SCOPING REPORT- ENHANCING CITIZENS' PARTCIPATION IN DECENTRALISATION AND LOCAL GOVERNANCE

STAR GHANA FOUNDATION

INTRODUCTION

Background and Purpose of the Study

The objective of the STAR-Ghana Programme is to support the development of a civil society and a citizenry capable of influencing change to lead to improved inclusive access to high quality, accountable service delivery in Ghana. The second phase has adopted an approach that will support the creation, utilization and institutionalization of spaces for collective civil society engagement as a means of increasing accountability and responsiveness of the executive at both local and national levels.

The second phase has adopted a four-(4) pronged approach:
- Convening a broad range of stakeholders for dialogue to support the identification of opportunities and critical entry points for action and engagement
- Catalysing change through working jointly with new and innovative strategic partners
- Coordinating with a broad cross section of actors, promoting joint influencing and actions amongst partners and
- Learning from past and present experiences and to reach an effective application throughout the implementation process.

The political economy analysis (PEA) conducted in the first phase of the Programme pointed to inclusive and responsive local governance as being key to achieving improved, inclusive and sustainable access to quality public goods and services for all citizens. The Democratic Governance Call issued under STAR 1 provided insights on possibilities for action (as indicated in Appendix 1).

STAR II's focus on increasing accountability and responsiveness of public duty-bearers at both the national and local levels requires further scoping of the effectiveness of the decentralization process and the state of the assembly system. This scoping is an opportunity to follow up on the insights that emerged and to identify the possibilities for influencing and supporting citizens' action for improving inclusive access to high quality, accountable and responsive service delivery. Therefore, the paper should provide a broad picture of the current stage of Ghana's decentralization efforts, of the systemic issues, of possible entry points for Civil Society and the application points and in addition provide an agenda for pursuing the 'Convening, Catalysing, Coordinating and Learning' agenda.

The purpose of the study is two-fold: to
- o Provide an overview of the political economy context of local governance reforms in Ghana, particularly concerning decentralization

- o Identify issues and potential entry points for coordinated civil society engagements (inclusive of all voices) with relevant stakeholders to contribute to achieving increased accountability and responsiveness of government at community and district levels to citizens' issues and voices.

METHODOLOGY

The overall goal of the political economy analysis (PEA) is to understand the political, economic and social processes that have impacted on the success or failure of the decentralization process and the assembly approach to local governance as a development reform. This would require a discussion of the incentives, relationships, distribution and contestation of power between different actors. To this end, the study considered a number of questions provided in Appendix Two on which key informants, practitioners and experts on decentralization in Ghana were engaged. Some of the insights provided have been summarized below.

CITIZENS PARTICIPATION

Performance of local authorities may be assessed from the perspective of the objectives and functions of the Assembly system or against the characteristics identified in Chapter 20 of the Constitution.

In assessments that have preceded the policy review and revision, the standard has been the latter, seeking to establish the extent to which the Assembly system has achieved the requisite transfer of functions, powers, responsibilities and resources to local governments. Other questions have related to the effectiveness of th capacity development of local authorities and the availability of sound financial bases with reliable sources of revenue. The extent to which local authorities control public servants in their services and the adequacy of citizens' participation mechanisms to ensure local public accountability have been the basis for innovative policy measures.

On the programme side, the effectiveness and efficiency of Ghanaian assemblies as executive, legislative, budgeting, planning and rating authorities have been assessed. Their successes in formulating and executing strategies for effective resource mobilization, removing obstacles to initiative and development, basic infrastructural development, provision of municipal works and services and facilitation of popular participation in governance have been the focus of several pilot reviews.

In addition to the routine development requirements, assemblies have been expected to perform and deliver on targets related to local economic development, pro-poor development, environmental sanitation and

waste management, gender equality, social inclusion and action on disability.

Systems, processes and procedures and adherence or compliance with these have also been the focus of review –being the main basis for the Functional Organizational Assessment Tool (FOAT). Obligatory reporting standards, annual and medium term action plan targets have also formed the basis of performance contracts and assessments of the technical and administrative leadership of assemblies.

The 2009 review conducted by the MLGRD and its partners suggested that the most important achievement of the decentralization process had been wide awareness-raising about the fact that governance could be conducted at sub-national levels and with ordinary people's participation. However, increasing cynicism about the ability of the local government system to deliver on public services and development was also observed. There was widespread perception that a key opportunity to expedite development had been under-utilized.

It appeared that assemblies and assembly members had differential effects in rural and urban areas. In the rural areas, their influence is quite strongly felt or acknowledged. However, in the urban municipalities and metropolitan areas, assemblies and assembly members found it difficult to impact on processes, partly due to the size of the authority, demographic heterogeneity and number of influencers and the multiplicity of responsibility-holders. In the metropolises, the heterogeneity of the populations and the multiple functions of the cities as national, regional and district capitals make local governance difficult.

In relation to achieving more equitable and participatory local development, some of the achievements include opening the country up for better and morre targeted support through the creation of districts. There is an increasing awareness that geography, history, socio-cultural and economic factors pose nuances that must be taken into account in designing and delivering development, therefore, the importance of responsive planning.

While the creation of districts has also facilitated the collection of appreciable socio-economic data by assemblies, non-governmental organizations, consultants, development partners and research institutions for various purposes, this information has not been used to advantage to facilitate planning, monitoring and for evaluation purposes. There has not been sufficient collaboration across sectors to optimize these opportunities.

Transfer of powers, responsibilities and resources has mixed achievements. Legal processes have been used to create assemblies with clear legal identities that have wide -ranging planning, budgeting, executing, legislating and taxing/rating powers. Assemblies' functions have been elaborated in LI 1961 and other instruments discussed in Chapter 2.

A legal instrument is also expected to facilitate the integration of district departments through a two-phased approach. However, integrated functioning requires not only legislative action but also re-orientation and team-building amongst local public officers. Some assembly functions are cross-sectoral, including preventive and environmental health, water and sanitation, public works, trade and industry, finance, physical planning, food and agriculture, disaster prevention, administration, social development, protection welfare and community development.

Adequate capacity and the requisite human resources have not yet been achieved, in spite of considerable efforts. The passage of the Local Government Service Law in 2003 (Act 656), the development of requisite protocols, considerable training and other interventions have not yet resulted in assemblies having their full complement of staff. Processes to transfer more human resource management functions to the regions and assemblies

are ongoing, even as the Human Resource Management Departments of assemblies are being established and equipped.

Assemblies also have limited control over the specialized professional and technical staff, as health, forestry and education professionals are still yet to be integrated sufficiently into the assembly system. Skilled technical professionals such as planners still do not see the Local Government Service as an employer of choice.

Some Ministries and government agencies still appear reluctant to entrust assemblies with more control over resources and programmes, indicating that if they had staff they could control at the local level, they would be more effective. Over the past four (4) years, there have been efforts to synchronize devolution by re-aligning the decentralization efforts of the sectoral services: mainly education and health. The tendency of some development programmes to bypass assemblies and undertake direct implementation coordinated by regional and national secretariats in the localities robs local authorities of capacity-building opportunities and a sense of ownership and an identification with the programme.

There are concerns that key, technical structures have not operated effectively, such as the regional and district planning coordinating units (RPCUs and DPCUs), works departments and environmental health departments. They often suffer from insufficient staffing, lack of clarity about roles and performance requirements and often fail to harmonize their work with that of the assembly.

While to some extent, efforts have been made to address some of these concerns through legislation, the proof of their effectiveness will be in the actual implementation. Amongst others the passage of Act 936 seeks to standardize the organization, its operational functions and the resourcing of Regional Coordinating Councils (RCCs). The passage of the Land Use and Spatial Planning Act in 2016 also facilitates the conduct of physical planning.

RCCs have been given critical coordination, monitoring, information provision, harmonization, back-stopping and evaluation roles. For almost three (3) decades these roles did not have corresponding assignment of revenues. Other demands on RCCs include extensive protocol functions and celebration of national social events; regional security responsibilities, including chieftaincy and land disputes and intra-district issues and interventions that cut across district boundaries such as natural resources and environmental concerns that all require adequate financial outlays. Prior to the passage of Act 936, a practice was initiated of allocating a proportion of the Common Fund to the regions for these activities. However, without administrative or legal backing, this source has not been reliable or sustainable.

The Constitution has required that adequate capacity is developed for local authorities, these include investments in skills, education, institutional and organizational structures, logistics and systems. In relation to education, skills-building and attitudinal change, there is a wide range of possible beneficiaries including the leadership of assemblies (chief executives, presiding members and coordinating directors); administrative, technical and professional staff; heads of decentralized departments, assembly members and other governance stakeholders.

In the earlier period of the decentralization experience (up till about 2006), capacity building, particularly training, was largely supply-driven and top-down. Capacity provision was at the instance of Central Government Ministries, Departments and Agencies including Local Government, Finance, Agriculture, Trade and Industry, the Public Services and Training and Research Institutions. Development partners' contribution to decentralization capacity development gathered momentum after 1992.

Prior to that, donor support impacting on the district assemblies were largely sector-based (education, health) or through World Bank Urban Development support for the metropolises and municipalities. Support interventions such as those provided by the European Union, the Danish, German, Canadian and Dutch Governments targeted selected sections of the country and was for building capacities for works, social infrastructure, planning and revenue mobilization, amongst others; as part of larger, integrated programmes.

Other initiators of capacity development, especially at the regional and sub-national levels have included international and national NGOs and CSOs. Locally-based actors included the National Association of Local Authorities of Ghana (NALAG), Network of Civic Unions, Integrated Social Development Centre (ISODEC), Institute for Democratic Governance (IDEG) and Institute for Policy Alternatives (IPA), the SEND Foundation, ABANTU for Development and the Christian Mothers Association (CMA) were some of the early capacity programme designers and providers. The enthusiastic capacity building efforts by various sponsors/providers under different donor programmes resulted in a rather mixed situation with considerable duplication and varied interpretations of the responsibilities and functions of local government actors. Several workshops constrained the time of local government functionaries with insufficient links to implementation. Allowances accompanying such programmes contributed to creating a culture of expectation and cynicism.

Four (4) epochs in capacity delivery can be identified in the three decades of the assembly system. These are the establishment of the Institute of Local Government Studies (ILGS) in 1999, the passage of the Local Government Service Act in 2003, the introduction of the capacity-building component of the District Development Facility (DDF) in 2007 which enabled assemblies to deploy their own capacity-building initiatives more vigorously, and the passage of the Local Governance

Act, Act 936. The last two events reflect the increasing acceptance of the position that capacity-building should also be demand-driven as a strategic effort by assemblies to align their capacity needs with their plans, budgets and longer-term aspirations. This was fur….????

These interventions were intended to help to coordinate capacity building, standardize quality and provide more experiential learning environments. Amongst others, the Local Government Service was not only to fulfil the constitutional requirement to provide consistent capacity building but was also to contribute to vesting control of employees in local authorities.

While there has been some improvement in capacity delivery, there are still challenges. Skills-building and logistic support for assembly members to perform their representative function are inadequate. Capacity-building for other functionaries and potential partners in local governance, such as local leaders, is still inadequate. Training and capacity building is perceived as geared more towards administrators and public servants.

Generic programme delivery has not been sufficiently responsive to the differential needs of local authorities. Differences in urbanization, population size and economic endowments do not appear to be sufficiently factored into programmes. The multiplicity of programmes as well as the several commitments can detract from the value-addition and consistency that the availability of programmes could achieve. In other words, some of the time and energy that local government officials could devote to their work is spent on attending programmes (to the extent that various Ministers of Local Government have tried to put checks on the numbers and types of programmes DCEs and other staff may attend).

The Constitutional condition of the availability of sound financial bases with reliable sources of revenue has also been pursued though fiscal decentralization but has not been achieved

to the desired extent. Act 462 made provision for assemblies to undertake commercial activity, promote investment opportunities and participate in public-private partnerships. The legislation also identified sources of local revenue, including fines, levies and taxes. Act 455, the District Assemblies Common Fund (DACF) act, and also operationalized the Constitutional provision for a reliable source of national income for development financing for local authorities.

Perhaps to ensure standards, much of the control of finances and public expenditure has remained at the Centre, often citing misdemeanours at the local government level. Finance officers remain staff of the Ministry of Finance (MoF). From 1998, the Canadian Government supported Ghana to implement a Fiscal Decentralization Programme as a cross-sectoral initiative between the Ministries of Local Government and Rural Development and Finance.

In 2003, the MoF reviewed and introduced a raft of public financial management legislation and guidelines, including ones to govern public procurement and internal audit as well as the Medium Term Expenditure Framework (MTEF) to coordinate public finance and development planning. In between 2003 and 2016, interventions have included efforts to build internal revenue generation capacity, including improving public property and introducing non-manual mechanisms, composite budgeting and the formulation of the Inter-Governmental Fiscal Framework (IGFF) in 2007. By 2016, similar efforts to strengthen public financial management came into being with the review of the public procurement law amended by Act 914 of 2016 and the Public Financial Management Act (Act 921 of 2016), as well as the extension of Ghana's Integrated Financial Management Information System (GIFMIS) to the district level.

Prior to 2009 and the passage of LI 1961, there were challenges in aligning functions assigned by legislative instruments to the assemblies and its various services. In spite of the planning guidelines from NDPC, sectoral planning and budgeting arrangements could not sufficiently address the integrated requirements at the local level. Partnerships with development partners brought in their wake, multiple reporting, auditing and disbursement requirements.

Composite budget efforts remained on a pilot basis, considerably impeded by the linkages of decentralized departments with their national offices. However, with the passage of LI1961, whose memorandum indicates its intent to trigger the commencement of the functioning of the decentralized departments, it was hoped that a composite budget system at the district level could be introduced.

The challenges to assemblies over the years include inadequate staff capacity, the inflexibility of national frameworks to accommodate local strategic needs and programmes, the inability of assembly members to exercise oversight and the optimal gains from the Common Fund. The Common Fund which was intended to assure assemblies of some level of relatively reliable development resources have had mixed experiences. On the one hand, suggestions have been made that assemblies have become complacent about local revenue generation because of their reliance on the Fund. Other complaints relate to the guidelines and mandatory allocations from the Fund directed by the Centre.

The inexperience in partnership-building and weak capacities for negotiation as well as legal limitations may together have limited assemblies' abilities to raise alternative sources of development. Even though Act 462 encouraged assemblies to collaborate, it also included borrowing limits. Even though the 2009 Public-Private Partnership Policy made some provision for assemblies, these allocations were inadequate and were unresponsive to the conditions of the smaller assemblies.

Public-private-partnerships in local economic development between assemblies and private

sector organizations has only been visibly taken up by the metropolitan assemblies for the construction of carparks, market management and other infrastructure. In the smaller assemblies, PPP has been mainly the delegation of assembly functions such as revenue collection and waste management to private sector operators.

While efforts were made to provide mechanisms to enable local authorities have access to development financing (such as the municipal financing instruments in other countries), the borrowing limits in the local government law was only removed with the review of Act 462 and passage of Act 936. In spite of these limitations (which involved seeking the permission of the Minister),

financial institutions provided innovative financial products that assemblies could have benefited from, but were slow to pick up and act upon.

Waste and sanitation management has eluded assemblies over the thirty (30) years of decentralization. The trials of garbage disposal, difficulty in getting landfill sites, alternative approaches to waste management, appropriate technology and attitudinal change have to be overcome. Where assemblies have acquired sites for dumping refuse with Executive Instruments vesting the property in the Government, the concerns of nearby residents for their health, of squatters and waste pickers hamper assembly efforts.

MECHANISMS FOR PARTICIPATION

The Constitution anticipated that decentralization would facilitate popular participation and accountability. Participation in public decision-making provides informed reviews of the proposals and actions of public officials and ensures greater responsiveness. Participation also reduces social exclusion. Worldwide, a number of participation mechanisms are available ranging from elections to public hearings, community meetings, consultations, focus group discussions and the functioning of multi-stakeholder committees. In Ghana local authorities have taken refuge in public education campaigns and events, which are more one-way communication events than true participation.

A range of mechanisms were built into the local governance system that had the potential to facilitate participation and accountability. However, assumptions that things would work or be followed up on, did not automatically result in improving citizens' access and participation in governance. For instance, Act 462 made provision for structures, requirements for consultation in the selection of appointed members and for the constitution of local government-sub structures and for collaboration to achieve development. But the act did not adequately clarify how. Act 480 made provision for the conduct of public hearings, bottom-up planning and for district planning coordinating units (DPCU) to coordinate efforts, but these did not automatically result in citizens' inputs being mobilized to reflect in the district's plans and budgets. Most assemblies required external technical capacity to organize and facilitate public hearings. In spite of thirty (30) years of assembly operations, 'participation' has largely been limited to soliciting citizens' opinions.

The Constitution and the Local Government Act (462) provided for elections as an instrument of participation to select 70% of assembly members who would represent the interests of the people and serve as the liaison between the local government and the community. The remaining 30% who would be appointed, were to be selected through consultative processes with interest groups, traditional authorities and other parties. The appointed memberships have been used for affirmative action purposes to secure the presence of women, traditional authorities, opinion leaders and technical persons on the assembly.

However, the capacity of assembly members, their ability to understand the issues at stake, access to critical information, opportunities to get and give feedback to their electorate, the regularity and adequacy of assembly meetings and the mode of selecting appointed members all count towards how effective or otherwise their participation (and consequently, the citizens they represent) is. These factors have all constituted constraints to the effectiveness of the assemblies and participation of citizens in local governance.

The assembly system was designed to operate through committees which would also provide an opportunity for local responsiveness, since they are constituted by assembly members who are representatives of the local population and are known in their communities. The law provided for two (2) main committees – the Executive Committee and the Public Relations and Complaints Committees.

The Constitution outlined functions for the Executive Committee as being responsible for the performance of the executive and administrative functions of the district assembly, whose composition and procedures would be provided for by law. These were elaborated in Act 462. The Public Relations and Complaints Committee (PRCC) outlined in Act 462 under the Chairpersonship of the Presiding Member also has prospects for facilitating participation – being a channel for providing feedback and for receiving critical information about the assembly.

However, in relation to the PRCC, the challenge experienced over the next two decades was how to operationalize the PRCCs. Act 936 of 2016 recognized this gap and details the composition of the membership and the functions of the Committee. Act 936 also streamlines the membership of the Executive Committee, consisting of the leadership of the sub-committees and providing for women's representation.

Five (5) statutory sub-committees of the Executive Committee deliberate on the main business of local authorities and make recommendations to the Executive Committee. They are in the areas of Social Services, Finance and Administration, Works, Development Planning and Justice and Security. Act 462 allowed the creation of sub-committees at the discretion of the assembly to address local priority development needs. This facility has therefore been used to form sub-committees dedicated to education, gender, women and children, environmental management and poverty reduction. The Committees have the potential for promoting participation because they are constituted of assembly members, are smaller forums for discussing local issues and could be more easily accessible to the average assembly members.

The local government sub-structures – unit committees, area, zonal and town councils and the sub-metro district councils – were intended to provide the final link between the machinery of government and the communities. Their functions, therefore, include education of the people on their rights, privileges and obligations, on social mobilization, facilitating birth registration and environmental management.

However, Ghana's inability to operationalize the local government sub-structures, namely the unit committees, area, town and zonal councils, has weakened the prospects of grassroots' participation in local planning and implementation. Operational resources, payment of impediments include availability of operational resources for paying for meetings and staff. The initial design of unit committees required 10 members, this number was reduced by the passage of LI 1967.

Other concerns relate to the demand side, including the low motivation of local populations and civil society to engage local authorities to press their demands, to require services and to participate in public planning and budgeting events. This relates to the appreciation and knowledge of citizens and communities of their powers

and rights to accountability and services. Other impediments to the participation of citizens and communities include their lack of access to relevant information, challenges with time to organize and to extract responses from assemblies. An issue to be further investigated is the level of apathy, disinterest or disillusionment that ordinary people feel as to whether they can effect real change.

Under the existing service laws (Ghana Education Service and the Health Service Acts of the mid-1990s, Acts 506 and 525), provision was made for district level oversight committees in these sectors as structures for local level participation. These committees involve assembly members as well as community representatives, allowing for a multi-stakeholder perspective on the District Education Oversight Committee (DEOC) and District Health Committee.

Project oversight and management committees emerged as mechanisms for public participation out of various development projects and interventions in districts. These were intended to provide oversight and to facilitate decision-making, to support planning and to monitor implementation in the interest of the citizenry at the community and sub-structure levels. Between 2000 and 2010, these included bodies established under the Social Investment Fund, Community Based Rural Development Programme and Northern Poverty Reduction Programme. Several community participation and citizens' engagement efforts were also promoted under the Districts Capacity Building Programme (DISCAP) supported by Canadian International Development Agency (CIDA).

Trends in international development over the past three decades, including rights-based approaches, equitable and sustainable development and the Millennium Development Goals (MDGs) resulted in increasing civil society activism in exacting accountability and watchdog roles, which was reflected in Ghanaian local governance.

Between 2000 and 2010, important initiatives were undertaken in which civil society (though some of these efforts emanated from outside the participating districts and engaged local resident actors) engaged with local authorities to monitor public activities and enhance citizens' participation in the local development processes.

An example from the period was the 'Civic Unions Approach' by the Government Accountability Improves Trust (GAIT) Programme implemented by the Cooperatives League of the USA in twenty (20) districts; the HIPC Watch Committees facilitated by the Social Enterprise Development Foundation (SEND) of West Africa where application of the proceeds from the HIPC Fund at the local level were monitored by multi-sectoral/multi-stakeholder committees. Other initiatives included the Governance Issues Fora (GIF) mobilized by the Institute of Democratic Governance (IDEG) and its partners. Under the Government of Ghana's collaboration with the International Labour Organization (ILO)' Decent Work Pilot Programme, Sub-Committees on Gainful and Productive Employment (SGPE), efforts were made to promote local economic development.

Lessons from these experiences pointed to the capacity challenges of assembly members to be informed of the technical issues so as to meaningfully engage their electorate on a consistent basis. Political considerations also appeared to dominate the managerial and technical aspects of delivering development. Recommendations made for electing the Chief Executives of Assemblies were to ensure loyalty and accountability to local populations rather than to the President and to their political parties. Though assemblies are by law intended to be non-partisan, the inability to keep partisanship out of local governance appears to have impeded integrated local development.

The design of the leadership of the assembly system is intended to provide checks and

balances – the Chief Executive nominated by the President and confirmed by the Assembly, the Presiding Member elected by his or her peers from amongst their number as representatives of the citizenry, the Member of Parliament as popularly elected to represent their interests at the national legislature and provide a bridge with the local legislature and the Coordinating Director as a professional administrator, holding his or her position on merit to oversee and manage the implementation of district business.

However, the arrangements, the logic and complementary nature of these arrangements do not always work, and tensions have arisen between key actors in assemblies. Conflicts have occurred between Members of Parliament (MPs) and Chief Executives (CEs) (Ayee, 2004). Disagreements have arisen between Presiding Members and DCEs. While the roles are relatively clear and separate, personal difficulties, differing role interpretations and aspirations have caused clashes. For instance, since the establishment of Parliament, DCEs and PMs have aspired to become MPs to enjoy that relative security and prestige, resulting in local disagreements.

Traditional authorities as representatives of the citizenry are critical players in local governance. However, their roles and importance and influence vis a vis other leaders at the local level have been a source of contention over the three decades of the assembly system. Historically, flowing from the 'indirect rule' system of the colonial era, chiefs have had some measure of control of local governance. Post-independence, their involvement has been checkered, being assigned changing levels of control over local authorities. In the assembly system, given the constitutional prohibition of traditional authorities from active, partisan politics,

they have been accommodated as appointed members at the district level and allocated representation through the regional houses of chiefs at the regional level.

This has proven unsatisfactory to traditional authorities, given their authorities and capacities, as indicated by various petitions and submissions to subsequent governments. Traditional authorities still have power has custodians of natural resources in trust for their people, they have social mobilizing power, are respected for their mediation and adjudication roles and in providing social protection. Over the years, good practices of cooperation exist, including cooperation between assemblies and traditional authorities for eco-cultural tourism, planning and implementation.

Traditional authorities still command the allegiance and respect of considerable sections of the citizenry. Therefore, the opportunities they present for effective local governance have to be harnessed and integrated into systems of effective and responsive planning and decision-making and accountability. The challenges that need to be resolved include mechanisms for more satisfactory engagement between traditional authorities and MMDAs. There has to be clarification of protocols and responsibilities in conflict management, peace-building, natural resources management and social protection. Again, the involvement of traditional authorities in building appropriate attitudes around sanitation, civic obligations for internal revenue generation, human rights observance and in addressing negative socio-cultural practices is critical for responsive local level development. Chiefs and traditional authorities need to have their capacities built to be abreast with national and district policies in these areas.

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