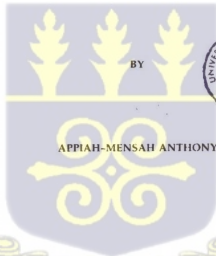


**THE ROLE OF CIVIL SOCIETY IN THE
DEMOCRATIZATION PROCESS IN GHANA:
A CASE STUDY OF THE GHANA BAR ASSOCIATION**



**A THESIS SUBMITTED TO THE INSTITUTE OF AFRICAN
STUDIES, UNIVERSITY OF GHANA, LEGON, IN PARTIAL
FULFILMENT OF THE REQUIREMENTS FOR THE AWARD
OF MASTER OF PHILOSOPHY DEGREE IN AFRICAN STUDIES**

NOVEMBER, 1997

DECLARATION

I hereby declare that this Thesis is the result of work done by myself between October 1994 and November 1996

Except for literature cited which served as sources of information, the work is in no way a reproduction in part or in whole, of any work presented for the award of a degree.


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Appiah-Mensah Anthony

DEDICATION

Dedicated to my dear wife Catherine and my daughter Melody Appiah-Mensah

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ABSTRACT

The aim of this study is to examine the role of the Ghana Bar Association in the democratization process in Ghana. A sample of 100 comprising 30 lawyers and 70 members of the general public were selected by purposive sampling from diverse occupational and professional backgrounds. It was made up of 69 males and 31 females. The interview schedule (questionnaires) was the method used to collect data from respondents. Additional data were gathered from documentary sources namely; the records of the Ghana Bar Association.

The results of the study revealed that in terms of the social background characteristics, occupation was diverse and males and youth dominated the sample. A great majority of respondents were married and the literacy level was very high. With respect to the importance of the legal profession it was found out that in the public's eye the profession is important because it deals with the law and the law affects everyone; that the nation cannot do without lawyers.

As far as the role of the GBA in the democratization process in Ghana is concerned it was discovered that the Association has contributed positively to the process since independence and continues to play a major role in varying degrees involving national development, freedom and justice, human rights, as well as democracy and constitutionalism in general.

Finally, the following problems were identified to have impeded the effective role of the Association. These include lack of commitment from

... government interference, lack of discipline among members, internal fragmentation of the Association, as well as anti-GBA sentiments from a large section of the public.

Among the recommendations made were that the GBA should have structural re-organisation involving the mode of membership induction, discipline, commitment and look for full-time personnel for both national and regional offices. It was also recommended that the General Legal Council should surrender its statutory powers over lawyers to the GBA to enable it bring order and discipline into the Association; that there should be a vigorous public education on legal matters. In addition, to these the GBA should work in close collaboration with the rest of civil society as it maximises the power of its presence, as representatives of civil society, on many state bodies.

The researcher is hopeful that if the recommendations offered here are adopted many of the problems associated with the GBA and other segments of civil society will be minimised, if not entirely eliminated.

LIST OF ACRONYMS

AFRC:	Armed Forces Revolutionary Council
ARPB:	Association of Recognised Professional Bodies
CPP:	Convention People's Party
ECA:	Economic Commission for Africa
GBA:	Ghana Bar Association
GCTUC:	Gold Coast Trades Union Congress
GIHOC:	Ghana Industrial Holding Corporation
GNP:	Gross National Product
ILO:	International Labour Organisation
IMF:	International Monetary Fund
MFJ	Movement for Freedom and Justice
NDC:	National Democratic Congress
NLC:	National Liberation Council
NLM:	National Liberation Movement
NRC:	National Redemption Council
NUGS:	National Union of Ghana Students
PDA:	Preventive Detention Act
PNDC:	Provisional National Defence Council
PNP:	People's National Party
PP:	Progress Party
SMC:	Supreme Military Council
TUC:	Trades Union Congress
UNPAAERD:	United Nations Programme of Action on African Economic Recovery
WASU:	West African Students Union

CHAPTER ONE

INTRODUCTION



1.1 Statement of the Problem

There is a growing interest in the structure, power and influence of civil society in the development and the democratization processes in Africa. It has been argued that the traditional weakness of civil society in Africa is behind failed economic policies¹. At independence it was assumed that only governments had the capacity and authority to mobilise internal and external resources for economic growth and development². It is, however, widely believed now that the African state is unable to mobilise the people, promote socio-economic development and contain the forces of instability and disintegration.³ The post-colonial era in Africa has witnessed a weak and fragmented civil society that can easily be trampled upon. This is evidenced by military domination in politics: entering and leaving the political arena at will. This is possible because there are no viable institutions to check the possibility of military takeovers⁴. Political elites become corrupt and waste national resources because of lack of accountability. After expanding their activities in all sectors of society, African governments become autocratic and oppressive, since civil society cannot provide strong countervailing forces to these governments.

Public institutions, like the the judiciary and the educational system, lose their legitimacy, effectiveness and efficiency. Factions and fractions of the elite manipulate particularistic interests, abandon political accommodation, and confront each other on the political front in a desperate struggle for power and political domination⁵. This has resulted

... the absence of law and order, leading to, in some cases, the collapse of the state, as evidenced in Somalia, Liberia, Chad, Sudan and Rwanda.

The last two decades have however, witnessed some slow but important changes in state-society relations and the revival of the dynamic role of civil society. Political parties and other civil organisations have emerged. Events in Eastern Europe and the virtual collapse of communism have further strengthened the struggle for democracy in Africa⁶. Many countries in Africa are pursuing Structural Adjustment Programmes. The effects of these programmes alone have been responsible for some of the wave of protests across the continent in the early part of the 1990s. Many governments have faced pressures for political changes, leading to the adoption of significant reform measures. Multi-party elections have been held in many African countries⁷.

But it is very obvious that irrespective of political parties, elections and ideologies, democracy may not survive without a mobilized, educated, empowered and strengthened civil society. It is generally agreed among scholars that a vibrant and a strongly institutionalized civil society is a very crucial factor at every stage of the democratization process⁸. The process of democratization in Africa clearly indicates that most political parties are urban in character, with a narrow base and lacking popular programmes. This definitely will not build nor sustain democracy in Africa⁹.

In many of these countries, the old political elites, whether civilian or military, were the initiators of the transitional programmes and have managed to retain themselves either as presidents or ministers of state. In Ghana, for example, the Provisional National Defence Council (PNDC)

... which had been in power for over a decade, was pressurised to initiate a programme of transition to multi-party democracy. The PNDC leadership, however, managed to retain power through the ballot box, under a new party named the National Democratic Congress (NDC).

The question that arises, then, is: what is the nature of civil society in Ghana and what role has it played in the country's democratization process? This thesis seeks to answer this question by looking at the contribution of civil society to the democratization process, with particular emphasis on the Ghana Bar Association (GBA) in the context and direction of politics in Ghana. To do this effectively the thesis highlights the changing nature of civil society in Ghana. It critically examines the development, structure, functions, achievements and problems of the GBA, as well as the dynamics of politics in Ghana. The GBA is one part of civil society that presents an interesting study as far as this thesis is concerned.

1.2 Background To The Study:

A historical overview of civil society in Africa shows that the struggle against colonial domination and exploitation involved a wide spectrum of African peoples. Workers, students, peasants, women, professionals, and fractions of the elite combined to confront the colonial political and military machinery. The elites mobilised the people by pointing at the inequalities, discrimination, spatial distortions, limited investments, and general backwardness of society. Comparisons were often drawn between the quality of life in Europe and the generally backward existential conditions of the colonial peoples. It was argued that the colonial rulers

... and were not elected by the people. Furthermore their commitment was to a foreign land; that they relied on violence, intimidation and manipulation. The only way they could raise funds to finance their goals was to impose excessive and unjust levies, taxes and fees.¹⁰ These arguments and more gave impetus to the anti-colonial movements, culminating in political independence from the late 1950s and the 1960s for most African states.

As soon as political independence was granted, African elites began to initiate complex methods to appropriate and rationalize the privileges, powers and institutions left behind by the departing colonial powers. They reneged on the promises of the nationalist struggle and began to see the people as a political problem. The repressive political machinery created by the colonial state was retained mostly intact and, in some cases, made more repressive. The bureaucracy which had played a major role in the domination and exploitation of the masses was not restructured or decentralised.¹¹ The picture was one of a general state of repression, manipulation, intimidation, harassment and the suffocation of civil society. Human rights were wantonly abused. Students, workers, and social critics were subjected to different kinds of harassment.

In most African countries, the one-party state allowed leaders to impose themselves on the people as presidents for life and to ban opposition parties. Scarce resources meant to confront the conditions of dependence and underdevelopment were diverted to defence and the personal security of presidents. Corruption, waste, and mismanagement became institutionalised as resources were looted and sent to foreign banks in Europe and other parts of the world.¹²

... concentrate power, resources and opportunities in the urban areas to the neglect of the rural majority. Having given up their alliance with the people, the political elites resorted to the manipulation of primordial loyalties such as ethnicity, regionalism, religion and personality in order to keep opposition divided and divert attention from their own failings. In some countries like Nigeria, politicians forged a strong alliance with traditional rulers and rushed to various villages in search of traditional titles.¹³

At the economic level, the unequal linkages developed since the 1940s were simply consolidated. Most African leaders were content to serve foreign economic interests as advisers, political consultants, major distributors, and so on. These positions carried very generous salaries and allowances. Such positions, however, gave them very limited power and circumscribed their ability to use state power in any fundamental way to regulate, control and displace foreign capital in the interest of the national economy.¹⁴

Public economic policy became susceptible to the direct control of foreign interests, or to manipulation by the agents of these foreign interests who controlled the state and its agencies. Thus, the elites remained incapable of using state power to effectively restructure control over the economy, attract serious investors and promote industrialization. They could also not generate employment, encourage the use of local resources in the production process, and use the location of industries to develop infrastructures.¹⁵

Since the 1960's, Africa has simply moved from one crisis to another. Politics became warfare, marked by conditions of instability, corruption,



... military disillusionment and violence. These have encouraged the military to hijack the political processes in the majority of African states. Democracy was thrown out of the political terrain in virtually all African states. In countries like Senegal, Kenya and Zambia, where the military had not terminated the incipient democratic processes, individuals, their protégés, or a clique of elites simply privatised the state.¹⁶ The general conditions of political and economic decay made African states vulnerable to dictates from outside the continent on political and economic matters.

By the late 1970s it had become obvious that African elites had not benefited much from their unequal alliance with the West. The relationship between some African states like Angola, Mozambique, and Ethiopia with the former Eastern Europe did not fare any better. While nations like South Korea, Taiwan, and the Philippines benefited from the cold war, there is not one nation in Africa that emerged as a Newly Industrializing Country (NIC) by the most liberal definition of that category. Wars and local conflicts that could have been resolved through simple negotiation at the level of the OAU were turned into international conflicts. The result of this was the dumping in Africa, of the latest guns on the world market, instead of the latest agricultural equipment. Because of assured support from both East and West, African leaders became more repressive, arrogant, corrupt and irresponsible. They refused to operate by rules - even their own rules - and refused to reach accommodation with popular groups, and the vast majority of the people. The North-South Roundtable noted in its review of the African economy in 1990 that:

Africa's economic and social performance during the 1980s was predominantly negative. This was manifested within Africa by severely depressed economic growth rates, stagnant agricultural production, deteriorating social services, and declines in living standards. Externally it was

adequate resource flows; and a sharp fall in commodity prices for Africa's key exports.¹⁷

This assessment is similar to those of the OAU, the Economic Commission for Africa (ECA), the World Bank and the International Monetary Fund (IMF). The region's foreign debt stands at about \$230 billion. This equals almost 100 percent of Africa's Gross National Product (GNP). Africa's debt service payments is between 30 and 45 percent of export earnings. Of the 40 countries classified as heavily indebted, 33 are in Africa. Excluding disasters in Somalia, Mozambique, Sudan and Rwanda, it is estimated that over 1000 children die daily from available diseases.¹⁸

According to Fantu Cheru, "Seventy out of every 100 Africans, are destitute or on the verge of poverty, with annual per capita income ranging from \$59 to \$115. One out of every four Africans has access to clean water. Of the 33 million people added to the work force during the 1970's only 15 million found remunerative employment".¹⁹ This situation has not changed up to the 1990s.

Life expectancy, adult literacy levels, contribution to global trade, level of industrialization, and degree of national control over national resources remain the lowest in the world. Half of the world's refugees are Africans and the region's Gross Domestic Product (GDP) is equivalent to that of Belgium which has just 10 million people compared to Africa's 600 million people. The Economic Commission for Africa has shown that throughout the 1980's export volumes, foreign investments, foreign exchange earnings, and gross fixed capital formation, all declined precipitously leading to economic dislocation, economic crisis and further marginalization in the global market.²⁰

ments within the region is increasing desperation of already desperate regimes in Africa. Unable to play the East against the West anymore, without much foreign aid to buy opposition and without resources to meet the demands of the majority of the people, African elites thus became more repressive in their relations with civil society. Most African leaders resorted to defensive radicalism, bribery, lies, intimidation of opponents, human rights abuses, political posturing, and the search for foreign scapegoats and local subversives.

Conditions of mismanagement and concentration of resources on defence and security matters accentuated the region's crisis. With credit lines closed, lack of funds to buy food and essential commodities, growing debts, African leaders had no choice but to sign Stabilization and Structural Adjustment packages with the International Monetary Fund (IMF) and the World Bank. African states were required to structure their political and economic environments along lines dictated directly or indirectly by the West.²¹ The prescriptions given by these financial agencies far overlook the specificities of African society. Some African leaders themselves even initially tried to imitate all kinds of western political forms and structures. For example, after Babangida refused to register over 200 independently formed political parties in Nigeria when he was in power, the junta simply created its own two parties - The Social Democratic Party (SDP) and the National Republican Convention (NRC) - in an effort to even in name reflect the American reality as much as possible, in order to keep the loans flowing from lenders abroad. ²² At these levels, African states lost the autonomy to determine the content and context of political and economic restructuring processes in their respective nations.

tical and economic restructuring processes have not been very successful. At the review of the United Nations Programme of Action on African Economic Recovery and Development (UNPAAERD) in New York in September 1991, the Organisation of African Unity (OAU) took the position that:-

During the life-span of UNPAAERD, African Economies did not witness any significant change for the better... from all economic indicators, the continent of Africa appeared to have been by-passed by (the) positive development in the World System. African economies were required to make... adjustments and achieve economic growth in the face of severely compressed incomes and rising debt over-hang. This is an impossible dilemma ²³

Thus, failed economic and political policies increased repression, political desperation, intolerance and violence in Africa. It was, therefore, not surprising when in and around 1990 citizens took to the streets of capital cities in some sixteen sub-Saharan African countries to express discontent with economic hardships and political repression, and to demand major reforms. It is estimated that between November 1989 and May 1991, at least twenty-one governments adopted significant reform measures, making room for multiparty elections to be held in five African countries within that same period. ²⁴

Even though events in Eastern Europe and other parts of the world facilitated this process, the role of civil society on the African continent cannot be over emphasized. Governments in the region faced pressures for political change on a scale unprecedented since colonial rule was dissolved some thirty years earlier. Studies conducted showed that groups involved in popular protests included students, civil servants, labour

... of Samuel Decalo: "Instincts of self preservation and differing degrees of sincerity, have driven benign autocrats (Felix HouphoeutBoigny; Omar Bongo), as well as Venal dictators (Mobutu Sese Seko), to metamorphose into born-again democrats".²⁶ Whatever changes that have taken place may be considered to be mainly structural and/or constitutional. These changes and the advent of numerous pro-democracy movements on the continent point strongly to the changing nature of civil society in Africa.

One of the most remarkable achievements of civil society within this period has been the call for National Conferences. Conferences called in several African countries have been a major development which opened up new ways for confronting the power of the dominant groups. They have served as avenues for mobilizing opposition, and for redirecting the content of national politics. Finally, National Conferences have created opportunities for a broad discussion of national issues, identifying and selecting new leaders and directly unseating and challenging current custodians of state power.

It is, therefore, important to note that the democratization process in Ghana is not an isolated case. Any attempt at evaluating the role of civil society in the process in Ghana would have to consider the general political and socio-economic environment in Africa within which democratization is taking place.

These are as follows:

First, to examine the changing nature of civil society in Ghana.

Secondly, to trace the history and formation of the Ghana Bar Association, and to examine its structure, organizational activities, role and significance in the strengthening of civil society in Ghana.

Thirdly, to find out the role of the Ghana Bar Association in the democratization process in Ghana and how it is being sustained in an emerging democracy such as in Ghana.

Fourthly, to identify and discuss the relationship between the Ghana Bar Association and the state as well as other civil groups and the opposition, and their impact on the democratic process.

Fifthly, to examine any constraints on the Ghana Bar Association in the performance of its work.

And, finally, to make recommendations which will help in ensuring a strengthened and empowered civil society.

1.4 Theoretical Framework

There is a continuing debate about the nature and scope of civil society and its relationship with the state. The current interests in the notion of civil society is quite surprising. It has been argued that the resurfacing of the concept in Western academic discourses is mainly due to the developments of 1989/91, in Eastern Europe, where dissident groups had confronted the state and ended up with what has been described as a new

mental re-ordering of political

power.²⁷

In Africa, the notion of civil society is being introduced into political analysis largely because the emphasis on the state as a conceptual framework has decreased over time; not only is the state revealed as much less powerful than it was conceived to be, but even in some cases the state seems to have lost power altogether as happened in Somalia, Chad, Liberia, Rwanda and so on.²⁸ The significance and character of the post-colonial state is largely a product of the nature of civil society and its modes of coexistence with it. States do not operate in a vacuum; and, ultimately, it is their relation to civil society which determines their complexion and their policies.²⁹

Yet some social scientists are very reluctant to use the term 'civil society' because of the conceptual and operational difficulties surrounding it. Hence civil society sometimes has various shades of meaning and connotations. While Hegel and Keane understand 'civil society' to be indistinguishable from the state, others including Rousseau, Hobbes, Locke and Harbeson indicate various degrees of distinction between civil society and the state.

According to Edward Shils³⁰ 'civil society' can be seen as part of the society comprising a set of autonomous institutions that are distinct from the family, the class, the locality and the state. This part of society conducts a particular set of relationships between itself and the state, possesses mechanisms that safeguard the separation of state and civil society, and maintains effective ties between them.

... society is not a set of groups, but a space or realm as defined by newly constituted rules about what the state should and should not do and the rules of procedures in that space. He, however, leaves the question of who might define and enforce such rules untouched. In his view civil society is not necessarily linked to political transitions. Hannah Forster³² has also recently suggested that the presence of new or invigorated autonomous voluntary associations and socio-political movements does not necessarily mean that a civil society exists.

It is obvious from the above brief discussion that the interpretation of civil society in the history of political philosophy presents major competing conceptualisations. For the purpose of this thesis, it is suggested that the current conceptualization of civil society which is most relevant and appropriate to sub-Saharan Africa generally and Ghana specifically is the one derived from Alexis de Tocqueville's idea of civil society.

In his work on American democracy de Tocqueville³³ shows that the emergence and consolidation of democracy largely depend on the existence of a variety of voluntary associations which in their free operation mediate between the state and society in order to check the state's tendency towards despotism.

Broadly speaking, civil society denotes the presence of an assortment of intermediary organizations or associations that operate in the social and political space between the primary units of society (such as individuals, nuclear and extended families, clans, ethnic groups and village units) on the one hand, and the state and its agencies on the other. Such groups are often referred to as civil organizations or associations³⁴. They include labour unions and associations of farmers, fishermen, women, traders,

include religious groups, trade unions and business organizations, cultural and recreational clubs, human rights groups and even political parties³⁵. In the literature, ascriptive associations like ethnic or home town development associations are excluded because by definition they belong to the category of primary units. This is the position of Gellner³⁶; and he even goes further to state that in the industrial world, civil society, which he describes as "institutions and associations independent of the state", can only be located in the economic sphere; and that they cannot have their main base in either the political or the religious areas.

1.4.1 Types of Civil Society

In the literature, two main types of civil society have been identified: the 'corporatist' and the 'voluntarist-pluralist'³⁷. In the case of the 'corporatist' type, the intermediary organizations are sponsored, and often sustained by and dependent on the state. It has been argued that the 'corporatist' type is different from the fascist notion of the 'corporatist' state.³⁸ The major thrust of this type of civil society is that increasing state intervention in some established democracies, especially in the management of the national economy, has made it necessary for the state to seek the expertise of certain well placed groups. The result is the incorporation of such groups into the economic decision making process. In the event, the state has gained greater social control in return for giving functional representation to such groups in economic management.³⁹

In the 'voluntarist - pluralist' type, a rich variety of civil organizations or associations voluntarily emerge to compete with each other in the promotion of socio-economic interests, without, however, ignoring cross-cutting interests and the general welfare. Their concerns are both private

... civil society is not monolithic, with a single voice on every major issue.⁴¹ He identifies the pluralist civil society as the one which appeared in embryonic form in Ghana at the time of independence.⁴²

1.4.2 Civil Society and State Relations.

There is a great deal of contention regarding how civil society relates to the state and the rest of society. Chazan,⁴³ for example, distinguishes civil society from society in general. According to Chazan, civil society refers to the segment of society that interacts with the state, influences the state and yet is distinct from the state. A crucial question then is whether the relationship between civil society and the state is co-operative, confrontational or both?

In the view of Fatton⁴⁴, the state is the coercive organ of public force that has institutionalized the domination of the ruling elite in Africa. Whilst the state serves the interest of the ruling class, it does so with significant constraints because, as he puts it, "the state is firmly grounded in society and reflects necessarily, society's class relationships."⁴⁵ He, however, argues that the elite has consistently oppressed the rest of society and driven them to find "refuge in civil society."⁴⁶ Civil society, then, may be considered as "the space from which non-state actors can resist the oppressive arm of the state. To be absent from the state is to be condemned to a subordinate and inferior status"⁴⁷

The position of De Tocqueville as already mentioned is that the importance of voluntary associations in a democracy consists of their capacity to check the state's tendency towards despotism.⁴⁸ Bayart defines civil society as "society in its relation to the state...in so far as it is in



... precisely as the process by which "society seeks to 'breach' and counteract the simultaneous 'totalisation' unleashed by the state..."⁴⁹ Chabal⁵⁰ takes a cue from Bayart and states that "civil society is thus a vast ensemble of constantly changing groups and individuals whose only common ground is their exclusion from the state, their consciousness of their externality and their opposition to the state." Thus, for these two analysts the relationship between civil society and the state is confrontational.

Other critics like Bratton have objected to this kind of analysis which emphasizes opposition or confrontation as the defining characteristic of state - civil society relations. He argues:

And I have no quarrel with a view of civil society as an arena occupied by a fluid and loosely bundled assemblage of interests at various stages of institutionalization; civil society by name is plural. But I take issue with any view that limits associational life to activity that is at odds with the state. Just as we require a framework that enables us to account for citizen engagement between state and society that may be congruent as well as conflictual.⁵¹

In the view of Bratton, one cannot expect civil society to do the work of the opposition, especially where opposition is equated to disloyalty and treason and may attract serious punishment. He suggests that more subtle strategies are required.

1.4.3 Functions of Civil Society

Among the functions of civil society are the following:

- First, they seek to promote socio-economic interests and also define the rules for settling claims and interests in ways that are beneficial to themselves and society in general.⁵² This means that the elements of civil

particularistic in outlook, but must also act in the interest of the general welfare, otherwise they stand the risk of retarding the democratic process.⁵³

- Secondly, they seek to empower themselves and society at large to enable them check the excesses of the state. This is done through, for example, effective citizenship, advocacy and the promotion of a system of rights and obligations.

If civil society is to fulfill its role effectively it must possess certain characteristics. Among these are:

- i) The units must be substantially autonomous from the state and other primary groups.
- ii) They should be trans-ethnic, trans-regional or trans-racial in character.
- iii) They should have a measure of organizational continuity.
- iv) They should have democratic internal structures and processes.
- v) They should have tolerance for each in a unit and other differing units.
- vi) Their corporate existence must be recognized by the state.

1.4.4 Applicability of the Concept to Africa

There is a great deal of controversy as to whether the term 'civil society' can be applied to the African society. The term civil society since the middle of the 1980s has frequently appeared in the academic literature on politics and society in Africa. Public officials and politicians have often used the term in speeches on public platforms. It is, therefore, not surprising that in Ghana alone at least three major sponsored conferences

... 1994 and 1996, all aimed at addressing the issue of strengthening civil society. While some academics subscribe to this development, others oppose it. Their argument is that there are basic theoretical difficulties associated with the use of the concept.

Drah has identified certain practical and theoretical difficulties. He argues that in Africa there is the issue of "grotesquely unequal distribution of economic power" across the units of civil society, which the pluralist conception does not take into account. He points out that the existence of this will adversely affect the growth of many grassroots organizations and civil associations. But he admits that the problem does not lie with the concept itself but with society in general.⁵⁴

It has also been pointed out that there is extreme particularism embedded in pluralism. Drah sees this as having grave implications for social and political stability. For this reason, he acknowledges, the pluralist notion of civil society insists that civil associations must be trans-ethnic, trans-regional and trans-racial in character.⁵⁵

Some critics have also questioned the usefulness of the concept which is mainly Eurocentric to Africa. Ahmed Mohiddin⁵⁶ has noted that the notion of civil society had its beginning in the West and it took a long time to evolve to where it is today. His argument is that unlike the west, African societies have different historical experiences as well as philosophical and religious backgrounds. They also differ in their perception of what constitutes a society. Therefore the application of what is purely Western to Africa presents problems.



... of the methodology used in analysing civil society in Africa. He is of the view that the African reality has meaning if only it is considered to reflect a particular stage in the development of European history. Using such a methodology could lift a phenomenon out of context and process, creating a bias that would make the analysis of civil society be based on description and speculation than on concrete analysis. Out of this argument he raises questions that deal with the very notion of civil society; whether it already exists or is now emerging in Africa? Whether it includes what he describes as the "modern sphere" or the "traditional"? Whether one can solve the problem by distinguishing between "modern civil society" and "traditional civil society"?

Ekeh⁵⁸ has also raised arguments about Bratton's definition of civil society in terms of voluntary intermediate organisations occupying political space between family and the state. He argues that linking and limiting civil society to "civic structures" is a danger because it imports a raw notion of civil society from the west into African circumstances and raises controversy of who qualifies to be included in the conception of civil society in Africa. His problem is not so much with the application of the concept to Africa but the wholesale application of it.

Despite these limitations, this thesis subscribes to the concept of pluralist civil society because it is the closest and the most appropriate that one can identify with the Ghanaian situation. Draht has suggested that:

"It is the pluralist civil society which appeared in its embryonic form in Ghana at independence and which despite all attempts at smothering it, has managed to somehow take on a fairly resilient shape".⁵⁹ This issue is treated extensively in the next chapter.

1.5 REVIEW OF RELEVANT LITERATURE

Studies on civil society in Ghana are very scanty; and of those available only a few have assessed the role of civil society in the democratization process in Ghana. Besides, even though the Ghana Bar Association appears in almost every publication on the political history of Ghana, very little has been studied empirically about the association. What has really been studied in general is the legal profession in Ghana. However, bits and pieces of the Bar Association and its contribution to democracy in Ghana have been given some coverage.

In what follows, the literature would cover civil society in Ghana, civil society - state relationship in Ghana and the Ghana legal profession. This literature has been categorised into general and specific.

1.5.1 General Literature

In a comprehensive work on the concept of civil society, Draht⁶⁰ examines the term civil society as used in the current western academic discourse. He further examines the applicability or otherwise of the concept to the African situation, with particular reference to Ghana. He identifies two main types of civil society: 'corporatist' and 'voluntarist - pluralist' which he calls 'pluralist', for short. He shows that the pluralist concept is applicable to Ghana. Unlike the corporatist type of civil society, the 'pluralist' is neither sponsored or sustained by the state, nor dependent on it. He admits that even though the concept has some weaknesses, it is applicable to Africa in general. He supports this viewpoint by tracing the historical development of civil in Africa in general and Ghana in particular. He indicates that this type of civil society is conducive to the

t democratization process in many parts of Africa.

Drah concludes by saying that civil society is at varying stages of evolution in different African countries, and that even in Ghana and Nigeria, where civil society is comparatively, fairly well advanced, it is still fragile and not strongly institutionalised mainly due to the "containing hegemonic/proprietary claims of governments", both civilian and military.

This work is very relevant to this study because it contributes greatly to the theoretical and conceptual framework used in this study. This study, however, builds on Drah's work by further isolating one section of civil society for a case study, and exploring its role in the democratization process in Ghana, a topic that is treated generally in Drah's work.

Luckham⁶¹ has extensively researched into the legal profession in Ghana. He lists a number of problems associated with conducting a social enquiry into the legal profession. In his research on the state of the records of the Bar Association in Ghana, he recounts that going back earlier than 1959, he could not trace any records of the association; this is because such records were non-existent. Even if they existed, they had been mixed up with professional papers which had disappeared with the death of the lawyers who had owned them. Furthermore, the Bar Association was unwilling to release certain information about their activities which had been documented. In fact, according to Luckham, the General Legal Council initially refused his request to look at the files and records.

... of the profession. His view is that its success can be seen in its own conception of legality and the features of its social organisation. These are relevant to the maintenance of its distinctive traditions. He suggests that any meaningful study of the legal profession would involve the following: a description of the history and structure of the profession; an analysis of lawyers as an elite, with particular emphasis on their links with and influence upon other elite groups; a more detailed analysis of the relationship of lawyers to the state; and an examination of the extent to which lawyers do or do not form an integrated professional community capable of maintaining its values against outside attempts to destroy them.

Based on this major research work Luckham postulates that internal stratification between lawyers themselves develops from the conditions of law practice. The more senior lawyers, those practicing in the higher courts, in the more prestigious areas of practice like the customary law of land and inheritance, with a more developed client network, make more money than their less fortunate colleagues. They also acquire a more professional standing, take a more active role in the Bar Association and adhere to the values of the profession more than those who have a less material stake in it.⁶²

He also looks at the issue of law and structural dependence.⁶³ The argument here has to do with whether the law profession in Ghana suffers from structural dependence. If this is so, then its contribution to the development of the nation may be minimal since it could be manipulated by the metropolis. Luckham observes that at the broadest level almost everything about the contemporary African scene may be viewed as a manifestation of the historical dependence of Africa upon Europe.



– the role of the state in education, entertainment, armies, literature and even revolutionary movements; – none of these can be understood without reference to the historical matrix of colonialism and capitalism

He argues that even though political independence from Britain left behind a transferred legal system, an educational system and a language, one cannot assume that those who use these are still in any meaningful sense dependent upon the institutions of the metropolis. Furthermore, even though the legal system may copy the statutes of the metropolis, it is sustained by local resources. He observes that in Ghana, a great deal of caution was taken after independence to effect a break with the imported legal tradition. The colonial heritage remains powerful only as a function of multiplex linkages between law, rural poverty relations, the class structure and the activity of the legal profession as a pressure group, and not because of direct foreign support.

Luckham's work is very important to this study to the extent that it helps to identify and analyse the issues of seniority at the Bar, the resources of the Bar Association and its autonomy from the state. However, his study was essentially a sociological analysis of the legal profession. It was not geared towards studying the Bar Association in Ghana as such and its contribution to democracy. This is the gap that this study intends to fill.

1.5.2 Specific Literature

Drah⁶⁴ has critically examined civil society under colonial rule, especially from the end of World War I, to post-independence Ghana. His argument is that, on the whole, although colonial rule was autocratic, it did not, paradoxically, obstruct the emergence of voluntary organisations of many kinds; and that the colonial authorities even encouraged and guided the

... labour and co-operative movements. He contends that at independence, there was no question that what may be termed 'the voluntary, pluralist basis of social and political action had emerged', however fragile it was. He identifies a host of intermediary organisations that had been voluntarily established by independence to pursue, among other things, 'occupational social, self help, religious, recreational and political goals'. Some were pressure groups as well. He is, however, quick to point out that during the post-independence period, civil society has swung precariously between contraction and expansion, depending on the political predispositions of the groups in power and the prevailing set of institutional arrangements.⁶⁵

He also identifies and examines the relevant constitutional provisions which seek to create a favourable environment for the continuing evolution and operation of pluralist civil society. These comprise, *inter alia*, the fundamental rights and freedoms of individuals and groups, which are spelt out in the 1992 Constitution. His view is that the sets of constitutional provisions define the social and political space within which civil associations can emerge and function. It also regulates the relationship between civil society and the state or government. Drah gives an exhaustive historical overview of civil society since independence—from the Convention People's Party (CPP) government under President Nkrumah to the PNDC era. His work is crucial to this study because it provides the bulk of information on the establishment, growth and the role of civil society under successive regimes. He mentions the Bar Association and admits that it has maximum presence on relevant state bodies. But the Bar as an association or organised professional group is not treated in detail a *an* which this study aims at bridging.

of the Ghana Bar Association in Ghana's democratization process. This article has to do with the historical evolution of the Association, the contribution of a selected number of members of the Association, and the contribution of the Ghana Bar Association as a body to the development of democracy in this country.

This work provides a lot of insight for this study, especially in the area of the historical evolution of the Association; but one can conveniently say that it is not an academic or empirical study of the Association. It represents the view of a member of the Association, who was also a past National President. In the event, it is likely that the views presented in the article may have the biases of an insider. Thus it may represent the way the Bar sees itself and its contribution to democracy in Ghana.

It is evident from the foregoing literature review that any meaningful attempt at assessing the contribution of civil society to the democratization process in Ghana would involve a specific and indepth study of the components of civil society. As far as the Bar Association's contribution is concerned, a comprehensive study of its historical origins, organisational structure, aims and objectives as well as its activities that go beyond legal matters would be required. It is this that this thesis sets out to do.

1.6 Methodology

The data for this study were collected from research libraries in the USA and Ghana, as well as from the files of the Ghana Bar Association and other civil organizations. Content analysis of publications, files, letters, memos, petitions, press releases, propaganda materials, public educational

... members of the Ghana Bar Association and other civil organisations has been part of this study. Great attention has been paid to the organizational structure, constitution, by-laws and rules of procedures of the Association.

The participant observation method was also used by this researcher. He participated in selected open activities and meetings of the Association. The survey research method was also used. Concerning the survey research, the use of questionnaire was employed. It combined both closed and open-ended questions. The closed questions were included to avoid too general answers to some of the questions; while the open-ended ones would give the respondents enough opportunities to express their feelings on some of the issues.

1.6.1 The Sample Unit

The researcher selected a fairly large number of the adult population. The sample include both members of the public and members of the Ghana Bar Association. National and Regional Executives of the Bar as well as other members - seniors, juniors, executive and non executive, from selected chambers in Accra, Kumasi and Koforidua – were interviewed. For the public it included Workers, Students, Policemen, Prison Officers, Insurance Agents, TUC Staff, Judicial Service Staff, Civil Servants, Other Professionals, Teachers, Media Practitioners, Drivers, and Religious Leaders. Ninety-five percent (95%) of the questionnaire was self-administered. The remaining five percent (5%) had to be interviewed person to person for convenience. Other interviews involving personalities like chiefs, leaders of other civil groups and so on were conducted which were not part of the questionnaire. Much of the



and towns. Accordingly, respondents in the cities of Accra and Kumasi together with Koforidua (an important urbanized centre) were chosen because they were likely to know and appreciate their activities and therefore would be good respondents.

1.6.2 Sampling Method

In the selection of the respondents that constitute the sample, the purposive sampling method was used to ensure proper representation of all segments of civil society.

1.6.3 Techniques of data collection

The main research tools employed were the interview schedule (questionnaires), visits, informal discussions and observations. The use of the questionnaire was adopted for data collection from the field because it was the most appropriate. Interview of other personalities was necessary because the primary face-to-face encounter with the respondents gave the researcher the opportunity to record extra information and observations. Such extra information could hardly have been obtained through just the administration of questionnaires. It also provided an opportunity for the respondents to freely comment on issues in the light of their own varied experiences.

The process of data collection began with a preliminary survey, using ten respondents at the Legon university campus to find out whether the questionnaires elicited the desired responses from the respondents. The result of this preliminary survey helped with refining of the items in the questionnaire.

Data from documents were analysed manually and did not require the use of any computer. However, it became necessary to use a computer programme to analyse the responses from the questionnaire. In the latter case, percentage scores were provided to serve as a basis for judgment. Tables were usually used where necessary to illustrate some of the data.

1.7 Significance of the Study

This study has offered the researcher a first hand experience in the field of research. It has increased his understanding of the perspective on civil society and democratization in Ghana. It also made it possible for the researcher to interact with a wide range of people with different ideas and behaviour patterns.

There are not many studies on the role of the Ghana Bar Association and the topic of this research has not been studied previously, even though, as already said, the Ghana Bar Association appears in almost every publication on Ghana's political history.

The findings and suggestions made here, if implemented, would hopefully help strengthen the Association in particular and civil society in general in Ghana. Since the Bar Association is a trans-ethnic civil association, the findings here can be applied to other civil society organizations (CSOs) in the country to enhance the role and effectiveness of civil society in the current democratization process.

This study covers 1957–1996. The choice of this period was influenced by the fact that civil society has fared differently under varied regime types; and its contribution to the democratization process under different regimes would present an interesting study. The choice of the period was also influenced by the fact that the case study, the Ghana Bar Association, has been active since colonial times; it is not a recent creation.

1.9 Limitations of the Study

The first limitation faced by the researcher was financial. The research involved the photocopying of large volumes of material from libraries, and the files of the Ghana Bar Association. These were done at a high cost. In addition to this, some of the leading members of the Bar and other CSOs to be interviewed, could only be reached after many months of persistent phone calls and visits to offices. All these involved heavy financial outlays.

The second major limitation has to do with access to documents. The researcher initially could not have access to the files of the Bar Association, as it required approval from the National Secretary, who had traveled outside the country. It took some time before the project could take off. Even when approval was given, vital documents, in the form of memoranda, petitions, press releases etc, could not be retrieved from the files. The researcher was told that either they were not there at all, or they had been removed for photocopying and had not been returned. With the time available and the constraints enumerated above, the researcher could not have covered more grounds than he did. To solve the problem of

to some of the Regional

Secretariats for more documentary research.

1.10 Organization of the Study

Chapter one (1) which is the introduction states the context of the problem and outlines the aims and objectives of the study. This is followed by the conceptual framework, review of the relevant literature, methodology, significance of the study, delimitation and limitations of the study and finally the organization of the study.

Chapter two (2) highlights state - civil society relation in Ghana, which is a historical overview.

Chapter three (3) focuses on the profile of the Ghana Bar Association.

Chapter four (4) is the analysis of data on the role of the Ghana Bar Association in the democratization process.

Chapter five (5) contains a summary of findings, the conclusion and the appropriate recommendations.

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CIVIL SOCIETY – STATE RELATIONS IN GHANA

2.1 Introduction

The focus of this chapter is to trace the origins and development of civil society in Ghana and its contribution to the democratization process in Ghana. Though the case study is the Ghana Bar Association, its contribution can only be meaningfully assessed in the context of the general political and social environment within which democratization is taking place. To do so effectively, this chapter discusses the role of other civil organizations: professional groups, the labour movements, student and religious bodies. These constitute the forces that pursue several diverse political, social and economic aims and objectives in Ghana. For the sake of convenience only the prominent groups are discussed here. The period is 1957 to 1996.

2.2 Profile of Civil Society in Ghana

It has been noted that by the circumstances of its history and multi-ethnic composition, civil society in Ghana has emerged out of a three-tier structure of organizational spheres¹. These organizational spheres are important for the mobilization and participation of individuals and groups in civil activity and decision making. The ground floor which defines the configuration of citizens is the domain of predominantly ethnic societies constrained by historical circumstances to share and compete for resources, which sometimes generate conflict. The floor above

... is to be represented by women and organizations, professional groups, the labour movement, religious bodies, and so on. These groups raise citizens from their ethnic base and aggregate them on the basis of identical or common needs or interests that cannot be pursued through ethnic affiliation. The next floor of society is occupied by political parties which serve as vehicles for concretizing the collective will of people who seek to enter government². The fact that this floor is sometimes not occupied is significant for understanding the nature of civil society in Ghana as a whole. For, whenever political parties are banned, the occupants of the middle floor, that is, the professional bodies, labour movements and sometimes churches take on the function of the main opposition to the government of the day. This functional substitution shows that the occupants of the three floors overlap and interact and therefore able to fill any vacuum which circumstances might create.³

Among the groups that constitute civil society in Ghana are the following: The Ghana Bar Association, the Association of Recognized Professional Bodies (ARPB), the National Union of Ghana Students (NUGS), the Trades Union Congress (TUC), the Christian Council of Ghana, the Catholic Secretariat, the Ghana Muslim Council, Alumni groups, Houses of Chiefs, Farmers Association, Employers Association, the Press, and for brief times, the People's Movement for Freedom and Justice (PMFJ) and the Movement for Freedom and Justice (MFJ).

2.3 State Power and the Strength of Civil Society in Ghana

It has been suggested that there are four ways in which one can assess the power relationship between civil society and the state:

society's power

decreases.

Secondly, that state power decreases while civil society's power increases.

Thirdly, that state power decreases while civil society's power also decreases.

And finally, that state power increases while civil society's power also increases.⁴

In Ghana, not all these variations may be said to be true. Variations of power relations between civil society and the state have largely depended on the regime type in question. It has been argued that although colonial rule was on the whole autocratic, it did not obstruct the emergence of voluntary associations, especially in the post World War I period. The colonial authorities even encouraged and guided the growth of labour and cooperative movements.⁵

In the post-independence period, however, civil society in Ghana has swung between contraction and expansion⁶. As already mentioned, this largely is a function of the political pre-dispositions of the regime in power and the prevailing set of institutional arrangements put in place to enable civil society to function well. Between 1957 and 1960, the Independence Constitution provided a democratic framework within which civil society, though fragile, showed every sign of growth and expansion⁷. This trend was however severely altered during the Convention People's Party (CPP) rule from 1960 to 1966.

It was expected at independence that civil society would grow further to make the first constitutional government a success. This expectation was

...wame Nkrumah on 12 November, 1956, in the Legislative Assembly. Issues raised in that speech included the value of constitutional opposition, a competitive party system, free and fair elections based on an accurate voter's register, an impartial electoral commission, the independence of the judiciary, rights of regional minorities and individual rights of Ghanaians.⁸ Almost all these were absent during the CPP government's term of office. These were mere rhetorics in the wake of agitation for independence from British colonialism, as happened in other parts of Africa.

The ideological disposition of Nkrumah favoured what has been described as 'developmental dictatorship'.⁹ He did not see why the government's efforts on development should be hampered by constitutional limitations of the kind enshrined in the Independence Constitution. Nkrumah was, however, aware that dictatorship was incompatible with a strong civil society; he therefore sought to destroy its development in Ghana. Consequently, restrictions to the amendments of the Constitution were repealed and amendments were made to the Constitution itself. Such amendments dissolved the Regional Assemblies and the Judicial Service Commission which was devised to ensure fairness in the appointment of Superior Court judges in particular.¹⁰

Other ways by which the CPP government sought to weaken civil society included the Deportation Act, 1957. Under this Act, people alleged to be foreigners were deported for allegedly being opposition supporters. There was also the Avoidance of Discrimination Act, 1957, which made illegal parties based on tribe, region or religion.



e opposition entirely; the CPP therefore enacted the infamous Preventive Detention Act (PDA) in 1958. Under this Act many people including even some CPP members were detained without trial. Similarly, the Criminal Code Act, 1961, made it an offence to publish anything considered defamatory or insulting to the President. The Newspaper Licensing Act, 1963, crippled press freedom by ensuring that the government had complete control over newspaper publication.¹¹

The CPP, besides all these measures, tried to strengthen its hold on the country by absorbing trade unions, farmers' cooperatives, youth organizations and, even though unsuccessfully, the Bar Association, and making them an integral part of the party. Even though this was not entirely successful, it suppressed civil society under the regime. Under the CPP government, therefore, state power increased, while the power of civil society decreased. State relationship with individual segments of civil society will be discussed later in this chapter.

In 1966, the CPP government was overthrown and a new government, the National Liberation Council (NLC), formed in its place. This military regime and its successor, the Progress Party (PP) government, created a relatively congenial political atmosphere for civil society to grow even though it had hegemonic ambitions. On the whole the NLC encouraged associational life. There was a resurgence of the subunits of civil society and the reactivation of the old ones which had been dissolved by the Nkrumah regime. New civil groups also emerged under this government. One remarkable achievement of this regime was the creation of channels of communication and consultation with the public on a number of issues. This several voluntary organizations and occupational groups

tees, commissions and

committees of enquiry.¹²

The Progress Party (PP) government came to power in October 1969. During this period, civil society had fairly well recovered from the shock it received during the period of Nkrumah. Under the new Constitution, freedom of expression and association was guaranteed and preventive detention without trial was abolished and outlawed. There was a freely elected parliament made up of government and opposition. The tasks of state agencies became regulatory rather than interventionist. The regime, however, by the Industrial Relations (Amendment) Act, 1971, dissolved the TUC and fragmented the labour movement, by enabling every union to be free and independent.¹³ This and other developments which will be discussed later in the chapter, dented the constitutional credibility of the PP government. On the whole, however, civil society was given a chance to grow.

This state of affairs was severely reversed under successive military governments: the National Redemption Council (NRC), the Supreme Military Council (SMC I and II) and the Armed Forces Revolutionary Council (AFRC). In 1979, the country was returned to constitutional rule under the administration of the People's National Party (PNP). This era saw a revival of the strength of civil society but this was not to last long as the constitutional government was toppled by the Provisional National Defence Council (PNDC) on 31 December, 1981. The PNDC government was in power from this period till January 1993, when the Fourth Republic was inaugurated and constitutional rule was restored. Despite the government's hegemonic onslaught on it, civil society managed to

further impetus to the democratization processes in Africa and in Ghana in particular. The National Democratic Congress (NDC) won the elections in December 1992 and took office in January 1993 under President Rawlings. The Fourth Republic was inaugurated without representatives of opposition parties in parliament since they had boycotted the parliamentary elections on the grounds that the preceding presidential election was rigged. This greatly undermined the credibility of parliament in this period, with many describing it as "rubber stamp parliament". This state of affairs changed in the 1996 elections because the opposition constituted a little more than a third of the total membership of parliament, restoring the hope that at least civil society would be strengthened. Details of how segments of civil society have related to individual governments have been discussed further in this chapter.

2.4 The Role of the Trades Union Congress (TUC)

The TUC is part of organized labour in Ghana. This covers sections of wage and salary earners as well as some segments of the self-employed. Labour organizations are primarily organized around the issues of workers' employment contracts and conditions of service. The TUC ensures that the interests of this part of civil society are considered within the policy framework, whether at the workplace, sectoral or national level.¹⁴

The history of the Ghana Labour Movement dates back to January 1950, when the leaders of the Gold Coast Trades Union Congress (GCTUC) called a general strike in support of the positive action campaign of the

... and its suppression led to the disintegration of the country's central labour organization. In January 1951 it was revived under the guidance and encouragement of the labour department.¹⁶ Its leadership included non-political moderates such as D.K. Foevie and S. Larbi-Odam, the leaders of the Mine Workers and UAC Unions respectively. After the CPP's electoral victory in 1951, Nkrumah and some union leaders who had been imprisoned as a result of 'positive action' and the general strike, were released from prison. These proceeded to form a rival federation called the Ghana Trades Union Congress. Many of its leading figures were CPP militants with little trade union connection.¹⁷

Between 1953 and 1959, an internal struggle occurred within the labour movement involving three groups. The first group comprised the relatively well established unions; for example, the Railway, UAC and Mine Workers Unions, that wanted to maintain trade union independence from the government and the CPP. The second group consisted of union leaders who supported the CPP, and prominent among them was J.K. Tettegah. They considered their control of the labour movement would pave the way for their eventually attaining strategic positions in the CPP. The third was the CPP itself which sought to bring the labour movement more securely under its control.

In this period the CPP could not impose itself on the unions, not only because it lacked the resources to do so but also because such an action would have served as a convenient pretext for the British, among other reasons, to delay independence. This factor, coupled with the very disposition of the first group, dictated caution on the part of the CPP. As part of this tactical action policy, Nkrumah purged both the TUC and CPP

urkson Ocran, Secretary

General of the TUC, was expelled from the TUC and the CPP, along with several other left-wing leaders.¹⁸

On the other hand, the first group itself had to tread cautiously because it could hardly afford an all-out confrontation with a party that was most likely to assume state power at independence. The CPP supporters in the unions also had to be cautious in their approach for two main reasons. First, since they did not have their own unions, they lacked a strong support base in the labour movement. Secondly, they had both friends and enemies in the government and Tettegah particularly was considered a potentially serious threat to the CPP leadership.¹⁹ But the Tettegah faction apparently was favoured by one factor. This was the disenchantment of many unionists with the fragmentation of the labour movement into a great number of small unions with meagre financial resources. In 1957 there were some 130 registered unions with a claimed total membership of about 80,000. Of these 21 had less than 50 members each, 31 had between 50 and 250, and 16 had between 250 and 1,000.²⁰ The Tettegah faction could well have exploited this disenchantment by convincing the smaller unions to regroup themselves into bigger unions, while authority would be centralized in the TUC.

In 1954, in the guise of creating a new centralized structure, Tettegah and the CPP attempted to assert control over the unions. The major unions in the country fought against centralization and consequent control by the CPP, through delaying tactics aimed at preventing transfer of power to the TUC. The Gold Coast TUC Constitution of 1956 gave extensive powers to the GCTUC over affiliated unions, including the powers of intervention

... of the TUC's effective control over the unions, and of union misconduct, and of expulsion. In reality, however, the TUC's effective control over the unions was negligible as illustrated by its financial arrangements with them. According to the Constitution each union was to contribute 3d. per member per year, roughly 2 per cent of membership dues. But even this small contribution was rarely made.²¹ Despite such problems confronting the labour movement the Tettegah group made continual, but futile efforts to dominate it. The internal turbulence continued until finally in September 1955, the non-political group split with the GCTUC and formed the Congress of Free Trade Unions only to return to the GCTUC a year later. But the group still resisted attempts at the centralization of authority in the GCTUC until after independence.

In 1958, at its 14th Annual Conference, the TUC, under the leadership of Tettegah as Secretary-General, was widely expected to adopt a proposal for a new structure of the labour movement. The thrust of this proposal was what the Tettegah group had advocated all the time - the creation of a centralized trade union organization. Although it was adopted in principle, the proposal was fiercely resisted by the powerful UAC and Ghana Railway Employees' unions. They insisted on their independence and separate existence.

But since the CPP was the governing party, it was determined to still control the labour movement. In 1958 the Industrial Relations Act was enacted, which spelt out the new structure of the TUC. Sterner measures in the form of Amendments to the 1958 Act in 1959 and 1960 were adopted. Through these Acts authority was centralized in the TUC; all unions were merged; and dues were deducted at source. All non-

, automatically became unionized, meaning their right to choose to join or not to join a trade union was eliminated. By 1960 there was not the slightest hint of any possible autonomy for the unions. Thus, the government and CPP had achieved control of the labour movement, but with opposition from some unions.²²

In nature and design, the NLC was temporary and corrective. In line with its intention to clear the mess caused by Nkrumah it encouraged associational life. As already mentioned its attempt at doing this was not at all rosy. The trade unions were dissatisfied with the low levels of wages and other conditions of service which they attributed to close rapport between the government and the private sector employers, who were mainly foreigners. They subsequently launched a series of strikes in 1966 - 1969. One of the most serious of these strikes involved the mine workers at the Ashanti Goldfields at Obuasi. This corporation had been taken over by Lonhro, a foreign company. In the ensuing confrontation, the police shot dead three men. Other strikes followed until the TUC was re-organized under B.A. Bentum.

It has been observed that the PP government that succeeded the NLC had a preference for limited government and free enterprise. It confined its role to establishing an institutional framework for individuals and groups to promote and fulfill their goals.²³ Private enterprise was to be reactivated with emphasis on Agriculture and Rural Development. The government even enacted the Ghanaian Business Promotion Act to indigenize small-scale retail trade and business.



... ten by this government antagonized, and in some cases alienated certain powerful social forces. As far as the TUC was concerned, there was increasing disparity of income and wealth. Workers became highly dissatisfied with the daily minimum wage of 75 pesewas. In July 1971 the government read a budget aimed at tackling the worsening economic situation. In this budget, the government refused to raise the minimum wage, as demanded by the TUC but simultaneously imposed on all workers a National Development Levy to raise funds for rural development projects. In August of the same year many trade unions expressed their anger through strikes. The government moved fast by passing the Industrial Relations (Amendment) Act, 1971, in a bid to forestall a possible nation-wide strike. But the effect of this Act was to make the workers angrier. On the whole the TUC was very militant under both the NLC and PP regimes.

The TUC leadership under the National Redemption Council (NRC) and the Supreme Military Council (SMC) I was largely pro-government. When Acheampong launched the idea of Union Government (Unigov), there was an extensive propaganda machinery to enlist support for the government. ("Unigov", was conceived by Acheampong as a form of national government without political parties) A number of government sponsored pro-Unigov groups were formed. The TUC leadership as a whole was pro-Unigov²⁴, even though a vast majority of wage earners were anti-Unigov. TUC was highly politicized as evidenced by the manipulation of the leadership against those whose interests they represented.

the major issues around which the TUC agitated for strikes. Under the PNP government, majority of the people in state employment, especially in the civil service and public corporations like the Ghana Industrial Holding Corporation (GIHOC), and the Tema dock workers, resented the low level of wages and the high price levels with the drastic fall in living standards. This was further aggravated by salary increases to parliamentarians. These culminated in rampant strikes. In 1981 the TUC organized a nation-wide strike. Some GIHOC workers led by Amartey Kwei (who was to become, in the future, a member of the PNDC) invaded parliament and damaged some property.

Under the PNDC government, the TUC underwent major changes. The government tried to control and take over the labour front. This was done through the establishment of People's Defence Committees (PDCs) and in the work place Workers' Defence Committees (WDCs). These had been established in line with PNDC's plan to transfer power from a few to the ordinary people of this country – a new form of participatory democracy. In January 1982 the WDC took over the Ghana Tobacco Company (GTC) and appointed its own Managing Director. It discarded the Interim Management Committee which had replaced the Managing Director before the 31st December Coup. Similar take-overs by WDCs occurred at the Ghana Ports and Harbours Authority (GHAPHA) in February 1982 and Subin Timber Company Limited in March 1982, and at the Ghana Textiles Printing Limited (GTP) at Tema in November 1982. In all these instances the workers appointed Interim Management Committees comprising representatives of workers.

movement overthrew the then existing leadership under the Acting Secretary-General, Mr. J.R. Baiden, and appointed Interim Management Committees to run the TUC and the seventeen unions. Earlier in January 1982, the Accra-Tema workers had staged a demonstration in support of the PNDC at which the Secretary-General was prevented from speaking. In his place, Rawlings addressed the gathering and urged workers to decide for themselves, virtually telling them not to obey the existing TUC leadership. There were petitions, later, for abolishing the TUC altogether.

It was obvious that the PNDC was not ready to tolerate the existence of a free and independent TUC. There were major attempts to take over the leadership of the TUC at different times, which were fiercely resisted. The Interim Management Committee appointed to run the affairs of the organisation was thrown out and a new leadership, headed by Mr. A.K. Yankey as Secretary-General, was elected.

Given the nature of the PNDC government and the repression that was likely to be unleashed against the TUC, the leadership of the latter adopted a policy of collaboration with government, even though there were periodic protests against some government policies and action, until the inauguration of the 4th Republic in 1992, when the fortunes of the TUC were revived under the 4th Republican Constitution.

Under the 4th Republican Constitution the relations between the TUC and the NDC government have undergone major changes especially with the role played by the Tripartite Committee and the involvement of the International Labour Organisation(ILO) in TUC affairs. Though these

...between the TUC and the government, there have been various protests by the latter.

First, the issue of unpaid severance award for workers in diversified state enterprises brought serious tension between the TUC and the government in 1993.

Secondly, in 1994, there was a delay in wage and salary negotiation which was seen by the TUC as a tactic by government to frustrate its leadership. After many reminders to the government the TUC got fed up with excuses by the sector minister for Employment, Labour and Social Welfare and called for a twenty-four hour sit-down strike by all workers in both government establishments and the private sector. Fearing that such an action might precipitate serious industrial action, parliament, employers and other stake holders stepped in to convince both the TUC and the government to sit for dialogue. The government was eventually forced to call for a meeting with the Tripartite Committee for negotiations.

Thirdly, there were other problems which were also related to wage negotiations. After 1992 the TUC realised that the economic situation in the country had deteriorated and the minimum wage, even when reviewed annually, had lost its value. Consequently, it called for new ways of determining the minimum wage. This brought the government into serious confrontations with the TUC which ended up at the ILO office. The ILO sent a delegation to Ghana to study the situation. The report of this delegation finally came out in the early part of 1997 with a recommendation that further research by fiscal survey should be conducted to determine income levels to enable wages to be adjusted accordingly.

Fourthly, within the period, the government had engaged the services of Pricewater House, a financial consulting firm, to research on incomes in Ghana. The TUC argued that the research was carried out without its knowledge since it controls a major segment of the work force in the country. After studying the report of this research and its recommendations the TUC took a position that the report would not favour workers because it sought to freeze the collective bargaining system for three years. The TUC was convinced that Pricewater House was not labour friendly and that trade unions would eventually be abolished. Consequently it pulled out from all committees set up by the government to study the report. This has become a source of conflict between organised labour in the country and the government to the present.

From the above it is evident that the TUC has undergone considerable changes and this has also helped to strengthen civil society as a whole in Ghana. It is even on record that the organisation has within the period dealt with issues beyond workers' interests such as the the Kume Preko incidents in which some demonstrators were allegedly gunned down by pro-government agents. It added its voice to the call for investigation and the culprits brought to trial. It has also called for a national forum on the economy. This yielded results when in May, 1996 a forum was held at Akosombo on the issue. Similarly, in September, 1997 a forum on the direction of the national economy was held at the International Conference Centre in Accra.



1.1.1 The Association of Recognized Professional Bodies (ARPB)

The Association of Recognized Professional Bodies (ARPB) was incorporated on 20 May, 1981; but it had existed and functioned in the political arena of Ghana since 1977²⁵. It encompasses professional associations like those of the Bar, Medical, Engineers, the University Teachers and so on.

The ARPB came into the limelight in October 1977 when it launched a successful protest against Acheampong's Unigov idea. This was done by withdrawing their services and calling on the Acheampong government to hand over power to a civilian administration. The effect of this withdrawal compelled the National Redemption Council, (NRC) to call a meeting at the castle, ostensibly to discuss the issue. Representatives of the Association met the NRC members. It is important to note that within the period, this meeting was the first civilian confrontation with the military government.

The NRC made many promises to the ARPB and got the professionals back to work; these promises were never fulfilled though. But the palace coup a year later that retired Acheampong shows that the ARPB protest had been a success.

The ARPB's relation with the PNP government under Dr. Hilla Limann was in many respects advisory. In 1980 the National Executive of the ARPB presented a memorandum to the Vice-President, Dr. De Graft Johnson. In this memorandum attention was drawn to the food situation in the country.²⁶ In the view of the ARPB, food shortage could occasion

the supplies of food and a copy of this memorandum was also presented to the Council of State.

Within a month the Executive of the Association undertook a short study on food supply in the country for the Vice-President. The findings of this study, which were presented to government in May 1980, influenced subsequent government action to improve the food situation in the country. This was followed by a seminar organized in December, the same year, to review the government's two year agricultural crash programme for food production.²⁷

On 20 May, 1981, the Council of State invited the National Executive of the ARPB to a meeting to discuss the security situation in the country and allied matters. The agenda included the general economic situation with special reference to food, national and individual security, government publicity and attempted coups, the Rawlings affair, the role of the Army, the Transitional Provisions, appointment of substantive Management Boards, attendance at the Olympic Games and the management of government business.²⁸

Among the many issues discussed, the ARPB was of the view that Rawlings had carved a place in the history of this country. This could not be willed away, hence it would be more appropriate to stop the attempts to give him a bad name and allow him to settle down quietly to civilian life.²⁹ Other issues on which the ARPB's advice was sought included the allowances for professionals in the public service. Even though they supported the Public Services Salaries and Wages Commission on the issue of salary and wage increment nothing was done about it.

The ARPB also discussed the question of Land Tenure Reform in the country and its impact on the pace of development on agriculture, housing, industry, mining and so on. One unique contribution of the ARPB under this regime concerned the issue of doctor's fees in government hospitals. In pursuance of their demand for better conditions of service from the government, junior doctors decided unilaterally to charge consultation fees. This action had been endorsed by the Ghana Medical Association (GMA), leading to demonstrations and assaults in some cases against doctors and the disruption of work in some hospitals. The effect of this action compelled the Limann government to refer the matter to the ARPB for its comments. The Association's recommendations to the government included ensuring the security of doctors at the work place and the setting up of a committee to critically examine the complains of the doctors. It also advised doctors to call off the charging of unauthorized fees. These recommendations were accepted by both the government and the Ghana Medical Association. It would seem that the Association's relation with the PNP government was not confrontational but cordial. Perhaps the professional nature of the ARPB made it a potential resource base for the government. It should also be noted that the Vice-President, Dr. De Graft Johnson himself had been an executive member of ARPB and had a lot of confidence in its executives.

On 31 December, 1981, the Limann government was overthrown by a group of soldiers led by Flt. Lt. John Jerry Rawlings. Four days later, on 4 January 1982, the National Executive of the ARPB held a meeting and issued a statement on the coup. The ARPB in its statement deplored the military action and regretted that an elected government of the people had

Also quick to deplore the ineffective government of the Limann administration, the manipulation of state organs to gain political advantage or to harass and intimidate citizens. It drew attention to the fact that the PNP government had encouraged trade malpractices and other corrupt practices, and had not been able to alleviate the very harsh economic conditions of the time.

The ARPB called for a quick return to constitutional government within 12 to 18 months. A special appeal was made to the international community, especially the World Bank, to show great understanding and continue assistance for the revitalization of the economy³⁰. After the statement was made, professionals were literally declared enemies of the Revolution. Many had to flee the country for dear life.

On 30 June, 1982, three High Court Judges and a retired Army Major were abducted from their homes and murdered. The ARPB called a press conference on 20 July, 1982, and issued a statement not only on the murder but also on the general situation prevailing in the country at that time. The ARPB condemned the abduction and murder and went further to point out that law and order had broken down, marked by the callous disregard for human rights and fundamental freedoms.

Other issues raised at the press conference included the poor state of the economy, poor health services, curfews, car seizures and so on. The association further called upon the PNDC to, as soon as arrangements could be made, hand over power to a government of national unity composed of all shades of opinion; and that amnesty should be granted to all political exiles to return home. People who were alleged to have

the courts and tried. A funeral service was organised on 28 July, 1982, at the forecourt of the Supreme Court. The address was given by the Rt. Rev. Samuel Essamuah, the then President of the Methodist Church. At that Service, the Association released the names of 200 Ghanaians who had allegedly been murdered by the organs of the revolution.

One remarkable achievement of the ARPB was that in conjunction with the Ghana Bar Association, the National Union of Ghana Students and the Christian Council, it was able to put pressure on the government to release the Report of the Special Investigation Board (SIB) set up to investigate the abduction and murder of the judges.

In the midst of all these, the PNDC government promulgated the PNDCL 42 in April 1983 which abolished the 1979 Constitution and took away all human rights protection. On 26 June, 1983, the President of the Association, Mr. Sam Okudzeto, was arrested and kept at various police stations, Accra Central, Legon and Ussher Fort where he spent nearly a year. He was released in May 1984 only to be re-arrested in July 1985 by the Bureau of National Investigation (BNI). No charge was preferred against him. In like manner the Vice-President of the Association, Mr. J.N.A. Attoh, had to flee Ghana for his life. Similarly, the secretary of the Association was also arrested and convicted by a tribunal for subversive activities, and sentenced to a term of imprisonment. From this time the entire membership and activities of the Association were severely suppressed. It was not until August 1991 that ARPB came alive again and organised symposia on the 1992 Draft Constitution. Between 1993 and 1996, the ARPB has not been very much in the limelight as an organised



...ic role of the Ghana Bar Association, which works in close collaboration with the ARPB. Much of its activities have been overshadowed by the individual professional bodies' interaction with the state and the NDC government.

2.6 The National Union of Ghana Students (NUGS)

The NUGS was originally made up of students in Ghana's universities, University of Ghana, Kwame Nkrumah University of Science and Technology [later named as University of Science and Technology (UST) after Nkrumah's overthrow], and the University of Cape Coast. Students activism in Ghana dates as far back as the early sixties. The demonstrations that characterised their activism have been described as having "fitful and transient characteristics and even seem to be lacking in the substantial dignity which a subject of politics should have."³¹

Students see themselves as having a heavy stake in the future of their country. They consider themselves as the leaders of tomorrow and their learning mandates crucial analysis of issues relating to human rights, good governance, democratization, military rule, economic hardships and social injustice. ³². It has been argued that students in Ghana are not just any kind of students but future political leaders.³³ They are bound to "look for fundamental issues in what is happening around them, to be able to criticise their rulers, without losing their heads, to become points of contact wherever they are in society, pointing the way out to others in their day-to-day activities."³⁴

change in Africa was closely associated with students. In London, a number of African students from Ghana, Nigeria, Sierra Leone and the Gambia formed the West African Students Union (WASU) in 1925. Dr. J.B. Danquah was one of the founding members of WASU. Dr. Kwame Nkrumah, Ako Adjei, William Ofori-Atta and other personalities in the struggle for independence were all associated with WASU.

Under the CPP government, students were opposed to Nkrumah's ideological standpoint, the adoption of a socialist economy, the introduction and application of the Preventive Detention Act (PDA), infringement of judicial autonomy and the reaction of Nkrumah's government towards political dissent.³⁵ The Deportation Act passed on 22 July, 1957 was another issue for students to be concerned about.

While students were making critical observations on campuses concerning these laws, their awareness became even sharper on the issue of academic freedom. Nkrumah did not only use the power of deportation to dismiss expatriate lecturers known to be opposed to his ideological viewpoint, but also began to appoint presidential professors in the universities. In addition to these, he began pursuing structural and administrative changes which undermined academic freedom. In January 1964, a CPP mob descended on Legon campus, attacked a number of staff and students and caused considerable damage to property, all geared towards coercing the university into submission. Dr. J.C. de Graft-Johnson, Ghanaian professor of public education and Master of Commonwealth Hall had been detained a month earlier. In November 1964, a committee was appointed to work out a system that would remove

of the party. He meant to prescribe "socialist" textbooks for teachers and students and proscribe those considered "capitalist". Nkrumah himself had taken steps to politicise the student body. Chapters of the National Association of Socialist Students (NASS) were opened in all the three universities in Ghana. They were known as "study groups" devoted to the assimilation and propagation of "Nkrumaism." Subsequently, these groups were disbanded when the radicals among them became too assertive for Nkrumah's liking.³⁶ As part of a scheme to control Ghanaian students, Nkrumah opened the Ideological Institute at Winneba to provide ideological education and to produce socialist youth. It was made a condition for admission into any university in Ghana that a student should have a two-weeks training at the Institute.

The NUGS, against this background, took a firm decision against the CPP government. In 1963, when Tawia Adamafio, Ako Adjei and Cofie-Crabbe were acquitted of treason by the special court presided over by the Chief Justice, Nkrumah nullified the decision, ordered a retrial and dismissal of the Chief Justice.³⁷ NUGS took the position that the autonomy of the judiciary was at stake and consequently issued a statement condemning the government for interfering with the judiciary. Nkrumah was seen as a gross violator of human rights and a tyrant. This provoked the CPP loyalists to once again storm the Legon campus. More lecturers were dismissed and the university closed down for a season. A law student who led the campaign for the restoration of the rule of law was detained under the PDA.

NUGS and the CPP

government when J.B. Danquah died in detention in early 1965. At a formal dinner in Commonwealth Hall, a fifth-year law student requested for a minute's silence in memory of J.B. Danquah. The CPP group in the hall fiercely resisted this. The CPP flag on campus was torn down the following day and Cantey, the fifth year law student who led the minute's silence, and his colleagues were arrested and detained until after the coup of 1966.

A combination of spies established at the universities, the PDA against protesting students, as well as brutalisation of students, led student leaders to withdraw from the state. Under pressure from parents and other events, students began to keep their views on politics and society to themselves. For example, despite the death of Danquah and some students languishing in jail, life seemed to go on as normal. It led student leaders to conclude that "Ghana was not worth dying for." Students had become more preoccupied with how to achieve academic success than involving themselves in political matters.³⁸

On 24 February, 1966, the CPP government was overthrown in a coup, students from the University of Ghana issued the first statement in support of the newly formed NLC military government. The powerfully worded statement was read half-hourly on the national radio to whip up support for the coup.³⁹ A day after that the students poured out of the campus at dawn and demonstrated throughout Accra till dusk.

Student activism took a different turn during the Second Republic under the PP administration. During this period student's confrontation with the

The main source of discontent had to do with their own welfare. NUGS was concerned about the introduction of the Students Loans Scheme by which grants to students would cover only tuition and examination fees. The Busia government had put in place a programme to tackle the multiple socio-economic problems facing the nation. The economic hardship that arose as a result of this programme contributed greatly to the regime's alienation of students and other social groups. University students, who had campaigned extensively for Busia in the 1969 elections, suddenly became hostile to him. In fact, when Busia visited the University of Ghana, he was insulted and heckled.⁴⁰ The students also angered the government by requesting all ministers of state to declare their assets as the Constitution required, and by supporting the call of ex-CPP supporters for amnesty for all political exiles, including Nkrumah. Student leaders were summoned before parliament and severely reprimanded. The consequences of this was a rash of student demonstrations and disturbances.

There has always been a tricky relationship between students and military regimes. Students have hailed coups at dawn, only to condemn them at dusk. They generally were satisfied with the NLC era, because of its programme for a return to constitutional rule. Within this period also they saw the need to put their own campuses in order. For example, at UST students embarked on demonstrations against the Vice-Chancellor, Dr. R.P. Baffour, a close associate of Nkrumah and accused him of corruption and nepotism. The NLC had to set up a Committee of Enquiry on this. Similarly, students of Mensah Sarbah Hall, Legon, demanded the removal of the Hall Master, Professor E.A. Boateng, for nepotism and inefficiency, culminating in a long stand-off between the university

on the other. The demonstrations that followed affected both UST and Cape Coast University, and Legon was closed down. Thereby, conflict resolution on university campuses broke down and virtually every dissatisfaction would result in open confrontation between students, university administration and the government.

Under the Acheampong government students were initially supportive of the policies of the military government. The regime quickly abolished the Students Loan Scheme and won instant support from students. They positively contributed to the economic recovery efforts by government by harvesting sugarcane freely at Komenda and Asutuare to address the sugar shortage problem in the country. They also engaged themselves on irrigation dams and other agricultural activities associated with the regime's agricultural policy known as "Operation Feed Yourself".⁴¹

It has been argued that even though students may show youthful exuberance in support of coups, they cannot be relied upon as permanent partners in any military situation such as in Acheampong's case.⁴² NUGS soon began to criticise corruption in the NRC and demanded that the military rulers declare their assets as had been demanded of civilian politicians. The other concerns of NUGS had to do with human rights issues.

As already discussed the NRC was later changed into the SMC. In 1977 Acheampong proposed a new system of government called "Union Government" or "Unigov" for short. NUGS criticised the government for stifling public opinion on the issue. It also pointed out the waste of funds

... Society of Friends, the Peace and Solidarity Council, the Ghana Youngsters Club and the Organisers' Council. NUGS further argued that Unigov was a mere cover up for the misdeeds of the government and called for democracy, political pluralism, free elections, and the upholding of fundamental human rights. It embarked on a series of demonstrations in Accra, Kumasi and Cape Coast, demanding the immediate resignation of Acheampong and his government. This resulted in constant clashes between students on the one hand and soldiers and policemen on the other. A graduate student, Jones-Quartey, for example, was maimed as a result of police and military brutality. In what has been described as a "James Bond type of pursuit"⁴³ NUGS officials were driven into a ditch. The NUGS Secretary lost his life and Mr. Totobi-Quakyi, then President of NUGS, was very badly injured.⁴⁴ Invasion of university campuses by the security forces and allied political organisations and the arrest of students became common place in Ghana.

In an effort to gain control over the universities, the government placed them directly under the ministry of education. Students, sensing that the autonomy of the universities was at stake, boycotted lectures and used all their time on demonstrations. On 14 May, 1977, the government ordered all the universities to be closed down and students redeployed on agricultural production since the planting season was due. When the students went off campus, they engaged in a nationwide campaign against Unigov. In alliance with other segments of civil society, like the ARPB and the PMFJ, students opposed the whole idea of Unigov. These unrests contributed to the removal of Acheampong in a palace coup by General

June 1979.

Students co-operated with the AFRC (which was subsequently formed) during its short term of office from June to September, 1979, until the Third Republic was inaugurated on 24 September, 1979. During this period of the PNP administration under Limann, students were a source of dissent and discontent. In 1980, for example, there was a series of student demonstrations on the university campuses due to deteriorating conditions there. A number of students were injured and one was killed, resulting in the closure of the universities. In May 1981, the NUGS issued a statement deploring the worsening economic situation, and asking the government to do something about it. Disturbances followed again, and these affected other institutions, for example, the Nkawkaw Secondary School and the Foso Training College in April 1980.⁴⁵ It has been argued that these incidents were the result of the violent impact of the AFRC interlude.⁴⁶

Students initially supported that "31st December Revolution". On the advent of the "revolution" they instituted the students' Task Force and evacuated cocoa and food from the hinterland. They also engaged in literacy campaign and voluntary works. The government recognised their efforts and decorated NUGS with the Highest Order of the Star of Ghana (the Civil Division of the Grand Medal).⁴⁷ However, students began to oppose the PNDC government over a number of issues. The first had to do with human rights abuses, particularly the abduction and murder of three high court judges and a retired major. The second was about the insistence of the government that students should do a two-year national

ramme. They began to question the reality of grassroots democracy as promised by the government since they noted its autocratic tendencies of the government. The third issue of controversy was students' dissatisfaction over the deterioration of the national economy.⁴⁸

These resulted in constant clashes between students and the government. On 14 May, 1983, the PNDC employed its radical youth against the students. Young cadres, members of the people's militia, members of the CDRs and radical workers from Obuasi Gold Mines attacked the students at their Congress at UST, Kumasi. Several students, miners, and Defence Committee members were wounded. The students burnt down two Willowbrook buses, an articulator truck, a 504 caravan and two Information Services Department vans. Further clashes between students and revolutionary forces led to the student's attack on both the Graphic Corporation and the New Times Corporation.

On 19 June, 1983, there was an uprising against the PNDC government by some soldiers. The government linked student leadership with this. Arthur Kennedy, the NUGs President and Dan Botwe the Secretary, were declared as wanted for treason and had to seek refuge in the Ivory Coast. It was believed at the time that they would have been convicted by the Public Tribunals and executed as happened to Mr. Kyeremeh Gyan, a student of UST and a younger brother of Major Boakye Gyan, a former close associate of Rawlings who had fallen out of favour.

In these circumstances the universities were closed down for ten months. Students continued to condemn the detention without trial of the

Students' grievances

generally were academic, social, economic and political. They included poor facilities on campus, excesses of soldiers and revolutionary cadres, harsh economic conditions, unemployment and the arrest and arbitrary dismissal of NUGs leaders. The universities continued to be closed down and reopened erratically, doing much harm to academic life until the new democratization process ushered in constitutional rule in 1992. Since this date, there have been periodic protests by students. Between 1993 and 1996, students' grievances were mainly on the Student Loan Scheme and the governments proposal that academic cost in tertiary education must be borne by parents or students themselves. There were demonstrations in connection with this. During the 1993/94 academic year, for example, the University Teachers Association of Ghana, (UTAG) refused to teach in order to back their demands for salary increases and better conditions of service. Students supported these demands and asked that the universities be closed down since their continued stay on campus without teachers was no longer desirable. In the ensuing confusion, the universities were closed down for nine months during which academic life came to a standstill until they were finally reopened in the latter part of the year.

It could be seen from the above discussion that students-state relationship has been confrontational from independence till the period under discussion. Students have not relented in their efforts to pressurise governments to meet their demands. The issuing of ultimatums and demonstrations have been the main weapons of NUGS. It would appear that the university environment enjoys a measure of autonomy and immunity to the outside world. In spite of the excesses associated with the

...ip to students as playing the role of opposition to government when all avenues for addressing socio-political issues are closed. Some observers believe that students are sometimes paid by the opposition to frustrate government's attempts at some definite policies. It must, however be noted that student activism in the West African sub-region in general and in Ghana in particular has had great influence on the outcome of many government policies, whether social, economic or political.

2.7 The Role of Religious Bodies

Traditionally, the pulpit has been known to be the most powerful spiritual platform for reaching the people of God. However, the development of technology has caused the church to respond to the changes of the times.⁴⁹ In this regard the use of pastoral letters, communiqués, memoranda, special messages and press statements have become the most potent means of communication for the spiritual and political transformation of society. This, of course, raises questions as to the realm of the spiritual and the political in the matters they articulate. It has become evident that every where in the world, even in the world's major democratic nations, where the church is not necessarily a majority, as in the United States of America and England, what religious leaders have to say is taken most seriously by the political and economic community.⁵⁰ Although pastoral letters, for example, are seen as traditional pastoral responsibility, they wholly serve as a rallying point for focusing on pressing national issues which the church considers requires solutions beyond church. In these letters, the church tries to instruct its members or society on areas of immediate moral action. More often than not these actions lead to political decisions or questions of conscience by the readers and members of the church.⁵¹

In Ghana, the role of religious bodies has been crucial in the democratization process in Ghana. Religious bodies in Ghana include the Christian Council of Ghana, the National Catholic Secretariat, the Ghana Pentecostal Council, the Council of Independent Churches, the Ghana Ahmadiyya Muslim Mission, and the Federation of Muslims Council of Ghana. Two of these will be discussed here for convenience. It is also true that the contributions of the two bodies have been outstanding. These are the Christian Council of Ghana and the Ghana National Catholic Secretariat.

The Christian Council of Ghana was established on 30 October, 1929, known as the Christian Council of the Gold Coast at the time.⁵² Its membership included the A.M.E. Zion Church, English Church Mission (Anglican), Ewe (later Evangelical) Presbyterian Church, Presbyterian Church of Ghana and the Wesleyan Methodist Church. The Salvation Army was added in 1939. In the late 1950s and the 1960s, the African Methodist Episcopal Church, Christian Methodist Episcopal Church and the Evangelical Lutheran Church of Ghana were added. The Young Men Christian Association and the Young Women Christian Association are affiliated to the Christian Council.⁵³ The National Catholic Secretariat includes the Catholic Bishop's Conference, the Clergy, all dioceses and all Catholic organisations.

Initially relations between the Christian Council and the Roman Catholics were not easy. Nevertheless as independence approached, the churches had to face together the challenge posed by the Nkrumah movement.

to do with the use of biblical language for Nkrumah's political campaign and of politics in general. The Church was also angry at the deification of Nkrumah and the political institution created, in some way, to rival Christianity.

In 1958 Kwame Nkrumah's statue was erected in front of Parliament House, Accra, with public funds. On its pedestal was inscribed the words "Seek ye first the political Kingdom and all other things shall be added unto you".⁵⁴ This was part of Nkrumah's campaign of personality cult. Other such acts included his head on postage stamps, and on the new currency and coins. The Christian Council of Ghana, in a letter dated 28 April, 1958, to Mr. E.K. Bensah, the then Minister of Works, whose ministry erected the statue, asked him to use his good offices to remove the words from the statue and substitute a non-biblical one. Their reason was that it was a denial of one of the best-known sayings of Jesus Christ; and this was unacceptable to Christians who hold Jesus Christ to be God, the Way, the Truth and the Life.⁵⁵

The protest of the Christian Council did very little as three of Nkrumah's cabinet ministers called the Chairman and Secretary of the Council and threatened them verbally. The threats made it clear that such an action was an offence against the recently enacted Avoidance of Discrimination Act, since in this protest the Christian Council was virtually becoming a political party and therefore fit for elimination. It is not clear how the ministers arrived at the decision that the Christian Council's protest amounted to forming a political party based on religion, but it was clear that such threats were geared to quieting an organisation called the church, which had become a force to be reckoned with.



rch into collision with

Nkrumah. This concerned the formation of party branches in the churches. The Central Committee of the CPP had decided on 16 October, 1961 that branches of the party were to be formed in all government establishments, mercantile houses, workshops, farms and churches.⁵⁶ The Committee explained that the move showed the "need of the Church to help in effectively propagating the new doctrine - that is all".⁵⁷ It denied that it constituted an interference with religious ceremony or practice. At the time the saying was "the CPP is Ghana and Ghana is CPP, the party is Supreme". So the declaration of the Central Committee of the CPP was the law of the land. The churches did not take kindly to the declaration, in what they saw as direct political interference in the religious affairs of the church. Even though a few churches, like the Church of Africa and the Healing Hand of God Apostolic Mission in Accra, complied with this directive majority of them resisted it. For example, the Rev. F.G.F. Grant, the then President of the Methodist Conference of Ghana, said he was considering the matter and would issue a statement later.⁵⁸ In other words, the order was not taken seriously as far as the Methodist Church was concerned. Most of the historic churches were of that persuasion. This was so because the churches believed that it was not right for them to be identified exclusively with one party. Its proper role was to be the moral conscience of the nation as a whole, a peacemaker between the warring factions of society. This role would be best realised by maintaining an independent position. Secondly, many of the members of the individual churches were already members or supporters of one party or other; therefore, it was incorrect to re-organise the party within the Church. Thirdly, if the CPP could be organised within the church, then it should be possible for the opposition to also organise their parties within the church,

issue between the CPP and the Church was the confrontation of totalitarian socialism and democracy. The Church was opposed to the socialist policy of the CPP and believed that democracy guaranteed the right of the individual to develop as he/she likes within the limits of the law. The strategy of the churches in handling this situation was to be quiet about it. They showed a sense of maturity and sobriety. They bided their time until the issue died a natural death, an example of effective passive resistance. The episode is also interesting in the sense that it reveals the strength of a part of civil society called the Church. As soon as the announcement was made about the formation of branches of CPP within every church, many people, Christians and non-Christians, felt and said that the CPP had gone too far in interfering with the Church. If the move died a natural death, it was because of the weight of the Church. Thus Christians proved a stumbling block to the CPP.⁶⁰ It can, therefore, be said that the Church at the time had some vitality of its own.

There were other issues on which the Church and the CPP collided. These included libation at national functions, the building of the Shrine of the Osagyefo, and the equation of Nkrumah to Jesus Christ as the Messiah after the order of Jesus. These were theological issues which generated much debate. But one incident worth mentioning is the detention of Rev. Fr. Damoah at Saltpond. This incident is related directly to the Preventive Detention Act, already discussed. In 1963 Rev. Fr. Damoah, a Catholic priest, was detained at the police station at Saltpond. The reason for his detention was not known. The Archbishop of Cape Coast, Rt. Rev. John Kodwo Amissah, had visited the Saltpond parish unannounced and called at the police station to enquire about the reason for the arrest of the priest.

Archbishop, who thereby declared: "I will not leave this place without my priest. But if I must leave without my priest, I must know what he has done."⁶¹ The news of the arrest and the stand of the Archbishop drew a large crowd of faithfuls, mainly Roman Catholics and Anglicans, Methodists, and other Protestants to the police station. Not even the rain deterred them, as they kept vigil all night outside the police station, climaxing it with a celebration of the Eucharist by the Archbishop, the next morning. The effect of this was to force the police to transfer Fr. Damoah to the Elmina Police cells. This worsened the case, as the crowd followed him there. Elmina was also a Catholic stronghold and the faithfuls came to solidarise with the priests in their hundreds. The courageous stand of the Archbishop and the faithfuls apparently worried the government, and in a telephone conversation with the Archbishop, Mr. Kofi Baako, a Cabinet Minister, denied government knowledge of the incident and persuaded the Archbishop to travel to Accra for a chat with Nkrumah. The Archbishop refused this and banged the phone. This stand of the church paid off, because Fr. Damoah was released. But even up to this point no one knew why he was detained. It turned out later that it was connected with some publications in the Catholic Standard (the official mouthpiece of the Catholic Church) in which the priest in question had taken the government to task on for example, the Young Pioneer Movement and detentions.

One can easily see a misapplication of the PDA in which a man had been detained for days and was not even told why. It exposed the danger posed by the PDA, in that wicked men could hide behind the law for their own purposes. The incident also indicates the church's potential as leaders in the attack on the policies of the CPP government. The decision of the

shows that the church was, indeed, a real force to be reckoned with in the affairs of state.

The contribution of the Church to democratization can also be concretely seen during the Acheampong and Akufo regimes. In 1976, when Acheampong advocated the idea of Unigov, the issue generated a heated debate. The Catholic Church promptly issued a memorandum. The Church's position was that a just and fair government should be "of the people, by the people and for the people". The Church was quick to point out that it would be difficult to see how a true concept of democracy could be guaranteed in a form of government founded on professions. In any case, it would be difficult to prevent any group of one professional expertise or another from staking a claim to representation.⁶² The Bishop's Conference suggested an alternative form of government which in its view would seek to avoid the domination by a minority and professional interests, as would inevitably be the case in an Army-Police-Civilian Alliance. The Conference further requested that provision should be made in a Constitution making Army and Police intervention in government illegal. This standpoint obviously did not please the Acheampong government, as it sought to undermine the whole idea of Unigov.

On 19 March, 1978, the Catholic hierarchy issued a pastoral letter on the impending referendum on 30 March, 1978. In this letter, it advised members of the Church to soberly reflect on the issues at stake before voting. It drew a distinction between a non-party government and a non-party state. The former, in the view of the Church, was practicable; the latter, however, was either an impossibility or a disguised one-party state or plain dictatorship.⁶³ The pastoral letter further condemned the

in the Unigov campaign.

Earlier on 7 March, 1978, both the Catholic Church and the Christian Council, in a memorandum to the government, had condemned the arrest and detention of Mr. K. Addai-Mensah, National Secretary of the Ghana Bar Association, at his residence in Kumasi on Thursday, 21 February, 1978. They also condemned the merciless beating by Unigov supporters, of Mr. Owusu Donkor, headmaster of Opoku Ware Secondary School and his assistant, as well as students of the School. They deplored the prevention of members of the People's Movement for Freedom and Justice from free expression of their views on the Unigov referendum, as well as the indiscriminate beating of students by policemen and soldiers, at the least provocation, of Mfantshipim Secondary School, Advanced Teacher's Training College, Winneba, and other institutions.⁶⁴

The National Catholic Secretariat and the Christian Council issued yet another memorandum when the SMC government was toppled by the Armed Forces Revolutionary Council. Whilst they welcomed the sentiments expressed by the AFRC on moral decadence in society, they regretted that there was so much violence in what they believed was intended to be a bloodless takeover. They were happy about the AFRC's programme to return the country to civilian rule and advised that the date for holding elections should not be varied on any account.

It is important to note that between 1979 and 1981 when the country was under civilian rule, the two bodies issued nine major memoranda and *communiqués*. The thrust of all these was good governance, respect for

responsibility of the citizenry to the state and so on. Religious organisations together with the ARPB, NUGS and the Ghana Bar Association, condemned the abduction and murder of the three High Court judges and a retired army major in June, 1982. Both the Christian Council and the Catholic Bishops' Conference were critical of the policies of the government of the PNDC, especially on issues relating to human rights, the economic recovery programme and educational reforms. Friction between the churches and the government was increasing gradually, especially when the government through the Ministry of Information withdrew the license of the Catholic Standard.

In 1989 matters worsened when the government enacted the Religious Bodies (Registration) Law, 1989 (PNDCL 221). This law required all religious bodies to apply to government for approval through the National Commission on Culture for their continued existence. The churches saw this as a ploy by the PNDC government to exercise direct control over religious organisations, especially when there was the likelihood that certain religious bodies could be prohibited and their assets forfeited to the state. The Christian Council, the Catholic Bishops' Conference and other religious leaders opposed the law, on the grounds that it was clearly meant to cripple religious freedom and ensure state control of religious organisations. They further argued that the law was unnecessary because adequate legal provisions already existed for dealing with all types of misconduct enumerated in the law. Consequently, the Orthodox Christian Churches, especially, refused to register. After a series of mediation efforts, the matter was quietly shelved. By this, the churches resisted any attempt by the PNDC to control their internal affairs. They

... autonomy from state interference. Between November 1989 and July 1996, both the Christian Council of Ghana and the Ghana Catholic Bishops' Conference, released eleven communiqués relating to constitutional rule, drug trafficking and prostitution, as well as the state of the economy of Ghana. The two religious bodies for example, held a two day seminar on " Ghana's Economy: Which Way Forward?", at Christ the King Parish Hall, on 21-22 November, 1995. This seminar was open to the public to express their views on the subject. A communiqué was issued thereafter. Similar discussions were to follow at the July, 1996 Annual Plenary Session of the Catholic Bishops' Conference at Bolgatanga.⁶⁵

Thus the contribution of religious bodies to the democratization process in Ghana can be seen in their effort to resist authoritarian regimes, which the CPP, and SMC 1 and to a very large extent, the PNDC, governments sought to perpetuate. In all these regimes, when other segments of civil society had been effectively suppressed, the Church remained a vital force to be reckoned with. Most political leaders have been cautious in their dealing with religious leaders, probably because most Africans take religion seriously. It is also true to say that in terms of decision making, religious leaders wield greater influence on their followers than the secular government.

2.8 Summary

Generally speaking, these bodies discussed above seem to converge in their common desire to establish and develop a democratic way of life in Ghana. Their interpretation, understanding of, and response to events and their

...ly different. Whilst the methods of the churches have been sometimes paternalistic and mediatory, the other segments of civil society have usually adopted the method of agitation and protests, and have in some instances been confrontational. Religious leaders, for example, have used moral pressure, private counseling and the force of admonition through communiqués, to support their role of mediation when civil society confronts the state or government on issues of interests to them. Students, professional bodies, as well as the labour movements have served as lightning rods for public agitation, and have used public demonstration, strikes and civil disobedience to address matters of popular concern.

1. This is the idea developed by G.P. Hagan in an unpublished paper "Civil Society in Ghana : Its Profile", presented at a Conference on Civil Society in Ghana, organised by the Institute of African Studies and Fredrich Ebert Foundation at the Teacher's Hall, Accra, 1995, p. 6.
2. Ibid.
3. Ibid., p.7.
4. This is essentially the idea suggested by Alfred Stepan in his article "State Power and Strength of Civil Society in the Southern Cone of Latin America", in Peter B. Evans et al (eds.) Bringing the State Back In, Cambridge University Press, 1985, pp. 317 - 343.
5. Drah, F.K., "Civil Society and the Transition to Pluralist Democracy" in K.A Ninsin and F.K. Drah eds., Political Parties and Democracy in Ghana's Fourth Republic, Woeli Publishing Services, Accra, 1993, p. 76.
6. Drah, F.K., "The Constitutional Framework and Civil Society" in F.K. Drah and Mike Oquaye (eds.), Civil Society in Ghana, Goldtype Ltd., Accra, 1996, p. 31.
7. Ibid.
8. Drah, F.K. "Civil Society and the Transition to Pluralist Democracy" in Ninsin and Drah, op.cit., p. 77.
9. Ibid., p. 78
10. Ibid., p. 79
11. Ibid.
12. Ibid., p. 92
13. Ibid., p. 93
14. Amankwah, K. Adu, "The Role of Pressure Groups - Organised Labour and other Professional Groups" in Drah and Oquaye, op.cit., p. 133.
15. Berg E.J. and Butler, J., "Trade Unions" in J.S. Coleman and C.C. Rosberg, Jr. (eds.), Political Parties and National Integration in Tropical Africa, Berkeley: University of California Press, 1964, p. 348

16. Ghana : Annual Report of the Labour Department, 1950 - 51, Gold Coast, Ministry of Trade and Labour, pp. 4 - 5.
17. Bergard Butler has observed that the major figure in the Ghana TUC, E.C. Turkson-Ocran was Parliamentary Secretary of the CPP, Personal Secretary to Nkrumah and a member of the Executive Committee of the CPP.
18. See Apter David E., The Gold Coast in Transition, Princeton University Press, 1955, p. 215.
19. Berg and Butler in J.C. Coleman and C.C. Rosberg, eds. op.cit., p. 350
20. Annual Report of the Ministry of Labour, 1957 - 1958, Ghana.
21. Berg and Butler in J.C. Coleman and C.C. Rosberg (eds.) op.cit., p. 350.
22. This period has been treated in detail because State - Society relations at this time was very important to subsequent developments in Ghana.
23. Drah, F.K. "Civil Society and the Transition to Pluralist Democracy" in Ninsin and Drah, op.cit., p. 92.
24. Ibid., p. 96.
25. Much of the account here is based on the exclusive work by Sam Okudzeto "The Role of the Association of Recognised Professional Bodies in the Political Struggles of Ghana" in Drah and Oquaye, (eds.), op.cit. pp. 109 - 128.
26. Incidentally, the Vice-President, Dr. De Graft-Johnson, was an executive member of the ARPB during the confrontation with the NRC.
27. Okudzeto, op.cit., p. 111.
28. Ibid., p. 112.
29. Ibid., p. 112 and 113.
30. Ibid., p. 115 and 116.
31. Lipset, S.M. "Students and Politics in Comparative Perspective", Daedalus, Vol. 97, No. Winter, 1968.

Oquaye, (eds.), op.cit., p. 178.

33. Amoah, A.S. University Students' Political Action in Ghana. Tema, Ghana Publishing Corporation, 1979, p. 43.
34. Jones-Quartey, K.A.B., "Ivory-Towerism", True or False - A Panel Discussion, Universitas, March 1969, Vol. 1, pp. 25 - 26.
35. Oquaye, op.cit., p. 179
36. Drah, F.K. "Civil Society and Transition to Pluralist Democracy" in Ninsin and Drah (eds.), op.cit., p. 113.
37. Oquaye, op.cit., p. 181.
38. Oquaye, op.cit., p. 182.
39. Oquaye, op.cit.
40. Amoah, S.A. op.cit., p. 45.
41. This was an agricultural policy embarked on by the NRC government. Due to the great boost in agriculture, the nation experienced a growth rate of 7% between 1972 and 1974. For a comprehensive analysis of this see Naomi Chazan, An Anatomy of Ghanaian Politics: Managing Political Recession, 1964 - 1984, Boulder, Colorado, Westview Press, 1983, p. 168.
42. See Julius O. Ihonvbere, "Economic Crisis, Structural Adjustment and Social Crisis in Nigeria", World Development, Vol. 21 (1) January, 1993, pp. 141 - 153.
43. Oquaye, op.cit., p. 187.
44. Mr. Totobi-Quakyi was later to become a PNDC Secretary for Information.
45. Peoples Daily Graphic, issues of 1 and 15 April, 1980.
46. Drah, F.K., "Civil Society and the Transition to Pluralist Democracy", in Ninsin and Drah (eds.) op.cit. p. 99.
47. Oquaye, op.cit., pp189-190.
48. Ibid., pp 191-192.

University of Ghana *Journal of Law and Social Sciences* and the Strengthening of Civil Society, a paper presented at the International Conference on Strengthening of Civil Society, Accra, February, 1996.

50. Ibid.
51. Ibid.
52. Pobee, J.S., Kwame Nkrumah and the Church in Ghana, 1949 - 1966, Asempa Publishers: Accra, 1988, p. 65.
53. Ibid
54. This was basically on adaptation of Matthew 6:33 in the New Testament "Seek ye first the kingdom of God and his righteousness; and all things shall be added unto you".
55. Pobee, op. cit., p. 118.
56. Evening News, 20 October, 1962.
57. Ibid.
58. Evening News, 27 October, 1961.
59. Pobee, op. cit., p. 126.
60. Pobee, op. cit., p. 127.
61. Pobee, op. cit., p. 171.
62. "Memorandum on the Proposed Union Government", submitted by the Catholic Bishop's Conference, 30 March, 1977.
63. "Joint Pastoral Letter of the Catholic Hierarchy of Ghana on the Referendum, 19 March, 1978".
64. "Memorandum submitted by the Christian Council of Ghana and the National Catholic Secretariat to the Government of Ghana, 7 March, 1978".
65. File on Communiques and letters, Department of Social Communication, Ghana National Catholic Secretariat, Accra.



PROFILE OF THE THE GHANA BAR ASSOCIATION

3.1 Introduction

This chapter traces the origins, establishment and development of the Ghana Bar Association (GBA) from the colonial period to the post independence era. The discussion focuses on the uncertainties associated with the historical evolution of the association. This has been done by taking into consideration the political and social environment at the time. Most importantly, the searchlight is on the aims and objectives of the association, and its organizational structure as well as a brief history of GBA-state relations. It is believed that this will be crucial to the discussions in subsequent chapters.

3.2 The Historical Evolution of the Ghana Bar Association

There is a great deal of uncertainty surrounding the exact date on which the Ghana Bar Association was formed. This is because most of the studies conducted have been unable to state the date on which the law profession itself began¹.

It is on record that the first indigene of Ghana to have qualified as a barrister was John Mensah Sarbah of Cape Coast who was called to the Bar by Lincoln's Inn in London in 1887². It would appear, however, that there might have been others who might have enrolled as solicitors before John Mensah Sarbah was called to the Bar³. They had been sent to study law in England by their own families. These practiced law before the colonial Supreme Court and represented chiefs, merchants and other indigenous litigants in the courts and were the most prominent group among the

...ies between the people and the colonial legal - bureaucratic complex⁴. The Supreme Court Ordinance was enacted by the Governor of the Gold Coast Colony on March 31 1876⁵. In a sense this could be an approximate date for the beginning of the law profession in Ghana. This is because the Ordinance gave the Chief Justice "power to approve, admit and enroll to practice as barristers and solicitors in the court, persons who had been admitted as barristers or advocates in Great Britain and Ireland or solicitors or writers to the Signet in any Courts at London, Dublin or Edinburgh"⁶

He was also given the power to admit as a Solicitor of the Supreme Court any person who had served five years continuously in the office of a practising barrister or solicitor residing within the jurisdiction of the court and who had passed such examination touching the principles and practice of law as might be provided⁷.

It is important to note that John Mensah Sarbah was not to appear on the scene until ten years after the Supreme Court had started operating, which reinforces the view that there were other lawyers before him. The provision above, therefore, enabled some of the unqualified attorneys then practising in the British Courts to continue practising until they were phased out⁸. There had developed a practice before the Ordinance whereby educated Africans who specialised in the presentation of cases appeared on behalf of their clients in the British Courts established in 1853⁹. They were not qualified lawyers. This was the era of the Bannerman brothers, Edmund, Charles and James. It is on record that Charles Bannerman even appeared for the prosecution in 1863, when his brother James was convicted of extortion, fined £50, imprisoned for twelve months and dismissed from the ...istry¹⁰.

... 1866 the licenses were discontinued and attorneys take out regular licenses. But in 1865 the licenses were discontinued and attorneys forbidden to wear wigs and gowns in court. In 1866 several of the attorneys crossed swords with British magistrates. Charles Bannerman and W.C. Finlason, from Jamaica were prohibited entirely from practice, for using strong language to the Bench. Charles Bannerman was in addition sentenced to three months imprisonment. The then Administrator proceeded to stop all self-educated attorneys from practising in Court. However, some attorneys like Charles Bartels, G. Blankson junior, H.F. Salisbury and W.A. Ward, petitioned in protest; and the British Secretary of State condemned the prohibition as arbitrary and impolitic, and instructed Colonel E. Couran, the then Administrator, to withdraw it immediately. Even though the attorneys were once again licensed and enrolled in 1867, they continued to have difficulties in the courts with the newly appointed Chief Magistrate, W.A. Parker, when he arrived, with some even imprisoned by him. This situation unfortunately did not change when David Chalmers replaced Parker in 1869. He was unfriendly and unsympathetic to these attorneys. He alleged that they lacked the necessary education and charged their clients exorbitant fees. He refused to renew their licenses when they had elapsed. He himself admitted:

I was reluctant to take steps to revive these licenses, deeming it undesirable to give to men of at least imperfect educational and professional qualifications that status and quasi-guarantee which enrolment as recognised of the Court tended to confer....¹¹

Chalmers further objected to the attorneys on the grounds of "time wasted through the causes being overlaid with excessive mass of evidence useless at best or more often directed to conceal and pervert the truth by frivolous discussion"¹². He argued that the confidence of the people in the British

these attorneys. In 1870

he forbade the attorneys from acting in civil cases concerning Africans. He consequently wrote in 1872 to the Administrator-in-Chief arguing for the exclusion of all indigenous attorneys from all the Courts. Lord Carnarvon, the Secretary of State had a different view about it; he refused to authorise this proposal. This is seen in his dispatch to the Officer Administering the Settlement:

The evils pointed out in Chalmer's paper arising from the employment of ill educated and extortionate practitioners appear to be very serious, but I am not prepared to adopt the arbitrary course of prohibiting altogether the intervention of attorneys, at all events not before other less stringent steps have been tried with a view to remedy the evil.¹³

He, then, went on to suggest that the attorneys should pass a simple examination before the Chief Magistrate. The examination was designed to prove their knowledge of court procedures and the broad general principles of civil and criminal law. He also suggested the fixing of a table of fees in the court house and in the office of every practising attorney. These suggestions were embodied in a new Supreme Court Ordinance¹⁴.

But it was obvious that unqualified attorneys were not the only practitioners that Chalmers wanted to restrict. He seemed to have been against the appearance of advocates, whether formally qualified or not, in cases before court altogether. Even though this attempt to exclude them from courts had been frustrated, he still cherished that dream of perpetuating in the Gold Coast what has been described as the "institution of the inquisitional judge¹⁵ - to discard all technicalities in any case. In his scheme of things, advocates were a nuisance. In view of this difficulty that plagued the law profession in the Gold Coast, one can argue that the

concern itself with the welfare of its members was not only necessary but also crucial. One can also suppose that when qualified lawyers with the entitlement of English tradition appeared on the scene, it would be natural for them to give visible evidence of their membership of an exclusive profession by forming an association that would distinguish them from the rest of society¹⁶. Reasons why an association of some sort should be formed would be many and varied.

In spite of all these, there is no record of a formal Bar Association in this country during these early years. It would appear that sometime around the 1920s and 1930s there was a practice whereby the most senior lawyer in practice; who was also a member of the Bar in the country, was recognised by other lawyers as "leader of the Bar"¹⁷. There is the mention of one Mr. Francis Dove who is said to have had a flourishing carrier at the Bar between the 1930s and early 1950s. He was a leader of the Bar over a long period; the records, however, do not show any thriving Bar Association¹⁸.

There are also references to the provincial Bar Association like the Eastern Bar Association¹⁹ and this implies that there was a Bar Association at the national level. But even these references do not show in any meaningful way that these associations were formal institutions which held regular meetings, kept minutes, had a constitution and elected leaders periodically. It is very likely that the Bar Association was more of an informal group in which members met for social purposes, other than devotion to national, political or professional issues at the time.

Earlier studies in 1969 could not trace any Bar Association records going back earlier than 1959²⁰. This study has suggested that even if such records

As they had been mixed up with professional papers which died with the lawyers who had owned them. This conviction may as well discourage one from probing much further into the historical past of the Ghana Bar Association.

Perhaps it would be appropriate to have a cutting point because it was not until after independence in 1957 that the real action began. At this time, President Kwame Nkrumah attempted to harness the legal system to oppress his opponents. Many chambers were formed at this time from a purely political motive²¹. The Convention People's Party (CPP) was worried about the opposition shown to it by members of the legal profession and wanted to bring together lawyers sympathetic to the regime who could handle cases of a quasi-political nature for the party as well as taking on legal work for the public corporations for which the Attorney General's Department did not have adequate staff²². The confrontation of the legal profession with President Nkrumah in the early 1960s presents the most formative period in the profession's history. This encounter between lawyers and government can be understood in the light of similar confrontations between lawyers and the colonial government in the immediate past. The colonial government was in a contradictory position. On the one hand it had the desire to strengthen colonial rule by institutionalising the legal system; on the other hand it was from the base of the same legal system that the early Gold Coast elite, most of whom were in the Gold Coast Bar Association, were able to challenge the colonial authority²³.

Another factor that also contributed to the power and influence of the legal profession was the growth of a market for lawyers' services. This was linked directly to the economic transformation taking place at the time, in



land²⁴.

The emergence of an organised national Bar Association could therefore be seen against the background of such confrontation between lawyers and government, and some major reorganisations of the legal profession itself; such as the establishment of a national law school and an autonomous General Legal Council to regulate entry to the profession, to supervise the content of legal education and, through its disciplinary committee, deal with cases of professional misconduct²⁵.

It is thus, only in recent times that the Bar Association has been organised on anything like a formal or business-like basis and has kept minutes of its meetings and operated under a Constitution. Even here, the Ghana Bar Association did not have permanent offices and its records were kept wherever its General or National Secretary happened to be. Even though the Association drew up its first formal Constitution and Code of Ethics in 1958, it was only from the middle of the 1970s that it has maintained permanent officers, and a permanent secretariat with a permanent staff.

3.3 Aims and Objectives

According to the new constitution of the Ghana Bar Association adopted in 1994,²⁶ the main object of the Association is formulated as follows:

"To concern itself with all matters affecting the legal profession in Ghana and for that purpose to take such action as it considers necessary and expedient".

In more specific terms the Constitution declares that the Association shall be concerned with -

the defence and upholding of freedom and justice in Ghana;

- b) the maintenance of the honour, independence and integrity of the legal profession;
- c) the maintenance of the independence of the judiciary
- d) the organisation and promotion of legal education;
- e) the maintenance of professional standards, discipline and etiquette;
- f) the establishment and maintenance of a system of efficient legal aid and advice;
- g) the promotion and support of law reform and the pursuit of legal research;
- h) the furtherance of good relations between the Association and similar organisations of lawyers in other countries; and
- i) the protection of human rights and fundamental freedoms as defined under the United Nations Universal Declaration of Human Rights and Fundamental Freedoms, the African Charter on Human and People's rights, the Constitution of Ghana, and other international treaties and conventions to which Ghana is a party; and
- j) the conferment of honour on deserving members."

The last objective, "the conferment of honour on deserving members" was deliberately added to encourage members' contribution not only to the welfare of the law profession but also to the maintenance of democratic principles in the country as a whole.

3.4.1 Membership

The Ghana Bar Association comprises persons who have been called to the Bar and are thus entitled to practice as lawyers in Ghana. It is the only Association of lawyers which is recognised by the 1992 Constitution²⁷. It is part of the legal profession in Ghana. The others are the professional members of the Bench, the Law Faculty, University of Ghana, Legon, the Ghana Law School and the Attorney-General's Office. It has a total membership of 3,000²⁸. It is estimated that female membership is approximately 300, the majority of whom are in public practice, with the Attorney-General's Office, Statutory Corporations, Institutions, Banks and other Corporate bodies. Private practitioners are expected to practise from law chambers.

It appears that the Association has a loose membership. The clause on membership states that:

Every lawyer shall upon his enrolment in Ghana apply to be a member of the Association and shall upon becoming a member, pay to the Association such registration fee as may be determined by the General Council of the Bar.²⁹

Even though the clause says that a member shall apply to be a member, membership of a lawyer is considered automatic once he is called to the Bar. As will be seen later in this discussion, the non-payment of dues and lack of commitment of members to meetings and programmes of the Association can largely be seen as a result of this.

There is also a problem of the size of the membership. There are no available records on the GBA files indicating the membership of the

: always approximated.

The list of members is not updated in view of death, travels, retirements, so on.

3.4.2 Seniority at the Bar

Seniority is part and parcel of the law profession in Ghana and a component part of the structure of the Ghana Bar Association. Article 4, section 2 of the Constitution on membership states as follows:

"A member of the Association is deemed to be a Senior if he has attained ten (10) years or more at the Bar". Which means that Junior members are those below ten years. Seniority in the Bar Association is fundamental to a member's eligibility for particular offices contested for or appointed to. Junior members are disqualified from occupying certain national offices.

It has been argued that internal stratification between lawyers themselves develops from the conditions of law practice. The more senior lawyers, those practising in the higher courts, in the more prestigious areas of practice like the customary law of land and inheritance, with a more developed client network, make more money than their less fortunate ones. They also acquire a more professional standing, taking more active role in the Bar Association. The experienced ones are to be found specialising in criminal law practice. Seniority at the Bar is the official basis for the ranking of members of the profession and is also related to the lawyers acquisition over the years, of experience, clients and wealth. Senior members tend to have a more stable clientele and rely less on clients arriving in their chambers for the first time.³⁰



The Annual Conference of the Ghana Bar Association is its supreme authority . It meets once a year or at a special meeting to deliberate on matters affecting the profession, the nation and the international community. It is at this conference that all resolutions and important decisions of the Association must be approved and constitutional amendments adopted. Its meetings rotate among the Regional Bars. It is the body that elects the national officers. In recent times the Annual Conference has witnessed the presentation of learned papers of academic and professional importance by both local and foreign jurists. It has been designed with the view to serve as an inspiration to all members of the legal profession and to promote the quality of legal service in the country.

3.4.4 The General Council

The General Council of the Bar is the executive body. The council primarily implements the decisions of the Annual Conference and is further responsible for the operation of GBA in between Annual Conferences. It meets monthly but could have emergency meetings if necessary. It comprises the national officers and the President and Secretary of each Regional Bar. All past national Presidents of the association are ex-officio members. No person holding a national office is allowed to concurrently hold office as a member of the executive of a regional branch of the Association. The council administers and manages the Association's national headquarters. It is responsible for professional conduct, etiquette and disciplinary matters. Its academic function is to encourage research into various branches of the law and, for that purpose, recommend the endowment by the Association of scholarships, prizes,

...w, the Ghana School of Law and other institutions that the council may determine³¹. One very interesting aspect of the functions of this Council is the establishment of links between the legal profession in Ghana its counterparts in other countries³².

3.4.5 National Officers

The national officers of the Ghana Bar Association comprise the President, Vice-President, Secretary, Assistant National Secretary, Treasurer, Public Relations Officer, and Assistant Public Relations Officer. The immediate past President is a member of the National Executive Committee. The national officers are responsible for the day-to-day administration of the GBA, assisted by a secretariat headed by the National Secretary with paid staff. The national officers are not remunerated. They are elected for a term of one year by the Annual Conference. Incumbents are eligible for re-election. The National Executive Committee carries out the functions of the General Council in between meetings of the latter and report to it.

3.4.6 National Secretariat

This is a Secretariat based at the national headquarters consisting of paid administrative and other staff appointed by the General Council. They are not necessarily members of the legal profession. Their remuneration and conditions of service are determined by the General Council. The staff carry out the functions of the Association at the headquarters by establishing regular liaison with regional branches of the GBA. The Secretariat keeps all the records of the Association. It also ensures the proper keeping of accounts, preparation and production of reports of the Association and implements the directions of the General Council. An

20 The Executive Director, National Council for the Legal Council, heads the Secretariat and is responsible to the General Council through the National Secretary and the National President .

3.4.7 Committees

Article 9 of the Association's Constitution provides for the appointment of committees of the General Council. These are the Human Rights, Legal and Constitutional , Law Reform, Scale of Fees, Electoral, Women and Minorities, Legal Aid and Disciplinary committees. These have specific functions within the GBA set up.

3.4.8 Regional Branches of the Association

Under the organisational structure of the GBA, there are branches in each political region. These hold annual and special meetings. Every regional branch has a President, Vice-President, Secretary, Assistant Secretary, Treasurer and Publicity Secretary which correspond to the positions at the national level. There is a Regional Executive Committee comprising all regional officers and the immediate past regional President. Its function is to promote the objectives of the Bar Association in the region, collect all levies and subscription fees of members, as well as promote activities for the welfare and advancement of members and the general public. It is assisted by a regional Secretariat with the regional Secretary as the head.

3.4.9 Meetings of the Association

According to the Constitution of the GBA, the Association's Annual General Conference takes place during the month of September, unless otherwise changed by the General Council. It is necessary for one to consider the agenda at both national and regional levels in order to



g. The constitution of the Bar Association to the process of democratization in Ghana. Generally, the proceedings of the Annual General Conference include:

Report and financial statement of the General Council for the preceding year; a review of the audited accounts of the association; election of national officers for the following year; any matters affecting the national and international interest of the Association; venue for the next Annual General Conference; appointment of professionally qualified auditors to audit the accounts of the Association for the following year; and any other business as may be determined by the General Council.

This format is the same for the Regional Annual Meetings except that the content is limited to the individual regions. There are other special or emergency meetings at both levels with specific modalities for convening such meetings. Most Regional Annual Meetings take place in the month of October, obviously after the Annual General Conference so that the relevant issues raised at the national level can also be discussed at such meetings.

3.4.10 Election of Officers

One important aspect of the organisational structure of the GBA is the conduct of elections. At both national and regional levels officers are duly elected. National officers are elected during the Annual General Conference. Regional elections take place within one month of the Annual Conference or soon thereafter. All candidates to offices must be eligible. A member is eligible for election to the offices of National President and National Vice President if the member is of a minimum of fifteen years' standing at the Bar. For National Secretary, National

member should be of a minimum of ten years standing at the Bar³³. For National Assistant Secretary, a member must have a minimum of seven years standing. "A candidate is not qualified to be nominated for election if he has any record of conviction for a serious criminal offence or proven professional or other misconduct involving dishonesty or moral turpitude"³⁴

Qualifications for those desiring to be regional officers are the same as for the national officers except that here the General Council may, in the case of any particular region, upon representation made by the regional branch, waive any requirement needed for any position. This waiver, however, is limited to one particular election year.

3.4.11 Nominations

A candidate seeking any position at the national office has to be nominated by a member and supported by a minimum of three members from at least four of the ten regions in Ghana. This is probably designed to check the eligibility of the candidate. It may as well be a way of ensuring that candidates elected to the national offices have a wide range of acceptance. Nominations are open and closed within eight weeks in every year, not later than three months prior to the date fixed for the Annual General Conference. The electoral officer and the National Secretariat of the GBA thereupon forward a list of nominated candidates to the regional branches for publication. A candidate may withdraw his or her candidature not later than fourteen days before the close of nomination. Any withdrawal of a candidate outside the stipulated time may attract a surcharged processing cost for the nomination papers. A candidate may be

he stands unopposed at

the close of nominations.

3.4.12 Electoral Officer

The General Council appoints an electoral officer before the first of April of every year for the purpose of elections within that year. This electoral officer is assisted by an assistant electoral officer in each region who is a member of the Association. Both the Electoral Officer and his assistants must be members of good standing. The electoral officer is responsible for the conduct of elections for national officers whilst the assistant electoral officers conduct elections for regional officers.

3.4.13 Electoral Committee

The General Council appoints an Electoral Committee before the first of March every year. It consists of the Electoral Officer of the Association and four other members who are of good standing. This Committee determines who qualifies for voting before the Annual General Conference. It has the power to vet any candidate regarding his or her qualification for the office concerned. A candidate who is dissatisfied with the decision of an electoral officer or an assistant electoral officer in respect of his or her nomination can appeal against such decision to the Electoral Committee. A further appeal can be made to the General Council if dissatisfied with the Committee's decision. The determination of the appeal by the General Council is final.

3.4.14 Discipline

The Constitution of the Association makes provision for discipline of members who violate the rules and bye-laws of the Association. There is a

not more than fifteen members of good standing. No member qualifies to be a member of the Committee unless he is at least ten years standing at the Bar. The Committee meets at least twice a year. Its duty is basically to enquire into any alleged professional misconduct of any member of the Association. Rules as to the times and places of meeting of the Committee; as well as the manner of summoning members and procedures to be followed in any inquiry are set by the General Council. Provision is made for any member under investigation to be represented by a lawyer. Normally, a member under investigation is served with a notice specifying the form of complaint, the subject matter of the inquiry, the date, time and place at which the inquiry is proposed to be held. The time is normally twenty eight days after the date on which the notice is served. A lawyer into whose conduct an inquiry is to be held may appear either in person or by his counsel. An inquiry is held in camera. The Disciplinary Committee may receive both oral or other evidence as would be receivable in a court of law. Decisions are taken after exhaustive inquiry and measures are taken as specified in the regulations of the Association. Decisions may be reviewed from time to time as the need arises.

3.5 Finance

The main source of revenue for the GBA is the annual dues payable by members. At present the levels of payment are as follows:

Senior Lawyers (10 years and above)	-	€50,000.00 per annum
Junior Lawyers (below 10 years)	-	€25,000.00 per annum

...-ence. It is estimated that only 20% of the entire membership have been paying their dues regularly³⁵. These are mostly members who are employed by the public institutions and the banks. The number of private practitioners who pay regularly is negligible.³⁶ There are two main reasons for this low patronage. Firstly, the GBA has over the years been unable to embark on general welfare programme for its members to motivate them, because of its meagre resources. Secondly there are no serious sanctions which could be invoked against defaulters. Auditing, banking and budgeting form part of the financial management of the GBA at both national and regional levels. The constitution of the GBA makes adequate provision for the opening of national and regional banking accounts and the power to set up special funds when it becomes necessary. Both the national and regional Treasurers are required to prepare annual budgets not later than three months before their respective Conferences.³⁷

3.6 Projects

Over the years the GBA national secretariat has been accommodated in hired premises with the least privacy. The Association has acquired a piece of land and intends to construct GBA offices, auditorium, bar, restaurant, library and hostel for visiting practitioners from the regions. There are also plans to acquire modern office equipment and materials to ensure efficiency at the Secretariat.

The GBA has a publication, the GBA Bulletin. Publication has ceased since 1991 because of lack of funds. It also has a legal literacy programme whereby some of the enactments are assembled and reduced into simple and understandable language for the benefit of the less literate in the



tion in particular and democratic development in general. Other Committees such as the Women and Minorities Committee are pursuing similar programmes. The Continuing Legal Education Committee has the responsibility of running workshops for members of the Bar and the general public on a number of legal subjects.

3.7 International Relations

The GBA is a member of the International Bar Association (IBA), African Bar Association and Commonwealth Lawyers Association. Members of the GBA patronise meetings of these International and Regional bodies. It is believed that the GBA's participation in the activities and programmes of these bodies would enhance its participants' horizon of global democratic development and enable them assist in similar efforts at home.³⁸

3.8 The Ghana Bar Association and State Relations

The Ghana Bar Association has reacted to different regimes differently, depending on the political disposition of the government in question. It would be recalled in the early part of this chapter that the Gold Coast Bar Association had serious confrontations with the colonial government. The Bar also came into confrontation with the CPP government as it fought to assert its independence from government and political control.

In nature and design, the NLC government that removed Nkrumah from office was temporary and corrective. Even though Nkrumah was no longer in power, as far as the Bar Association was concerned, a government of the Army and Police could not be trusted in terms of

has championed since colonial times. But this fear was removed as the NLC government quickly handed over power to a civilian administration formed through free and fair elections in 1969.

The 1969 Constitution under the Busia Administration ensured the sovereignty of the people, the rule of law and guaranteed fundamental human rights. The independence of the judiciary was ensured and the constitution provided that judicial power of Ghana should be vested only in the judiciary. The Chief Justice was to be appointed by the President and not the Prime Minister in consultation with the Council of State. Judges could not be arbitrarily dismissed except on ill-health or insanity or proven misbehaviour. In terms of constitutional rule there was very little for the Bar Association to complain about. But in 1970 the government dismissed 568 civil servants under the transitional provisions of the 1969 Constitution; this action was considered unfair and it became an unpopular issue. To worsen matters, Mr. Sallah, a public servant, challenged the legality of his dismissal in court. After the Supreme Court's decision in his favour, Busia remarked in a radio and television speech that no court could compel the government to re-instate any dismissed public servant. This brought the government into serious conflict with the Judiciary. The comment gave the impression that Busia of all people despised the rule of law and the independence of the judiciary, something seriously upheld by the Bar Association.³⁹

In January 1972, when the PP government was overthrown the National Redemption Council (NRC), which was formed and later renamed Supreme Military Council (SMC) made bold attempts to tackle the

ulture. These were fairly successful and popular discontent was defused to some extent. But from 1975 onwards, there were a severe scarcity of basic needs, deterioration of the basic physical and social infrastructure, smuggling, trade malpractices, rampant corruption with the government being the notorious culprit, and economic mismanagement.⁴⁰ It was against such a background that various organisations demanded a return to civilian, constitutional rule. This demand was re-inforced by a series of protests and strikes by doctors, nurses, lawyers, students, university teachers and so on. The response of the government was characterized by the use of armed force and detention without trial under the Protective Custody Decree.

On 23 September, 1976, the Ghana Bar Association made an unequivocal call on the government to return the country to civilian and constitutional government not later than 1978. They also demanded the abolition of military tribunals and unlawful detentions because they were contrary to fundamental human rights. They pointed out that there was adequate judicial machinery for the trial of all offences in the country. The Association decided that no member should appear before any military tribunal. This was a major blow to the government because the presence of lawyers often gave the tribunals the semblance of legitimacy, where verdicts were almost always known in advance and in favour of the authorities. Finally, the lawyers demanded that a constitutional committee should be set up to formulate proposals for the drafting of a Constitution for the country. This drew serious, sharp and venomous reaction from the government and its supporters.⁴¹

Acheampong proposed the idea of Union Government. The Bar Association, together with other professionals opposed the idea and relentlessly called on the government to return the country to civilian rule. The removal of Acheampong by his colleagues after the Unigov referendum is a testimony to the fact that the protests had had their impact. The Ghana Bar Association contributed significantly to the demise of the Acheampong regime but in the process a lot of its members were thrown into jail without proper trial.

The Association has resisted the phenomenon of military rule in Ghana and has insisted at all times that the military have no role to play in politics and consequently that the violent overthrow of democratically elected governments is illegitimate. This is particularly inexcusable where there is a democratic Constitution which gives the right of choice with regard to political office.⁴² In this regard, the Association strongly objected to both the AFRC regime in 1979 and the overthrow of the PNP government under Limann by the PNDC in 1981. This objection to the PNDC's rule was worsened when the three High Court judges and a retired army major were murdered. For members of the Ghana Bar Association, this incident was a direct attack on the law profession itself. The Association also objected to the setting up of public tribunals because in its view the tribunals subverted the rule of law and the power of the judiciary. Consequently, at the 1982 Annual Conference of the GBA, the lawyers passed a resolution that members of the Association should boycott the Public Tribunals. Some members, however, flouted this resolution, probably due to sympathy with both government and accused persons, or purely because of economic considerations. The GBA, at its 1992 Annual Conference ten years later, passed two resolutions that

...by virtue of their offices have violated, or assisted in the violation of rights and privileges of fellow lawyers and other citizens...."⁴³ Resolution 2 empowered the General Council to discipline all members of the Association who flouted the 1982 resolution debarring them from appearing before the Public Tribunals.

In the PNDC era, GBA-state relations were very confrontational. As a result, some of its members were harassed, imprisoned without trial or forced into exile. The PNDC era witnessed what has been described as the culture of fear and silence, as the use of the state security apparatus was maximised to deal with any opposition. This notwithstanding, the GBA continued to be vocal and critical of the PNDC government's policies. It instituted the MARTYRS DAY REMEMBRANCE, 30 June each year, in memory of the abduction and murder of the three High Court judges and a retired army major.

In the PNDC era alone, the GBA issued thirty-six communiqués, memoranda, press releases and so on. The majority of these dealt with issues relating to constitutional governance, human rights, freedom and justice, independence of the Judiciary, matters affecting the legal profession, as well as socioeconomic issues. These have been critically analysed in the next chapter. Since the Fourth Republic was inaugurated, the Association has concerned itself with ensuring that both the National Democratic Congress (NDC) government and the opposition religiously follow the Fourth Republican Constitution. Between 1992 and 1996 the GBA released nineteen (19) memoranda, communiqués and press statements on issues relating to democracy, freedom and justice, human rights and the national economy. Prominent among these are the GBA's



provisions of the 1992 Constitution and a press release protesting against the nomination of Mr. Justice Ebiasah for appointment as the Ombudsman and Commissioner for Human Rights and Administrative Justice. The GBA was also critical of the security forces when they stormed the University of Ghana campus and brutalised students and staff in March 1993. In a statement released on 26 March, 1993, they condemned such acts, branding them as gross violation of human rights and called on the government to set up a committee of enquiry to investigate the matter. In the same manner, the GBA protested against the appointment of Mr. Justice I. K. Abban as the Chief Justice of Ghana. The GBA held the view that Mr Abban was not a proper and fit person to occupy the highest judicial office because he was not a person of high moral character and proven integrity. Consequently, they called on him to step down from office. When he refused to step down, the GBA commenced a civil action at the Supreme Court. Though the Association lost the suit, the action proved that the GBA was committed to the rule of law and the independence of the judiciary.

3.9 Summary

It is evident from the discussion above that the Ghana Bar Association has gone through various stages of development in the political history of Ghana. It has grown from a simple association of lawyers to a more complex professional organisation. The Association has reacted differently to various governments according to the political orientation of such governments. The GBA, by its constitution and organisational structure strongly believes in democracy, freedom and justice, human rights and constitutional change and have come into confrontation with various governments whose policies have been at variance with these ideals.

- 1) For a more detailed account on this, see Luckham, Robin, "The Ghana Legal Profession: The Natural History of a Research Project", in Robin Luckham ed., Law and Social Enquiry: Case Studies of Research, Scandinavian Institute of African Studies, Uppsala, 1981, p. 111.
- 2) Ala Adjetey, Peter, "The Role of the Ghana Bar Association in Ghana's Democratization Process", in F.K. Drah and Mike Oquaye eds., Civil Society in Ghana, Gold-Type Ltd., Accra, 1996. p. 62.
- 3) Luckham, op. cit.
- 4) Luckham, op. cit.
- 5) Amissah, A.N.E., "The Supreme Court, a hundred years ago", in Essays in Ghanaian Law, Supreme Court Centenary Publication, (1876-1976), Faculty of Law, Legon, Ghana Publishing Corporation, Accra, 1976, p. 1.
- 6) The Supreme Court Ordinance of 1876 (Referred to as the 'Ordinance'), Section 60.
- 7) Ibid., Section 62.
- 8) Amissah, op. cit., p. 25
- 9) Kimble, David, A Political History of Ghana: 1850 - 1928, Oxford, Clarendon Press, 1963, p. 68 - 70.
- 10) Amissah, op. cit. p. 26.
- 11) Chalmers, David, Letter to the Administrator in Chief, 3 June 1872, quoted in Amissah, op. cit., p. 27.
- 12) Ibid.
- 13) Carnarvon, Lord, Despatch to Offer Administering the Gold Coast, 17 July 1884, G.C. No. 214.
- 14) Kimble, op. cit., pp. 68 - 70, gives an interesting account of the time and its personalities.
- 15) Amissah, op. cit., p. 26.

- 17) Adjetej, op. cit., p. 62
- 18) Adjetej, op. cit.
- 19) Adjetej, op. cit., p. 63
- 20) Luckham, op. cit., p. 110
- 21) Luckham, Robin, "The Economic Base of Private Law Practice", in Essays in Ghanaian Law, Supreme Court Centenary Publication(1876-1976), Faculty of Law, Legon, Ghana Publishing Corporation, Accra, 1976, p. 180.
- 22) Ibid.
- 23) Luckham Robin, 'The Ghana Legal Profession: The Natural History of a Research Project' in Robin Luckham, (ed.) Law and Social Enquiry: Case Studies of Research, Scandinavian Institute of African Studies, Uppsala. 1981 , p. 112.
- 24) Ibid.
- 25) Ibid.
- 26) The Ghana Bar Association Constitution of 1975 was replaced with a new one adopted at its Annual General Conference held at the High Court, Koforidua, October 1994.
- 27) See the Ghana Bar Association's representation on a number of Commissions and Committees: These are found in Articles 153(f), 157(i) (c), 166(i)(a), 201(e), 204(d), 206(e), 209(i)(d), 259(b)(ii), and 261(c) of the Constitution of the Republic of Ghana, 1992.
- 28) Adjetej, op. cit., p. 63.
- 29) Ghana Bar Association Constitution, Article 4.
- 30) Luckham, Robin, "The Economic Base of Private Law Practice", in Essays in Ghanaian Law, Supreme Court Centenary Publication (1876-1976), Faculty of Law, Legon, Ghana Publishing Corporation, Accra, 1976, p 181
- 31) Ghana Bar Association Constitution, Article 8(2)(f).
- 32) Ibid., Article 8(2)(g).

- 34) Ibid., Article 26(4).
- 35) Boafo, O. William, Synopsis for USAID Project, 1995, p. 1.
- 36) Boafo, O. William, Personal Interview, 15 January, 1996.
- 37) Boafo, op.cit., p.2.
- 38) Boafo, op.cit., p. 3.
- 39) Drah, F.K., "Civil Society and the Transition to Pluralist Society" in K. A. Ninsin and F. K. Drah eds, Political Parties and Democracy in Ghana's Fourth Republic, Accra, Woeli Publishing Services, 1997, p 94.
- 40) Ibid., p 95.
- 41) Oquaye, Mike, Politics in Ghana, (1972-1979), Accra, Tornado Publication, 1980, p 57.
- 42) Adjete, op. cit., pp 73-74.
- 43) Report on 1991/92 Annual Conference of the Ghana Bar Association, 5-8 October, 1992, Resolution 1/1992.

DATA ANALYSIS

4.1 Introduction

The chapter deals with the presentation and analysis of empirical data collected in the field, as well as content analysis of the Ghana Bar Association's documents, all on the role of the Ghana Bar Association in the democratization process in Ghana. The documents include communiqués, memoranda, press releases, special messages, and so on. The chapter is divided into two parts. The first part deals with the presentation and analysis of data from questionnaires administered. The second part is the content analysis of documents.

For the purpose of effective analysis, the first part has been divided into eleven (11) sections:

- i) Sampling and Research Techniques.
- ii) General characteristics of respondents
- iii) The Legal Profession in Ghana
- iv) Lawyers and National Development
- v) The GBA and the Upholding of Freedom and Justice
- vi) The GBA and Human Rights in Ghana
- vii) The GBA, Democracy and Constitutional Change
- viii) The GBA and Organisational Efficiency
- ix) The GBA as an Interest or Pressure Group
- x) The GBA and its relationship with other Professional Groups
- xi) Problems of the GBA.

It has been argued that some of these variables form an essential part of the democratization process.¹

i) Sampling Technique

The survey covered diverse segments of civil society . The sampling procedure used was purposive sampling. The aim in choosing the type of sampling procedure was to solicit responses from people considered as good respondents. They include lawyers themselves and members of the general public who regularly interact with lawyers either by their profession or by association. Diversity in the sample ensured that people from different occupational backgrounds were interviewed. Included in the sample are 30 lawyers , made up of 10 GBA officials, 10 senior lawyers and 10 junior lawyers from selected chambers in Accra, Kumasi and Koforidua. These places were chosen for convenience. Also in the sample are Police 5, Prisons 5, students 10, Religious Bodies 5, Judicial Service staff 5, Civil Servants 5, Insurance Agents 5, TUC officials and workers 10, Association of Recognised Professional Bodies 5 and Mixed workers 15. Mixed workers refers to a large section of workers from selected government and private establishments.

ii) Research Technique

The basic research technique used for the field work was questionnaires which covered the following: Age, Sex, Educational Background, Marital Status, Occupation, the Legal Profession, the Role of Ghana Bar Association, Membership and Activities of lawyers at the Bar and the problems of the GBA. 95% of the questionnaires were self administered. For the remaining 5% interviews were done face to face with respondents for convenience because they were long distance drivers of the Ghana

... UC whose work would have made questionnaire recovery almost impossible.

4.3 General Characteristics of Respondents

In the sampling technique adopted, 100 respondents were involved, made up of 69 males and 31 females, representing 69% and 31% of the sample respectively.

TABLE 1 AGE DISTRIBUTION OF RESPONDENTS

AGE GROUP	FREQUENCY	PERCENTAGE
18 - 25	4	4
26 - 35	38	38
36 - 45	46	46
46 - 55	9	9
56 - 65	3	3
66 -75	0	0
TOTAL	100	100

In table 1 above the age distribution of the 100 respondents showed that the sample was a young one. 88% of the sample were below 45 years, with only 12% above 45 years. This is largely explained in terms of retirement age for workers. The older respondents were not available. Respondents aged above 45 were mainly old lawyers, ministers of religion or civil servants close to retirement age.



2.2. DISTRIBUTION OF RESPONDENTS BY EDUCATION

LEVEL OF EDUCATION	FREQUENCY	PERCENTAGE
Middle School	5	5
*Post Secondary	32	32
1st Degree	31	31
Postgraduate	32	32
TOTAL	100	100

* Post Secondary Education includes: Advanced Level, Certificate, Diploma and so on.

For the variable, education , table 2 shows that 95% of the sample were literate and understood the issues being discussed. Even the remaining 5% had received elementary school education and could articulate the issues very well. 32% had received secondary school training , 31% had first degree and 32% were postgraduates, made up of mainly lawyers and other members of the Association of Recognised Professional Bodies. The first degree respondents comprised mainly students, national service personnel in government establishments, and religious leaders.

TABLE 3 DISTRIBUTION OF RESPONDENTS BY MARITAL STATUS

MARITAL STATUS	FREQUENCY	PERCENTAGE
Married	65	65
Single	30	30
Separated	2	2
Divorced	1	1
Widowed	2	2
TOTAL	100	100

f respondents. 65% of respondents were married and 30% were single. The latter included students and respondents between ages 26 and 35. 2% were separated from their spouses, 1% divorced, and 2% widowed, being mainly the very elderly between 56 and 65 years.

TABLE 4 DISTRIBUTION OF RESPONDENTS BY OCCUPATION

OCCUPATION	FREQUENCY	PERCENTAGE
*Lawyers	30	30
Police	5	5
Prison Officers	5	5
TUC	10	10
Students	10	10
Religious Leaders	5	5
Other Professionals	5	5
Judicial Service Staff	5	5
Civil Servants	5	5
Insurance Agents	5	5
*Mixed Workers	10	10
Media Practitioners	5	5
TOTAL	100	100

*With the exception of the lawyers, all other categories of respondents are grouped under one heading referred to as "General Public"

*Mixed workers refer to Nurses, Porters, Salesmen, Secretaries, Computer Programmers and so on.

... were purposively selected to include respondents with diverse occupational and professional backgrounds. With exception of lawyers the highest representations of occupations were to be found in the TUC, students, and mixed workers. This was purposively done because of their large representations in civil society.

4.4. The Legal Profession In Ghana

Since the GBA is an association of lawyers in Ghana called to the Bar, it was considered necessary to evaluate the legal profession itself in Ghana, even if briefly. The objective was to elicit information from respondents on what their views were about the profession. This would be crucial in determining in the eyes of both lawyers and the general public, whether the GBA has a role to play at all in the democratization process. Consequently, the general public were asked whether the legal profession was important and whether society could manage without lawyers.

TABLE 5 IMPORTANCE OF THE LEGAL PROFESSION

RESPONSE	FREQUENCY	PERCENTAGE
YES	62	88.6
NO	8	11.4
TOTAL	70	100

Table 5 shows a positive response from the general public. 88.6% indicated that the legal profession is important. Reasons given for such a response were that the profession deals with the law and since everyone is affected by and could have trouble with the law, lawyers are very important to

public had ever contacted lawyers for their services, over 80% said they would contact a lawyer if they had any legal problem. 94% of the sample said the nation cannot manage itself without lawyers, since nations are governed by laws; and without lawyers, individual rights would be trampled on and chaos would permeate national life. Lawyers were not asked to respond to this question.

4.5 Lawyers and National Development

One of the frequently asked questions is whether in terms of overall national development, lawyers have made any contribution at all. Respondents were asked to rate lawyers/GBA on this issues.

TABLE 6 LAWYERS AND NATIONAL DEVELOPMENT

TYPE OF RESPONSE	GENERAL PUBLIC		LAWYERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	
Poor	6	8.6	2	6.7	8
Fair	49	70	16	53.3	65
Good	10	14.3	12	40	22
Very Good	2	2.8	0	0	2
Excellent	0	0	0	0	0
No Resp	3	4.3	0	0	3
TOTAL	70	100	30	100	100

The majority of respondents gave a positive response that lawyers contribute to national development. 70% of the general public said lawyers' contribution to national development is only fair. 87% of the general public gave a positive response. 8.6% responded "poor" and 4.3% gave no response. 93.3% of lawyers gave a positive response. 53.3% said

"good". Overall 89% of the sample gave positive responses between "fair" and "very good", an indication that respondents believed lawyers contribute to national development; but of this total, 60% believed the contribution was only "fair".

4.6 The GBA and the Upholding of Freedom And Justice

The ingredients for democratization in any nation include the freedoms of the people², either on individual or group basis and a judicial system that is independent of governmental control. The defence of freedom and justice is part of the objective of the GBA³ Respondents were asked to rate the performance of the GBA on the above. Table 7 below shows the details of their responses.

TABLE 7 LAWYERS AND THE UPHOLDING OF FREEDOM AND JUSTICE

TYPE OF RESPONSE	GENERAL PUBLIC		LAW YERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	Percentage
Poor	1	1.4	0	0	1
Fair	5	7.2	0	0	5
Good	26	37.1	10	33.3	36
Very Good	26	37.1	19	63.3	45
Excellent	12	17.2	1	3.4	13
TOTAL	70	100	30	100	100

About 98.6% of the general public were of the view that lawyers have contributed to the upholding of freedom and justice in the country. Out of this 91.4% rated their contribution between "good" and "excellent". All the

and excellent as far as Freedom and Justice are concerned. Overall 99% of the sample responded positively, with 94% between "good" and "excellent". To buttress this positive response, respondents were asked to give reasons why they thought the legal profession was important. 38% of the sample stated inter alia that the legal profession was important because it concerned itself with the freedom of the individual. All respondents were asked whether lawyers are partly responsible for the "Justice Delayed is Justice Denied" syndrome in courts. 62% of the sample, whilst acknowledging that sometimes some lawyers make spurious pleas for adjournments in court, said the problem is due mainly to the bureaucratic nature of the judicial system. The respondents who were lawyers were very critical of the judicial system. They attributed delays in the delivery of justice to an incompetent, bankrupt, politically and financially motivated bench, as well as an inefficient and corrupt judicial system, the values of which have been replaced with that of the market place. Therefore the majority of respondents expressed the view that the GBA has upheld freedom and justice in Ghana.

4.7 The GBA and Human Rights

The issue of human rights is central to the democratization process. Respondents were, therefore, asked to rate the performance of lawyers on the human rights issue.

TYPE OF RESPONSE	GENERAL PUBLIC		LAW YERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	Percentage
Poor					
Fair	11	15.7	1	3.3	13
Good	22	31.4	6	20	28
Very Good	18	25.7	18	60	36
Excellent	19	27.2	5	16.7	24
TOTAL	70	100	30	100	100

In table 8 above, all respondents, both lawyers and the general public gave positive responses in respect of lawyers' contribution to the defence of human rights in Ghana. Whilst 15.7% of the general public believed that their contribution was only "fair", as high as 84.3% rated the GBA's performance between "good" and "excellent". 27.2% of the general public believed that GBA's work on human rights is excellent. As far as the lawyers were concerned as high as 96.7% rated their contribution between "good" and "excellent". Generally, 87% of the sample believed and rated the GBA between "good" and "excellent" in human rights activities.

Respondents were further asked to mention one or two contributions that the GBA has made which have had a significant impact on this country. 74% of the sample mentioned human rights issues among others. These responses give credence to an existing notion that the GBA's advocacy, defence and protection of human rights as well as the rule of law are unparalleled in Ghana's post-independence history⁴.

Democracy and constitutional change have been of major concern to analysts in Ghana. Since independence this is the fourth time that the nation is making an attempt at what has been described as the fourth "Constitutional experiment"⁵. Within the space of forty years the nation has experienced four major setbacks in attempts to establish constitutional democracy, because of military intervention in politics. Respondents were asked therefore, to rate the GBA in contribution to such attempts in the country in these circumstances. Table 9 below shows what respondents believed was the case.

TABLE 9 LAWYERS, DEMOCRACY AND CONSTITUTIONAL CHANGE

TYPE OF RESPONSE	GENERAL PUBLIC		LAWYERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	Percentage
Poor					
Fair	10	14.2	1	3.3	11
Good	26	37.2	18	60	44
Very Good	20	28.6	8	26.7	28
Excellent	14	20	3	10	17
TOTAL	70	100	30	100	100

All respondents responded positively to the issue. 85.8% of the general public rated the lawyers' contribution from "good" to "excellent" with 14.2% saying it is only "fair". 96.7% of respondents who were lawyers rated their contribution to democracy from "good" to "excellent" with only 3.3% judging it as "fair". Overall, 89% of the sample were of the view that lawyers have immensely contributed to the attempts to establish

were asked in which way the GBA has contributed significantly to such attempts. The majority of respondents mentioned, among other things, that the GBA has been involved in: championing the cause of democratic governance against all military dictatorships in this country. For this reason, over the years, members of the Bar have either been imprisoned, harassed or sent into exile; drafting, interpreting and defending the Constitution. That in many civilian, constitutional governments, lawyers have actually been involved in the political arrangements. Whenever governments deviate from the constitution, lawyers always rise up to defend it. They explained that this explains why lawyers seem to be in opposition to governments for its own sake; but in reality this is not so; that, as individuals, lawyers have participated in government; that the political situation in the country would have been worse without lawyers and therefore society cannot do without them.

4.9 The GBA and Organisational Efficiency

There are four things that relate to the organizational efficiency of the GBA and it became necessary to examine these and elicit responses from lawyers to find their views on them. These are:

First, attendance of members at meetings.

Secondly, the maintenance of professional standards, discipline and etiquette.

Thirdly, the organization and promotion of public legal education in the country. and

finally, the establishment and maintenance of a system of efficient legal aid and advice.

TABLE 10 ATTENDANCE OF MEMBERS AT GBA MEETINGS

ATTENDANCE	FREQUENCY	PERCENTAGE
Always	0	0
Regular	14	46.7
Irregular	11	36.6
None	5	16.7
TOTAL	30	100

Table 10 shows that 46.7% of lawyers said that they regularly attend Association meetings. These are made up of national and regional executives, who actually organise these meetings. 36.6% indicated that their attendance was irregular and 16.7% had never attended any Association meeting at all. These consisted of senior and junior lawyers who were not executives of the Association at either the national or regional level.

It would appear that out of the estimated 3,000 members of the Association only a few attend meetings. This argument is strengthened by the fact that in 1996, out of 200 registered lawyers in Ashanti, only 8 attended the Annual General Conference⁶. Attendance of members at GBA meetings therefore is poor, as evidenced by 53.3% of lawyers indicating irregular and no attendance.

TABLE 11 THE MAINTENANCE OF PROFESSIONAL STANDARDS, DISCIPLINE AND ETIQUETTE

TYPE OF RESPONSE	GENERAL PUBLIC		LAWYERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	Percentage
Poor	4	5.7	0	0	4
Fair	28	40	17	56.7	45
Good	38	54.3	13	43.3	51
Very Good	0	0	0	0	0
Excellent	0	0	0	0	0
TOTAL	70	100	30	100	100

In Table 11 above, both the general public and lawyers were of the opinion that the GBA maintains professional standards, discipline and etiquette. 94.3% of the general public responded positively to the issue, but out of this 40% said that the strength of GBA in professionalism, discipline and etiquette was only "fair". 54.3% thought it was "good", and 5.7% responded that it was "poor". The responses of all the 30 lawyers interviewed showed they believed there was a level of professional standards, discipline and etiquette. However, 56.7% said it was only "fair", 43.3% said it was "good". No respondent indicated an "excellent" response.

Generally 51% of the sample rated GBA "good" in the issue under discussion whilst 45% thought the efforts of the GBA in this area is only "fair". Majority of the lawyers felt that discipline in the Association had broken down because the GBA could not sanction its members strongly when they violated its code of ethics.



TABLE 12 THE ORGANISATION AND PROMOTION OF PUBLIC LEGAL EDUCATION IN GHANA

TYPE OF RESPONSE	GENERAL PUBLIC		LAWYERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	Percentage
Poor	10	14.3	1	3.3	11
Fair	39	55.7	8	26.7	47
Good	16	22.8	21	70	37
Very Good	5	7.2	0	0	5
Excellent	0	0	0	0	0
TOTAL	70	100	30	100	100

Table 12 shows that respondents generally indicated that the GBA is involved in legal education. Out of 85.7% of the general public who responded that legal education was being done, 55.7% rated the GBA's performance as only "fair" and not strong enough. Only 30% rated their performance between "good" and "very good". The respondents in this 30% were mainly policemen, prison officers, judicial service staff and insurance agents who frequently interacted with lawyers in their work or who were already abreast with legal issues. 14.3% of the public indicated that performance was "poor". However, 96.7% of lawyers believed that the organization and promotion of public legal education by the GBA is positive. 70% thought performance was "good" and 26.7% rated it as "fair". Only 3.3% of lawyers responded negatively and they were mainly junior lawyers. 47% of the sample indicated that work done in legal education is fair, 37% thought it was good 5% thought it was very good while 11% responded negatively to the issue. It is interesting to note that no lawyer believed that work on public legal education is excellent.

Respondents were further asked to suggest ways in which they thought the GBA could improve its services to the public if what they were doing was not enough. 24 out of 30 lawyers, that is 80% out of 100% suggested more vigorous legal education because of the high level of illiteracy in the country – an indication that the programme of public legal education is weak.

TABLE 13 THE ESTABLISHMENT AND MAINTENANCE OF A SYSTEM OF EFFICIENT LEGAL AID AND ADVICE

TYPE OF RESPONSE	GENERAL PUBLIC		LAWYERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	
Poor	9	12.9	0	0	9
Fair	38	54.2	22	73.3	60
Good	23	32.9	8	26.7	31
Very Good	0	0	0	0	0
Excellent	0	0	0	0	0
TOTAL	70	100	30	100	100

In Table 13, 87.1% of the public said legal aid and advice is given, but of this 54.2% said it was only "fair", whilst 32.9% indicated "good" performance. 12.9% were of the view that performance was "poor". 73.3% of lawyers believed that legal aid and advice was given but it was insufficient, by their indication of fair performance, which they rated to be "fair". 26.7% said it was "good". None responded negatively to the issue.

The majority in the sample (60%) said that legal aid was only fair whilst 31% said it was good. Asked what the GBA could do to improve its services to the public, 73% of the sample, among other things,

explained that legal aid is a misnomer because it was not free. But the majority of lawyers said they offered legal aid to needy but poor clients. It appears that such aid is informal or at the personal level. The general feeling was that FIDA and other aid organisations should improve on their services. All these point to the fact that even though there is legal aid and advice, the GBA must do a lot of work to make it efficient.

4.10 The GBA as an Interest or Pressure Group

There is a lot of debate as to whether the GBA is an interest or pressure group. This arises from the fact that lawyers seem to have a negative image, and the public is quick to suspect them of seeking their own interest even when they articulate national issues. It is on record that during the Acheampong, the AFRC and the early years of the PNDC regimes, military and public tribunals virtually replaced the courts. The GBA by a resolution in 1982 decided to boycott the tribunals but some members of the Bar flouted this resolution and attended the sessions. Lawyers were used to harass even fellow lawyers. The question that arises is whether lawyers really fight for their professional interest or seek the interest of the public. The researcher therefore found it necessary to elicit responses from both the public and lawyers on the issue.

ESSURE GROUP

TYPE OF RESPONSE	GENERAL PUBLIC		LAW YERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	Percentage
Interest	42	60	0	0	42
Pressure	12	17.1	27	90	39
Both	12	17.1	3	10	15
No response	4	5.8	0	0	4
TOTAL	70	100	30	100	100

Table 14 shows that 60% of the general public said that the GBA is an interest group. 17.1 indicated that the GBA is a pressure group. Another 17.1% said they were both an interest and pressure group, and 5.8% were undecided on the issue and gave no response. For the majority of general public therefore, the GBA is an interest group. Among some of the reasons given for such a response were that the Association comments or advocates issues only when they affects their profession, directly or indirectly. For example they mostly articulate issues like constitutionalism, the rule of law, independence of the judiciary, and so on, which are directly linked to the legal profession. Therefore the GBA's claim of representing public interest is unacceptable, the ultimate is their professional interest. Some respondents argued that the evidence for seeing the GBA as an interest group is that it is elitist, it operates in isolation, and it is out of touch with the ordinary citizens.

the GBA is a pressure group, while 10% indicated that they are both. The lawyers pointed to the great sacrifices made by lawyers. The boycott of the tribunals by the GBA for example amounted to a major financial sacrifice by those lawyers who complied, and a demonstration of the Association's position as a pressure group. Besides, lawyers have rejected a lot of compromising positions with various governments, and suffered harassments, imprisonments and even the risk of exile.

Overall, 42% of the sample said the GBA is an interest group, 39% felt it is a pressure group, and 15% believed it is both at different times. That even though it represents the interest of the public, it has to protect its professional interest as well. The disparity of views between the general public and lawyers show that legal education has not really gone down well. It also shows that lawyers may be known but the activities of the Bar Association are not understood well.

4.11 The GBA and other Professional Groups

One of the objectives of this research was to find out the GBA's collaboration with other professional groups and how it impacts on the democratization process. This is important for the discussion because the cohesion among different segments of civil society will largely determine how strong that society will be, and how far it can press its demands on any government no matter how authoritarian it may be. Consequently it became necessary to ask for respondents' opinion on whether the Ghana Bar Association could perform better in closer collaboration with other professional associations instead of working in isolation.

TABLE 15 **LAWYERS AND OTHER PROFESSIONAL BODIES**

TYPE OF RESPONSE	GENERAL PUBLIC		LAWYERS		TOTAL
	Frequency	Percentage	Frequency	Percentage	Percentage
Yes	62	88.5	30	100	92
No	3	4.3	0	0	3
No Response	5	7.2	0	0	5
TOTAL	70	100	30	100	100

From Table 15 above, 88.5% of the general public indicated that lawyers need to work in collaboration with other professional groups. 4.3% believed they should not, 7.2% were undecided and gave no response. All lawyers agreed that they need to work in collaboration with others. Generally, 92% of the sample agreed, while 3% disagreed and 5% had no opinion.

It is clear from the responses that the majority of respondents believed that working in isolation would produce little results. A vast number of them explained that in the event of pressuring governments for reforms, for example, collaboration with other groups would produce a quicker, sharper and stronger impact. Respondents further explained that working alone would fragment civil society and would win very little public confidence. About 83% of lawyers opined that collaboration is already in place; but it is the technical differences among such professional groups, especially in legal matters, that give the wrong impression that collaboration is non-existent.

One of the main objectives of the research was to find out the problems of the Ghana Bar Association. The lawyers among the respondents were asked to list what they perceived to be the problems of the Association.

The following were the problems listed by them:

- 1) Financial Problems - that the Bar cannot carry on its activities because members do not pay their annual dues, which are the main source of income for the Association.
- 2) Organisational Problems
 - (a) Membership is automatic, once lawyers graduate. There is no option for them to be or not to be members of the Association. This generates apathy and lack of commitment.
 - (b) Executives of the Association are part timers, who are concerned more about their own chambers other than the Association's business.
- 3) Governmental threats and interference - various governments have tried, though unsuccessfully, to divide the ranks of the Association. This is what led to some members flouting resolutions. Lawyers have also been used to harass fellow lawyers.
- 4) Internal stratification of senior and junior lawyers makes the juniors feel they are not part of the Association, dominated by the more influential seniors.
- 5) Passive resolutions - much of the work of the association remains on paper. There is no proper way of enforcing them. At best they remain advice. For example, despite the disciplinary committee, there is very little way of bringing its members to discipline or sanctioning them.
- 6) There is an anti-GBA sentiment from the public, both literate and illiterate for no apparent or known reason. There seems to be an unwritten suspicion of lawyers by the public.
- 7) Selfish members bring the name of the Association into disrepute through the extraction of exorbitant fees from their clients. Despite the Scale of Fees Committee, some members flout laid down principles for charging fees.

- 8) Non-Practicing Lawyers - there is a bulk of lawyers who do not practise. These work in other professions. The study of law was done just to enhance their organisational capacity. They are not committed to the ideals of the Bar Association.
- 9) Status change - the status of the lawyer today has changed. It is not as it used to be. Lawyers generally work hard but gain little, especially junior lawyers. They are more concerned with how to survive than think about associational matters.
- 10) Ethnicity - two lawyers mentioned this without much elaboration. But further enquiries by the researcher revealed that among lawyers there is a belief that lawyers from certain ethnic groups are more effective and more devoted to their jobs than those from certain other ethnic groups. Consequently, they look down on members from from the latter.
- 11) There are other categories of problems associated with the relations between lawyers ,judges and the courts of law. This brings them into constant friction. A lot of lawyers believe that today's courts are loaded with incompetent and corrupt judges who are appointed because of their political leanings. There is also the factor of a corrupt and inefficient judicial service whose aim is to make money. These factors make the judiciary a dependent one and make the practice of law difficult and frustrating. The blame however is always laid on lawyers.

4.13 Content Analysis of GBA Documents

In the second part of this research, 43 documents were collected from the files of the GBA and carefully analysed. They included Communiqués, Memoranda, Press Releases, Letters, Circulars and so on. Each document was read and its contents analysed to determine the central issue or issues raised in the document. The issues were then categorised under the Legal Profession, Freedom and Justice, Human Rights, Democracy and Constitutionalism, International issues and National Development. The objective was to supplement data already collected in the field on the subject under study. The researcher believed that since these documents

...entire the activities of the GBA they would to a large extent help to confirm or falsify the findings of the analysis of the field data .

The limitation of this method was not a matter of technique, but the availability of documents. Records on GBA activities before 1981 were not made available to the researcher. Consequently, documents analysed covered GBA activities between 1981 and 1996.

The distribution of the documents is as follows:

i) Matters affecting the Legal Profession

- 1) Statement of the GBA on Rent and Housing Control, 14 March 1986.
- 2) Statement on Dismissal and Retirement of certain Judges and Magistrates, April, 1986.
- 3) Statement of the GBA concerning the Attorney General's Press Interview on Recent Dismissal and Retirement of some Judges and Magistrates, 14 April, 1986.
- 4) Statement of the GBA on the Independence of the judiciary and matters affecting the Legal Profession, June 1986.
- 5) Press Release - GBA's Statement on the Dismissal of some Judges and Magistrates sent to the Editor, Daily Graphic, to be published, 11 June, 1986.
- 6) Notice to all lawyers: Boycott of the 1992/93 Legal Year Service scheduled for Saturday, 3 October 1992.
- 7) 1991/92 Annual Conference held at Sekondi/Takoradi from 5 - 8 October, 1992, Statement on matters affecting the legal profession.
- 8) Statement of the GBA on matters affecting the Legal Profession, November, 1992.
- 9) Resolution on matters affecting the Legal Profession, Annual Conference, 26 - 30 September, 1993.
- 10) Resolution on matters affecting the Legal Profession, Annual Conference of GBA, Koforidua, 26 - 29, September, 1994.



- 11) Resolutions passed at the Special General Meeting of the GBA, 25 February, 1995, Accra.
- ii) National Development
 - 1) Statement on the 1993 budget by the GBA, 13 March, 1993.
 - 2) Resolution on matters affecting the Nation, Annual Conference, 26 - 30 September, 1993.
- iii) Freedom and Justice
 - 1) Statement on the Judiciary, 1991/92 Annual Conference, Sekondi/Takoradi, 5 - 8 October, 1992.
 - 2) Press Release on the appointment of Mr. Justice Ebiasah as Ombudsman and Commissioner for Human Rights and Administrative Justice, 19 January, 1993.
 - 3) Press Release on the judgment delivered on Civil action, "Kuenyehia and Others Vrs. Mr. Justice E.P. Archer and another", 17 December, 1995.
- iv) Human Rights
 - 1) The GBA and the withdrawal of the Registration of the Catholic Standard, 6 March, 1986.
 - 2) Statement of the GBA on the alleged deprivation of the Citizenship of certain Ghanaians, 17 March, 1986.
 - 3) Resolutions passed at the Continuation meeting of the 1983/84 Annual Conference, Accra, 14 and 15 March, 1985.
 - 4) Statement by the GBA on the need to establish a Commission of Enquiry into the conduct of the security forces, 13 March, 1993.
 - 5) Statement by GBA on the arrest and detention of Mr. Johnny Hansen, 1 December, 1992.
 - 6) Statement by the GBA on Police action against students of the University of Ghana, Legon, 26 March, 1993.
 - 7) Statement of the GBA on the return to Constitutional Rule, 25 April, 1991.

- 1) Resolution passed at the 1984/85 Annual General Conference, 6 December, 1985
- 2) Resolutions passed at the 1988/89 Annual General Conference, Kumasi, 9 - 11 January, 1990.
- 3) Press Release - Need for a transitional government, 20 August, 1992.
- 4) Statement of the GBA at an Emergency General Meeting, 23 February, 1991 on the programme for a return to Constitutional rule.
- 5) Statement of the GBA on its refusal to participate in the Consultative Assembly, 19 June, 1991.
- 6) Resolutions of the GBA at its General Conference, Accra, 30th September to 4 October, 1990.
- 7) Comments of the GBA on the report of the Committee of Experts on Proposals for a Draft Constitution of Ghana, 3 October, 1991.
- 8) Resolutions of the GBA at its Annual Conference, issues on Civilian Rule, 4 October, 1991.
- 9) Statement of the GBA made at an emergency meeting of the Bar on 11 May, 1991 on the NCD Report and the PNDC's Statement on the said report.
- 10) Statement of the GBA on the Promulgation of the Constitution of the 4th Republic, 13 March, 1993.
- 11) Statement by the GBA on the need to establish the Electoral Commission, 20 April, 1993.
- 12) Statement by the GBA on the PNDC's Transitional Programme, 20 March, 1992.
- 13) Statement by the GBA on the Transitional Provisions of the Constitution, 26 March, 1992.
- 14) Statement by the GBA on the Draft Constitution of the Republic of Ghana and the Proposed Referendum thereon, 15 April, 1992.

- .../Takoradi, 5 - 8
October, 1992, Part II, Register of Voters.
- 16) Statement from Annual Conference, Sekondi/Takoradi 5 - 8
October, Part III, Matters Affecting the Nation.
- 17) Letter from the GBA, Breach of the Constitution on the taking of
Judicial Oath, to the Chief Justice, 4 March, 1993.
- 18) Statement from the 1993/94 Annual Conference, Koforidua, 26 - 29,
September, 1994.
- 19) Press Release, on the Inter-Party Consultative Committee, 1
October, 1994.
- vi) International Matters
- Resolution of GBA on issues affecting the International
Community,
26 - 30 September, 1993.

TABLE 16 ANALYSIS OF GBA DOCUMENTS

SUBJECT	FREQUENCY	PERCENTAGE
The Legal Profession	11	25.6
National Development	2	4.7
Freedom and Justice	3	6.9
Human Rights	7	16.3
Democracy & Constitutionalism	19	44.2
International Issues	1	4.7
TOTAL	43	100

Table 16 above shows that 74.4% of documents analysed deal with issues outside the legal profession itself. 69.7% deal directly with issues of democratization both at local and international level. 44.2% concern

re on Human Rights and

6.9% on Freedom and Justice. Only 25.6% deal with legal matters.

From the findings from the analysis, the following can be deduced:

First, the majority response in Table 14 that the GBA is an interest group is not very strong. It rather confirms the 39% who indicated that the GBA is a pressure group whose activities are in the interest of the public.

Secondly, the findings further confirm the positive responses given by respondents on tables 7, 8 and 9 about Lawyers and the upholding of Freedom and Justice, Lawyers and Human rights and the GBA, Democracy and Constitutional change, not only in Ghana, but also at the International level.

Thirdly, the findings also confirm the weak responses about the GBA and National Development in Table 6 as indicated by only 4.7% in Table 16

Finally, the content analysis of GBA documents has shown that in terms of activities, the GBA's strongest point has to do with Democracy and Constitutional Change.

4.14 Summary

The analysis based on the field data tried to find out, both in the view of the general public and of the lawyers, the role of the Ghana Bar Association in the democratization process in Ghana. The data analysis showed that the majority of respondents were young, aged between 18 and 45 years. It is clear from Table 2 that there was a high level of literacy among respondents as evidenced by 95% of the questionnaires being self administered. For the remaining 5%, made up of drivers of the Ghana Private Road Transport Union of the TUC, they had had some formal education up to middle school level.

Gender differentials as indicated earlier showed that the males dominated the sample, constituting 69% of the total number of respondents. This was



females considered to be

good respondents.

The study showed that despite the diverse occupational and professional backgrounds of respondents, their responses were not very different from each other. For example, most respondents agreed that the Legal Profession is important, that they would contact a lawyer if they had either a civil or criminal case in court. On the issues of National Development, Freedom and Justice, Human Rights, Democracy and Constitutional Change as well as Organisational Efficiency, respondents' views of the GBA were positive. It was the degree of performance that differed among them. For example, on Human Rights Table 8, Democracy and Constitutionalism Table 9, no respondent gave a negative response. Similarly Table 7 shows that only one person believed that the GBA's contribution to the upholding of Freedom and Justice is poor, while the rest opined that it was positive.

There were areas, however, that required technical knowledge of the law, like the delay of justice. In this area the view of the police and prison officers differed sharply from that of the rest of the sample. This is mainly due to the fact that they are involved in the enforcement of law and are likely to dissent on issues of this nature. The police, for example, believed that the legal profession does not work in the interest of the ordinary people, and that legal aid is a misnomer because it still involves some inducement allowance to lawyers to speed up cases. Similarly, responses from insurance agents differed sharply from those of the judicial service staff.

... on the issue of the GBA being an interest group or pressure group. The view of lawyers sharply contrasted with that of the general public as illustrated in Table 14. Whilst the majority believed that the GBA is an interest group, the vast majority of lawyers indicated that it was a pressure group; of the remaining lawyers, none agreed that the GBA is an interest group but that it is both. The lawyers responses were anticipated; it was unlikely for them to respond otherwise.

The content analysis of GBA documents done in this study confirmed the majority of the findings of the analysis of the field data. A summary of the findings follows in the next chapter.



- 1) Ala Adjetey, Peter, "The Role of the Ghana Bar Association in Ghana's Democratic Process", in F.K Drah and Mike Oquaye, eds, Civil Society in Ghana. Gold-Type Ltd., Accra, 1996, p 70.
- 2) Republic of Ghana: Constitution of the Republic of Ghana, 1992, Article 21 (1).
- 3) The Constitution of the Ghana Bar Association, Article 2 (2c).
- 4) Drah, F. K., " The Constitutional Framework and Civil Society" in Drah and Oquaye, eds, op.cit., p. 38.
- 5) Ibid
- 6) Interview with Mr. K. Nyantakyi, the secretary to the Ashanti Regional Secretariat of the GBA, April, 1997.

SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.1 Introduction

The aim of this Chapter is to summarise the main findings of the study, conclude, and make recommendations that would help to strengthen the Ghana Bar Association, and civil society in Ghana in general.

5.2 Summary

This study was undertaken to find out the role of civil society in the democratization process in Ghana, with particular reference to the Ghana Bar Association. The purpose was to examine the structure, organisation, activities, role and significance of the GBA, in the strengthening of civil society in Ghana, as well as the role of the GBA in the democratization process and how this role can be sustained. The study also aimed at finding out the relationship between the GBA and the state, other civil and professional organisations and the rest of society, and examine its impact on the democratic process. Finally, it was the aim of the study to examine any constraints on the GBA as a professional and civil association.

It is hoped that the findings of this study would help strengthen the GBA and its contribution to the democratic process, first as an association of professionals and second as a part of civil society. The findings would also help in ensuring a strengthened and an empowered civil society, in an emerging democracy like Ghana.

To explore the problem, the researcher formulated the following broad questions: How important is the legal profession in Ghana? Who

... that is the nature of the activities of the Association? What is the role of the GBA in the democratization process in the context of National Development, the upholding of Freedom and Justice, Human Rights, and Democracy and Constitutionalism? What is the relationship between the GBA and other professional or civil groups. Finally, what are the problems of the GBA?

All adults aged 18 years and above who had a fair knowledge of lawyers' activities constituted the population of the study. The rationale is that 18 years is considered to be the age of maturity at which respondents can reasonably be abreast with issues discussed in this study. The age limit of respondent was 75 years. In all 100 respondents were interviewed, made up of 70 members of the general public and 30 lawyers.

The instruments employed in data collection were interview schedule, questionnaires, records and documentary evidence. The data collected from the field was tallied and frequencies determined and put in tabular form. With the help of a computer, the percentages were determined.

The main results of this study are summarised as follows:

- 5.2.1 The occupation of the sample was diverse with lawyers being the largest group.
- 5.2.2 The age distribution of the respondents in this study indicated that it was dominated by young people. 88% of the sample were below 45 years.
- 5.2.3 Literacy rate was very high in the sample. All respondents had had some varying degrees of formal education; they could read and understand the complexity of issues being discussed.
- 5.2.4 Majority of respondents were married and had a fair knowledge of the legal profession and the Ghana Bar Association.
- 5.2.5 Males dominated in the population.

- 5.2.6 In the public's eye the legal profession is important, because it deals with the law, which affects every one.
- 5.2.7 There was a strong indication that members of the general public would consult a lawyer when they have civil or criminal cases in the court, or any situation that requires technical knowledge of law.
- 5.2.8 The nation cannot manage itself without lawyers, since nations are governed by laws.
- 5.2.9 There is a fairly significant contribution by lawyers, to National Development as a whole.
- 5.2.10 Lawyers have greatly contributed to the upholding of Freedom and Justice in Ghana.
- 5.2.11 Even though some lawyers make spurious adjournments for personal gains, majority of lawyers do not. The delay of justice is mainly due to the complexity of the legal system in Ghana, as well as the judicial bureaucracy within which justice is administered.
- 5.2.12 Advocacy, defence and protection of Human Rights and the rule of law, are some of the greatest achievements of the Ghana Bar Association.
- 5.2.13 The GBA's contribution to democracy in Ghana can be seen in its strong stand on constitutionalism, championing the cause of democracy under military dictatorships, involved in the drafting, interpreting and defence of Constitutions, as well as fulfilling political roles spelt out by the Constitution.
- 5.2.14 The political situation in the country would have been worse without lawyers, hence society cannot do without lawyers.
- 5.2.15 In the public mind, lawyers have a negative image, they are part of the problem and also solution to the problem. Whilst the public is of the view that the GBA is an interest group, lawyers maintain that it is a pressure group. There seems to be a gap between lawyers and the public.
- 5.2.16 Collaboration among segments of civil society is crucial for the strengthening of civil society. There is collaboration between the GBA and other professionals but it is weak.
- 5.2.17 Documentary evidence has shown that consistency has been the hall mark of the CBA.

not working behind the scenes but confrontationist. Activities have been group based rather than individual based. Financing of GBA activities comes from local resources.

- 5.2.19 As far as the promotion of Legal Education and Legal Aid and Advice are concerned, the activities of the GBA have not been very strong.
- 5.2.20 The GBA has major organisational and logistical problems. Among these are lack of commitment due to the mode of membership recruitment, financial problems due to non payment of dues, lack of full time personnel to manage the national and regional offices, governmental threats and interference, internal stratification problems, passive resolutions, anti-GBA sentiments from the public, lack of discipline among members, and problems associated with the interpretation of the law and the judicial system itself.

5.3 Recommendations

The following recommendations are made in the hope that further discussion and possible implementation of them would help enhance the role of the GBA in the democratic process as well as the strengthening and empowerment of civil society in Ghana:

- 5.3.1 The GBA should revise its mode of membership recruitment. Automatic membership has been responsible for the apathy and the lack of commitment of members. Through the General Legal Council, qualified lawyers should opt for membership. In that case, they are more likely to honour their financial obligations which are currently at 20% of the entire membership.
- 5.3.2 The GBA should be able to embark on a general welfare programme to motivate its members.
- 5.3.3 The Association should look for alternative forms of income. The records show that no major fund raising activity nationwide takes place in the course of the year.
- 5.3.4 There should be a way of invoking serious sanctions against defaulting members. One way of doing this will be to make members' good standing with the GBA a pre-requisite to practice as a lawyer.
- 5.3.5 The General Legal Council is the statutory body entrusted with the responsibility to regulate and monitor the organisation and discipline of the CRA. If all the foregoing recommendations

5.3.5 The Government and the Judiciary must give to the GBA more control and disciplinary powers over its members. In other words, it should surrender its statutory power over lawyers to the GBA. The latter will then be able to instil a feeling of commitment and attachment into the GBA. This will ultimately ensure the generating of sufficient local resources from members.

- 5.3.6 The GBA must have serious organisational changes. It must construct its own offices, library and hostel for visiting regional members and officers. Some of the regional offices must have permanent offices instead of running the Association from private chambers.
- 5.3.7 All National and Regional officers of the GBA are part timers. This is not healthy for organisational efficiency. Owing to financial constraints, it is recommended that the National Secretary, at least, should be on full time.
- 5.3.8 To disseminate information on crucial national issues, the GBA must have its own media. The government controlled press, for example, has always been reluctant to publish GBA's confrontational statements. A GBA newspaper will be an essential tool of communication between the Association and the rest of civil society. There is the need to keep the GBA bulletin in circulation which has ceased for many years now. This bulletin had been useful to both members of the Bar and the general public.
- 5.3.9 There is the need for a vigorous public legal educational campaign, on both general legal issues and the activities of the Bar itself. This will ensure public confidence in the GBA and remove most of the suspicion and anti-GBA feeling among the public. The legal literacy programme should be revived on a national scale. The programme is intended to assemble some of the enactments and have items reduced into simple and understandable language for the benefit of the less literate in society. This should include voter education and democratic development in general. The Women and Minorities committee and the Continuing Legal Education Committee, for example, should implement and sustain on a national scale the organising of workshops for members of the Bar and the general public on a wide range of subjects.
- 5.3.10 If the contribution of the GBA to the democratization process is to be effective, there must be sustained alliance formation with other segments of civil society. In the past, alliances and collaboration have been ad hoc, lasting as long as there is a political or social crisis and fading away when the problem seems solved. Collaboration

its leading role to eliminate fragmentation in civil society.

- 5.3.11 The study has shown that for many people, Legal Aid is only in name. There should be a consistent effort to improve the legal aid scheme of the association for the general public. This will generate public confidence in the GBA. For example, the fervour with which they articulate and defend the rights of a member should be applicable to a large extent to the members of the general public. One can mention the case of Vida Ofori of the Institute of Professional Studies, Legon, whose rights were grossly violated by the police. The Bar only issued a statement, but never helped the victim to legally ask for compensation.
- 5.3.12 Civil associations as a whole, are woefully under-represented on state bodies. The task of civil society therefore rests on the GBA, which is heavily represented on these state bodies. It should maximise the effect of its presence by bringing the views of the general public to bear on such bodies on relevant issues, such as human rights, freedom and justice, democracy and so on. It is also recommended that the GBA plays a leading role in collating public views on issues for presentation to such bodies. In that way, such views would have a broad-based backing from the rest of civil society. Views that have been empirically collected are more likely to seem objective to the society at large, and not seem to be only in the interest of lawyers.

5.4 Conclusion

The conclusion that can be drawn from this study is that The Ghana Bar Association has played a major role in the democratization process in Ghana. Its activities have strongly impacted on the democratization process in the period under study. The GBA's strong advocacy, defence and protection of freedom and justice, the rule of law, constitutionalism, human rights and so on, which are essential ingredients for the establishment of democracy, are unparalleled in the history of Ghana. Of all the civil associations in Ghana, the GBA is the best organised as well as the most articulate and cohesive. In the midst of their problems and

hallmark. In spite of the negative image that lawyers have, the general public recognises the leading role of the GBA in the democratization process in post-independence Ghana. Through political statements, communiqués, memoranda, press releases, state of the nation analysis, it has challenged political authority whenever the need arose.

By virtue of its training and content of education, the Association has resisted all hegemonic tendencies in Ghana. The study has shown that all military governments in post-independence Ghana have had serious confrontations with the GBA. In addition to this, even civilian democratic governments, which tried to subvert the Constitution, have been seriously challenged by the Association. Other ways in which the GBA has contributed, though on a small scale, to the democratization process include public legal education and the provision of formal and informal legal aid. Despite attempts by various governments, none of them has been able to break the ranks of the GBA. This may be partly due to their professionalism and commitment to the due process of law and financial autonomy. Lawyers are mostly private economists and are not easily pushed around.

The rest of civil organizations however, have not played a similar role; they have mostly been financially dependent on government and bedevilled by mass illiteracy. This has left the GBA in most cases to act alone and at best receive moral support from the rest of civil society.

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LIST OF PEOPLE INTERVIEWED

- | | |
|-------------------|---|
| 15 January, 1996: | Mr. Peter Ala Adjetey, President, GBA. |
| 2 February, 1996: | Mr. William O. Boafo, National Secretary, GBA. |
| 8 April, 1996 | Miss Gloria Akuffo, Assistant National Secretary, GBA. |
| 8 April, 1996 | Nana Owusu Yeboah, Barrister-at-Law, Ameyi Chambers, Accra. |
| 11 April, 1997 | Mr. K. Nyantakyi, Secretary, GBA, Regional Secretariat, Kumasi. |
| 18 April, 1997 | Mr. David Kwabla Dorkenoo, Research Officer, TUC, Accra. |



INTERVIEW SCHEDULE FOR THE GENERAL PUBLIC

Dear Respondent,

This questionnaire is to elicit information on the law profession in Ghana. It is part of a study being conducted on the "The Role of the Ghana Bar Association in the Democratisation Process in Ghana", sponsored by the Institute of African Studies, University of Ghana, Legon. Be assured that any information given here is for academic purposes only and will be treated as confidential.

General Information

- 1) Age: a) 18-25 yrs []
 b) 26-35 " []
 c) 36-45 " []
 d) 46-55 " []
 e) 56-65 " []
 f) 66-75 " []
- 2) Sex: Male []
 Female []
- 3) Educational Background
 Primary/Middle []
 Ordinary Level/SSS []
 Advanced Level []
 Diploma []
 Degree []
 Others (Specify) []
- 4) Marital Status: a) Married []
 b) Single []
 c) Separated []
 d) Divorced []
 e) Widowed []
- 5) Occupation (if any):

Importance of the Law/Legal Profession in Ghana

- 6) Do you believe that the law profession is one of the most important and well-respected professional bodies in this country?
 Yes []
 No []

7) Give two or more important functions of lawyers in this country.
.....
.....

8) Have you or any member of your family as citizens of this country gotten involved in any legal trouble in which the services of a lawyer were required?
Yes []
No []

9) If yes, mention the circumstance.....
.....

10) Did you find the services rendered by the lawyer very useful and profitable in terms of time and resources?
Yes []
No []

Please give reasons for your choice of answer.....
.....

11) Could you have handled the issue differently without the assistance of a lawyer?
Yes []
No []

Please give reasons for your answer.....
.....

12) Mention two or more legal issues according to your own priority in which you will approach a lawyer without hesitation
.....
.....

13) Do you think you can do without a lawyer in these issues?
Yes []
No []

.....rs in terms of the following in the country?(Poor/Fair/Good/Very Good/Excellent)

- 1. National Development
- 2. Upholding of Freedom and Justice
- 3. Human Rights Activities
- 4. Democracy and Constitutional Change

15) Do you think the law profession operates in the general interest of the majority of the people in this country?

Yes []
No []

Give reasons for your answer.....
.....

16) Mention some of the spectacular/particular contributions made by lawyers which have had a significant impact on this country.

.....
.....
.....

The Role of the Ghana Bar Association

17) The Ghana Bar Association, which is the professional Union of lawyers in this country, has been accused of being an elitist and class society which has lost touch with the ordinary citizen. What is your opinion on this statement?

.....
.....

18) What is your opinion on the statement that the Ghana Bar Association is more an interest group than serving as a pressure group in the interest of ordinary people?

.....
.....

19) How would you rate the Ghana Bar Association in terms of the following: (Poor/Fair/Good/Very Good/Excellent)

- a) The organisation and promotion of legal education in the country.
- b) The maintenance of professional standards, discipline and etiquette.
- c) Establishment and maintenance of a system of efficient

- 20) Lawyers have been accused of exacerbating the "Justice Delayed is Justice Denied" syndrome in the courts due to their uncommitted attitudes to their clients. How far do you think this statement is acceptable?
-
- 21) In which way do you think the Ghana Bar Association has contributed significantly to the practice of democracy in this country?
-
- 22) Do you think the situation on the present state of the country would have been worse without the active participation of the Ghana Bar Association?
-
- 23) Can you mention one or two ways or means through which in your opinion you feel the Ghana Bar Association can improve upon its services to the nation if what they are doing now are not sufficient?
-
- 24) In your opinion, do you think this nation can manage effectively with or without lawyers?
-
- Give reasons for your answer.
-
- 25) In your opinion, do you think the Ghana Bar Association could perform better in closer collaboration with other professional associations instead of working in isolation?
-
- 26) Other comments.

MEMBERS OF
THE GHANA BAR ASSOCIATION

Dear Respondent,

This questionnaire is to elicit information on the law profession in Ghana. It is part of a study being conducted on the "The Role of the Ghana Bar Association in the Democratisation Process in Ghana", sponsored by the Institute of African Studies, University of Ghana, Legon. Be assured that any information given here is for academic purposes only and will be treated as confidential.

Personal Information

- 1) Age: a) 18-25 yrs []
 b) 26-35 " []
 c) 36-45 " []
 d) 46-55 " []
 e) 56-65 " []
 f) 66-75 " []
- 2) Sex: Male []
 Female []
- 3) Educational Background: (Pre-University)
- Diploma []
 1st Degree []
 2nd Degree []
 PhD []
 Others (Specify) []
- 4) Marital Status: a) Married []
 b) Single []
 c) Separated []
 d) Divorced []
 e) Widowed []

Membership and Activities at the Bar.

- 5) Membership at the Bar: Senior []
 Junior []
- 6) Frequency of attendance at Bar Meetings:
- Always []
 Regular []
 Irregular []
 None []

..... n Committee?
Yes []
No []

If yes, please indicate which committee.
.....

8) Are you a member of any club, association, town and ethnic union?
Yes []
No []

If yes, please indicate which of the above.
.....

9) Have you ever been a member of any committee of enquiry?
Yes []
No []

If yes, please indicate which committee.
.....

10) Are you a member of any political party?
Yes []
No []

If yes, please indicate the nature of political participation.
.....

11) Do you devote some time to free legal aid?
Yes []
No []

If yes, please mention the circumstances under which you would do so.
.....

The law/ legal Profession

10) How would you rate the services of lawyers in terms of the following in the country? (Poor/Fair/Good/Very Good/Excellent)

1. National Development
2. Upholding of Freedom and Justice
3. Human Rights Activities
4. Democracy and Constitutional Change

15) Do you think the law profession operates in the general interest of the majority of the people in this country?
Yes []
No []

-
-
-
- 16) Mention some of the spectacular/particular contributions made by lawyers which have had a significant impact on this country.
-
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The Role of the Ghana Bar Association

- 17) The Ghana Bar Association, which is the professional Union of lawyers in this country, has been accused of being an elitist and class society which has lost touch with the ordinary citizen. What is your opinion on this statement?
-
-
- 18) What is your opinion on the statement that the Ghana Bar Association is more an interest group than serving as a pressure group in the interest of ordinary people?
-
-
- 19) How would you rate the Ghana Bar Association in terms of the following: (Poor/Fair/Good/Very Good/Excellent)
- a) The organisation and promotion of legal education in the country.
 - b) The maintenance of professional standards, discipline and etiquette.
 - c) Establishment and maintenance of a system of efficient legal aid and advice.
- 20) Lawyers have been accused of being part of the "Justice Delayed is Justice Denied" syndrome in the courts due to their uncommitted attitudes to their clients. How far do you think this statement is acceptable?
-

- 22) Do you think the Ghana Bar Association has contributed significantly to the practice of democracy in this country?
-
-
- 23) Do you think the situation on the present state of the country would have been worse without the active participation of the Ghana Bar Association?
-
-
- 24) Can you mention one or two ways or means through which in your opinion you feel the Ghana Bar Association can improve upon its services to the nation if what they are doing now are not sufficient?
-
-
- 25) In your opinion, do you think this nation can manage effectively with or without lawyers?
-
-
- Give reasons for your answer.
-
-
- 26) In your opinion, do you think the Ghana Bar Association could perform better in closer collaboration with other professional associations instead of working in isolation?
-
-
- 27) What, in your view, are the major obstacles faced by the Ghana Bar Association in its operation as a professional body?
-
-
- 28) Other comments.