Beyond Transition: Democracy and the Development of Civil Society in Ghana

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BEYOND TRANSITION:

DEMOCRACY AND THE DEVELOPMENT OF CIVIL SOCIETY IN GHANA

by

JOSEPHINE J.DAWUNI

Under the Direction of Carrie Manning

ABSTRACT

This research examines the impact of formal democracy on the construction of an
effective civil society in Ghana. The theoretical and policy role of civil society has received a
great deal of attention in the literature. Especially for democratization theorists, the focus has
been on the democracy enhancing qualities of civil society—qualities often credited with playing
key roles in democratic transitions in Africa. However, the question of what happens to civil
society *after* a democratic transition has not received much attention in the literature. Using a
historical institutionalist approach, the study examines how democratic institutions and
institutional arrangements affect the development of civil society.

After Ghana's return to formal democracy in 1992, democratic openings, though not
immediately transformative, created an expansion in civil liberties and political rights necessary
for the emergence of civil society. Paradoxically, state institutions remained weak and it was

such weakness—not the strength, as some of the literature suggests, that allowed civil society to develop. Within the legislative and bureaucratic arenas, persistent institutional weakness became an opportunity for civil society to mobilize resources from foreign donors to strengthen the capacity of state institutions. Through programs aimed at enhancing the capacity of state institutions, foreign donors played a critical role in framing the relationship between civil society and the state.

A major finding from this research is the symbiotic relationship between civil society and the state. As the case of Ghana demonstrates, where the state provides opportunities for civil society to develop, an effective civil society in turn contributes to building the democratic state. Findings from this research provide theoretical implications for the literature on civil society and democracy by highlighting the role of democratic institutions in strengthening civil society.

INDEX WORDS: Civil society, Democracy, Democratic institutions, Political opportunity structures

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DEDICATION

This dissertation is dedicated in loving memory of all who have passed on to glory; my mother Reverend Mercy Ngala. My sister Bernice. My brother Dennis. My grandmother Maayi who, despite being illiterate, took the value of education seriously and made sure I never missed one day at school.

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The rich educational experience from Georgia State University (GSU) has contributed to my academic success. I am grateful to the Political Science department for providing me with financial assistantship that helped me focus on pursuing academic excellence. To my excellent

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LIST OF ABBREVIATIONS

AWLA	Africa Women Lawyers Association
CCG	Christian Council of Ghana
CDD	Center for Democratic Development
CEDEP	Center for the Development of People
CENSUDI	Center for Sustainable Development Initiatives
CMA	Christian Mothers Association
CSRC	Civil Society Resource Center
CSO	Civil Society Organization
CSI	Civil Society Index
DANIDA	Danish International Development Agency
DFID	Department for International Development
DoW	Department of Women
DOVVSU	Domestic Violence and Victim Support Unit
DVA	Domestic Violence Act
DVC	Domestic Violence Coalition
FIDA	Federation of Women Lawyers
GAWU	General Agricultural Workers Union
GBC	Ghana Broadcasting Corporation
GBA	Ghana Bar Association
GPRS	Growth and Poverty Reduction Strategy
GRAP	Ghana Research and Advocacy Program
IEA	Institute of Economic Affairs
IDEG	Institute for Democratic Governance
MESW	Ministry of Employment and Social Welfare
MOWAC	Ministry of Women and Children's Affairs
MP	Member of Parliament
NCCE	National Commission for Civic Education
NCGW	National Council on Ghana Women
NCRC	National Constitutional Review Coalition
NCWD	National Commission for Women and Development
NDC	National Democratic Congress
NDI	National Democratic Institute
NETRIGHT	Network for Women's Rights in Ghana
NEC	National Electoral Commission
NGO	Non-governmental Organization
NMC	National Media Commission
PNDC	Provisional National Defence Council
POS	Political Opportunity Structure
ROI	Right of Information
RTIC	Right to Information Coalition
SAP	Structural Adjustment Program
SERNAM	Servicio Nacional de Mujer
SWM	State Women's Machinery
TUC	Trades Union Congress

USAID	United States Agency for International Development
WIB	Women in Broadcasting
WILDAF	Women in Law and Development in Africa
WISE	Women's Initiative for Self Empowerment
WOMEC	Women Media and Change

CHAPTER 1

INTRODUCTION

The concept of civil society continues to occupy an important place in the literature on democratization. Civil society has been a crucial determinant in the return to democracy in many parts of East and Central Europe, Asia, Latin America and Africa. These transitions were often set in motion by civil society demands for political liberalization through protests and demonstrations calling for an end to human rights violations. The transition phase also witnessed an important role played by civil society in contributing to the drafting of new constitutions, monitoring elections and encouraging citizen participation in the democratic process.

Important research questions have been addressed, which have sought to settle definitional quandaries of what constitutes civil society (Heinrich, 2005), the functions and role of civil society in a democracy (Diamond 1996; Haberson et al. 1994) as well as the impact of civil society on policymaking in a democracy (Robinson 2005). Common to these studies is the contribution of civil society to democracy and the democratization processes.

If a strong civil society is important for democracy and democratization, then it is necessary to examine what factors contribute to the construction of an effective civil society. That is the goal of this study. Understanding the factors that lead to an effective civil society is therefore the first step. By examining the institutional mechanisms and processes created by the changing political context, this study evaluates changes in civil society organizations (CSOs) as an indicator of changes in the civil society sector as a whole. Given that civil society consists of organizations, one plausible argument we can make is that the development of civil society organizations demonstrates a development in the civil society sector.

This research contributes to the existing literature on democracy and civil society by reversing the causal chain. Whereas previous studies have focused on the impact of civil society on democratization, here the causal chain to be observed is reversed--by looking at democracy's impact on civil society development. Another contribution this study makes to the existing literature is by focusing on the impact of democratic institutional arrangements on the development of civil society.

The research question is; *has formal democracy led to the construction of an effective civil society in Ghana?*, where formal democracy is defined as the holding of competitive multiparty elections. Formal democracy further denotes freedoms allowing citizens to seek alternative sources of information, the right of citizens to enforce freedoms such as freedoms of association and assembly, and most importantly for purposes of this study, the right of citizens to form and join autonomous organizations (Dahl 1971).

Focusing on changes in formal democratic institutional structures and arrangements, we conceptualize formal democratic openings as a contested site, which can both expand and limit the opportunities for civil society development. This allows us to examine the relative openness or closure of institutionalized arenas and establish clear causal mechanisms by which institutional processes can expand the opportunities while limiting the challenges for civil society development.

This study adopts the definition posited by Linz and Stepan (1996:17) where they define civil society as:

> "that arena of the polity where self-organizing and relatively autonomous groups, movements, and individuals attempt to articulate values, to create associations and solidarities, and to advance their interests. Civil society can include manifold social movements (e.g., women's groups, neighborhood associations, religious groupings, and intellectual organizations)."

This definition is appropriate for this study for a couple of reasons. First, the identification of *"relatively autonomous groups"*, points to the idea that groups and movements within civil society, even in the best of democracies are relatively autonomous within the state. While autonomy is central to the survival and functioning of civil society, legal frameworks such as registration of organizations, though well intended, could rob some groups of their autonomy. Therefore, by relative autonomy, this study indicates the autonomy of organizations subject to reasonable legal norms such as registration. Second, the emphasis on "manifold social movements" implies a broad range of groups to which the term civil society could apply. In this study, civil society consists of voluntary organizations, and the words civil society and non-governmental organizations are used interchangeably.

The dependent variable is operationalized as changes in the numbers, goals, strategies, tactics and outcomes of civil society organizations since 1992 when Ghana transitioned to formal democracy after seventeen years of military dictatorship. An examination of the expected changes in the numbers, goals, strategies and outcomes allows us to combine the strengths and weaknesses in each indicator. The independent variables, which are drawn from existing studies on civil society, focus on examining the impact of changing political opportunity structures (McAdam 1996), the presence of institutional safeguards (Hadenius and Uggla 1996), and the availability of resources (Hearn 1999).

Using an institutionalist approach, this study examines the impact of three democratic institutional structures-- legislature, bureaucracy and the legal/constitutional arena on the strategies, tactics and outcomes of civil society. What opportunities and challenges did each of these present to civil society after the introduction of democracy in 1992? To what extent did these opportunities and challenges affect the strategies and tactics used by CSOs in reaching their

goals? What were the impacts of the interactions between civil society and these institutional arrangements? These are some of the questions addressed in this study, with the goal of clearly mapping out how democratic institutions affect civil society outcomes.

For purposes of this study, an effective civil society is defined based on three key dimensions. First, an effective civil society is an important development stakeholder on national issues and second, an effective civil society is able to shape state policies towards the civil society sector. Third, through the pursuit of the goals and agendas of its constituent organizations, an effective civil society expands citizenship rights such as the delivery of socio-economic needs and encourages citizen participation in the democratic processes. These three dimensions are explored in Chapter 2, which provides the general outcomes and observed changes on our dependent variable.

In Ghana, formal democratic openings created the initial opportunities for CSOs. This study finds that such openings in turn led to the opening up of state institutional structures and the provision of different opportunities for CSOs. And this is where the role of donors become central, as democracy creates the space and civil society begins to grow, donors are able to use these organizations to promote their good governance agendas of prompting transparency and accountability. Donor demands for closer collaboration between the state and society in turn create an expansion in the avenues for civil society to work with state institutions and to engage in important national development programs.

A significant finding from this research is this feedback loop between formal democratic openings and civil society development. Despite the absence of strong democratic institutions in Ghana, the initial openings created by democracy allowed civil society organizations to grow,

and as these organizations grew, they in turn contributed to the building and strengthening of democratic institutions.

This chapter provides an overview of this study's research question and argument. The remainder of this chapter will proceed in this manner; the first section provides an overview of existing literature with the goal of identifying important explanatory variables of how democracy can contribute to civil society development. The second section elaborates on the research question, sets it within the wider context of civil society, and lays out the dependent and independent variables. Here, the causal chain and mechanisms as well as expectations are discussed. The third section provides a summary of the research design and methods used in gathering data. The fourth section concludes the discussion in this chapter and sets the plan for the remainder of the study.

Literature Review

The focus of this section is twofold. First, it provides a concise overview of the literature by identifying the causal variables that explain how formal democratic openings may contribute to civil society development. Second, it establishes a theoretical model and the expectations of this study in identifying the mechanisms by which we can trace changes on the dependent variable.

How do formal democratic openings contribute to the growth of civil society? Three streams of scholarly research have offered different explanations for the development of civil society—the changing political opportunity structures, the presence of institutional safeguards and opportunities for resource mobilization.

First, scholars have used the changing political opportunity structure (POS) to explain the emergence, growth and impact of social movements. While different scholars have suggested different elements that must be present within the POS, what is most important is to clearly define the mechanisms by which the expected changes in the political system can lead to the expected outcomes (Meyer and Minkoff 2004). For purposes of this study, the changing political context is measured by the relative openness or closure of institutions, the presence of elite allies and a reduction in the repressive capacity of the state (McAdam 1996; Giugni 1998).

 In the first place, the POS must be characterized by the presence of institutions and institutional structures that are open and accessible to social actors. The perceived or actual institutional openness may take one of various forms, such as avenues for societal actors to engage in the policymaking processes and an expansion in civil liberties and political rights necessary for the proper functioning of civil society. Evidence of open democratic institutions should also include formal and informal mechanisms that promote a participatory approach to civic engagement such as invitations from state institutions to civil society actors to engage in the policy-making processes. Through such engagements, civil society actors are able to use important strategies such as lobbying and negotiations to have their issues and concerns addressed through appropriate institutional channels.

Under non-democratic regimes, institutional structures for societal participation in politics are often nonexistent and where they exist, these institutions are solely used to further the interests of the ruling government (Casper and Taylor 1996; El-Khawas 2001). In non-democratic regimes, institutional arrangements, institutional mechanisms promoting joint collaboration and dialogue between non-state actors and institutional structures were absent. A strong correlation exist between organizational forms of mobilization and the low level of access

that state institutions granted. Where civil society is blocked from institutional channels of participation, the result has often been the use of protests and demonstrations as strategies of meeting their goals (Gyimah-Boadi 1994). In the early parts of the democratization process in many parts of Africa and Latin America, the lack of access to political institutions resulted in low levels of political participation of civil society organizations. Resulting in a concentration of these organizations in the service delivery and social welfare sector (Friedman 2000; Tripp 2001).

Regime change and the initial openings set in motion by democratic transitions has allowed different organizational forms to emerge. As authoritarianism gives way to more liberal principles and norms, citizen participation in the law and policymaking processes are encouraged and the new institutional structures created become more inclusive encouraging the participation of diverse groups and individuals (Wisler and Giugni 1996; Giugni 1998; Friedman and Hochstetler 2002).

At the same time, Giugni (1998) cautions us to be cognizant of the fact that formal political institutions may offer or deny access to different social actors based on the particular goals and the frames these organizations employ. While the changing POS exhibits increased openness and access to political institutions, there must be a match between the goals and strategies used by these organizations to take advantage of the opportunities presented by each institutional structure.

What do these institutional openings mean for civil society? For instance, in the legislative processes, the opportunity for civil society actors to provide research findings to members of parliament pertaining to important bills that come to the floor for debate allows CSOs to build alliances with members of parliament (Yoon 2001). Through these alliances,

CSOs can use strategies of lobbying members of parliament and particular committees for important legislative outcomes.

The bureaucracy is another important institutional arena capable of providing channels of dialogue and influence for civil society actors. The presence of an accessible bureaucratic agency provides CSOs with the opportunity to supervise the implementation of government policies that have implications for the civil society sector (Sotiropoulos 2006). For instance as we shall see in this study, the presence of a bureaucratic agency such as the Women's Ministry created the opportunity for women's civil society organizations to exert policy influence on national gender issues. The types of interactions that exist between bureaucratic agents and civic actors highlight an important aspect of the bureaucracy--where such interactions are open and cordial, the chances of CSOs having greater policy inputs are increased.

The literature on political opportunity structures also emphasizes the importance of a broad set of elite allies. Elite allies are important to civil society actors as they present important channels through which the goals and agendas of social actors may be addressed (Waylen 2007). Democracy creates the expectations for increased competition and representation in formal democratic institutional structures (Barkan 2008). Under a democratically elected multiparty legislature, the multiplicity of different political parties representing different interests creates a broad base for civil society actors to build important allies (Bratton 2005; Britton and Bauer 2006).

Within the bureaucracy, elite allies are important channels through which civil society actors can actively lobby and engage in close collaborative efforts to influence policy. The structure of elite allies changes and could have positive or negative consequences for social actors. In the cases of Chile and Spain, the return to democracy saw a realignment of elite

alliances. Initially, allies who had supported the use of protests and demonstrations under authoritarian rule began to realign their principles to advocate more institutionalized participation in the nascent democracy (Hipsher 1996). Where there is a broad base of elite allies, the chances for civil society actors to find allies supporting their goals and strategies increases (Meyer and Minkoff 2004).

Lastly, the changing POS must present a reduction in the repressive capacity of the state. Although under most African military regimes civil society organizations existed, repressive state policies limited the numbers and variety of different organizational forms (Harbeson et al. 1994). The use of tactics of mass co-optation of individual organizations (Abdulhadi 1998), limiting the civil liberties guaranteeing freedom of association (Harberson et al. 1994) and curtailing press freedoms (Gadzekpo 2008) have been identified as hindering the growth of civil society. In addition, the mass co-optation of autonomous organizations into umbrella state-led organizations was another strategy which affected the extent to which groups could emerge and organize, and the issues they advanced (Harbeson et al. 1994; Manuh 1993).

A reduction in the repressive capacity of the state promotes associational autonomy and is therefore an important element in the rise of civil society organizations (Tripp, 2001). Different regimes reflect different levels of repression and where the capacity of the state to curtail associational life is limited by the presence of the rule of law and other mechanisms such as checks and balances between the different arms of government, then the space for the rise of autonomous associational life is widened (Prempeh 2008b).

The transition to democracy also creates changes in formal rules of the game as well as the norms and practices of the state towards associational life. Through a respect for and enforcement of constitutional freedoms, the repressive capacity of the state is reduced, limiting

the extent to which the state can openly infringe upon the rights of civic groups (Harbeson et al. 1994).

In addition to the changing POS, another stream of literature analyzes civil society development through the presence of institutional safeguards. Scholars in this research tradition argue that expanded civil liberties allow civil society to make demands that lead to increased openings in other institutional structures. These scholars suggest the establishment of civil liberties where none existed before and in cases where they exist, there is the need for formalized mechanisms for enforcing these rights (Simon 1997a; Atkinson and Stec 2009).

Civil liberties that promote the emergence of civil society organizations such as the freedoms of association and assembly are crucial in promoting organizational diversity and the representation of different societal interests (Green 2002). The ease with which organizations can be registered and gain legal status is important. Where registering an organization is cumbersome, the chances that organizations will apply for registration is limited, in effect robbing these organizations of protections under the law. The ease of registration processes does not always explain why some organizations choose to register. In the scholarship on non-profits, most organizations are unregistered and the reasons for these differ from in country (Simon 1997a).

Institutional safeguards that create favorable tax treatments for civil society organizations are also important in explaining the functional capacity and survivability of the civil society sector as a whole. In sum, institutional safeguards promoting the emergence and survival of organizations are crucial in expanding the scope of activities these organizations engage in. Civil liberties guaranteeing freedom of speech and freedom of association allow organizations to incorporate citizen participatory goals. The legal protection conferred by registering an

organization permits the adoption of political and governance related goals where there is likely

to be some contention between the state and civil society. The presence of civil liberties and

political rights is not sufficient, in addition, one needs mechanisms by which laws are applied

and enforced consistently either through the courts or other extrajudicial bodies.

A third important determinant of civil society development is resources. In the case of

developing countries, the role of foreign donors plays a critical role. The heavy dependency of

civil society organizations on foreign donor assistance has contributed to civil society

development under both democratic and non-democratic regimes (Thomas and Ottaway 2000;

Hearn 1999). Donor aid has helped to increase the opportunities for civil society engagement in

the policymaking processes. Donors have also harnessed the expertise of some leading civil

society organizations for purposes of providing institutional strengthening to state institutions

(Maurizio 2005; Ottaway and Carothers 2000; Robinson and Friedman 2005).

Increased private assistance to civil society increases civil society's financial autonomy

from the state (Hyden 1997). Under Africa's non-democratic regimes, civil society played a

crucial role within the broader democracy promoting agendas of foreign donors, and were often

used as catalysts to demand regime change (Weigle and Butterfield 1992; Hearn 2000).

Realizing this, most authoritarian regimes imposed heavy restrictions limiting the amount of

funding autonomous organizations can receive from foreign donors (Vernon 2009).

In the late 1980s and early 1990s, foreign donors began to promote democracy in much

of Africa, with civil society playing a leading role in prying open authoritarian regimes (Gyimah-

Boadi et al. 2000). With the changing political context, donors began to direct their assistance

towards strengthening democratic institutional structures on one hand, and increasing the

capacity of civil society on the other hand. As part of these agendas, donors began to promote

the idea of building partnerships between civil society and the state in development projects (Hearn 2000; Robinson and Friedman 2005; Ottaway and Carothers 2000). The state, realizing that donor funding was conditional on increasing the space for civil society actors, began to allow civil society to receive donor funding without restrictions. Interestingly, with the increased opportunities for donor funding, autonomous organizations began to emerge and those in existence began to strengthen their organizational capacity by taking advantage of foreign aid.

With improvements in civil society capacity, foreign donors in turn harnessed the skills and expertise of some organizations to strengthen democratic institutional structures. Donors, relying on the presence of different civil society actors, have used some leading CSOs to try to influence policy formulation and building government capacity (Hearn 2000; Robinson and Friedman 2005).

As part of donor-funded capacity-enhancing programs, CSOs also received training on improving their lobbying skills and drafting of memos, which had the effect of increasing CSO capacity and legitimacy. Increased contacts between civil society and the state through donor agendas provided civil society organizations new opportunities for joint collaboration in the drafting of important pieces of legislation having important policy outcomes for civil society.

In sum, the above discussion has identified the changing political opportunity structures, the presence of institutional safeguards and the role of resources as important variables that explain the development of civil society within a democratic context. One impact of democracy and the changing political context is the creation of formal institutional structures and the availability of different opportunity structures for civil society actors. Different institutional arenas present civil society actors with different opportunities and challenges that promote

communication and dialogue and the use of civil liberties as platforms for demanding more space.

Open democratic institutions contribute to civil society development through the presence of mechanisms that encourage dialogue, communication and increased participation. Institutional safeguards are also vital in conferring legal status and protection on civil society organizations. Where institutional weaknesses threaten to limit these opportunities, increased resources through donor assistance is an important intervening variable that has the effect of strengthening both the institutional capacity of the state and that of civil society. As formal democracy creates more space for civil society to develop, a strong and effective civil society in turn contributes to the development of formal democracy and democratic structures.

Based on the review of existing studies on the capacity of democracy to contribute to civil society development, this study establishes a theoretical model based on three expectations. The first expectation is that formal democracy in Ghana has led to open institutional structures capable of presenting civil society actors with different opportunities that encourage civil society participation with the state. The second expectation is that civil liberties and political freedoms encouraging civic participation are not only provided in constitutions, but that they are enforced to promote the emergence and survival of autonomous organizational forms. The third and final expectation is that available opportunities for resource mobilization will increase the chances for the construction of an effective civil society in Ghana.

Research Question, Dependent and Independent Variables

The research question of whether formal democracy has led to the construction of an effective civil society is important, considering the pivotal role civil society continues to play in

the democratic processes. Within the larger context of civil society and democracy, a review of existing studies showed that little research has been undertaken in terms of examining the processes and mechanisms by which the changing political context affects the goals, strategies and outcomes of civil society organizations. Bearing in mind that civil society consists of civil society organizations, we can argue that civil society can is growing where we observe changes in the numbers, goals, strategies and outcomes of civil society organizations.

Dependent Variable

Different measures have been used in the literature in explaining the development and growth of civil society or the arena of autonomous groups and associations that lie outside the state and the market. For some, evidence of civil society making important policy inputs may be an indicator of an effective civil society (Robinson and Friedman 2005), while other studies have focused on the democracy enhancing capacity of civil society to measure civil society growth (Gyimah-Boadi 1994).

For purposes of this study, the dependent variable is defined as *changes in civil society*, operationalized as changes in the numbers, goals, strategies, tactics and outcomes of civil society organizations. One indicator of change is a rise or fall in the number of organizations, with a rise in numbers indicating growth and development in the civil society sector. However, one needs to keep in mind that relying on the number of organizations, as an indicator of changes in civil society can be problematic because many groups are inactive or defunct. The absence of an up-to-date registration system also creates problems of inaccurate counts (Green 2002).

The rationale for this study's argument is that increasing political opportunities--such as civil liberties promotes the emergence of civil society organizations resulting in an increase in organizational density and diversity (Simon 1997b).

Other dimensions of change in civil society are the new strategies and tactics that CSOs adopt to take advantage of the new opportunities. For example under the new political context where there is an expansion in civil liberties allowing for freedom of association, we would expect to see civil society organizations use mass mobilization strategies such as coalition building instead of the protests and contentious acts of mobilization used under authoritarian regimes. Open and accessible legislatures and bureaucratic arenas create opportunities for CSOs to use lobbying and networking strategies and tactics to further their goals.

Finally, civil society outcomes too are expected to change. In this study outcomes refer to by civil society organizations acting as development partners in national issues, their capacity to shape state policies and their effectiveness in expanding citizenship rights. These expected changes in the numbers, strategies and outcomes are further explored in chapter 2 which provides general findings from this study in measuring changes on our dependent variable.

Independent Variables

A review of the literature provided us with important variables for explaining our expected outcomes. Existing literature suggests that institutional arrangements created by the changing political opportunity structures affect the emergence, goals and strategies of civil society organizations (Green 2002). As Green argues, "institutional features shape the very nature and extent of civil society, which is relevant no matter which conceptualization or strategy one chooses to employ"(457).

Effects of democracy on civil society are examined in the legal, legislative and bureaucratic structures with the goal of tracing the causal mechanisms by which each of these arenas affected the numbers, goals and strategies of civil society organizations. In explaining the opportunities presented by democracy, this study adopts an institutionalist approach that examines how democratic institutions affect civic actors. Different factors are taken into consideration in examining these institutional arenas— the presence of civil liberties guaranteeing associational life, the relative openness of institutional structures to civil society actors, the opportunities available to CSOs to engage in policy making processes, as well as the presence of formal mechanisms promoting dialogue and increasing civic participation.

The reason this study focuses on three institutional arenas is that formal democratic institutions provide a structured way of measuring the relative openness of institutions and the presence of elite allies. Through an examination of the institutional structures, the study traces the mechanisms that promote communication, participation and collaboration between the state and civil society, and which are vital for the development of civil society. An important part of this discussion is to isolate the impact of interactions between civil society and the state in each arena. We shall analyze each of these variables in order to establish systematic comparisons within our three institutional arenas.

The legal arena best explains the emergence and survival of civil society through favorable constitutional guarantees and conducive regulatory frameworks. Within the legislature, competitive broad based party representation in parliament can create opportunities for increased dialogue, the presence of elite allies and other formal mechanisms such as the committee system, which provides channels for civic participation in the lawmaking processes. Lastly, the bureaucratic arena also explains the ways in which increased access to policymaking through

formal processes such as consultative meetings and lobbying bureaucrats can allow CSOs to exert policy influence in the policymaking , monitoring and implementation processes.

<u>Legal Arena</u>

The first independent variable we examine is the legal/constitutional arena. Formal mechanisms promoting the emergence, survival and functional capacity of civil society organizations are often contained in national constitutions and other legal regulatory frameworks (Simon 1997b). Legal institutional structures can promote the development of civil society with favorable mechanisms that expand the civil and political liberties capable of promoting associational life. The constitution can the change political context and create a facilitative legal environment characterized by institutional safeguards that reduce the capacity of the state to engage in acts of repression against autonomous organizations.

The legal and constitutional frameworks of a democracy are central to determining the space for civil society development in several ways. Legal frameworks establish the rights, as well as obligations for civil society actors, such as the freedom of expression and association, which are vital to the survival of civil society. A favorable institutionalized legal system protects civil society autonomy and guarantees freedoms enshrined in national constitutions (Gyimah-Boadi 2001).

The legal arena also provides the legal basis for the emergence, growth and regulation of associational life. Freedom of association allows for growth in the diversity of organizational forms enhancing the representation of different societal interests. Through formal registration, organizations can receive legal status and protections under the law. There is the tendency for the state to use formal registration to create obstacles for CSOs. For that reason, the legal

frameworks for registering an organization must be quick and easy to allow organizations to gain legal status and to take advantage of opportunities within other institutional arenas.

In Chapter 3, we present findings from this variable, which indicates that the changing political context in Ghana has created an enabling legal environment. Increased civil liberties and political rights contained in the national constitution have created institutional safeguards and protections under the law, which have had significant impacts on the emergence of an effective civil society in Ghana.

The study examines two aspects of the legal institutional arena; these are the procedural and substantive levels. First, the *procedural* level investigates the processes by which the legal arena provides avenues and opportunities for civil society emergence and growth. At the aggregate level, procedural rules of freedom of association and assembly have been critical in the emergence and growth of CSOs in Ghana. The creation of the National Media Commission (NMC) and the National Commission on Civic Education (NCCE) are examples of bodies through which the legal arena provides support for civil society development. In turn, *substantive* outcomes refer to the level of direct engagement within the judiciary and other extrajudicial bodies. Our interview data suggests that access to courts for purposes of pursuing CSOs goals is minimal due to inherent institutional weaknesses within the judiciary. At a direct participatory level, most civil society organizations interviewed did not directly deal with the judicial system in Ghana, as one respondent notes, "we do not deal directly with the courts. In terms of the violence, what we do in those courts is to link the victims to the lawyers and victim support system"[1].

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[1] Personal interview with the leader of the Gender Center on June 4 2008

In recent years, there has been an increase in the analysis of the legislature especially in emerging democracies. A review of the literature provides us with important indicators of the essential characteristics a legislature must possess in order to be able to contribute to civil society development. In this study, legislative strength is defined in terms of competitive multiparty representation and the availability of financial and human resources necessary for the work of the legislature. Through legislative openings, structural changes in the form of formal and informal mechanisms increase the opportunities for civil society actors.

In the first place, openness in the legislature is measured by the level of actual or perceived accessibility presented to civil society actors. Where a legislature is characterized by easily accessible structures such as a strong committee system, it allows for the articulation of different interest groups and societal interests. One important development brought about by changes in the political context is the formation of competitive multiparty legislators in Africa. With time, scholars noted that the image of legislatures as mere rubber stamps is beginning to change (Barkan 2008; Gyimah-Boadi 2001). Through open competition, different political parties are represented, allowing CSOs to build important allies which later prove crucial in the passage of particular bills (Yoon 2001).

The presence of elite allies is another essential component in explaining how legislatures can promote civil society development. In the case of the Russian legislature, Spelling (1998) argues that the presence of elites, sympathetic to the issues advanced by women's groups were essential in advancing the success of legislation increasing the legal protections for women. Britton's (2005) study of South Africa's legislature shows that even in legislatures where the substantive representation of women is limited, increased diversity in the representation of

women can lead to policy changes which in the end will reflect the interests of women's organizations.

Institutional safeguards play important roles within the legislative arena. Lindberg (2008) suggests that legislative autonomy from the executive is pivotal in determining its work and policy outcomes. Financial autonomy limits executive control of the legislature's budget allowing a legislature to function effectively. An effective legislature will provide more incentives through inclusive mechanisms that promote participation and collaboration with CSOs (Nijzink et al. 2006).

Existing literature therefore creates the assumption that a strong legislature is open and accessible to different interest groups, financially autonomous from the executive, and represents a broad set of different interests representation allowing for the building of elite alliances. Where these conditions exist, then it can be said to be a strong legislature capable of providing incentives for civil society development (Nijzink et al. 2006; Fish 2006). The presence of a number of these characteristics will suffice for civil society development, not all of these conditions will have to be met in all cases.

However, our data presents evidence to challenge the assumption that a strong legislature provides incentives that promote civil society development. Using the case of Ghana, we show that legislative weakness has created an unexpected avenue, allowing civil society organizations to receive increased donor aid for purposes of strengthening the legislature. Civil society, has benefited from donor training programs aimed at increasing the capacity of civil society organizations in the legislative processes. Another advantage has been that through increased access to the legislature, CSOs have built important allies within the legislature, which have been crucial to later civil society agendas.

Barkan's (2008) comparative study of four African countries of Uganda, Kenya, South Africa and Ghana argued the increasing importance of investigating the institutional capacity of legislatures as paramount to understanding their contributions to democracy. Barkan (2008) measures legislative strength by analyzing independence from the executive, capacity in performing primary duties including oversight and its budgetary functions, the number and content of the bills passed, and the reputation of the legislature as assessed by citizens.

Using three of Barkan's (2008), indicators—independence from the executive and capacity in performing primary duties including oversight and budgetary functions, this study examines the ways in which legislative functions, processes and mechanisms affect civil society actors. The expectation is that the presence of these indicators will determine the availability of opportunities for joint collaboration, increased dialogue and civic participation between the legislature and CSOs. Where these opportunities exist, civil society organizations can then begin to use strategies of lobbying and presenting research findings to members of parliament in an effort to exert influence and contribute to the lawmaking processes.

This study suggests that the weakness of the legislature in Ghana has created unexpected opportunities for civil society development. Civil society's role in strengthening the legislature through donor aid has had the effect of increasing the resources available to these organizations. In addition, increased access to the legislatures has resulted in the opening up of more space for civil society to dialogue and lobby members of parliament. By interacting with civic groups within society, an independent and representative legislature provided the platform for addressing different societal needs.

With the advent of democratic rule in 1992, there has been an increase in the access points for civic participation. These access points for participation have come in the form of

public hearings, the presentation of memos and research findings by CSOs and donor use of CSOs for legislative strengthening workshops. To take advantage of these opportunities, CSOs devised new strategies and tactics such as lobbying individual Members of Parliament (MPs) and relevant parliamentary committees, as well as coalition building to create the critical mass necessary for achieving positive outcomes.

Sustained interactions between civil society and the legislature have proven to be beneficial to the development of ties between the two bodies. As Tsikata (2009) notes, the use of coalitions by women's organizations to interact with the legislature was a powerful strategy that contributed to the eventual passage of the Domestic Violence Act (732) of 2007. The establishment of parliamentary committees and caucuses, which is a recent development, such as the Women's Caucus has also been instrumental in focusing the deliberations of members of parliament on particular gender issues.

Chapter 4 provides detailed discussion of the data and empirical evidence from fieldwork. Our evidence suggests that despite persistent institutional weaknesses, the legislature has presented significant opportunities for CSOs in reaching their goals. Joint collaborative efforts between the legislature and civil society actors have been instrumental in the passage of Bills and other legislation that have critical policy implications for the goals of civil society organizations. The impact of legislative weakness is also addressed.

Bureaucratic Arena

The bureaucracy is an important institutional arena that plays a pivotal role in shaping and structuring political processes and outcomes (Keiser et al. 2002). Of the different dimensions used in measuring bureaucratic outcomes on civil society, Sotiropoulus (2006)

identifies two key elements—how bureaucratic processes interact with societal interests and affect policy outcomes, and the type of contacts between individual citizens and administrative personnel.

The first element addresses the broader assumption in our theoretical framework which is the opening of the institutional arena and whether the political opportunities presented by the bureaucracy are broad or narrow (Meyer and Minkoff 2004). The second element addresses the mechanisms through which the openings in the bureaucracy can translate into positive policy outcomes that promote the goals and agendas of civil society actors.

In terms of mechanisms that promote civil society development, Hadenius and Uggla (1996) have suggested that through formal and informal mechanisms such as consultative meetings and scheduled briefings, bureaucratic institutions can provide channels of dialogue and influence for civil society actors. As the space increases within the bureaucratic arena, civil society actors use strategic tools of alliance building and networking to put pressure on bureaucratic personnel with the ultimate goal of reaching positive policy outcomes.

As the political opportunity structures increase, the chances of finding important allies sympathetic to the goals of civil society actors also increase (Meyer and Staggenborg 1996). The type of contacts between bureaucratic personnel and civil society groups is enhanced, allowing civil society organizations to use lobbying and advocacy strategies to have meaningful interactions with bureaucratic allies.

Bureaucracies cannot produce meaningful policy outcomes for civil society actors where bureaucratic agencies are lacking in institutional capacity. Institutional capacity requires institutional transformation in terms of changes in the structure of bureaucratic agencies and guaranteed financial autonomy from the state (Houtzager 2005).

Our expectation is that once relative bureaucratic openings are set into motion by the broader democratic agendas of promoting transparency within state institutions will allow civil society to begin to have direct contacts with these agencies with the hope of influencing state policies towards civil society.

Chapter 5 presents data from fieldwork and through an in-depth study, we show how inclusive mechanisms promoting dialogue and joint collaboration between CSOs and particular bureaucratic agencies have increased civil society access to policymaking processes. The institutional weaknesses within the bureaucracy, similar to those posed by the legislature are highlighted and the policy outcomes of such weaknesses are further explored. By explaining the mechanisms by which the bureaucratic arenas allowed civil society organizations to provide policy inputs, we establish the causal relationships between bureaucratic institutional openings and civil society development.

Methodology

Research Design and Data Collection Methods

Employing the case study method in this research allows us to use the particular case of civil society development in Ghana, from which we can draw causal inferences between our dependent and independent variables (Lijphart 1971). Through a systematic analysis of individual civil society organizations, the case study method allows us to observe changes within each organization as a template for mapping changes in the wider civil society sector.

Criticisms of the normative and empirical studies of civil society have pointed to the lack of methodological sophistication, failure to provide contextual validity and the absence of generating reliable and comparable indicators (Heinrich 2005 ; Anheier 2001). The tendency of

earlier studies of civil society producing descriptive accounts that focus on specific country

contexts at the expense of using coherent methodological framework had also been called into

question (Anheier 2001; Hyden 1997).

To prevent the problem of selecting on the dependent variable (Geddes 2003), we chose

organizations that were comparable and exhibiting common characteristics (King et al. 1995).

First, all the twenty organizations selected were registered as civil society organizations

belonging to the Network for Women's Rights (NETRIGHT). Second, these organizations

exhibited characteristics of voluntary associations that occupied the arena between the state and

society. Third, all the organizations possessed well-defined goals and objectives and were guided

by participatory governing structures (Chazan 1992). Fourth, these organizations were engaged

in different issue areas ranging from policy, legal advocacy and socio economic development.

Fifth, in order to ensure coverage of civil society across Ghana, the research took into

consideration regional dispersion by choosing cases from the Northern and Southern regions of

the country.

To supplement the data from the organizations interviewed, prominent civil society

activists and academics were also interviewed for information on the general state of civil society

in the country. Another source of information was an interview with the Coordinator of the

Domestic Violence Coalition (DVC), which had played a key role in the activities of women's

civil society organizations in the passage of the Domestic Violence Act. A representative of the

Ghana Civil Society Center also provided in-depth information pertaining to the level of

engagement between civil society and the bureaucratic agency of Manpower, Youth and

Employment in negotiating the proposed NGO Bill, details of which are discussed in chapter 5.

Finally, four members of the Gender Committee and Women's Caucus in parliament were interviewed; and this provided insights into the workings of the legislative committee system. As we shall see in Chapter 4, the recent development of the committee system has been crucial to the work of CSOs. The committee system has presented opportunities for forming strategic alliances between CSOs and key members of parliament. Through the committee system, CSOs have been able to present their memos and propose legislation as well as provide research findings to parliament for deliberation. One representative from the Women's Department was interviewed to get the perspective from a government functionary.

Empirical data for this study were gathered during a field trip to Ghana, in the summer of 2008. After a careful selection of organizations, the next step was to make contacts for setting up interviews. In order to develop a general understanding of civil society development in the country, and to get a clearer understanding of the causal variables, we sought to interview a broad range of actors, both within civil society and academia. All, except five of the respondents, were interviewed face-to face; responses were transcribed directly on to the computer during the interview. Due to the limitations with traveling to the Northern region[2], the five respondents from the Northern regions filled out questions that we emailed to them.

The primary sources of data for this research were generated by using semi-structured interview protocols (Appendix A and B) for women's civil organizations and members of parliament respectively. Interview protocols consisted of a combination of open-ended and closed questions, bearing in mind the challenges of using open-ended questions (Johnson and

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[2] The three Northern regional capitals of Tamale, Bolgatanga and Wa were under a curfew due to the outbreak of ethnic conflict in those regions. These were no new conflicts, but old ones which intermittently led to outbursts of conflict. There were some reported deaths and in an attempt to contain the situation, the government imposed a curfew. It was therefore unsafe for me to travel there, as a result, after contacting the respondents via phone and email, they agreed to fill out the questionnaires and email them back to me. I then followed up with phone calls to clarify some responses and also ask for elaboration on others.

Reynolds 2005). Open-ended questions enabled respondents to provide detailed information on each question. During the interviews, I asked questions relating to the development of civil society in Ghana. The goal was to compare the status of civil society before and after the transition to democracy in 1992 with the aim of establishing variation in terms of the impact of changing political opportunity structures on civil society development. Responses were cross checked with other responses in order to address the subjectivity of responses in qualitative studies (Heinrich 2005).

The desirability of data triangulation (Patton 2001) prompted contacting secondary sources of data to provide anecdotal evidence in support of our interview responses. These included archival data comprising newspaper articles and extant research. An important secondary source of information was the CIVICUS Civil Society Index (CSI). This index helped by providing guidance in constructing questions that were capable of testing the impact of institutional openings. In addition, the CSI provided information on the perceived and actual openings within the political context.

The next and final step was to analyze the interview data by breaking the information gathered from fieldwork into manageable components and searching for common patterns and differences (King et al. 1994). Essentially, by establishing causal inferences through process tracing, the study assesses the impact of the three democratic institutional arenas on the goals, strategies and outcomes of civil society organizations.

Scope and Plan of the Study

In presenting the empirical data, this study traces the causal mechanisms by which increased political openness contributes to the construction of an effective civil society. The

causal relationships observed in each institutional arena explain how institutional openings, institutional safeguards and foreign aid combine to create a stronger civil society.

The remainder of this study will proceed as follows. Chapter 2 provides a summary of the major findings and common themes from the three institutional arenas. It lays out the observed changes in the numbers, goals, strategies and outcomes of civil society organizations. This chapter then sets the context for engaging in a direct analysis of the three institutional arenas, paying close attention to the opportunities and challenges they each present to civil society actors.

Chapter 3, the first empirical chapter traces the relationship between an expansion in civil liberties and the development of civil society. The first part of the chapter examines the mechanisms by which increased political openness led to changes in the legal structures. Through mechanisms that promote the establishment of favorable regulatory frameworks, the chapter lends empirical support to the argument that increases in the permitted scope of political activity promote the development of an effective civil society. The second part of the chapter looks at how civil society organizations use the court system to further their substantive gains and to seek enforcement of their civil liberties.

In Chapter 4, we examine the institutional arena of the legislature and discuss how formal democratic openings set in motion changes in the legislature. These changes created avenues for CSOs to use strategies of lobbying, research development and increased advocacy to demand closer collaboration with the legislature. Taking advantage of access to the legislature and the presence of elite allies, CSOs have been able to engage in closer collaboration with the legislature in the lawmaking processes. International donor agencies engaged in legislative institutional strengthening have increasingly used civil society organizations as resource units.

Such new roles for CSOs increased their sources of funding, in addition to widening the channels of participation between the legislature and civil society.

Chapter 5 discusses the bureaucratic arena and focuses on the two ministries of the Ministry of Women and Children's Affairs (MOWAC) and the Ministry of Manpower, Employment and Social Welfare (MESW). Together these two ministries highlight the impact of interactions between bureaucratic personnel and civil society organizations on the goals and outcomes of CSOs. Through the presence of formal and informal mechanisms, CSOs have been able to use different pressures to demand inclusion in the policymaking processes.

Chapter 6 is the conclusion chapter where key findings are summarized and establish how developments in civil society organizations are indicators of the development of the civil society sector as whole. We also highlight the contributions of this study to the extant body of literature and the limitations of the study, as well as areas for future research.

CHAPTER 2

ASSESSING CIVIL SOCIETY DEVELOPMENT

Introduction

This chapter provides a summary of the general findings from the study. It sets the context for understanding the individual changes that have taken place within the institutional structures of the legal, legislative and bureaucratic arenas. Presenting the general outcomes and changes on our dependent variable in this chapter, allows the empirical chapters to focus directly on establishing the causal relationships between particular institutional structures and processes, and the observed outcomes on civil society.

The first part of this chapter provides the background to the study by tracing the state of civil society in Ghana prior to 1992 when formal democracy began. This background information helps us to map out the expected changes with the advent of democracy. The second section provides the general findings from our research data. The third section outlines the changes on the dependent variables in terms of numbers, goals, strategies and outcomes of civil society organizations by clearly tracing the causal mechanisms by which these changes take place. The fourth section provides our argument on how changes in individual and collective organizations imply the presence of an effective civil society.

Background of the Study—Civil Society in Ghana

To set the context for understanding the changes on our dependent variable, this section engages in a brief discussion of the trajectory of associational life in Ghana. The significance of this section is to make a case for how the changing political opportunity structures presented by democracy may have affected civil society in Ghana.

Prior to the attainment of independence on March 6 1957, civil society existed in different forms and strengths in Ghana (Chazan, 1982). Under successive, military dictatorships and the one party state era of the 1960's, civil society struggled to survive government under oppression and control. The first in a series of military takeovers began in 1966, a coup d'état led by Lt. Gen. Ankrah. Between 1966 and 1992, Ghana witnessed different forms of military tyranny, punctuated by brief periods of experiments at democratic rule in 1969 and 1979, under the Second and Third Republics respectively (Oquaye 2004; Chazan 1983; Gyimah-Boadi 1991).

In 1992, Jerry J.Rawlings, who had seized power in 1979 and again in 1981, led the country to its first multi-party elections in over 17 years. Despite reports of voting irregularities by both local and foreign observers, the 1992 elections led to the first democratically elected government of President Rawlings under the National Democratic Congress (NDC) political party (Gyimah-Boadi 1991). The presidential election was followed by attempts at establishing the rule of law and guaranteeing constitutional rights and liberties. Democratic openings were beginning to take place and attempts were being made to strengthen existing democratic institutions. Subsequent elections in 1996 led to the second term of Rawlings. John A. Kuffuor of the National Patriotic Party came to power in 2000, signaling for the first time, an alternation of political parties (Gyimah-Boadi 2009).

Prior to the return of formal democracy in 1992, associational life took different forms; most of the organizations that were able to survive authoritarian regimes were the more traditional organizations. These included professional organizations such as the Ghana Bar Association, Trades Union Congress (TUC) and the National Union of Ghana Students (NUGS).

However, what was common to all these organizations was the repressive capacity of the state in curtailing their growth and development. These repressive actions took different forms

including curtailing the freedoms of speech and association and removing all legal guarantees that protected these rights through the abrogation of national constitutions.

The hegemonic tendencies of the state also resulted in the creation of "umbrella" organizations. These were organizations formed as special "wings" of military regimes, such as the 31st December Women's Movement (DWM) of the PNDC government. The primary purpose of such organizations was to further the goals of the regime and gain the support of women through activities directed towards improving the economic livelihood of women (Mama, 2000). The 31st December Women's Movement (DWM) became the leading women's organization in Ghana and what it did was to engage in a massive cooptation of other women's organizations. These umbrella organizations used different forms of aggression to stifle the growth and development of other women's organizations, such as limiting their opportunities to get donor assistance and preventing their attendance at international conferences and seminars.

Despite the many challenges confronting the growth and development of civil society during this era, CSOs nonetheless played a role in the gradual return to democracy in 1992. Foreign donors increased resources to civil society, using civil society as engines of change to set in motion democratic transitions in many countries (Hearn, 2001, Ottoway 2005). Through increased funding, some leading organizations such as the Ghana Christian Council (GCC), the Ghana Bar Association (GBA) and the National Union of Students (NUGS) were able to put pressure on governments to begin the process of political liberalization that eventually led to elections and the introduction of formal democracy in 1992.

An important strategy adopted by CSOs during this era in sending a message across to the military rulers, was to frame their discourse using human rights and legal frameworks. Therefore, the goals of most of the leading CSOs included demanding an end to the injustice

inflicted by military juntas and a return to democratic forms of governance. Under successive

military regimes, civil society organizations that resisted government repression were often the

recipients and targets of government abuse and co-optation (Gyimah-Boadi, 1994; Drah and

Ocquaye, 1996). Military governments sought to curtail civil society by using tactics of arbitrary

arrests and illegal detentions of leaders of civic organizations and the outright banning of some

newspapers and radio stations. In addition, the legal and constitutional frameworks that would

guarantee free associational life and expression were nonexistent with the abrogation of national

constitutions (Gyimah-Boadi 1993; Oquaye 2004). Government efforts at curtailing associational

life also extended to placing limits on their sources of funding and resources.

The external environment was also not very helpful to the development of civil society

during the period between the late 1980s into the 1990s (Chazan 1991). The World Bank policies

such as the structural adjustment programs (SAPs) meant that external sources of funding were

becoming less. The state capitalized on this to engage in massive cooptation of civic

organizations. Most organizations were faced with the challenges of financial austerity measures,

resulting in a massive decline in the number of civil society organizations (Oquaye 2004).

Despite these challenges, a good number of civic organizations resisted governmental tyranny

and continued to function within the little space they could find; notable among them were the

Ghana Bar Association, the Trades Union and the Teachers Union.

The changing political landscape in Ghana since 1992, with the transition to democracy

has opened up space for citizens and groups, providing new opportunities for civil society. As

military dictatorships ended, civil society organizations that had survived were beginning to

regroup and new ones were formed. Changes in the political landscape led to the creation of

space for civil society development. The range of political freedoms ushered in by democracy,

produced a relatively autonomous civil society. The result has been an increase in the number of civil society organizations and the scope and magnitude of their engagement with government at both the national and local level.

General Findings

The general findings of this research indicate that the changing political context, characterized by the presence of political opportunity structures and institutional safeguards, has created an enabling environment for the emergence and survival of an effective civil society. An interesting finding in this research is the increased opportunity for resource mobilization and how, through foreign donor aid, CSOs have increased their legitimacy and capacity.

The mechanisms by which the observed changes took place depended on the particular institutional arena, as different institutions provide different opportunities and challenges to civil society. Suffice to mention here that most of the institutional mechanisms promoting communication, participation and collaboration between civil society and institutional structures remain highly informal. Institutional openings have on occasion allowed for the holding of ad hoc meetings, consultative fora, capacity training programs and mainstreaming civil society goals into the national agenda.

These informal processes have created opportunities for CSOs to dialogue and collaborate with institutional structures, build and effectively lobby allies, provide policy input by generating research and using political advocacy to monitor the implementation of government policies. Let us examine what the combined effect of these informal mechanisms and processes have meant for the civil society sector.

Democracy Enhancing Qualities of Civil Society

A significant finding from this research addresses the dialectical relationship between an effective civil society and the development of democracy. By creating institutional openings that allowed for the emergence of an effective civil society sector, the state was able to rely on civil society to provide important capacity enhancing inputs to democratic institutions. Donors have also played an instrumental role in positioning civil society to contribute to the good governance agenda, often by calling upon the state to engage civil society in the law and policymaking processes. Civil society organizations have used the media freedoms as an important strategy to demand governmental accountability by having open debates and discussions on air to educate citizens on their rights vis-à-vis the responsibility of the state.

As civil society organizations developed their internal capacities, these organizations have in turn contributed to enhancing democracy and democratic institutions by providing capacity-strengthening programs to the legislature and bureaucratic agencies. Such activities have included the holding of training seminars, production of research findings, as well as providing technical expertise to members of parliament on particular issue areas. As one respondent states;[3]

> "the relationship between parliament and civil society is a mutually beneficial one, example, parliamentary committees are now open to civil society and sometime invites the engagement of civil society in the sponsoring of certain debates, bills and issues, this is an indicator of openness, earlier parliaments did not have such committees".

The democracy enhancing qualities of civil society were particularly observable in the reports and memos presented by the Domestic Violence coalition to appropriate

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[3] Personal interview with Asante of Center for Democratic Development (CDD) on May 26 2008

legislative committees during the efforts to pass the Domestic Violence Act, one

respondent had this to say[4]

> "with the domestic violence bill we were key advocates in the national consultation on the bill and we provided most of the resources to engage in such consultation, with regards to the legislature, yes we had a number of strategic meetings to get them (members of parliament) to understand the issues"

While these activities were enhancing democracy and democratic institutions, it

also helped to increase the technical know-how of CSOs in conducting research, in

writing and presenting memos, as well as the building allies within government

institutions.

Institutional Weakness

The democratic transition that took place in Ghana, beginning with the 1992 multiparty

elections resulted in the creation of new institutions, such as the drafting of a new constitution

and the strengthening of old ones such as the legislature. Democracy did not quickly translate

into strong institutions and institutional arrangements. Rather, institutions remained weak,

further complicated by low government budgetary allocations and low levels of human resource

capacity (Gyimah-Boadi 2001). However, what our research data indicates is that old and new

forms of democratic institutional weakness have created different opportunities and challenges

for the development of civil society.

Democratic openings, which were not in themselves transformative, nonetheless created

an enabling environment for civil society actors to push for more institutional openings and an

expansion in citizenship rights. Civil society, realizing the donor agendas of strengthening

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[4] Personal interview with the Director of the Gender Center on June 4 2008

democratic institutions, took advantage of increased access to democratic institutions to provide some of the training and capacity enhancing projects of donors. Through increased donor funding to CSOs, the outcome was a strengthening of the legitimacy and capacity of civil society in Ghana.

Furthermore, recognizing the value of a vibrant civil society, state institutions and government agencies, have become more open and accessible, providing more opportunities for cross dialogue and joint collaboration between the state and society. Through increased dialogue and collaboration, CSOs began to take advantage of access to the legislature to present their constituent needs before the right institutional channels. The analysis presented in Chapter 4 highlights how legislative weaknesses in the performance of their functions expanded opportunities for civil society to provide capacity-building programs and how, through increased access to the legislature, CSOs gained increased channels of dialogue and alliance building. Not all of the democratic institutional weaknesses have inured to the benefit of CSOs, as we shall see in Chapter 4.

In chapter 3, we see how access to justice and the court system has been a challenge to civil society organizations due to the general slow pace of the legal system. Due in part to foreign donor funding, civil society has been able to reduce the level of challenges presented by judicial weaknesses. For example by harnessing donor funding from the European Union (EU), Women in Law and Development in Africa (WiLDAF) has been able to provide training and capacity building seminars for members of the judicial service.

Such training seminars created an increased awareness of gender issues within the judicial sector resulting in an increase in gender awareness among judges, which was instrumental in how cases brought before the courts were later addressed. In Chapter 5, we see

how low levels of government will to increase the resources and funding of the Ministry for Women and Children (MOWAC) accounted for the low levels of policy implementation the Ministry could undertake.

Although women's organizations were able to fight for the passage of the Domestic Violence Act of 2007, the poor resources at the disposal of MOWAC make it almost impossible for the Ministry to move the Act to the implementation stage. This has therefore had the effect of minimizing the extent to which women's civil society organizations have been able to address their broader goals of domestic violence. Nonetheless, as we have seen in other institutional sectors such as the legislature, women's civil society organizations have also provided important capacity strengthening programs and technical support to MOWAC as we shall see highlighted in Chapter 4.

The Role of Donor Assistance

Another important finding from this research was the role of donors and development partners in demanding closer collaboration between the state and civil society on common development issues. The outcome has been increased space for CSOs to play proactive roles in policymaking and development. Through such increased access points, CSOs not only projected themselves as important development partners, but also as legitimate watchdogs on Ghana's nascent democracy. Gradually, the participation of CSOs in governance issues has become part of the political culture. During interviews, some respondents however questioned the legitimacy of government including civil society in the policymaking processes arguing that it is only a window dressing to get the approval of donors.

Another insightful finding of this study is how, through increased donor insistence on state-society relations, some leading CSOs were able to position themselves as intermediaries between donors and the state. In doing so, these CSOs were able to increase their sources of funding while building alliances with government institutions. Increased donor aid to civil society organizations, also accounted for the development of their internal organizational structures.

Through a combination of increased access to the state and the newly acquired positions as development partners, some leading CSOs, such as the Center for Democratic Development (CDD) have come to exert considerable influence in projecting themselves as guardians of citizenship rights. In addition, they have also increased their goals and agendas to include the holding of workshops to train other CSOs. But the outcomes have not been even, and for women's organizations in particular, the problem of access to donor funding seems to be diminishing as this respondent notes;

> "all CSOs apply for funding directly from donors, now the donors are giving budget support to government and they (government) have mainstreamed gender so it is easy to neglect gender. It is is hard to get money when you have to show evidence and especially for those of us dealing with policy it is hard to show evidence[5].

Disparities in Civil Society Growth

This study also finds significant disparities in civil society development. While democratic openings have allowed for an increase in the political opportunity structures for civil society development, not all civil society actors benefited equally from these opportunities and institutional openings. This was due to the different levels of organizational development within individual groups. For instance, some relatively new organizations such as the Center for

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[5] Personal interview with the leader of NETRIGHT on June 4 2008

Democratic Development, founded in 1998, have been able to engage in more far-reaching policy and governance issues than long established professional bodies such as the Trades Union Congress (TUC) of Ghana founded in 1941.

While both of these organizations are non-partisan, the TUC is a membership-based organization with a focus on the rights of Ghanaian workers, drawing its major funding from membership dues. The CDD on the other hand is not membership based and as such draws most of its funding from private sources such as foreign donors.

The financial capacity and availability of resources determines the technical expertise an organization can garner, as well as the issues and agendas they can pursue. For most CSOs based outside the regional capital of Accra, there is the added problem of lack of access to government institutions to have their issues and goals addressed at the national level. For most small, often rural based CSOs still engaged in service delivery activities, the level of impact that democratic institutions have had on them and the amount of influence these organizations exert in policy making are almost negligible. However, this may change with time as rural based CSOs engage through coalitions and as democratic decentralization improves.

Mapping Changes in Civil Society

Changes in Numbers

An examination of the number and variety of civil society organizations currently operating in Ghana shows a growth in the number of organizations since 1992. In response to the question whether civil society organizations have increased in numbers, all interview respondents agreed that there has been an increase (attached as appendix c). One respondent had this to say;

"they(CSOs) have always existed, but we are witnessing an expansion and variety of them, dealing with different issue areas, the focus has moved away from transitions and consolidation, with the new focus being placed on dealing with issues confronting citizens".[6]

The most comprehensive data source of all civil society organizations in Ghana is currently contained in the Directory of NGOs in Ghana, published by the Ghana Association of Voluntary Organizations in Development (GAPVOD). The current publication (2005-2008) lists over three hundred organizations consisting of non-governmental organizations with different focal areas such as community-based organizations, faith based organizations and self-help organizations. In assessing the increases in the number of civil society organizations since 1992, Table 2.1 is a selective representation of the twenty women's organizations interviewed for this study. Out of the thirty-five registered members of the Network for Women's rights in Ghana (NETRIGHT), we were able to contact only twenty of these organizations for interviews because most of these organizations could not be reached by the contact information listed. With the exception of ASAWA, GAWU Gender Desk, Center for the Development of People (CEDEP), Christian Mothers Association (CMA) and the Federation for Women Lawyers (FIDA), all the other organizations we interviewed were created after 1992.

Out of the twenty interviewed, five have been in existence prior to 1992 (with dates of establishment ranging from 1966-1986). The remaining fifteen organizations were established between 1993, immediately following the transition to formal democracy. The traditional civil society organizations such as the student, professional and service delivery types tend to have existed prior to 1992 because they posed little to no opposition to military dictatorships.

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[6] Personal interview with Asante of CDD on May 26 2008

Table 2.1 List of Women's Civil Society Organizations Showing Date of Establishment and Focal Areas

Organization	Date Established	Focus area	Changes in Focus
Maata-n-tudu	1993	Socio-economic, health, literacy	Not much
CENSUDI	1994	Socio economic, politics and decision making	Added political component and legal rights
WiLDAF[7]	1993	Legal advocacy, women's human rights	Political governance and women in decision making
Christian Mothers Association	1966	Religious and socio-economic development	No
ABANTU for Development[8]	1998	Political advocacy, economics and governance	Expanded to include women in politics at the local level
Domestic Violence Coalition	2003	Domestic violence	No
Federation for Women Lawyers	1985	Legal Aid program	No
Women's Manifesto Coalition	2003	Women's Rights in Ghana	No
Ark Foundation	1995	Legal advocacy, gender based violence	Training and capacity building for CSOs
ASAWA	1982	Rural women development	None
AWLA	1999	Legal advocacy	Encouraging women in politics
Women and Orphans Ministry	1993	Widow rights, socio economic development	Not much
Center for the Development of People	1983	Poverty alleviation, gender, advocacy	Expanded to include governance and political advocacy
GAWU/TUC Gender desk	1986	Affairs of women in unions	No

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[7] WiLDAF is a Pan-African regional organization
[8] ABANTU is a West African regional organization, first established in the United Kingdome by immigrant women to address their common challenges. It has since expanded to the West Africa sub-region with the regional quarters based in Accra.

Table 2.1 List of Women's Civil Society Organizations Showing Date of Establishment and Focal Areas (continued)

Organization	Date Established	Focus area	Changes in Focus
GNAT- Gender Unit	1995	Women's rights	No
NETRIGHT	1999	Umbrella organization of Ghana women's organizations	Politics, governance, economic development
Women in Broadcasting	1995	Using media to promote gender rights	Training of women politicians
WISE	1999	Gender based violence	No
Gender Center	1995	Gender based violence, HIV/AIDS	Research and advocacy
Women, Media and Change (WOMEC)	1994	Using media to promote gender rights	ICT, HIV/AIDS

With the return to formal democracy and the increased space for associational life, there has been a shift from service delivery to advocacy on governance issues. Most of the organizations that now operate within civil society as an alternative voice to the state in demanding increased governmental accountability and transparency were formed after 1992. An examination of the leading think tanks in Ghana also shows that the leading five organizations were formed after 1992. With the exception of the Institute of Economic Affairs (IEA) established in 1989, these leading think tanks are the Center for Democratic Development (CDD) established in 1998, the Center for Public Interest Law (CEPIL) established in 1999 and the Institute for Democratic Governance (IDEG) established in 2000.

Taking the information contained in the GAPVOD publication, and looking at the table 2.1, it is evident that a majority of the different organizations currently forming part of the civil society sector in Ghana have been established after 1992. The selective list of women's organizations listed in Table 2.1 is particularly important in revealing the general increases in the

number of civil society organizations in Ghana. As discussed earlier, military regimes used different tactics to curtail civil society organizations, and this was more so for the case of women's organizations which had been marginalized due to the regime's umbrella organization the 31 December Women's Movement from 1979-1992. With the return to multiparty democracy in 1992, as women's organizations began to emerge, so did policy and advocacy organizations such as CDD and IDEG.

Since 1992, three factors account for the increase in the number of organizations in Ghana. First was the expansion in constitutional guarantees of civil liberties and political rights. As one interview respondent noted;

> "with the holding of second elections in 1996, there was an increase in civic consciousness and civil rights awareness began to grow. Civil society began asserting their right to vote, making demands on their members of parliament, using the new media outlets to vent their grievances and the establishment of the national election observers organization, was an important step in the growth and vibrancy of CSOs"[9].

Prompted by changes in the regime, civil society and nongovernmental organizations emerged to take advantage of constitutional guarantees of freedom of association and assembly, which gave citizens the right to form or join an organization. The return to formal democracy saw the revival of old organizations and the creation of new ones. Guaranteed civil liberties and political rights reduced the repressive capacity of the state in curtailing associational life.

The constitution of 1992 established associational autonomy and redefined the relationship between the state and society, moving it from one of contention and conflict, to one of cooperation and collaboration, allowing for the survival of different associational forms. Through institutional arrangements establishing legal and constitutional frameworks

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[9] Personal interview with a member of the Center for Democratic Development (CDD) on May 26 2008

guaranteeing civil liberties and conducive regulatory frameworks, the political environment has allowed for the emergence and survival of different CSOs (Gyimah-Boadi 2004).

Second, the decline in state-led umbrella organizations created the independence and autonomy necessary for the revival of old organizations and the emergence of new ones. For women's organizations in particular, the demise of the 31st December Women's Movement (DWM) which had co-opted many autonomous women's organizations set the stage for the rise of many women's organizations (Tsikata 2000).

Third was the role of increased donor assistance that began to focus on using different organizational forms present within civil society to advance foreign donor agendas. In addition to widening the scope of civil society activity and goals, increased donor assistance also helped increase the space for civil society to engage with state agencies .One interview respondent states;

> "development partners and funding for good governance agenda and the emphasis on participation of civil society has led to more interaction between civil society and the executive. Gradually, the participation of civil society in governance issues is becoming part of the political culture"[10]

As foreign donor aid increased, individuals formed organizations dealing with new issues such as environmental protection and privatization of water as a human rights issue.[11] For some critics, the emergence of civil society organizations in response to increased avenues of donor funding explains the proliferation of bogus civil society organizations (Green 2002). One cannot however, deny the important roles donor assistance has played in increasing the organizational density and variety of civil society organizations in Ghana.

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[10] Ibid, 7
[11] One of the leading organizations dealing with water privatization is the National Coalition Against the Privatization of Water.

Focusing on the number of civil society organizations to assess the development of civil society could be flawed due to the lack of a central registry system in most political systems (Green 2002). In Ghana, despite the presence of an easy registration process, most organizations remain unregistered, while many registered organizations are either inactive or defunct.

Changes in Goals and Agendas

As old organizations were revived and new ones created because of the increased associational autonomy provided by the state, paradigmatic changes begun to take place in the goals and agendas pursued by these organizations. Using the political context as a variable for explaining changes in civil society organizations, earlier studies have suggested that the organizations adopt goals and agendas in response to the particular political climate (Gyimah-Boadi 1994; Weigle and Butterfield 1992). Under military regimes, the mobilization of civil society and the articulation of their goals and agendas were mainly directed against regime repression and violation of human rights (Gyimah-Boadi 1993).

As political liberalization took hold, CSOs adopted goals and agendas directed at demanding citizen rights to vote, respect for the rule of law and freedom of expression as essential ingredients for a democratic transition. During the 1992 election era, civil society goals were focused on election monitoring and encouraging citizen participation in the election processes. Concentration in the service delivery section remains dominant in the goals of civil society organizations due to the continued failure of the state to meet citizen needs (Gyimah-Boadi 2004).

Did the advent of formal democracy occasion changes in the goals and agendas of civil society? Fifteen out of the twenty interview respondents noted that their goals had changed. As

one respondent vehemently argued, the core goals upon which these organizations were created have not changed because most of them are yet to achieve meaningful outcomes.[12] Another respondent had this to say[13];

> "like any living organism our goals have changed. We first started with training then we moved to publications and now information and communication technology (ICT). We are having the idea of having a newspaper and we expect more changes to take place, especially we are keen on using of the internet and website as it will open us up to the global audience".

What we observed was that most organizations had added on new goals while addressing old goals through new institutional reforms. Through a systematic analysis of changes in individual organizations, this discussion proceeds to present four broad goal changes that have taken place within civil society. These related to new goals directed at expanding citizenship rights, politics and governance, minority rights and economic development.

Within the citizenship rights realm, CSOs using the human rights discourse have pursued goals encouraging citizen participation in the democratic processes. Through these goals, civil society gained visibility among citizens, became institutionalized in development processes and acquired new and important roles vis-à-vis the state and citizens. Most of the organizations interviewed indicated that the new goals they have adopted are directed at educating citizens about their rights to vote and contribute to the political processes. Using the constitution as a template, civil society organizations have been able to use the freedoms of speech and expression as important advocacy tools to educate citizens and encourage political participation. Through the production and dissemination of research findings and important analytical tools, CSOs have actively monitored government programs and policies.

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[12] Personal interview with the leader of a Women's Initiative for Self Empowerment (WISE) on June 2 2008
[13] Personal interview with Women, Media and Change (WOMEC) on July 8 2008

Between 1992 and 1996, the Institute for Economic Development in Ghana (IEA), adopted a number of goals aimed at monitoring the government. The first one was the launch of the Legislative Alert Series consisting of publications aimed at examining legislative processes with the goal of reviewing and making recommendations for change where necessary. These publications were very important considering that the legislatures of 1992 and 1996 were dominated by the ruling National Democratic Congress (NDC) with little opposition from other political parties. By producing such publications, IEA became the voice of opposition outside the legislature. In addition to the use of tools promoting political advocacy, in 1996, IEA spearheaded the formation of the National Alliance of Domestic Election Observers (NADEO) comprising a coalition of civil society organizations to monitor subsequent elections and to ensure transparency.[14]

Civil society goals in promoting political advocacy and participation also changed in focus. Under military regimes, political advocacy and participatory goals of civil society organizations were often directed at inciting citizens against the regime. However, under democracy, a common phenomenon was the use of political advocacy as a way of encouraging citizen participation and building consensus between the state, civil society and citizens. To increase citizen participation and engagement in the democratic processes, CSOs have used the media as a channel for holding public debates to educate and inform citizens. Through public sensitization programs, CSOs have educated citizens on their civil rights and encouraged political participation by teaching citizens how to get involved in the policy-making processes. A significant outcome of the changes in this realm has been the development of civil society organizations as important stakeholders in the policymaking processes.

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[14] Information on the goals of IEA can be obtained from their website available at http://www.ieagh.org/About-IEA.aspx. Accessed March 24 2010.

The second realm where changes are observed in the goals of organizations is the new focus on politics and governance. Considering that most of the interactions between civil society and the state take place within institutional arenas and structures, CSOs have undertaken goals aimed at promoting and enhancing the capacity of the state institutional structures. Interview respondents consistently noted that the capacity of state institutions affect the type of opportunities these institutions could make available to civil society actors.

In the first place, as part of the agenda to increase institutional capacity of the legislature, CSOs that took advantage of increased donor funding have provided technical support to the legislature and bureaucracy. Within the legislative arena, as we shall see in Chapter 4, CSOs have used access to parliamentary committees as a channel to present members of parliament with important research findings to supplement the poor information sometimes available to MPs for addressing Bills that come to parliament. Enhancing the capacity of institutional processes have also involved the holding of town hall style meetings between MPs and their constituents as a way for MPs to have closer contacts with their constitutes, be well informed of their problems and address their issues and concerns.

Within the bureaucratic arenas, Chapter 5 highlights the important roles played by civil society organizations in the implementation and monitoring of laws and policies that have critical outcomes for civil society agendas. Through goals aimed at monitoring government implementation of policies, women's organizations have continued to provide research findings on the incidence of domestic violence to the Ministry of Women and Children's Affairs (MOWAC) as a means of putting pressure on the state to enforce the Domestic Violence Act of 2007.

Respect for the rule of law and safeguarding the constitutional guarantees critical to the development of a vibrant civil society sector has become an important goal of most organizations. Through advisory boards and commissions, the leading think tanks in Ghana have established review processes for monitoring human rights standards in the country. As at late 2009, the Center for Democratic Development established a constitutional review commission consisting of about forty-eight CSOs in the National Constitutional Review Coalition (NCRC) to supplement and monitor the government's constitutional review process. The aim of the NCRC is to provide civil society input into strengthening the constitution and ensuring the enforcement of constitutional guarantees to all citizens.[15]

Strengthening electoral institutions and processes has been another critical development in civil society goals. Through presidential debates, IEA has been able to create forums during election years where aspiring presidential candidates have a common platform to present their vision to citizens and these are broadcast on the media outlets for all citizens to be informed. The formation of civil society organizations into coalitions to monitor elections, has created a platform for civil society to work closely with the National Electoral Commission (NEC), a state body responsible for formulating electoral policies and enforcing transparency during national and local level elections.

Besides strengthening state institutional structures, leading CSOs have also adopted goals aimed at strengthening the capacity of other civil society organizations, by providing technical support as a means of enhancing the capacity of the civil society sector as a whole. Organizations such as ABANTU for Development, IEA and CDD Ghana have provided training programs to

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[15] For more information on the NCRC, see http://www.cddghana.org/news.aspx?news=181. Accessed March 24 2010.

enhance the capacity of other CSOs in thematic areas such as fundraising, lobbying strategies and advocacy skills.

In line with donor agendas aimed at promoting good governance, CSO goals targeted primarily at promoting democratic accountability and good governance have also increased. As a start, organizations have referred to constitutional rights such as the right of information to demand the passage of a Right of Information Bill (ROI), which will increase transparency and accountability within state institutional structures. CSOs argue that the ROI will increase civil society's capacity to monitor the effectiveness of government use of resources for development purposes. The details of the Bill and the strategies used by CSOs for the passage of the Bill are explored in detail in Chapter 3.

A third important thematic development in the goals and agendas pursued by CSOs is in the area of adopting goals aimed at enforcing minority rights. Prompted by the increased civil and political liberties contained in the 1992 constitution, civil society organizations have begun to pursue goals aimed at using the enabling legal environment to enforce important and often overlooked rights.

Dominant within this arena are goals geared towards enforcing gender, housing and environmental rights. Unlike the period before 1992 when women's organizations dealt with the practical needs of women such as education and health, with the changing political context, gender rights advocates have began to pursue goals targeted at reshaping state policies towards women's rights. Women's organizations have been able to pursue these goals with added vigor because of the added legitimacy they enjoy from state bureaucratic agency dealing with women's issues, which has provided the platform for the goals of women's civil society organizations to be placed on the national agenda.

For gender activists, the right of women to equal opportunities with men was formalized by the constitution, which guarantees equal rights to all citizens. Deriving their legality from the constitution, women's organizations have adopted radical frames for setting their goals. The leading example is the case of the Domestic Violence issue which, after extensive research and data analysis by the Gender Center, became a national issue. As we shall see in Chapter 4, the presence of an open representative legislature allowed women's organizations to adopt important strategies and to build critical alliances within the legislature for the passage of the Bill in 2007.

Besides the issue of domestic violence, women's organizations, such as Women in Law and Development in Africa (WiLDAF) and the Center for Sustainable Development Initiatives (CENSUDI) have adopted comprehensive agendas directed at addressing spousal rights, the right of women to land and the abuse of widows. What is common to these goals is that they have been framed within a human rights discourse, which could not have been possible without constitutional guarantees protecting fundamental human rights.

Another important minority right goal pursued by civil society is the issue of environmental rights. Using the legal institutional arrangements, organizations such as Center for Public Interest Law (CEPIL) have expanded their goals to address issues of environmental degradation in mining towns. In addition, the issue of housing rights has become part of the broader goals pursued by CEPIL and other public interest advocacy organizations.

The fourth and final thematic area exhibiting changes in CSO goals related to issues of social and economic development. Under military rule, the failure of military governments to provide public goods and services created a vacuum which was often filled by civil society organizations attempting to meet citizen needs (Amirahmadi 1996; Comaroff and Comaroff 1999). With the transition to democracy, it was expected that the capacity and obligation of the

state in providing such services would be enhanced. However, as we see in the case of Ghana and many other nascent democracies, that has not been the case due to economic hardships, high levels of corruption and the absence of mechanisms promoting a respect for the rule of law (Friedman and Hochstetler 2002; Ikelegbe 2001; Lewis 2002).

The result has been a heavy civil society concentration in the service delivery sector with goals aimed at addressing government weaknesses in these areas. As one interview respondent suggested[16]

> "the vision and goals are the same, but it may be that the strategic ways have some add-ons, example with legal aid, we used to look at mediation, maintenance of children, paternity rights. But now we are looking at adding economic issues to our goals because we realize that economic hardship is the key to most of the problems they face and creating a vicious cycle"

In tracing changes in the economic and social goals of CSOs, what was important is that unlike under authoritarian regimes where civil society came in as a stopgap measure, what we see was that under democracy, civil society organizations have been pursuing these goals through a framework that demanded increased governmental accountability to citizens.

Considering the myriad problems facing most developing countries, civil society will continue to have goals in the economic and social sphere for a very long time. It is the space within which they can actively demand governmental responses and garner donor funding for their projects that will form the bases of tracing the changes that have taken place within this thematic arena.

Overall, our examination of the different goals and agendas pursued by civil society actors led us to the four thematic areas we have been looking at. The goals and agendas pursued by civil society exhibit some changes, and these changes, we argue, are made possible by the

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[16] Personal interview with a member of the International Federation of Women Lawyers (FIDA) on June 8 2008

changing political context. Through an increase in civil liberties reducing the capacity of the state to engage in acts of repression, the presence of open and accessible institutional structures, and increased donor support to civil society, these organizations have been able to adopt meaningful goals and agendas. As we shall see in Chapters 4 and 5, institutional mechanisms promoting dialogue and collaboration have allowed CSOs to advance their goals by engaging in policy and lawmaking processes and contributing to government policies and legislation that have important implications for the development of the civil society sector in advancing their goals.

Changes in Strategies and Tactics

Realizing the expansion in the opportunities for civil society development, since 1992, civil society organizations have adopted new strategies and tactics to maximize the opportunities and consolidate the gains made so far. In general, what this research finds is that strategies changed from the use of contentious strategies such as protests, demonstrations and strikes to more collaborative ones such as lobbying, as well as political and legal advocacy.

Overall, these new strategies and tactics have primarily worked through institutional mechanisms of consultative meetings and government initiated advisory panels to engage with institutions such as the legislature and bureaucracy. Within the legal arena, the new strategies have been couched to take advantage of constitutional provisions guaranteeing freedom of information and other rights to demand increased governmental accountability and responsiveness to citizen needs. However, despite the presence of legal institutional safeguards guaranteeing judicial independence, we found that access to courts for purposes of achieving

organizational goals was the least used strategy by civil society organizations; the reasons for this will be examined in detail in Chapter 3.

As previously noted, the strategies and tactics used by CSOs also depended on the capacity of the newly established democratic institutions, most of which were lacking in resources and technical expertise, and could not provide critical platforms for CSOs to engage with the state. Interestingly, what our research data suggests is that to overcome the lingering institutional weaknesses, CSOs, with support of foreign donors sought to supplement government institutional capacity. Our research data identifies five important strategies that have become important tools for civil society actors since 1992. These are advocacy and lobbying, coalition building and networking, resource mobilization strategies, and the strategy of increasing visibility among citizens.

Advocacy and Lobbying

As we shall discuss in Chapter 3, the constitutional guarantees of freedom of speech and expression proved to be crucial institutional safeguards that allowed civil society to adopt advocacy and lobbying strategies. The directory of NGOs in Ghana, published by GAPVOD (2005-2008) indicates a small shift   from 20% to 28 % of respondents indicating a focus on using increased advocacy as part of their strategies. Civil society advocacy often implies the use of civil liberties and fundamental human rights norms as a basis for making demands on the state and pushing for the rights of citizens. Lobbying on the other hand involves the use of persuasion and negotiation skills to exert influence on particular individuals or state agencies to provide support for the agendas pursued by these organizations.

In the case of the openings in legislative access, CSO goals of providing policy inputs to the legislature required the adoption of strategies of advocacy and lobbying of members of parliament. As discussed in Chapter 4, the heightened advocacy strategy used by women's organizations in the run-up to the passage of the Domestic Violence Act was crucial in the eventual passage of the law. Using the freedom of the press as a platform, women's organizations used the media as an important advocacy tool to inform and educate citizens of the duty of the legislature to pass the law protecting the rights of women.

Women's organizations emphasized that the failure of the legislature to pass the bill was in contravention of the human rights of women and therefore an indication of the failure of their duly elected representatives to protect and guarantee such rights. A defining feature of the advocacy strategy was to "name and shame" some members of parliament who were vehemently opposed to the passage of the Act. Such advocacy and demands on the government to protect the rights of women greatly contributed to the eventual passage of the bill.

As one respondent noted[17] ;

> "because of the advocacy of women's organizations, the process was such that we (women's organizations) even monitored which MPs will say negative stuff, so the MPs were very cautious and quite a number of them came to the DV Coalition meetings".

In effect, women's organizations credit the eventual passage of the DV Act to their own use of advocacy strategies which they argue, could not have been possible, but for the political space created by democracy expanding the scope of political activity that CSOs could engage in.

As our research data indicates, lobbying strategies have been crucial in building elite alliances within the legislature. Lobbying in Ghana is still far from being as sophisticated as it is in the USA and other developed economies. Nonetheless, the development of the legislature in

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[17] Personal interview with a member of the Women in Law and Development in Africa (WiLDAF) on June 4 2008

Ghana has reached a point where lobbying of MPs is becoming a common feature. Lobbying creates the opportunity for CSOs to present and make their case to MPs, in order to gain their support in passing legislation. The concern of CSOs surrounding the government's plan to pass the NGO Bill--discussed above, which will regulate the activities of CSOs and other NGOs, has led to the need to build strong alliances and generate support within parliament.

Through lobbying efforts, CSOs have adopted tactics to help identify and lobby particular bureaucrats to represent the voice of CSOs negotiations on particular policies, such as the NGO Bill. The effect of such efforts has been the support CSOs received from the Minister of Employment and Social Welfare (MESW), the government ministry in charge of NGO regulation. The sustained interactions between CSOs and the MESW for the passage of a favorable NGO Bill to regulate the civil society sector are further explored in Chapter 5. Nevertheless, for now, it is worth mentioning that through lobbying efforts, CSOs have been able to exert some pressure on the state and in the process influenced the state's capacity to shape the civil society sector through legislation.

Lobbying legislatures and bureaucrats remain largely informal and dependent on the interpersonal skills and relationships between the parties. Most of the lobbying takes place outside formal structures, usually during meetings, lunches and seminars, organized by CSOs, with the aid of donor assistance. It is at such functions that CSOs get to present their issues with the hope of getting support from their allies. During the run-up to the passage of the Domestic Violence Act, women's organizations, realizing the stiff opposition within parliament and society, relied heavily on lobbying members of parliament as a way of getting the needed support for the passage of the Bill into law.

Lobbying strategies have not always been easy, especially considering the fact that politicians and MPs in Ghana are still heavily stratified along party lines (Barkan 2008). Such stratification often leads to MPs voting along party lines and not necessarily based on the substance of the draft bill. Lobbying strategies are effective when the issue at hand is of national interest and does not go against the party allegiances of individual MPs. To overcome challenges of partisan divisions within the legislature, some CSOs have advocated for a platform whereby CSOs can periodically meet with parliamentary committees to exchange ideas and share pertinent information.[18] In addition, some of our interview respondents noted that the development of an effective lobbying strategy will involve mapping parliament to see what each member supports; this will help with the lobbying and presenting of issues.[19]

Women's organizations interviewed pointed to the particular challenges of lobbying female MPs. Lobbying efforts beyond those targeting female MPs were particularly crucial since the organizations could not rely on the 11% representation of women in parliament for the passage of the bill. Also given the fact that not all female MPs are necessarily gender activists interested in promoting the rights of women in national legislatures, it was important for women's organizations to forge closer links with male allies in parliament (Waylen 2008; Yoon 2001; Tripp et al. 2008).

For most gender activists, entering into politics often leads to a decrease in their activism on gender issues (Waylen, 2008). Women's civil society organizations complained about the political rivalry and lack of interest by female MPs in programs such as seminars and workshops organized by women's organizations. Ironically, most women's organizations noted that in most of these seminars, male MPs have tended to be more supportive than most of their female

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[18] Ibid, 10
[19] Ibid, 11

counterparts have been. For instance, one respondent indicated that during a seminar they held for female MPs, out of the 16 members invited, only one showed up-- a member of the opposition NDC party at that time. This led to accusations leveled against the women's organization as being an opposition to the government. Such political rivalry has also been a great hindrance to the active participation of female MPs in the works of CSOs, which they often label as anti-government and therefore to be avoided.

Coalition Building and Networking

The strategy of coalition building and networking has become a vital tool in the development of CSOs in Ghana. With the expansion in political freedoms, civil society organizations realized that in order to make meaningful gains within the spaces created by democracy, it was necessary to employ the strategy of coalition building and networking among organizations to create the critical mass necessary for meeting common goals.

Through coalitions, CSOs have encouraged citizen participation in the political processes and increased the role of civil society as government watchdogs. For instance in 2000, a group of civil society organizations created the Coalition of Domestic Election Observers (CODEO) to monitor presidential and parliamentary elections. The recently formed Constitutional Review Coalition of 2009 will also play a key role in monitoring the government's constitutional review processes.

Successful outcomes for collective goals of civil society have depended on the presence of strong coalitions and movements (Tripp et al. 2008; Waylen 1993; Jacquette 2001). For some analysts, the absence of a strong women's movement in Ghana may explain the slow pace at which gender issues have received attention in the legislature (Prah 2007; Tsikata 1989; Mama

2000b). Prior to 1992, due to the dominance of the DWM, other women's organizations, which resisted cooptation into the DWM had limited opportunities for forming coalitions to influence gender policies. Since 1992, the strategy of coalition building and networking has made the work of women's organizations much easier to manage.

For instance the Network for Women's Rights in Ghana—NETRIGHT, was born out of the strategy of coalition building among women's organizations in the country (Tsikata 2009; Ampofo 2008). Currently NETRIGHT is the only umbrella organization for women's organizations in Ghana, and through its activities, it has been able to mobilize the membership of women's organizations. In 2004, through its strategy of mobilizing all women's groups, NETRIGHT gained the support of women, political leaders and members of parliament in presenting the Women's Manifesto of Ghana. The document, produced after extensive engagement and discussions with women, politicians and other CSOs, contains comprehensive demands on what the rights of women in Ghana are, and what these organizations expect of democratic leaders. Such coalition efforts have become a very important strategy, and have contributed to the creation of others such as the Domestic Violence Coalition. Through the strategy of coalition building, women's organizations have been able to identify their problems and find ways to strategize and share ideas to find common solutions to common problems. In the words of one respondent, "when we do this (build coalitions), we attract the attention of the government who see the strength in numbers".[20]

Using the strategy of coalition building and networking in engaging with democratic institutional structures has had some positive outcomes for CSOs. As we shall see in chapter 4 on the legislature, the Domestic Violence Coalition established in 2004 by women's organizations was an important strategy that helped with the passage of the law in 2007. Within the

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[20] Personal interview with a representative of ABANTU for Development on May 12 2008

bureaucratic arenas, Chapter 5 uses the case of the NGO Bill and the Right of Information Bill (ROI) to highlight how a cohesive civil society represented by strong coalitions, can take advantage of democratic openings to engage with state agencies. Through coalitions, civil society has been able to create the critical mass necessary for exerting policy influence and shaping state policies towards civil society.

In addition, coalitions and networks have been important for those organizations based outside the capital city Accra, since they do not get to present their concerns to the right channels and committees in parliament. One respondent, from the Center for Sustainable Development Initiative (CENSUDI), based in the Northern region of Ghana noted the challenges posed by the lack of adequate means of communication between regional CSOs and decision-making channels of government. Organizations such as CENSUDI have joined networks of women's organizations such as NETRIGHT as a channel of presenting their needs and issues to be addressed by parliament. Within civil society, the increasing prominence of women's organizations in advocating for gender equality is credited with the passage of the Domestic Violence Act (Act 732) as well as the overall improvements in the equality of women.

Strategy of Resource Mobilization

Continued organizational weakness and fragmentation of state institutions, has provided unexpected opportunities for CSOs to mobilize external sources of funding. By presenting themselves as providers of training, capacity building and research reports, some CSOs have been able to gain funding from donors for purposes of building the capacity of state institutions such as the legislature. Through such activities, CSOs have been able to build their internal resource base through the economic assistance they receive from donors. Within the legislative

arena, donor programs such as the USAID grant to the parliament of Ghana involved the use of some leading CSOs to train the members of parliament on legislative processes. While providing such training, CSO capacity was enhanced as many of the civil society organizations received training in the drafting of memos and the use of other strategies such as advocacy and lobbying. Increased donor assistance to the civil society sector has created more access points between the state and civil society and helped civil society organizations to build important alliances within the legislature, judiciary and bureaucratic arenas.

Strategy of Increasing Visibility among Citizens

As civil society organizations pursue their economic, social, political and developmental goals with increasing success, some leading organizations, mostly those engaging in advocacy work are gaining visibility among citizens. Through public programs such as town hall meeting, presidential debates and press conferences, the role of civil society in the democratic development processes become legitimized. Increasing visibility among citizens goes beyond public advocacy to include activities at the grassroots level. For instance in response to the challenge of the legislature in performing its constituency service to its citizens, CSOs, especially those based outside the regional capital, have held public meetings with MPs and their constituents to address important social and economic issues such as the provision of micro credit facilities, education and legal services. Such strategies have increased the visibility of CSOs and helped to reduce the level of mistrust citizens have in the civil society sector as another moneymaking enterprise for most people (Mohan 2002).

From the foregoing, it is evident that there are many strategies and tactics used by civil society organizations to achieve their goals, and the particular agendas and timeliness of an issue will determine the effectiveness of particular strategies over the others.

With the increased space for political activity brought about by the changing political context since 1992, civil society in Ghana has used legal freedoms as a basis for agenda setting. By taking advantage of the freedom to participate in political activity, ABANTU for Development, a leading women's civil society organization has adopted a strategy of setting a new agenda for women to participate in politics. Realizing that change from above will not happen soon, ABANTU decided to adopt a new strategy by focusing on the grassroots as a grooming ground for women to enter politics. To this end, ABANTU began to focus more attention at the local level, through encouraging women's participation in district level elections where it is relatively easier for women to win seats. The strategy of focusing on the district level thus serves as a preparation ground for women to enter into politics, through a bottom-up approach.

Civil society organizations have used strategies based on the timeliness of an issue (Tilly and Tarrow 2007). As one interview respondent suggested, strategies are used based on the timeliness of an issue. She states[21]:

> "they (strategies) have not changed, they are employed when necessary, depending on the issue, one is used more than the others, when it comes to collective action, it (the strategy) dies down when you achieve a goal and it comes up when necessary".

The argument this respondent is making is that in general, the strategies used by civil society organizations have not changed much since 1992. She goes on to emphasize the

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[21] Personal interview with the Executive Director of the Ark Foundation, May 19 2008

importance of the argument we are making in this section that depending on the particular issue being dealt with within a particular time, some strategies are more important than others. The ability of civil society organizations to map out and use different strategies for different agendas speaks to the effectiveness of focusing their agendas within particular periods.

In 2004, Ghana went through a spate of random killing of women. Women's organizations initially wrote memoranda and reports to parliament demanding an investigation into the matter. The response of the government was slow in coming, thus demanding a change in tactics. Women's organizations mobilized support from both men and women in the country to march to parliament in order to lay their petitions before the national assembly. The result was that government engaged in more proactive attempts at capturing and prosecuting the alleged offenders.

Protests played a key role in 2004 since the timing of the killings was perfect for purposes of using protests as a way of getting the attention of the government to deal with the issues. At other times, depending on the issue, other strategies and tactics, such as research, public consultations, seminars and workshops have proven to be more beneficial in advancing the goals of civil society organizations. For instance during election years, civil society organizations often pursue goals targeting presidential candidates to commit to certain issues such as increasing the number of women in parliament. The timeliness of the election year and the desire of political parties to win votes make it an easy way for organizations to have their goals placed in the political party manifestoes.

The differences between the strategies used before and after 1992 highlight our argument that the advent of democracy, created spaces for civil society to engage with state institutional structures. As the opportunities for dialogue and communication increases, there is a shift from

the use of contentious politics such as protests and riots, to more inclusive strategies such as consultative meetings and advisory panels.

The use of different strategies and tactics by civil society lends support to our argument that civil society has indeed developed in Ghana. To the extent that civil society actors are now important stakeholders in national development issues, the use of strategies promoting joint collaboration with the state is essential, though in some cases, opposition to the state through protests for example, may prove more effective.

Overall, our research data leads us to conclude that the changing political context has led to changes in the numbers, goals and strategies of civil society organizations in Ghana. The particular processes and mechanisms by which these changes are set in motion will be further explored in the three empirical chapters that follow. Notwithstanding the general positive observations presented in this chapter, there are some persisting challenges worth mentioning.

Ongoing Challenges

In the first place, the lack of formal mechanisms within democratic institutional structures promoting dialogue and communication poses problems to the institutionalization of civil society in the policymaking processes. Where democratic institutional structures such as the legislature and bureaucracy are able to formalize review processes and advisory panels, then it will create a better opportunity for CSO agendas to be streamlined into national policy. The absence of formal mechanisms for communication leads to poor information flow between the state and civil society, which has the potential to limit consensus building and the extent to which civil society can participate in governance issues.

A second challenge relates to the lingering institutional weaknesses inherent in state structures. Due to the limited government budgetary allocations, some bureaucratic agencies such as the Women's Ministry have not been able to implement policies that have important implications for civil society actors. Another manifestation of institutional weakness within state institutional structures is the legal arena where due to lingering financial and human resource problems, the general legal system is slow. If the expression "justice delayed is justice denied" is anything to go by, the lack of a quick and effective means of enforcing citizenship rights has adversely limited the extent to which civil society uses the courts as a means or strategy of pursuing their goals.

A third challenge is the lack of government commitment to enforcing laws and policies. Within the legal arena, despite constitutional provisions guaranteeing the right of citizens to information, successive governments have failed to enact such a law which civil society organizations argue will promote their goals of enhancing governmental accountability and transparency in institutions. Within the bureaucratic arena for instance, the failure of the government to increase budgetary allocations to the ministry has affected the Ministry's effectiveness in addressing national gender issues.

Fourth, efforts at collaboration and joint strategizing with particular legislative committees on specific issues have not always been an easy task. Women's organizations interviewed repeatedly noted that they have not had much engagement with the Women's Caucus and the Gender Committee in parliament. The Women's Caucus being a recent development in the history of parliament, dating back to the 1996 second Republican Parliament may still be finding its footing in the legislative processes. In response to the question describing the relationship between CSOs and the Gender Committee, the clerk of the gender committee

noted that the Women's Caucus has had its own internal problems. The Caucus took a long time to crystallize because of the internal struggles for leadership among the few female members who are automatic members of the Caucus.[22] Thus, the inability of the Caucus to work with women's organizations, she noted, was not due to rivalry and antagonism towards women's organizations, as some members of women's organizations felt, but rather the result lack of formal mechanisms promoting dialogue between the Caucus and civil society organizations.

A fifth challenge to the development of civil society has been the issue of "political branding"; depending on which political party is in power, then the civil society sector is viewed as supporting the opposition political parties. In other instances, the efforts of CSOs in producing reports and research findings that do not favor the government have led to some forms of antagonism between the government and some CSOs, with the government blaming these CSOs for producing politically motivated reports with the aim of tarnishing the image of the government both domestically and internationally.

In light of the overall opportunities and constraints presented by democracy for civil society development, this study found uneven outcomes. Despite the presence of institutional openings, which allowed for an expansion in the goals and strategies of civil society organizations, only a few organizations with financial resources and technical expertise have been able to take advantage of lobbying and networking opportunities for purposes of meeting their goals.

The exclusion of other CSOs from such opportunities can be remedied through networking with other CSOs, as noted above. Nonetheless, this speaks to the challenges of the vertical relationships among civil society organizations, which makes it hard to assess the

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[22] Interview with clerk of the Gender Committee on June 2 2008

development of the civil society sector as a whole. By looking at civil society outcomes, a better picture emerges on the presence of a strong civil society sector in Ghana.

An Effective Civil Society?

Measuring the strength of civil society depends on whether one is focused on the definitional attributes, organizational characteristics or the policy outcomes (Uphoff 2004). The roles played by civil society in the development of democracy have been used by earlier studies as an indicator of an effective civil society (Orvis 2001; Weldon 2004). Looking at the functional capacity as a measure of a strong civil society, other studies have focused on the role of civil society in complementing state policies through self-help projects, building social capital necessary for democratic development and consolidation (Hyden 1997; Robinson and Friedman 2005). Civil society strength may also be measured in terms of its functions of providing channels through which citizens learn and participate in the democratic processes (Obadare 2005; Nwosu 2006).

While this study has focused on changes in the numbers, goals and strategies of civil society organizations, the outcomes achieved by these organizations provide us with better indicators for assessing the expected growth in the civil society sector. The changes we observed lead us to establish three measurements that demonstrate the presence of a strong civil society— first the development of civil society as important stakeholders in development, second civil society capacity to shape the policy-making processes and third, broadening citizenship rights.

The first approach explains the development of civil society as important stakeholders in development issues. With the increasing capacity of the civil society sector, government agencies have come to demand civil society input on national policy issues such as aid

effectiveness, election monitoring and civic education (Gyimah-Boadi, 2000). The increase in engagement is indicative of government recognition of the organizational development of civil society organizations, as well as the institutionalization of civil society in Ghana. Another dimension of the development of civil society organizations as major stakeholders lies in their contributions to building state capacity.

Interview respondents noted that the increased engagement between civil society and the state is a result of the capacity of civil society organizations to help strengthen democratic institutions and the general democratic governance agenda. Institutional structures such as the legislature and bureaucratic agencies have come to rely on the research and technical inputs from civil society organizations in dealing with important national development issues.

The development of a vibrant civil society as important development partners transcends national boundaries. Collaborative efforts between the state and civil society have been both at the domestic and international level in addressing economic policies such as the Ghana Poverty Reduction Strategy (GPRS, I and II) and the High Level Forum on Aid to Developing countries. Increased demands by foreign donors for closer state-society collaboration has been an important contributing factor enhancing the capacity of the civil society sector to be effective development partners (Hearn 2000; Thomas and Ottaway 2000).

The recognition of the civil society sector as stakeholders in development efforts has come under some criticism by women's civil society organizations who point to the inherent problem of gender stratifications within civil society itself (Howell 2007; Waylen 2007). These groups cite the case of the GPRS I consultations between government, donors and other civil society groups, which did not take into account gender concerns. To remedy the situation, the umbrella women's organizations- NETRIGHT demanded that the GPRS II be more gender

sensitive, as a result, efforts were undertaken by the stakeholders of the state and donor representatives to ensure that a gendered perspective was taken into account in producing the final document.

These measurements strongly indicate that the changing political context has created a favorable environment for civil society actors to engage with the state. Through increased access to policymaking and opportunities for exerting policy influence in important national legislation, the capacity and legitimacy of the civil society sector in Ghana is growing.

Second, an effective civil society is one that is able to shape state policy. Since 1992, organized civil society interests have become an important part of national policy agendas. The civil society sector has gained prominence in national policy issues by taking advantage of democratic openings to participate in the policymaking processes. Through strategies of lobbying, legal advocacy and coalition building, civil society has been able to make advances in important issues addressed by the state. The inputs of women's organizations in initiating the process that led to the eventual passage of the Domestic Violence Act of 2007 is a strong indicator of how an effective and well mobilized civil society sector can contribute to shaping national policy.

Through sustained interactions with bureaucratic agencies and legal structures such as the Attorney General's Department, coalitions of civil society organizations are putting pressure on the state to pass two important pieces of legislation—the NGO Bill the Right of Information Bill. Together, these two bills, while regulating the state and limiting its capacity to curtail citizen rights, will expand the space for civil society to pursue their goals. Though each of these Bills are yet to be passed into law, the fact that government has come to recognize civil society input

into policymaking processes shows how an effective civil society can shape the direction of state policies.

Finally, an effective civil society helps expand citizenship rights. In assessing this criterion, we look at the diverse roles played by the civil society sector in meeting the socio-economic, political and developmental needs of citizens. Positioned as an intermediary between the state and citizens, the civil society sector is the arena in which significant demands can be made on the state for meeting citizen needs. Through formal organizations, citizens can put pressure on the state to increase civil liberties and respect for the rule of law, which are essential in promoting development in other sectors of the society.

The use of legal and political advocacy in demanding governmental transparency in national development issues, often a demand by civil society, provides citizens with a channel for participating in the decision-making processes. Because of the progress made by civil society activities in expanding citizenship rights, citizens are now more interested in the activities of CSOs, providing them with a wider constituency for organizational growth and development.

Despite the mixed responses from civil society organization leaders interviewed, the empirical record points to a number of robust findings. Gleaned from the changes in the numbers, strategies, tactics and outcomes of CSOs interviewed, the research confirms that the change from military rule to democracy has increased the opportunity structures for the construction of an effective civil society in Ghana.

In summary, this chapter demonstrates that civil society has become an important third sector in Ghana's domestic affairs. The following chapter present empirical data and provide a closer examination of the processes and mechanisms by which changes in the legal arena brought about by an expansion in civil and political liberties can affect the development of civil society.

CHAPTER 3

ENFORCING CITIZENSHIP RIGHTS: CIVIL LIBERTIES AND THE EMERGENCE

OF CIVIL SOCIETY ORGANIZATIONS

Introduction

Using the theoretical model presented in Chapter one, this chapter illustrates the

processes by which changes in legal institutional structures can contribute to civil society

development. The goal of this chapter is to examine how an expansion in civil liberties and

political freedoms contribute to the emergence of an effective civil society in Ghana. By taking

advantage of increased legal protections, civil society organizations have been able to engage

with other institutional structures and taken advantage of opportunities presented by the state.

 In order to understand how formal democratic institutions contribute to civil society

development, this chapter uses a two-part model. The first part of the model examines how

expansions in civil and political liberties, through formal mechanisms such as constitutional and

legal guarantees promote the emergence and survival of the civil society sector. This model

argues that formal changes in the rules can contribute to the development of civil society by

expanding the scope of permitted civic activity while limiting the state's capacity for repression.

The second part of our model explains the processes and mechanisms by which these

legal changes lead to observed outcomes in civil society. Press freedom is one such mechanism

which has increased the channels of communication and dialogue between civil society and

citizens on one hand and between civil society and the state on the other hand.

This chapter also brings together the two dimensions of the legal arena by tracing the

relationship between procedural rules (expanded civil liberties) and substantive outcomes (using

the courts to enforce civil liberties). The impact of institutional structures in shaping civil society outcomes are established by examining the mechanisms through which access to the courts either expands or limits the procedural rules---measured by the scope of permitted legal activity.

As Gyimah-Boadi (2001) argues, democracy can enhance the development of civil society by creating and protecting a legal and constitutional framework that guarantees fundamental human rights and civil liberties. These constitutional provisions must be accompanied by the presence of regulatory frameworks that are non-predatory and capable of allowing the emergence and survival of civil society organizations.

The goal of this chapter is to examine whether the changing political opportunity structure has led to an expansion in the civil and political liberties necessary for the development of civil society in Ghana. In particular, the discussions and empirical analyses focus on investigating the legal institutional frameworks that condition the emergence of CSOs, as well as the regulatory frameworks governing their operations and ability to develop as a sector. The analysis also discusses an important aspect of the civil society literature, which relates to the existence of channels of communication, which determines the "voice" of CSOs. The second part of this discussion will focus on examining the ways in which procedural changes in the rules of the game are enforced, by examining access to courts.

The discussion will proceed in the following manner. The first section engages in a discussion of the literature to establish an understanding of how changes in the political opportunity structures create an enabling environment for the development of civil society. The second section provides empirical data from fieldwork and traces the mechanisms by which changes in civil society are observed. The empirical analyses also presents data that examines substantive practices such as access to courts as an important yet often overlooked aspect of

existing opportunity structures for civil society development. The third and final section provides a discussion of the major findings and draws the conclusion.

Changing political Opportunity Structures (POS —Civil liberties and Legal Frameworks

Civil liberties and political rights are important for the development of an effective civil society in two ways—first, they define the scope of permitted political activity for civil society actors; and second, they set the parameters for state-society relationships by limiting the capacity of the state to engage in acts of repression against civil society (Drah 1996).

Within the legal arena, constitutions and other regulatory frameworks have been identified as having the capacity to either expand or limit the range of opportunities and constraints available to civil society actors (Adjibolosoo 2006; Atkinson and Stec 2009). Constitutions and favorable legal frameworks provided protections for civil and political rights---the legal basis upon which CSOs draw their legitimacy and survival.

Institutional legal frameworks established by the state confer upon civil society certain rights that are vital to their emergence and growth (Green 2002). Institutional guarantees expanding civil liberties, such as favorable registration laws, confer legality and protection on organizations. Additionally, favorable taxation rules encourage civil society survivability, while freedom of the media allows civil society to demand government accountability. Together, these rules embodied in constitutions and other regulatory frameworks set the parameters for the scope of political and social activities civil society can engage in within the state (Simon 1997b).

Constitutional documents provide important civil and political liberties that set the parameters for the rights and responsibilities for the state on one hand and civil society on the

other. Constitutions spell out civil liberties and provide important institutional safeguards for civil society organizing. Adjibolooso (2006) defines a constitution as;

> "the blueprint that outlines the various rules, regulations and principle for organizations, operation and governance (17)".

The "uses and abuses" of constitutional provisions have the potential to determine the direction of civil society growth, as constitutional provisions may be used by the state to either expand or limit the space for civil society development. Constitutional provisions spell out the rights and obligations of civil society actors on one hand, and those of the state on the other hand, providing each with the capacity to influence the activities of the other.

The drafting of a new constitution to replace the old 1979 constitution preceded the introduction of formal democracy in Ghana in 1992. The constitution contains provisions that broaden the range of citizenship rights in Ghana. In particular, the constitution reconfirms the rights of civic groups to engage in civic participation with full protection of the law from arbitrary arrests and curtailing freedom of speech, limiting the capacity of the state to curtail the development of associational life.

While the 1992 constitution of Ghana does not expressly mention civil society, proponents of constitutionalism (Prempeh 2008a; Kumado 1993) have argued that some elements of the constitution contained provisions from which attributions for civil society protection could be made. Drah (1996) suggests that the constitutional rights enshrined in Chapter Five[23] of the constitution are expansive to cover civil society, especially those relating to the freedoms of association, speech, information, and assembly. These rights and freedoms are

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[23] Chapter 5 of the 1992 constitution establishes the fundamental human rights of citizens, which shall not be violated the state or other entity. The complete constitution is available at http://www.ghanareview.com/parlia/Gconst5.html. Accessed April 20 2010.

vital to the emergence of civil society, as well as increasing the space for the voice of CSOs and the extent to civil society can regulate relationship between CSOs and the state.

How does the changing political context lead to changes in the opportunity structures for civil society development? In explaining how democratic changes can foster the emergence of a strong civil society, it is pertinent to outline the changes in the political opportunity structures and then proceed in the next section to examine how these opportunities have led to changes in civil society.

First, constitutional guarantees for protecting and enforcing civil liberties and political freedoms limit the state's repressive capacity against autonomous organizations. Activities directed at limiting the civil liberties of citizens and civic organizations such as denying the right to association, imposing restrictions that limit access to financial autonomy and censorship through a ban on press freedoms have been used by non-democratic regimes (Azarya 1994.; Gyimah-Boadi 2004; Lewis 1992). With constitutional and legal freedoms protecting citizens against such freedoms, civic actors could now begin to operate without fear of government reprisals. The state was placed in check because citizens could now use their protection under the law to sue the state.

As the political context changes and democratic norms and principles become institutionalized through formal mechanisms such as the drafting of new constitutions, there is an expansion in civil and political liberties. Increased civil liberties, such as the right to form an association and the right to petition the courts and judicial bodies for enforcing civil liberties prompt the emergence of civil society organizations, improving organizational diversity where different organizations are able to represent different societal needs and interests (Green 2002).

As discussed in Chapter 2, there has been an increase in the number of civil society organizations in Ghana since 1992. Article 21 of the 1992[24] constitution of Ghana provides considerable space for civil society emergence and growth. Specifically, article 21 contains freedoms such as the freedoms of speech and expression, freedom of assembly, freedom of the press and information, and freedom of association. These civil and political rights are important determinants of civil society development because in addition to providing space for the emergence of civil society, these provisions also protect the rights of citizens engaging in associational life.

A second element is the presence of institutional mechanisms and safeguards promoting and protecting civic participation. The Directive Principles of State Policy (DPSP) in Chapter 6 of the constitution enjoins all citizens, state institutions and other entities to ensure that there is a just and free society.[25] For CSOs, the obligation placed on all citizens and entities to ensure a free society can be undertaken and fully executed where the state provides an enabling legal and political environment. CSOs in Ghana have referenced this provision in making demands on the government to increase the space for associational life.

The DSPS has helped to foster the independence and autonomy of CSOs enabling them to improve their capacity in undertaking their goals within a democratic space that limits the

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[24] Article 21 of 1992 provides (1) All persons shall have the right to -
(a) freedom of speech and expression, which shall include freedom of the press and other media;
(b) freedom of thought, conscience and belief, which shall include academic freedom;
(c) freedom to practise any religion and to manifest such practice;
(d) freedom of assembly including freedom to take part in processions and demonstrations;
(e) freedom of association, which shall include freedom to form or join trade unions or other associations, national or international, for the protection of their interest;
(f) information, subject to such qualifications and laws as are necessary in a democratic society;
(g) freedom of movement which means the right to move freely in Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana.
[25] Chapter 6 , article 34 (1) of the 1992 Constitution provides "(1) The Directive Principles of State Policy contained in this Chapter shall guide all citizens, Parliament, the President, the Judiciary, the Council of State, the Cabinet, political parties and other bodies and persons in applying or interpreting this Constitution or any other law and in taking and implementing any policy decisions, for the establishment of a just and free society.

tendency of the state to co-opt CSOs. The constitutional and legal guarantees as contained in the 1992 constitution have provided civil society organizations with the fodder needed to actively engage in the realm of associational life and contribute to building a strong civic sector.

Third, the presence of open and accessible institutions increases the opportunity structures for civil society development. The constitutional freedoms provided by the 1992 constitution, while creating civil and political rights, also make provisions for the creation of judicial and administrative bodies for the enforcement of new civil liberties. Drah (1996, 37) argues that;

> "…these judicial bodies entail provisions which aim at institutionalizing channels of communication and co-operation between some elements of civil society and certain state organs, through these channels, the elements involved can influence public policy-making and implementation".

Under these provisions, the state is enjoined to create extra judicial bodies, such as the National Media Commission (NMC), the Commission on Human Rights and Administrative Justice (CHRAJ), as well as the National Commission on Civic Education (NCCE). Through the NMC for instance, CSOs have persistently demanded an expansion in the freedom of speech and other media freedoms, which are crucial to the public education programs undertaken by CSOs. These commissions, which we shall examine in detail, while targeting freedom of the media, human rights and civic participation respectively, are each formal mechanisms that improve institutional access points for promoting civic engagement.

As part of the mechanisms promoting the advancement of civil liberties, the court system plays a central role. Open and accessible courts are important formal channels through which CSOs can enforce civil liberties. Evidence from fieldwork shows that addressing legal issues through the courts is one strategy that has not been used much by CSOs. Most interview

respondents noted that the limited use of the courts for purposes of advancing their goals owes to the general malaise within the court system, the lack of time and money for civil society organizations to drag cases in court and the lack of enforcement of judgments and rulings by the courts.

Fourth, beyond constitutional provisions, other legal institutional mechanisms embodied in regulatory frameworks are important in safeguarding the development of associational life (Green 2002). In Ghana, regulatory frameworks, pertaining to registration and taxation of CSOs, indicate high levels of favorable arrangements for the growth of civil society. The Companies Code of Ghana, which regulates the registration of civil society organizations, is a relatively easy process.

Fifth, with an expansion in civil liberties and political freedoms, the capacity of the state to limit the financial autonomy of organizations begins to decline. Democracy creates new opportunities for resource mobilization, allowing foreign donors to give aid to organizations aimed at promoting the good governance agendas of the foreign partners (Hearn 1999). Increased opportunities for resource mobilization has strengthened the capacity of CSOs to move beyond service delivery and engage in more strategic goals such as politics and governance (Robinson and Friedman 2005).

In Ghana, the expansion in the civil and political liberties allowed CSOs to build their internal capacity and become important government watchdogs and protectors of civil liberties. The increased space for associational life and expansion in civil and political rights has prompted these organizations to make further demands on the government to open more space and create formal mechanisms for promoting associational autonomy.

In addition, changes in the legal frameworks have also provided civil society actors with rights to check the repressive capacity of the state. Despite the tendency for the excessive use of state power and resources by the executive, (Prempeh 2008b) the wanton disregard for human rights and civil liberties that once marred the political landscape of many an African country is beginning to change. Presidents and 'pseudo-democratic presidents" attempt to align with international standards and norms that demand the respect for political and civil liberties. However, there are still many challenges that exist within the legal and executive arenas that have the potential to limit the scope and quality of activities civil society can, and do engage in.

The following section presents empirical data from fieldwork aimed at establishing the causal relationship between the changing legal context and the level of civil society development in Ghana. Focusing on legal structures and frameworks, we assess the impact of legal institutions in providing opportunities for the emergence and diversity of the civil society sector. These include the impact of regulatory frameworks on civil society survival, as well as the space for engaging in political activity, which determines the "voice" of civil society. The section ends with a discussion of the formal mechanisms by which CSOs enforce legal rights through access to the courts.

Empirical Analyses and Mapping Changes in Civil Society

This section assesses the extent to which CSOs have taken advantage of democratic openings in the legal arena to advance their goals. While engaging in an analysis of the range of opportunities presented by the legal and constitutional arena, our discussion also aims at assessing the impact of opportunities and constraints on the strategies and tactics used by civil society actors to meet their goals and agendas.

Crafting the Emergence of Civil s\Society

Favorable political opportunity structures are crucial determinants in the emergence and growth of civil society (Bayart 1986; Bradley 2005; Gyimah-Boadi 1994). Legal instruments such as constitutions limit the repressive capacity of the state and provide civil liberties that guarantee freedoms of association and expression that determine the emergence of autonomous organizations by

In Ghana, the freedom of association and peaceful assembly are contained in Article 21(1) (d),(e), provides that;

21 (1) All persons shall have the right to-

(d) freedom of assembly including freedom to take part in processions and demonstrations.
(e) freedom of association, which shall include freedom to form or join trade unions or other associations, national and international, for the protection of their interest;

Civil liberties such as freedom of association are important for the emergence of civil society because it gives citizens the right to either *form* or *join* any organization of their choosing. Freedom of association allows different organizational forms to emerge and operate freely. The right to association gives legal validity to organizations as well as protections under the law.

The freedom of assembly gives civil society the legal protection under the law to engage in demonstrations and protests as a strategy to send a signal to the government or other non-state entity about particular concerns of civil society (Drah 1996).

Prior to 1992, due to the absence of constitutional freedoms of assembly and association, it was relatively difficult to set up an NGO, especially if such an organization pursued human rights and governance issues. In many cases, organizations which were set up to oppose the

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government were subjected to different forms of abuse such as the arrest and imprisonment of their leaders, resulting in the silencing of many organizations such as the Ghana Bar Association (Gyimah-Boadi 1993).

The constitutional guarantee of freedom of association could not have been possible without the presence of institutional checks guaranteeing a respect for the rule of law. The freedom of association limits the capacity of the state to engage in massive co-optation of CSOs, which had been the norm under previous non-democratic regimes. The 1992 constitution provides the legitimacy for the existence of varied forms of associational life, allowing CSOs to seek legal redress for abuses by the state.

Since 1992, constitutional guarantees of the right of association and assembly have been used by CSOs in Ghana as a strategic tool in making demands on the state to increase the space for associational life. One such strategy has been the use of contentious politics when necessary, as a means of getting government to address civil society issues (Tarrow 1998). In most cases, the state has had to strike a balance between enforcing the rule of law by regulating demonstrations, while at the same time ensuring that citizens exercise their right to use protests, demonstrations and boycotts (Boafo-Arthur 2007).

Prior to 1992,the use of protest and peaceful demonstrations under military dictatorships often ended in riot police beating and breaking up such protests, as happened in the countless student riots, and the protest by market women against the high prices of goods. However, since 1992, there have been more peaceful state responses to peaceful assembly and protests, for instance in 1995, the Ghana Alliance for Change (AFC), which was formed to protest governments imposition of a 15 per cent tax (known as the Valued Added Tax -VAT) on some goods, rallied to demand that government drops the Value Added Tax. Drah (1996), notes that

through the effective mass mobilization of the AFC , the National Democratic Congress (NDC) party of President Rawlings withdrew VAT. In effect, by using the freedom of assembly as a basis for engaging in peaceful protests and demanding government response to citizen needs, the eventual withdrawal of the VAT was hailed as a success and a significant milestone for civil society in putting pressure on the state to address national grievances.

In 2002, Sisters Keepers, a coalition of women's organizations in Ghana, rallied and formed peaceful demonstrations demanding that the state investigate the killings of women around the capital city Accra. On April 6 2002, women and men rallied an marched along the streets of the capital city Accra ending up at the President's office demanding that the state pays closer attention to finding the perpetrators of the crime.[26] The national and international attention created by the mass mobilization of women's organizations against the serial killings did have the intended effect.

The government began to play closer attention to the issue and many arrests were made. In effect, the case of the Sisters Keepers coalition was another achievement for civil society. The demonstration points to the effectiveness of civil society's role in awareness raising among citizens and demanding government response.

The freedom of association and peaceful assembly has provided CSOs with legal protections against state abuse, compared to the case of Zimbabwe where associational life is still heavily curtailed by the state. Jillo and Kisinga (2009) note that in most developing democracies in Africa, despite the constitutional guarantees of freedoms, there are still barriers to the freedom of speech which limits the effective use of advocacy as well as increasing

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[26] For detailed accounts of these events see the news articles, available at
http://www.microsofttranslator.com/BV.aspx?ref=IE8Activity&a=http%3A%2F%2Fwww.feminist.com%2Fnews%2Fnews29.html; http://news.bbc.co.uk/2/hi/africa/819744.stm, ;
http://www.ghanaweb.com/GhanaHomePage/election2008/artikel.php?ID=12810. Accessed April 17 2010.

government restrictions on receiving foreign resources. In particular, Jillo and Kisinga (2009) note that the Zimbabwe NGO Bill of 2004 clearly precludes organizations from receiving foreign funding for governance issues.

Legal guarantees are not always translated into practice in new democracies, for instance in the case of Uganda, Tripp (2001) notes that the government of President Museveni promotes associational life especially for women's organizations where the goals of these organizations advance the state's policies. In Botswana on the other hand, despite its model democracy, Carbone (2005) argues that the state tends to repress associational freedoms by limiting the extent to which civil society organizations can freely exercise their rights in engaging with the state.

The case of Ghana however demonstrates an exception in terms of the extent to which the state permits the freedoms of assembly and association through formal mechanisms that encourage civil society growth. One important formal mechanism that has contributed to expanding the space for associational freedom is the creation of the constitutional body of the National Commission for Civic Education (NCCE). Through this extrajudicial body, CSOs in Ghana have an added voice through a government agency to push forward their agendas and goals.

The creation of the NCCE demonstrates the expanded legal and constitutional opportunities for increasing the space for associational life. Yet, for most CSOs interviewed, the NCCE remains largely more loyal to the state, and therefore limiting the extent to which CSOs have been able to engage with it. An Act of Parliament pursuant to the constitutional provision in Article 231 created the National Commission for Civic Education (NCCE), which states its functions as;

(231)(d) to formulate, implement and oversee programs intended to inculcate in the citizens of Ghana awareness of their civic responsibilities and an appreciation of their rights and obligations as free people;

The functions of the NCCE are both educative and regulatory. The primary duties of the NCCE are in the area of educating the public on their civic rights and responsibilities and encouraging democratic awareness in the populace. In terms of its regulatory functions, the NCCE is supposed to be a proactive body and an intermediary between the state and civil society limiting arbitrary government behavior towards civil society and regulating civil society actions within the state.

Despite promoting the work of CSOs by playing an intermediary role between CSOs and citizens, some respondents expressed concerns about the functions of the NCCE. In particular, they noted that given that the state created the NCCE, there was the tendency for the commission to promote the interests of the government rather than those of societal actors.

Notwithstanding the criticisms leveled against the NCCE by CSOs, its establishment is evidence of the state's role in creating institutional arrangements and formal mechanisms promoting civic participation and creating access points for closer state-society collaboration.

Regulatory Frameworks

Beyond constitutional provisions, conducive regulatory frameworks have been identified as important for the development of civil society (Atkinson and Stec 2009). Regulatory frameworks for civil society organizing vary from country to country, with some countries providing more conducive frameworks than others (Simon 1997b). Responses from fieldwork indicated that attempts by the state to regulate the activities of civil society organizations have been generally positive and conducive for the development of civil society in Ghana. Due in

large part to the expansion in civil liberties safeguarding the emergence of CSOs, there has been a growing vibrancy in the civil society sector, limiting the extent to which the state can arbitrarily impose restrictions on civil society actors.

To begin with, let us examine the institutional mechanisms for regulating the registration and taxation of civil society organizations. In Ghana, civil society organizations fall under the rubric of non-governmental organizations (NGOs) for purposes of registration and taxation. Registering a CSO is governed by the Companies Code, Act 179 (1963), the Trustees Incorporation/Amendment Law (1962/1963), the 1992 Constitution as well as Cabinet Directives.[27] Registering a CSO is the first step to its formation and existence as such registration grants a CSO legal status with rights as well as responsibilities.

There is currently no coordinating body for civil society regulation. Prior to 1992, the activities of CSOs/NGOs were under the coordination of the privately formed association, known as the Ghana Association of Private and Voluntary Organizations in Development (GAPVOD). With continuous government incursions into the activities of NGOs, GAPVOD has lost the trust of many NGOs/CSOs due to allegations of government meddling in the appointment of members of the executive.

Under the current system, civil society organizations are registered with the Ministry of Employment and Social Welfare. Despite some allegations of bribery, respondents noted that the registration process is easy and inexpensive. There are currently no restrictions on registering an NGO in Ghana. However, data from the CIVICUS report notes that some people register NGOs and use tax exemptions on imports and other duties for personal use and not for those of the organization. This abuse of the registration system has prompted the state to enact policies that will contain stringent measures and strict scrutiny in regulating CSO registration.

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[27] CIVICUS Country Reports 2003-2006.

Despite the relative ease with which CSOs can be formed and acquire legal status in Ghana, there has been the need for legislation aimed solely at regulating the NGO sector which will monitor civil society activity and also provide guarantees for NGOs/CSOs. Successive governments have sought ways to enact clearly defined laws pertaining to NGO regulation in the form of the NGO and Trust Bill. Civil society has been closely involved with these processes to ensure that the Bill will expand, rather than limit the space for associational life.

The NGO Bill, first introduced in 1993, contains comprehensive provisions relating to the organization and regulation of the NGO sector—under which civil society falls. Further details on the proposed Bill are discussed in Chapters 4 and 5 on the legislature and bureaucracy respectively. But for now, it is worth mentioning that the bill has met stiff opposition from the NGO/CSO sector, who, mindful of government's tendency to restrict associational life, are engaging in dialogue with the state to ensure that the bill will not restrict the space for associational life.

Donors have also played an important role in the extent to which CSOs have been able to engage with the state in the proposed legislation. With donor support, CSOs have heightened their advocacy and negotiation strategies to ensure that the proposed NGO Bill will help to streamline the regulations and rules that affect civil society organizations. While CSOs do not oppose government efforts at regulating the NGO/CSO sector, they argue that the final bill should contain provisions aimed at simplifying the rules regarding the registration and regulation of CSOs.[28]

As it pertains to taxation, the CIVICUS country report on Ghana states that CSOs are not obliged to pay taxes. Currently, there are no tax exemptions for individuals or corporations making philanthropic contributions to CSOs. This could be due to an oversight in the tax system

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[28] Personal interview a representative of ABANTU for Development on May 20 2008

in Ghana and not necessarily an attempt by the state to stymie the efforts of CSOs in raising private funds. The limited sources of local funding explain the heavy dependency of CSOs on external donor sources. CSOs are of the opinion that a taxation framework that provides incentives such as tax breaks for local philanthropic contributions could help open up new local opportunities and domestic sources of funding.[29]

A second regulatory issue concerns access to funding and resources. The heavy dependency of the state on external development assistance has sometimes led to competition between civil society and the state in getting donor aid (Gyimah-Boadi and Oquaye 2000). Compared to other African countries where governments impose restrictions on CSOs in acquiring external aid, Ghana has no such restrictions.

The freedom to seek and receive donor funding has created an opportunity for donors to make donor aid to the state conditional on joint collaboration efforts between civil society and the state. This has had the effect of increasing the channels of communication between civil society and the government and improving state-society relations. Whitfield (2003) argues that through a discourse of democratic development, donor support to civil society has been geared towards providing CSOs with material resources aimed at improving their research capacity, engagement in public campaigns and other organizational capacity development programs.

CIVICUS country reports indicate that in Ghana, there is limited governmental fiscal support given to CSOs. Due to the history of government co-optation of CSOs, CSOs are also wary of any government funding. Despite the absence of government restrictions on foreign funding and the freedom of acquiring donor aid, there are wide disparities in the number of organizations benefiting from donor assistance programs. Organizations that tend to receive the

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[29] CIVICUS data 2003-2006

highest amounts of donor aid are often male-dominated, organizations based in the capital city with goals focused on governance and economic development.

For women's organizations, a representative from the umbrella organization NETRIGHT noted that funding sources are harder to come by because donors are not able to assess the policy outcomes of their projects since it is not easy to measure the effect of particular projects[30]. The respondent also went on to argue that most of the money they receive from donors are for short-term projects, which has the effect of limiting their ability to reach long-term goals through sustained actions.

These challenges are not determined by the state, which leads us to the argument that the right environment exists for civil society organizations to seek sources of funding that are not subject to government interference. Overall, the regulatory frameworks for civil society and NGO regulation in Ghana are easy and clearly stated. Registering a CSO is relatively easy, quick, inexpensive and open, as noted by CIVICUS report. Generally, funding sources from the government is limited and CSOs have had to compete with the government for international donors, which has on occasion created friction between the state and the civil society sector (Gyimah-Boadi 1994).

While there are bureaucratic hurdles to overcome, overall, CSOs do not feel constrained by any legal restrictions on their formation, activities and finances. CIVICUS country reports (2003-2006) shows that 79.3% of interview respondents noted that there were generally no legal restrictions against civil society organizations in advocacy or other activities. The fact that civil society has developed to the stage where they do not accept government policies as a given, but rather boldly oppose and criticize government policies is testament to their development.

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[30] Personal interview with the leader of the Network for Women's Rights in Ghana (NETRIGT) on June 4 2008

Generally, our findings indicate that the state's potential for excessive use of executive power has been limited by the rule of law; placing a check on the enactment of policies that have the capacity to limit the space for civil society development in Ghana (Gyimah-Boadi 2009). Due to pressure from civil society, all efforts on the part of the state have been to ensure that attempts at passing legislation that regulates civil society activity is done in conjunction with civil society organizations. We would argue that largely, civil society in Ghana operates free of state interference when it comes to the imposition of legal restraints and other forms of restrictions on the functions of civil society groups.

Expanding the Voice of CSOs

Legal guarantees of freedom of expression are important mechanisms for promoting communication and dialogue within civil society and between civil society and state structures. The freedoms of expression and speech are therefore essential rights that protect the "voice" of civil society organizations, especially when it comes to criticizing government practices and abuse of civil liberties. The tactic of curtailing freedom of expression under successive military regimes in Ghana resulted in what was popularly referred to as the "culture of silence". As Prempeh (2008a) argues, the return to civilian rule and the protection of civil and political rights, such as the freedom of speech and expression has led to a new "culture of loudness". Citizens and civil society groups have asserted these rights in expressing themselves and making demands on the state, as well as voicing their opposition to government abuses and excesses.

Aside from exercising their freedom of expression through media outlets, the development of civil society in Ghana is also demonstrated by civil society demands for increased access to state information. During interviews, CSOs argued that access to government

information is pivotal in pursuing civil society political advocacy goals aimed at holding government accountable and promoting transparency.

Since 1999, legal advocates and civil society organizations have been at the forefront of the attempt to have successive governments pass a Right of Information Bill (ROI) in Ghana. Proponents of this Bill draw their legal standing from Art 21(1) (f,) of the 1992 constitution, which provides that; *"all persons shall have the right to information, subject to such qualifications and laws as are necessary in a democratic society"*.

The role of CSOs in championing the passage of the Right of Information (ROI) Bill also demonstrates the importance of expanded civil liberties allowing an increase in the permitted scope of political activity. It also demonstrates the types of pressures civil society can bring to bear on the state. Although the ROI is yet to be passed into law, CSOs are relying heavily on the freedom of the media to expose government excesses, and they argue that the passage of the Bill will increase the levels of transparency currently available to civic actors and citizens. CSOs engaged in promoting good governance and the rule of law, will benefit the most from this Bill , but equally important will be the impact in opening up more space for all civil society actors.

For CSOs, their efforts have been to ensure that the ROI Bill will have positive implications for the development of civil society. CSOs argue that the bill will increase citizen participation in the political process, as citizens become more aware of government activities. The availability and easy access to government information on issues such as government spending will enable civic groups and citizens to demand governmental accountability and increase transparency.

In order to exert policy influence on the state to enact the ROI, the Right to Information Coalition (RTIC) was formed. The RTIC, comprising a number of CSOs, religious bodies and

members of the media, is the main body spearheading the issue and putting pressure on governments to pass the bill. During the 2008 elections, the major political parties undertook to pass the bill once they come into office, however, that promise is yet to materialize. As interview respondents noted, the political parties have yet to take steps to fulfill this promise.[31] The RTIC has used different strategies to advance their agenda, such as the issuing press releases and educating citizens on the role of the state to allow the freedom of information.

Another important development, which points to the relative strength of civil society, as demonstrated by the case of the ROI Bill, is the fact that government is ready to listen and take the recommendations from civil society. The ROI Bill also demonstrates how conducive legal frameworks allowing for citizen participation in the policymaking processes can regulate the capacity of the state to shape and control the development of the civil society sector.

Among the many recommendations put forward by CSOs are demands that the bill should cover actions of state agencies and that government institutions should be mandated to provide the required information. Furthermore CSOs argue that state agencies should provide the information in a quick, simple and least expensive manner and finally, that there must be an independent body to oversee the process (Public Agenda, 2009).

Currently, the bill is yet to be presented to the floor of parliament for debate. On February 1 2010, members of the Coalition undertook a demonstration and marched to the offices of the Minister of Information and Attorney Generals department to present their grievances.[32] CSOs argue that the draft bill is full of shortcomings and needs to be redrafted in order to make it more

[31] Personal interview with a member of ABANTU for Development on May 20 2008
[32] See the news item "Right to information coalition miss ministers" Available at http://news.myjoyonline.com/news/201002/41424.asp. Accessed February 1 2010.

favorable to citizens and civic organizations.[33] Amongst the criticisms is the fact that it contains broad exemption clauses limiting the state's liability, lacks an independent oversight body, arbitrary fees and most importantly that the bill does not render void previous non-disclosure laws such as the infamous State Secrets Act.[34]

Despite the many hurdles and challenges, CSOs are still hopeful that their continued agitation, coalition efforts and negotiations with the right government agencies will lead to the passage of the bill.[35] CSOs further argue that the existence of such a law will strengthen the quality of democracy in Ghana. More importantly as it pertains to CSOs, the bill will help civil society pursue their goals of protecting human rights, promoting the rule of law and improving the general socio-economic wellbeing of all citizens in the country.

The implications of the negotiations for the passage of a ROI Bill demonstrates how constitutional guarantees have contributed to the important position CSOs have come to occupy in policymaking processes. The fact that the passage of the bill has been protracted shows that the agitation and input by CSOs is being taking seriously by government. This demonstrates that CSOs now have increased space to dialogue and negotiate with government, while not compromising their autonomy and independence.

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[33] For a more detailed analysis of the critique of the draft Bill, see "A critique of the draft right to information bill, Ghana" available at
http://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/ghana/CHRI%20critique%20of%20draft%20RTI%20bill.pdf. Accessed February 1 2010
[34] See Public Agenda , "Ghana needs to enact freedom of information Bill" Available at
http://www.ghanaweb.com/public_agenda/article.php?ID=13761. Accessed August 28 2009
[35] See Public Agenda, April 27 2009 " Will the right to information bill be passed?". Available at
http://allafrica.com/stories/200904271524.html. Accessed February 1 2010.

Press Freedom and Civil Society Organizing

The media may be characterized as part of civil society, and as an important player in the actualization of the freedom of expression and speech. In Ghana, the role of the media in promoting civil society goals is sometimes blurry because the media simultaneously exhibits patriotic support of the government and is not always considered as part of civil society (Asah-Asante 2007). This is particularly true of the state-owned media of print, radio and television outlets that tend to report in favor of the ruling government (Gadzekpo 2008).

The freedom of the press is a central tenet of democracy, and in Ghana, this has found expression in Chapter 12 of the 1992 constitution of Ghana, dedicated to the freedom of the media. A free operating press is a hallmark of a democratic society, and in the case of Ghana, the Freedom House ratings characterize Ghana as free when it comes to media freedoms and freedoms of speech and expression (Freedom House, 2010)[36]. Gazekpo (CDD, 2009) argues that media pluralism is not a sufficient condition for guaranteeing democratic rights, however, citizen participation in the democratic processes is limited where there is an absence of media plurality.

A discussion of press freedom is crucial to our understanding of the impact of legal institutional mechanisms in expanding the voice of CSOs. Illustrations of expanded media freedoms highlight the argument that although CSOs existed and worked in previous regimes, their goals and agendas were hampered by the lack of a "voice" in making demands on the state to increase civil and political liberties.

What impact, if any, has the freedom of the media had on civil society organizing? Prior to 1992, successive military governments heavily circumscribed freedom of the press, there was only one state owned media outlet—the Ghana Broadcasting Corporation (GBC) that provided

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[36] Freedom House ratings available at http://www.freedomhouse.org/uploads/fiw10/FIW_2010_Map_Africa.pdf Accessed March 12 2010.

television services to the country (Gadzekpo 2008). Three state-run newspaper outlets circulated print media to the public. The effect of such government monopoly over the media outlets resulted in news items that were highly in favor of the ruling government. Opposition forces to the government, such as political parties and civil society organizations could not rely on the state-run media to reach their constituents (Gyimah-Boadi 1993).

After the transition to democracy and the opening up of political space for engagement, the state began to loosen its grip on the media, by allowing the formation of private media outlets. Chapter 12 of the current Fourth Republic constitution guarantees the freedom of the media, and the National Democratic Congress (NDC) government was forced to repeal laws that violated such freedoms, such as the Newspaper Licensing Decree 1989 (PNDCL 211) (Gyimah-Boadi,1994). In 2001, the Criminal Code (Repeal of the Criminal and Seditious Laws (Amendment Bill), Act 602 was enacted, which put an end to criminal libel cases[37], which in most instances, had been used by the state against CSOs and other media outlets.

Between 1981 and 1996, over seventy cases of criminal libel were brought before the courts by members of the executive under the then Section 185 of the Criminal Code, which had penalties of up to ten years in jail. Gadzekpo (2008) notes that in the early stages of the democratic transition, the number of criminal libel cases brought by members of the executive against media outlets for alleged defamation and the heavy damages awarded could have crippled the fledgling private media in Ghana.

However, these cases did not deter the media from using their constitutionally guaranteed freedom of expression to expose government functionaries who were allegedly engaging in

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[37] Information on the repealed act is Available at http://www.modernghana.com/news/15786/1/criminal-libel-law-repealed.html. Accessed October 27 2009.

corruption and fraud. The introduction of democracy and the changing political opportunity structure for a free press resulted in a growing number of media outlets and a media vibrancy that was crucial to the work of civil society.

Civil society organizations have used the media to educate citizens on different issues in promoting civic consciousness. A survey of the Ghanaian political climate shows that generally, the freedoms of expression and speech have led to increases in the extent to which CSOs use the media for public education. Radio stations provide call-in sessions where citizens call to voice their opinions on pertinent issues being discussed. In addition, these radio call-in programs provide avenues for resource persons from CSOs to answer questions. Generally, the freedom of information coupled with technological advancements has resulted in increased access to the internet. Civil society organizations have thus heavily relied on the use of the internet and cell phone text messaging as a means of reaching out to the public.

Anecdotal evidence gathered through a survey of newspapers indicates that the "voice" of civil society actors in Ghana is rising in all sectors of the economy.[38] This is manifest through demands for governmental accountability in economic and political issues, holding state institutions accountable and in raising consciousness among the citizenry about their rights and civic duties (Gyimah-Boadi 2004; Bradley 2005; Howell and Mulligan 2005). Civil society organizations have on occasion issued reports, memos and speeches in making public demands on the state to address particular issues. For instance, in June 2009, the Center for Democratic Development (CDD) issued a press statement criticizing the National Democratic Congress (NDC) government's appointment of some members of Parliament to the governing boards of

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[38] For a listing of newspaper articles that show that the "voice" of CSOs is rising, see http://www.modernghana.com/news/236513/1/democracy-has-nurtured-freedom-of-expression-in-gh.html, http://allafrica.com/stories/200712031404.html; http://allafrica.com/stories/201004071161.html;

public and quasi public corporations and agencies. CDD argued that these appointments have the potential to weaken the independence of the legislature.

The Women in Law and Development in Africa (WiLDAF) also exercised its rights by holding a press briefing, which called on the current government of President Mills to increase the number of women in political positions[39]. These two examples demonstrate the increased activism and use of the media and other forms of communication by civil society organizations. The presence of constitutional guarantees of freedom of expression has contributed to limiting the capacity of the state in restricting the extent to which CSOs can use the mass media to make demands on the state.

Other research data suggests that the media in Ghana have developed and become a very important ally for civil society organizations in pursuing their goals. As at 2009, press freedom rankings, Ghana stood at number 27, out of the 172 countries surveyed.[40] In response to one of the interview questions used by this study, "what has been your organization's relationship with the media', this is what one respondent had to say;

Respondent[41];

> "cordial, the more sensational the news the faster they cover. The media is doing a better job of reporting abuse now, now they talk about the perpetrator and not only the abused, example a small child raped whose identity is shown online. We are training them to stop that"

Another respondent had this to say[42]

> "I think in the past, with the 31 December Women's Movement (DWM) in power it was so difficult to criticize the government on gender issues, now you can do that with freedom of speech"

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[39] News article entitled "Wildaf Calls for Active Participation of Women in Politics" Available at http://allafrica.com/stories/200909170151.html . Accessed November 2 2009.
[40] For detailed examination of the world rankings of press freedom, see http://www.centreforcommunicationrights.org/news/41-latest/433-world-press-freedom-index-2009.html. Accessed March 11 2010
[41] Personal interview with WISE on June 2 2008
[42] Personal interview with the leader of WOMEC on June 18 2008

Almost all the respondents interviewed for this study agreed that the freedom of the press in Ghana has improved, creating more avenues for achieving broader goals of civic education and participation in the democratic process. There has been incremental progress made under successive governments in opening up space for press freedoms. The changes in constitutional and legal frameworks created openings that CSOs were able to use, both to achieve their goals and strengthen these formal freedoms in practice.

Institutional reforms are necessary if such transformation will lead to greater access for civil society to engage with the state (Houtzager 2005). Gyimah-Boadi (2009:150) however points out;

> "meaningful reforms must aim at building institutions and structures that will reduce the incentives for state capture and partisan abuse".

By "state capture", Gyimah –Boadi (2009) refers to the mechanisms that the state uses to limit the space for associational life. CSOs have been in active dialogue with the state to ensure that the NGO Bill will not give the state too much authority, which could lead to a contraction in the space for civil society growth.

Currently, data from Freedom House (2010) reports shows that there are over eleven state-owned and over a hundred privately owned newspapers. From the judicial point of view, a 1993 Supreme Court ruling granting opposition political parties equal access to the state-owned media reaffirmed media freedoms (Gyimah-Boadi, 1994).

Yet, while the political opportunity structure appears conducive for the growth of media outlets, either as civil society or as channels for articulating civil society demands and needs, there has been mounting criticism within civil society itself concerning increased media freedoms. Some analysts argue that press freedom has on occasion been abused by members of

the press, with a decrease in journalistic standards, where the radio stations are used to incite

hatred and division in society (Drah 1996). Others argue that there is the danger of newspaper

editors using the new found freedoms to engage in sensationalism and pursue political motives

for gain without due regard to the facts (Gadzekpo, 2008). In order to check some of these

excesses, the constitutionally mandated state agency, the National Media Commission (NMC) is

one formal mechanism created to regulate the media and to provide civil society access to press

freedoms.

The NMC is a state entity created by the government to regulate media freedoms. Media

outlets have on occasion referred their disputes and concerns to this body. The criticism of some

CSOs is that considering the appointment of the commissions' members by the state, the

commission cannot be trusted to fairly adjudicate the concerns of CSOs in resisting government

attempts to curtail media freedoms. The NMC was established under Article 167(a)-(e) of the

1992 constitution. Among other things, its functions include;

> *(a) to promote and ensure the freedom and independence of the media for*
> *mass communication or information;*
> *(b) to take all appropriate measures to ensure the establishment and*
> *maintenance of the highest journalistic standards in the mass media,*
> *including the investigation, mediation and settlement of complaints made*
> *against or by the press or other mass media;*
> *(c) to insulate the state-owned media from governmental control;*

The NMC is charged with promoting a free, independent and responsible media in

Ghana. Critics say that it has on many occasions failed to establish itself as an independent and

impartial body in ensuring equal access of the opposition and incumbent to the state owned

media. Notwithstanding its challenges of poor resources and lack of transparency, the NMC is an

opportunity which allows CSOs to reference constitutional provisions to promote the freedom of information.

The increased use of the media by CSOs in pursuing their goals of election monitoring, holding public discussions on governmental corruption and educating citizens on their rights will not be possible without the freedom and independence of the mass media. The abuses of press freedoms and declining journalistic standards have been called into question, as the role of the NMC in regulating such problems remain largely weak, therefore limiting the extent to which CSOs can rely on the NMC . For CSOs, the eventual passage of the Right of Information Bill that guarantees access to state information will help strengthen their work in promoting democratic principles of transparency and ensuring vertical and horizontal accountability.

Consolidating Civil Liberties through Legal Advocacy and Access to Courts

As the above discussion has demonstrated, the presence of legal and constitutional guarantees of fundamental human rights and civil liberties currently existing in Ghana have created many opportunities for civil society actors. Beyond the impact of the procedural rules of legal and constitutional frameworks, one important goal of this chapter is to assess the substantive outcomes of new civil rights and political freedoms. This discussion focuses on examining the formal legal mechanisms through which civil rights may be enforced through the courts and other legal advocacy strategies.

A series of questions in the interview schedule sought to address the extent to which CSOs use the courts in enforcing their rights and meeting their goals. Generally, our research data shows that the judicial system is the least used institutional arena for furthering the goals of civil society organizations. The few respondents whose organizations dealt more directly with

legal goals indicated that in the past, due to the lack of judicial independence, civil society organizations often used alternative dispute resolution mechanisms such as arbitration and negotiation, rather than the courts to further their goals. [43] The changing political context has increased the levels of judicial independence allowing civil society organizations to bring cases against the state and other citizens. As one respondent argues; [44]

> "from the women's right angle, the 1992 constitution provides a legal framework for women's issues even though not all the laws are enforced".

Despite the new openings in institutional structures that allow civil society to use the court system, the inherent institutional weaknesses within the courts have limited the desire of civil society organizations to use the courts.

Generally, in addition to framing their goals within the human rights principles, civil society organizations in Ghana have often resorted to legal advocacy as a tactic for furthering their goals. For instance, the Ark Foundation, which deals mostly with domestic violence issues, engages in seminars, training workshops and drafting of legal memos to government agencies to draw attention to the plight of women who are victims and survivors of domestic violence. The freedoms of speech and expression have made it easy for CSOs to use legal advocacy as a tool to reach their goals.

Despite the problems within the court system, our research data indicates that CSOs engaged in public interest law as part of their goals have on occasion used the courts to further their goals. One interview respondent noted that in some instances, cases were filed before the courts as a strategic tool to create public awareness and to have public debate about an issue[45].

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[43] These organizations include Ark Foundation, FIDA, AWLA and WiLDAF
[44] Personal interview with the leader of the Ark Foundation on June 4 2008
[45] Personal interview with a member of CEPIL October 8 2009

An examination of court cases shows that public interest litigation cases are growing in Ghana, but still heavily limited by the slow pace of litigation, lack of judicial independence and allegations of corruption within the court system. The Center for Public Interest Law (CEPIL) is one such CSO that is focused on using litigation in the courts as a tool of social change. The Center has initiated many cases since its incorporation as an NGO in 1999, and having as its main aim *"using the law as a tool to make justice accessible and affordable to poor and marginalized communities and individuals".[46]*

CEPIL has brought many cases before the courts, notable amongst which are six cases relating to unlawful evictions and housing rights, 3 landmark cases on mining communities and environmental degradation, all of which aim to use legal advocacy as a tool for protecting the interests of citizens.[47] Although about a third[48] of our respondents were engaged directly in legal work, there was not much use of the courts due to general problems within the court system. Considering that not all civil society organizations focus on public interest law as part of their goals, a strategy adopted by women's civil society organizations, especially the umbrella organization NETRIGHT is a referral system. When an organization comes across a legal case, which requires a court hearing, the organization will transfer the case or individual to a member organization that deals more with legal cases. For instance Women's Initiative for Self Empowerment (WISE), which deals with women's empowerment issues, has cases dealing with domestic violence, and if they assess that such a case needs legal hearing, they refer the client to the International Federation of Women Lawyers (FIDA), which deals more directly with cases in court. The internal referral system has been an active tool for women's organizations in building

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[46] For a detailed look into the work of CEPIL and its stated goals and outcomes, visit their website, available at http://www.cepil.org.gh/index.htm . Accessed February 8 2010.
[47] Further information on the cases and the rulings can be accessed by visiting http://www.cepil.org.gh/courtcases.htm . Accessed February 8 2010.
[48] These organizations include Ark Foundation, FIDA, WiLDAF, AWLA

their networking and coalition tactics, which has proved to be an effective strategy in reaching their goals (Tsikata, 2009).

The fact that CSOs can engage in consciousness raising and civic awareness promotion without fear of governmental reprimand shows that the space for civil society in Ghana has expanded. Although legal advocacy and general standards of justice in Ghana are highly conducive to the work of CSOs, the extent to which CSOs use these opportunities is remarkably limited in scope. In comparison to the legislative and bureaucratic arenas where we saw an expansion of channels of dialogue and interaction, the courts have been the least utilized legal mechanism for advancing civil society goals, the reasons for this, are discussed in the next section. Even CSOs for whom legal advocacy is a major goal, the use of the courts for pursuing their goals remains limited due to the general tardiness within the court system.

Assessing the Impact of Legal Arena Limitations on Civil Society Development

Although the legal arena has changed dramatically and now offers more opportunities for groups to pursue their goals and agenda, progress has been uneven. Responses from interviewees also made clear the problem of institutional weakness facing the judicial system due to low levels of resources and allegations of corruption. Organizations interviewed repeatedly noted that the lack of financial and technical resources in the courts has had very negative consequences for work that can be done in the courts. The poor resource base of the judicial sector has prompted some CSOs to seek donor funding for purposes of training members of the judiciary, especially when it comes to sensitizing them on gender issues such as rape and domestic violence. Such capacity training efforts have also helped break down barriers that have hitherto hindered the amount of access civil society organizations have to the judicial arena. Most of the respondents

noted that practices of corruption and bribery still existed in the judicial arena, similar to other sectors of society.

The incidence of corruption within the judiciary is not a sufficient condition for explaining why civil society organizations do not engage more with the judiciary. While there are allegations of corruption within the legislature and bureaucratic arenas, civil society is still able to engage with these institutional arenas, therefore leading us to the conclusion that there are limited opportunity structures within the judicial arena mainly due to judicial institutional weakness.

Judicial institutional weakness and the general slowness of the legal system often means that cases are adjourned in court for long periods of time before it finally comes up for hearing. The problem of witness protection, especially in the case of women who have suffered one form of abuse or the other poses a big challenge for the full prosecution of cases.

Closely linked to the institutional weakness within the judiciary in adjudicating cases is the enforcement of court judgments. Women's organizations interviewed noted the challenges of enforcing the Domestic Violence Act of 2007. As part of the implementation of the Act, the Domestic Violence Victims Support Unit (DOVVSU) was created by the government in 2003 to replace the Women and Juvenile Unit (WAJU) of the Ghana Police Service, which had been in operation since 1999.

DOVVSU is responsible for dealing with issues of domestic violence, and as such is the first stop for most reported cases of domestic violence in Ghana. DOVVSU has offices outside of the capital city Accra and operates with staff comprising investigators, prosecutors and counselors. A study by Ampofo (2008) questions the effectiveness of DOVVSU's claims to representing and protecting victims of domestic violence. Persistent institutional weaknesses

such as poor skills and training of personnel, lack of adequate resources in terms of money to engage in investigations and society's lack of understanding of domestic violence issues further complicate the work of DOVVSU.

As at 2009, DOVVSU has not been able to operate shelters for the protection of victims of abuse, which is part of its legal mandate. One of the CSOs we interviewed, the Ark Foundation is currently the only organization that operates a shelter for abused women and children in the country[49]. Insensitivity to gender issues is still a problem, even among DOVVSU personnel who are supposed to protect women victims. One of our interview respondents noted the challenges they face when it comes to dealing with domestic violence issues. In one case, when a woman went to report a case of abuse to a police officer at the DOVVSU desk, the officer responded by telling her, *"if I was your husband I would have killed you, he only slapped you, you are lucky".*[50]

Though DOVVSU claims have risen exponentially, women's organizations noted that the lack of proper training of DOVVSU personnel is still a major problem. They also pointed out that where some personnel receive training on how to handle domestic violence issues, they end up being transferred to other units within the police service, where they are not able to apply the training they received under DOVVSU.

The political excesses of a strong presidential executive have sometimes overridden the formal guarantees of judicial independence (Gyimah-Boadi 2009; Prempeh, 2008). The structure and functions of the judiciary is constitutionally guaranteed in Ghana under the 1992 constitution. Due to the system of separation of powers under which the government structures

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[49] See reports in the media on the lack of appropriate housing and shelters for women victims of violence, Available at http://allafrica.com/stories/200709110520.html, http://allafrica.com/stories/200610091332.html. Accessed February 8 2009.
[50] Personal interview with the director of WISE on June 2 2008

operate, the judiciary is supposed to remain independent of the other two arms of government. The capacity of the judicial arena to remain independent is an important element in determining its capacity to regulate societal conflict. As Diamond (1996:16) notes, "an autonomous, professional and well staffed judicial system is indispensable for securing the rule of law".

The level of actual or perceived judicial independence from the executive plays a critical role in the willingness of CSOs to use the court system as a means of addressing their issues. Organizations interviewed for this research noted that overall, there has been an improvement in the general societal perceptions of judicial independence in Ghana. The judiciary has been able to insulate itself from politics and produce judgments generally deemed fair by the parties to a case. However, there are a few cases where judgments are still viewed to be in favor of the ruling government, such as the libel cases brought against some media houses, which we alluded to in discussions on the freedom of the press.

Despite the persisting challenges posed by the lack of adequate capacity within the judicial arena to the work of civil society organizations that pursue legal goals, we found that there are some opportunities as well. Government efforts aimed at improving the judicial sector have focused on improving the working conditions of judges and providing skills for workers of the judicial services.

CSOs have also been at the fore of strengthening judicial institutional capacity. CSO, through increased donor support have had the opportunity to provide training programs to the courts and the effect has been closer collaboration and dialogue between legal institutional structures and civil society. In the words of one respondent[51];

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[51] Personal interview with WiLDAF on June 4 2008

"we had a 3 year program- sensitization of judicial and non judicial workers funded by EU through West Africa regional office, we brought judges on women's rights (we have the report) we realized most of them did not know of the international human rights laws affecting women. We introduced it to them and drew linkages between those and national laws. We do have some results from such training. We do not have a structured way to work with them (the judges), it is very difficult to work with because they do not attend our meetings when we call, except once in a while inviting them to speak at our meetings. Generally we can say not many of them (judges) are sensitized on gender issues".

Within the legal arena as with the legislative and bureaucratic arenas, we see the recurring role of foreign donors in creating links between civil society and state structures, by using civil society organizations to manage donor capacity enhancing projects.

Hadenius and Uggla (1996) have argued that state efforts in supporting civil society should include the creation of mechanisms that seek to promote organizational structures that are autonomous from the state and insulated from the excesses of state authority. The need for judicial independence is important considering that judges will on occasion have to hear cases involving the state and civil society actors. Nyamu-Musembi (2006) notes that in the post-cold war era, African governments have undertaken institutional reforms, often limited to formal institutions which promote economic ventures. For there to be widespread changes in society, institutional reforms should be expanded to include social justice issues, especially those that affect gender and women's interests.

In response to lingering institutional weaknesses, efforts by the state in addressing tardiness within the judicial system has prompted putting in place measures that will make the courts more open and accessible. The new chief justice has created "Saturday courts", which meet on Saturdays and deal more specifically with domestic issues such as divorce, child support, and spousal abuse. Nonetheless, respondents noted that there is still a gap in the justice

delivery process when it comes to establishing courts at the district level that deal more specifically with domestic violence issues.

Considering the slow pace for implementing and enforcing the Domestic Violence Act, most gender advocates fear that their work will be stymied by the lack of specific courts to deal with domestic violence. For members of women's civil society organizations, the appointment of Justice Georgina Wood as the first female Chief Justice of Ghana holds promises for the development of gender awareness within society and this could have positive outcomes for the promotion of gender rights as judges become more conscious and respectful of gender issues.

When it comes to access to the courts, respondents noted that the relationship between the judiciary and CSOs is cordial. In response to the question "how would you characterize the relationship between the judiciary and civil society organizations", this is what one respondent had to say; [52]

> "it is not an easy one to characterize. Sometimes the judiciary works to help the rights of CSOs. Sometimes the judiciary works against the CSOs, because CSOs feel the courts are too slow in protecting the right of individuals and groups. It is a love-hate relationship and should be so because contestation allows us to work and have new expanded ideas".

The challenges presented by the legal institutional arena to civil society have not prevented the development of the civil society sector. As most of these problems are limited to the court system, most civil society organizations that do little work in this realm do not have to deal with these challenges. As institutional capacity improves, using the legal arena could create a new consciousness of the role of CSOs in contributing to the judicial arena and such interactions could translate into opening up more opportunities for addressing civil society concerns.

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[52] Personal interview with Atuguba , an academic on June 25 2008

Discussion and Conclusion

Changes in the political opportunity structures guaranteeing political freedoms and increased civil liberties have promoted the emergence of autonomous associations, resulting in increases in the number and diversity of civil society organizations. Favorable regulatory frameworks such as registration and taxation policies have created an enabling legal environment for the emergence and survival of the civil sector. Institutional structures permitting press freedoms have shaped the goals of civil society organizations in using the media as an important strategy for meeting civil society goals.

Through formal mechanisms such as the constitutionally created bodies of the NCCE and NMC, we see an expansion in the avenues through which civil society can enforce their civil liberties and freedoms. Through these formal mechanisms, civil society organizations have been able to promote their goals of legal advocacy, politics and governance, as well as expanding citizenship rights.

Taking advantage of the myriad opportunities as well as challenges that exist in the legal arena, CSOs have adopted strategies and tactics that would best meet their agendas and goals. While some have been peaceful, through negotiation and collaboration with the state such as using the media, others have been more confrontational, such as demands for the government to pass the ROI.

The effect of the presence of favorable opportunity structures within the legal arena lead us to the following observations. First, constitutional provisions guaranteeing freedom of association have limited the capacity of the state to repress associational life. The presence of formal constitutional guarantees such as freedoms of association and assembly has contributed to increases in the numerical strength of CSOs. Beyond numerical strength, the space created has

led to the adoption of new goals within the politics and governance realm, spearheaded by leading policy think tanks.

Although most CSOs especially those based in the rural areas are still heavily concentrated in service delivery, we see the development of leading organizations, which have come to occupy important positions in political and economic discussions. CDD is one such prominent think tank that produces reports and findings with widespread national and regional implications. ABANTU for Development, a women's organization has also increased its capacity and goals to include politics and the promotion of women in governance and national decision-making.

Second, from the empirical analyses, there is a strong indication that the presence of favorable institutional mechanisms has created new opportunities for CSOs to dialogue with the state. Freedom of speech is vital to civil society efficacy in the policymaking processes, and CSOs have actively demanded institutional access to negotiate with government agencies, especially the Attorney General's Department in drafting legislation that will expand civil rights.

The protracted negotiations for the passage of the Right of Information Bill, shows that CSOs in Ghana, taking advantage of civil liberties, have developed their capacity to engage in negotiation and increased dialogue with state institutions. CSOs have taken advantage of the constitutional provision of Article 21(1) (f), pertaining to the right to information in demanding the passage of the ROI Bill, which they argue will increase civil society access to information in holding government accountable.

Third, the presence of institutional safeguards has limited government control of the civil society sector. Within the legal arena, the lack of legal restrictions on seeking sources of external funding as well as relatively easy registration laws and tax codes makes it easy for the

functioning of CSOs. Aside from these, the strategy of CSOs in providing capacity training to the judicial service has helped to increase the space and consequently the impact of creating awareness within the judiciary.

These developments have helped to foster a sense of openness and increased accessibility to the judicial arena. The inherent weakness within the judicial arena and access to justice has prompted civil society organizations to mobilize external resources. By broadening their goals to include the provision of capacity training and raising gender awareness among the judiciary, CSOs have been able to garner more funding from donors to pursue their broader goals and agendas.

This chapter also highlights the dialectical relationship between the state and civil society. For most of the respondents focusing on legal issues, providing capacity training to the judicial services has become an added goal. Prior to 1992, the judicial arena provided very little space, if any, for engagement with civil society. Issues of judicial independence and the military government's abuse of judges and lawyers made it difficult for the judiciary to have much interaction with civil society, which were often considered "enemies of the state" (Gyimah-Boadi 1993).

Respondents noted that to overcome these problems, civil society actors have adopted strategies of training the judiciary and providing legal research as tactics of improving relations with the judiciary. They note that through such training activities, they have been able to build some alliances with particular judges and therefore take their cases to them, in the words of one organization's leader[53];

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[53] Personal interview with WiLDAF on June 4 2008

"for those in the regions (especially western region) the magistrates know us quite well….. we have had direct dealings with them and send them information, they know us well and refer women to us for legal aid. We also know which judges to take cases to because we interact with them. Example under our project on promoting rights on consensual unions, we shared our experiences with them………. The judges were becoming more sympathetic to women who were in such relationships…..this tells you that our interactions with them help them look favorably to our issues and cases. It is not the whole judicial structure but the development of interpersonal relations especially at the lower courts".

Through the provision of training and technical support to the judicial service, women's CSOs note that there has been an increase in the general levels of gender sensitivity within the judiciary, opening up more space for civil society to engage with the judiciary.

It is therefore plausible to argue that the presence of institutional safeguards in the form of legal and constitutional frameworks for CSO organizing creates important channels for civil society growth in Ghana. Our empirical findings have provided evidence to support the argument that CSOs have become strong and effective in making demands on government.

It also shows that through the adoption of coalitions and networks strategies, CSOs have positioned themselves to engage in dialogue and collaboration with government institutions for purposes of addressing their individual and collective goals. Respect for the rule of law and judicial independence, as well as guaranteed civil liberties and political rights, provide freedoms and institutional safeguards for the emergence of an autonomous and effective civil society.

In concluding our discussion of the constitutional and legal frameworks that affect civil society engagement, we argue that the constitution, as the blueprint for democracy contains provisions aimed at guaranteeing civil and political liberties. Such freedoms, which are essential components of civil society development, exist and some institutional structures and mechanisms

put in place by the state to ensure enforcement of these rights in the form of the extrajudicial bodies discussed above.

In order to take advantage of these opportunities while minimizing the constraints, civil society organizations have adopted strategies of coalition building, negotiation and dialogue as well as using the courts to advance their goals and outcomes. These outcomes, as noted above, have been positive at times, such as using the media, while at other times, efforts at getting the government to pass the right of information bill have stalled due to attempts by successive governments to limit the amount of information available to CSOs.

Notwithstanding these challenges, the overall picture is one of an open and enabling legal/constitutional environment set in motion by the introduction of formal democracy. The changing political context, the presence of institutional safeguards and open judicial and extra-judicial bodies has combined to create an effective society.

Civil society organizations have used the expansion in civil liberties and political freedoms as a bases for assessing other institutional structures. In the next chapter, we examine the effect of democratic changes on the legislature and assess the mechanisms by which an open and competitive legislature can contribute to the development of an effective civil society.

CHAPTER 4

LEGISLATIVE ARENA

Introduction

How does the creation of an elected, multiparty legislature affect the development of an effective civil society? The purpose of this chapter is to examine how a change in the political context and the creation of political openings in the legislature has created opportunities for civil society development in Ghana. The advent of the "*third wave*" of democracy[54] on the African continent is credited with the development of democratic institutions that promote the consolidation of democracy. While many formal institutions such as parliaments remain weak, the efforts by democracy promoters have had positive outcomes in strengthening the capacity of some legislatures (Lindberg 2008; Hearn 1998).

The initial openings created by democracy allowed the interplay of a multiplicity of factors, one of which has been the renewed interest of foreign donors in strengthening the functional capacity of democratic institutions (Hearn 2000). Donors, in taking advantage of democratic inclusiveness espoused by the state, demanded that governments work with civil society on development projects. Donor insistence on closer state-society collaboration created the opportunity for CSOs to engage directly with state institutions, such as the legislature in law making.

The increased space for CSO engagement with the legislature also created another opportunity—that of donors using CSOs as channels for providing technical support to the legislature. The impact of such increased channels of dialogue and collaboration between civil

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[54] Samuel Huntington's (1991) "third wave" refers to the democratization that took place in the early 1990s in Latin America, Asia and Africa

society and state institutions resulted in some modest gains for civil society development, which we shall discuss in this chapter.

Despite the increasing emphasis and attention paid to the democracy enhancing qualities of the legislature in Africa, there is relatively little work done on the potential of the legislature to promote civil society development. The purpose of this chapter is to provide empirical data that examines the theoretical argument on the role of institutions in determining the goals and strategies of social actors (Thelen and Steinmo 1992).

To analyze the empirical data, this chapter is guided by the following questions: What are the processes by which the legislature affects the goals, strategies and outcomes of civil society organizations? What opportunities and constraints do legislatures present for civil society actors? Where such opportunities and constraints exist, how do civil society organizations take advantage of such opportunities to maximize their agendas?

We present empirical data from fieldwork to show how the legislature has promoted, and at other times hindered the development of civil society in Ghana. We use two cases to bolster our arguments and highlight the range of the interactions between CSOs and the legislature, and draw implications of these interactions for civil society development.

The first case study, which examines the impact of donor aid, examines the United States Agency for International Development (USAID) grant which lends support to our argument about the role of donors in strengthening the capacity of legislatures. More importantly, this case illustrates how donor assistance programs have created opportunities for civil society development. Second, using the case of the Domestic Violence Act (Act 732) we show how through increased dialogue, lobbying and advocacy, women's civil society organizations have

been able to take advantage of an increasingly accessible and open legislature to further their goals.

The plan of this chapter is as follows. The first part presents a theoretical framework for understanding legislative characteristics that promote civil society development. The second part presents empirical evidence from fieldwork, which shows how legislative institutional arrangements provide civil society actors with different opportunities and challenges for development. In particular, we focus on how openings in the legislative processes have provided new avenues to civil society to participate in the lawmaking processes and to build important alliances with political actors. The third and final section ties together our major findings and provides the conclusion.

Legislatures and the Rise of Autonomous Organizations

Extant works on legislatures in Africa have tended to address the impact of institutional weakness in affecting the parliamentary functions of legislation, oversight and representation (Barkan 2008). Institutional weakness owes in part to the long history of executive dominance of the legislature, where most African legislatures were reduced to mere rubberstamps passing laws that favored the executive (Boafo-Arthur 2005; Darkoh 2007).

What features or characteristics must a parliament possess in order to encourage the development of civil society? First, a legislature must be representative, characterized by the presence of competitive political parties capable of representing different societal interests (Fish 2006). A representative legislature increases political participation and provides civil society with a broad set of elite allies from which organizations can build important alliances (Bratton 2005; Yoon 2001).

Second, in order to promote civil society participation in the law making process, a legislature must be open and easily accessible to civic groups. An open and accessible legislature affords civic groups the opportunity to present their concerns to members of parliament and parliamentary committees. An accessible legislature also implies the opportunity for CSOs to use strategies of coalitions and networks to create the critical mass necessary for presenting petitions and memos to parliament in order to maximize their efforts.

Legislative autonomy is another important characteristic of a parliament. Legislative autonomy from the executive allows members of parliament to take the lead in introducing important legislative bills independent of the executive (Ayensu and Darkwa 1999). Legislative autonomy encourages citizens and civic groups to participate in the legislative processes through formal mechanisms that allow the introduction of bills to parliament (Boafo-Arthur 2005). Legislative autonomy in introducing bills is important for civil society development because where such autonomy exists, civil society actors can work closely with key legislatures to introduce parliamentary bills that address particular civil society concerns.

Legislative autonomy can manifest in two ways; first autonomy from the executive allows the legislature to function without executive dominance in the introduction of Bills by the government. Second, autonomy implies financial independence, whereby the budgetary allocation to parliament is not determined by the executive (Nijzink et al. 2006). The availability of resources and adequate budgetary allocations are thus crucial in determining the extent to which legislatures may be insulated from the executive (Nijzink et al. 2006). Where executive control of budgetary allocations to the legislature is limited, the likelihood of having a rubberstamp parliament is lessened (Barkan 2008). In terms of resources, foreign donors have played a critical role in providing funding aimed at increasing legislative capacity. Through

funded training program, donors, working with the legislature have helped to promote associational life by encouraging the participation of CSOs in the policymaking process, training CSOs on how to draft legislative policies and how to use lobbying strategies.

Existing literature suggests that a parliament that is able to perform its core mandates of lawmaking, oversight of executive, representation and constituency service, increases the range of opportunities for civil actors (Barkan 2008). For instance through its lawmaking function, civil society organizations can provide important data and research findings to members of parliament.

Over time, the advent of democracy has led to changing perceptions of African legislatures. Institutional openings, which allowed for the composition of representative legislatures have affected the extent to which legislatures are beginning to function and the presence of formal mechanisms by which civil society can engage in the lawmaking proceses.

As Gyimah-Boadi (2004:7) notes;

> "after years of marginalization, parliaments have begun to emerge as key institutions in African governance. Legislatures have been resurrected in many new African democracies, after a long hiatus. The legal and political status of parliaments has been substantially improved by virtue of the formal powers conferred on them in the new liberal constitutions. …… Indeed, multiparty competition has made it possible for genuine parliamentary opposition to emerge; the popular image of African parliaments as rubber stamps for executive initiatives is gradually changing for the better. And there is some evidence of capacity building among African parliaments, especially in some of their specialized agencies",

Increasing the strength and capacity of the legislature in Africa has taken place over time, and civil society has responded to these changes by adopting strategies of lobbying and building important allies within the legislature to advance their goals. Other scholars have identified various variables as necessary for increasing the functional capacity of African legislatures.

Among these, the presence of clearly stated constitutional provisions and formal rules, the internal structure of the legislature and the amount of resources available to members are important factors that can play significant roles in strengthening legislative capacity (Nijzink et al. 2006).

What is the case with the legislature in Ghana? The advent of political liberalization and Ghana's eventual transition to democracy set the stage for changes in existing institutions and the creation of new legal and constitutional frameworks that guaranteed legislative independence (Kumado 1993). Brand (1998 p.4) defines political liberalization as;

> " an opening up of the political system in such a way that: more freedom of personal and media expression is allowed; greater numbers and diversity of NGOs are permitted to operate while those already in existence may expand their field of activities; state coercion in the form of arbitrary arrests, disappearances and torture are reined in as a new discourse or respect for human rights is adopted and parliamentary elections are held in an atmosphere that permits freer (if not completely free) competition by a variety of actors representing various parts of the political spectrum".

Political liberalization in Ghana also meant the creation of new formal democratic institutions, and where some already existed the focus was on strengthening their functional capacity. The promulgation of constitutions was an important institutional safeguard that sought to protect the independence of the legislature from the executive. Lindberg (2008) argues that although the executive still exerts control over the legislature by controlling the budgetary allocation to parliament, the Ghanaian parliament has become relatively independent of the executive.

Following political liberalization and the introduction of formal democracy through multiparty elections in 1992, a new constitution was drafted which established the legal framework for institutions such as the legislature (Boafo Arthur, 2005). Some analysts have

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questioned the extent to which the legal frameworks have worked out in practice, arguing that despite the rules for legislative functions contained in the 1992 constitution, continuing institutional weaknesses both within and outside the legislature have greatly affected the extent to which parliament is able to perform its functions (Darkoh 2007; Lindberg 2008).

Despite persisting institutional weakness, an important development is that the parliament of Ghana, since 1992 is beginning to change its image as a mere rubber stamp to one that is actually working within the mandates as set by constitutional rules and guidelines. For instance, the opening up of political space has led to an increase in the number of political parties represented in parliament. In the case of the first parliament of the Fourth Republic in Ghana in 1992, the National Democratic Congress (NDC) had 133 seats out of the 200 member unicameral parliament. The dominance of the NDC political party in parliament in 1992 was due to the boycotting of elections by the main opposition party the National Patriotic Party (NPP).

As a result of the initial victory of the NDC, civic groups were often viewed as opposition to the ruling political party, therefore limiting the extent to which CSOs could present their concerns to members of parliament. The representative nature of a parliament also increases the likelihood that Members of Parliament (MPs) will be amenable to the different concerns that civil society organizations advance such as gender and environmental issues. As time went by with successive parliaments, MPs have become more receptive to working with civil society groups. Successive parliamentary elections since 1996 have increased the diversity and composition of the parliament, making it more representative of the country (Lindberg 2006).

Competitive representation in parliament led to lively debates in parliament, providing a platform for civil society organizations engaged in political advocacy to question government

policies. As the institutional structures become more open, civil society organizations have

begun to build important relationships with some members of parliament for future dialogue and

joint collaborative efforts. Through allies, civil society actors are able to gain a platform for

putting pressure through lobbying efforts, to have their agendas and goals addressed.

Additionally, the increased debates on the floor of parliament has provided opportunities

for civil society groups to use the media to challenge members of parliament who oppose the

goals presented in draft bills by civil society groups. The relative openness of the Ghanaian

parliament has promoted civil society development by allowing closer collaboration between

CSOs and the legislature in lawmaking and monitoring the executive. Combined with foreign

donor assistance, CSOs have been able to turn legislative weakness into opportunities, expanding

the level of interaction between the legislature and civil society.

Despite these modest developments, persisting challenges and institutional weaknesses in

terms of resources, poor office space and the lack of trained and skilled staff have contributed to

undermining the development of the legislature and the range of opportunities it can make

available to civil society. Evidence from fieldwork strongly indicates that civil society

organizations have been innovative in channeling their strategies and tactics to take advantage of

the institutional weakness by providing capacity enhancing training through foreign donor

programs.

Empirical Analyses-Legislative Openings and Civil Society Development

The discussion in this section presents data from fieldwork aimed at establishing the

causal mechanisms by which legislative openings have created both opportunities and challenges

for civil society development in Ghana. As it relates to the legislature, openness or closeness is

characterized by how representative and accessible a legislature is to civil society actors, the presence of opportunities for resource mobilization and institutional safeguards through formal mechanisms expanding civil society access to the legislative processes.

<u>Institutional Openings and Donor Demands for Collaboration</u>

The functional capacity of legislatures in Africa had been limited for many years due to the presence of non democratic regimes and the dominance of the executive in allocating resources (Lindberg 2008). With the transitions to democracy and the opening up of space for democracy promoters, it was expected that the changing political context would lead to the emergence of institutional structures capable of shaping civil society development (Green 2002).

In Ghana, the openings created by democracy did not automatically translate into the presence of strong institutions capable of meeting different societal demands (Boafo-Arthur 2007). Nonetheless, democracy did set in motion the opening up of hitherto closed institutions, such as the legislature, which, through competitive multiparty elections, was beginning to open up to representing different societal interests (Gyimah-Boadi 2001). These openings, though not immediately transformative, created spaces for various actors such as CSOs and international donors to push for greater and more meaningful collaboration between the legislature and the civil society sector.

During interviews, activists and others consistently pointed to the relative openness of the legislature, leading to two major outcomes—first, donors, in providing assistance to strengthen the legislature, demanded that government institutions consult and interact more with civil society in addressing national issues. Second, through such demands for collaboration, donors

provided technical and financial support to CSOs and often used them as conduits for legislative strengthening.

First, recognizing the openings within the legislature, donors began to make demands for increased state-civil society interactions. The result has been an increase in the demand by donors and the promoters of "good governance" such as the World Bank, for better accountability and transparency in the workings of government (Carothers 1999). As a result of efforts to promote democracy and accountability, donors poured in large sums of money into government institutions as a means of strengthening their capacity (Hearn 1999).

In 2008, the High Level Forum on Aid Effectiveness held in Accra, Ghana brought together stakeholders such as donors, governments and NGOs to discuss the issue of aid to developing countries.[55] The meeting provided a platform for both domestic and international civil society organizations to meet under the Civil Society Parallel Forum to discuss issues that CSOs wanted to present to donors and governments alike.

CSOs felt that the invitation extended to them to present their concerns was an indicator that donors and governments had recognized the effectiveness of CSOs and were beginning to take their roles in development efforts seriously. The World Bank and other donors, have increasingly demanded that governments work with different sectors of the society to address issues that are of a national interest, such as the incidence of HIV/AIDS and poverty reduction initiatives(Carothers 1999; Thomas and Ottaway 2000). As one respondent noted during interviews,

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[55] The High Level Forum held in Accra, Ghana had a section for representatives of civil society to provide policy inputs into holding governments accountable and promoting transparency. Available online at http://www.accrahlf.net/WBSITE/EXTERNAL/ACCRAEXT/0,,contentMDK:21756075~pagePK:64861884~piPK: 64860737~theSitePK:4700791,00.html. Accessed March 24 2010.

"the role of international development partners in building a bridge between CSO and Parliament has also been crucial in the development of the latter. For example, some donors dealing with parliament on particular issues (example good governance) require the engagement of parliament with CSOs, thus some CSOs are constantly dealing with parliament on particular issues"[56].

Case Study-- the Role of Donors in Increasing Civil Society Access to Parliament

Foreign donors such as the World Bank, the UK Department for International Development (DFID), the United States Agency for International Development (USAID) and Fredrich Ebert Stiftung Foundation have played and continue to play important roles in strengthening democratic institutions in Ghana. Through various grants and projects, these donors have taken advantage of democratic institutional openings to demand closer collaboration between the state and civil society.

Donor funding directed at strengthening state institutions creates an opportunity for civil society in two ways. First, donors provide aid to the state conditional on the state working with civil society as development partners. Through such collaboration, civil society has the opportunity to work closely with state institutions and exert policy inputs. Second, through donor funding of capacity strengthening projects, CSOs are able to mobilize resources from donors as well as receive technical training necessary for increasing civil society organizational capacity. One such donor funded project which increased legislative access to civil society is the 1998 National Democratic Institute (NDI) USAID grant.

The first component of the grant was to strengthen the capacity of the legislature through its staff and committees and provide opportunities for citizen input. As part of this program, the NDI harnessed some CSOs such as the Center for Democratic Development (CDD) to provide the training for members of parliament. Through these training programs, the legislature gained a

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[56] Personal interview with Asante of CDD Ghana on May 26 2008

better understanding of the work of CSOs. A second component was to build the capacity of civil society and the NGO sector to take advantage of legislative access to engage in the policymaking processes. Particularly important for CSOs was that through various seminars, CSOs were trained on how to engage in the legislative process by encouraging public civic inputs. NDI organized NGO orientation visits to parliament allowing for the first time, NGO/CSOs to gain a better understanding of parliamentary processes. In addition, workshops and seminars were organized to build the capacity of CSOs in advocacy skills and how to write and present memos to parliament. Members of parliament interviewed for this research noted that donor funded projects directed at strengthening the legislative capacity has fostered closer collaboration and promoted dialogue between the legislature and civil society.

Donor programs have created opportunities for encouraging and promoting the building of alliances, which later prove crucial in the passage of legislation, such as the Domestic Violence Act. Increased demands by donors for joint collaboration between the state and civil society have been critical in opening up more space for civil society actors. By positioning themselves as capacity trainers, CSOs have been able to harness more aid from donors to increase civil society internal organizational structures.

Through the USAID/NDI program aimed at encouraging civic input in the policy process, some CSOs received training in legislative processes through organized visits to parliament. Such visits also created the platform for MPs to learn from CSOs about their work and explore avenues for collaboration in working together to address constituency concerns.

Interview respondents noted that it was during one such visit organized by the USAID program to parliament that some women's organizations got the chance to meet members of the Women's Caucus for the first time. In the meetings with the Women's Caucus, alliances were

built which later led to joint collaborative efforts between women's organizations and members of parliament. The meeting between CSOs and the Caucus was also instrumental in initiating the member bill that led to the passage of the Domestic Violence Act (DV Act) in 2008. As part of their engagement with donors, CSOs also benefited from workshops and seminars organized by donors, such as the USAID, which developed civil society skills in advocacy and lobbying, as well as improving their skills in writing memos and how to analyze data.

Increased political openings within the legislature, coupled with donor programs for strengthening legislative capacity has widened participation and dialogue between civil society and parliament. Through programs targeted at enhancing the capacity of civil society, CSOs have benefited from training in policymaking processes and lobbying strategies. While increased access to the legislature has promoted the building of allies within the legislature.

Because of legislative institutional openings, donors have begun to use CSOs for strengthening legislative capacity in providing training to MPs and other parliamentary staff. Increased access points between CSOs and appropriate legislative channels create avenues for communication and dialogue. For instance, through increased dialogue, CSOs have been able to press for the implementation of their research findings and reports necessary for the passage of appropriate legislation. Through joint efforts with CSOs, many members of parliament are also embracing the process of interacting more with constituents to talk about the work of parliament. The need for educating the populace on the role of MPs and the work of parliament has therefore resulted in parliament harnessing certain CSOs to engage in such civic awareness and education, thus leading to parliament interacting more with CSOs.[57]

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[57] Interview with Kojo Asante of CDD, May 26 2008. The respondent also emphasized that this interaction is made possible now, as compared to previous regimes because of the changing political environment with the transition to democracy, whereby the government is beginning to see CSOs as development partners and not solely as anti-government.

Donor insistence on using CSOs for legislative strengthening has expanded opportunities for joint strategizing with parliamentary committees, scrutiny of legislative bills and monitoring parliamentary debates. Through such activities, CSO access to the legislature has improved, allowing for more dialogue with parliamentary committees on key legislation.

Donor efforts at strengthening the legislative capacity have had the effect of creating expanding state-society collaboration. First, CSOs took advantage of these opportunities to position themselves as agents of capacity training, and in the process, CSOs were able to build strategic alliances with MPs, alliances that later proved crucial in proposed legislation. Second, through donor efforts, CSOs also received skill training and capacity building workshops and seminars on how to make the best out of the available access to the legislature.

These opportunities have resulted in developing the internal capacity of CSOs in the strategies and tactics they adopt, as well as achieving their goals through legislative and policy outcomes. Overall, there have been modest gains made in the degree to which parliamentary processes have presented opportunities for civil society engagement. Such improvements, which have witnessed incremental growth since 1992, have also allowed CSOs to demand more institutional openness.

Expanding Financial Capacity and Resource Base by Working with the State

The argument that civil society development and growth has been supported from outside funding sources is true in the case of Ghana. The heavy dependency of civil society organizations on foreign aid has been the focus of many recent studies on the detrimental effects of donor aid in hijacking the agendas and goals of civil society (Hearn 2000; Robinson and Friedman 2005). The availability of financial resources to civil society has changed with

different regimes as the focus of donors shifted from using civil society as democracy promoters, to a focus on helping governments address development and governance problems (Bradley 2005; Thomas and Ottaway 2000). Donor aid to the state has been conditioned on the state working closely with civil society, allowing civil society organizations to receive funding from different donor programs.

One of the challenges facing CSOs in Ghana has been the issue of funding, as many of them remain heavily dependent on external donor partners (Gyimah-Boadi, 2004, Tsikata, 1989). Increasingly, with the dwindling global resources, CSOs are adopting new strategies of receiving external funding by promoting themselves as development partners through joint collaboration efforts with state institutions. In some instances, competition between the state and civil society in seeking donor aid has heightened the antagonism between CSOs and the state (Gyimah-Boadi, 2004).

Through the increased avenues for state and society collaboration through donor demands, CSOs have come to occupy important positions as resource persons for purposes of providing technical assistance to state institutions. Increasingly, donors such as USAID, DFID and Fredrich Ebert Stiftung Foundation have used some CSOs for purposes of providing training to MPs. For instance, through multiple donor grants, ABANTU for Development, one of the leading women's organizations that deal with governance issues has held a number of seminars for female MPs to train them among other things on fundraising and campaign strategies. Another example is Women in Broadcasting (WIB), which held workshops for female MPs to identify strategies to enhance their image in the media and help with retaining their parliamentary seats. Through organizing such programs, CSOs have been able to harness resources and technical support from donor agencies. These resources have gone a long way to

help these organizations achieve their goals as well as build their internal structures, pay their staff and engage in other activities.

By taking advantage of new opportunities to increase their resource base, some CSOs, such as the Center for Democratic Development (CDD), the Institute for Economic Affairs (IEA) and the Institute for Democratic Governance (IDEG) have projected themselves as the leading think tanks on democracy in Ghana. Increased donor aid has enhanced the capacity of these organizations to adopt goals that reflect donor agendas such as politics and governance, human rights and economic development.

Through changes in their goals and scope of activities, some CSOs have become the leading partners in different tripartite negotiations between the government, donors and CSOs. The creation of the Ghana Research and Advocacy Program (G-RAP) is a case in point that shows how CSOs are working with donors and government. Through the creation of a pooled fund from the governments of the United Kingdom, Canada, Denmark and the Netherlands, G-RAP was set up as a common fund to help strengthen the capacity of NGOs in dealing with poverty, by focusing on research and advocacy.[58]

For civil society organizations, the pooled funding has made it possible to provide the much-needed resources for CSOs to focus on their work, especially in the areas of research and advocacy. This has also enabled these organizations to raise their voices in terms of demanding governmental accountability and transparency, which, hitherto was a challenge for most CSOs.[59] The outcomes of the G-RAP have not been uniform in terms of access to resources, especially for women's civil society organizations. A representative of the women's organization NETRIGHT noted that the set of standards and reporting requirements set by the G-RAP and the

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[58] For details on the GRAP and GPRS, visit http://www.g-rap.org/. Accessed September 2 2009.
[59] Interview with Ark Foundation on May 16 2008

Growth and Poverty Reduction Strategy I (GPRSI) made it too difficult for women's organizations to qualify to apply for funding. Women's organizations had to negotiate to ensure that the standards were changed to make them more inclusive of gender-focused organizations, resulting in a more gender sensitive GPRS II. The successful outcome of making the GPRS II gender sensitive was also a culmination of coalition building and dialogue strategies used by women's organizations to put pressure on the donors to change the rules.

The increased capacity of CSOs to provide training and capacity building has gone beyond government institutions, to include other CSOs. With the increased resource and financial base, some leading CSOs have been able to engage in education programs aimed at strengthening the capacity of other CSOs and NGOs. ABANTU for Development, one such CSO engaged in national development and gender empowerment, engaged in numerous national programs to strengthen the capacity of CSOs for engaging with policy from a gendered perspective (Mama 2000c). Such activities have included the use of participatory approaches to train and develop the capacities of other women's organizations that seek to promote issues of common interest in the areas of governance and economic development.

The opportunity for CSOs to use donor led legislative strengthening initiatives is beginning to wane due to the state of global economic affairs. Globally, donor funding of projects is decreasing due to the current economic crises. In the case of Ghana, respondents noted that because Ghana is seen as a model "success" story for democracy in Africa, donors are moving their focus from promoting human rights issues to the promotion of good governance practices, which will cut out the funding for most grassroots organizations still focusing on service delivery. Most donors are now giving money directly to the government (what is popularly referred to as basket funding), with the condition that the state works with CSOs on

particular issues. This becomes problematic for CSOs where they have to navigate the political aspects of engaging with the state, while at the same time maintaining their autonomy.[60] At present, there is little to no evidence to suggest that CSOs can carry out their functions without donor funding. Institutional arrangements and regulatory frameworks for CSOs to seek external donor aid will therefore have to be conducive to enable CSOs explore different funding options.

Increased Channels for Civic Participation

Participatory democracy and the demands for openness and accountability have contributed to the opening up of state institutions for public participation (Crook and Manor 1994; Lindberg 2004; Franceschet 2001). Citizen participation in politics and policymaking processes play important roles in building social capital, a vital component of a strong civil society (Putnam, 1992, Lindberg, 2004, Diamond, 2008).

Bratton (1994) argues that networks of communication facilitate the sharing of information within civil society on one hand, and between civil society and the state on the other hand. For CSOs, communication and dialogue are important because they serve as channels through which CSOs can have their agendas addressed within state institutions. Channels for civic participation also provide CSOs with arenas for influencing decision-making processes within institutions.

One such important channel of civic participation between parliament and CSOs is the parliamentary committee system. Under the 1992 constitution, committees in parliament are divided into Select and Standing Committees, which are specialized groups of members dealing with broad thematic issues such as security and defense, women and children and legal drafting. The committee system has been credited with enhancing public debates and increased

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[60] Interview with a civil society activist Allah-Mensah on June 2 2008

participation of individuals and civil society organizations in the legislative process (Ayensu, 1999).

Bills that come to the floor of parliament often go through select parliamentary committees for deliberation and scrutiny before making it to the floor of parliament for debate (Lindberg, 2008). It is often at this stage that Members of Parliament get to engage directly with interest groups and lobbyists, some of which are CSOs.

Empirical evidence gathered during fieldwork shows that the presence of committees has been an opportunity for increased dialogue between CSOs and parliament by creating channels through which CSOs present their views on particular issues. During the debates on the Domestic Violence bill, women's CSOs, took advantage of their role in research and data gathering, to present committee members with their findings and other relevant memoranda relating to the incidence of domestic violence in the country. During presentations and discussions with the appropriate committees, CSOs were able to dialogue with MPs to gain a better understanding of the issues and agendas presented by CSOs. MPs also stand to benefit from the information they acquire from CSOs, for purposes of making credible debates on the floor of parliament.

Donors have also played an important role in increasing the prominence of the committee system. The National Democratic Institute's (NDI) grant aimed at strengthening the parliament of Ghana had as one of its programs strengthening the committee system. Through a series of workshops and seminars, MPs were taught the importance of drafting and reviewing legislation that came before respective committees, as well as understanding how committee structures work.

For CSOs especially, the NDI project was an opportunity to learn how to provide public input through presenting memos to appropriate committees. Through a series of roundtable sessions between MPs and CSOs, NDI provided a forum for discussing the concerns and challenges of CSOs in accessing parliamentary committees. A respondent from CDD indicated that for CSOs, these sessions had indeed gone a long way to contribute to the understanding of the work of parliament. [61]

The committee system has not been all rosy for CSOs. Respondents noted that attempts by women's civil society organizations to engage with the Gender Committee and the Women's Caucus have been problematic at times. Even though MPs belonging to the Gender Committee indicated that on occasion they have worked with women's organizations on pertinent issues, the relationship has been less than cordial, to say the least. This could also be explained by the power dynamic between women in leadership positions who try to protect their political positions (Waylen 2008).

Creating important allies and sustained interaction through dialogue with members of appropriate committees has helped some CSOs achieve their goals. Respondents noted that during the debates on the Domestic Violence Bill, women's organizations had to map out and strategically engage with two committees---the Gender and Legal Committees. Members of parliament belonging to the Gender Committee noted that the relationship was mutually beneficial since they gained a better understanding of the issues these organizations were seeking to address.[62]

Because CSOs provided reports and research findings to these committees, MPs were able to make a better case when the matter came to the floor of parliament for debate. Some

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[61] Personal interview with Asante of CDD on May 26 2008
[62] Interview with Hon. Ahmed on June 12 2008

interview respondents also pointed out that the eventual ratification of the African Union

Protocol on the Rights of Women was made possible due to sustained interactions with particular

parliamentary committees.[63]

Evidence from fieldwork strongly suggests that as and when the situation demands,

committees have been vital in helping CSOs place their issues on the floor of parliament for

debate. For many CSOs, contacts with committees have created avenues for mobilizing the

support of important allies in parliament. The relationship between committees and CSOs has led

to an increase in the level of openness and degree of interaction between parliament and CSOs.

The outcomes of such interaction, often mutually beneficial, have helped CSOs to present their

agendas and receive parliamentary support. In other ways, it has helped CSOs to fine-tune the

complexity of their strategies in lobbying and networking with the appropriate channels of

authority.

Another formal mechanism for increasing civic participation has been the recent opening

up of parliamentary viewing galleries to the public where citizens can sit and listen to

parliamentary debates. CSOs have used this opportunity to attend parliament during times when

the legislature is debating on issues that affect them. The presence of members of the Domestic

Violence Coalition during all the debates on the Bill in large part contributed to the eventual

outcome. Members of the Coalition listened to the debates and used it as an avenue to map out

their allies and opponents. Consequently, they devised new strategies on how to deal with their

opponents; one of such strategies was to use the media to attack their opponents. The focus of the

media on discussing parliamentary debates by individual MPs has greatly contributed to the

increasing opening up of parliament to the public.

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[63] Interview with WiLDAF on ratification of AU protocol on June 4 2008

Another mechanism by which the legislature increases civic participation is through invitations to civil society organizations to participate in parliamentary vetting of persons nominated for public office. Increased opportunities for civic participation in the legislative processes through formal and informal channels promoting communication and dialogue have facilitated the extent to which CSOs have been able to provide important legislative inputs. The emergence of a strong civil society in Ghana has been due in large part to the presence of opportunities for civic participation in the legislative processes.

Case Study—Legislature, Civic Participation and the Domestic Violence Act

The discussion presented here seeks to highlight the impact of legislative access and increases channels for civic participation on the goals and strategies of CSOs. The passage of the Domestic Violence Act (Act 732) of 2007 was a success for women's civil society organizations. Such success would not have been possible but for the presence of an open and accessible legislature which provided opportunities for civil society organizations to use strategies of lobbying, advocacy and research to advance their goals. Legislative access increased as Ghana's democracy progressed from the 1992 period, allowing for the representation of different political parties.

Beyond competitive representation, the development of the committee system played a crucial role in allowing women's civil society organizations to put pressure on particular parliamentary committees to address the issue of violence against women. After extensive research and advocacy by women's organizations on the incidence of domestic violence in Ghana, women's organizations formed the Domestic Violence Coalition to generate mass mobilization and support for the bill's introduction in parliament. Through a series of reports,

research and public education sensitization, the Domestic Violence Coalition was able to gain the support of the public for the proposed bill. Finally, in 2006, progress was made when the first draft bill was presented to two committees in parliament-- the Joint committee on Gender and Children and the Committee on Legal and Parliamentary Affairs.

After the introduction of the bill to parliament for debate, women's organizations working under the aegis of the DV Coalition heightened their tactics of lobbying and joint strategizing with the appropriate committees to gain support for the passage of the Bill. Outside of parliament, the DV Coalition also used the media as a strong ally to educate the public on the effects of the Bill. On occasion, women's organizations resorted to contentious politics such as demonstrations and pickets to protest against some of the debates in opposition to the Bill that were coming from some members of parliament.

Another strategy used by women's organizations during the debate of the DV Act was to gather information from the hearings and go back to the Attorney General's office and demand that the necessary changes be effected that would ensure the eventual passage of the Bill. CSOs were also acting as liaisons between two government institutions for purposes of fast tracking the passage of the Bill.

For example when some members of parliament demanded omitting marital rape from the bill, women's CSOs were quick to use the media as a strategy to educate the public on the issue of marital rape and to gain the support of citizens. After many challenges including opposition to the bill from the then minister of Women and Children's Affairs, the Bill became law in 2007. Through this case study, we see how increased access to the legislature combined

with the strategies and tactics of women's civil society organizations led to the eventual passage of the DV Act in Ghana.[64]

Increased Capacity for Research, Advocacy and Nnegotiations

As legislative weaknesses continue to limit the amount of information available to MPs, civil society organizations have stepped up their efforts in generating informed data and analyses for purposes of engaging in the policymaking processes.

ABANTU for Development, one of the leading women's organizations produced a comprehensive study addressing issues of governance and democracy promotion. ABANTU's research findings have been used by policy makers for demanding an increase in the number of seats allocated to female ministerial positions.[65]

An example of ABANTU's publications is the Women's Manifesto, which involved a comprehensive study of the concerns of women in the country, which women's organizations wanted the government to address. The Manifesto was distributed to the various political parties, many of whom promised to add the provisions of the Manifesto to their political party manifestos.

Advocacy by civil society organizations has in recent years increased, as their voices have become a force to reckon with. By engaging in heightened advocacy, women's organizations agitated for the eventual passage of the Domestic Violence Act (Fallon, 2008). Arguably, the fact that parliament now invites CSO contribution in legislative and policy decisions, is also an indicator of the willingness and relative openings in parliament. Realizing the openings within parliament, CSOs have increased their own capacity on how to analyze

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[64] For detailed discussions on the DV Act, see Tsikata, 2009; Fallon 2008; Ampofo, 2008.

[65] Interview with a member of ABANTU for Development on May 26 2008

parliamentary debates and draft bills, as well as developing their skills for writing memos to parliament.

Some civil society organizations interviewed were quick to note that these openings in the democratic institutions have only increased because of CSO advocacy in demanding more openings. However, it is worth pointing out in this study that civil society advocacy would not have been possible in the first place but for the enabling environment created by democracy.

The effect of the opportunities for capacity building, research and advocacy by CSOs is that increasingly the state is beginning to recognize civil society organizations as legitimate and important development partners. Governmental recognition of the importance of CSOs is necessary when it comes to government making decisions and policies that affect the goals and agendas pursued by civil society organizations (Hadenius and Uggla, 1996). As the case of the Domestic Violence Act demonstrates, legislative institutional weakness has contributed to enhancing the capacity of CSOs for research, advocacy and negotiations.

Expanding the Capacity of CSOs beyond Service Delivery

Despite the changing political opportunity structures, legislative institutional weaknesses continue to exist, creating new opportunities in the form of challenges for civil society organizations. As the challenges arise, civil society organizations have turned some of these challenges into opportunities to increase civil society legitimacy and visibility in national development. The inability of some MPs to effectively perform their constituency services (Barkan 2008), has created an opportunity for CSOs to expand their goals with the goal of improving the constituency service of MPs. Through the holding of town-hall style meetings sponsored by the USAID, CSOs have increased their salience in addressing the concerns of

citizens. These processes have also enabled CSOs to gain a better understanding of important issue areas, which have become part of their broader goals and objectives.

The traditional role assumed by civil society organizations as a stop gap for government failure to meet the needs of citizens resulted in a concentration of CSOs in service delivery activities (Bradley 2005). As the scope of permitted political activity widened, civil society organizations begun to develop goals focused on politics and governance issues. One of such goals has been the role of educating citizens on the work of their MPS.

For CSOs based outside the capital city Accra, reaching their MPs has been a challenge in having their issues and concerns placed on the national agenda. Most of the women's organizations based outside Accra have been actively advancing the issues of economic development, health and the legal rights of women. These are often issues of a national concern, but more contentious and pronounced in rural areas.

To address the challenge of reaching their MPs and having their issues addressed in parliament, these women's organizations have adopted strategies and tactics of networking and coalition building with organizations based in the capital city Accra.

Through these networks for instance, CENSUDI, based in the Upper Region, presented findings from the northern region on the incidence of domestic violence to the Coalition to present to parliament. Such networking has resulted in the creation of a critical mass of organizations, lending credibility on the issues they present and creating a division of labor where particular organizations spear -head particular issues.

Conclusion

The purpose of this chapter has been to examine whether, and by what processes, the Ghanaian legislature has affected the development of civil society in Ghana. We saw that the enabling environment created by democracy, though not immediately translating into strong institutions, did create a relatively open and accessible legislature. By focusing on the institutional arena of the legislature, this chapter furthers our understanding of how institutions affect the goals, strategies and outcomes of civil society actor.

Changes in the goals, strategies and outcomes that we observed were the result of the presence of formal and informal mechanisms promoting closer collaboration between the legislature and civil society. Through parliamentary committees, consultative meetings with CSOs on certain Bills as well as the opening up of viewing galleries to citizens and civic groups, formal parliamentary mechanisms broadened civic participation in the lawmaking processes. An informal, yet crucial mechanism was the opening up of the legislature to CSOs to provide institutional capacity training programs for members of parliament and their staff. Through such training programs, civil society actors were able to garner donor aid to increase their functional survival. CSOs, using the opportunity of increased contacts with the legislature, have built expertise in different areas of the legislative processes.

There appears to be a positive correlation between legislative openings and civil society development in Ghana. The initial openings in the legislature have contributed to the different goals and agendas CSOs have come to adopt. CSOs have expanded their goals beyond the traditional roles of service delivery to engage in broader goals aimed at promoting democratic consolidation, legal advocacy and economic development.

The opportunities and challenges presented by the legislature also had effects on the strategies and tactics used by civil society actors. As civil society begun to contribute to the lawmaking processes, legal and political advocacy has become an important strategic tool through which civil society has demanded the passage of important pieces of legislation such as the Domestic Violence Bill.

Through the strategy of building allies within parliament, civil society actors have increased their lobbying efforts with their allies as a way of building the support needed for successful policy outcomes in issues and agendas they advance. Taking advantage of the increases in the number and diversity of organizations, civil society actors have used networking and coalition-building strategies as a tool to build the political mass necessary for putting pressure on the legislature to pass key legislation, as was demonstrated by the Domestic Violence Coalition.

A very interesting finding presented by this chapter was the impact of lingering institutional weaknesses within the legislature and its effect on civil society development. One assumption of this study was that a capable legislature—in terms of resources, representativeness and autonomy would increase the opportunities available for civil society development. What we saw however, was that the Ghanaian legislature continues to deal with poor resources in terms of budgetary allocations and human capital. These weaknesses have proved to be an unexpected opportunity for civil society actors who, by taking on added goals of politics and governance, have received increased resources from donors to provide capacity-enhancing programs to the legislature.

The legislative arena therefore provides us with a way to measure whether indeed there is an effective civil society in Ghana. Focusing on the changes in the goals, strategies and outcomes

of civil society actors engaging with the legislature lead us to the following conclusions. First, to the extent that civil society has become an important part of the lawmaking processes within the legislature and influencing how the state shapes civil society, then we can argue that there is a strong and effective civil society. Second, by civil society engaging with the legislature to expand citizenship participation in the legislative processes and enforce citizen rights, we can argue that civil society is growing. Third, by taking advantage of opportunities for resource mobilization presented by the legislature through increased donor funding projects, the capacity, legitimacy and visibility of civil society as important stakeholders in national development is enhanced.

Overall, our research data provide support for the argument that the presence of favorable legislative institutional structures has the capacity to promote the development of civil society. The findings appear to correlate with previous studies on the role of institutions in promoting the activities of different groups and interests (Bratton 2007; El-Khawas 2001; Hadenius and Uggla 1996; Diamond 2008). It is also worth emphasizing that despite the openings presented by institutions, different actors make use of these opportunities differently, thus the outcomes we observe within individual organizations may be different.

The observed impact is however not what was expected—that, the institutional capacity of the legislature, measured in terms of its ability to perform its functions and mandates, would create opportunities for civil society development. Rather, what our findings strongly indicated was that the persistent institutional weakness of the legislature created unexpected opportunities for civil society organizations.

The discussion in this chapter demonstrates that the presence of favorable political opportunity structures, resources and institutional safeguards are critical in determining the goals

and agendas pursued by CSOs. Overall, the legislature in Ghana has presented CSOs with many opportunities which, if fully utilized, could contribute to the development of an effective civil society sector. However, as many of our respondents noted, institutional weaknesses within the legislature and the politicization of the work of CSOs dealing with the legislature continues to be major challenges.

The development of civil society hinges on available opportunities within other institutions, which together, will determine the expected outcomes. We shall proceed in the next chapter to examine the impact of the bureaucracy on civil society development.

CHAPTER 5

BUREAUCRATIC ARENA

Introduction

Bureaucratic agencies are important components for the proper functioning of a democracy. Most African countries are affected by low institutional capacity which tends to hinder their ability to regulate the actions of social actors within the political sphere (Bratton, 1994). Within the African context, regime type has been used to explain the capacity and functions of bureaucracies. Authoritarian regimes on the one hand use bureaucracies as extensions of their rule and as vehicles for fulfilling the goals of the regime (Bratton 2007). Democracies on the other hand are expected to have universalistic bureaucratic agencies that provide important channels of communication for social actors (Hadenius and Uggla, 1996).

The central argument in this chapter is that while Ghana's bureaucratic institutions remain weak, civil society organizations have used the initial democratic openings to engage with the state in the policymaking processes. The role of donors in strengthening the capacity and legitimacy of civil society actors has contributed in the extent to which civil society has made policy impacts despite bureaucratic weaknesses.

Within a democracy, the presence of bureaucratic agencies is not a sufficient condition for providing opportunities and avenues for civil society interaction. An important factor is the level of formal and informal mechanisms through which civil society can interact with bureaucratic institutional structures. The capacity of a bureaucratic agency to have positive impacts in policymaking and policy implementation is also largely dependent on the willingness of governments to provide bureaucratic agencies with the resources needed for their functions.

Under the new democratic landscape in Ghana, and the promotion of donor funded "good governance" agendas, the functions of bureaucratic agencies have evolved, resulting in the opening up of space for dialogue with non-state actors. As a result, civil society actors have taken advantage of these openings to engage in dialogue for purposes of gaining access to policymaking, exerting policy influence and monitoring the implementation of policies.

The purpose of this chapter is to examine the role bureaucracies play in civil society development. By positing our argument within the institutionalist theoretical framework and the effect of the changing political context on civil society development, we examine the ways in which bureaucratic institutions in Ghana have shaped the goals and agendas of civil society actors.

The two case studies of the NGO and Trust Bill (NGO bill), the Ministry of Women, and Children's Affairs (MOWAC) provide important empirical evidence that establishes two important developments. First, the NGO Bill demonstrates how through informal mechanisms of meetings and consultative fora, CSOs have been able to engage with particular bureaucratic agencies and exerted policy influence on national policies. Second, the MOWAC demonstrates how the creation of a bureaucratic agency can expand policy access to CSOs.

Together, these two case studies provide us with an overall assessment of the bureaucratic arena and how perceived or actual openings have affected the strength and effectiveness of civil society. Through mechanisms promoting dialogue and joint collaboration between civil society and the state, the two agencies highlight the recent development of opportunities created by democracy to institutionalize civil society in the decision-making processes.

This chapter shows that in Ghana, bureaucratic agencies have provided some space for engaging with civil society organizations, offering different avenues for dialogue and policy impacts. Our empirical evidence strongly suggests that the mechanisms for including civil society participation and influence in policymaking have not had the desired impacts on the development of civil society. This has been due to the limited resources at the disposal of bureaucracies and the lack of government commitment to implement key policies.

This chapter will proceed by reviewing the literature on bureaucratic agencies with the goal of establishing how bureaucratic agencies can contribute to civil society development. Data from fieldwork is then presented to show how bureaucratic agencies provide policy access and influence for civil society engagement in the policymaking processes and the impact of such access and influence on civil society development. The final section engages in a discussion of the findings from research data and draws the conclusion on the chapter.

Bureaucratic Institutions and Civil Society Development

How do we conceptualize bureaucracies as institutional arenas capable of influencing and affecting civil society development? The bureaucracy, as an institution within the state, plays a crucial role in shaping and structuring political processes and outcomes. It is a central point for political action, capable of providing both opportunities and constraints for political and social actors alike.

Sotiropoulos (2006) identifies four approaches to the study of bureaucracy and civil society relations. First, one can choose to examine how bureaucratic processes interact with societal interests and affect policy outcomes. Second, one can study the type of contacts between individual citizens and administrative personnel. A third approach involves examining

interactions between the bureaucracy and organized interests with a focus on the types of pressures used by these groups on bureaucratic personnel. A final approach is to evaluate the relative strength and weakness of civil society as compared to the state (2006:3).

Our analysis in this chapter combines the first, second and third approaches—by examining the effect of bureaucratic processes on civil society organizing and the impact of interactions between the two. The bureaucratic development in Ghana since independence has been largely dependent on the personal inclinations of different political leaders. Overall, the relationship between civil society and bureaucracies has been one of limited space, where most agencies, such as the National Council for Women and Development (NCWD) have been used as fronts to co-opt autonomous organizations (Boafo-Arthur 2007; Chazan 1983; Herbst 1993).

Studies conducted by Hadenius and Uggla (1996) note that the creation of a legal-universalist bureaucratic institution is important for civil society development. They argue that bureaucratic institutions can provide channels of dialogue and influence for civil society actors. However, the creation of bureaucratic institutions does not automatically guarantee civil society development. A well functioning bureaucratic agency is one that provides channels for civil society interaction by creating access points for civil society to engage with the state and provide inputs for policy-making. As the state creates space, civil society becomes stronger and the stronger it gets, the more demands it can make on government in an effort to promote the goals and agendas of civil actors.

Spinesi (2009) on the other hand goes beyond the argument advanced by Hadenius and Uggla (1996) and notes that the quality of institutions matter in determining the growth of social actors within the political arena. For this reason, institutional design, as well as the rules and norms governing the operation of bureaucratic institutions are central in determining the

opportunities and challenges presented to civil society actors. A well functioning bureaucracy will no doubt provide access that is more equitable to social actors to engage in the policy-making processes. The quality of an institution will determine the extent to which it controls rent seeking and inequality in its operations.

Other scholars have argued the necessity of bureaucratic institutional transformation in assessing the opportunities bureaucracies present to civil society actors. Houtzager (2005) argues that institutional transformation should include changes in the structure, capacity and performance of bureaucratic institutions. Such transformation is central in determining the extent to which bureaucrats can reach out to civil society and the level of engagement that can take place. Policy engagement as a function of bureaucratic performance is also dependent on the relative position of particular agencies within the broader bureaucracy. Our study provides empirical data to support this argument by noting that the lack of adequate budgetary allocations by the state to the MOWAC is largely to blame for the limited opportunities it provided for women's CSOs.

The other stream of literature on bureaucratic openings has examined institutional context as a variable in explaining the impact of bureaucracy on societal actors. Franceschet (2003) in her analysis of the state-run women's organization, the Servicio Nacional de la Mujer (SERNAM) in Chile argues that the institutional context determines the level of state commitment to civil society organizations. Concerning SERNAM, Franceschet argues that the institutionalization of gender through the creation of a bureaucratic agency allowed the allocation of resources by the government to address gender issues. The case of Chile, unlike other Latin American cases (Htun 2001; Alvarez 1990; Jacquette 2001; Waylen 2007), shows how a democracy can provide a favorable institutional context for the development of women's civil

society organizations. These studies argue that the availability of space for CSOs to engage with bureaucracies will not translate into meaningful gains if such space is not followed by government commitment to provide the resources needed for the agency to function properly.

Bureaucratic mechanisms promoting civil society participation such as formal consultative meetings and review panels increase channels of communication and dialogue. Through formal or informal mechanisms, these channels of communication increase the substantive representation of civil society in policymaking processes. Waylen (2007) notes that in the case of women's organizations, the bureaucratic arena may provide CSOs with channels for engaging in public policy-making, she states;

> "through inclusive mechanisms such as consultative fora and mainstreaming activities as well as incorporation of women friendly issues into the policy process" (12).

Hicks and Buccus (2007) have argued that through openings in institutional structures, civil society can have broader interactions with the state. However, they emphasize that such interactions should be aimed at providing equal access for marginalized groups to engage in policy making processes. Increasing the opportunities for marginalized groups to engage with state institutions will have the effect of strengthening civil society as a whole and not limiting the outcomes to only a few well-positioned leading CSOs. Thus, bureaucratic transformation should be directed at increasing access for all civil society actors (Houtzager, 2005).

In summary, the existing literature on bureaucracy and civil society engagement furthers our understanding of the mechanisms by which bureaucratic institutional structures provide space for civil society growth. Mechanisms such as consultative groups and meetings set up by bureaucracies and institutionalized review processes that allow the participation of civil society

actors are therefore crucial in promoting the effective participation of civil society in policymaking processes.

Drawing from existing studies, the model used in this chapter identifies and analyzes important mechanisms through which the state engages civil society actors in the policymaking process. Two dimensions of this model are used. First, we focus on the level of perceived or actual openings within the agencies as demonstrated by inclusive mechanisms promoting dialogue and communication. The second dimension reviews the types of interactions, strategies and tactics used by civil society to put pressure on these agencies. As bureaucratic structures change and become more inclusive, institutional avenues that promote communication, consultation and collaboration increase, allowing civil society actors to provide meaningful policy inputs.

 For purposes of this chapter, we operationalize bureaucratic engagement as the level of openness and availability of opportunities for dialogue between bureaucratic agencies and civil society organizations.

Empirical Analysis- Civil Society Access and Influence in Policymaking Processes

Bureaucratic agencies perform functions directed at regulating and coordinating the activities of government agencies and citizens. Bureaucratic agencies are channels through which civil society can use formal and informal participatory mechanisms to gain policy access and exert policy influence on government policy-making processes (Franceschet, 2003).

Through participatory democratic principles, civil society can engage with bureaucratic agencies through formal mechanisms such as advisory councils, scheduled consultative meetings and public hearings on government policies (Hicks and Buccus 2007). Informal mechanisms

such as personal ties and networks with important allies within bureaucratic agencies have also played critical roles in opening access for civil society actors.

Policy influence examines how the opening up of political structures has created new avenues for civil society to exert influence in shaping state policies towards the civil society sector. Using the case of the NGO bill, we measure the extent to which state bureaucratic agencies allow civil society to influence state policies aimed at regulating the activities of civil society actors. The effectiveness of policy influence must be coupled with government commitment to put policies into action. CSOs have taken advantage of existing opportunities for policy influence and have progressed to become key players in the policymaking processes.

The case of the NGO bill shows how CSOs have taken advantage of existing opportunities to provide input into policies. These opportunities have resulted in sharpening the advocacy, research and negotiation skills of CSOs, who have had to engage in research for purposes of educating themselves and generating accurate data to present to the negotiation table with government agencies.

The NGO and Trust bill is a comprehensive policy aimed at regulating civil society activity. The centrality of this bill to the survival of CSOs has resulted in the adoption of strategies by civil society such as forming coalitions to increase the efficacy of the voice of CSOs. Through coalitions and networks, civil society has exerted a great deal of influence in the drafting of the NGO bill by engaging directly with the bureaucratic agency of the Ministry of Employment and Social Welfare (MESW) as well as the Attorney General's Department.

The extent to which policy access and policy influence have worked independently or in tandem in affecting civil society development are discussed in the following sections. We argue that while access points have increased since 1992, the level of openness and the quality of

access is limited by other factors such as poor resource base of government agencies. In terms of policy influence, this is the area where we see the most development as civil society actors have actively engaged with government and made progress in influencing policies that will affect the coordination, regulation and management of civil society groups in the country.

Overall, government willingness to consult with civil society organizations has increased, nonetheless, CSOs are still concerned about the *level* (in other words the efficacy) of such access. Repeatedly, interview respondents cited the problem of the state excluding CSOs from the design, implementation and monitoring phases of some policies. These respondents argued that in some cases, government invitation to civil society to participate in joint planning committees is mere tokenism, because by the time civil society input is requested, the decision-making processes have been finalized or far advanced, limiting the inputs by civil society actors. As this study suggests, the limited levels of access are the result of a lack of government will to provide the needed resources to equip bureaucracies to provide more opportunities for interacting with civil society.

Civil Society Policy Influence—Negotiating the NGO Bill

As presently constituted, Ghana has no national legislation regulating the activities of CSOs. The Ministry of Employment and Social Welfare (MESW) is responsible for dealing with all issues pertaining to the NGO/CSO. As we shall see in the discussion that follows, as a state bureaucratic agency, MESW has provided avenues and opportunities for negotiating with CSOs for the passage of the NGO Bill aimed at regulating the NGO/CSO sector.

The sustained negotiations between the state and civil society for the passage of the NGO Bill highlights the important policy influence CSOs have come to occupy in the

policymaking process. For CSOs, the eventual passage of the bill will represent the formal institutionalization of civil society interests within the state and provide a bigger platform for consolidating the gains made so far.

There is currently no central governing authority for regulating the activities of CSOs/NGOs in the country. Prior to 1993, the activities of CSOs and NGOs in Ghana fell under the authority of the Ghana Association of Private and Voluntary Organizations (GAPVOD). GAPVOD, created in 1980 by a group of non-governmental organizations with the mission of coordinating the activities of NGOs to ensure sustainable growth and development.[66] GAPVOD is an umbrella organization of all NGOS in the country with the goals of promoting NGO-state relations, as well as donor-NGO relations. Since its inception, most CSOs in Ghana have been members of GAPVOD considering that CSOs have to be registered as NGOs, coupled with the fact that there is an absence of a collective body for CSOs in Ghana.

With time, the activities of GAPVOD became highly politicized, as most CSOs felt the state was intruding into NGOs/CSOs by controlling the leadership of GAPVOD. The growing lack of trust on the part of CSOs led to many CSOs withdrawing from GAPVOD and seeking other ways of coordinating their collective activities. While there are still many self-help organizations and community organizations that are registered members of GAPVOD, most CSOs do not belong to it anymore.

GAPVOD and CSOs are still very confrontational to one another due to the lack of trust, as civil society claim that GAPVOD has been co-opted by the government. There are major structural problems within GAPVOD itself. Since membership dues are not paid, leaders and executives tend to receive more financial support from the government. Respondents also

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[66] For information on GAPVOD, visit http://www.kabissa.org/civiorg/72. Accessed September 20 2008.

indicated that GAPVOD is still marketing itself as representing civil society organizations and therefore constantly being called upon by government to represent CSOs/NGOs.

Realizing the lack of a coordinating body for civil society organizations, donors also played critical roles in improving conditions for civil society to be able to take advantage of the new political opportunities. The Ghana Civil Society Resource Center (CSRC) is one other organization created by UNDP to serve as a networking and information sharing ground for CSOs in Ghana. A representative of the Civil Society Resource Center (CSRC) in Ghana noted that the problems of GAPVOD are many and that the efforts by the CSRC to revive its image include the provision of training and public relations to give it a good image. As she notes,

> "real change will come with a total overhaul of the organization with new leaders and I personally think even a new name. A stronger civil society can hold government more accountable, but where umbrella organizations such as GAPVOD cannot even exist, then government can capitalize on that and do what government wants"[67]

In effect, this respondent was arguing the need for an autonomous and well-equipped umbrella organization that would deal with comprehensive concerns shared by all CSOs in the country. The presence of such an organization would also mean the presence of a critical mass necessary for CSOs to exert influence in the policy-making processes.

Notwithstanding the absence of an umbrella CSO organization, this study indicates that the strength of individual CSOs such as the Center for Democratic Development (CDD) and coalitions of CSOs such as the Network for Women's Rights (NETRIGHT), are having an impact on keeping the state in check.

Through expanded legal rights allowing for the freedom of association, CSOs in Ghana began to form strategic alliances to deal with particular issues that affected civil society at large. The fact that the state was now willing to have CSO input in the policy-making process was

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[67] Personal interview with a member of the Civil society resource center in Accra on May 20 2008

another indicator that CSOs had come to occupy important positions in terms of putting pressure on the state. As the case of the NGO bill illustrates, the sustained interactions between the MESW, as a government bureaucratic agency and CSOs, demonstrates the influence of CSOs on national policy.

Case Study of the NGO Bill

This case study demonstrates the extent to which bureaucratic institutional openings have created opportunities for civil society to exert influence in the policymaking processes. Through such policy influence, civil society effectiveness is highlighted by the extent to which civil society can shape the state's policymaking processes. The idea of NGO regulation is not novel, as other African countries have adopted similar efforts to regulate NGOs in their countries. In the case of Kenya, after two years of persistent pressure from NGOs, the 1990 NGO Coordination Act underwent substantial amendments, to make it more favorable to civil society activities (Jillo and Kisinga 2009). In the case of Tanzania, attempts to coordinate and control NGOs also came under fierce resistance by the NGO community, 80 per cent of which were women's organizations (Tripp, 2001).

In the case of Ghana, the NGO bill first introduced in 1993 by the National Democratic Congress (NDC) government was a comprehensive bill aimed at regulating the activities of NGOs in the country. CSOs have been involved in the drafting process since its inception through formal processes such as joint reviewing panels of the proposed bill, and through workshops and seminars with the appropriate bureaucratic agencies.

How does the NGO bill support our argument on the impact of institutional openings in creating opportunities for CSOs to exert policy influence? The answer lies in the fact that

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government willingness to negotiate with civil society is indicative of an effective civil society that is capable of shaping state policy. Considering that the NGO bill was first introduced in 1993, it has gone through successive drafts and negotiations between CSOs and the Attorney General's office, therefore leading us to the plausible argument that CSOs are not ready to give in to government policies that will take away the space provided by democracy. The length of time it is taking for the eventual passage of the Bill is a positive sign that civil society in Ghana is becoming effective to the extent that it actively engages with the state in shaping national policies.

Since the NGO bill was first introduced in1993, immediately after the transition to democracy, civil society actors have mobilized under different forms to resist government domination. Asked why there has been so much opposition to the passage of the bill by civil society actors, some respondents noted that the registration process would amount to government "micro-managing" the affairs of civil society and NGOs.[68]

While CSOs recognized the function of the state in regulating the activities of societal actors, they were also mindful of the capacity of the state to engage in arbitrary actions that could stifle civil society freedoms (Gymah-Boadi, 2000). Additionally, the smaller CSOs have noted that the amount of money needed for registering an NGO was high—though no one could tell me exactly how much was charged as registration fee. They argued that the high cost of registering a CSO could possibly lead to weeding out some NGOs engaged in good grassroots work, yet lacking the finances to register.[69]

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[68] Personal interview with Kojo, Hamida and Ark on CSO resistance to the Bill because of government micromanaging CSOs
[69] Personal interview with the leader of NETRIGHT on June 4 2008

Notwithstanding these criticisms, the registration process could also have some advantages for civil society actors, such as providing an easy and accessible database for government, donors, CSOs and researchers. As one respondent noted;

> "the Ministry of Manpower has created an extensive database of NGOs in Ghana and is still working on getting it up and running, one of the problems being that most of these NGOs drop off the list without notice and those that get registered at the Registrar General's are not added to the list on time. Thus one advantage of passing the Bill will be that this Ministry will be in charge of registering NGOs thus making it easy to compile a list of all active NGOs and also easy to streamline their activities, structure, membership etc"[70].

The negotiations that have taken place between NGO/CSOs and the government bureaucratic agency in policy-making is indicative of government's willingness to collaborate with CSOs. Under military regimes, government often passed arbitrary laws without following the due process of lawmaking. With regards to civil society, government attempts to curtail their work often took the form of arrests of leaders, closing down offices and falsely imprisoning leading members of some organizations such as the students or professional organizations (Gyimah-Boadi,1994).

The fact that successive governments have been willing to accommodate the input of civil society, such as the drafting of the National Policy for Strategic Partnership in 2004 goes a long way to show the extent of collaboration between the state and civil society as major stakeholders. It is also worth noting that the presence of strong allies within government agencies has been crucial in moving the Bill forward. Civil society actors interviewed were often quick to note that the personal contributions of the then Deputy Minister of state in charge of the Ministry, Honorable Akosua Frema-Opare have been crucial in the progression of the Bill. Some

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[70] Personal interview with a member of the Civil society resource center in Accra on the registration of NGOs/CSOs on May 20 2008

respondents cited her active participation in the civil society sector before taking the political position as the reason why she has been helpful in listening to their needs.

The relative strong position CSOs have come to occupy as important stakeholders in contributing to national development efforts has prompted CSOs to use cross cutting research and advocacy as important tools for making their claims to both government and donor agencies. In addition, the lack of a regulatory body for NGOs/CSOs has resulted in the creation of coalitions for purposes of presenting their issues to the government, a development that has gone a long way to crystallize the institutionalization of civil society in Ghana.

Our interview schedule raised important questions concerning the impact of the NGO Bill on the activities of CSOs. One question asked if the eventual passage of the Bill would create space for the continuation and progression of civil society development in Ghana. The responses of most CSOs interviewed indicated that it was crucial for CSOs to exert as much influence in the drafting of the Bill, to ensure that the final document would contain many opportunities for the development of an effective civil society sector.

One common theme in the interviews was the role of donors in promoting the work of civil society and consequently its development. Here, as in Chapter 4 on the legislature, the impact of donor demands for state-society collaboration was notable and also greatly contributed to the amount of policy influence CSOs came to occupy in dealing with bureaucratic agencies. Gradually, the participation of CSOs in governance issues is becoming part of the political culture, though there were still some areas where civil society involvement was still limited. For example, as one interview respondent noted, where development partners and donors demanded the presence of CSO as stakeholders in projects, bureaucrats often felt enjoined to invite CSOs even if as token representatives.

Another major finding from empirical analysis was the role of institutional weakness in promoting the development of the legitimacy and capacity of CSOs. The avenues provided by democracy for CSO inputs into policy also benefited government agencies. Thus realizing that civil society input adds value and credibility to the work of government agencies led to the opening up of more space for interactions between the state and civil society. However, it is still very early to assess if bureaucrats have really internalized the idea of CSO partnership, but for now, we can argue that some of them have, and are engaging with some CSOs.

Negotiations between civil society and the state bureaucratic agencies charged with regulating NGO activity shows that CSOs in Ghana have acquired an important position and exert some authority in policy influence. Government policy aimed at regulating NGOs/CSOs will determine the amount of space and freedom that will become available to CSOs. It has been a paramount concern for CSOs to ensure that the final Bill will contain provisions that are conducive to the work and development of civil society organizations.

Civil society actors are therefore taking all the available opportunities provided by democracy such as access to government agencies, transparency and open deliberation to ensure that they exert a great deal of influence on national policies, especially those aimed at controlling their daily activities. Other limitations exist which have limited the development of civil society in other sectors.

Policy Access—Establishing the Women's Ministry

What has been the impact of the perceived or actual openings within bureaucratic institutions on civil society? The establishment of a bureaucratic agency, such as a women's ministry, is no guarantee that civil society needs will be met and addressed through formal

democratic channels (Stetson and Mazur 1995). Bearing in mind the history of co-optation of women's organizations in Ghana, the establishment of a women's ministry is one measure of the changing political opportunity structures in creating open institutional structures promoting civil society agendas.

The success of both old and new bureaucratic agencies in representing and enhancing civil society goals and agendas will depend on the presence of mechanisms that promote civil society engagement in the policymaking processes. These mechanisms could take the form of ad hoc meetings, agency's willingness to participate in activities organized by civil society organizations and the presence of institutional openings that enhance civil society use of lobbying strategies on elite allies within these agencies. As Chappelle (2002:22) notes;

> "the interplay between institutions can create new openings that can enable feminists to engage in a particular arena and, just as easily, it can cause alterations in the interaction of institutions that will foreclose these opportunities." These spaces may also have limited impacts on the extent to which an agency can provide policy access to civil society actors if it possesses limited fiscal and human resources".

An important argument we make in this chapter is that while access to policymaking may have improved since 1992, government commitment to promoting associational life remains weak. The case of MOWAC highlights that while the ministry provided avenues for women's CSOs to engage in policy making and implementation, the impact of such an opportunity was limited due to the low budgetary allocations made to the ministry as compared to other ministries.[71] Nevertheless, despite such challenges, women's civil society organizations by

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[71] As a government ministry, MOWAC remains the least funded, getting 0.01% of the national budget towards its work in 2008. In 2004, the figure was 0.16% representing $2.27 million, in 2005, it stood at 0.10% ($2.01million) and 0.09% ($3.03million) in 2006. Women's groups have increasingly called on the government to institute gender budgeting—the idea of allocating resources for gendered programs. These statistics are available in the UNICEF publication Mapping aid effectiveness and gender equality in Africa available online at http://www.unifem.org/materials/item_detail.php?ProductID=120. Accessed October 10 2009

harnessing donor aid directed at strengthening democratic institutions, have been able to engage and make meaningful contributions in the policymaking processes.

Under non-democratic regimes, the availability of access points for meaningful engagement between civil society and the state was very limited (Whitfield 2003; Gyimah-Boadi 2004; Boafo-Arthur 2007). The return to formal democracy in 1992 resulted in changes in the political climate and the diffusion of good governance principles. The new political climate and the opening up of hitherto closed spaces resulted in renewed efforts by civil society organizations in making further demands on the government to increase avenues for access to policymaking.

In Ghana, democratic institutional openings developed as part of the participatory democracy approach adopted by the state as a way of promoting citizen participation in national development. Institutions and bureaucratic agencies therefore opened up by inviting civil society input into policymaking, allowing civil society to use lobbying and advocacy strategies to take advantage of the access to participate in policy aggregation and articulation. The effect was an increase in the level of access the state granted to civil society actors, allowing CSOs to engage directly with government agencies dealing with issues of particular interest to civil society.

What was different with the new political openings under democracy was that now, civil society organizations could engage with state bureaucratic agencies without the fear of co-optation. For women's organizations in particular, this fear was real considering the feminist state machinery of the National Commission on Women and Development (NCDW) which had been used by the military government to co-opt autonomous women's organizations (Tsikata 2000; Manuh 1993).

The opening up of space within bureaucratic agencies, similar to other institutional arenas, such as the legislature, was a result of donor insistence for closer collaboration between

the state and civil society in policymaking processes and not so much the formal democratic processes per se (Hearn 1998). An interesting factor was the role of donors in providing aid conditional on the state's willingness to work with CSOs on particular issues. As part of their good governance agendas, and coupled with the initial democratic openings, which promoted participatory democratic principles, donors were able to demand closer collaboration between the state and civil society.

The availability of access points for civil society to provide input for policy enactment has been crucial in providing an arena for addressing the concerns of civil society organizations in the country. Civil society access to policy-making through some of the formal and informal mechanisms we alluded to earlier such as consultative meetings and public hearings on government policies raise a few concerns.

It is pertinent to note that policy access provides a precarious balance for civil society organizations as they seek to maintain their autonomy. The history of co-optation of civil society organizations by the state has placed civil society on alert to exercise caution in using the available points of access for engaging with the state. Second, there is the tendency for policy access to be limited to some organizations and not others—especially those dealing with grassroots issues and located in rural areas tend to be excluded from such processes (Franceschet,2003).

The changing political opportunity structure from the period before 1992 when Ghana was under military dictatorship has led to some important institutional developments for civil society. As it pertains to women's civil society organizations, attempts at creating autonomous women's organizations prior to 1992 were almost impossible due to the limited organizational density of women's organizations. As Prah (2007) argues, the "feminist grand illusion" was that

the few existing women's civil society organizations had been either co-opted or sidelined by the regime led umbrella organization the 31 December Women's Movement (DWM). The result was that DWM sought to champion itself as an apolitical organization championing the course of Ghanaian women in economic development and social issues. Through its activities of promoting economic development, it sought to benefit from donor agencies, and was thus often called upon to attend international women's meetings and conferences (Prah 2007; Manuh 1993; Tsikata 2000).

As is common with most African countries, the creation of bureaucratic agencies charged with dealing with gender issues resulted in mass co-optation of independent and autonomous women's civil society organizations. This phenomenon, popularly referred to as "state feminism" (Mama 2000a), resulted in the establishment of quasi-bureaucratic agencies or organizations that existed purposely for furthering the goals of the ruling government. In Ghana, this was undertaken by the 31 December Women's Movement (DWM), in Tanzania the organization was the Tanzania Women's Union and in the case of Zambia, it was the Women's League (Tripp 2001).

The case of co-optation, donor aid restrictions and suppression of women's organizations clearly mirrored what was happening within the broader civil society. Other civil society groups such as professional bodies, market women associations and religious as well as student organizations were fighting to stay afloat and from being sidelined by the ruthless suppression of autonomous civil society organizing by successive military governments (Harbeson et al. 1994; Gyimah-Boadi et al. 2000; Chazan 1991).

The bureaucratization of women's ministries, also commonly referred to as "state women's machineries" (SWMs) was linked to the international promotion of women's

empowerment (Mama 2000b; Tsikata 2000; Hassim 1999). The 1975 UN Declaration of the Women's Decade followed by the 1985 Beijing Conference on women were two pioneering events that called on national governments to create specific bureaucratic agencies to deal with women's issues.

The creation of these ministries across the globe in turn strengthened civil societies and stimulated the growth of organizations dealing with gender issues (Jacquette 2001) In Ghana, this led to the creation of the National Council on Women and Development (NCWD) in 1975 which was charged with overseeing the developmental needs of women in the country. As Tsikata (2001) argues, the relations between national machineries and NGOs could not be divorced from the larger issues of marginalization and co-optation which were common features of state-society relations in the country at that time.

Prior to the establishment of MOWAC, previous governments had made attempts at incorporating gender issues such as the creation of the National Council on Ghana Women (NCGW) by the Nkrumah government in 1960 (Prah 2007; Pepera 1993). The creation of state led women's machineries (SWMs) such as the NCWD in Ghana, though exemplifying government commitment to gender issues also raised some concerns for civil society organizations as they sought to navigate the contours of state-society relations (Tsikata, 2000, Mama, 2000).

In effect, the demise of authoritarian regimes, the introduction of political liberalization policies, the interest of donors in democracy promotion and the role of civil society in democratic transitions combined to create opportunities for civil society actors (Bratton 1994; Thomas and Ottaway 2000; Chazan 1999; Hearn 1999). These opportunities came in the form of

access to state institutions and civic inputs into the policymaking processes (Herbst 2001; Herbst 1993).

What implications did the changing political opportunity structures mean for civil society development? In particular, did these opportunities translate to the opening up of access points in policy-making? In the case of women's organizations, this took the form of the creation of a women's ministry, which, was expected to increase the range of opportunities for dialogue and policy access for women's civil society organizations.

In 2000, the NPP government under President Kufour created the Ministry of Women and Children's Affairs (MOWAC) as the state bureaucratic agency charged with dealing with women's issues. MOWAC, by mandate is the national agency responsible for initiating, coordinating and monitoring gender sensitive issues in the country (Allah-Mensah 2005).

MOWAC, by institutional design and mandate has been more open to working with CSOs without necessarily exhibiting a co-optation agenda. With time, through organizational mechanisms such as consultative meetings and advisory panels, MOWAC has become a channel through which civic groups can forward their goals onto the national agenda. Since its establishment, the Ministry has provided women's CSOs with different opportunities to engage in collective decision-making and power sharing with other government agencies. This has sometimes involved collaborating with other government agencies such as the Attorney General's for drafting bills and the police and security services for enforcing court orders. At other times, women's CSOs have had to deal with challenges presented by the Ministry, such as poor budgetary allocations, which has hampered the Ministry's effectiveness in providing opportunities for civil society actors.

For women's CSOs, the creation of a bureaucratic agency responsible for dealing with gender issues meant two things---first that the state was beginning to recognize the voice of civil society in demanding increased institutional access. Second, that in order to make the best out of the new space provided, CSOs would have to adopt new strategies and tactics that would help them meet their broad individual and collective goals.

However, not all women's organizations and gender activists saw the Ministry as a positive development. Some women's civil society organizations bemoaned this as the "*ghettoization* of gender issues"[72]. Their concern with the "*ghettoization*" of women's issues was that by creating a token ministry for dealing with gender issues (which was apparently under resourced), other sector ministries would not feel the need to address gender issues.

To overcome this problem, and to have gender mainstreamed in other bureaucratic institutions, the Ministry created gender desks or gender units within sector ministries to create a gender awareness in other institutions, resulting in more institutional openings. The creation of the Women's Ministry was not solely the result of domestic laws. Indeed, women's organizations pressured the government to fulfill its obligations to international treaties and conventions on women that required the creation of specific departments as focal points for addressing gender issues (Tripp et al 2008).

What were the implications of the creation of MOWAC for women's civil society organizations? In particular, how does the case of MOWAC help us understand the mechanisms by which bureaucracies contributes to civil society development?

First, the creation of MOWAC and the presence of increased channels for communication and dialogue through ad hoc and scheduled meetings led to changes in the strategies and tactics of women's organizations. These organizations formed coalitions and networks, under the

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[72] Personal interview with a gender activist Adomako on June 3 2008

NETRIGHT in order to create the critical mass necessary for putting pressure on the bureaucratic institution to open more space for dialogue and joint collaboration. The lack of an umbrella organization responsible for addressing CSO concerns resulted in the adoption of strategies of coalition building. In order to generate the critical mass necessary for addressing common concerns, CSOs often formed ad-hoc coalitions to put pressure on the state. One such coalition was the Domestic Violence Coalition (DVC), formed in 2003 by women's organizations and human rights activists to engage in a comprehensive national sensitization of the issue of domestic violence. The efforts of the DVC are credited with the momentum gained and the eventual passage of the Domestic Violence Act (Tsikata, 2009).

Second, in response to lingering institutional weakness within the agency, women's CSOs realized that they could not fully depend on the information and data made available by MOWAC. Thus, women's CSOs resorted to engaging in research for purposes of gathering information that would be vital to their negotiations. Using the opportunity created for policy access, women's CSOs used the strategies of research, negotiation and advocacy, which played critical roles in the eventual passage of the Domestic Violence Act.

Third, the insistence of donors on joint collaboration between civil society and the state presented women's CSOs with another opportunity—that of positioning women's civil society organizations as important development partners. Therefore, women's CSOs took advantage of donor assistance to provide technical support and capacity-building programs for the MOWAC and through donor aid, women's CSOs were able to build alliances with the Ministry while simultaneously strengthening their internal organizational capacity. As one respondent noted,

through donor aid, CSOs have been able to engage in extensive data analysis, which they

presented to MOWAC to address the problem of domestic violence in the country.[73]

In response to the question "what is your organizations' relationship with the bureaucracy

(MOWAC)? Some respondents noted;

Respondent A:

> "I think that government should do more, merely setting up MOWAC is
> nothing, most of the issues government should do are left for WOs who
> mostly lack the capacity to do that. The ministry should work with WOs
> to empower them to work well. It is also necessary for government to aid
> us in our work (e.g. lessen restrictions on the NGO Bill). Government
> should empower MOWAC to do its core functions of policy and leave
> implementation to women's organizations. If the ministry is well
> resourced, the benefits will trickle down to WOs (e.g. we can source
> funds from the ministry etc). The best way we can get the government to
> do this is advocacy and we have so made demands (in the Women's
> Manifesto). Only NDC in 2004 made it public that they would adopt the
> manifesto as part of their policy".[74]

Respondent B

> "the creation of the MOWAC is evidence of government efforts to
> promote women's issues, and so is the appointment of the female Chief
> Justice, as well as the Micro- credit loan facility for women, so we can
> say the government is doing its best. We do acknowledge that the
> creation of the ministry is recognition even though it exists there are
> lapses, it is up to the government to make it functional. It is a step
> forward…. But make us run!".[75]

These responses from interviewees point to the general picture of how civil society

organizations feel about the effect of the new democratic openings in promoting their work and

consequently the development of the civil sector. To most of the respondents, government has

shown the will, through acts such as creating sector ministries and adopting certain policies, but

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[73] Personal interview with Gocker-Appiah of the Gender Documentation Center on June 4 2008
[74] Interview with the leader of WIB on July 8 2008
[75] Interview with the representative of the Christian Mothers Association (CMA) on June 20 2008

civil society organizations want more, as the last respondent notes, they want government to "*make us run!*".

Women's organizations realized that the old strategy of relying on state women's machinery (SWM) to address gender issues had been responsible for co-opting their autonomy. The changing political context from one of confrontation to one of collaboration, prompted CSOs to embrace a strategy of collaboration with state agencies, a strategy that showed women's CSOs citizens and not just a category—women, to have their issues addressed by the government. This interesting development also highlights our argument that in taking advantage of existing spaces, CSOs were no longer willing to be compartmentalized as they used to be. What we saw was the use of these initial gains to develop other strategies that allowed CSOs to work effectively, albeit autonomously with state agencies in addressing their goals.

Our research data indicates that one important mechanism used by women's CSOs has been the holding of ad hoc consultative meetings with the bureaucratic agency of MOWAC. Sustained interactions that took place between MOWAC and women's CSOs had positive outcomes for the eventual passage of the Domestic Violence Bill. Heightened advocacy and lobbying were important strategies used by women's civil society organizations during the efforts at passing the Domestic Violence Bill. Closely related to the work of women's civil society organizations with the legislature were the simultaneous interactions that were taking place between these organizations and the MOWAC and Attorney General's Department.

Through the increased access to the bureaucratic agency, women's CSOs were able to work closely with MOWAC to present the issue of domestic violence as a national problem and not just an issue being advanced by some "westernized" elitist gender activist. What was particularly important was that through the opportunity for dialogue and joint collaboration

efforts, women's CSOs were able to use their research and advocacy skills to provide important empirical data to the MOWAC, which was also working closely with the Attorney Generals' department to address ambiguities in the draft bill.

The implications of engagement between CSOs on one hand, and MOWAC and the Attorney Generals' on the other hand in the context of the domestic violence bill, highlight the importance of formal and informal mechanisms promoting interactions between civil society and bureaucratic institutional structures. It also shows that civil society, by adopting different strategies, can put pressure on bureaucratic agencies to increase civil society access to policymaking (Sotiropoulous, 2009).

Discussion and Conclusion

The goal of this chapter has been to identify and critically analyze the impact of bureaucratic institutional openings on the goals, agendas and outcomes of civil society actors in Ghana. Using the case of the creation of the MOWAC, we sought to highlight the role of the state in providing access to CSOs in policymaking; we argued that the increased openings had created opportunities for joint collaboration and the use of negotiation and advocacy tactics by women's CSOs, which was crucial in the outcome of the Domestic Violence Act. The second argument addressed the impact of opportunities for policy influence; here, using the case of the NGO Bill, we highlighted the strong position CSOs had come to occupy in exerting influence in policymaking. The implications of these new developments, we argue, could not have been possible but for the aggregate opportunities for joint state-society collaboration made possible after the introduction of democracy. The following observations are made pertaining to the

impact of civil society engagement with bureaucratic institutions and the effect of such engagement on the development of civil society in Ghana.

First, the changing political opportunity structure since 1992 has provided new spaces for civil society engagement with bureaucratic agencies, allowing for greater access to state agencies. In order to take advantage of these opportunities, CSOs adopted new tactics and strategies by using mass mobilization tactics of coalition building and networking to exert pressure on government.

Second, our analysis showed that the relationship between state bureaucratic agencies and civil society, though still characterized by some mutual mistrust, has been improving. The availability of multiple channels of interaction between the state and civil society actors due to increased access and openness led to increased government recognition of civil society organizations as partners in democratic development. Prior to these changes, civil society was viewed as opposition to the state and to use Bayart's (1986) phrase, as constantly "in conflict with the state". That is not to say that this situation has totally changed, the functions of civil society such as demanding governmental accountability, transparency and protecting citizen rights continues to create tensions between civil society and the state. Civil society in Ghana, no doubt continues to operate within a contested arena in its attempts to engage the state. What has changed is the reduced level of contention, as CSO actors now resort to collaborative and consultation approaches rather than only engaging in acts of contention such as strikes and protests. As Gyimah Boadi (1998:22) argues,

> "…clearly, Africa's civil societies are among the chief engines driving the continent's political development. With their increased sophistication and mounting capabilities, they are helping to drive the shift from unalloyed state hegemony to nascent pluralism. Their growing self-awareness and determination to defend their autonomy against all efforts at suppression

or cooptation (especially those originating from the state) are signs that they are here to stay."

Civil society in Ghana has thus developed to the extent where, in addition to being important development partners, they are also fiercely resisting co-optation and the hegemonic tendency of the state. Such resistance has primarily been in the form of invoking their legal and constitutional rights.

Third, the idea of "open spaces" (Whitfield, 2003) for civil society engagement raises some questions. It may be argued that the political space is open, compared to the situation before 1992, but to what extent? Has the perceived "openness" been coupled with putting in place the right institutional structures that expand the range of opportunities that engender civil society development? Despite modest improvements, bureaucratic agencies are not as open as CSOs would expect. The limited openings may be the result of the poor resources and capacity of bureaucratic agencies to address the concerns presented by civil society actors. Thus, while bureaucratic institutions still present many challenges to civic actors, the argument made here is that the initial openings set in motion by democracy have the potential to lead to other aggregate changes, resulting in more avenues for CSOs to engage more fruitfully with bureaucratic agencies.

Despite the positive indicators of bureaucratic institutional openings as evidenced by the increased access to policymaking, there are some lingering challenges that could possibly limit civil society development. Interview respondents noted that the poor information flow between civil society and state bureaucratic agencies has led to the exclusion of civil society from monitoring and implementation of policies. Weaknesses within bureaucratic institutions in terms of lack of resources, coupled with government's lack of commitment to building the capacity of

bureaucratic agencies also tends to limit the extent to which these agencies can provide opportunities for civil society.

Identifying the challenges existing within bureaucratic agencies has been instrumental in informing the strategies adopted by civil society organizations. As some respondents noted, CSOs have rather been at the fore of providing technical support to government agencies. While this research agrees with the role of civil society in building democratic institutions, we also point out that bureaucratic weaknesses have helped CSOs to adopt tactics of improved negotiation, advocacy skills, and forming coalitions to engage with the state, the result being a growth in the efficacy of their strategies and tactics.

Responses from interviewees indicate that where there are spaces for CSOs engagement, CSOs have been visibly present in providing their input and engaging with shaping policy making processes. The democratic spaces have not, however been easily accessible to all CSOs, often, it is only those with the right amount of resources as well as those based in Accra—physical proximity, that are more able to actively engage with bureaucratic agencies.

Through networks and coalition building strategies, the voices of the marginal or relatively weaker CSOs have been represented in decision-making channels. Using available resources such as the media, CSOs are marketing their issues and demanding that government address these issues within the national policy arena. Through increased channels of communication and dialogue, as well as the presence of other institutional safeguards, CSOs have come to occupy important positions in policymaking, as exemplified by the ongoing discussions on the NGO Bill. This also highlights the development of CSOs in research, advocacy and negotiation skills, which are indicators of a growing civil society sector. The amount of space as well as range of opportunities granted by the state for civil society activity

determines the extent to which CSOs can operate and consequently affecting their legitimacy as well as efficacy in addressing their broader goals and agendas.

In the case of women's organizations in Ghana, the space created for women to engage with the bureaucratic agency of MOWAC, provided women's organizations with increased access to provide policy and legislative inputs. Such access culminated in the passage of the Domestic Violence Act of 2007. Following the passage of the Act however, poor resource allocation by the government for purposes of implementing the Act has hindered the progression of dialogue between the women's organizations and the MOWAC. Most women's organizations thus feel that the state's actions are posing new constraints in the achievement of CSO goals.

The case of the NGO Bill demonstrates that, the political space created by democracy has been favorable and enabled CSOs to have an influence in the key policy areas, especially one that will have many consequences for the future direction of CSO development. Through coalitions, CSOs have been able to engage with the state in addressing concerns and issues that affect their goals and agendas. Though there has been some policy influence, the current dormant state of the Bill raises concerns for CSOs who see this as the lack of commitment on the part of the government to address issues confronting civil society.

The role of donors in promoting collaborative work between civil society and the state has led to building mutual trust and allies between state structures and civil society. In addition, donor aid to CSOs has increased, as a result of using these organizations as capacity trainers in institutional strengthening programs.

As the literature has shown, institutional reform matters in the availability of resources as well as the opportunities and challenges it creates for social actors (Houtzager 2005). As our findings show, it is one thing to provide an institution, yet another thing to equip it to function

properly. Currently, the civil society sector in Ghana shows strong evidence that it is going to grow stronger and get better in years to come. However, for bureaucratic agencies to make meaningful contributions to civil society development, these agencies will need the right amount of financial resources, technical expertise and elite allies sympathetic to the goals of civil society actors.

CHAPTER 6

RETHINKING DEMOCRACY AND CIVIL SOCIETY DEVELOPMENT

The goal of this study was to answer the research question, has formal democracy led to the construction of an effective civil society in Ghana? The primary assumption was that formal democracy would lead to strong democratic institutional structures capable of providing opportunities for civil society development. What we found was that despite increases in civil liberties and political rights allowing for the emergence of autonomous organizations, Ghana's democratic institutions remained weak, and provided limited opportunities for civil society development. Nonetheless, we saw a development of civil society, a phenomenon that is explained by the role of foreign donor assistance.

This study contributes to the existing literature by explaining the symbiotic relationship between democracy and civil society development. As the democratic state provides opportunities for civil society to develop, an effective civil society in turn plays important roles in building democratic institutions and in the process contributes to the building of a democratic state. As the case of Ghana demonstrates, changing political opportunity structures, the presence of institutional safeguards and the availability of opportunities for resource mobilization provided different opportunities and challenges for the development of an effective civil society.

Three indicators were used in this study to measure civil society effectiveness. First, an effective civil society participates as a development partner by engaging with the state on national development issues. Second, an effective civil society is one that is able to shape state policies towards the civil society sector, and third, an effective civil society expands citizenship rights.

The following discussion will examine our major findings and highlight the contributions of this study to existing literature. The discussion provides policy implications for the state, donors and civil society, and concludes by discussing the generalizability of our findings and identifying research questions for future exploration.

Major Findings and Contributions of the Study

Ghana's return to formal democracy in 1992 is one of Africa's democratic success stories. Yet seventeen years after its return to competitive multiparty elections, democratic state institutions remain weak. Paradoxically, democratic institutional weakness and not strength, as some of the literature on state building in Africa suggest, has allowed civil society to develop.

A significant finding from this research and a contribution to the civil society literature is the role donor agendas aimed at building democratic institutional weakness in contributing to the development of civil society in Ghana. Initial institutional openings set in motion by formal democracy allowed donors to use civil society organizations to strengthen the capacity of state institutions, and in the process framing the relationship between the state and civil society. In many ways, this study highlights how formal democratic openings set the initial conditions for civil society development in Ghana, and it was only through foreign donor agendas and resources that such conditions became a reality. The findings from this study also show how through donor assistance, civil society is in turn contributing to building the democratic state.

The State, Donor Agenda, and Civil Society

A major finding and contribution from this study to the literature on democratization and civil society is the congruence of democratic openings and donor agendas in providing

opportunities for civil society development. A primary assumption from this study was that the changing political context in Ghana, beginning with the return to formal democracy in 1992, would lead to the establishment of strong democratic institutions and institutional arrangements. It was hypothesized that these institutional arrangements would create favorable opportunity structures and an enabling environment for civil society development.

What this study found was not exactly what had been hypothesized. In the first place, our findings strongly indicated that democracy had indeed led to a changing political context, which had manifested in the presence of initial openings such as a competitive representative legislature. The changing political context, characterized by a respect for the rule of law and the presence of institutional safeguards through constitutional provisions such as freedom of speech and assembly promoted the emergence of autonomous civil society organizations. These initial openings allowed civic actors to make demands on the state to increase the existing space for civil society. Contrary to our initial assumptions, despite the absence of strong democratic institutions necessary for developing civil society, civil society in Ghana continued to grow.

How did this happen? As a starting point, as part of promoting their good governance agendas, donors began to focus on strengthening state institutions such as the legislature and the judiciary. Foreign donor aid to the state became conditional on closer state-society collaboration (Hearn 2000). Donor insistence on using CSOs as development partners contributed to the development of a dialectical relationship between the state and civil society in building one another. Consequently, as civil society organizations developed, donors began to harness the technical expertise of some leading CSOs as resource persons in providing technical assistance to the state.

This sustained contact with the state created more openings for engaging with civil society, and as demonstrated by the capacity enhancing programs to parliament, CSOs in turn played important roles in providing support in strengthening state institutions. As demonstrated by the legislative and bureaucratic arenas in chapters 4 and 5, civil society has come to occupy a central role in providing technical expertise through research data and findings for state institutions. The strategy of donors harnessing CSOs for institutional strengthening led to a number of important outcomes for civil society development.

The study's theoretical implications add to the literature on civil society in Africa by highlighting the role of donor aid in civil society development. In the case of Ghana, civil society organizations, by positioning themselves to provide institutional strengthening programs were able to receive increased donor funding from foreign donors such as the USAID, DFID and DANIDA. Aside from the financial benefits, donor resources also came in the form of the provision of technical services to CSOs, which resulted in strengthening their organizational capacity. Our first case study, as discussed in Chapter 4 on the legislature, highlighted the impact of the USAID/NDI project, which not only enhanced the capacity of the legislature, but also contained goals targeted directly at improving the lobbying and advocacy skills of CSOs. The result was that donor agendas set in motion aggregate institutional transformation, which led to greater access and opportunities for CSOs to engage within the legislative and bureaucratic institutional arenas.

Beyond improving the capacity of civil society organizations, donor aid to civil society improved civil society access to state institutions. Donors, by making aid conditional on the state collaborating with civil society organizations improved state-society interactions. Through increased access to state institutions, CSOs are able to build relationships and create important

allies that later prove beneficial. For instance, in chapter 4 on the legislative arena, the case study

of the USAID/NDI grant to strengthening civil society allowed civil society organizations to visit

the legislature and be acquainted with the work of the legislature. Interview respondents noted

that it was during one of the visits to parliament that some women's organizations first met with

members of the Women's Caucus in parliament.

Additionally, this study makes an important theoretical contribution to the state building

literature by showing how an effective civil society contributes to building democratic

institutions. A common theme in this study shows how, by positioning themselves as

development partners CSOs were able to provide technical support and capacity enhancement

programs to state institutions. The training of legislators and members of the judicial service

were important developments, which have taken place after 1992 with increasing institutional

access for state-society engagement. Civil society continues to play important roles, by using

freedom of the media to educate citizens on policy issues and creating an awareness of

democratic participation, all of which were vital to the development and survival of a sound

democratic culture.

Democratic openings allowed donors to make more demands on the state to increase the

initial openings. Donor insistence on using CSOs as development partners created more access

and opportunities for CSOs, who were able to position themselves to receive donor aid as a

means to providing support to state institutions. Such collaborative efforts led to sustained

interactions and dialogue, which resulted in the opening up of other opportunities for CSOs. As

the state created more space, civil society became stronger and the stronger it got, the more

demands it could make on the state to widen the range of existing opportunities. Responses from

our interviews showed that where there have been spaces for CSOs to engage with the state,

CSOs have been visibly present in providing their input and engaging in the policymaking processes.

Policy Implications

<u>Donors, Civil Society and the State</u>

This study provides important policy implications for donors, civil society and the state. As it relates to donors, some analysts have argued that donor aid to CSO has the potential to hijack the goals and agendas of these organizations in addition to creating a dependency on foreign aid (Hearn 2000; Carothers 2001). For other scholars such as Gyimah-Boadi et al (2000), CSOs in Africa cannot survive and make meaningful policy impacts without donor funding. These positions show that donor aid in Africa has played and continues to play an important role in whether directed at building democratic institutions or building the capacity of civil society.

The findings in this study clearly demonstrate how donor aid to the state aimed at strengthening democratic institutions helped to develop the capacity and legitimacy of civil society in Ghana. Donor political aid directed at the state has helped to increase democratic openings allowing civil society to become active participants in the policy-making processes while increasing the capacity and legitimacy of civil society to do so. Most of the positive outcomes for civil society engaging with the state remain at the national level, often limited to the capital city where a few leading think tank civil society organizations are able to take advantage of physical proximity to decision-making structures.

This study therefore calls on donors to reevaluate their policies to ensure that local grassroots organizations such as CENSUDI and Maata-n-Tudu, based in the rural Northern parts of Ghana also stand to benefit from such aid. One way to do this will be for donors to direct aid

at strengthening district and regional level institutions, since it is usually at these levels that the most active grassroots organizations tend to be located. By expanding the scope of their activities, donor aid can begin to make an impact at encouraging civil society participation in decision-making processes from the bottom, where most citizens are often left out of the political processes.

For most of Africa's nascent democracies, this policy implication is replicable considering the fact that both the state and civil society continue to depend heavily on foreign aid for purposes of strengthening democracy. Therefore, civil society scholars and practitioners have to rethink the primary assumptions about the role donors might play in promoting democracy and civil society growth by adopting this bottom-up approach, which will increase the impact of foreign aid on grassroots organizing.

Another policy implication is that the state must begin to accept that donor aid to civil society is helping to develop civil society's capacity to contribute to national development by strengthening democratic institutions. For this reason, the state must open up more space for civil society and create formal mechanisms that will increase the opportunity structures for civil society development. One way of doing this is by creating registration and taxation frameworks that are enabling and not restrictive of civil society development. In the case of Ghana, the NGO bill, when passed will create a better structure that clearly spells out civil society rights and responsibilities vis-à-vis the state.

Generalizability and Future Research

Beyond the particular case of Ghana, the findings in this research provide generalizable conclusions to similarly placed CSOs in Africa and the developing world. What explains civil

society development in Ghana despite weak democratic institutions could provide important indicators for other nascent democracies in Africa where institutions remain weak and fragmented.

This study's findings are generalizable to African democracies where the state does not actively engage in activities aimed at suppressing civil society development. As demonstrated by the case of Ghana, the presence of institutional safeguards through increased civil liberties and political freedoms, which are largely respected and enforced, limits the capacity of the state to suppress associational life. In Zambia, civil society continues to grow owing largely to a history of strong movements and the state's actions in promoting the development of associational life. This has not been the case in Bostwana where, despite its democratic success, civil society has remained weak because the state has limited civil society's role as a development partner in national issues. In the case of Zimbabwe, the government has banned civil society organizations from receiving foreign donor aid for purposes of pursuing governance issues.

The important role played by foreign donors in contributing to increasing institutional access for civil society actors also holds true for many African countries where civil society continues to depend heavily on foreign donor assistance. As donors take advantage of formal democracy to promote good governance agendas and strengthen democratic institutions, the expertise of civil society will be crucial in providing some of the capacity enhancing programs. By positioning themselves as technical experts, civil society organizations can mobilize the much-needed resources from donors that will go a long way to further their organizational goals and outcomes.

Based on the findings from this research, interesting research questions have been generated which will form the bases of future exploration. We have seen how the interaction

between donors, weak state institutions and civil society has led to some positive results for both the state and civil society. While focusing on the three institutions of the legal, legislative and bureaucratic arenas, an interesting research agenda will be to examine what role other democratic institutions such as political parties have played in this development.

The findings presented in this study have also highlighted how donor aid has helped strengthen democratic institutions and in the process provided more access for civil society to engage with the state. A future research agenda will be to examine the extent to which civil society shapes and affects state policies.

An additional research project might be to take a comparative approach to systematically evaluate the factors that explain different outcomes in the development of individual civil society organizations. The goal of converting this study into a book project will broaden the discussion to engage in a comparative examination of two or more African countries, to provide a cross-national study of civil society outcomes in different political contexts.

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APPENDIX A

Interview protocol for civil society organizations

Name: _____

Organization_____

Position_____

Organizational Background_____

Date_____Time_____

QUESTIONNAIRE REGARDING THE GROUP, ITS GOALS, STRATEGIES, AND OUTCOMES

1. How long has this organization been operating?
   ANS:

2. What types of issues do you deal with and what are your main goals?
ANS:

3. Have these goals changed over time, (especially since 1992)?
ANS:
4. What are some of the changes and why have they changed?
ANS:
5. What are some of the projects you engage in and what are the outcomes?
ANS:

6. What are some of the obstacles that hinder your organization from realizing some of your goals?
   (a)Political: *ANS:*
   (b)Social/Cultural: *ANS:*
   (c)Economic: *ANS:*
   (d)Other *ANS:*
7. What strategies/tactics have you been using to reach your goals?
ANS:
   (a)Lobbying government officials?
   (b)Lobbying legislators
   (c)Using the court system (filing law suit, defending important cases)
   (d)Coalition building and joint efforts (networking)
   (e)Media campaigns (press conferences and releases, contact with journalists)
   (f)Protests, boycotts and other contentious tactics
   (g) Other(specify)

8. Have your strategies/tactics changed over time?
ANS:

9. Why have they changed?

ANS:

10. What has been the relationship of the media with your organization?

ANS:

QUESTIONS REGARDING INSTITUTIONAL CHANGES AND ITS IMPACT ON WOMEN'S ORGANIZATIONS *LEGISLATURE*

11. How would you describe your organization's relationship with the legislature?

ANS:

12. Has the relationship with the legislature changed since 1992.If so what are some of these changes?

ANS:

13. Does your organization interact with the Women's Caucus in Parliament and what kinds of interaction have you had?

ANS:

14. Has the number of female MPs in any way contributed to the attainment of your goals and outcomes?

ANS:

15. What other parliamentary committees do you interact with and what have been the outcomes?

ANS:

LEGAL ARENA

16. What legal mechanisms does your organization use in reaching its goals?

ANS:

17. How would you characterize the relationship of your organization and the legal sector?

ANS:

18. What opportunities or constraints exist within the legal arena and how do these affect your organization?

ANS:

19. What changes (if any) have you seen take place within the legal arena since 1992. Do they affect your organization?
    (a) increasing independence of the judiciary
    (b) appointment of judges
    (c) open and easy accessibility to the courts
    (d) other (specify
    ANS:

BUREAUCRACY (women's ministry, local government etc)

20. Which government bureaucracies do you deal with? What kinds of interactions do you have with them?
    (a) women's ministry
    (b) local government

(c) registrar general
(d) attorney general
(e) other (specify)
ANS:

21. How will you describe the relationship of your organization with these bureaucracies?
ANS:

22. What are some of the strategies you adopt in dealing with these bureaucratic offices?
ANS:
(a) lobbying
(b) capacity building
(c) networking
(d) other(specify)

23. Have there been any changes in the way the government (bureaucracy) responds to gender issues? What are these changes and how do they affect your organization?
ANS:

(2) ELITE ALLIES:

24. Does your organization have important allies who help advance your goals?
(a) business leaders
(b) celebrity/famous persons
(c) key intellectual figures(professionals)
(d) philanthropists
(e) religious leaders
(f) traditional leaders(chiefs, elders, queen mothers)
(g) political parties/politicians
(h) individual feminist activists
(i) other civic groups
(j) media coverage
(k) other(specify)
ANS:

25. How has having such allies affected your goals and outcomes? Positive or Negative?
ANS:

26. International allies: do you have international allies who help advance your course?
(a) international donors
(b) international feminist groups and networks
(c) other (specify)
ANS:
How has having such allies affected your goals and outcomes? Positive or negative?
ANS:

27. What types of support(internal and external) do you receive from your allies?
(a) political pressure on government
(b) funding
(c) joint strategizing
(d) capacity building
(e) other
ANS:

28. Is your organization able to receive such external support without government control?
ANS:

GENERAL QUESTIONS
29. Has the number of women's organizations increased or decreased since 1992?
ANS:
30. What do you think accounts for such a change?
ANS:
31. Are these women's organizations taking advantage of changes brought about by democracy such as freedom of the press to advance their goals? Please give examples.
ANS:
32. Do you think that women's organizations have changed their goals and strategies since 1992?
ANS:
33. What are some of the challenges still faced by women's organizations in Ghana. If so what accounts for such challenges?
ANS:
34. Is the current government doing enough for women's organizations?
ANS:

Interview protocol for members of parliament

Name_____
Constituency_____
Number of years in Parliament_____
Date_____ Time_____

1. What have been some of the major institutional changes that have taken place within the Parliaments of the Fourth Republic?
   (a) Representation(political parties, gender)
   (b) Committees and caucuses
   (c) Election of representatives
   (d) Use of quotas
   ANS:
2. How would you characterize the relationship of parliament with civil society organizations?
ANS:

3. What opportunities, if any, have been provided by parliament for civil society organizations?
  ANS:

4. What forms have these opportunities taken?
   (a) accessibility
   (b) solicitation of ideas
   (c) laws and bills passed affecting CSOs
   (d) other(specify)
   ANS:

5. Have you had any personal contact with any CSOs (especially those dealing with women's issues)?
   ANS:

6. How would you characterize civil society organizations in Ghana (especially those dealing with women's issues)
   ANS:

7. What has been the relationship of the Women's Caucus/Gender Committee with women's organizations?
ANS:

8. Do you think Parliament is doing enough to promote the development of Women's Organizations? What are some of these opportunities and or constraints?

APPENDIX C

CODED INTERVIEWS

The questions here are a selective list of the interview schedule used for this study
**N-20*
***Number outside the brackets refer to the number of respondents*

1. Legislative openings-- Has your organization's relationship with the legislature changed since 1992?

       1—yes
       2—no
       3---to a limited extent
       4—no interactions

1 (11)   2(0)   3(3)   4(6)

2. Bureaucratic openings-- Which government bureaucracies do you deal with? What kinds of interactions do you have with them?

           (a) women's ministry
           (b) local government
           (c) registrar general
           (d) attorney general
           (e) other (specify)

 6 (a,b,c)   18(a)   3(b)

3. How will you describe the relationship of your organization with these bureaucracies?

       1—cordial
       2—not cordial
       3—no interactions

 15(1)   5(3)

4. What are some of the strategies you adopt in dealing with these bureaucratic offices?

     (a)   lobbying
     (b)   capacity building
     (c)   networking
     (d)   other(specify)

  15(a,c)   5(b)

5. Legal openings---What changes (if any) have you seen take place within the legal arena since 1992. Do they affect your organization?

     (a) increasing independence of the judiciary
     (b)open and easy accessibility to the courts
     (c)quick hearing of cases

15(a)   3(b)   0(c)

6. Have your organizations' goals changed since 1992?
        1—yes
        2—no
        3—to a limited extent

15(1) 5(3)

7 .What strategies/tactics have you been using to reach your goals?
        (a)Lobbying government officials/legislators
        (b) Using the courts
        c)Using the court system (filing law suit, defending important cases)
        (d)Coalition building and joint efforts (networking)
        (e)Media campaigns
        (f)Protests, boycotts and other contentious tactics
        (g) Other(specify
10(a) 2(b,c) 17(d) 10(e) 1(f)—domestic violence coalition

(8)Have your strategies/tactics changed over time?
        1—yes
        2—no
        3—to a limited extent

13(1) 2(2)   5(3)

GENERAL QUESTIONS
8. Has the number of women's organizations increased or decreased since 1992?
        1—yes there has been an increase
        2—no, it has not increased
        3—have no idea
20(1) 0(2)   0(3)

9. Are these women's organizations taking advantage of changes brought about by democracy to advance their goals? Please give examples.
        1—yes
        2—no
        3—to a limited extent
18(1) 0(2)   2(3)

10. Is the government doing enough to promote civil society development?
        1—yes
        2—no
        3—to a limited extent
3(1)   5(2)   11(3)