing women's organizations at the grassroots are captured by the 31DWM, and that this leaves a rather tame women's body as the most prominent voice for women within the country. Secondly, there is the concern that the 31DWM will use its control over productive facilities such as gari processing factories, and its control over micro-credit organizations to exclude women who do not support the governing party. The Movement could become an important node in the formation of a countrywide patronage machine.

FIDA is an example of a non-partisan, voluntary organization with a small budget that achieves important results for women, although mainly for those who reside in the Accra region. It began in 1985 as the first non-governmental legal aid service in the country. Its Legal Aid Center in Accra provides free legal advice and assistance to poor women and children (though indigent men who show up are not denied counselling). At first, its Center was open only one afternoon a week. However, with the growth in demand for its services, the expansion of its corps of women lawyer volunteers to 50 (though only 20 are "very active"), and the addition of four National Service staffers, the Center since 1992 has stayed open four days a week. Most of the Center's workload involves the following categories of cases: child maintenance and custody, paternity, intestate succession, and divorce. Legal aid cases are referred to FIDA by NGO's, the Castle, 31st December, and NCWD; FIDA does apply a means test but its test is less stringent than the state legal aid office, in recognition that a salary-earner may still not be able to afford legal services.

Legal counselling, however, is only one aspect of FIDA's contribution. It operates on the assumption that free legal advice will be insufficient as long as most poor women are unaware of their legal rights. Hence, rights awareness is an essential element of the FIDA approach. FIDA has simplified and translated into four Ghanaian languages the laws relating to child maintenance, intestate succession, wills, and marriage. Each of these subjects is the topic of a booklet in their 'Women and the Law' series. It is working with the Non-Formal Education

Division of the Ministry of Education to develop materials for adult literacy classes. It also holds a sequence of workshops in a different region of the country each year. A FIDA team visits three or four districts of a region over a period of about four days. Members of the team deliver presentations on the subjects covered by FIDA's four booklets at any place in a town where women gather - usually a marketplace on market day. The annual campaigns have now been conducted at least once in all ten regions. FIDA also mounts workshops on legal literacy for particular groups, such as women parliamentarians, the Volta Region Queen Mothers, and the Greater Accra Queen Mothers. Finally, individual volunteers accept numerous invitations to speak to meetings of a variety of non-governmental organizations on weekends, or participate on radio programs concerning women's rights.

FIDA can operate on a small budget because it relies on volunteers and National Service personnel. It would like to hire two full-time staff members to counsel women in the main office. FIDA has received funding from a number of international NGOs and donor agencies for specific projects.

WILDAF, which opened its Accra office in 1990, complements FIDA in the area of legal literacy and the grooming of women for leadership positions in Accra and the regions. It provides intensive one-week workshops for local leaders as identified mainly by the local branch of the National Council for Women and Development. These workshops include, besides rights awareness, training in leadership skills (including public speaking), group dynamics, and gender awareness. The community leaders develop action plans for rights awareness in their communities, and WILDAF holds a follow-up session six months later where they present their results. WILDAF would like to be able to provide more resource people in the regions and is developing a working relationship with the lawyers in the GBA regional branches to provide some assistance. In Ghana, where few women run for public office or fill conspicuous roles in government, such programs may give more women the skills and self-confidence to make their mark in public life.

More women are reached by church and Muslim women's programs than by any other organizations. Religiously affiliated women's groups vary enormously in their activities and contacts with other groups, but the apex organizations (the Catholic Secretariat and denominational headquarters of Protestant churches, the Christian Council, the associations of Pentecostal and Charismatic churches and the National Muslim Council and Ahmadiyya Muslim Mission) can reach the great majority of women who belong to such groups. Many professional and educated women are active members of church groups. An active member of a women's group typically spends at least a couple of hours a week on group-related activities, and many groups use study materials provided by the apex organizations or discuss recommended topics. Many of the churches and Muslim groups also organize seminars and retreats for their women's groups, offering a combination of spiritual and secular activities. A common practice is to invite speakers on health issues and legal rights. Christian Home Week, an ecumenical week-long program that has been organized through the Christian Council and celebrated in many communities since the 1950s, focuses on issues of interest to women. Religious bodies can

communicate with their members in a variety of ways which reach both men and women (see section on civic education).

Orthodox Muslim women are less likely to be members of affiliated women's groups than are Christian women and members of the education-oriented Ahmadiyya Muslim denomination. There are several active orthodox Muslim women's groups and the first professional Muslim women's association is just starting to operate. All Muslim women interviewed stressed the importance of bringing literacy and economic development to poor Muslim women in order to make political awareness relevant to them. The orthodox groups were described as growing quite rapidly, partly in response to a sense of being left out of a general women's movement, and partly because relations between orthodox and Ahmadiyya Muslims are increasingly cooperative. The Ahmadiyya Muslim women's wing is very well organized, on similar lines to the best-organized Christian groups, uses many outside speakers, and brings educated/uneducated and urban/rural women together for regional and national conferences which all members try to attend. All Muslims interviewed mentioned radio and television as the best way to reach most Muslim women, particularly uneducated orthodox women.

Radio and television should not be underestimated as media for reaching women in general, as our regional and district visits showed. An additional piece of anecdotal evidence: when one co-author was asking for recommendations on a Muslim woman to interview, the person who was mentioned most frequently (by Christian women) was "that Muslim woman on television who speaks so well on Muslim women's issues." Women described televisions as one of the first appliances a household will buy: a small black-and-white set costs only about \$45 and "it - keeps the children off the streets."

Women, Politics, and Government

Will the Fourth Republic introduce a new era in which women play an important role in public life? Women have long been active in politics, but usually in the subsidiary role of women's wings of political parties. Women have, as one interviewee trenchantly phrased it, acted in politics as "cheerleaders". The numbers speak for themselves. Only nine percent of the Assembly members in the 1988 District Assemblies was women - and most of them were appointed rather than elected. (The proportion of women in the 1994 Assemblies is reportedly even lower.) Only 25 of the 260 members of the Consultative Assembly which produced the constitution in 1992 were women. Before the opposition parties withdrew from the parliamentary elections of December 1992, only 56 female candidates had registered to contest the 200 seats - as opposed to 1,103 males. Just 16 women parliamentarians sit in the 200-member parliament (for the statistics, see Pepera 1993). Parliament had a rather inconclusive debate in 1993 on the seriousness of rape as a crime. The rape bill was defeated but Parliament seems set now to pass a bill making female circumcision illegal. Women's issues have not been totally ignored; neither have they been systematically addressed.

Women leaders agree on the reasons for the limited participation of women in democratic politics. They mention the traditional view that the woman's place is in the home. It is the rare

husband who will support his wife's decision to attend party meetings at night. The stereotype persists that only "loose" women frequent political gatherings. Husbands are also afraid that mudslinging during campaigns could shame the family. As well, women are not as likely to have gained the secondary or post-secondary education that provides a candidate with the credentials, the facility in English and the confidence to run for office. Finally, some believe that the 31st December Women's Movement fails to use its influence to ensure that the governing party actively solicits women candidates. The Movement apparently does not throw its support to women candidates from other parties running against an NDC male candidate.

Augmenting the political participation of women will be a slow process. Certainly, women will have to be groomed for public life, since the life-experience of the vast majority does not prepare them for political leadership. WILDAF can play an important part in this grooming, and it deserves support. Beyond that, one must hope that a non-partisan women's movement will develop in Ghana to pressure all the parties to make a larger place for women in their councils and among their candidates. We interviewed women with strong affiliations to their parties who feel that increasing representation by women is a non-partisan issue: there should be more women to represent women.

Measures for Strengthening Democratic Elements

The U.S. government, in co-ordination with other donors, should make small donations to specific projects by independent women's groups aimed at the economic, legal, or political empowerment of Ghanaian women. The rest must be done by the women's groups themselves.

III.C.8. Religious Organizations

The religious groups that most actively play a self-conscious role in the political realm are the national apex organizations: the Christian Council (14 mainstream Protestant churches), the Roman Catholic Secretariat, the Ahmadiyyah Muslim Mission and the apex organizations of the pentecostal and charismatic churches. The Christian Council and the Catholic Bishops have long played an intermittent role in Ghana's political life. A majority of Ghanaians are Christian (about 62% according to the 1984 census, and the various churches are deeply embedded in Ghanaian social life. This is true in rural as well as urban areas, for many people in peasant society and the urban working class as well as for those who are educated and or in the upper middle class. Both Protestant and Catholic churches have long been involved in the provision of schools (now largely government-supported) and in medical facilities. As economic life became more difficult in the 1970s, the churches responded with programs in agriculture (supporting the idea of self-sufficiency in agriculture) and in providing charitable relief. These activities have continued on a significant scale in the 1980s.

Under normal circumstances, churches in Ghana are not politically involved. They have become involved under authoritarian regimes when, in the absence of other actors, they have criticized government authoritarianism or violence, or intrusions in the domains of the religious communities. The churches have also regularly published newspapers (usually weeklies), which

were primarily concerned with religious and social activities. These include the Catholic Standard, the Methodist Times, and the Christian Messenger. The Catholic Standard played an important role in criticizing government authoritarianism and violence in 1977-78 and in the 1980s when other non-government newspapers had been suppressed.

Relative Autonomy, Strength and Societal Reach

The major Christian churches in Ghana have a high degree of autonomy, and governments in Ghana rarely interfere with or seek to challenge the roles of the churches. The churches are extremely strong; they are well-established institutions whose leaders are well-respected members of their communities. The major Christian churches extend deeply into the Ghanaian communities, urban and rural. They are more deeply embedded institutions in their society than almost any other associational groups. The leaders of the Christian churches have a strong moral influence in contemporary social life in Ghana. And this has given them the capacity to speak out with strength against government oppression, and especially government violence, when this has occurred. On the other hand, some Catholic and Protestant leaders have been more forceful and forthright about authoritarianism and abuses of power than others.

The extensiveness of church organization makes the major Christian groups, the Christian Council and the Catholic Bishops Conference, powerful social forces when they do take political stands. The PNDC and its successor NDC government are well aware of this.

Institutional Capacities/Internal Democracy

A significant number of the Protestant churches that constitute the Christian Council are organized in a democratic, self-governing manner. So the norms under which church life is organized reinforce democratic norms in Ghanaian culture. The methods by which the Christian Council adopts positions on social life involve a high level of consultation with the member churches and, recently, with the 70-plus Local Councils of Churches (LCCs). So when the Christian Council speaks out it represents not only a moral force but a fairly democratically-based one as well.

The Catholic Bishops Conference and the Christian Council have well-developed institutional capacities to carry out a wide range of religious and educational programs, which they do on a regular basis. They have also been able to organize a wide range of charitable and other activities as economic life declined.

Relationship of Church Institutions with the Government

The PNDC during its radical populist phase, in 1982-83, encouraged a certain amount of class conflict and forceful administration of price controls, which led to a high level of violence against civilians by members of the military. Personnel in a somewhat disintegrating military administered violence in an arbitrary fashion, and the churches strongly condemned this violence and conflict. There is a strong moral consensus in Ghana against the kinds of political violence

unleashed in 1982-83, and this was represented by the churches. In response, in part, there were some direct attacks against the church, including an instance in Kumasi which escalated and resulted in the burning of some churches by military personnel. In 1983, during a Protestant church conference in Accra, PNDC supporters invaded the meeting and physically assaulted church leaders. This violence and other instances, such as the murder of the judges, was forcefully condemned by the Christian Churches, which also called for a return to constitutional rule. The PNDC soon reined in its more violent elements.

In the ensuing years, there were a variety of instances of church-state conflict. After the regime passed the Newspaper Licensing Act, the government in the last 1980s lifted the license of the Catholic STANDARD, which had been forthright in some criticism of the regime. (THE METHODIST TIMES, in turn, became more critical in the absence of the STANDARD.) Despite repeated requests, the license of the STANDARD was not returned. The STANDARD remained banned until the Newspaper Licensing Law was revoked in 1992 (since it would be unconstitutional under the new constitution). The PNDC also passed a Religious Bodies Registration Law in 1989 which required all religious groups to register with a ministry. It was believed by both the Christian Council and Catholic Bishops Conference that this law might open the door to other efforts to control the churches. They insisted that this decree be revoked, and refused to register under the law. The government refused to alter the law and ignored the fact that almost no churches registered. The law was removed in early 1993, within days of the new constitution coming into force, after a meeting of Christian Council and Catholic Bishop Conference leaders and PNDC leaders. The latter were told that if the law was not revoked it would be the first to be challenged before the Supreme Court.

In 1990 both the Christian Council and Catholic Bishop Conference threw their weight and moral authority behind the demands for a return to democratic constitutional rule based upon multiparty competition, an idea that the PNDC initially opposed. The Christian Council effectively consulted its member churches, held seminars on the question of the constitution, and issued a document clearly supporting democratic rule. The Catholic Bishops Conference spoke out strongly in favor of multiparty democracy, as did some bishops in particular (e.g., Peter Sarpong of Kumasi). During 1992, the two church bodies continued to monitor the transition process; they encouraged the electorate to vote; they trained and provided election monitors; and after the disputed 1992 presidential elections the church bodies brought the NDC and the opposition parties together for discussions.

Leaders within the Christian Council appear to be a bit less optimistic about the changes that have occurred under the Fourth Republic's new institutions than those in the Catholic Bishops Conference. The Christian Council suggested that in some respects the new NDC was not different from the prior PNDC government, while in other respects it was. The NDC government, it was suggested, was not altogether comfortable under this new constitution and spoke already about changing it. On the other hand, the increased freedom of speech was highly significant. It was thought that the government tended to be responsive when it was pressured to act. But it tended not to listen to public voices, for instance, in outcries over the nominations of at least three ministers or deputy minister, whom the government proceeded to

have confirmed despite problems with the appointments. It was felt that the government stubbornly carried out what it wants to do. On the other hand, its responses to adverse Supreme Court decisions were not bad. The Christian Council is concerned with some non-democratic values in the culture, such as the willingness of people, including people of high status, to go along with the government, to look upon government as the beneficent father, and to engage in sycophancy. It did not believe that the NDC government's activities were particularly transparent, but it welcomed the opportunity to testify before the Parliament on some issues, e.g., over the Serious Frauds Office Bill and the problem of AIDS in southern Ghana.

Organizational Structure

The Christian churches in Ghana are grouped together horizontally and vertically in several ways. Geographically, in more than 70 towns in Ghana there are Local Church Councils made up of clergy representatives of all churches in the area, including Pentecostal, Catholic and Christian Council members. Areas are sub-divided into zones; for example, in Sekondi-Takoradi there are 9 zones with about 10 churches in each. Typically, the Local Church Council meets once a month to discuss local problems and devise solutions and to discuss topics and materials sent by the Christian Council headquarters. This year for the week of the Christian Home most Local Church Councils followed the ecumenical program suggested by the Christian Council which called for a division of responsibility, with some churches providing the venue for each evening's special service and others charged with inviting appropriate speakers. All clergy urged their members to attend the special services. Although many of the Local Church Councils are well-established (Sekondi-Takoradi's is about 30 years old), they apparently do not have a committee structure to deal with specific topics like church and society. The councils are occasionally approached by other community leaders - chiefs or assembly members - to help resolve local problems. At the local level the churches are also grouped into local branches of national hierarchies, by denomination and, in some cases, by membership in national church associations, principally the Christian Council of Ghana with 14 Protestant churches and the Pentecostal groups (the Ghana Pentecostal Council, the Pentecostal Association of Ghana, the Council of Independent Churches and the Council of Charismatic Churches).

Vertically, the churches have two sets of apex organizations: by denomination (national office of the Presbyterian synod, Roman Catholic Secretariat, etc) and the national offices of the Christian Council of Ghana and the Pentecostal groups. These organizations generally do have sub-divisions for programs on women, church in society, etc. The apex organizations communicate and cooperate formally and informally. They have taken common positions with regard to refusal in 1989 to re-register under PNDC regulations and advocacy of return to constitutional rule. There is, however, considerable diversity of opinion with regard to the appropriate role of churches in the political realm: some clergy will direct their members who to vote for, most churches' official position is that this is inappropriate. Some feel that the churches have a duty to stand up for peace and justice in society by actively carrying out civic education programs and taking advocacy positions on current issues; others are less activist. Some of the Pentecostal and Charismatic churches appear to take the line that the elected leaders should be supported unquestioningly (this is not true of all of them, but there is a perception that

governments in Ghana since Nkrumah have cultivated the pentecostal churches in order to split the solidarity of the churches. The strategy works, particularly for a populist government, because of underlying tension between the mainstream and pentecostal church pastors, who tend to be less educated and who are often pastors of churches with a single or very few member congregations.) At the local level churches are building relations of trust between pastors.

The Local Church Councils have demonstrated concern with democracy and governance issues. At a Christian Council workshop in October 1993 on the role of LCCs in the promotion of ecumenism and democratic culture attended by representatives of 35 LCCs from 7 regions (the three northern regions were not represented), most of the sets of recommendations from regional representatives to the Church Council contained at least one on a democracy or governance issue.

The Christian Council appears to be taking the lead role in helping its member churches think through their positions in a democracy, working closely with the Catholic Secretariat, the Ahmadiyya Muslim Mission and some of the pentecostal councils to help in negotiations between the government and other groups, e.g., the opposition parties just after the presidential elections and the doctors threatening to strike in May 1994. The Christian Council Secretary General believes that there is a vital role for the Christian Council as a quiet mediator and, at times, in taking a public stand to uphold democratic and moral principles. The Christian Council has brought the Local Church Councils into workshops to develop an implementation plan for increasing the opportunities for civic education for church members. They recently brought together a group of experts on a number of dimensions of civic education and citizen empowerment to write appropriate materials, which should be completed in July 1994. Their program partly builds on activities the Local Church Councils are familiar with and partly adds new elements. In order to cope with implementation problems they have included a strategic management specialist in their program cycle.

As the lead organization on civic education through the churches, the Christian Council is in a delicate position: its members have their own capabilities, and many of the churches that the program hopes to reach are not members. It is employing an approach that is very familiar in Ghana: top-down, from the national to the regional to the local level. It must walk a fine line between leadership that is accepted and leadership that is resented. One senior clergyman suggested that the denominations initiate their own bottom-up process by asking members of congregations to caucus and contribute recommendations up to the national level and convey these to the Christian Council. Certainly, well worked out feedback mechanisms would increase the energy level of implementation.

When asked about donor support, most church representatives were quite clear: the most important thing the donor community can do is itself work to ensure that democratic principles become embedded in political life in Ghana. They should show solidarity among themselves and share their information and experience with Ghanaians. They should play some advocacy role by standing up for democratic principles in their relations with the government (in their programs and their dialogue) and not giving blind support if the government violates the

constitution. Like NGOs doing civic education the churches need help with publication expenses, running seminars and training trainers. If, as Rev. Dr. Kwame Bediako believes, the struggle to establish a new pattern of democracy in Africa is the struggle to legitimate dissent, then the donors should be very conscious of how the dialogue between government and opposition parties, interest groups, NGOs and the press develops.

III.C.9. Forging a Democratic Political Culture: Civic Education

Everyone acknowledges that democratic consolidation in any country requires the development of a civic culture. Citizens must be aware of their rights and obligations. They must understand and endorse the systems of voter registration, electoral competition, parliamentary representation, governmental accountability, judicial decision making, and local self-government. Office-holders must accept the constitutional limits to their power. Politicians must nurture the virtues of tolerance and compromise. This sort of political culture does not emerge overnight.

In Ghana, various organizations, both quasi-governmental and non-governmental, have addressed themselves to certain elements of civic education. This report has already discussed the roles in this respect of the National Commission on Human Rights and Administrative Justice, the human rights section of the Ghana Bar Association, and the civic education work of the Christian Council of Ghana. It is also worth mentioning two other fledgling human-rights associations: the two-year-old Ghana Human Rights Association, which issues a regular newsletter; and the Human Rights Study Center at the Law Faculty at Legon. The latter has mounted three or four seminars on human rights during 1993-94, and has issued one-page information sheets on legal issues, e.g., "You and the Police". Organizations are beginning to use each other's literature but networking is informal.

The 1992 constitution creates an organization whose sole task is civic education: the government-funded National Commission for Civic Education (NCCE). Its seven executive members are appointed by the President and its staff is provided by the civil service. Executive members do not serve fixed terms and may not hold party offices. The commissioner and deputy commissioner enjoy the same security of tenure as judges.

The National Commission for Civic Education is a major undertaking. Established only in July 1993, it is supposed to be fully operational by the end of its first year. This means that a national headquarters, ten regional offices, and 110 district offices were to be created by July 1994. Each regional office will have about 23 staff positions; each district office, about 11 positions. The Commission will therefore employ over 1,500 people when it is operational.

The NCCE has not achieved much in its first ten months of existence. Most of the Commission's energies seem to have been consumed in the rush to set up offices all over the country. Employees in the headquarters seem to have little to occupy themselves with. The Research Department has produced one thin booklet on the district assemblies, which the Commission's staff used in durbars held in the district capitals and other towns prior to the March 1994 elections. This booklet is factual and written in simple and accessible English. The NCCE has

also participated in an orientation exercise for trainers of the newly elected and appointed District Assemblymen. Its research staff, in conjunction with the Curriculum Division of the Ministry of Education, is working on a curriculum guide for teachers in primary and secondary schools. This guide should show teachers how they can add civics topics to existing courses in Social Studies, History, and Geography. A workshop at Winneba in mid-April 1994 obtained feedback from teachers on the usefulness of this guide. The Commission intends to create a 'Literature Development Department' within its headquarters which will develop teaching materials for schools, both written material and video-cassettes.

The NCCE had no presence in either of the districts we visited. In Ashanti Region several enquiries to locate the NCCE offices at regional administration headquarters were answered in the negative; people remembered that Deputy Commissioner Doris Ocansey had made a speaking tour but believed that the NCCE office was not yet open. In Western Region the NCCE is fully staffed at both the district and regional level, according to the Regional Director. The Regional Director described the staff as predominantly ex-teachers and civil servants, with some members of the Committees for the Defense of the Revolution (CDRs) as the mobilizers in the villages, "since they have worked with them for 15 years and know their traditions, and are themselves known in the community." The NCCE is planning programs for district administrations, and planning to travel to villages with the District Chief executive and district officials from the ministries since NCCE has no transport. They are also working on a program with the Non-Formal Education Division of the Ministry of Education to train NFED supervisors in the simplified version of the Constitution so that, when the versions translated into local languages become available, the NFED can use them in their adult literacy classes.

The Regional Director expected the NCCE to educate people on government policy and new laws passed by parliament, as well as the constitution. He hoped other organizations would help the NCCE to set up study groups, particularly NCWD and the churches. He had been in touch with local churches and had started an experimental program with the pastors of some of the Pentecostal churches. He had met with mine and factory managers to set up meetings at the workplace, using part of the workers' break periods for civic education. He also saw a role for the NCCE in development: in his analogy, learning is a two-way street and, before pupils are receptive to learning, the teacher must examine them about any matters which disturb them, and resolve them. In rural areas not until the problems of roads, schools, etc., are tackled will people "sit upright" and absorb civic education information.

Much of the Commission's current inaction results from a dearth of funds. Its budget, which is subject to the approval of the Ministry of Finance and Economic Planning, covers mainly salaries and office space. Even its national headquarters seems to possess little in the way of equipment and supplies. To make matters worse, the Commission has inherited a debt of c200 million from its predecessor, the National Commission for Democracy. (This debt derives largely from the printing of thousands of copies of an abridged and simplified version of the constitution.)

However, the main disadvantage under which the Commission labors is the widespread perception that the body is really an arm of the NDC. Certainly, the opposition parties are adamant in their view that the NCCE is completely committed to the governing party, and that it will therefore purvey propaganda rather than civic education to the Ghanaian people. Many interviewees who were not associated with the opposition parties held similar views.

This perception rests on three principal grounds. First, Commissioner Chris Hesse was an early supporter of the PNDC, and later a founder of the National Convention Party, which is allied with the NDC in the Progressive Alliance. The PNDC sent Hesse to Zimbabwe and the Soviet Union as the Ghanaian ambassador. Skeptics ask whether he will now distance himself from the PNDC's successor in order to assume a neutral political stance. Secondly, the Ministry of Finance and Economic Planning, not parliament, provides the Commission with its budgetary allocation; this permits the government to punish the Commission if it does not perform its role as the governing party sees fit. But the third charge is the most damaging - that the Commission has inherited the partisan headquarters staff of the PNDC-appointed National Commission for Democracy, and in its lower echelons, former personnel of the now-to-be-disbanded Committees for the Defence of the Revolution. Indeed, skeptics claim that the NCCE provided a means of keeping CDR militants on the payroll when the CDRs ceased to be government-funded.

Does this mean that the Commission for Civic Education is merely a facade behind which NDC workers will organize support for the governing party? It is too early to draw such a conclusion, though skepticism is definitely warranted. Chris Hesse is an intelligent and experienced man who, as a former political scientist and diplomat, is suitably qualified for his post. While Hesse admits that his Commission has hired many CDR personnel, he claims that many of these people were more in the manner of civil servants than PNDC militants. They therefore have the education and political experience to be effective in civic education. This argument is difficult to credit. Nonetheless, only time will reveal the true nature of the National Commission for Civic Education.

Recommendations

The U.S. embassy should assess the outcome of the limited assistance being provided to the Commission by the European Union before considering directing any funds to the NCCE. The EU's consultants have recommended that the EU commit \$100,000 to the NCCE for a pilot project in the next year. This project will train teachers in four districts to introduce civics topics into existing course. Before any further money is committed, the success of this project is to be assessed. This seems a very reasonable approach.

It is questionable whether there is a need for a National Commission on Civic Education. Ghanaian respondents often alluded to the Center for Civic Education, used by Dr. K. Busia to advance his political agenda under the National Liberation Council (1967-69), as a mistaken effort. In many other countries (though not Germany), civic education is the domain of the schools, churches, human rights associations, other NGOs, and political parties. Since in Ghana various non-partisan voluntary associations have shown an interest in various aspects of civic

education, the U.S. government would be well advised to direct small sums of money to specific projects proposed by these voluntary associations. This would be much safer and less controversial than supporting the NCCE, in light of current perceptions of that body among Ghanaians.

III.D. PROCESS 3: DEVELOPING LINKAGE INSTITUTIONS

The consolidation of democratic governance involves more than the emergence of strong political institutions (i.e. sets of widely accepted normative rules) and the formation of a strong civil society which is able to enforce accountability upon political rulers. It also requires the development of strong linkage institutions. These institutions transmit 'messages' between the spheres of the state and civil society. Political parties and interest groups aggregate and articulate the interests and demands of their constituencies, and seek to realize these interests and demands by shaping the personnel and policies of government. The media inform the public as to the performance of government and the alternative policies and political teams that may be available. Umbrella organizations, coalitions and forums present the views and needs of their - constituent civil associations to the appropriate governmental agencies and ensure that their members conform with the law. Without these (and other) flows of information and - perspectives, democracy cannot flourish. What is the state of key linkage structures in Ghana, and how can donors assist in strengthening them?

III.D.1. Political Parties

Political parties are an essential institution of democratic governance. In principle, parties provide the electorate with a genuine choice among policy directions and political leadership in periodic elections. Parties can enhance order and stability by aggregating the aspirations and demands of individuals and groups, and channelling them through peaceful, constitutional procedures and bodies. Opposition parties can link the informed public to the state by monitoring governmental actions, publicizing any abuses of power, and presenting alternative policies to those of the government. Parties, however, can only play this constructive, conflict-resolving role under certain conditions. The legal underpinnings of democracy must exist, as seems to be the case in Ghana. The parties must develop some institutional capacity to organize potential supporters, articulate policy positions, and (if they are opposition parties) monitor governmental actions. And both the governing and opposition parties must, of course, be committed to democratic norms and values (especially tolerance of opposing views and a willingness to compromise), and be willing to develop the mutual trust on which democratic contestation rests.

In Ghana, before the legalization of parties in mid-1992, party organization and activity took on the form of civic and benevolent or welfare and cultural associations. Among such organizations were the Danquah-Busia Club, the Kwame Nkrumah Welfare Society, Our Heritage, Kwame Nkrumah Foundation, National Coordinating Committee of Nkrumahists, the United Nkrumahist Family, the Movement for Freedom and Justice. Even supporters of the PNDC resorted to this subterfuge: they formed civic associations such as the Eagle Club, Front Club, Rawlings Fan

Club, Friends of the Progressive Decade Club, and the Development Union. Later on all of these, except the Eagle Club, united into the United Clubs for Rawlings (Unicrawl). These civic bodies operated as fronts for the political parties that the ban had forced underground; however, it was impossible for the parties to operate openly and consolidate their organizations nationwide. Often the associations became arenas for factional fights and political intrigue which were centered around individuals or cliques of personalities. More importantly, these civic associations remained largely an urban phenomenon.

Ghana entered its fourth period of multiparty politics with the bringing into force of the Political Parties Law (PNDC. 281) in May 1992. This set stringent requirements for the legal recognition of parties. For instance, the Electoral Commission is empowered to "register, direct and supervise all activities of parties". No company or alien can make a contribution to a party, and the maximum annual contribution of any individual was originally only C200,000 (since raised to C1 million). Not only must a party have registered members from all of the ten regions of the country, but in two-thirds of the districts of each region as well. Moreover, this rule has been interpreted to mean that each party must maintain some party office in each region and two-thirds of the districts - a very expensive enterprise. And, quite reasonably, no party is permitted to base itself on ethnic, regional, religious or professional lines. Opposition parties have objected to some requirements of this law, especially the stipulations governing contributions. The short time period between passage of the law and the presidential election forced the Ghanaian political elite to 'manufacture' political parties within the shortest possible time so that they could participate in the contest for political power against the PNDC elite.

There are currently six significant political parties which fall into three alliances. The National Democratic Congress (NDC), the principal successor to the Provisional National Defence Council (PNDC), is the leading party of the governing Progressive Alliance. The NDC's leader, Fl. Lt. J.J. Rawlings, was elected Head of State, and NDC candidates won 180 of the 200 parliamentary seats in the December 1992 elections boycotted by the opposition parties. Virtually indistinguishable from the NDC is the tiny Eagle Party (with only two parliamentary seats) which existed as the Eagle Club before political parties were legalized. The National Convention Party (NCP) is the third member of the governing alliance with 16 Members of Parliament. The NCP left the Nkrumahist alliance to join the Progressive Alliance just days after its party congress selected K.N. Arkaah as its presidential candidate; Mr. Arkaah is now Vice-President of Ghana. The Progressive Alliance uneasily combines a commitment to promoting a free-market economy with a populist appeal, i.e., it seeks to foster investment and accumulation and also to embody the needs and aspirations of the ordinary Ghanaians in an elite dominated society.

Representing the Danquah-Busia tradition, the New Patriotic Party (NPP) is the strongest opposition party in terms of votes received in the presidential election of November 1992. The roots of this party go back to the late 1940s with the formation of Dr. Danquah's United Gold Coast Convention (UGCC), the original nationalist party. This tradition exercised power in the Second Republic (1969-1972) through Dr. Kofi Busia's Progress Party. The parties of this tradition have always professed a commitment to a market economy and liberal values; they have

always enjoyed the backing of many business people, professionals, civil servants and the educated elite in general; and they have always had a strong base in Ashanti Region.

The Nkrumahist tradition constitutes the third basis of political allegiance. Although all the Nkrumahist parties revere the memory and achievements of Dr. Kwame Nkrumah, Ghana's first president, they no longer adhere to the Nkrumahist doctrine of socialist, or at least heavily state-led, development. (Indeed, all Ghana's registered parties agree on the need for a market-oriented economic strategy, differing in their advocacy of the precise mix, pace and sequence of economic reforms.) However, the Nkrumahist parties, like the NDC, firmly champion the old CPP's populist orientations; they speak in the name of the suffering masses.

Two registered parties now comprise the Nkrumahist opposition "family": the People's National Convention (PNC), whose leader, Dr. Hilla Limann, was head of state in the Third Republic (1979-1981); and the newly formed People's Convention Party (PCP). The PCP was created in early 1994 through a union of the National Independence Party (NIP) which was commonly considered as grouping together the 'old guard' of the original Nkrumahist Convention People's Party (CPP); and the People's Heritage Party (PHP), the party of the younger, and perhaps more militant, Nkrumahists. The new party has also attracted a faction of Limann's PNC and possibly disaffected members of the National Convention Party which in theory cooperates with the NDC in the Progressive Alliance. The PCP's leaders aim to lure all the remaining Nkrumahists into the PCP fold before the national elections of 1996.

Autonomy and Institutional Capacity

A flourishing democracy requires not just that parties exist in the sense of fielding candidates in elections, but that they possess some institutional capacity and freedom to organize support and spread their ideas. Beyond this, democracy will not survive unless the political elite subscribe to certain core democratic values: tolerance of opposing views, a willingness to compromise, and above all mutual trust between the governing party and the opposition. To what extent can one see these aspects of political life and culture developing in Ghana?

Consider first the question of institutional capacity. A major constraint on all parties, with the possible exception of the National Democratic Congress, is an inadequate financial base. Running a political party in Ghana is an expensive enterprise. Registered parties are expected to maintain offices in all ten regions and two-thirds of the 110 districts. Even if most of these offices are run by volunteers, parties still have to pay rent for office space and salaries of office staff. Officials of the New Patriotic Party claim that it costs their party a minimum of C120,000 a month to keep an office open at the regional and district levels. There would be additional expenses for the maintenance of the head office, organizational campaigns, rallies, regional seminars, and party conventions. Opposition parties claim that donations from individuals have fallen off drastically since the 1992 elections. Nkrumahist leaders suggest that one reason for their financial plight is the paucity of wealthy donors who support their parties - which after all make a strong populist appeal to the less advantaged strata of the electorate. This is not a problem for the NPP because many of the wealthy business people support, though

unobtrusively, this party. Its leaders feel constrained by the Political Parties Law which restricts the maximum annual donation to C1 million and prevents firms from making political contributions. In addition, opposition officials claim that business people who are dependent upon the government for contracts or fear retribution are loath to be seen as supporters of the opposition. Hence, potential donors remain aloof from political commitments. Since President Rawlings in his June 4th speech of 1993 was reported to have urged his supporters to boycott the products of three firms whose proprietors apparently supported opposition parties, this business concern to avoid identification with opposition parties is not without foundation. In any event, the NPP is developing a list of contributors who will each donate a set sum to the party each month. If this scheme works, the financial problems of the main opposition party will decline.

The apparent contrast between the level of funding for political parties now and during the election year may be because individuals and groups backed more than one party during the elections. It was perceived to be important to back the winner, so all likely winners were backed. Most of the parties did not find it difficult to finance their campaigns and to pay the registration fees for their presidential and parliamentary candidates. The financial crisis now for most of the parties is that, having lost, they have seen their potential contributors drop away.

As a consequence of financial weaknesses, the formal organization of the parties in various parts of the country is meager or nonexistent. Even the NPP, the strongest opposition party, has very few full time officials or organizers. This party, like the others, depends heavily upon volunteers. None of the opposition parties now maintains offices in all the regions or most of the districts. At the grassroots, these parties are represented, if at all, by volunteers in makeshift offices or private homes. Only the governing NDC claims to have offices in all ten regions and in over 90 percent of the constituencies (though some of these offices at the constituency level actually serve two or more adjacent constituencies). The NDC also apparently relies upon volunteers at the grassroots level, though volunteers apparently expect some recompense for their activities on behalf of the party.

Despite financial stringency, the NPP in particular is able to maintain an impressive capacity for formulating policy and monitoring governmental actions. It has established 18 "sectoral committees" whose task it is to monitor the activities of the relevant ministry or ministries and formulate the party's position on the issues of the day. These committees, which are formally sub-committees of the National Executive Committee, have presented briefs to various committees of parliament concerning particular legislation; one impressive NPP committee report constituted a critique of the government's budget of January 6th, 1993. Another, issued in April 1993, contains a list of electoral reforms that are supposed to create a "level playing field" between the government and the opposition. The NPP's sectoral committee on legal and constitutional affairs has also mounted in the Supreme Court some successful challenges to the government based on constitutional requirements. All of the NPP's sectoral committees and court challenges have been run by volunteers.

The People's Convention Party was still preoccupied with the integration of its constituent parties and factions in mid-1994. It was not an easy task to arrange compromises among aspirant leaders as the PCP moved to establish unified offices in the Regions and Districts. At the constituency level, the PCP as such barely existed. Instead, adherents of one of the founding parties or factions undertook some minimal organizational efforts from their private houses. It would obviously take some time before the PCP could speak and act as a single party. And its leaders were frank in admitting that the new party was strapped for funds. In light of the tendency for all party workers to expect some material return for their efforts, the party's weak finances would inevitably restrict its organizational efforts.

The NDC boasts the most impressive and comprehensive organizational structure. Even the governing party, however, has its problems. Some of these spring from the fact that the NDC is actually a vehicle built around its leader, President Rawlings. Its adherents encompass a wide spectrum of viewpoints, ranging from Marxist to neoliberal and Nkrumahist. This diversity, combined with the personalistic basis of the party, inevitably breed internal conflicts and divisions. Also, it is unclear if the NDC party structure actually plays any role in policy formulation separate from that of the government. Most prominent members of the NDC now hold official positions or are Members of Parliament. NDC representatives in inter-party discussions have been those holding government posts, not full time party leaders. Some cabinet ministers are also members of the party's executive; some advisors to ministers also volunteer their services to the party. The line between party and government has thus blurred.

Apart from financial problems, opposition leaders complain in the independent press and in interviews, about two further constraints upon their activities. The first is unequal access to the state-owned media in relation to the reportage accorded to the Progressive Alliance. Although the opposition parties were supposed to have won equal access to, e.g. the Ghana Broadcasting Corporation in a Supreme Court ruling of July 1993, they claim that many of their rallies and press conferences still go unreported. It is perhaps unsurprising that a broadcasting corporation that had been an arm of the PNDC for more than a decade should have trouble adjusting the political pluralism. This is one of the many aspects of the democratic transition that will require patience from the opposition as government bodies adjust to the new political circumstances. Certainly, if and when private radio stations are established (and this is a right which exists under the constitution), opposition parties should have a major new outlet for publicizing their views, in addition to the independent and party newspapers (discussed in a later section).

The second constraint that the opposition parties frequently identify in both the press and interviews is the intimidatory effect of the paramilitary forces which are closely identified with the former PNDC. Members of the Civil Defence Organizations (CDOs) continued in 1993 to operate in the rural areas, manning patrols and road blocks. And commando units which were not integrated into the regular police command continued their activities in the cities. Though not a paramilitary force, the PNDC's principal revolutionary organ, the Committees for the Defence of the Revolution (CDRs) persisted as an NDC/government presence in some workplaces, the armed forces and communities, albeit in the guise of NGOs. Under these circumstances, voters might well perceive that overt support for the opposition or strong

criticism of the government (especially in the villages) is risky. Whether this perception reflects the real situation is not something which this report can assess. However, the government's current integration of the commandos into the regular police command and the CDO personnel into the armed forces is an encouraging step in the ongoing democratic transition. The new government-financed Commission on Human Rights and Administrative Justice, if truly independent, should also help to allay the concerns of a population which, as the President himself complained several years ago, had relapsed into a "culture of silence".

Performance of Political Parties

Although the parties--and especially the opposition parties-- operate under considerable constraints and have limited institutional capacity, they are far from quiescent. Opposition leaders routinely denounce the government for some alleged infraction of the democratic rules or for pursuing the wrong policies. But does this cut-and-thrust transpire within a healthy milieu of growing tolerance of opposing views, willingness to compromise, and mutual trust? Or does the political game threaten to degenerate into a fight with few holds barred? Will this set of political leaders be able to avoid the deep suspicion and hatred between government and opposition that undermined democracy in the First and Second Republics?

No definitive answer can yet be given to this crucial question. The transition remains highly ambiguous a year-and-a-half after the first presidential elections in 13 years. President Rawlings and the PNDC were firmly opposed to the reinstatement of liberal democracy for many years. The PNDC sought in 1982-83 to build its legitimacy on direct popular democracy via the People's and Workers' Defence Committees, but the government was obliged to restrain and downgrade these organizations in 1983. Later, in 1988-89, it sought to renew its legitimacy in the form of district assemblies which were mainly elected, but on a non-party basis. But the regime still came under growing domestic pressure for multiparty elections by the late 1980s, especially from such middle-class organizations as the Movement for Freedom and Justice, the Ghana Bar Association, the Christian Council of Ghana, and the National Union of Ghanaian Students. From 1990 on, the World Bank and donors also pressed for democratization. Then, in 1990, President Rawlings seized the initiative by instituting a liberal-democratic transition which left the PNDC regime largely intact. Whether the exercise was merely intended as a strategic move to renew the legitimacy of the former government, or whether it represented a genuine conversion of PNDC leaders to liberal-democratic values is a question about which one can only speculate. What is more important is whether the will is emerging on the part of government and opposition to accept and work within the constitutional order. The transition ultimately depends upon the development of such a commitment.

Although the transition remains fragile, there are grounds for hope that the process will continue. Those who are pessimistic will point to various undemocratic tendencies. The transition was, as already mentioned, a largely top-down and highly managed affair on the part of a regime that had often expressed distaste for multiparty democracy (see Rothchild 1993; Ninsin 1993a). The first six months of the Fourth Republic featured the same atmosphere of recrimination and suspicion that had sabotaged previous attempts at liberal democracy. The

NPP's publication of The Stolen Verdict in April 1993, which argued that the government had rigged the November elections, represented the nadir of government-opposition relations. Although the political atmosphere then improved in the latter half of 1993, 1994 has so far witnessed vitriolic denunciations of the private press and opposition parties by various governmental spokesmen and of "poisonous institutions" in general by the President. Allegations of a luxurious life-style enjoyed by the President and his wife and day-by-day criticisms of government actions and alleged corruption had apparently incensed the President and his lieutenants. Critics also note that the NDC government's policy-making mode has been slow to change. Many decisions emanate directly from the President's Office in the Castle-Osu as they did in the days of the PNDC. The President is surrounded by many of his former policy advisors who duplicate the areas of competence of most of the cabinet ministers. The principal presidential advisor, Mr. P.V. Obeng, plays a very central role in government, as he always has. Decisions are apparently made with little consultation with the groups concerned. A more consultative and collegial cabinet process seems only in its first stages. Skeptics point to the government's slowness in dismantling some of the key structures of the PNDC - the Civil Defence Organizations, the commandos, and the CDRs in particular. Finally, there is the general perception that NDC supporters are favored in the award of government contracts and in other situations where the government can choose to award on the basis of merit or political support. Many voters will hesitate to voice criticisms of the government or overtly support an opposition party until these structures are decisively removed (see Ninsin 1993b for evidence of such fears).

But there are also some positive signs that the transition will continue. Realistically, the old authoritarian attitudes and approaches of the PNDC are not going to disappear quickly. The transition will be a slow process; the opposition will have to exercise patience. And there are indications that it has accepted this reality. As well, leaders on both sides are now, albeit hesitantly and with periodic back-sliding, willing to build the mutual trust and tolerance which are so crucial to democratic survival. It is significant that the state-owned People's Daily Graphic on November 26th, 1993 published an article which voiced sentiments shared by many Ghanaians we interviewed:

"We have to avoid the path of Nigeria and make democracy work. What is necessary is patience and tolerance. It is imperative that the parties tolerate each other. The ruling party must never discount the importance of the opposition parties, whilst it is necessary for the minority parties to be principled in their relationship with the ruling party. If the NDC wants democracy to thrive, its approach to issues must be accommodative."

Consider some indications that such attitudes and values are emerging. First, soon after the controversial 1992 elections, in which campaigning had assumed a vitriolic tone on both sides, the opposition signalled its intention to restrain its outraged militants and pursue only peaceful actions within the constitution. Forming an Inter-Party Coordinating Committee, the opposition bloc announced on the inauguration of the Fourth Republic that it accepted "the present institutional arrangements", and urged their members to "give the NDC-led government a chance to prove that it is genuinely interested in the institutions and restoration of democracy" (West

Africa 8-14 Feb. 93). This responsible statement defused some of the tensions that had accompanied the elections and the subsequent scattered riots.

The New Patriotic Party's decision in late 1993 to pursue a "dialogue" with the NDC in order to resolve certain outstanding issues is another positive development. When NPP General Secretary B.J. da Rocha announced in September that the NPP was ready to "do business" with the NDC government, many NPP supporters were outraged (West Africa 20-26 Sept. 93). But the NPP leadership was again able to restrain its militants who wanted nothing to do with a government which they regarded as illegitimate. The NDC agreed to enter into high-level talks; the meeting took place in mid-November 1993. The government signalled the importance it attached to the meeting by sending P.V. Obeng, the President's top advisor, as the head of the NDC delegation. The NPP's B.J. da Rocha headed the other delegation. Some considerable compromises seem to have been achieved. The NPP's major demands included electoral reform, amnesty for all political exiles, equal access to the state-owned media, and demobilization of the NDC's paramilitary groups. The government, for its part, asked the opposition to discontinue insulting the government on public platforms, to induce some responsibility into the independent press, to withdraw The Stolen Verdict, and to help build confidence in the economy (The Statesman 14-21 Nov. 93). The joint communique emanating from this meeting included the main demands of each side. Of particular importance were the undertakings to review the existing electoral system before the 1996 elections, and to continue holding meetings to exchange views between government and the opposition. (Invitations were to be extended to the other opposition parties concerning future meetings.) The delegates also agreed to establish two technical committees - one to review the existing electoral system, and the other to investigate the general political environment in the country (People's Daily Graphic 25 Nov. 93).

However, this promising initiative soon foundered. In early May 1994 NPP Chairman da Rocha declared the "dialogue" dead. He charged that the NDC had never appointed its members to the two technical committees, and had never responded to the NPP's inquiries concerning further meetings. It therefore made no sense to pretend that any real dialogue between the government and the opposition was really underway. The dialogue may not be quite dead, however. Shortly after da Rocha's announcement, the NDC informed the main opposition party that it wanted the talks to continue.

Both of the major opposition parties have also played a constructive constitutional role in generating reasoned critiques of government policies and alternative policies. The role of the NPP's 18 sectoral committees has already been mentioned. It is, however, germane to emphasize the quality of some of this party's position papers, and its willingness to place its view before the relevant standing committees of parliament. Both opposition parties sent spokesmen before the relevant parliamentary committee to respond constructively to the 1994 budget statement. Also, opposition parties and business associations subjected the controversial Serious Fraud Office bill to sustained and informed criticism before a parliamentary committee. This bill was then heavily amended by Mps. Such activity clearly indicates the determination of the principal opposition parties to make the current constitutional system work effectively, while seeking various electoral reforms.

The formation of an inter-party advisory committee in April 1994 to discuss some reforms of the electoral system was another encouraging sign. The NPP, PCP, PNC and NCP joined the NDC in an advisory committee chaired by the head of the Electoral Commission to work out a compromise concerning identification cards, registration procedures, and the training of registration assistants and party observers. The details of this compromise will receive attention below. The important point now, however, is that the advisory committee actually met and was able to arrive at a consensus, in the light of resource constraints. There is also a strong likelihood that the inter-party committee will continue to advise the Electoral Commission on registration and electoral procedures. If this transpires, it will be an important advance in building trust among the parties.

Conclusions and Recommendations

What conclusions can one draw about the party system and its prospects at this early stage of the transition? Obviously, the institutional capacity of none of the parties is strong, but several of them are not without a national presence or a capacity to develop policy positions. The transition process remains ambiguous and open. The PNDC doubtless hoped to control the process, yet democratization has gained its own momentum. The political shrewdness and tactics of the political class will have a strong bearing on whether the transition continues. The evidence suggests that Ghana boasts ample political talent and democratic commitment to push the process forward. Although a deteriorating economic situation or violence instigated within the armed forces or by a radical exile group may precipitate an authoritarian reaction, such a reaction is not inevitable.

The major contribution of the U.S. government to the development of party politics conducted along democratic lines will be, in cooperation with other donors, to monitor closely political events in Ghana and to emphasize on all possible occasions the importance which the donors attach to the development of democratic governance in the country. The Ghanaian government should be encouraged to consult more with those groups which are affected by its policies. For example, if the government does not consult and reassure the indigenous business class, the low level of domestic investment in productive facilities will continue. Bills such as the Serious Fraud Office law, which places substantial power in the hands of officials to seize assets, will not restore the faith of business people in the rule of law, respect for contract, and security of property. In general, the donors wield enormous leverage in Ghana, and they should exercise that leverage on behalf of a democratic system that both accords with popular aspirations and encourages better governance for economic recovery.

In addition, the U.S. government might sponsor seminars through such a nonpartisan policy institute as the Institute for Economic Affairs in Accra on aspects of party organization and finances. The fact is that no democratic political party in Ghana has ever existed long enough to gain experience in how to run and finance itself. Such parties have usually had their development cut short after about two years or so by a coup d'etat. Seminars for party officials on, for example, fund-raising techniques could be very useful - and very inexpensive to mount.

III.D.2. The Press and Journalists

An independent African-owned press has a long history in Ghana, as does the penny press or mass journalism for the literate masses, which first appeared in the late 1940's and early 1950's. However, since independence a free and critical press has surfaced only intermittently: moribund in the 1959-66 period, with a modest revival in 1969-71 during the Second Republic, a highly critical if not well-informed press in 1979-81, and a few struggling and occasionally critical independent weeklies during 1982-91. These last included the Free Press - until editor, publisher, and journalists were repeatedly detained, sometimes at length - and the Catholic Standard in the late 1980's, until it lost its license to publish. The Methodist Times then became a bit more critical, but a free press was essentially moribund during the PNDC years (the Pioneer struggled on in Kumasi but was largely unavailable elsewhere in Ghana). The state press was wholly uncritical for years, and information of all kinds was tightly controlled.

Since July-August 1991, a private weekly and bi-weekly press has been reborn out of the lotto and sports newspapers to which private journalists had retreated. While the private press is now highly critical and lively, and papers appear with some regularity, there are some important problems with contemporary Ghanaian journalism.

Institutional Capacities/Societal Reach

First, there has been little dissemination of any information about government, society, or the economy for years, predating the PNDC period. One can estimate that probably less than one-tenth of what the government itself published 30 years ago and made available to the public is now available. Thus, even a curious journalist must look hard for solid information and for background on what went on in a particular ministry two or three years ago. Most standard economic information has been closely guarded information in Ghana.

Second, most Ghanaian journalists have low levels of education. Some have not finished secondary school. Many who did have only attended the two-year program of the Ghana Institute of Journalism, which is not held in high regard. Few are college graduates, though a number have had some journalist training abroad. Most journalists - the GJA estimates 90% - work for the state press (Daily Graphic, Ghanaian Times, Mirror, Ghana News Agency) or other state media (Ghana Radio, GBC TV). Journalists in state employ can be transferred from journalist jobs to public relations positions in ministries with no apparent concern that these involve substantially different norms.

Third, the journalistic culture in Ghana is highly insular, compared to Francophone Africa (at least Cote d'Ivoire) where the French press is widely available as an alternative and is read by the Francophone intelligentsia and educated groups. Ghanaian journalists, by their own admission, are largely unaware of what constitutes good journalism in other countries, and some rate their own as below that in Nigeria. At the level of reporting (versus opinions and columns) and production, the new Ivorian private press is far, far better than Ghana's.

Fourth, the new private press is thin and weak in staff and money for reporting, and production is precarious. One of the more prosperous weeklies' editor indicated that reporting is costly and reporters run out of money for taxis and tro tros before they can follow a story to its conclusion. While the private press is sometimes apparently profitable, its access to presses is at risk, according to editors and publishers. The larger independents (12 pages, on three sheets of 4 pages each) often have the three sheets printed at three different presses to ensure that they will appear on time. Another editor complained that they have to keep moving the desktop printing (layout, writing) because the electricity shutdowns seem to follow them from house to house.

With regard to the state-owned media, the new Media Commission appoints members of the boards of governors of the state press companies and Ghana Broadcasting Corporation (GBC), and the boards appoint the editors and general managers. However, the Media Commission's appointments must be made "in consultation with the President" (Art. 168, Ghana Constitution). The Media Commission's powers to insulate the state-owned media from interference are considerable - see Section II.B.1 of this report.

The capabilities of the private press are not great, but five independent private weeklies have gone from 8 pages to 12 pages, and several have become bi-weeklies and increased their production runs of the second weekly paper quite rapidly (e.g., the Ghanaian Chronicle). Actual reporting as compared with opinion pieces and rumor-mongering is the exception, not the rule, but the reporting is significant in some papers (most extensive in Business and Financial Times.)

The private press runs behind the Daily Graphic and Mirror in circulation. It reaches a very small portion of the minority of Ghanaians who are literate. Newspaper distribution is overwhelmingly concentrated in the major urban areas, with a few hundred copies maximum going to any cities apart from Accra/Tema, Kumasi, and Sekondi/Takoradi. Part of the reason is an undeveloped distribution network: it is hard for newspaper owners to collect their sales revenues outside the main cities. The rest of the population relies on GBC radio (or non-Ghanaian radio stations) and television (a rapidly growing percentage). A more democratic media, indeed one that simply aspires to inform people on some key aspects of Ghana's life, must ultimately involve private radio and television.

Another factor that has limited the media's effectiveness is the regime's control of the Ghanaian Journalists Association (GJA). Elections in the GJA have often been shams, with the regime in power influencing both the candidates put up for office and GJA activities, except during the intermittent periods of press freedom. The re-emergence of press freedoms in July-August 1991 and the election of Kabral Blay Amihere, a well-educated journalist and publisher of the Independent, as GJA president signal greater autonomy. Despite the acquisition of a (rented) GJA headquarters and the building of an endowment for the GJA, the GJA has few resources. It needs support for its new training objectives (Amihere is a former director of the Ghana Institute of Journalism). Ghanaian journalists need strong journalistic role models to emulate in order to lift the level of ambition in reporting standards. There will be limits on what the GJA can do as long as 90% of its membership is employed by state media and may be

influenced to support or not support the GJA and its activities. Resource contributions from journalists will be minimal, since they suffer low wages.

Government-Press Relationships

The state media are not yet perceived to be insulated from government pressures, direct and indirect. Reportedly, state press editors routinely kill any story about the government that they do not like.

A good part of the independent private press is quite critical of the NDC government and sees itself as the guardian of democracy, given the absence of an official opposition in the Parliament. The private press looks constantly for scoops to embarrass ministers or NDC/NCP leaders. Apart from the trial of one editor, and the imprisonment for criminal libel and recent harassment of the editor of the Free Press, the NDC government has proved to be remarkably tolerant of its unfriendly weekly press. It became so from July-August 1991 on, as liberalization proceeded to unfold. The private press, like the GBA leaders, believes that major changes have occurred, and the crucial defining difference is the new constitution. It is our protection, they say, the basis for our freedom to write and publish freely and unafraid.

The quality and integrity of the private newspapers varies widely. Some few of the private weeklies/biweeklies strive to be more balanced while still independent, and some have a checkered history of connivance with the powers that be (having accepted payments from one or another government leader or embassy). However, the private press is, overall, weak. Editors and publishers are concerned about the mere ability to get their weeklies and biweeklies printed, and there have been delays in getting papers out that have made stories appear dated. Many businesses are unwilling to advertise in them for fear of being labelled as members of the opposition by the government. Most private papers could not and probably would not resist an unconstitutional crackdown. The critical need is better reporting and more publicly available information from governmental and other sources. More knowledgeable journalists are essential to providing the public with information and the government with a sense that its leaders are being evaluated on their merits.

The constitution guarantees press freedom, including access to radio and television licenses. One major test of government tolerance will come when radio and TV licenses and frequencies are sought, which is likely to be in the near future.

Recommendations

1. The Private Newspaper Publishers of Ghana are interested in purchasing, on a cooperative basis, a used or new modern offset press, which will be jointly owned and run on a commercial basis. They could use advice on procurement options.
2. One of the most pressing needs is to upgrade the training and education of Ghanaian journalists, to raise standards of reporting. USIS has previously

engaged in support of four press seminars and brought over a US journalist as a resource person for one. USAID and USIS should use key existing Ghanaian journalists and any visiting US or UK journalists as resource people for future seminars.

- a) A key problem with the quality of Ghanaian reporting may be that journalists have not been regularly exposed to the European or American daily press or (perhaps) news weeklies, though these are widely available in Ghana. USIS could provide the GJA and major newspapers with gift subscriptions to the weekly Christian Science Monitor and the weekly Washington Post, to be available to all in the press room. Other donors could be encouraged to do the same.
- b) In future seminars for journalists, USIS could build writing assignments around Ghanaian stories, using foreign examples of similar stories. Courses should not be ones where Ghanaians are "talked at."
- c) A more expensive solution would be to build programs for sending journalists abroad for study tours and newspaper internships. Those reporters who have had exposure to foreign journalism and training abroad seem to have more ambitious ideas regarding journalism.
- d) The USIS library, or any other well-maintained library, could be built up with materials on Ghana from government, private and foreign sources that would be useful to journalists.
- e) Ghanaian journalists need sustained educational programs. USAID could help Ghanaian institutions, principally the Ghana Institute of Journalism and the University of Ghana School of Communications at Legon, to upgrade their curriculum. A night course series in Accra would allow working journalists to improve their skills.

III.D.3. Umbrella Organizations: GAPVOD

As the number and variety of non-governmental organizations in Ghana proliferates, a strong umbrella organization to act on their behalf is clearly needed. Such a body could help build the administrative capacity of member organizations through seminars and training; it could coordinate the activities of NGOs to minimize duplication of effort and maximize cooperation; it could seek funding for joint projects undertaken by its members; and it could liaise with government in order to promote the autonomy and concerns of its members, and to inform them about relevant government policies and programs. This last function indicates that a well-functioning umbrella NGO would constitute a prime linkage institution. It would allay the suspicions of government officials by explaining to them the NGOs' goals and programs. And it would warn members about looming political or legislative problems and opportunities.

The Ghana Association of Private Voluntary Organisations for Development (GAPVOD), with its headquarters in Accra, has sought to fulfil these functions, but it has never done so effectively. Registered in 1980, GAPVOD remains the only quasi-independent umbrella organization for NGOs in Ghana. It draws its membership from the entire range of indigenous and foreign NGOs involved in some aspect of development work. It had 56 members in 1991; this number had almost doubled to 102 by mid-1994 (though most members were inactive). GAPVOD has organized itself into nine sectoral committees, each of which groups together the NGOs working in a certain area. It has also participated in several regional networks of national umbrella organizations, e.g. the West African Commonwealth NGO Liaison Unit, the African Women Leadership in Agriculture and Environment, and the Environmental Liaison Centre International. It has received generous funding from the UNDP over the years, as well as from other donors for specific projects.

An independent evaluation of GAPVOD in 1991 revealed many problems in the organization (Bulengo 1991). Members complained that GAPVOD rarely communicated with its members, or facilitated communication among its members. They observed that the organization's weak financial base had diverted GAPVOD's leaders into focusing upon fundraising among external donors, rather than upon the substantive objectives it was designed to pursue. Members also objected to what they saw as weak leadership and a non-participatory, top-down style. The apparent lack of an overall strategy and work-plan also vexed many members who were interviewed in the course of the evaluation. "The overriding criticism was that they were not receiving adequately the services they desired in terms of quality, quantity and frequency" (Bulengo 1991, 12).

Internal conflict in GAPVOD since late 1992 has rendered the organization nearly moribund. The conflict evidently started while GAPVOD chairman E.O. Laryea was attending a four-month course in the United States in 1992. According to some observers, a faction associated with the governing party sought to oust Laryea and replace him with its own person. Laryea fought back through the courts and retains his hold on the chairmanship. However, GAPVOD is only a shadow of its former (even then ineffective) self. Its office staff has shrunk from 12 to five. Of the nine sectoral committees, only those on women and development and on the environment are functional. And the body feels exposed to governmental influence since its funds from the UNDP must be remitted to GAPVOD via the Ministry of Finance. It is feared that the Ministry could find reasons to halt the flow of external funding if this seemed politically expedient.

Whether GAPVOD retains a tenuous independence or becomes a vehicle through which the NDC assumes greater control over Ghanaian voluntary organizations remains to be seen. The need for a strong and autonomous umbrella NGO is clear. The U.S. government would be wise to use its influence and funds to foster the development of such a body over the next few years.

III.E. PROCESS 4: FOSTERING DECENTRALIZATION AND LOCAL AUTONOMY

Local autonomy may fulfil three crucial functions in the consolidation of democratic governance. It disperses political power, thereby impeding would-be autocrats who would centralize power to themselves. By allowing self-determination to local communities in matters that directly affect their productive systems and services, local government makes democracy meaningful in societies where many people lack the knowledge or interest to participate in national debates. And decentralization, may, in forging local self-governance, create "schools of democracy" in which people learn leadership skills, democratic norms, and the art of compromise. To what extent are these democratic ideals being realized in Ghana?

III.E.1. The Legal, Financial and Administrative Context

Several national legislative issues set the context within which democratic governance must work at the district level:

- the decentralization law which structures local government and the district assembly;
- arrangements which establish district government finances, revenues and transfers; and,
- the civil service law that controls district level government personnel.

The rules associated with these issues determine the degree of autonomy that citizens of a district have to determine their own political, financial, and administrative arrangements. That degree of autonomy achieved, and how the rules enhance and limit autonomy, determine the level of democratic governance achieved at the district level.

The essential question is how accountable the local government is to the citizens of the district, especially in comparison to the accountability that local government has to the agencies of the central government. As Crook says, "The accountability of civil servants and local government employees to elected councilors, and of councilors to constituents constitute the specific links between democratization and local government policies and outputs" (Crook, p.2). This section will explore the context provided for district level democratic governance by discussing the decentralization laws, financial arrangements, and the civil service.

Decentralization Law

The Constitution guarantees the establishment of a local government system (chapter 20, Decentralization and Local Government). According to the Constitution:

Parliament shall enact appropriate laws to ensure that functions, powers, responsibilities and resources are at all times transferred from the Central Government to local government units in a co-ordinated manner.

Furthermore:

Parliament shall enact laws and take steps necessary for further decentralization of the administrative functions and projects of the Central Government but shall not exercise any control over the District Assemblies that is incompatible with their decentralized status, or otherwise contrary to law.

These seemingly straightforward, unequivocal provisions go on to explain that the central government is supposed to help local governments plan and execute policies, establish a sound financial basis for their existence, and that the individuals in service to local governments are supposed to be under the effective control of local authorities "as far as practicable."

In terms of the structure of local government, the Constitution calls for a district assembly that has deliberative, legislative and executive powers in all 110 districts. The assembly is to include individuals elected from each electoral area within the district, the members of Parliament representing the constituencies encompassed by the district, the district chief executive (DCE), and members appointed by the President representing not more than 30 percent of all of the assembly.

The DCE is nominated by the President but must receive the approval of two-thirds of the assembly. The DCE presides at meetings of the executive committee of the assembly, and is responsible for the day to day operation of the executive and administrative functions of the assembly. The meetings of the full assembly (usually four times a year for a few days at each session) are presided over by a presiding member who is elected by two-thirds of the assembly. The DCE is a representative of the central government in the district and is paid by the central government. He or she can be removed by the assembly through a vote of no-confidence.

The District Coordinating Director (DCD) is the chief civil servant of the district and is responsible for coordinating the activities of all the departments within the district.

Candidates for the assembly are prohibited from representing themselves as members of any political party, and the parties are prohibited from endorsing any candidates.

The Constitution generally describes the functions of the assemblies, which include planning and resource mobilization. Specifics regarding the structure and responsibilities of local government in Ghana are currently determined by the Local Government Act of 1993; Act 462. It supersedes and refines the original law (PNDC #207) which established the district assembly system.

Act 462 confirms the assemblies' responsibilities and clearly gives the district government the authority to coordinate the work of the various decentralized ministerial departments, including preparation of their budgets. It also calls for establishment of a local government civil service, development of a uniform planning structure, preparation of composite budgets, consolidation

of the 22 decentralized departments into 11, and notes specifically what revenues will be ceded to the districts.

Consolidation of the departments and preparation of composite budgets is supposed to be accompanied by a change in the way that funds are transferred. In the past, district departments prepared their own budgets and received funding directly from their central ministries. With the new law, transfers are to be made as a block directly from the Accountant General to the district government.

Those associated with local government at the national level admit that there is often significant ministerial resistance to decentralization. As a result, much time and effort seems to be devoted to establishing the structures - the organization chart - of a decentralized system of government. This concentration on structure seems an effort to consolidate the position of those advocating decentralization in the hopes that if a decentralized structure is in place it will be harder to turn the clock back, and eventually the decentralization process will be fully implemented. According to officials at the Ministry of Local Government and Rural Development (MLGRD), the first five years of the decentralization process were spent getting the district level structures in place, specifically the assemblies, and this has been achieved. Now they are concerned with working at levels below the district to get the zonal, town and unit structures in place. As currently planned, the district will have a legislative function, towns and urban areas will have management level functions, and units will be responsible for implementation.

According to these same officials, the broad policy for a decentralized system is established, as are the various roles for the various levels of government: the role of the center is to provide guidelines, policy and monitoring; the role of the district is local policy and administration. With these parameters determined, it is only left to work within the framework. As such, the concerns of the MLGRD, as expressed by these officials, are associated with implementation:

- an improved district level bureaucratic structure;
- clarification of the role of the region;
- establishment of a local government civil service; and,
- solutions to the basic infrastructure problems in the district, especially the need for staff housing and offices.

Finances, Planning and Budgeting

A number of studies of decentralization in Ghana during the past several years have noted that district level financial support, and the shortage of resources at the districts, are a basic impediment to devolution of government. Questions have been raised not only about the mechanisms for revenue raising, but also about the basic resource capabilities of the districts.

The districts have recognized this need, and with the authority available to them through both Law #207 and Act #462 embarked on ambitious resource mobilization efforts. Unfortunately, according to a recent World Bank report, revenues generated combined with central transfers

have only covered the district's recurrent costs, but very little has been put into capital investments. This finding echoes that of another study of three districts conducted in 1991 (Fiadjoe, et.al.). The World Bank study goes on to note that in regard to finances in particular, the districts continue to act more like agents of the central government than devolved authorities.

Crook notes that districts within his study area, in an effort to achieve financial autonomy, undertook some revenue mobilization activities that were ill advised. Kroes and Kessey found that in an effort to raise revenues, district administrations enacted arbitrary rate increases and expanded the number of revenue instruments under the incorrect assumption that more instruments lead to more revenues. However, some, perhaps many, of the instruments are ineffective. They also note a lack of monitoring and analysis to accompany revenue mobilization, making revenue administration at the local level in Ghana "essentially a collection business."

The planning capabilities to utilize what resources are raised is also evidently lacking. An official at MLGRD stated that the districts do not yet have the skills and resources required to plan. He estimated that less than one-fifth of the districts have effective planning units. Though mobile planning units exist they are reportedly underutilized.¹

These planning, budget and finance issues have been identified for several years. Recently Parliament took steps to address them with the District Assemblies Common Fund Act of 1993. The act provides for the fund and its administrator, to be established with money allocated to it by Parliament. The fund has to receive at a minimum each year five percent of the government's projected revenues. Fund money can be invested at the national level, but has to be spent at the district level on capital development.

According to the act:

The Minister responsible for Finance shall in consultation with the Minister (of MLGRD), determine the category of expenditure of the approved development budget of District Assemblies that must in each year be met out of amounts received by the Assemblies from the Fund.

That is, the MLGRD and Ministry of Finance will determine what the broad national priorities are that the fund is to be devoted to and the district assemblies will have to spend their share of the fund within these specified areas. The sectors of focus will be reassessed yearly.

The fund money will be allocated quarterly to the districts based on a formula which has been developed and proposed to Parliament for approval. According to the office of the fund administrator, the formula itself is also subject to reassessment.

¹ The legislation that will enable a national planning commission is reportedly being considered by Parliament. Its passage is intended to address these planning concerns.

The proposed formula is based on several criteria:

1. every district will receive a minimum amount;
2. each district's level of need based on its GDP will be assessed;
3. the amount of the fund received will correspond positively to how well a district raises its own funds (i.e. those doing a good job will get more of the fund than those who do not); and,
4. districts with greater population density will get a greater share.

Each district will have to report on their use of the fund to the office of the fund administrator on a monthly basis. The administrator will report monthly to MLGRD and yearly to Parliament.

According to the office of the fund administrator, the strings currently attached to the fund by the central government are because the program is experimental, and it is in everyone's interests to protect such a sum of money while the program is being established. There reportedly is, however, a commitment to reassessment as the process proceeds, and perhaps removing some of the strings.

At this time both the office of the administrator and those who discussed the issue in the districts agree that there are likely to be implementation problems associated with the fund, but that these can be worked out and just the fact that the fund has been established represents an important milestone. According to the World Bank report, distribution of five percent of the government's revenues will more than double the volume of current transfers to the districts. If such is the case, though there are questions remaining, it will represent an enormous district level financial change.

Civil Service Reform

Another readily identified problem with the implementation of decentralization in Ghana has been that of the transfer of the civil service from the central to the district level. The problem is twofold: civil servants in the line ministry departments continue to be directed by and paid by the central ministries through the regional offices, and district government does not have the authority to determine what their staffing levels and compositions should be. As a result, the district assemblies found they had little if any power to direct and control the activities of the departments so that they best suited what the assembly decided were the needs of the district.

The new Civil Service Law (PNDCL 327, 1993) was written to address these concerns by, in the words of an MLGRD official, "transferring competence" from the center to the districts by transferring responsibility for the staff of government to the district assemblies. The law states that the civil service comprises both central and local government and clearly makes the departments responsible to the assemblies: "The existing government Departments in the District shall be known as the Departments of the District Assembly." More significantly, according to the World Bank "a District Assembly will be legally authorized to staff only that part of a Department which focusses on its priority programs" (World Bank, annex 9, p. 4 of 7).

By all accounts, however, the law was passed but not implemented. Some directors of departments were transferred on paper but many refused to go and instead quit the civil service, specifically complaining about the lack of infrastructure in the districts (including water and electricity, housing and offices).

Furthermore, as explained by the MLGRD, the civil service law makes the districts responsible for some personnel management issues (e.g., discipline and daily assignments) but not civil service grades, salaries, and policy issues which are still decided centrally.² And, the law makes no mention of a local government civil service. It should be noted, however, that the law was written before enactment of the Constitution, which does call for establishment of a local government civil service and which may be created in 1995.

Evaluation

Notwithstanding the issues noted above, progress has been made through the mechanisms of the various provisions associated with decentralization to achieve a system of local government in Ghana that is based on having significant authorities devolved to the district level.

Chief among these is that constitutionally, and as framed in the law, the districts are to be the primary focus for local government and are to have the authorities, responsibilities and structures to achieve that goal, including financial and manpower determination, and are to be supported in these efforts by the central government. Additionally, the Common Fund appears to be intended to support that authority by greatly increasing the level of national resources directed to the district.

As stated by one MLGRD officer, several factors demonstrate that progress is being made:

1. the public is more confident in the district assemblies and the local government structure, and this is demonstrated by the caliber and numbers of people who chose to run for the assembly in the last election;
2. funds will be transferred through the District Common Fund, with the first tranche due to be distributed in June 1994; and
3. government programs have become district focused, for example the fact that 85 of 110 district capitals are now on the national electrical grid.³

² This interpretation does represent progress as compared to only a few years ago when the district government was not understood to have even this level of control. Also, the current redesignation of the District Administrator to the District Coordinating Director represents an effort to coordinate the activities of all of the departments through the offices of the district government.

³ The partisan nature of this effort has been questioned, with significant resources reportedly directed to the districts very near to the time of elections. Nonetheless, the results as far as district residents are the same -- national resources are directed to their doors.

This same official stated that it is planned that the entire decentralization process, including finances and civil service reform, will be reassessed yearly and that what could currently be viewed as ties to the center could be relaxed later on. Progress will, however, according to several officials, continue to be slow because of the resistance to true devolution, especially from central ministries. Nonetheless this official believes the district assemblies could have even more authority over the civil service as soon as one year from now. His optimism, he says, is based on the fact that a legal framework exists which supports devolution, and that the assemblies and Parliament have gained legitimacy and therefore people will use them and demand that they be responsive to the electorate.

Though the legal framework might support such optimism, discussions at the national level regarding the context for democratic governance at the district level highlighted several significant issues:

1. The economic realities seem to indicate that having enough money to go around to assist the development desires of each district may be a continuing concern. The pressure continues to be on assembly members (and parliamentarians) to deliver material benefits to their constituents.
2. True devolution with ministerial restructuring is not happening and it is difficult to predict at what point districts will have their own civil service with the ability to hire and fire as they deem necessary.
3. One impediment to decentralization, as voiced by the national and district governments, is that the district infrastructure continues to be poor to the degree that civil servants refuse to be posted to districts.
4. The management, administrative and technical capacities of the districts are said to be poor and require significant training.
5. The new legal structure is not well-known in the districts and no efforts are currently being made to raise awareness.

Given the national context for decentralization, as described above, the purpose of the field work associated with this study was to clarify what progress has been made and what issues remain to be addressed. And, to determine what progress was being made at the district level towards achieving democratic governance, not only through the process of decentralization, but also through the presence or absence of national initiatives towards democratic reform (including for example, the National Electoral Commission, and the National Commission on Civic Education).

III.E.2. Decentralization in Practice

Two districts were visited for this study, Ahanta West District in the Western Region, and Bosomtwi-Atwima-Kwanoma (BAK) District in Ashanti Region. Due to the nature of the study

and the time allowed districts were chosen based in part on their accessibility. Interviews in each case took place in the district capitals, Agona Junction in Ahanta West District, and Kuntanase in BAK District. Agona Junction is approximately 30 minutes west of Sekondi/Takoradi on a paved road. Kuntanase is about 30 minutes to the southeast of Kumasi.⁴

Ahanta West District is rural and its capital, Agona Junction, is a market town. Forty percent of the district is state owned plantations. The total population was approximately 62,000 in 1984; they reside in 123 settlements. The district assembly has 44 members, 30 elected and 14 appointed, and includes six women.

BAK District is also a rural district, though due to its proximity to Kumasi it has no market centers (currently). The district has approximately 340 settlements, most with fewer than 500 people, and about 110,000 residents in all. The district assembly has 70 members, 22 appointed and 48 elected, including five women (four appointed and one elected).

The following sections focus on the first three processes of democratic consolidation as they play themselves out at the district level. The aim is to determine what contribution district assemblies make to the development of democratic organizations and procedures, to the strengthening of civil society, and to the operation of linkage institutions.

The Development of Democratic Rules and Governmental Institutions

At the district level, the governmental presence includes not only the local representatives, the district assembly, but also the government administration.

Local Government

At the district, representation to government is provided through assemblymen elected to the District Assembly. This relationship is the basis for decentralization in Ghana, and given that the 1988 assembly elections were the first elections held under the PNDC government, to a degree is the basis for the democratic governance movement.

Many people interviewed, not only in the districts but also in Accra, noted that the assembly and the men and women who participate in it, are gaining credibility. As the institution gains credibility it is reportedly also attracting more and better qualified candidates. This was evidently most apparent with the second, recently completed assembly elections.

Certainly all assemblymen and women interviewed expressed confidence in the assembly system. Even those newly elected did not say that they ran because they doubted the system and wanted

⁴ Admittedly, the sample could hardly said to be either complete or scientific. Based on the goals of the activity, however, i.e., getting a sense for how decentralization and democratic governance were progressing and perceived at the district level, the two sites were more than adequate. In addition, the experience of the field work for this study has benefitted greatly from the similar work conducted by Crook, Asibuo and Fiadjoe, et al.

to change it, but rather because they have come to believe in it as a process through which they can effect change. In this respect it is important to note that all interviewed, whether assembly members or not, indicated that the assembly member is now clearly seen not only as the local representative of the government, but also as the person to see in order to at least begin the process of local problem solving, perhaps second in importance only to the chief.

This importance seems to be associated with the assembly members' access to government and the material benefits that access can provide. Virtually everyone interviewed noted that basic infrastructure development issues are of primary concern at the local level. These concerns typically included roads, water and sanitation facilities, electricity, schools and health clinics. People express pleasure with the decentralized system because of the hope it brings for greater development; i.e. the hope that resources will find their way to the district. Many expressed that development, not politics, is the primary concern at the district level, and that those assembly members who failed to deliver would not be re-elected.

In BAK District, of an assembly of 70, with approximately 50 elected members, only approximately 10 ran for re-election, according to a gathering of 12 assemblymen. Those who decided to run again were largely successful. Those who chose not to run again were said to have based their decisions on their judgement that they would lose if they did run, or they were just no longer interested, or they felt they did not benefit personally from being in the assembly.

One re-elected assemblyman from Ahanta West District said he believed he was re-elected because of his record of bringing development projects to his electoral area, which included a Junior Secondary School Workshop, a Secondary School, a Kumasi Ventilated Improved Pit Latrine (KVIP), and having arranged to bring a UNDP funded loan program for traders to the district.

In the case of newly elected assemblymen, 10 who were interviewed explained that they were elected because of their past community-based efforts, including their participation in their Town Development Committees, and other organizations such as being a volunteer literacy teacher for the non-formal education program.

Another important criteria appears to be a demonstrated effort on the part of the assembly member to keep the community they represent informed as to what is going on with the district government. A desire to be informed, and to keep the assembly informed about community needs, would seem to indicate that citizens take the work of the district assembly seriously and believe it can potentially benefit them.

The final criterion for election seems to be, if not actual success in delivering material benefits, then at least a clear attempt to do so. Constituents were said to understand the constraints the assembly and the district government face and will reportedly give elected officials credit for trying. Along these lines, the phrase "self-help" was repeated by those involved in district level

development. There seemed to be great awareness of the limits of government.⁵ Therefore, assembly members were also credited if they had an ability to get self-help projects started.

Even members of the opposition party, the NPP, expressed general confidence in the assembly process, though in BAK District their endorsement was somewhat mixed. There were some claims that the assembly was not responsive, but it was also stated that those members who were perceived by their constituents as unresponsive would be defeated at the next election. Generally, however, NPP members stated that the assembly process was conducive to discussion and problem solving, that people are generally satisfied with the structure and process, and that they are aware of the financial constraints faced and therefore know what they can expect.

In BAK district, however, there were claims that those members appointed to the assembly by the NDC government are not qualified, and that those appointments were not made in consultation with traditional institutions and organized groups, as they were supposed to have been. These complaints, whether completely accurate or not, point out that though the assembly is generally perceived as helpful, it is not perceived as apolitical as was called for in the Constitution.

The elections themselves and, certainly, the appointment of members are said to have been very partisan. In addition, because local politics is based on largesse and mobilization of resources, there is the sense that it is possible to steer results by timely delivery of goods. Originally, appointment of members to the assembly by the national government was officially justified in terms of the need to assure equal representation for under represented groups, and to assure that qualified individuals would participate. The assembly process is said to have gained credibility and therefore better qualified individuals are now running for seats. Nonetheless, with the process as politicized as it is, it seems unlikely any government will stop the process of appointments and lose its ability to counteract the opposition. If such is the case, one has to wonder how the assemblies can ever come to be considered truly democratic and representative, and the credibility of the process of autonomy and local democratic governance could be severely undermined by central control. This central control is only extended with the practice of central appointment of the DCE.

The central government's exercise of its local control is to a degree echoed by local representatives. One MP interviewed noted that his constituents often refer to him regarding district level problems, at times instead of seeing their assemblyman, because he is connected to Accra and that is where the real seat of power is seen to be. When local and national level officials discussed local government it was often in terms of "structure" and "organization" which seemed to be euphemisms for creating a hierarchical system with the national government

⁵ Though people expressed awareness of the limits of government, these limits usually seemed to be associated with financial constraints as opposed to other perhaps more theoretical limits a central government has in regard to providing services to rural communities, e.g., those that are administrative and management related. This is not too surprising and it is likely that the lack of government presence is often explained as a shortage of money versus a philosophical preference for local instead of central authority.

very much at the top. Assemblymen expressed their understanding of the roles played by the levels of government in terms of small projects being the purview of the community and larger ones the responsibility of the central government; and, the role of local government as a child and the central government as the father. The focus still seems to a degree to be towards the center as the defining locus. After decades of centralized authority, this attitude is not surprising and like many aspects of decentralization should probably be considered one that will take time to change.

Public Administration

The district government administrations' primary concerns are funding and mobilizing additional resources in order to undertake more projects. With the lack of thorough planning that is reportedly the case in so many districts, it is hard to know how realistic their plans are. Crook has noted examples of revenue mobilization plans that suffer from misguided projections.⁶ Nonetheless, the state of their funding impels districts to attempt to boost their revenues.

For example the BAK District Assembly has decided to develop four markets not only to encourage residents to trade in the district instead of in Kumasi, and thereby boost the local economy, but also to provide a potential source of district assembly revenue through market tolls. The assembly has constructed three of the planned four market structures, and residents reportedly support the idea, but as of yet they are not patronizing them.

In the absence of market tolls, BAK District is dependent on the basic rate, other local levies and ceded revenues. The district administration is optimistic that the Common Fund will have a positive impact, and is not concerned with any strings that might be attached to it because it is mandated to be used for development activities.

The other side of the financial issue, the expenditures, also presents difficulties because of the recurrent costs issue. Of the approximately 29 million cedis raised by the BAK District last year, approximately 16 million went to recurrent expenditures. These recurrent costs include the district's 50% share of ministerial staff, the district's own staff salaries (essentially for laborers), travel and transportation, allowances, and the costs of assembly meetings. Also, although the ministerial departments reportedly do coordinate their activities through the district administration, they are still financially independent because composite district budgets are not being prepared and funding still goes directly to the departments instead of through the administration. Thus much of the funding that comes into the district and is spent in the district is out of the control of the district assembly.⁷

⁶ BAK District does have a five-year (1993-1998) plan that was developed with the assistance of the regional mobile planning unit. Ahanta West District has begun its planning process with a district profile.

⁷ Only 11 of the 22 departments that Law 207 mandated be decentralized were ever decentralized in BAK District; staff reportedly refused to relocate because of the lack of housing and offices. Neither of the district administrations visited seemed aware of the new provisions in Act 462 that called for consolidation of the 22 departments into 11.

In Ahanta West District, the ministerial departments (according to the district administration) still refer to their regional officers and do not coordinate their activities through the district administration. This was explained as habit formed from years of receiving instructions from the region, and because finances are still tied to the regional officers (i.e. the regional offices still dispense the funds). As a result the only recourse the district administration has to control use of departmental funds for district activities is to refuse to sign checks, which is not considered a productive management tool.

As in BAK District, projects and plans actually developed by the Ahanta West District Assembly have to be funded from the district's revenues (which include what is raised locally plus ceded revenues). In Ahanta West District, local revenues are estimated to be roughly 22 million cedis per year, about 10 million of which goes to recurrent costs, with another two million to cover the costs of running the assembly, which leaves approximately 10 million for investment and capital improvement. Assemblymen are reportedly frustrated because they thought they would have more resources to work with. The Ahanta West District administration is also optimistic about the impact of the Common Fund, and not concerned that there are too many strings attached to it.

Since authority over the departments has not been transferred to the district, the districts essentially have two budgets and sources of revenue, one which they control and one which they do not. First are the locally raised revenues combined with ceded revenues which are used for district employees, 50% of the department employees and locally determined projects. A second and undoubtedly larger share of money comes into the district but is out of the control of the assembly as it is used by the departments for their district activities and personnel.

By law all funds are supposed to go directly to the assemblies, but ministerial resistance has evidently stopped this from happening. Those who advocate devolution apparently have taken the position that it will take time to overcome this resistance.

In an effort to compensate for a lack of funds, the districts advocate, and support to the degree they can, self-help activities. These include contributions of technical assistance, materials, and coordination with other departments (for example, organizing for the Department of Feeder Road's grader to work on a stretch of road if the community contributes the fuel).

Examples of local self-help in the total absence of government service provision were also cited, including sanitation committees that swept streets and fined those residents who committed sanitary offenses, and neighborhood watches where people organize, sometimes with the help of the assemblyman, to patrol their streets in urban areas.

Many in Agona Junction referred to the increased level of awareness among residents that they are responsible for much, if not all, of their own development. With the assistance of the district government the town constructed a KVIP. Once it was constructed the community took on its maintenance by charging a 10 cedi users fee which funds a maintenance worker who cleans the site every day.

What is not quite so clear is to what degree the self-help, community directed projects, for which people must usually contribute either in cash or in-kind, causes people to be reluctant to pay their district taxes because they believe they get nothing in return. In each district it was readily admitted that people often refused to pay their basic rates, and grumbled about paying so many different taxes and levies. It was also explained that people were more willing to pay for community-directed projects where they were able to see the direct benefit of their contribution. The failure to pay the basic rate even though people were reportedly satisfied with the district assembly system was explained as a relic of the times when rates were paid and nothing was delivered in return.

As a result, districts have to use collection agents to get people to pay, and voluntary payment is rare. In BAK District, assembly members stated that a formula is used that returns 30 percent of what comes from an electoral area to that area. However, only 15 percent of that 30 percent actually goes to the community. The other 15 percent goes to the collector. Arrangements of this kind, though perhaps necessary to increase compliance, also act as a further drain on the district's revenues.

Assembly members in BAK district stated that it was important to increase people's tax consciousness by providing information about, for example, recurrent costs versus capital expenditures, and where the district's funds were spent. It is important to note that these assemblymen, who were new to the assembly, did not know where the 70 percent of the budget that did not go back to the community went. They said that once they started their position, they would receive quarterly reports and would know more about the district's finances. The assembly's books are available to assemblymen, but not to the average citizen except through their assemblyman.

Those associated with the district government exhibited real concern about their financial plight but focussed mostly on the issue of greater revenue mobilization, perhaps at the expense of a willingness to deal with the issue of the imbalance between recurrent costs and those devoted to capital improvements, and the issue of which level of government controls the district's finances. There is also a great deal of optimism associated with the expected benefits of the Common Fund, tempered with a degree of skepticism as they wait for these additional funds to actually be transferred.

Assessment

The state of the democratic transition in the districts can be evaluated on the basis of two factors:

- the progress made towards implementing an effective government administration at the district level which is willing and capable of responding to the district residents through their elected assemblymen; and,

- the degree to which residents are satisfied with the representation they receive from their assemblymen.

It seems the district administrations are willing to be responsive to the needs of their districts, but continue to be incapable because of their financial and manpower constraints. Specifically, as stated in numerous studies and as confirmed in the field, the pace of civil service reforms is very slow; and, districts are not preparing composite budgets, and are not meeting their revenue projections.

In regard to civil service reform, the attitude at the national and district level was uniformly that it was a very large problem that would take time to resolve. It does seem that all the legislation required has been enacted, but not discussed or disseminated.

In regard to alleviating financial constraints, the Common Fund is generating lots of optimism. Its implementation will be important to watch, especially in regard to how regularly it is distributed, how much of its use is mandated and controlled by the center, whether it will have a visible district level impact, and whether it will lead to further calls for turning over more central government resources to the districts.

In regard to citizen satisfaction with the district assembly as a representative government body, there does seem to be satisfaction, though it is clearly one-dimensional. That is, acceptance is based (logically enough) on the ability of the assembly to deliver the goods (electricity, roads, etc.). A concern with the theories and applications of democracy and governance are of little importance compared to achieving material benefits.

Ninsin's study confirms this finding and states that there is general consensus among scholars that ideology and abstract notions of democracy and governance do not factor in explaining voter behavior. What does figure is personal and community obligations, traditional loyalty, ethnicity, communal and territorial interests, and material rewards (actual and/or anticipated). Furthermore, in an effort to guarantee access to material benefits, people vote more for the leader than for the issues he/she represents (Ninsin, 1993).

Ninsin further states that people, though they vote, do not envision themselves as active participants in their governance. They rather see themselves as the "governed" and the elected as the "leaders"; they see themselves in a hierarchical system with themselves at the bottom and the elected leaders at the top. In return for being a good citizen in this hierarchy they hope to benefit from the largesse of their leaders (Ninsin, 1993).

This vision accurately reflects the observations of the field work for this study, especially in regard to how those associated with the district government view their relationship with the central powers -- the "father and child" image. And, on the part of the administration, the hierarchical model was also present, especially in regard to the perceived relationship between the administration and the populace. That relationship was usually described in terms of

leadership instead of facilitation, assistance and service. Few officials speak of the governments' responsibility to respond to the directions of the people.

This concentration on structure and hierarchy at the district as well as the central level is not at all surprising given the model on which these institutions have been based. Any alteration of that model can only be expected to be part of the evolution of decentralized government.

The Development of Civil Society

The burgeoning consciousness of and reliance on self-help activities has resulted in greater prominence for the nongovernment organizations that operate in the districts. It does not seem as though there has been a proliferation of organizations, but rather that those organizations that have existed, perhaps for some time, are now the focus of more attention.

There appear to be no prohibitions in practice or law that prevent government organizations from working and cooperating with nongovernmental groups. In an official sense, districts work through their Unit Committees and Town Development Committees, but in practice can work with whatever NGOs they want to. In BAK District it was explained that the unit and town committees were perceived to be the "government" which represented everyone (as opposed, for example, to churches which represented only their parishioners), and therefore all activities were coordinated with these committees, and the chief. But there were said to be few problems and relations between government and non-government bodies were said to be quite cooperative in both districts.

The most prominent non-governmental organizations in both districts were church organizations that engaged in social and development activities.

CIBA and NCCE, two government connected organizations of prominence in Accra, were absent in each district.⁸ BAK District did have a Public Education Committee that was started as a result of a directive received from the Regional Coordinating Council. Its members include representatives from the District Administrative office, NEC, the Information Bureau, assembly members, the Association of CDRs, and the Mobisquad. The committee provides information to the community about the Constitution, elections, civic rights and responsibilities. The committee's function is to be taken over by NCCE when it is established in the district. It is thought that the committee will remain active as a committee that works with the NCCE.

Another government-connected organization, the 31st December Women's Movement, was active in each district. There were 11 organized villages within Ahanta West District, and 17 branches in BAK District. There were formerly 51 in BAK District but many reportedly

⁸ In Ahanta West District, there was some discussion between the district administration and CIBA regarding having CIBA collect market tolls for a percentage of the take. The DCE said he was possibly interested in this arrangement because he was dissatisfied with the revenue collection performance. He said, however, that nothing has come of this discussion and as of this date CIBA is not present in the district.

disbanded at election time when men who supported the opposition decided it was a partisan organization and urged their wives to quit.

Church based organizations tend to be involved in social activities, activities that provide assistance to needy members of the community, and provide support to schools. In both districts they have also, through their women's clubs, conducted activities to instruct women about the new inheritance laws.

In Ahanta West District, the National Council on Women and Development organized a workshop to educate women about the new inheritance law. These women then transferred that information to others throughout the district.

The 31st December Women's Movement in both districts was also involved in activities to inform women of their legal rights, and in Ahanta West District they conducted voter rights and procedures activities. In both districts women in the movement also belonged to church groups, and the groups often work together because of the similarity of their aims.

It is hard to tell in each of these districts whether or not it is difficult to form a new organization to address public problems, but it does not seem to be an issue because so many organizations exist already. Furthermore, by all reports they all cooperate and share similar development aims. This includes government, government-related and non-governmental organizations alike.

Those interviewed said partisan differences would be put aside when the time came to face common development issues. The partisan nature of the local elections and the government-related organizations, and the concerns voiced by some NPP members in BAK District, might cast doubt on this assurance of cooperation when the time comes to distribute meager resources. Taken at face value, however, the pledge for cooperation was reassuring.

Interestingly enough, however, few claimed that it was any easier (or any more difficult) for civic organizations to conduct problem solving activities now than it was a few years ago before the Constitutional era. Free elections do not seem to have had a big impact on their operations; the primary concern remains funding.

The one individual who said the operation of local organizations had changed for the better, as a result of the political changes, was an officer of the Catholic Church in BAK District. He thought things had improved now that there were elected assemblymen and Mps if for no other reason than that they (the Catholic Church) have people to coordinate with, potentially work with, and get support and advice from. He also said that because half the population of the district is Catholic (there are 22 Catholic churches in the district), it is important that they be involved in many aspects of community life. Now, he said, the church feels it can discuss anything, which was not always the case.

Another interesting aspect of the dynamics involved in problem solving at the local level is that many of those interviewed conveyed that everyone knows which of the many institutions

available should be approached about which problems. This includes knowing what to see the chief about, what to see the church about, what to see the unit committee about, and what to go to the district assembly about. There seemed to be non-partisan agreement on this point. Everyone seemed to have a sense of working with other groups, and that certain issues are dealt with by different institutions depending on what the activity is. The one constant perhaps, at least in BAK District in Ashanti Region where chieftaincy is so important, is that every decision is cleared through the chief and without his blessing nothing in the way of community participation happens.

The importance of this multi-institutional approach to problem-solving at the local level is that it demonstrates a polycentric orientation that is based on different groups filling different mutually agreed to roles, versus a continued reliance on central government organizations for all solutions. It also demonstrates that the central government appears to not only allow this multi-institutional atmosphere to exist, but to the degree that district governments work with organizations and support them, shows an actual commitment to encouraging such an approach to problem-solving. This polycentricity does seem to be the reality at the community level; whether it is the actual intention of the government is a different question.

Linkage Institutions

At the district level distinctions between organizations that represent the community's civil society, and those which act as linkage institutions between civil society and the government are less clear perhaps than at the national level. Nonetheless, those providing information and those articulating interests and representing political ideologies, could be said to fulfil the role of linkage structures.

1. The media. Perhaps the most surprising finding of the field work is the degree to which district residents rely on the services of radio and television for their information. The proliferation of television antennas attached to long poles on the top of rural houses was nothing short of amazing. When asked how people got information regarding how to register and vote, radio, television and newspapers were always listed. In Kuntanase the community contributed funds to purchase a community television which is kept in a central location and then turned on for all to watch.

In BAK District radio and television were perhaps the prime media for information because though it is only 30 minutes from Kumasi, there is no newspaper vendor in town. In Ahanta West District, however, several papers were available on a daily basis in Agona Junction.

In BAK district, the Public Education Committee fulfilled a civic education role around the time of the elections, and other election related information was provided through NEC. The government information service also has an agent in the district, though it was said to be not very active. NCCE was not yet present in either district in May 1994.

Most interviewed stated that there were sufficient sources of information available regarding voter registration and the elections, though it seems most of this information was provided through NEC as opposed to through any civic organizations. An absence of information did not seem to be a burning issue. Assemblymen in BAK district did state that though sufficient, information on issues was not prevalent, and interested persons such as themselves had to actively pursue it.

The only contrary opinion was voiced by NPP members in BAK District who stated that the information about the elections was insufficient. They said it only consisted of radio and television announcements, and that those messages were both inadequate and not sufficiently available in the vernacular. They expressed the hope that the NCCE will take a lead role in providing civic education, which they feel is currently lacking.

2. The parties. Though they are not the primary focus of local attention, the national political parties were present in each of the districts visited. Their signboards were always prominent on the roads leading into town, and offices could be found in the district capitals. Not surprisingly, the NDC office was most prominent in Ahanta West District, and the NPP office was most prominent in BAK District.

In Ahanta West District, the NDC party chairman stated that the party was involved in civic education, non-formal education, voter registration and voter education. He said the party's activities were conducted by what he referred to as "scouts" (i.e. volunteers) who were no longer referred to as "cadres." He said the NDC office was usually open every day, which seemed a possible exaggeration. People did clearly know who he was, that he was connected with the NDC, and that he was the one to speak to about the party.

It was much more difficult to find anyone clearly associated with the NPP in Ahanta West District. They did have an office which was shuttered and locked, and it could be (as was claimed) that all the active party members were out of town or at their farms. It was however much more difficult for people to think of who was active in and responsible for the party, which was not the case with the NDC.

The one representative of the NPP found was a young man who tried to express some disagreement with NDC national policies and admitted he felt uncomfortable speaking in the presence of an assemblyman who is clearly identified with the NDC. He made some allusions to having been in trouble for his anti-government sentiments. He also said that after the elections it ceased to matter what party one belonged to because everyone participated in community development projects. He said the NPP meets weekly to discuss local development, as opposed to political, issues.

In BAK District, near the heart of the opposition party in Kumasi, the parties seemed more active. It was widely reported that the DCE election became quite partisan. Some newly inaugurated assembly members from the NDC openly stated that they would assure and support the government's (NDC's) programs at the district level. Upon further discussion it seems, and

they admitted, that most issues the district assembly will deal with will be of a nonpartisan, development orientated nature and therefore will not naturally cause disagreement. NPP representatives in the district clearly recognized the politicization of the assembly, but were not so assured that their opposites would not politicize the operations of the assembly by dispensing district resources based not on mutually agreed to priorities, but rather on partisan politics.

The NPP in BAK District stated it has a formal party structure throughout the district, but the party only meets when there are issues to discuss. They have an office on the main road in town which is said to be "usually" open. The NDC also has a formal party structure in the district, and they meet monthly to discuss the welfare of the party, employment for their "boys", and to lay the strategy for the next presidential election.

3. Electoral mechanisms. The NEC was present in each district and by all accounts had been active around the time of elections, but was less present between elections. The offices in each district had one representative assisted by two deputies. All of the deputies were intermittent employees who only worked on an as-needed basis; the two in BAK District were from the education service (one of whom was retired). The representative in Ahanta West District was also an intermittent employee (seconded from the district education office), but the representative in BAK district was employed full-time by NEC. All said they were chosen through an open application process.

The procedures each district office described in regard to how they conducted their activities were quite uniform.

1. Registration activities included receiving a briefing from the regional office; recruitment of people to work at the registration places (police stations and schools and other communal areas); organizing publicity about registration by informing chiefs and using the services (periodically) of a mobile van; and, preparation and vetting of the registration roll.
2. Pre-election activities included attendance at a briefing to get information on procedures, which differed for the Presidential and Parliamentary elections as compared to the assembly election. With the Parliamentary and Presidential elections the district offices received party registration papers and conveyed information to the parties at the district level. With the assembly elections, NEC handled nomination papers and engaged platform monitors for each electoral area who monitored campaigning to assure that it was not party centered. NEC also arranged for sessions (monitored by the platform monitors) in each electoral area whereby assembly candidates could give brief presentations and answer questions; and, they enforced restrictions on assembly campaigning which included bans on public meetings and rallies.

3. For the elections NEC is responsible for arranging for poll watchers from the parties and poll officers (often teachers). NEC counts the ballots and sends them on to the region.

After elections NEC's activities slow down, though in each district they have participated in monitoring of union and house of chief elections. Around election times, NEC does provide some civic education including hanging posters, but it seems this is more seen to be the function of other organizations, including the Information Service and presumably the NCCE. NEC is seen as a source of information and people do stop by their offices to ask election-related questions.

The only contrary opinion regarding the activities of the NEC was voiced by NPP party members in BAK District who, though not impugning the motives of the NEC, stated that they believed the assembly-level platform sessions were insufficient. They also expressed the opinion that because the assembly elections were so political anyway, they should be completely opened up and run on a party basis.

Assessment

As stated previously, it is difficult to discern which organizations at the district level should be defined as linkage institutions. For our purposes, however, it is useful to see the media and information organizations, the political parties, and the NEC in that light. That is, they exist not solely for themselves but in order to link communities to their government. In that regard, field work would indicate that those functions and services are being provided:

- people indicated that they had sufficient information about the registration and voting mechanisms of a participatory democracy (it is more difficult to say whether or not they had enough information to be able to make decisions about the issues involved);
- the parties were reasonably active in each district and therefore could be said to represent the opposing issues of importance; and,
- the staff of NEC in each district was knowledgeable about electoral procedures and seemed to be enough in evidence that fair elections could be expected.

III.E.3. Summary and Conclusions

Answers to certain key questions will provide a means of gauging the contribution of decentralization to democratic consolidation, and understanding how that contribution may be augmented.

1. Given that a policy of decentralization is required to allow people local access to and control of their government in order that they can exercise democratic governance at the level of most

importance to them, is the present structure of decentralization law conducive to this end?

PNDC Act 207 which served for several years as the local government law in Ghana laid an ambitious framework. The current law, 462, carries on from 207 by further clarifying the structure of decentralization and mandates further moves towards true devolution.

The greatest constraint to serious devolution of authority to the district assemblies and the district government establishment is that too much resource control, specifically the resources of the line ministries, continues to be at the center. The related constraint is that a significant percentage of funds spent at the district level are devoted to the emoluments of personnel who continue to answer to central ministries as opposed to the district assemblies.

It is not that the legal framework has not been established for devolution. In fact the law and the Constitution seem quite clear. The problem appears to be, not surprisingly, bureaucratic inertia and resistance brought on by trying to radically restructure government bureaucracies weaned since colonial times on a hierarchical, centrist oriented model.

As stated by the World Bank:

Despite the initiation of decentralization, the structures of authority currently in place for financial and personnel policy and management remain highly centralized. District Assemblies are almost completely dependent on Central Government for investment finance and for staff to implement, operate and maintain such investments. (World Bank, p.4)

We found little in the course of these investigations to contradict this statement.

The operative question that must be asked is: Will Ghana ever be able to claim to have a true democracy, built on a system of local representation, when so much of the money spent at the local government level is actually spent by the central government through departments that the center staffs? The majority of the people do not have the resources to effect change because the majority of the country's resources are tied up in a centrally controlled bureaucracy, even at the local government level.

This financial conundrum leads to the misguided actions Crook describes whereby districts, in an effort to be autonomous, undertake revenue mobilization activities which are too often ill advised and ineffective. This and previous studies confirm Crooks' analysis. Assisting the operations of the national planning commission, and providing technical assistance directly to districts for cost/benefit analyses of revenue mobilization schemes, would be of great use.

Along the same lines, the districts could use guidance to institute truly innovative approaches to revenue mobilization of the kind called for by Kroes and Kessey, as opposed to simply using more revenue raising instruments. The Kroes and Kessey study advocates a self-governing approach to revenue mobilization that involves payers, administrators/collectors, and policy makers/politicians alike. The goal is to rationalize the system and to get a higher degree of

voluntary payment by making the process interactive. One essential to get cooperation is to demonstrate improved services; e.g. with market tolls (a common source of district revenue) the government has to assure that security and cleanliness are provided as a result of the fees.

There is also an evident need for information dissemination to the district level. For example it does not seem that the districts are aware that they can consolidate their departments from 22 to 11 and can staff only the parts of departments that they feel fit their needs. If districts knew what their legal authorities were they might be able to advocate for greater change. An association of district governments that encouraged networking, information exchanges, technical support and training might be a useful concept to explore.

Having said all of the above it also must be said that it is clear that great progress has been made in regard to constructing a devolved system of local government. If nothing else, the fact that a clear legal and constitutional framework has been established is significant. Given the models on which the current system was constructed and the depth of the issues, it would be unrealistic to expect any more rapid changes. It is important that government and donors alike accept the need for patience, and that they recognize this need with longer, more realistic project cycles.

The World Bank is currently preparing a project to support decentralization that seems to recognize many if not all of the above constraints. It takes an innovative pilot plan approach to gradual devolution, recognizing the constraints and the long time frame required to overcome them. If well implemented it will certainly deserve support.

2. To what extent do organizations at the district level, representing both civic society and linkages institutions, contribute to consolidating democratic governance?

Perhaps the most encouraging sign that the democratic transition is progressing at the district level is the proliferation of local organizations. These represent church, NGO, and government interests alike. Although these interests are sometimes at odds, there does not appear to be significant conflict.

Many of these organizations appear to adopt direct problem-solving approaches, and seem to comfortably fit in with each other, each filling required niches. The result is a plethora of institutional options and a polycentric approach to local governance that avoids overreliance on the center.

This is not to say that the central and local governments are not needed; they too fill important needs, but they are not expected to fill all needs. This sense of partnership characterized the way local interactions amongst groups was described.

The local government law specifically encourages districts to work with other organizations and institutions, and other districts and communities to identify and solve problems. District governments could perhaps take the lead in terms of organizing partnerships and special

districting arrangements designed to solve specific local problems. Such arrangements would further strengthen the local base for a civil society, thus further cementing democratic consolidation.

3. Do the macro-level political and government changes that have occurred in the past several years make a difference at the district level? Is it now easier for people to identify and decide how to solve problems?

As previously stated, devolution of a system for so long oriented towards the center is bound to take time. The process is emerging.

Because the needs of the rural area are so great, residents focus their efforts on trying to fill those needs. Government is seen as just one source for this needs fulfillment and virtually everyone spoken with emphasized that the goals of good government at the district level are to satisfy the basic material needs of the residents. This is much the focus of local level politics in Ghana today, and it can be seen as nothing but a realistic and practical focus.

Given this focus, what people hope for from a change in governance is additional resources to meet those needs. It cannot be said, and was not claimed by anyone, that the positive changes in governance during the past several years (with the exception of some election year windfalls) have directly helped people solve the material problems that are their primary concern.

This is not to say, however, that the changes are not important and have not made a difference. On the contrary there was general enthusiasm with the district assembly form of government, and with the fact that there was more freedom of discourse. And if people continue to use their representatives to put pressure on the center, and if the legal framework is used as written, radical changes in the flow of resources may very well be expected. Again, however, significant patience is likely required.

As a final note, an anecdote from BAK District may serve to illustrate just how deeply the desire for devolution and decentralization has spread. When discussing the problems in their district, a group of assembly men noted that one basic problem was that the district was too large and disunited to be an effective governance unit. They advocated that it be split into two or possibly three parts; i.e. they were interested in further decentralization.

4. How close is Ghana to achieving consolidated democratic governance at the district level?

This question is perhaps best answered through a series of related questions which serve in a rough way to measure just how much autonomy local government units have.

Is the principle of subsidiarity followed? That is, is the lowest level of government able to solve a problem/provide a service, allowed to do so?

Yes and no. The district government's hands are to a great degree tied because of its financial and manpower constraints, which are directly related to the central government system. The great number of organizations that are involved in local problem solving, which work with one another and the government, are however providing significant services that were formerly the responsibility of the government. They then could be seen as governments and they do appear to have great discretion, and show not only a willingness to do what they can, but also an understanding of who to go to and who to ally with when a problem is too large. A system of subsidiarity could therefore be said to be evolving.

Do those most affected by a decision have the most discretion to participate in the process? At what points in the political process can the public make its views known to influence the policy-making process?

Again, a hedged answer is most accurate to both of these questions. Because of where and how government resources are controlled, district government's efforts are constrained. People do seem, however, to have embraced the district assembly process. They call on their representatives and hold them to task for their failures to deliver. Representatives state that they inform their constituents of the discussions of the assembly, and bring their issues in front of the assembly. It seems the mechanisms for participation are available; how well they are used cannot be definitively judged on the basis of this limited sample.

Do local governments have independent revenue generation?

Yes. For all of the reasons discussed throughout the body of this text however district revenues are currently inadequate for meeting all the objectives that people say they want to achieve.

Do local governments have constitutive autonomy?

Yes. And if the letter of the law is implemented that autonomy will be increased.

1. The legislation that will enable a national planning commission is reportedly being considered by Parliament. Its passage is intended to address these planning concerns.
2. This interpretation does represent progress as compared to only a few years ago when the district government was not understood to have even this level of control. Also, the current redesignation of the District Administrator to the District Coordinating Director represents an effort to coordinate the activities of all of the departments through the offices of the district government.
3. The partisan nature of this effort has been questioned, with significant resources reportedly directed to the districts very near to the time of elections. Nonetheless, the results as far as district residents are the same -- national resources are directed to their doors.

4. Admittedly the sample could hardly said to be either complete or scientific. Based on the goals of the activity, however, i.e. getting a sense for how decentralization and democratic governance were progressing and perceived at the district level, the two sites were more than adequate. In addition the experience of the field work for this study has benefitted greatly from the similar work conducted by Crook, Asibuo, and Fiadjoe, et.al.
5. Though people expressed awareness of the limits of government, these limits usually seemed to be associated with financial constraints as opposed to other perhaps more theoretical limits a central government has in regard to providing services to rural communities; e.g. those that are administrative and management related. This is not too surprising and it is likely that the lack of government presence is often explained as a shortage of money versus a philosophical preference for local instead central authority.
6. BAK District does have a five-year (1993-1998) plan that was developed with the assistance of the regional mobile planning unit. Ahanta West District has begun its planning process with a district profile.
7. Only 11 of the 22 departments that Law 207 mandated be decentralized were ever decentralized in BAK District; staff reportedly refused to relocate because of the lack of housing and offices. Neither of the district administrations visited seemed aware of the new provisions in Act 462 that called for consolidation of the 22 departments into 11.
8. In Ahanta West District, there was some discussion between the district administration and CIBA regarding having CIBA collect market tolls, for a percentage of the take. The DCE said he was possibly interested in this arrangement because he was dissatisfied with the revenue collection performance. He said, however, that nothing has come of this discussion and as of this date CIBA is not present in the district.

IV. CONCLUSIONS AND RECOMMENDATIONS

IV.A. ACCOMPLISHMENTS AND OPPORTUNITIES

The 1992 Constitution has established a sound enabling environment for democratic governance. Since it came into effect in 1993 virtually every major group of actors in the national scene has demonstrated commitment, in varying degrees, to playing by the rules of constitutional democracy. After initial confrontations which seemed to threaten the legitimacy and viability of the new democracy, both the government and the opposition have moved cautiously towards working within the system. A rambunctious press incessantly draws attention to the norms of public conduct appropriate in a democracy. Members of Parliament have proven to be fast learners and have surprised most observers who felt that a single-party dominated House could not seriously debate legislation or hold the executive accountable. Previously repressed civil society actors are developing ways to articulate their positions and transmit them to state actors. People everywhere say that the Constitution affords them protection from arbitrary exercise of state power (although not from the partisan use of state resources), and that they feel somewhat freer.

The consolidation of democratic governance, however, is not assured. Ghanaians themselves are acutely aware of the fragility of democratic gains made so far, as they look uneasily at the disorder in many African countries and at their own history of failed attempts to achieve a workable democratic system. The Constitution is a good first cut at designing a new system but some Ghanaians appear to regard it as an immutable document somewhat removed from political reality rather than as an iterative process for achieving the objective of a workable democratic system. Moreover, economic and political factors exist which could constrain further progress. Some of these factors are residues of the past, such as the memories of personal hardships and human rights abuses endured under the PNDC, and the resulting political culture of mistrust, heated rhetoric and unsubstantiated allegations. These are difficult to surmount. Other factors, such as the uncertainty surrounding the government's commitment to private sector growth, the slow pace of civil service reform, and the anomalous political situation created by the opposition boycott of parliamentary elections, are Fourth Republic issues. Yet other factors, such as the personalization of politics and winner-take-all attitudes based on the tradition of hierarchy and respect for authority that regards criticisms as disrespectful, are more deep-seated in the larger cultural milieu and may militate against the rapid consolidation of democratic governance.

The new Constitution has changed patterns of behavior, expectations and relationships between key actors. The changed patterns are not entirely new, since Ghanaians have chosen constitutional democracy on three different occasions since independence. Democratic norms are a persistent, if not a prevailing, feature of Ghanaian political culture, and are embodied in the attitudes and practices of some social actors, especially those in the churches, in key professional associations (GBA, GJA) and interest groups (TUC, GNAT, NUGS) in civil society. At the same time, practices deeply rooted in Ghanaian culture continue to influence patterns of behavior, expectations and relationships. These include, for example, notions of group obligation and accountability, especially to family, lineage and home communities, respect

for authority and hierarchy exercised within accepted norms, and patron-client relations which obligate patrons to accommodate the needs of clients in return for their support. While some of these practices may be incompatible with democratic norms, and may militate against their rapid consolidation, others can be combined with democratic norms to make them relevant and practical in the underlying sociocultural context of Ghanaian politics. Finally, the vestiges of authoritarian rule that Ghana has experienced during most of its post-independence history also continue to influence patterns of social, economic and political relationships. These vestiges, reflected in top-down organization of state-society relations, are supported by some state and civil society actors and have usually prevailed over the weakly institutionalized but persistent democratic norms.

Contemporary Ghanaian political culture, then, can be said to feature three sets of rules: those embodying democratic norms; those embodying cultural norms; and those embodying authoritarian norms. These three sets of rules co-exist, but uneasily, and account for many of the current ambiguities in the exercise of executive power under the new constitution and the constraints on the rapid consolidation of democracy in the country. Successful consolidation of democratic governance will depend on the extent to which the tensions inherent in these competing sets of rules are resolved through a process of deliberation and negotiation in many fora followed by executive decision and enforcement. Such a process, to the extent that it serves as a learning mechanism for social actors in the art of reasoned debate, will itself prove beneficial to the consolidation of democratic norms in Ghana.

To sustain this continuous process of deliberation and negotiation, several interrelated conditions, which exist intermittently in Ghana today, need to be sustained. First, more information from government and independent sources is essential for all social actors to acquire solid facts and a common knowledge base from which to articulate policy positions and engage in reasoned public debate. Availability of information alone is not enough, however. Social actors must be able to analyze the available information and transform it into practical and usable knowledge and policies. Therefore, second, key social actors occupying strategic positions in both state and in civil society must develop as institutions. To develop their capacity, the relevant organizations and institutions, especially those that involve democratic governance functions and those that link state and society, must secure appropriate resources (physical, human, technological, financial) and management techniques to ensure transparency, accountability and responsiveness, as well as efficiency. Finally, since democratic governance depends ultimately on the exercise of authority disciplined by democratic norms, the freedom to bring sensitive issues to public debate or court decision without negative personal or financial repercussions - the process that Bediako calls "the legitimation of dissent" - must be preserved and nurtured.

Civic education also buttresses institutional change. Social actors' engagement in establishing democratic governance depends on their understanding of and commitment to the relevant norms. Where democratic norms are not widely understood, and especially where competing norms exercise a strong influence, change is unlikely to develop quickly, although strengthening the democratic norms through the constitutional changes to the institutional framework will serve to modify the impact of the competing norms. In Italy, for example, where regional

governments were given autonomy in 1976, by 1990 the regional governments that were doing best in terms of responsiveness and accountability were those with a long history of vibrant civil society. Those that were doing least well were those with a history of hierarchical, patron-client relations. However, just changing the structure of government improved governance in all regions (Putnam, 1993).

As Section III of this report details, the Fourth Republic Constitution has changed the political game in Ghana. Even though the new democratic norms are weakly understood and competing rules for conducting public affairs persist in the country, there are important groups of Ghanaian political actors in both state and civil society who are familiar with democratic norms and practice, are expressly unwilling to return to the repressive environment of authoritarian rule, and have shown both ability and willingness to play by the democratic rules. It is on their shoulders that the hopes for consolidating democratic governance in Ghana rest.

In the final analysis, the donors must be realistic about their ability to influence events: on the one hand, they should not underestimate their leverage and the number of opportunities to assist in large and small ways that are appropriate for outsiders, but, on the other, it seems clear from the experiences of other countries that internal political considerations are ultimately more important to political actors than donor pressures. Donors must be clear in their own minds what is acceptable during a democratic transition and when the political scene has become a travesty of democracy, and hope that events will not force them to suspend aid. A number of the Ghanaians interviewed, when asked what they felt was an appropriate role for the donors, asked for a consistent and principled stand in favor of democratic practices, giving Ghanaians the benefit of their experience and available information and giving the government feedback of both praise and criticism. Objective criteria, such as the democratic discipline data points, can help donors to avoid being trapped by an agenda and set of criteria dominated by the government's sensitivities.

IV.B. THE SHORT TERM: CREATING A LEVEL PLAYING FIELD FOR POLITICAL CONTESTATION IN 1996

The team unanimously agrees with the USAID Mission's desire to support the production of a new electoral register for the 1996 elections. In interviews we heard over and over about the collapse of trust in the election process and the need to rebuild procedures that are seen to be as nearly tamper-proof as possible. The team endorses the Mission's approach of laying emphasis on the training and public awareness activities necessary to complement the technical aspects of producing a new electoral register. We would underline that the participation of opposition parties at all important decision points is critical to the public acceptance of the Electoral Commission's work. We would warn that keeping to the timetable is vital, because if the opposition parties do not feel that they have an adequate opportunity to inspect the new, and then the corrected versions, of the registers, they will not consider the process legitimate. We advise that a contingency plan for dealing with slippages from the timetable be agreed upon by all parties, in the event that delays occur.

IV.C. THE LONGER TERM: PROMOTING THE FOUR PROCESSES OF DEMOCRATIC CONSOLIDATION

IV.C.1. Completing the Transition to Democratic Ground Rules

The Mission's plans to support the National Electoral Commission and the new electoral registration process mean that the bulk of USAID funding is going to a project under this component. USAID could conceivably do a lot more with various state agencies, but it would seem more balanced for USAID to concentrate its other financial resources on civil society and linkage institutions.

The above statement by no means lets the US country team off the hook. As this report has shown repeatedly, two of the biggest obstacles to democratic consolidation are undemocratic attitudes of various kinds and the general low level of trust in political processes. The US country team should be asking itself continuously what its opportunities are for showing consistent adherence to democratic principles, explaining the long-term utility of democratic processes and good governance re economic development, and finding occasions for dialogue between political and civil society actors on current issues. USAID project directors should ensure that the government agencies they work with (particularly the Ministries of Health and Education) are making progress in budgeting and expenditure control, publication of information, responsiveness to civil society experts and pressure groups, etc. USAID staff should be careful to see that contracting procedures for consultants, as well as other goods and services, are carried out publicly and competitively.

Supporting the consolidation of democratic governance is likely to attract more public attention and initial controversy than other sorts of USAID work. Public acceptance of assistance in this area is, therefore, critical. Specific projects that respond to the problems that Ghanaians see with consolidation are likely to be welcomed more warmly than the overall notion of American help for democratization. Ghanaians need to know that American support for democratic governance is being offered, not just to Ghana, but to a number of countries making a democratic transition, and that the support is not to fund replications of the American model but to help countries strengthen their own systems in line with general democratic principles. More specifically, criteria that USAID should use to determine what activities are appropriate to fund include:

- * Support should be non-partisan, and perceived by Ghanaians to be so. So long as the institutions are independent, activities should strengthen institutions that are fundamental to the constitution and that will not change their operations with a change of the party in office.
- * Support should be for activities that both the U.S. and Ghanaians consider important. U.S. support for democratic governance will be publicly debated. If it is not to be perceived as imposing an American model, it must respond to Ghanaian priorities.

- * There are transition costs associated with moving to constitutional government. These are particularly appropriate for external support, but the support should be nuts-and-bolts-- seminars, support for publications, training and equipment--to avoid insinuations that the U.S. is trying to influence content.
- * The implementation of US AID governance activities should be transparent. It may make sense to set up an advisory board that includes Ghanaians.
- * Ghanaian progress in consolidating democratic governance may not be smooth. Support for skills and institutions that will preserve "political space" and a sense of how things should be done in a democratic system builds enduring human capital.
- * Building bridges between groups and providing fora where rules of moderate discussion are in use can help to build horizontal links. This is an important activity and appropriate for outsiders up to a point. The danger is in making too many suggestions or proposals for solutions. Ghanaians must negotiate their own next-steps and solutions, and build confidence in their ability to cooperate and find solutions.
- * Information that is generally accepted as accurate is vital to informed, moderate policy discussions between Ghanaians. Assistance in key areas could be a governance activity. US AID activities in other areas than governance could also contribute to the production and dissemination of information by the organizations they support.
- * Overall, governance activities should be balanced, with some support for the executive, some for linkage institutions--courts, parliaments, commissions, press--and some for civil society groups, especially the associations that expand "political space." It is important that government activities support a spectrum of groups and processes and not be perceived as either for or against the government.

Ideally, the US and other donors should agree on criteria for measuring better governance and more democratic practices. The data points for the democratic disciplines could be a starting point. The six dimensions of democratic disciplines suggest what needs to be done by the government, civil society and linkage institutions and the donors.

The disciplines of Constitutional Limits and the Rule of Law are embodied in the 1992 Constitution and in the enabling legal framework that is being continually modified to accommodate the mandates of the new Constitution. The Executive (particularly the Attorney-General's Office), and the Judiciary are the principal governance institutions responsible for enforcing these two disciplines.

There does not seem to be any need for donor financial support for constitutional test cases, but moral support to bring about a general acceptance that constitutions need continuous refining and interpretation, and that those who bring test cases are serving the needs of a democratic system is very definitely needed.

Human rights groups, legal aid and legal awareness efforts, and civic education efforts all need support for specific activities. The groups supported should meet the criteria of being non-partisan and tolerant of opposing viewpoints. If they exemplify democratic values in their internal procedures, so much the better.

The court system needs a tremendous amount of financial support from the donor community, but first the legal community must agree on a workable court system and the Attorney-General's Office must bring the body of law into conformity with the constitution and devise a sustainable system for keeping the judiciary staff up to date with changes in the law. Donor support for bringing the Law Reviews up to date, for new and existing Ghanaian law journals, for bringing in law journals and books from other countries, and for seminars on current legal issues need not wait. Training for the police and the military in human and civil rights and in the implications of constitutional rule should also be supported if help is requested.

The discipline of Legislative Deliberation involves Parliament, the Executive and non-governmental interest groups. It is enforced primarily through Parliament, although the constitutionally-mandated participation of cabinet ministers in Parliament allows executive involvement in the deliberative process and also permits Parliament to subject the executive branch to the discipline of legislative scrutiny.

Parliament as an institution could use financial support for the staff and equipment serving parliamentary committees and producing Hansard. However, the question of the financial independence of parliament and the national commissions should be cleared up first, as should the creation of independent service commissions for their staffs; at the moment, neither Parliament nor the commissions are truly independent of the executive branch. Support for independent analysis of government bills would be useful now, as would seminars on matters before Parliament and training for Mps. Books, journals and magazine subscriptions for the parliamentary library could come from all the donors.

The discipline of Popular Limits is embodied in and enforced through the political parties and the electoral system.

USAID's major effort through the NEC has been discussed. Support for efforts to teach all the political parties how to organize and finance themselves could help to develop the political parties with genuine popular support over the long term.

The disciplines of an Open Public Realm and Local Autonomy are embodied in the 1992 Constitution, which guarantees the basic rights and freedoms of

Ghanaian citizens to engage in the conduct of public affairs, access government institutions to promote their interests, and establish arenas of self-governance.

The recommendations for the specific civil society groups and linkage institutions that the team focussed on were discussed within each section and are broadly summarized below. The team urges the Mission to support in general discussions between all sorts of groups on democracy and governance issues and to help independent and non-partisan networks of groups to develop. The US country team should take very seriously any attempts to limit freedom of association or free speech by either overt or covert (e.g., financial discrimination) means. A base-line survey of attitudes, practices and skills in civil society groups might be an early activity against which to measure the effectiveness of the strategy that the team recommends for civil society in general: that USAID support activities that encourage democratic practices and better governance proposed by a wide group of organizations rather than building capacity in a smaller group.

Decentralization and civil service reform efforts are being led by other donors, primarily ODA. The team does not recommend that USAID get heavily involved, particularly since the executive is still in the process of formulating a civil service reform strategy and does not now have a coherent decentralization strategy. Again, USAID projects that involve Ministries should be consciously progressive about increasing good governance practices and helping with both decentralization and civil service reforms as they are implemented. Local groups with good ideas for self-governance activities should be considered for funding as with other civil society groups.

IV.C.2. Building a Democratic Civil Society and Political Culture and Developing Linkage Institutions

Although the report concentrates on the civil society actors who have played major roles in the past, it is important to remember that other groups can play important roles; environmental groups, local networks of development associations and groups of informal economy actors in particular could become increasingly important. The report has not looked at all at the role that chiefs and queen mothers play, except in the districts we visited; this is not to deny their importance or the need for USAID to consider funding for activities they might initiate.

Civic education as a major activity that USAID would want to support under a Democracy and Governance project illustrates best the recommended strategy of funding not institutions but good, feasible proposals. There is a multiplicity of organizations that could be useful vehicles for disseminating civic education: churches and Muslim groups, women's groups, trade unions, schools and student groups, the GBA and other legal and human rights groups, plus all sorts of groups that have an interest in specific aspects of constitutional rule: business groups, environmental groups, local development groups, etc. The team recommends that the major activity under a Democracy and Governance project be setting up a fund and a structure to deal with small and specific requests from civil society and linkage groups for projects to enhance civic participation in the political process broadly defined. The team realizes that this would create a management-intensive project but sees no alternative that is likely to result in a

responsive way to nurture democratic values in a rapidly changing political context that will continuously throw up small but important opportunities. The team strongly recommends against choosing institutions to favor on the grounds that this is often detrimental to the development of the institutions themselves and can allow USAID to lose focus on the most immediate needs as the democratic transition moves along.

There are a few specific recommendations for specific institutions that fall outside this framework. AALC assistance to the TUC should be restored to earlier levels to allow the TUC to carry out its education programs more effectively. The universities in general need support for their libraries and their communications systems; academics and students cannot be effective analysts of domestic policies and events if they are not in touch with the work of their colleagues at other local universities and in other countries.

Newspapers and journalists need support because the independent press in Ghana must improve if it is to play its role as an independent watchdog on both government and civil society activities. The newspapers (with the partial exception of *The Ghanaian Chronicle* and *The Statesman*) are long on columns and allegations and short on facts and good investigative journalism. This is not to suggest that they are in any need of regulation; what they need is training for working journalists, support for journalism courses, more international magazines and newspapers in public libraries, prizes for good investigative journalism, better distribution systems away from the main cities, and a clarification through the courts of what is and is not libellous reporting. The donors can supply some of these needs over time. Since television and radio are increasingly accessible, the donors should make sure that independent radio and television stations are established with sensible regulations; USAID might support FCC exchanges of information with the Media Commission.

Democracy is hard work. The 1992 Constitution is right to call on all Ghanaian citizens to take part in implementing it. The transition process requires courage and good judgement, mostly from Ghanaians but also from donors. Establishing democracy is an iterative process: Ghanaians and other can look at the changes in relationships and behavior and judge whether they meet the original objectives. If they do not, then people need to agree on what further actions might help - from amending the constitution to enforcing laws to education in democratic values. The themes of our recommendations are more information, more dialogue (some of it based on the increased information), stronger civil society and linkage institutions to carry out the dialogue, and enforcement of the democratic rights and limits to authority laid out in the Constitution and the body of Ghanaian law. These call for a different kind of USAID project, needing clear criteria for what kinds of activities to support but a lot of latitude to choose between organizations in order to be more responsive to changing circumstances and less dependent on picking a major stakeholder as a vehicle. Donors can only influence democratic transitions at the margins, but marginal differences can be critical.

APPENDIX I

GOVERNANCE-RELATED DONOR ACTIVITIES

There is considerable interest, and a wide range of involvement among bilateral and multilateral donors in assisting Ghana to consolidate its democratic gains and to improve its governance performance. USAID, with its new emphasis on aid to democratic governance will be a leader in this context, but it will also be important to develop as broad participation and agreement as possible among donors on specific, potentially politically sensitive activities.

MULTILATERAL DONORS

The World Bank

The World Bank is putting few resources into democracy and governance activities; if a narrow definition is used, almost nothing. It is likely to continue support for public service reform with the next structural adjustment credit, an effort it has been undertaking with ODA for the last four or five years. As reported in the press, the World Bank is concerned with the size of the public service, and this is an issue to be addressed early in the next structural adjustment credit.

Its current emphasis is on how to make management of parts of the public service more accountable by structuring these parts as stand-alone units. They may or may not be formally hived off. Some existing legislation allows such structures, eg, the Hospital Board Act provides the legal structure for hospitals to become self-governing trusts.

The World Bank is helping a little with the development of an FM radio system. Although GBC transmissions can reach about 70% of the population, its broadcasts in any one local language are so short and fragmented that it is unlikely to be listened to as a daily source of information.

United Nations Development Program (UNDP)

UNDP's new cycle of funding will focus on three areas: 1) capacity building and development management - see below; 2) the private sector and science and technology--not yet fully underway; and 3) poverty alleviation and participatory development--still in the design stage and waiting for the two imminent World Bank reports on poverty alleviation.

Although UNDP did provide support for the production of the new Constitution, it is not now doing or planning to do anything directly related to governance. However, in conjunction with the World Bank, it is helping the Ghanaian government to realize the accelerated growth objectives outlined in the 1993 World Bank report, "Ghana 2000 and Beyond: Setting the Stage for Accelerated Growth and Poverty Reduction" by supporting the preparation of a national action program. A mission on capacity building is spending five weeks in Ghana. The initial debriefing will take place the week of December 12, a proposed framework for the national

action program is expected in January 1994, and a workshop to discuss what should be done is planned for March. The team includes international and Ghanaian consultants and key Ghanaian institutions. The steering committee includes a representative from USAID.

The action program resulting from the capacity-building study and the March workshop will suggest appropriate roles and strategies for the private sector, donors and NGOs as well as the government. The action plan/framework is geared to economic growth rather than democratic consolidation, but it seems likely that issues of accountability, transparency and responsiveness will creep in. Some senior Ghanaian civil servants have high expectations for the framework that should emerge from the March workshop to catalyze the formulation of clear objectives and action plans in the public and private sectors.

The request for the capacity-building study came from the government. UNDP sees the action plan/framework as a useful tool for donors and government. For example, a number of donors are providing support for the private sector. UNDP hopes that its work will identify gaps in the ability of the private sector to become the "engine of growth" that will prompt a strategic response from the donors. Similarly, the National Planning Commission should be fully operational in 1994; in the meantime, the framework should help to guide the government towards the objectives of "Ghana 2000."

At the district level UNDP is looking at the capacity needed to support decentralized district administration, with the realization that this is a long-term process that will require legal reforms and a better planning capacity. According to Mrs Alaki, the government approached the donors for support for fiscal decentralization, and was told, in essence, that the accounting capability of the districts would have to be built up before external support made sense. The government has now gone ahead on its own with the Common Fund for the districts. The Capacity-Building will not produce a baseline study but should result in a framework and pointers for further investigation.

UNDP is, in line with its worldwide policy, planning to gradually shift the responsibility for execution of its national-level activities from implementation by UN agencies to implementation by national entities. The Ghanaian government has agreed in principle, and the shift should begin next year. UNDP sees in this a link to capacity-building: there will be training in how to be responsible for UN funds.

UNDP is also supporting decentralization, principally by working with the District Assemblies on water and sanitation. There is also one large project on women which is being implemented through the regional governments. UNDP has been working with the Water and Sewerage Corporation, DANNIDA and CIDA to generate a proposal to the Ministry of Works and Supply and the Ministry of Finance for ministerial and parliamentary approval for a new unit in the Ministry of Works and a direct funding mechanism for the District Assemblies. The funding would be used for district and community-generated projects.

European Community (EC)

Since the 1991 resolution of the European Council on Democracy and Human Rights, and the subsequent creation of the Democracy and Human Rights Fund (funded until now at 10 million ecus per year), the EC has been responding to opportunities to support human rights and governance reforms in Africa. It does so principally through requests for funding through the Fund. It also incorporates some governance training into its sectoral projects.

The principal activity of the EC in Ghana at present is a proposal to support the National Commission on Civic Education (NCCE), in cooperation with the Danish Embassy and the Danish Commission on Human Rights. It will provide technical assistance to NCCE to develop a specific proposal in January and then move to financing a modest effort involving publicizing legal and political rights, conducting a few studies, and doing some minor capacity building. It intends to assist the NCCE to publish a series of booklets on "You and the Police," "You and the Constitution," "Your Human Rights," etc.

It has considered working with the Human Rights Commission but considers it very embryonic at present. In general the attitude of the EC delegate is that there are few if any "civic society" institutions capable of coming up with well reasoned and planned proposals, reflecting the very weak capability of the NGOs in this area. He is concerned that the NCCE not be overloaded with too much donor attention and support all at once. The EC delegate is much more concerned about this than about the relationship between the NCCE and the NDC.

Other EC activities of interest are the parliament where it may attempt to build up some capability for research and analysis, and helping develop administrative capability in local government, related to the EC's micro projects program in Brong Ahafo and the Western Region. The parliamentary support project will probably be done through European Political NGOs (like the German Party Foundations, or the Westminster Fund in UK).

The micro project program will indirectly support decentralization by working with District level auditors and public works activities. The micro project program, which operates through the Ministry of Finance, will be funded at 7 million ecus for the next year and is expected to start up in the second quarter of 1994.

BILATERAL DONORS

Canada

The Canadians have a fairly large overall program in Ghana, focused mainly on local-level develop in water, agriculture and intermediate technology transfer, mainly in the North. They do, however, have a strong interest in good governance and human rights.

Canada contributed about \$ 1 million to the electoral effort in 1992 and worked closely with the Commonwealth on this. It offered the government of Ghana an additional \$1 million for further

work on democratic consolidation but had no response from government. It has effectively "taken this \$1 million off the table." Instead, is focusing on two kinds of activities. At the national level, at the request of the Ghanaian government, it is undertaking a "pilot project" which will provide training on budgetary processes to members of the Finance Committee of Parliament, and to people in units of the Ministry of Finance and Economic Development. It is possible that this training will be made available as well to people from the Bank of Ghana and people from the Ministry of Trade and Industry. This is an 18 month small pilot project (approximate \$400,000 LOP) which "parks" money to be used in a very flexible manner, depending on opportunities. The project will be implemented by a Canadian consulting firm (E.T. Jackson) which is establishing a network of Canadian institutions with some training capacity in this area.

The second Canadian CIDA initiative is in decentralization where CIDA is working with local government to promote enhanced management for planning, financing and implementing water projects. The project is a \$30 million activity to fund water system upgrading and new installations in 44 communities in the north, supposedly over a 3 to five year period. In the course of conducting this activity, CIDA hopes to enhance local participation through the establishment of local Sanitation, Water and Development Boards, and to improve local financial management through technical assistance. Because communities must come up with a substantial percentage of the total cost of the project prior to the beginning of Canadian involvement, the project is going very slowly. But some communities have found innovative ways to finance their share, borrowing in some cases from District Assemblies. Hence the project has begun to work with District Assemblies rather inadvertently.

Denmark

The Danes were very interested in electoral reform and support for a new electoral register, but delay in being able to field a technical assistance team has caused them to drop their efforts in this area.

France

The French Embassy has no governance or democracy promotion program for Ghana and has no plans to develop one. It undertakes activities of this nature only in French speaking areas of Africa where its assistance is much more important. Following Mitterand's pro-democratic pronouncements at La Baule three years ago, the prevailing French concept of political evolution for Africa has shifted to stress stability and putting into place some checks on abuses of executive power through legal regimes (what the French call an Etat de Droit). This notion does not extend to promotion of democracy per se, which current French governmental officials believe to be generally unlikely to take root in Africa at present.

Germany

The German position on promotion of democracy in Ghana is that German will respond to

specific requests and is interested in doing so, but had no such requests since the 1992 elections. The Embassy generally doubts the value of an ID card system in dealing with the political difficulties which surround elections. Not only do they prefer an approach which deals with the broader electoral process, including the training of polling workers, as they did during the 1992 campaign working closely with Afori-Gyan and the National Electoral Commission. The Germans, moreover, are dubious that given the problem of multiple identities of so many Ghanaians they think the ID system unlikely to be successful in the short run. A true ID system would have to begin with new-borns and would take many years to fully develop. Upcoming elections should not be predicated of the effectiveness of such a hastily done card system.

Given this attitude, it does not seem likely that the Germans would be willing to be a significant contributor to an ID card plan. Deputy Ambassador Sonn suggested that in the near term he could probably get something on the order to half a million DM per year for work on electoral reform.

United Kingdom (UK)--Overseas Development Agency (ODA)

ODA has undertaken a number of activities in the area of governance broadly defined. It has been very much involved in civil service and financial systems reform. Its 5-year civil service reform project ended in September and is considered partially successful. The main components were training, design of a performance appraisal system and decompression of salary scales, and technical assistance to the Manpower Services Division on job descriptions, evaluations and ceilings. The next activities are intended to be training, and financial management technical assistance for restructuring the budget. There has been also an adviser in the Accountant-General's Office and technical assistance for integrating the public service payroll and personnel systems.

There was a meeting in September of the government and the donors interested in public service reform to ask what the government wanted to do next. The government has not yet responded, and the appointment a few weeks ago of a new Head of the Civil Service, who has not yet taken up his post, may mean that it will take some time for him to prepare a response.

The British have responded to the change to constitutional government by organizing study tours, eg, sending the Clerk of Parliament to the UK. Four members of Parliament's Finance Committee may go to the UK. ODA is thinking of organizing a training seminar on parliamentary reporting for journalists.

They also have a small fund for one-off items. The desk-top publishing equipment to help Hansard to be produced on time should arrive in a few weeks. Books on accounting have gone to the Institute for Professional Studies, and some books will go to Parliament. They may do something with the Commission on Human Rights, but have the sense that the Commission on Civic Education is not yet fully organized and is receiving significant funding from the EC. They have offered to fund the printing of the Code of Ethics for Journalists drawn up by the Ghana Journalists Association. This fund is not intended to support NGO activities, and ODA

is reluctant to fund vehicles, computers and photocopiers in spite of many requests. ODA's sense, as a donor, is that the good ideas/activities for consolidating democracy are being funded by the donor community as they emerge, and it is somewhat difficult for ODA to find enough good funding opportunities.

ODA commissioned a study of the judicial system two years ago. So far, they have funded the printing of the law reports, and will probably fund book purchases. As in several other areas where ODA has expressed interest, development of funding activities is not progressing quickly because the government is not responding quickly.

APPENDIX II

PERSONS INTERVIEWED (Accra, Takoradi, Kumasi)

Abaka, Charlotte, Dr., owner, ENEC Dental Clinic, Kumasi, CIDAW committee member, ex-director N.C.W.D.

Abrampah, Monsignor Robert Mensah, Vicar General, Sunyani Diocese

Abbey, Joe, Economic Adviser, Ambassador to the United States

Abu, Frank, Regional Minister, Western Region

Acquah-Hayford, Martha, Acting Sub-Editor, Hansard

Adam, Maulvi A. Wahab, Ameer and Missionary-in-charge, Ahmadiyya Muslim Mission

Adamako-Ampufo, Ms. Akousa, Institute of African Studies, Legon

Adarkwa, Simon Yaw, DCD, BAK District

Adarkwah, Phillip Kofi, NPP, BAK District

Addison, J.A., Multiwall Paper Sacks, President, Association of Ghana Industries (AGI)

Addison, Mr. J.K., personal assistant to the Managing Director, Multiwall Paper Sacks (WA) Ltd., Takoradi

Addo, Nana Akuffo, lawyer, Chairman GBA Accra branch

Adedeme, Samuel Kwesi, businessman

Adjei, Charles, Managing Director, Karlpatrick (Gh) Ltd.

Adjei, Kweku, Deputy Director, National Commission on Civic Education, Western Region

Adjorlolo, Rev. Jerry E.K., Assemblies of God, Ghana

Adusei-Akwaboa, Mr., NEC, BAK District

Adu Boahene, Prof. Albert, National Patriotic Party (NPP)

Afari-Gyan, Dr. K., Chairman, Electoral Commission

Agama, John, Acting Assistant Editor, Hansard

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Akoto-Sasu, Chief Director, Ministry of Parliamentary Affairs

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Ala Adjetey, Peter, New Patriotic Party

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Appiah, Halima Mahama, businesswoman

Appiah, Dr Kweku, National Planning Commission

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Attoh, Kofi (NDC, MP)

Baako, Kweku, Journalist, **THE GUIDE**

Bahal, Jack, World Bank

Baiden, Mrs. Georgina, businesswoman, ex-GNAT president

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Poku II, Barima Adu Gyamfi, Kuntanasehene, Chief, Businessman

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* based on notes taken by Robert Charlick in interviews conducted in August 1993.

APPENDIX III
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