

Ghana

Democracy and Political Participation

A DISCUSSION PAPER

A review by AfriMAP
and
The Open Society Initiative for West Africa
and
The Institute for Democratic Governance



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I: The consolidation of electoral democracy

Since the restoration of civilian rule in 1993, Ghana's most notable achievement has been the progressive improvement of electoral management and the increasing acceptance of election results as fair by participants and observers alike. While there were significant disputes about the 1992 elections that ended military rule, by the time of the most recent presidential and parliamentary elections in 2004, there were few complaints of serious malpractice from the ruling party or the opposition contenders. Notably, the change in administration in 2000 from the National Democratic Congress (NDC) – the party that was formed from the military regime that had led the country during the decade leading up to 1992 – to the New Patriotic Party (NPP) that currently holds office went ahead smoothly and without major challenge to the results from the outgoing politicians. Ghanaians have conclusively accepted that the vote is the best way to resolve disputes over who should run the country and what policies they should implement. Their confidence is demonstrated in an 80 per cent turnout in the 2004 presidential and parliamentary polls.

The Electoral Commission (EC), established in 1993 by statute in accordance with the provisions of the 1992 Constitution, has played a key role in this process of consolidation. The commission is a seven-member autonomous body that enjoys a high reputation and has led the introduction of successive improvements of election management. One of its most successful innovations, responding to the boycott of the 1992 parliamentary elections by opposition political parties which had disputed the presidential election results, was the creation of the informal and non-statutory Inter-Party Advisory Committee (IPAC). IPAC has only a consultative and advisory role, but it has been of great importance in building trust among political parties and in generating proposals for electoral reform.

Following criticisms of the 1996 elections, the EC and IPAC led the process of developing and adopting a code of conduct for political parties, with complaints investigation procedures established at district, regional and national level. The code, which was first implemented during the 2000 elections, has been an effective means of checking abuse of process by political parties – but it is weakened by its lack of legal force and of binding enforcement mechanisms. Nevertheless, violence between supporters of opposing candidates is the exception rather than

the norm during Ghanaian elections.

Notwithstanding the EC's strengths, there are outstanding concerns about the power of the president to appoint its members, and allegations from opposition parties that it is biased in favour of the government. To allay these, the Electoral Commission Act should be amended to provide for the involvement of Parliament as well as broad consultations with political parties and civil society organisations on the appointment of commission members.

Many Ghanaians also believe that the first-past-the-post electoral system, based on a simple majority in single-member constituencies, should be reviewed, with a view to introducing some form of proportional representation in order to increase the representation of minority political parties. Even though eight registered political parties were registered for the 2004 parliamentary and presidential elections, Ghana is operating a virtual two-party system: only the NPP and the NDC possess adequate popular support and the requisite national presence to be able to win an election and form the government.

Moreover, with the strengthening of electoral management at the national level, attention has turned to the need for greater respect for democratic norms within political parties themselves. There have been many reports of decidedly undemocratic practices during the primary elections for selection of candidates for president and Parliament. The code of conduct for political parties does not currently apply – but should be extended – to party primaries, to check abuses at this level of democratic participation. Party congresses have also shown up a lack of internal party democracy, and policy platforms appear rather to be imposed from above than debated from below. There is finally the perception that in Ghana the parties and their candidates are often more interested in personal attacks than in issue-based politics.

As in most countries, funding of political parties raises many problematic issues. Though abuse of state resources by incumbent parties has become increasingly less acceptable, there is no really effective system to check such abuses. Another source of concern is the growing influence of money in Ghanaian elections, as evident in expensive campaigns, vote-buying and treating of potential supporters. Statutory regulation of party finances is urgently needed, as well as a credible system of public funding for political parties.

Ghana has – thankfully – escaped the ethnic strife affecting many of its neighbours in West Africa. Yet there are concerns about politicians' use of language that could fan ethnic tensions, especially at election time. Commentators have also noted an 'ethnicisation' of political parties. Support for the two main parties, the NPP and NDC, increasingly splits along Akan vs. non-Akan lines – despite burdensome laws requiring parties to have offices in two-thirds of Ghana's 138 districts and representation among their founding members from the major zones of the country. Moreover, at every election period the alleged registration of non-Ghanaians as voters has resulted in tension and violence between opposed groups, especially in the border areas of Ghana. In 2003, the UN Committee on the Elimination of Racial Discrimination noted that existing legislation in Ghana did not conform to Article 4 of the Convention on the Elimination of All Forms of Racial Discrimination relating to prohibitions on the promotion of racial hatred, and recommended that the law be amended to provide greater protection. The code of conduct for political parties has also not been fully effective in checking such speech. There is a need to

monitor politicians more closely in this area, as well as for further discussion on the best means of ensuring that Ghana retains its reputation as a country relatively untroubled by ethnic conflict – while not imposing overly restrictive rules on parties that in practice prevent their effective organisation and campaigning. An enforcement mechanism for the code of conduct will go a long way towards ensuring that political parties abide by the rules of the democratic political game.

II: The critical role of the media, civil society and oversight institutions

One of the lessons of Ghana's progress since 1992 has been the importance of institutions outside the formal structures of elections and political parties in deepening and protecting democracy. In particular, Ghana has benefited from a strong and diverse media, from a burgeoning set of civil society organisations that have real ability both to mobilise citizens and to engage in policy dialogue, and from the role played by constitutional or statutory bodies charged with oversight of government functions.

Since the restoration of civilian rule in 1993, and especially since the 2001 repeal of the Criminal Libel Law which in the past had been used to incarcerate journalists, print and broadcast media have flourished. Ghana has a substantially improved rating in the Press Freedom Index published by Reporters Sans Frontières, coming 34th in the world and the fourth in Africa in 2006 (behind Benin, Namibia and Mauritius). All political shades of opinion are now freely aired, and the use of local languages on radio especially has widened participation in political debates beyond levels unimaginable only two decades ago. The Constitution provides that all state-owned media shall provide equal access to political parties to present their programmes.

Nevertheless, the situation is far from perfect. Five years after the repeal of the Criminal Libel Law, some vocal journalists complain of anonymous threats and phone calls, secret trailing, character assassination and stifling of business. Despite the proliferation of radio stations in different languages, it can be difficult to access good quality reporting outside the major urban areas. Monitoring of state broadcasters indicates that the constitutional requirement of equal access for all political parties is not respected in practice. There is a need for continued vigilance and corrective action on all these issues.

There exists in Ghana a strong associational culture and a vibrant civil society. Several long-established civil society organisations have been active in the economic, social and political sectors of the country. There has been a proliferation of policy think-tanks, human rights organisations, women's rights groups and other non-governmental organisations (NGOs) since 1980; these organisations are notable both for their outreach to grassroots groups and for their ability to engage in serious policy dialogue. They have been instrumental in introducing and attaining successful outcomes for a long string of government policy initiatives, on poverty reduction,

domestic violence legislation, disability rights and many others.

In 1993 the government issued a bill to regulate NGOs, which would have imposed controls and restrictions on NGO activity. NGO protests at the provisions led the government to beat a quick retreat. NGOs and the Ministry of Employment and Social Welfare then worked together to develop a policy document that was eventually adopted by the ministry in 2000, as the 'Draft National Policy for Strategic Partnership with NGOs'. The draft provides for an enabling environment for NGO activity; however, progress on enacting the policy into law has stalled completely. Government should now formally adopt the draft policy and submit legislation to Parliament based on the agreed framework.

The government from its side has also become more willing in recent years to take the initiative to consult with and seek the input of civil society groups. For example, the government has adopted a 'new budgetary approach' that aims to create a participatory and open-door policy to budgeting, so that ordinary citizens can make their inputs. In 2002, a new Labour Act created a National Tripartite Committee (NTC), in line with international best practice to mediate conflict between government, business and labour. It has both advisory and consultative roles in respect of industrial relations and labour market issues, in particular the setting of the minimum wage, determining the price index and the tax threshold for workers, and has played an important role in maintaining industrial peace. Perhaps most importantly, the adoption of the 2003 Ghana Poverty Reduction Strategy (GPRS), superseded by the 2005 Growth and Poverty Reduction Strategy (GPRS II), have involved a broadly consultative process, especially in the latter case.

Nevertheless, the feeling remains that 'consultation' in Ghana often means no more than 'informing' citizens of policies that have already effectively been decided. The participatory open-door policy on budgeting has, in the view of many, remained a mirage. Some labour representatives have argued that the NTC's operations seem to be directed at 'fire fighting', convening only when summoned by the government to address a crisis situation, rather than at long-term policy development. Other civil society activists see consultation as something done to fulfil donor requirements rather than of the government's own will. Government should address this general weakness of its consultation process to enhance effective participation by citizens in its policy processes.

Moreover, Ghana performs badly when it comes to providing access to official information for civil society organisations, journalists, or ordinary citizens. A comparative survey in 2006 found that Ghanaian government institutions only supplied full information in nine per cent of requests made, the worst performance of 14 countries. Although the 1992 Constitution provides for a right to information, a Right to Information Bill was only introduced to Parliament in 2003. The bill was heavily criticised and resubmitted in 2005. However, it still has serious weaknesses, while no will has been shown to ensure it will be enacted. The government itself recognised in the GPRS and GPRS II that access to information is limited, but has recently argued that it cannot enact the Right to Information Bill because the capacity to implement it is too weak. This is an inadequate reason to continue to block its passage, and the process for adoption of the Right to Information Bill should be restarted soonest – as the country review report of the African Peer Review Mechanism (APRM) also recommended.

Ghana – like South Africa – also demonstrates the critical role that can be played by constitutionally entrenched or statutory bodies with a mandate to hold government to account for its performance and to regulate the media and other resources in the public interest. The Commission on Human Rights and Administrative Justice (CHRAJ) is charged by the Constitution to investigate complaints and cases of violation of fundamental rights and freedoms and has been one of the most effective and vital such institutions on the African continent, being unafraid to speak out and criticise the government when necessary. In many cases, citizens have preferred to bring their cases to CHRAJ rather than the courts, for more effective and rapid resolution. The EC, as already noted, has steadily asserted its independence and strengthened electoral management; and the National Commission for Civic Education (NCCE) has been important in ensuring that citizens are educated about their rights, including the right to vote. To ensure fair and democratic regulation of the media, the National Media Commission (NMC), also a constitutionally established body, regulates the registration of newspapers and publications, the promotion and insurance of the freedom and independence of the mass media as well as ensuring journalistic standards in the country. A National Communications Authority (NCA) was created by statute in 1996 with responsibility for radio and TV frequency spectrum management.

The autonomy of these bodies has been generally respected by government since 1992, and CHRAJ and the EC in particular have been central to the deepening of democratic accountability in Ghana. Yet all of them also complain of under-resourcing. In the case of CHRAJ in particular, lack of resources has meant that it has not been able to attract and retain competent lawyers and other professionals, seriously limiting its effectiveness in responding to citizen complaints.

In relation to the media, the NMC has generally played an important and useful role, including adopting guidelines on political party reporting and the ‘equal access’ rules of the Constitution. However, the NMC also proposed in 2002 legislative instruments on registration of newspapers and on broadcasting standards that raised concern among media practitioners for placing too much power in the NMC’s hands and providing for criminal sanctions for non-compliance with newspaper registration requirements. The criteria for granting licences to media houses remain unclear. There is also a functional overlap between the NMC and the NCA that creates confusion, while it has been suggested in several quarters that the NCA has no guarantee of independence since it is not a constitutional body.

III: Equal citizenship and action against discrimination

The foundation of the right to participate in the government of one's country is citizenship. Ghana's 1992 Constitution and the laws of the country generally provide a fair and non-discriminatory way of establishing citizenship rights. Moreover, since reforms were enacted in 2000, both men and women can pass on Ghanaian citizenship to their foreign spouses and to their children. Nevertheless, the committee monitoring the UN Convention for the Elimination of all forms of Discrimination against Women (CEDAW), to which Ghana is a party, has recommended that the law be amended to address the remaining discrimination that provides that a foreign man married to a Ghanaian woman must be permanently resident in the country to acquire citizenship, while a woman married to a Ghanaian man need not. In addition, foreign spouses complain that the acquisition of Ghanaian citizenship is bedevilled with many practical obstacles, including tortuous bureaucratic delays and high financial charges.

Ghana has also taken important steps towards achieving greater gender equality and promoting women's participation in politics, in line with CEDAW. As a practical demonstration of this commitment, in 1998, the cabinet adopted an affirmative action policy which established a 40 per cent quota for women's representation on all government boards, commissions, committees and other official bodies. In 2001, the government followed this up by the creation of a Ministry of Women and Children's Affairs (MOWAC). However, Ghana is not a party to the CEDAW protocol accepting the jurisdiction of the CEDAW committee to receive individual complaints from Ghana; and it has only signed (in 2003) but not ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

In practice, moreover, the effect of these commitments remains weak. The CEDAW committee has noted poor implementation of the affirmative action policy, and women's representation in elective and appointive bodies of state remains at a dismally low level, despite the 40 per cent quota. Both government and political parties in their candidate selection should be enjoined to take urgent action to improve this situation. One effect of such low representation has been long delays in passing legislation of critical importance to women: a Domestic Violence Bill under debate since 1999 only became law in 2007.

Ghana's Constitution provides unusually strong protections for disabled people, and in

2006 these provisions were supplemented by the enactment of a Disability Act, promoting the rights of persons with disability. In the 2004 elections tactile ballot papers were introduced for the first time to facilitate voting by blind voters. Nonetheless, to date no person with disability has been appointed a minister, deputy minister or even district chief executive; and Ghanaians are still waiting to see the first disabled member of Parliament (MP). Many also noted that, despite constitutional requirements, the Disability Act was first introduced to Parliament as a bill only in 2003 and not passed until 2006.

While there is no systematic discrimination against any ethnic group, including in the recognition of citizenship, the differences in wealth between the dry north and the relatively well-watered south are still too wide. The concentration in the northern savannah belt of Ghana of high levels of poverty ranging from 67 to 90 per cent is a major cause of concern to both state and society. Poverty can erode citizens' enjoyment of their rights. It is a major cause of social marginalisation and political exclusion. The government has adopted a multiple-pronged approach to the reduction of poverty, of which the highlight is accelerated improvement in education for all. A Free Compulsory and Universal Basic Education (FCUBE) policy has been in operation since 1996. A capitation grant for children in basic schools has now been introduced and a school feeding programme is being piloted.

Although migration from the poorer areas of the north has resulted in less populated parliamentary constituencies, so that in fact each MP represents a smaller number of people than in the south, there is still a generalised sense of exclusion from national politics. In all parts of Ghana, civil society organisations can play a critical role in informing and collecting the views of the poor, and inputting their opinions into the policy debate. Although there are already important initiatives in this area, there remains a need for urban-based civil society groups to reach out more effectively to the rural zones – and government structures should mobilise in the same way.

IV: Parliament

For the first time in the history of Ghana there has been sustained stability over more than a decade in the practice of parliamentary democracy. The Parliament of Ghana has continued to contribute to democratic governance in Ghana since 1993 without any disruption. This is a marked improvement from the years of military coups and political instability (1966–81) when at the very best Parliament would sit for only two and a half years before a coup d'état put an abrupt end to its existence.

Within the new political environment of stability and peace has also come an increasing effectiveness in parliamentary performance. The 230-member Parliament (200 until 2004) has performed creditably its legislative, financial, deliberative, oversight and appointive functions. The committees of the house, especially the select or subject matter committees, have shown remarkable improvements. The Appointments Committee, which approves ministerial and other appointments by the president, is a case in point. In the early years of its existence (1993, 1997 and 2001) the approval process was perceived in the public eye as a mere window dressing. From 2005 the committee began to take its mandate seriously by grilling appointees with questions that had considerable substance to them. The committee has even rejected some presidential appointees.

In the same vein, the Finance Committee has led an upsurge in criticism of a number of foreign loan agreements, either on suspicion of fraud or because the applications apparently did not accord with national priorities. A loan agreement of one billion US dollars with an International Financial Consortium (IFC), very different from the International Finance Corporation (IFC) of the World Bank, was severely criticised till the government pulled out of the deal. Another US \$300 million loan agreement with an unknown Chinese consortium, CNT, was subjected to severe scrutiny and persistent attack till government dropped the deal. More recently an Indian government loan of \$30 million for the reconstruction of the presidential palace (abandoned since the overthrow of President Nkrumah in 1966), has been criticised on the grounds that is not a national priority. The project is, however, still going on and is near completion.

A welcome development in Parliament is the growing balance in its composition. In 1993, Parliament was almost a single-party debating chamber. As a result of the boycott of parliamentary elections by the opposition in 1992, the NDC commanded 96 per cent of the seats. In 1996, when the opposition parties returned to parliamentary elections, the NDC majority fell just short

of two-thirds. Parliament today is more balanced; the NPP commands 55 per cent and the NDC about 40 per cent of the seats, with a handful of other parties represented and one independent MP.

Perhaps the greatest source of parliamentary strength is the human resource base. The composition of the Ghana Parliament reveals a relatively youthful and well-educated set of law-makers, capable of coping with the high demands of contemporary legislative work. Approximately half of all members are less than fifty years old, the youngest is 26 and the oldest 76. In terms of education, 75 per cent of all members hold second degrees from various universities and nearly 40 per cent are teachers and lawyers. However, women's representation – only 25 out of 230 MPs, or 10.6 per cent – is far from satisfactory. And at the committee level women are relatively over-represented in social and development committees, at 14.3 per cent and 16.9 per cent respectively; whereas in financial and economic committees they are 9.2 per cent, and in security, internal and foreign affairs committees only 5.8 per cent.

In the context of Ghana's hybrid political system, with a directly elected president who appoints a cabinet of which a majority of members must be MPs, the further strengthening of Parliament in its oversight of the executive and ability to initiate action on its own account remains a critical need. In this context, the high turnover of MPs (only eight MPs of the original 200 elected in 1992 remain in the house today) may create some problems: MPs are youthful and academically well qualified, but there is the need for more legislative experience and greater stability. Parliament also faces serious constraints in terms of funding, logistics, office space and support staff, especially parliamentary assistants and researchers for MPs. MPs also complain of low remuneration and poor accommodation facilities. From the side of the public, the frequently used opposition tactic of boycotting Parliament as an instrument of political protest tends to dent the image of the legislature as a place of serious debate, discussion and dialogue. In addition, disciplinary action is needed to address MPs' absenteeism and lateness.

V: Regional and local government

Ghana is a unitary republic. To decentralise political power to people in every nook and cranny of the country, a system of decentralised administration was first established in 1988/89. The linchpin of the system is the district assembly (DA), which is 70 per cent elected and 30 per cent nominated by the government. A major difference between district level elections and the parliamentary and presidential polls is that political parties are legally debarred from participation in district level elections. District chief executives are also appointed by the president. Just above the district assemblies are regional coordinating councils, one for each of the country's ten administrative regions. The basic function of these councils is the coordination and monitoring of the work of the assemblies. The decentralised system has been functioning fairly well for nearly 20 years without disruption. This is another area where Ghana's democracy has benefited from years of peace and stability.

Nonetheless, the implementation of the decentralisation programme has, on the whole, been incoherent and incomplete. Powers and resources meant to be transferred have not as yet been delivered. DA members are poorly remunerated and have little ability to move around to consult their constituents; consultation on community projects is thus either non-existent or ineffective. Moreover, while NGOs and community-based organisations are making an enormous contribution to the development of the districts, they have little or no impact on the discussions of the local government structure.

More importantly, there are critical issues about the legal framework for decentralised government. The first and probably the most frequently cited is the exclusion of political parties from district level politics and elections, in addition to the fact that 30 per cent of DA members and the district chief executive are appointed. These rules are considered undemocratic, while concealing the reality of secret infiltration of political parties. Notably, turnout at the 2006 district elections was under 40 per cent. The absence of political parties in district elections is a factor for low turnout, though there are other problems as well. The government should as a matter of urgency consider initiating amendment of the Constitution and the Local Government Act to allow political party participation and enhance local level democracy.

VI: Traditional authority

Traditional political authority has been protected in the Ghanaian Constitution and important legislation to a greater extent than in most other African countries. A chapter of the Constitution (Articles 270–277) is devoted to chieftaincy, and these provisions are entrenched, meaning they can only be amended by a referendum. The Constitution provides chiefs the structures for regulating their own affairs in the form of a National House of Chiefs, as well as regional houses of chiefs, and traditional and divisional councils. The constitutional provisions on chiefs are further reinforced by the Local Government Act of 1993 and the Chieftaincy Act of 1971. The Chieftaincy Act provides procedures and processes for chieftaincy affairs, while the Local Government Act of 1993 provides for the limited involvement of traditional leaders in district assemblies – though Article 276 of the Constitution of Ghana debars chiefs from participating in active politics. This traditional political system remains an avenue for political participation for many rural dwellers.

A proposed Chieftaincy Bill is under consideration to replace the existing legislation. Separately from this new bill, controversial issues still in contention are the banning of chiefs from active politics, which is considered by many as infringement on their rights to political participation. In addition, chiefs argue that, unlike in the past when traditional rulers were a major component of the local government system, chiefs today are not directly involved. Among the main criticisms of the current chieftaincy system are the refusal of (male) chiefs to allow women chiefs, known as queen mothers, to participate in the work of the national and regional houses of chiefs. There is no current legal bar to their doing so, and the failure to recognise women traditional leaders in these representative bodies is simple and unjustifiable sexism. The chieftaincy institution's image is also seriously tarnished by the numerous land and chieftaincy disputes and the violent conflicts associated with them. Even though chiefs have the potential of enhancing Ghana's democracy by playing several judicial and executive roles, many Ghanaian radical scholars consider the institution itself to be undemocratic.

VII: Financial institutions and foreign governments

Despite encouraging efforts to develop domestic revenue, Ghana remains heavily aid-dependent. In 2003 Ghana's dependency on aid for its budget was 60 per cent; but by 2005 this had climbed down to 32 per cent. Negotiations with development partners are led by the executive, as for other foreign policy decisions, and popular participation in Ghana's foreign policy and relations with its development partners is indirect. The people's representatives in Parliament, however, have an important role in foreign policy in three key ways. First, the Parliamentary Committee on Foreign Affairs keeps an eye on the president's execution of foreign policy to ensure compliance with the national interest. Second, all treaties, agreements and conventions are ratified by Parliament. Third, it is the Ghana Parliament that can give approval to loan agreements entered into by the government. Outside of these checks by the representatives of the people, there is very little opportunity or avenue for citizens to influence Ghana's relations with donors.

Aid flows go to develop critical sectors of the economy, mainly the social sector and physical infrastructure. The leading sectors are road, transport, health, education, water sanitation and energy – though there is a huge gap between pledges, commitments and actual disbursement that needs to be addressed. In spite of this problem, a major positive development in aid administration is the system of multi-donor budgetary support (MDBS). Under this, 10 major donors have agreed to put their aid in one basket for incorporation into the government's budget. The MDBS is also becoming a forum for discussion of Ghana's development programmes. However, not all donors have joined the MDBS, something which should be rectified, and even those donors who are members give only a portion of their total aid through the MDBS system. Finally, donors are now increasingly giving aid to support good governance and, as a consequence, popular participation. The United States, Canada, Britain, Denmark and the UN Development Programme (UNDP) have all given money for good governance, and have also encouraged the government to consult with domestic constituencies on, for example, the GPRS and GPRS II. Nevertheless, it remains the case that development policies are largely decided behind closed doors of the negotiations between the executive and the development partners, without real debate among Ghana's citizens. This is a major flaw in the democratic debate, and civil society organisations need to organise more effectively to become involved in the monitoring and evaluation of foreign loans and development grants.

Conclusion

There is absolutely no doubt that, since the return to civilian rule in Ghana, the country has been on track as far as the promotion of popular participation in politics is concerned. Citizens' rights are fully protected in the Constitution and the laws of the land. Institutions and opportunities for popular participation in decision making are freely available in the political system. In particular, citizens can participate through Parliament, district assemblies and civil society organisations. It cannot be denied however that there is a long way to go before many sections of the citizenry can fully utilise the opportunities and institutions of participation. The government, civil society and development partners should join hands to remove all major obstacles to participation.