Linking decentralisation and a rights-based approach: opportunities and constraints in Ghana.

Gordon Crawford

University of Leeds, UK

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Email: g.crawford@leeds.ac.uk

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Gordon Crawford
University of Leeds
Email: g.crawford@leeds.ac.uk

1. Introduction

This paper links two contemporary development discourses, those of decentralisation and a rights-based approach, and explores possible convergence and synergy between them. It does this through examining the opportunities and constraints on rights realisation associated with processes of decentralisation in rural districts in Ghana.

The paper addresses a perceived gap in the literature, in which the potential for the securing of rights through local democratic politics has been largely overlooked. National and international law provides the legal framework that defines human rights, with the securing of rights usually thought of in terms of national political processes. States are regarded as 'duty-bearers' and claims to rights are invoked mostly by professionalised trustee organisations, commonly national or international NGOs, acting on behalf of poor, disadvantaged or marginalised groups. In contrast, this paper examines the potential for rights realisation at the level of decentralised politics in which grassroots communities are the direct claimants of rights and local government acts as duty-bearer. Evidence and analysis is based on a case-study of decentralisation in Ghana, with fieldwork undertaken in two rural districts. Three questions are posed:

1. Has democratic decentralisation facilitated the securing of basic rights in poor communities?
2. If not, why not and what lessons can be learned?
3. What general conclusions can be drawn concerning the link between decentralisation and a rights-based approach?

The paper proceeds in four main sections. First, an introduction is given to both a rights-based approach and to decentralisation, investigating the common principles of political participation and government accountability. The second and third sections turn to the

case-study of Ghana, initially examining the decentralisation reforms introduced in Ghana and then looking at the empirical evidence concerning the link between decentralisation and the securing of rights in the two selected districts. Finally, answers to the three questions posed are provided in the conclusion.

2. A rights-based approach, decentralisation and democratic politics

Both a rights-based approach and decentralisation are development discourses that have been widely endorsed by mainstream international development agencies (IDAs) in recent years. This initial section briefly examines the rise of a rights-based approach and decentralisation up the development agenda, focusing on the concepts of participation and accountability and the links to democratic politics that are central to both.

2.1 The rise of a rights-based approach

The early 21st century has seen the adoption of a rights-based approach by many prominent IDAs, including UN agencies (UNDP and UNICEF), bilateral agencies (DFID, SIDA) and international non-governmental organisations (CARE, Save the Children). "A rights-based approach to development sets the achievement of human rights as an objective of development" (ODI 1999: 1). It is distinctive in taking the international human rights framework as its legal foundation, with development perceived as the realisation of such rights, inclusive of civil and political and economic, social and cultural rights. Human rights law entails two main groups of actors: rights-holders and duty- bearers. Given the universality of human rights, rights-holders are all individuals in a society. By signing international and regional treaties, as well as introducing such provisions into national law, States are the principal duty-bearers in their respective countries. States are obliged to respect, protect and fulfil all human rights that they have committed themselves to (Ljungman 2004: 2). Regarding economic and social rights, the expectation is of 'progressive realisation' of such rights, particularly given the resource constraints faced by low-income countries. Additionally, although States are ultimately responsible as duty-bearers, non-state actors, notably private sector and civil society organisations, also have a role in meeting citizens' socio-economic needs.

If national and international law provides the legal framework that defines human rights, the securing of rights is a profoundly political process, one in which *democratic* politics is fundamental. Indeed democratisation and rights realisation would seem to be inextricably linked. A rights-based approach is established on the model that citizens claim and the state delivers. Thus it entails a "two-pronged strategy": strengthening duty-bearers to fulfil their objectives; and empowering rights-holders to invoke their rights (Ljungman 2004: 7). The consolidation of a democratic polity and the democratic principles of political participation and accountability are central to both prongs of this strategy. A democratic polity becomes partly an objective of a rights-based approach, given that civil and political rights are an integral component of both democracy and human rights, as well as the means by which rights generally can be realised. Similarly, political participation is not only a right in itself, but also the means by which citizens as rights-holders are 'empowered' to claim their rights, particularly through collective public action. As regards accountability, 'strengthening duty-bearers to fulfil their objectives' not only necessitates building the capacity of state institutions but also requires strengthening the mechanisms by which the state is held to account, helping to ensure that duty-bearers are fulfilling their responsibilities towards rights-holders. This interrelationship between democratic citizenship, participation and accountability has been described as an interlocking 'governance wheel' in which "citizenship gives the right to hold others accountable and accountability is the process of engaging in participation" (Tandon 2002: ??).

Additionally, the importance of the underlying democratic principles of participation and accountability are recognised by those IDAs that endorse a rights-based approach. DFID states that "rights will only become real as citizens are engaged in the decisions and processes which affect their lives" (2000: ??, cited in Gaventa 2002: 2). Similarly, UNDP (2000: 7-9) states that "the fulfilment of human rights requires democracy that is inclusive" and that new ways must be found to "secure economic, social and cultural rights for the most deprived and to ensure participation in decision-making". The

relationship between participation and the realisation of the human rights of poor people is made most explicit in the UN Declaration on the Right to Development:

> "it is essential for states to foster participation by the poorest people in the decision-making process by the community in which they live, the promotion of human rights and efforts to combat extreme poverty" (cited in Gaventa 2002: 2).

The two-pronged approach to rights realisation is clearly crucial, expressed by Wheeler and Pettit (2005: 9) as "requir[ing] attention to both sides of the equation – from claims for rights by citizens to the obligation and duties of the state to uphold those rights". While the obligation/duty side involves "institutions which are able to respond to rights claims", the invoking of rights requires "citizens and social organisations that engage with these institutions" (ibid.). It is further stated that, "When these two sides of the equation can come together the potential for change that benefits poor and marginalised groups is more likely to be realised" (ibid.: 10). And here the convergence not only with democratic politics but potentially with decentralisation becomes apparent. Benefits of decentralisation are assumed to include the enhancement of political participation at the local level, with local government more responsive to, and more easily held accountable to, citizens' expressed needs. Thus, decentralisation entails opportunities to bring together the two sides of the equation and for basic rights to be secured by poor communities. Such opportunities are investigated in the case-study of Ghana. Preceding this, however, a brief introduction to the rise of decentralisation in development discourse is given.

2.2 The rise and rise of decentralisation

Decentralisation has a slightly longer history in development discourse than a rights-based approach, with its rise traced back to the 1980s. Decentralisation is defined as "any act in which a central government formally cedes powers to actors and institutions at lower levels in a political-administrative and territorial hierarchy" (Ribot 2001: v., citing Mawhood 1983 and Smith 1985). Three forms of decentralisation are commonly identified: administrative decentralisation or deconcentration; fiscal decentralisation; democratic decentralisation or devolution (Manor 1995: 81-2). This paper is only

concerned with devolution, i.e. the transfer of powers and resources to sub-national authorities which are "(a) largely or wholly independent of the central government and (b) democratically elected" (ibid.). In contemporary development discourse, there is a striking consensus on decentralisation as desirable *per se*, with support from both left and right of the political spectrum. For the left, interested in deepening democratic processes, decentralisation offers the potential for enhanced political participation and greater popular control over decision-making at local level. For the neo-liberal right, decentralisation is supported as a further dilution of the powers of the central state. A consequence of this consensus is that, since the late 1980s, decentralisation has become an increasingly widespread and significant dimension of political and administrative reform throughout Africa, Asia and Latin America. Indeed, in West Africa, for instance, it is difficult to find a country that does *not* currently have a decentralisation programme. The bilateral and multilateral development agencies (the 'donors') are key proponents of decentralisation, often as part of their democracy assistance programmes.

As discussed above, advocates claim that decentralisation has a number of benefits, including positive outcomes in both democratic and developmental terms. It is presumed that democracy is deepened by the extension of political representation to the local level, with the opportunity for enhanced political participation. Relatedly, it is assumed that benefits in socio-economic development will accrue through local government being more responsive to local needs in the delivery of public services. Such benefits, however, depend on *genuine* devolution which involves "entrust[ing] downwardly *accountable* representative *actors* with significant domains of discretionary *power*" (Ribot 2001: 3, emphasis in original).

In investigating whether decentralisation is positively linked to the securing of rights by the poor, this paper examines evidence from fieldwork in Ghana. The case-study follows in the next two main sections. First, the system of decentralisation in Ghana is outlined, including its constitutional basis, the powers and functions of local government and the role of sub-district structures. Second, the empirical findings are discussed, focusing on the opportunities and constraints on securing rights that decentralisation has afforded.

3. Decentralisation in Ghana

3.1 Decentralised local government

Ghana provides a useful case-study of the potential of decentralisation in realising rights, given that decentralisation is relatively well established and that the principle of popular participation is clearly stated in constitutional and other legal provisions. Ghana's current programme of decentralisation was initiated prior to the national democratic transition in the early 1990s. With the introduction of the *Local Government Law* (PNDC Law 207) in 1988, the (by then) quasi-military Provisional National Defence Council (PNDC) government under Jerry Rawlings established a new local government system in which the District Assembly (DA) became the key institution in 110 newly designated districts within Ghana's ten regions.[1] Districts are relatively small units, with a minimum population of 75,000. The two districts examined in this study had populations of 148,000 and 187,000 respectively.[2] Thus the decision was taken to eschew decentralisation to Ghana's ten regions in favour of a more thorough-going decentralisation process to the much smaller district units. The stated aim of the 1988 *Local Government Law* was "to promote popular participation and ownership of the machinery of government… by devolving power, competence and resource/means to the district level" (cited in Map Consult 2002: 35).

The District Assembly (DA) is the key deliberative and legislative body. Membership is composed of two-thirds elected members and one-third appointed by the President. DA elections are non-partisan in nature, with individual candidates elected in single member constituencies on a 'first past the post' basis. District elections were held initially in 1988/89 and subsequently every four years in 1994, 1998, and 2002. In the two districts examined, there were 42 and 48 electoral areas respectively, with average populations of approximately 3500 and 3900. Thus elected DA members represent relatively small constituencies, with opportunities for effective representation of the needs of their

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[1] The 110 District Assemblies are actually divided into three types. Those in the major cities and towns are called 'Metropolitan Assemblies' (three in number) and 'Municipal Assemblies' (four in number), where districts have a population over 250,000 or over 95,000 respectively. The other 103 'District Assemblies' cater for the less densely populated areas. In July 2004, a further 28 Districts were created through the sub-division of larger ones, creating a total of 138 Districts.

constituents. One aspect of retained central government control, however, is the appointment of a District Chief Executive (DCE) by the President who functions as the head of both the legislative and executive arms of the District level government, i.e. the Assembly and the central administration.

The 1992 Constitution, which marked the transition to multi-party democracy at the national level, endorsed and consolidated the 1988 reforms, with few substantial changes. The objective of decentralisation was laid out unambiguously, stating that:

> "Local government and administration … shall … be decentralized" (Article 240[1]), and that "functions, powers, responsibilities and resources should be transferred from the Central Government to local government units" (Article 240[2]).

The Constitution confirmed the DA as "the highest political authority in the district, [Article 241(3)], with the principles of participation in local government and downward accountability to the populace emphasised by the statement that:

> "To ensure the accountability of local government authorities, people in particular local government areas shall, as far as practicable, be afforded the opportunity to participate effectively in their governance" Article 240[2][e].

Indeed, the democratic intent in the decentralisation provisions is made explicit in the Constitution which states that the:

> "State shall take appropriate measures *to make democracy a reality* by decentralizing the administrative and financial machinery of government to the regions and districts and by affording all possible opportunities to the people to participate in decision-making at every level of national life and in government" (Article 35[6][d]) (emphasis added).

Such apparent democratic intent is somewhat contradicted, however, by the retention of presidential powers of appointment, including that of the District Chief Executive (Article 243[1]).

[2] The larger district was one of those divided into two (North and South) in July 2004, with the smaller new district barely having a population of 75,000.

The constitutional provisions also entailed a strengthening of the financial situation of local government, stating that DAs should be allocated "not less than five per cent of the total revenues of Ghana" [Article 252(2)].

In terms of administrative reform, there is a clear intent to move away from a deconcentrated national civil service to the establishment of a local government service with the provision that:

> "as far as practicable, the persons in the service of the local government shall be subject to effective control of local authorities" (Article 240[2][d]).

However, the Local Government Service Act, required to place the deconcentrated central government ministries, departments and agencies (MDAs) that operate at district level under the authority of the District Assembly, was finally passed in 2004, but still remains to be implemented. Clearly this restricts the autonomous powers and responsibilities of the District Assembly.

3.2 Powers and Functions of District Assemblies

At first sight, the powers and functions of DAs appear greater than they are in reality. In theory, DAs are accorded wide-ranging *powers* by the 1992 Constitution and the Local Government Act of 1993. Within its designated geographical area each District Assembly is the: highest political and administrative authority; planning authority; development authority; budgeting authority; and rating authority (Ayee 2003: 27). The broad *functions* of the District Assembly are outlined in the Local Government Act of 1993 and include "deliberative, legislative and executive functions" [Article 10 (2)]. In particular the District Assembly is "responsible for the overall development of the district" and required to formulate and implement a medium term development plan (usually five years) and budget, both subject to approval by central government [Article 10 (3)]. The District Assembly also has an overall responsibility to "co-ordinate , integrate and harmonize" the activities of all development agencies in the District inclusive of central government ministries, departments and agencies (MDAs) and non-government organisations [Article 10 (5)]. Somewhat confusingly, these broad functions were given prior specificity in the Legislative Instruments (LI) that created each District Assembly

following PNDC Law 207 in 1988. The LIs outlined 86 specific functions of District Assemblies. These cover the whole range of public services, including matters of public health, roads, education, water and sanitation, electricity, agriculture and so forth. At face value, such an extensive list entails huge powers and responsibilities for the delivery of those public services that cover basic economic and social rights. Yet this would be quite overwhelming for relatively new and poorly resourced institutions, and these functions are often not the sole responsibility of the District Assembly, with many services also provided by central government MDAs, for example, the Ghana Education Service, the Ghana Health Service, the Community Water and Sanitation Agency, the Ministry of Agriculture, and so forth, all of which have district level offices.[3] In their respective sector, all these central government MDAs are the primary responsible body, but often with the District Assembly having some involvement. The DA may undertake a particular task, for example, the provision of relatively small-scale infrastructure in the education and health sectors (school classrooms, rural health centres), or be charged with a co-ordination and supervision role, for instance in the provision of water supply. Devolved functions, where full authority and responsibility resides in the hands of the District Assembly, are limited to less significant public services, for example, the construction and maintenance of feeder roads and the provision of public facilities such as parks, cemeteries and crematoria (Ayee 2003: 27). Here District Assemblies have significant powers, including legislative powers to make bye-laws, revenue-raising powers, and decision-making powers. Yet, even in these limited areas, such devolution of authority often remains constrained by central government oversight, for example, the need for approval of bye-laws by the Minister of Local Government.

3.3 Sub-District structures

Two tiers of sub-district structures are very relevant regarding the ability of grassroots communities to make claims on local government. Firstly, there are over 1300 Urban, Zonal and Town/Area Councils throughout Ghana, with the given name dependent on the

[3] Ayee (2003: 27) sensibly suggests that the Legislative Instruments need to be reviewed and modifications made to District Assembly functions vis-à-vis other similar service providing institutions.

size and nature of the settlement.[4] In rural areas these are called Town and Area Councils, the latter covering rural settlements. In the two districts examined, the 42 and 48 electoral areas were grouped into ten and twelve Town and Area Councils respectively. The Councils are comprised of up to 20 members, mainly representatives from institutions above and below the Town/Area Council level, that is all District Assembly members (approximately four) and ten Unit Committee members (see below), plus five central government appointees, selected by the District Chief Executive.[5] In 1999, the former National Democratic Congress (NDC) government determined that each Area Council should have three salaried (part-time) staff – an administrative officer (i.e. the Area Council Secretary), a typist and an accountant. One main role of Area Councils is to act as a local revenue collector on behalf of the District Assembly, with 50% of revenue collected to be retained for its own local development activities, [stated in law, but where??]. Secondly, there are over 16,000 Unit Committees (UCs) throughout Ghana, covering settlements of between 500-1000 people in rural areas and approximately 1500 in urban areas. These reach the remotest rural locations, providing a structured link from the grassroots to district-level government. They are partially elected bodies, with membership consisting of ten elected members and five government appointees, again selected by the DCE.[6] Elections were held in 1998 and in 2002. The Unit Committees are unique bodies, given their highly localised and elected nature. In each Unit, electorates are small, often as few as 250 registered voters, yet responsible for electing a large number (ten) of local representatives. In theory, the sub-district structures, especially the Unit Committees, provide structured mechanisms of representation, participation and accountability from village-level upwards.

3.4 Decision-making processes

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[4] Urban Councils represent settlements of over 15,000 people within the three metropolitan areas, while Zonal Councils represent settlements within the four Municipal Assemblies. In the rural areas, Town Councils represent small towns with populations between 5000 and 15000, while Area Councils represent settlements / villages grouped together with an overall population of less than 5000.

[5] The DCE's selection is formally on behalf of the President and nominally in consultation with the Presiding Member of the District Assembly, traditional authorities and economic interest groups (Ayee 2000: 17).

[6] The same nominal consultation process applies at Unit Committee level.

Decisions on district affairs are formally taken at quarterly meetings of the full District Assembly, termed the General Assembly. In-between times district matters are discussed at monthly Executive Committee (EXECO) meetings and at the series of Assembly sub-committee meetings, with recommendations put forward to the General Assembly. Interest here focuses on two aspects of decision-making that involve grassroots participation. One is the formulation of the District Assembly's medium-term development plan, roughly every five years. The other is the ongoing process of policy inputs from community to district level through the sub-district structures. Both processes entail the potential for rights-holders to express their particular needs and to claim the core economic and social rights that are so badly lacking in rural communities in Ghana.

Participatory development planning?

In principle, a District's medium term development plan (DMTDP) is formulated through a participatory process. Government of Ghana guidelines say that "the process of DMTDP preparation is driven by public participation" (NDPC June 2002: 15). The planning process is organised by the small planning team within the District administration, the District Planning Co-ordinating Unit (DPCU). It is their task to facilitate a participatory process that involves a range of stakeholders in identifying the priority needs of the district for public goods and services, inclusive of basic rights. Recommended stages are as follows.

1. A 2-3 day Situational Analysis Workshop attended by Assembly members, Area Council and Unit Committee members, heads of decentralised departments, traditional authorities and other opinion leaders, community-based organisations and professional associations (e.g. market stall holders), with representatives from the National Development Planning Commission (NDPC) and the Regional Co-ordinating Council (RCC). There could be up to 50 participants in a large big District. The workshop:
    - examines the present situation of the District;
    - undertakes a SWOT analysis of development goals and objectives;
    - undertakes small group work on different sectors, e.g. education, health, agriculture, water/sanitation;
    - discusses presentations from each of these groups on the problems faced and how these can be addressed, i.e. what interventions are needed.

2. A draft MTDP is written by the DPCU, based on the results of the workshop, followed by a stage of further consultation and discussion in the following fora:

- District Assembly development planning sub-committee
- Executive committee
- Public hearings in 3-5 zones of the District depending on size.

3. Following any amendments arising from the above consultation process, the final draft of the MTDP goes to a full District Assembly meeting for approval. It is then forwarded to the RCC for approval and harmonisation into Regional Medium Term Development Plan. Finally the regional plan is submitted to NDPC who integrate it into the national development plan, which goes forward to the Ministry of Finance and the Ministry for Local Government and Rural Development.[7]

Formally there are opportunities for direct input from grassroots communities at the Situational Analysis Workshop and at the public hearings, and indirect input through representation to their Assembly member. The former depends on invitation to what remains a relatively elite group at district level, while the latter depends on the public hearings taking place and being accessible to rural communities. Therefore to what extent has this participatory planning process been implemented in practice and to what extent has it resulted in development plans focused on rights realisation? These questions are addressed in the next main section.

Invoking rights from the grassroots?

Community input into ongoing district decision-making processes, including claims to basic rights, is through the sub-district structures. In theory these provide a bottom-up process from village-level upwards to the District Assembly, and where appropriate, to regional and national authorities. Unit Committees are charged with consulting their communities through holding community meetings that identify local needs. These are then forwarded to the Area Council, which includes these in its budget, which is submitted in turn to the District Assembly. Alternatively, the Unit Committee can forward its demands directly to the District Assembly. Ideally the local Assembly member is involved in the village-level meeting and thus able to facilitate the transmission of needs or demands to the Assembly. The General Assembly decides on whether to fund a particular need and this decision is communicated back to the community through the Unit Committee and / or Assembly member. The District Assembly may require a community contribution to the project either as labour or in

counterpart funds, which the Unit Committee would be required to organise. Again, the extent to which sub-district structures and local level representation has resulted in rights being claimed and local government held to account is examined in the ensuing section.

4. Securing rights through decentralisation?

4.1 Poverty profiles and a rights deficit

Fieldwork was undertaken in two rural districts, one each in the Ashanti and Brong-Ahafo regions of Ghana. Although not in the poorest regions in Ghana, both districts were characterised by rural poverty, a lack of basic amenities and a deficit of core economic and social rights. Fortunately food security is less problematic in these regions due to the fertility of the soil and sub-tropical climate, with relatively good agricultural productivity. Within each district, four communities were chosen on the basis of relative deprivation, with one community selected from the four categories of 'most developed', 'developed', 'deprived' and 'most deprived'.[8] The two district capitals comprised the 'most developed' category, both small towns with a population of less than 10,000. The other three categories comprised settlements whose deprivation increased as access to trunk roads and size of population decreased. All communities had a primary school, though school infrastructure was often very basic. Only the district capitals had a senior secondary school, while other settlements had a junior secondary school, except the two 'most deprived'. Both districts had a small hospital based in the district capital, serving 148,000 and 187,000 people, but only staffed by one and two doctors respectively. Lack of access to health care was a key issue, with no health facilities at all in three communities, with the nearest health post entailing a 15 km journey in one instance. Other communities had part-time rural health posts.

Lack of access to potable water and toilet facilities was a major problem. Only the district capitals had piped water to a public tap. All rural communities relied on boreholes, though there was a consistent pattern of breakdown and lack of repair. In only two out of six settlements were all boreholes functioning. In one 'most deprived' community, its

[7] Interview with NDPC official, 3 April 2004.
[8] In the context of rural Ghana, the term 'developed' is used as a relative concept.

sole borehole was broken, with villagers reverting to a stream for water supply. In three other communities, borehole disrepair meant that villagers were forced to fetch contaminated water from streams at some distance from their settlement. An increase in water-borne diseases was the inevitable consequence. In two communities, two boreholes had been broken for two years and four years respectively. In one case it was stated that the Unit Committee had contacted the District Assembly, but no help had been provided. The lack of toilet and sewage disposal facilities was acute in all settlements. The village communities were dependent on one or at most two public toilets, mostly pit latrines, rather than the more modern KVIP. One consequence of morning and evening queues and a cultural uneasiness about women and men sharing such facilities was that men often went 'free range' in the bush, with consequences for the spread of diseases. One settlement of 2000 people had only one pit latrine for the whole community. The four most remote communities had no electricity, while a majority of homes were connected to the national grid in the other four, though subject to regular power cuts.

Expressed needs and core economic and social rights

From household questionnaires, the five most frequently expressed needs were for water, toilets, schools, roads and health facilities (insert Figure 1 here – bar charts 2a & 2b). These focus firmly on core economic and social rights. Most fundamentally, the need for a safe water supply is basic to the 'right to life' proclaimed at the outset of the Universal Declaration of Human Rights (Article 3). The demands for potable water and toilet facilities also relate to 'the right of everyone to health', including disease prevention (Article 12 ICESCR), with the demand for health facilities closely connected in terms of the prevention and treatment of disease. The need for improvements in both the quantity and quality of schools relates to 'the right of everyone to education', notably for free primary and secondary education to be 'available and accessible to all' (Article 13 ICESCR). The demand for road construction and improvement pertains to the key economic need of agricultural communities to transport produce to local markets, closely related to the right to work and to gain one's living by work ((Article 6 ICESCR).

The lack of basic rights was confirmed by the focus groups held in each of the eight locations. In responding to the question ‘What are the most important needs of this community?’, the need for better health and education facilities was highlighted by six of the eight communities, with water and public toilets prioritised by five. Additionally electricity was a priority for those communities that had none, while the need for improved job opportunities and micro-credit were emphasised in both small towns.

4.2 Claiming rights

Decentralisation in Ghana has introduced structured mechanisms of political representation and participation from village to district level and beyond, as discussed above. Three channels are discussed here. Two are representative mechanisms, through the Assembly member and through the sub-District structures of Unit Committees and Area Councils, though the community-based nature of Unit Committees entails considerable opportunities for political participation by community activists. These two representative mechanisms allow ongoing input into district policy-making processes, while the third channel entails participation every five years in the formulation of the district ‘medium term development plan’. How effective are such channels for the claiming of rights from the local state?

Findings were not encouraging. Assembly members are generally not fulfilling their responsibilities as constituency representatives. Most seriously, the sub-district structures were in a state of collapse, only a relatively short time after their establishment. The development planning process has been less participatory in practice than outlined in principle. The poor representation and participation of women is a particularly acute issue, with findings here confirming Ayee’s (2000: 34) observation that “the dominance of men in the work of the DAs is overwhelming”. Evidence from household questionnaires, focus groups and key informant interviews is discussed below in three sub-sections on claiming rights: through Assembly members; through sub-district structures; and through participatory planning processes.

Through Assembly members

The representative role of the Assembly members is outlined in the Local Government Act. Specifically Assembly members are required to:

- "meet their electorate before each meeting of the DA";
- "consult their people on issues to be discussed in the DA and collate their views, opinions and proposals";
- "report to their electorate the general decisions of the District Assembly and its Executive Committee and the actions that they had taken to solve problems raised by residents in their electoral area"

  (Republic of Ghana 1993, cited in Ayee 2003: 32)

Findings from household questionnaires and focus groups indicated that such legal duties were not being met, with the practice of holding constituency meetings being variable at best. Since the 2002 elections, occasional meetings had been held in four communities, while no meetings had been called by the Assembly member in the other four. Perhaps surprisingly, meetings had occurred more frequently in the most rural and poorest communities than in the District capitals and more accessible communities. In some focus groups, at which the Assembly member was often present (and always invited), animated discussion resulted from the question concerning the frequency with which the Assembly member called community meetings, inclusive of some defensive responses from Assembly members. At one focus group, for instance, it was stated that Assembly members are 'letting down the people by not meeting with them', with the same accusation being levelled at chiefs. One noticeable pattern, especially where community meetings were not held, was for Assembly members to state that they consulted key 'opinion leaders', such as chiefs and Unit Committee chairs, rather than the whole community. Best practice was where community meetings were held two or three times a year, summoned by the blowing of the *gong-gong* and attendance by a large proportion of the community, including women. This occurred only in a minority of cases, however, and the overall findings suggest limited opportunities for making claims on rights by communities through their Assembly representative. Additionally, where more regular meetings did occur, outcomes in one case were described as 'not positive', given that the

community's needs for a new school classroom, expressed to the Assembly member, had not subsequently been responded to by the District Assembly.

This variable picture is largely confirmed by household questionnaire responses in the same eight communities. Almost all respondents were aware of the identity of their Assembly member, one hundred per cent in one District and 96.25% in the other, indicating a high level of awareness of local politicians and political processes. While forty per cent thought that their Assembly member had called no meetings, almost fifty per cent of respondents had attended at least one such meeting. This confirms that meetings had not happened in half the locations, yet, where they had, that community interest had been considerable.[9]

Despite this evidence of the common failure of Assembly members to gather the views and expressed needs of their constituents, their representative role continued to be regarded as important, perceived as the main channel through which communities could have input into decision-making processes. Six of the eight focus groups emphasised that their claims made on government bodies, including the District Assembly, had been directed through the Assembly member. It was also noted that any direct request made to the District Chief Executive or District Co-ordinating Director would in fact be referred back to the Assembly member, as this was the official channel for bringing community issues to the District Assembly's attention. Such demands could vary from relatively small-scale requests, for example, for roofing sheets for a primary school, to more general grievances about the standard of education. The Assembly member is responsible for contacting the relevant government body, either the District Assembly or a deconcentrated government department like the Ghana Education Service. One complaint was that the Assembly member did not always provide feedback to constituents on the outcome of such representation. The Area Council secretary was also mentioned in the focus groups as able to make representation on a community's behalf to the Assembly

[9] Such findings contrast with the claims of some Assembly members that attendance at past meetings had been low or that communities were not interested, generally given as a defensive response to why they had not called meetings of constituents despite the constitutional requirement.

member or to government bodies. However, the parlous state of the Area Councils, (see below), reduces the likely effectiveness of such a channel.

The importance of the representative role of the Assembly member is confirmed by the household questionnaire responses. When asked whether they had *communicated their views to, or sought assistance from a list of ten public figures,* respondents most commonly cited Assembly members (26 per cent of instances), compared with the MP (16%), religious leaders (12%) and chiefs (11%). Area Council and Unit Committee members were also contacted in 14% of instances.

Of the eight communities studied, only one was represented by an elected Assembly woman. This was fairly typical. In one District, out of 69 Assembly members, 48 elected and 21 appointed, only nine were women, four elected and five appointed. In the other District, out of 58 Assembly members, 42 elected and 16 appointed, only seven were women, one elected and six appointed. As regards representation of women's interests, this picture is more unsatisfactory in so far as the appointed members do not have a representative constituency role.

Through Unit Committees and Area Councils

The role of the Unit Committees and Area Councils is perceived as a bottom-up mechanism linking all communities, including the remotest rural villages, to district-level government, and beyond that to regional and national government. It is a unique democratic body which, in principle, can facilitate the formulation of demands at grassroots level and articulate these upwards.

The national system of 16,000 Unit Committees was reconstituted at the 2002 elections. In both districts examined, 37 out of 40 respondents to the household questionnaire had voted in the October 2002 Unit Committees elections, that is a voter turn out of 92.5% in both districts if such voting patterns were replicated throughout the district. This indicates a high level of enthusiasm for such community-based democratic bodies. Yet subsequently the Unit Committees have largely collapsed. Less than two years later, of

the 22 Unit Committees in the eight communities examined, only nine remained active, with the functioning of some now dependent on a small number of activists. The other fourteen, while existing on paper, had ceased to function. The main reason given was the complete absence of any funding provided by the respective District Assemblies. In particular, an unmet expectation that Unit Committee members would be paid a sitting (attendance) allowance had resulted in Unit Committees becoming inactive. Interestingly, Unit Committees remained more active in poorer communities, and less so in the relatively less deprived. However, in the remoter and more deprived communities, Unit Committees were valued most for their role in organising self-help development activities and in local dispute resolution, rather than valued for an advocacy role in articulating community demands to the relevant authorities. The self-help role mostly entailed the organisation of communal labour in community activities such as repairs to school buildings, the cleaning of public toilets, clearing bush, filling potholes in roads and so forth. In one particularly deprived community, however, the Unit Committee was said to have played an advocacy role in bringing issues of water, education and health to the attention of the District Assembly through the Assembly member.

In terms of community representation and participation, one inadequacy again concerns the lack of female Unit Committee members. In common with all District and sub-District structures, the Unit Committees are overwhelmingly male. Of those functioning Unit Committees, female membership varied from zero out of fifteen to a maximum of three in one instance.

Therefore the main finding was dispiriting: the majority of the Unit Committees had ceased to function. As a community-level base for the articulation of needs and demands upward to state duty-bearers responsible for rights delivery, the Unit Committee was virtually dysfunctional. Where Unit Committees remained active, it was mainly in a self-help role, relatively detached from the local state. Rather than claiming rights from the state, a self-help ethos was more predominate, perhaps borne out of despondency or resignation that even a district level government could not be relied on to respond positively to the community's needs.

Turning to the Area Councils, the picture here is as bad if not worse. Evidence from the focus group discussions indicated that Area Councils were functioning in only two of the eight communities, with limited activity by a few Councillors in another two. The other four were said to exist on paper only, but had ceased to function. For example, one Area Council had been inaugurated in September 2002 after the district-level elections, but had met only once since then. Another was said *not* to have met in two and a half years. Of the two Town Councils (in the district capitals), one was not functional at all, with the Secretary having 'stopped working' due to non-payment of salary since February 2004. The other Town Council was described as 'hardly meeting' with only three active Councillors. Its main activity was to meet with chiefs and its role was perceived as a top-down conduit of information from district level to local communities via traditional leaders. Thus, in this instance the intended linkage from Area / Town Councils to Unit Committees had broken down, with reversion to communication with communities through traditional authorities. Therefore any sense of the Area Councils as an intermediary between Unit Committees and the District Assembly, including as a conduit for bottom-up demands and proposals, seems to have evaporated. Where functioning, the District Assembly perceives them as operating on their behalf, notably in revenue collection, that is top-down but not bottom-up. Most depressing was the view, expressed in one focus group, that Area Councils are 'virtually redundant' and that they have 'hardly functioned since their establishment ten years ago'.

A district official identified the cause of the breakdown as financial. National government had decreed that the District Assembly should pay the three (part-time) Area Council staff, but, according to the official, this has been difficult, and salaries have often not been paid.[10] Consequently Area Council staff have stopped working and in turn the Councils themselves have ceased to function. The same problem of the lack of financial input from the District Assemblies affects the Councillors, with no transport or attendance allowances received, thereby discouraging the holding of meetings. Additionally Area Councils were not receiving any funds with which to initiate their own

[10] Interview with District Co-ordinating Director, District II, 14 June 2004.

development projects, thereby undermining their legitimacy. This dearth of financial resources was despite the fact that Area Councils had acted at times as a local revenue collector on behalf of the District Assembly, and by law should have retained 50% of revenue. Again the representation of women at Area Council level is very inadequate, with female councillors in functioning Area Councils ranging from zero to three out of twenty.

Thus the sub-district structures are not working in terms of facilitating popular participation. On paper, decision-making processes should start from Unit Committee upwards to Area Council to District Assembly, with decision-making and implementation at District Assembly level reported back to Area Council and to Unit Committee. In practice, the sub-district structures are hardly functioning, virtually collapsed in some communities. This is mainly due to a lack of financial resourcing, indicating that neither local nor central government is serious about the sub-district structures.

Participatory planning

Both Districts had produced two ‘medium term development plans’ as required by central government (1996-2000) and (2002-04). In both cases, the first was undertaken by consultants due to a national lack of planning officers, while the second was prepared by the district planning and budget officers, constituting the core members of the DPCU. In one District, there was no participatory input into the draft plan, though it is claimed that subsequently a series of public forums were held, with public hearings at 12 Area Councils, then a district-wide hearing at the Assembly. This was a consultation exercise only with the DPCU making a presentation on the draft plan and welcoming comments. However, there was no documentation to back up this claim, as required as an appendix of the final plan. There was more evidence of a limited degree of participatory input in the second District examined. It is stated that Assembly members were all charged to have meetings in their Electoral Areas and then feed in community needs at Area Council level, with each of the ten Area Councils then preparing a submission to the DPCU. Additionally, a stakeholders’ workshop was held at District-level where the needs distilled from Area Council submissions were prioritised. Invitees here included district

and sub-district personnel (Assembly members, Area Council chairs, Unit Committee members), as well as traditional authorities and local NGOs and CBOs (for instance organised groups like transport unions and hairdressers). The draft MTDP was then written up and presented to a single public hearing held in the district capital and attended by 205 people. Despite more evidence in the second District of opportunities for local communities to make inputs into the district development plan, the practice has not lived up to the participatory processes outlined in the Constitution ('making democracy a reality') or in the government guidelines.

5. Conclusion

The benefits of decentralisation are perceived by its advocates as including the enhancement of political participation by local civil society actors and the provision of local government that is more responsive and accountable to citizens' and their needs. Therefore, in theory, decentralisation provides a synergistic context in which to implement the 'two-pronged strategy' of a rights-based approach at the local level, that is, empowering rights-holders (local civil society) to invoke their rights and strengthening duty-bearers (local state institutions) to fulfil their objectives (Ljungman 2004: 7). Has this happened in practice? As was posed at the outset, has democratic decentralisation facilitated the securing of basic rights in poor communities? The case-study evidence indicates that such positive linkages are certainly not automatic and, indeed, have not occurred in Ghana. Although the manifestation of civil and political rights, such as the freedoms of association, assembly and expression, is inherent in the decentralised structures and processes evident in Ghana, this has not led to greater realisation of core economic and social rights.

Therefore, why not, and what lessons can be learned from the Ghana case? Two main reasons are outlined to explain the lack of positive interactions between decentralisation and rights realisation in this instance. These relate to shortcomings in implementing both sides of the two-pronged strategy: empowering rights-holders and strengthening duty-bearers, and are discussed in turn.

First, as regards empowering rights-holders, constituency representation by Assembly members and the sub-district structures provide a framework, at least in theory, by which rights claims can be framed at grassroots level and transmitted upwards to district-level authorities. In responses to focus group questions and in household questionnaires, local communities continued to use the language of needs rather than rights, but nevertheless their claims corresponded to core economic and social rights. However, the relative collapse of these very structures of political representation and participation meant that local communities, as rights-holders, were less able to invoke their rights with local government. In allocating responsibility for this collapse, state authorities can be identified as culpable, both nationally and locally. Although government effort had gone into the electoral process and to ensuring that the different levels of local political institutions were properly constituted, subsequently there has been little attempt by government, either at national or local level, to make the sub-district structures work or to ensure that Assembly members fulfil their representative role. The financial neglect of sub-district structures is the most serious indictment. Indeed, District Assemblies have shown a disregard for the participatory dimension of sub-district structures, at best perceiving their function in a downward not upward direction, that is, as implementing agencies for their own policies. Legal responsibilities have often been relatively ignored by office holders, for instance the duties of Assembly members to consult their constituents on a regular basis and the obligations of District Assemblies to apportion revenue collected by Area Councils. Thus, although channels of representation and participation exist on paper, the local state has shown little enthusiasm for strengthening these mechanisms that would both facilitate rights claims and induce local government to be more accountable to local citizens' demands. The weakness identified here, and a lesson to be learnt, is that the 'democratic spaces' opened up by decentralisation is essentially an 'invited space' (Cornwall 2004), one provided by the state itself. Therefore, despite the legal provisions in this instance, it is a space that can also be neglected, limited and even closed down, either by intent or by default, as would seem to be the case here. One advantage, however, of the 'invited space' provided by decentralisation is that its legal status should ensure its re-constitution through subsequent elections. Therefore a more effective realisation of rights may be possible where local groups struggle to keep

open those ‘invited spaces’ provided by democratic decentralisation. This is not a straightforward task, especially in poor, resource starved communities, as the case-study has demonstrated. It may be more possible in contexts where such ‘invited spaces’ are entered into by individuals and groups that have previously organised themselves in ‘popular’ or ‘conquered spaces’ where demands have already been framed, arguments developed and alliances made (Cornwall 2004: 6).

Second, in terms of duty-bearers fulfilling their obligations, to what extent has decentralisation led to local state institutions that are more able to respond to rights claims? The degree to which decentralisation is democratic is crucial here, with the potential for positive linkages dependent on local government institutions being relatively autonomous and downwardly accountable. Yet shortcomings in both these respects are evident in Ghana’s decentralisation project as a whole.

Limitations on downward accountability to sub-district levels were discussed immediately above. These are compounded by other democratic deficits, notably the system of presidential appointments, inclusive of a significant proportion of Assembly members and the District Chief Executive, the most powerful individual at district level. The appointment system encourages upward accountability, given that appointees owe their position and their allegiance to central government, rather than downward accountability to the local electorate. Clearly this is a mechanism for limiting local government autonomy and maintaining central government influence.

The autonomy of local state institutions to respond to rights claims is further constrained by limitations on its powers and functions. It was noted that District Assemblies’ ‘domains of discretionary power’ are limited, with devolved powers only in less important areas of public service provision. Although it appears that District Assemblies have extensive responsibilities in a wide range of sectors, in most cases powers and functions overlap with central government agencies, who generally remain the primary responsible body. This is certainly true in the key areas of rights realisation that corresponded with community expressed needs, that is the domains of water, sanitation,

health and education. In all these areas, though especially health and education, District Assembly involvement remains relatively marginal compared with the activities of deconcentrated MDAs, despite the DA's overall co-ordination responsibility.

In addition, a further key restriction on the ability of District Assemblies in Ghana to respond to rights claims stems from financial constraints. The minimum allocation of five per cent of total revenue is insufficient for local state institutions to have a significant impact on local poverty and the realisation of core economic and social rights. Central government would appear to be more willing to divest itself of its responsibilities than its resources.

Thus, lessons to be learnt here focus on issues of democratisation. The effectiveness of local state institutions as duty-bearers is dependent on the degree of genuine devolution, that is, where 'downwardly accountable representative actors are entrusted with significant domains of discretionary power' (Ribot 2001: 3). Without such autonomous powers, along with a corresponding resource base, local state institutions will remain largely under central control, and/or cash-starved, and therefore relatively limited in what they can achieve. Thus, a key issue pertains to the democratic character of decentralisation and lessons concern a lessening of central government controls. In the Ghana case, the abolition of presidential appointments and their replacement by a fully elected local government, including the post of District Chief Executive, would be an important starting point.

Yet, if rights are to be realised, attention to both sides of the equation is required (Wheeler and Pettit 2005: 9). The strengthening of devolved local government as duty bearers needs to be combined with greater popular control of government through strengthening the mechanisms of political participation and accountability, i.e. 'empowering rights-holders'.

Finally, what general conclusions can be drawn concerning the linkages between decentralisation and a rights-based approach? What degree of convergence and possible

synergy is there between these two discourses and development agendas? Securing rights is more commonly associated with the implementation of international norms through national political processes. This paper has attempted to show the relevance of local politics for rights realisation. It has argued that decentralisation can provide a favourable context for securing rights through enhanced opportunities for invoking rights at local level through more easily accessible mechanisms of political participation and representation and through local governments being more open to local needs and demands. The local context also provides greater opportunities for rights-holders themselves, especially those from poor and marginalised communities, to claim rights, rather than remaining dependent on trustee organisations purporting to act on their behalf at national level. Thus, in theory at least, there is some convergence of agendas and decentralisation of government can potentially improve prospects for the implementation of both aspects of the two-pronged strategy, strengthening duty-bearers and empowering rights-holders. Yet, there are also many constraints in practice, as amply demonstrated by the case-study of Ghana. In this example, it could not be affirmed that democratic decentralisation has led to the securing of basic rights in poor communities, with shortcomings outlined.

It is concluded the domain of local politics remains a significant one for a rights-based approach. Yet the *potential* for a positive linkage is dependent on decentralisation being implemented in a manner that both increases the discretionary powers and financial resources available to democratic local government, while strengthening the mechanisms by which local people can make and secure their claims to socio-economic rights.

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