

The Provisional National Defence Council (PNDC) and the District Assemblies in Ghana: An Analysis of the New Local Government Law, 1988 (PNDC Law 207)

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Introduction

On December 31, 1981, Flight Lieutenant J.J. Rawlings took over the administration of Ghana for the second time in a military *coup d'etat*. Immediately, he formed the Provisional National Defence Council (PNDC) which became the supreme governing body of the country. The PNDC Government soon discovered that the administrative machinery it had inherited suffered from several defects which had to be remedied if development was to be achieved. Firstly, it found that the machinery of government was highly centralized in the national capital resulting in a situation whereby every administrative issue had to be referred to the central ministry. Besides the delay in the execution of local development projects, it stifled developmental initiatives in the districts and at the village level. Secondly, the PNDC Government observed that overcentralization of the machinery of government also contributed to the mass drift of the rural people to the urban centres. This, in turn, resulted in overstaffing at the ministries and the Regional and District Administration. It was therefore, necessary to redirect the surplus labour into more productive sectors of the national economy. It was observed that rigid financial control in both central and local government administration frustrated and paralyzed the implementation of several development projects.¹

The PNDC realized that previous governments had failed in their decentralization programmes because they lacked the political will to push the programmes through. The PNDC did not reverse the trend of nominated committees despite the professed commitment to decentralization. The PNDC passed Law 14 of March 10, 1982, which formally dissolved the elected local government councils. It introduced a three-tier local administration system comprising Regional Councils, District Councils and Area, Town, Village Councils. PNDC Law 14 provided for the appointment of an Interim Management Committee (IMC) for each District Council. The IMC had no executive powers but exercised supervisory authority over the decentralized departments in the district. Members of the IMCs, including the chairmen, were selected by the PNDC Regional Secretaries subject to the approval of the PNDC through the Secretary for local Government.

On July 1, 1987, The PNDC Government announced that District Assemblies would be created and that district elections would be held in the last quarter of 1988. The details of the elections and the composition and functions of the District Assemblies were contained in a blue book entitled "District Political Authority and Modalities for District Level Elections". In November 1988, the PNDC Government promulgated the new Local Government Law (PNDC Law 207). This was an embodiment of the proposals set out in the "Blue Book". It was also largely the product of

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the reports of earlier committees set up by the PNDC – the Kuffour Committee of 1982, the Sowu Committee also of 1982 and the Public Administration Restructuring and Decentralization Implementation Committee (PARDIC), established in 1983. Local Government elections were held between December 1988 and February 1989. This paper seeks to analyze and explain what the new system of local government entails, examine the innovations of the reform, and attempt an assessment of the new local government system.

Objectives of the Reforms

The PNDC's decentralization programme is aimed at a fundamental restructuring of the machinery of government in order to make the administration of the country more effective.² In his reference to the PNDC's decentralization programme during the speech to the national to mark the sixty anniversary of the PNDC regime, Ft. Lt Rawlings stated that;

For the first time, we are seriously shifting the focus of decision-making in areas which directly affect our lives to the grassroots where the really matter.... we are according primacy to the local level in the evolution of democracy....

One of the fundamental objectives of the new Local Government Law, therefore, is to ensure that significant functions are decentralized to the District Assemblies. Consequently an unprecedented eighty-seven functions have been assigned to the newly created District Assemblies. The new Local Government Law is also to foster rural development and to encourage rural dwellers to develop the necessary leadership qualities and self-confidence in steering the affairs of their communities. To this end, Justice D.F. Annan, a member of the PNDC, stated that the decentralization programme was to give

Expressions of a fundamental belief of the PNDC that effective participation in the productivity and development of our society and participation in political decision-making are the responsibilities of all of us.

On issues of socio-economic development, Doris Ocansey, another top government functionary stated that the decentralization programme would not only "ensure development at the grassroots", but also reduce "rural-urban drift of the youth, rural unemployment and resource generation for development."⁵ Some political analysts hail the new local government reform as a practical demonstration and fulfilment of the PNDC's slogan of giving "power to the people".

Provisions of the New Local Government System

The new local government system is a three-tier one instead of the four-tier structure which was in existence before the PNDC assumed office. The three-tier structure consists of Regional Co-ordinating Council (RCC), District Assembly (DA) and Town/Area Council and Until Committees.

The Regional Co-ordinating Council, which replaces the Regional Consultative Councils is composed of the Regional Secretary as Chairman, all Deputy Regional Secretaries, all District Secretaries and all presiding members (Chairmen) of the District Assemblies, while the Regional Administrative Officers – career civil servants and appointees of the PNDC – are the secretaries of the Regional Co-ordinating Councils (RCCs). The Primary duties of the Regional Co-ordinating Council, as stipulated in Section 113, include co-ordinating and formulating the integrated plans and programmes of the District Assemblies (DAS) in the region and ensuring that these plans are compatible with overall national development policies and

priorities. A Regional Co-ordinating Council is also requested to monitor the implementation of programmes and projects within the region and evaluate the performance of such programmes and projects. A RCC has to allocate to the districts in the region as appropriate public funds, under estimates approved by the Central Government and grants-in-aid made to the Districts in the region. Finally, it has to review and co-ordinate public services generally in the region

According to section 3 (1), two-thirds of the District Assembly members will be elected directly, whilst one-third, including representatives of traditional authorities and of other persons/organizations involved in the productive life of the district, will be appointed by the Central Government. Appointments will be made by the Government in consultation with chiefs and organized economic groupings in the district. The PNDC District Secretary, a central government political appointee and the chief executive of his area, will be an *ex-officio* member of the Assembly. The members of the Assembly will elect from among their own number a chairman, who is designated presiding members, and commanding the support of at least two-thirds of the members, for a one-year term, and may be re-elected. The appointed members will be allowed to hold office for not more than two consecutive terms. The lifespan of each District Assembly is three years.

The size of an Assembly will depend on the number of electoral areas within the district. The districts have been re-demarcated and the number increased from 65 to 110. The increase in the number of local government units is not only to facilitate economic programmes by creating and ensuring equitable development throughout the country but also it is:

A practical translation of the ideals of the revolution that would further ensure that a large majority of Ghanaians not only have a say in the assemblies but also contribute positively towards nation-building.

The District Assembly will be the highest political and administrative authority in each district and will provide guidance and give political leadership to the district. An Assembly will also be responsible for the supervision and control of all other political and administrative authorities in the district. Each will therefore have deliberative, legislative and executive functions. The functions of the District Assembly are clearly stated in Section 6 of the Law. The District Assembly will be responsible for the overall development of the district and is charged with the additional responsibility of ensuring the preparation and timely submission of the district budget for approval by the Central Government. It will formulate programmes for the effective mobilisation and utilisation of district resources. A District Assembly will be responsible for initiating and encouraging joint participation with other persons or bodies to execute approved development plans. An Assembly generally will be expected to make and implement decisions as well as embark on projects and programmes to meet the needs of the people in the areas under its jurisdictions.

The election of candidates to the Assembly will be based solely on an individual's own merit and on the basis of his capacity to represent the district effectively rather than on behalf of any organization. The minimum age for eligibility both as a voter and as a candidate is eighteen years. Prospective candidates must be citizens of Ghana and ordinarily resident in the district and up-to-date with tax and rates obligations.

The third tier, the Town/Area Councils and Unit Committees have not been established in the districts at the time of writing this article. Section 20 of the Local Government Law stipulates that the Secretary for Local Government can establish, by a legislative instrument. Area/Town Councils or Unit Committees on the recommendation of a District Assembly and with the prior approval of the PNDC. In July 1989,

the Ministry of Local Government issued a circular to all District Assemblies asking them of their sub-district structures. Recommendations subsequently submitted are yet to be approved by the PNDC. It is necessary to point out that the membership, functions and powers of the Town/Area Councils and Unit Committees have not been specified by the Law; rather it is the legislative instrument of the Secretary for Local Government which is supposed to specify the details.

The Executive Committee of the District Assembly and the District Decentralized Departments

Two important arrangements have been made to facilitate the functional effectiveness of the District Assemblies. The first is the establishment of an Executive Committee by each of the 110 District Assemblies. The Executive Committee is the most powerful committee of the District Assembly. This Committee will act as the executing and co-ordinating secretariat of the Assemblies and will be responsible for its day-to-day administration. Section 10(2) specifies that the Executive Committee will consist of the District Secretary as Chairman and one-third of the members of the whole Assembly and will be elected by the other members. The presiding member (chairman) of the District Assembly, is however, excluded from membership of the Executive Committee. The rationale behind this is to avoid conflict of authority between him and the District Secretary.

The Executive Committee will perform the Assembly's executive and co-ordinating functions and in-between sessions of the latter will assume its powers except in the legislative sphere. It will be responsible for implementing Assembly decisions and for supervising the routine administration of the district through the office of the District Secretary. It can also recommend to the appropriate central ministry, department or agency and appointment, replacement and firing of district government officials. Finally, the Executive Committee has powers to create and dissolve ad hoc committees. Where a District Assembly is dissatisfied with the performance of an Executive Committee, the Assembly may by resolution of two-thirds of the members dissolve the Executive Committee and elect another. The Executive Committee will act through the following sub-committees; Economic Development; Social Services; Technical Infrastructure; Justice and Security; Finance and Administration, and such other sub-committees as the District Assembly may deem to be necessary. To ensure maximum participation in the Assembly's deliberations, every member is required to serve in at least one sub-committee during the three-year life of an Assembly.

The second arrangement deals with the decentralization of 22 implementing departments and organizations, listed under section 29 of the First Schedule of the new Local Government Law. These departments have been placed under the control and direction of the District Assemblies. This integration is intended to emphasize the strategic role these decentralized agencies and departments have to play in facilitating the rapid development of the District Assemblies. As stated by Mr. Opoku Manu, the Regional Administrative Officer of Ashanti:

The activities of the decentralized departments impinge on the very lives of the local people. This is why to make the decentralization exercise effective and complete, government has decided that they should become part and parcel of the District Administration set-up.

Section 30 makes the staff of these departments into staff of the DAS, with responsibility for their appointment ultimately vested in the DAS. However, in the interim, as a transitional measure, Section 133(2) specifies that the staff will continue to be appointed by the Head of the Civil Service or the Public Services Commission, presumably until proper arrangements are finalised.

Finance

Under the 1988 Law, the District Assembly is the rating authority. In addition to the traditional sources of revenue such as court fines, levies, fees and licenses, Section 57 of the Law has exclusively given the DAS the power to collect taxes like entertainment duty, casino revenue tax, betting tax, gambling tax, and income tax (Registration of Trade, Business, Profession or Vocation). The District Assembly has been vested with considerable financial powers. It will draw up a composite budget. This implies that the estimates of the DA and the district government departments will be prepared and discussed together within the broad policy and administrative framework of the District Assembly (DA).

When this composite budget is finally approved by the Central Government, no further authority will be required from the centre before approved projects and plans will be executed or paid for. This new system is a departure from the past when budgets were prepared in Accra ostensibly by people who had no knowledge of local conditions so that budgets often did not reflect the realities of the situation in the localities. The idea now is to allow for the popular expression of local aspirations. It is envisaged that budgets will incorporate programmes that will take into consideration the realities of the individual localities and their felt needs. Under the new local government system, the DA is empowered to raise revenue from many different sources including establishing businesses.

The value which the PNDC Government places on decentralization has been demonstrated by the provision of substantial resources to ensure the effective implementation of local government functions. The sum of 6 billion cedis has been earmarked towards the implementation of the decentralization programme, which has been phased to last between five to ten years. By August 1989, the Ministry of Local Government has spent over 800 million cedis for the provision of equipment, stationery, furniture and construction works to rehabilitate buildings to accommodate some of the District Assemblies.

Innovations of the Reform — Major Differences Between Decentralization Policies of Previous Governments and Those of the PNDC

We now examine how the new District Assembly concept differs from previous reforms in the Ghanaian local government system. The first major difference is that previous governments failed to establish effective political authority at the district level to oversee the structural reforms. As a result the implementation of the decentralization policies were left to the bureaucrats who were themselves not only opposed to the decentralization policies but had been looking to the national capital for decisions all along. To deal with the problems of political supervision and control at the district level, District Assemblies (DAS) have been created as the highest political authorities in the districts with deliberative, legislative, executive and administrative powers. Under this system, instead of the district civil servants looking to the central ministries for directives, it is envisaged that they will now look to the DA.

Ghana is thus moving away from a strictly managerial type of local government, where the councillors were just a debating club, to an era whereby the people of the district give political directions. The ultimate supervision of the Assemblymen is vested in the people, where for the "first time in our history, provisions on revocation of mandate have been introduced into our local government system". Again, for the first time also, specific duties have been imposed on the Assembly members which when breached may result in their recall. There is now more emphasis than before on the accountability of the Assembly members to the electorate. In the past, Assemblymen or councillors made promises to their constituents but failed to fulfil them;

some rarely visited their constituencies. Almost invariably the only beneficiaries were the politicians and their close associates. This provision for revocation, if used with circumspection, can render elected office a lot less sacrosanct than in the past. Another innovation which will remove one of the barriers to and help to improve the conditions for participation of citizens in national politics is the provision to scrap the payment of financial deposits by prospective candidates. This will remove one of the materials bases of patronage and vote-buying in Ghanaian politics.

There are other novel provisions of the reform which deserve our attention. These are designed to buttress the executive powers transferred to the DAS in order to facilitate their functional effectiveness. Under Section 52 the method for the validation of by-laws is radically altered. The 1971 Local Administration Act (Act 359) empowered the Minister for Local Government to approve by-laws of District Councils before they could be valid. However, this power was exercised on the Minister's behalf by the Regional Administrative Officer and the District Administrative Officer. Under the new Local Government Law, it was considered "undemocratic for the decision of the democratically elected District Assembly to be subjected to the whims and caprices of two bureaucrats."¹⁰ The new procedure therefore requires such by-laws to be deposited at the Secretariat of the PNDC for twenty-one days. If on the expiry of the period, the PNDC has not reacted, the by-laws become valid after publication in the *Gazette* for a further period of twenty-one days.

The introduction of composite budget is not only another novel way of budgeting, which is a departure from past practice, but is also one of the practical ways of transferring the "means" for effective decentralization to the DAS. What has now come to be known as "ceded revenue" is another practical example of the PNDC's transfer of the means for functional effectiveness of local government units. As pointed out earlier, certain revenue sources which were previously tapped by both central Government and local government units should now be tapped exclusively by the DAS. This is also a departure from past practice.

Another difference could be found in the centre-local relationship. The 1988 Law has brought about substantive changes in centre-locality relations and linkages. The Law has devolved responsibility for development administration to the new DAS, which have taken over many of the functions previously performed by Regional Administration. The role of Regional Administration has been changed; it no longer has direct control over the DAS. Thus while previous decentralization policies made the regions very strong and therefore became an additional bureaucratic "road block" hampering effective implementation, the PNDC on its parts, made the regional structure deliberately weak, by denying it of any decision-making powers, and restricting it to mainly co-ordinating functions. This is reflected in the composition of the Regional Co-ordinating Council, where there is no representation from bodies outside the DAS, except its chairman, the Regional Secretary and his deputies, all of whom are appointed by the PNDC.¹¹

A major defect of the previous system of local administration stemmed from the lack of executive authority at the district level. Another innovation worthy of comment is that the new District Assemblies (DAS) have control over field staff and this will help to minimize the perennial problem of district officers' dual allegiance. This is a laudable idea because in the past dual allegiance often gave rise to conflict

between the District Chief Executives and district departmental heads and resulted in the lack of co-operation on the part of many departmental officers. The implementation of development projects was adversely affected.

It is the duty of a DA to ensure ready access to the courts and public tribunals in the District for the promotion of justice. The new Local Government Law does not only permit illiterates to stand for election but also allows a DA to conduct its business in English or in any Ghanaian language common to the communities in the district. These are all new provisions.

Appraisal of the New Local Government System

The new Local Government has created a horizontally integrated unitary system at the district level. This has the considerable advantage of avoiding duplications and departmentalism. It also promises to enhance a real co-ordination. The adoption of the integrated system of local administration is meant to establish only one communication channel from the district to the regional and national levels. In effect the fusion of the various administrative structures into a single agency will help to overcome the negative features of the old system.

One of the laudable elements of the reform is the quality of personnel that will man the District Administration. In the past people looked down upon local government as a dumping ground for never-do-wells; there was a lot of corruption and service in local government lacked prestige. Many qualified personnel did not feel secure and accordingly refused to work in the local government services. This attitude has persisted till now. In order to provide an effective administrative framework for the operation of the DAS, all the District Administrations will be manned by competent personnel of the rank of Principal Assistant Secretary. The Government, according to the Head of the Ghana Civil Service, is making sure that it sends experienced personnel to the field because of the significance which it attached to the decentralization programme. More emphasis is placed than previously on experience and expertise in order to strengthen the capacity of the District Administrations which, until now, have been headed by District Administrative Officers.

To check abuse, the PNDC has decided that the Chairman (Presiding Member) of the DA, who is to be politically neutral, should not also be the Chairman of the Executive Committee of the DA, the most powerful of all Assembly Committees. Chairmen of District Councils in the previous regimes had wide powers and misused their position by indulging in various malpractices. The creation of an over-powerful individual who combines the two offices in his person is therefore to be avoided. However, there may be possible conflict if a clear distinction is not made between the role of the District Secretary and the Presiding member (chairman) of the DA. The Law clearly specifies the role of the District Secretary as Chairman of the Executive Committee but has been silent on the role of the Presiding member. Questions are raised about why the District Secretary cannot be chosen by a process more subject to local democratic control. One specific issue for instance, is how the District Secretary, as Chairman of the Executive Committee, can implement a resolution of no confidence against the District Secretary passed by the District Assembly (DA).

An important issue is the increase in the number of DAS from 65 to 110. The problem at the moment is that the existing 65 District Councils suffered from many deficiencies, including the lack of infrastructural facilities, as a result of which some

decentralized ministries and departments do not yet have any district offices. The viability of these newly created DAS is therefore in doubt, the more so when one considers the critical and limited financial resources of the Central Government. There is a danger, as in the late 1950s and early 1960s, that fragmentation will have the effect of weakening local councils and making them economically non-viable.

Finance may still prove to be a major obstacle because many DAS have a weak resource base. The challenge facing the DAS especially the 45 newly created ones is how to explore avenues for increasing revenue. Here, one foresees a danger – the PNDC's national development strategy has been concerned with equity goals – how to redress the disparities in resource endowments and capabilities. The existing disparities between regions and districts will be exacerbated if a formula is not devised to guarantee the District Assemblies especially the weaker ones of a certain fixed sum of grant every year. Problem of lopsidedness in regional development can be potential source of major political conflict.

In terms of popular participation, the new system of local government has brought about a closer linkage between the DAS and the rural communities. Under the previous system of local administration (with the exception of the Nkrumah and Liman regimes) local councillors were not elected by the local people but appointed by the Central Government. Moreover, the District Councils were dominated by Civil Servants who were not accountable to the local people. The predominance of Central Government influence in Local administration could also be discerned from the strong vertical lines of command to which departmental heads were subject.

Under the new Local Government Law of 1988, two-thirds of the members of the DAS consist of elected local residents. The DAS now have a strong local political representation. Thus the structure of leadership and decision-making has been buttressed in favour of the local political elements. Furthermore, to ensure accountability of the Assemblymen to the electorate, specific duties have been imposed on the Assembly members which when violated may result in their recall. To avoid electoral offences, especially vote buying, candidates are not to amount campaign platforms outside those created by the National Commission for Democracy (NCD) and District Election Committee. Henceforth, the campaign will be publicly funded.

Democratic ideals underlie the criticisms of some of the District Assembly provisions. The most persistent concerns the appointment of one-third of DA members by the Central Government. This appointive principle undermines the supposed democratic intentions of the reform as well as the sovereignty of the electorate. But this criticism has been ignored, thereby reinforcing Johns and Riley's contention that many Third World Governments, especially in Africa, regard local councils as a source of division rather than integration. They therefore feel compelled to neutralize any local countervailing sources of power by using their legal power of appointment to pack the councils with loyal supporters.¹²

Conclusion

Two main objectives can be discerned from the PNDC's decentralization programme. First, it is intended to consolidate central political control on regional and local institutions through strategic placement of centrally-appointed politicians in the regional and district administration hierarchies. Second, since the PNDC Government has not designed any concrete political programme of returning the country

to democratically elected civilian rule, its decentralization programme is seen as a way of not only legitimizing its power base but also of entrenching itself in power. Although the 1988 Law has strengthened the role of political appointees, it has also for the first time since independence transferred a substantial measure of operational autonomy and control of local affairs to the District Assemblies.

While the major concern of the Government is with the implementation of the new Local Government system at the district level, the role of the central ministries in the new system must be spelt out clearly. The frequent changes in the political leadership of the Ministry of Local Government adversely affected the decentralization programmes of previous regimes. Stability is essential for an effective system of local government. The success of the new District Assembly system will depend considerably on how well this principle is observed.

Studies have shown that low levels of political will has undermined the effective implementation of the decentralization programmes of several African countries. The success of the District Assembly system therefore will depend on the extent to which decentralized departments and agencies receive the political support of the national leadership. This needs to be emphasized above all else because political support and action can stimulate development despite other countervailing obstacles. Success will also depend on the extent to which district civil servants help to provide the necessary administrative support for Assembly members, thus enabling them to initiate plans for effective local development. The challenge facing Ghana is whether the District Assemblies created by the PNDC regime will be accepted by a future civilian regime.

FOOTNOTES

1. Outline of the Decentralization Plan of the Provisional National Defence Council (Accra: Information Services Department, 1983), pp.2-3.
2. *Ibid.*, p. 9.
3. *West Africa*, 25 January, 1988.
4. Mr. Justice D.F. Annan, Member of the PNDC and Chairman of the National Commission for Democracy, Statement on National Economic Programme and District Level Elections at a press conference in Kumasi, 1987, p. 2.
5. Doris Ocansey, Member of the National Commission for Democracy, Speech at Offinso while Launching Zone One election campaign, 1988.
6. Flt. Lt. J.J. Rawlings speaking to the people of Duayaw Nkwanta in the Brong Ahafo Region, November 1988.
7. K. Opoku Manu, Regional Administrative Officer of Ashanti, addressing Assemblymen at an orientation seminar at the Great Hall, University of Science and Technology, Kumasi on 23 January, 1989 on the topic, "Relationship of the District Assembly with Decentralized Agencies and other Bodies".
8. See Ministry of Local Government *Information Digest*, Vol. 1, October 1988, p. 19.
9. Kwamina Ahwoi, Secretary for Local Government delivering a lecture under the subject, "Local Government in Ghana" at the Ministry of Local Government/School of Administration/French Embassy Workshop on Decentralization held at the School of Administration, Legon, 9th October 1989, reproduced in Ministry of Local Government *Information Digest* No. 7, 1989.
10. *Ibid.*
11. *Ibid.*
12. Sheridan Johns and Richard Riley, "Local and District Councils - Should They be Forgotten?", *The Journal of Modern African Studies*, Vol. 13, No. 2, 1975, pp.312-314.