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Legal Framework of NGOs: The Registration Challenges of NGOs In Ghana.

(A Case Study of NGOs Operating in The Greater Accra Region)

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ABSTRACT

Non-governmental organizations (NGOs) have rapidly expanded in most developing nations, particularly those in Africa, as a result of governments' and the private sector's inability to fulfill socio-economic development objectives. This has translated into heightened tensions between African states and NGOs with the perception that governments' sovereignty is being undermined and that official aid is being diverted to NGOs as such Governments across Africa are increasingly looking for measures to monitor and regulate NGO operations. Thus, this has seen an increase in the number of supervisory agencies for overseeing the NGO sector resulting in the duplication of the bureaucratic processes. This indicates a failure in the legal framework guiding NGO operations. The purpose of this research was to assess the legal framework of NGOs in Ghana focusing on the registration challenges of NGOs operating in the Greater Accra Region. This study was conducted along the tenets of qualitative research methods with data collected through interviews and analyzed thematically. The study established NGOs perspectives on the legal framework governing their operations in Ghana. Also, the study demonstrated that in their interactions with the legal framework, NGOs face the challenges of the annual renewal of the registration; lack of funds for registration; limited access to information and lack of government support which affects their operations. The study recommends that government and its agencies should centralize the registration process, as this would make the process less cumbersome for the NGOs.

DEDICATION

This piece of work is dedicated to Almighty God who has been there right from the beginning to this very point. Special dedication also to my ever-supportive parents Mrs. Priscilla Afriyie and Mr. Sarpong who has been my source of inspiration, relentless support, and compassion towards me during this project.

To my brothers, sister and relatives who shared their words of advice and encouragement to finish this study.

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LIST OF ABBREVIATIONS

NGOs	Non-Governmental Organizations
GAPVOD	Ghana Association of Private Voluntary Organizations in Development
GONGOs	Government-organized NGOs
QUANGOs	Quasi-NGOs
DONGOs	Donor-organized NGOs
NPO	Non-Profit Organization
MMDAs	Metropolitan, Municipal and District Assemblies
CSP	Civil Societies Proclamation

CHAPTER ONE

INTRODUCTION

1.1 Background of Study

Non-governmental organizations (NGOs) have rapidly expanded in most developing countries, particularly those in Africa, as a result of governments' and the private sector's inability to fulfill socio-economic development objectives (Obiyan, 2005; Lewis & Opoku-Mensah, 2006; Nelson, 2007). This implies that the drivers for development have evolved from a state control approach towards an alternative approach inclusive of NGOs (Lewis & Kanji, 2008). NGOs are thought to be adaptable, flexible, and quick to respond to peoples needs than governments (Lekorwe & Mpabanga, 2007; Banks & Hulme, 2012). As a result, NGOs have emerged as the "Magic Bullet" for eradicating poverty in developing countries (Edwards & Hulme, 2014).

In developing economies, NGOs have helped huge numbers of mostly poor individuals and communities in their efforts to improve living conditions and combat poverty (Jayasinghe, 2007; Ferguson & Heidemann, 2009; Kosic & Byrne, 2009). For instance, the socioeconomic advancement of rural areas in Ghana is significantly influenced by NGOs, particularly the poorest (Wrigley-Asante, 2012; Arhin, 2016). NGOs have supplied clean drinking water, health facilities, credit facilities, school structures among others (Bob-Milliar, 2005). Similarly, in Cameroon, NGOs have collaborated with various communities to promote economic empowerment of women improve resource mobilization and ultimately foster gender equality (Tanga & Fonchingong, 2009). Likewise, in Kenya, the non-governmental industry employs about 250,000 individuals (Abdel-Kader & Wadongo, 2011).

Lewis and Kanji (2009) advance that NGOs are high-profile actors in international development. However, the definition of NGO remains debatable as the frequent use of phrases

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like "non-profit," "third sector," "charity," "volunteer," and "civil society" to describe the same concept further complicates a clear definition. According to Holloway (2001) NGOs were classes of organizations that are distinct from public institutions and business organizations, with the particular characteristic of having been established to supplement, enhance, and offer alternatives to the state development agenda and operations.

Similarly, Edwards and Fowler (2002) defined NGOs as civic organizations that are formally under state regulation and rely heavily on charitable donations (typically in addition to government grants) for funding. On the other hand, World Bank (1995) define NGOs as private groups that aim to reduce suffering, advance the interests of the poor, protect the environment, offer fundamental social services, and/or promote community development. Meanwhile, in the Ghana's NGO Policy Guidelines 2007 report, an NGO is defined as an independent, non-profit, non-political, and benevolent organization whose major goal is to improve the social, cultural, and economic well-being of communities, with no religious, political, or ethnic bias in its operations. The non-political classification of NGOs is to distinguish these non-profit organizations from the philanthropic organizations set up by political parties as means to promote their presence in communities. This research defines NGOs as civil society organizations that are founded independently of government influence but voluntarily register under state legislation to obtain legal status to pursue activities for non-profit and public benefits.

NGOs are not homogenous organizations since they vary in terms of their objectives, aspirations, leadership, structure, organization, and resources, however, their ultimate aim is for the public good (Johnson & Prakash, 2007; Batley & Rose, 2011). NGOs are formed as a necessity to address the bulk of the citizenry's demands, particularly those of the poor and vulnerable which are unfulfilled due to the limitations of both the public and private sectors. NGO roles are

expressed in a variety of activities including infrastructure development, communication facilitation, capacity building, and advocacy, especially for the vulnerable and for the economic and social well-being of societies (Teegen, Doh & Vachani, 2004; Pinkney, 2009; Unerman & O'Dwyer, 2010; Fowler, 2013). According to Lewis (2007), NGOs function as implementers, catalysts, and partners. It must be reiterated that some NGOs' activities may include all three functions as such NGOs are not restricted to playing just one of these functions. Similarly, in the framework of NGO cooperation with the state, Lekorwe and Mpabanga (2007) posit the roles of NGOs in local development as complementing, transforming, and/or undermining the state.

The support for and interest in NGOs in many developing countries has increased during the last decade (Makoba, 2002; Kajimbwa, 2006). In Ghana, as of 2004, about 3000 NGOs had been registered to operate in various sections of the country (Osei, 2017). NGOs provide higher-quality social services and programs to the world's poorest people in a cost-effective and efficient manner, allowing for long-term growth (Clayton, Oakley & Taylor, 2000; Edwards & Hulme, 2014). Thus, governments in many developing countries have been relegated to the background in addressing the needs of their citizens (Lekorwe & Mpabanga, 2007).

This has translated into heighten tensions between African states and NGOs with the perception that governments' sovereignty is being undermined and that official aid is being diverted to NGOs in order to serve as social welfare instruments (Brass, 2010; Bawole & Hossain, 2015). Thus, governments across Africa are increasingly looking for measures to monitor and regulate NGOs. The review of experiences of NGOs in several African countries establish plethora of means through which governments exercise control. Regulatory procedures differ by country, but local and international NGOs in majority of African countries register with multiple governmental institutions, much like any other recognized organizations, such as a corporation or

bar association (Brinkerhoff, 2004). In Ghana, for example, NGOs are bundled in with profit-making businesses under the Company's Code of 1963, Act 179. These regulatory procedures affect the operations of NGOs as their activities must be approved through governments' bureaucratic procedures (Karns & Mingst, 2010; Bawole & Hossain, 2015).

1.2 Problem Statement

In Ghana, many NGOs in dissolve within the first two years of their registration, only a minority of those who survive stay active and functional, with the local NGOs being the worst hit (Mohan, 2002). The constant dissolution can be attributed to the operational challenges faced by these NGOs during their period of existence. These challenges include lack of funding sources from donors; competition from other NGOs with similar goals; changing operational capacity; changing NGO identity; and the legal framework defining NGO activities (Kpinpuo & Sanyare 2015; Arhin, 2016; Ebenezer, Musah & Ahmed, 2020). The relationship of NGOs and legal framework governing their operations has been the concern for Ghana Association of Private Voluntary Organizations in Development (GAPVOD). Initially, the legal framework was sourced from Companies Code, 1963 (Act 179) and this Act defined NGOs as limited liability organizations (LLCs). This definition failed to distinguish NGOs (non-profit organizations) from the other profit-oriented companies as consequence the regulation of NGO operations in Ghana was problematic.

Presently, the National Policy on Strategic Partnerships with NGOs published in 2004 is the legal framework defining NGOs and their activities, as well as the requirements for their registration as legal entities and the attendant benefits. The National Policy on Strategic Partnerships with NGOs fails as a legal framework for NGOs in Ghana as it duplicates the registration and regulatory for NGOs in Ghana. The policy has been described as disorganized,

with several laws, policies, and institutions governing NGO operations. There is increased number of supervisory ministries and state departments responsible for overseeing the NGO sector which indicates a duplication of the bureaucratic process. The duplication of the registration process and the introduction of the annual registration can translate into challenges that affects NGO operations in Ghana. This could contribute to the community, national or international NGOs becoming disillusioned about their mission which will inform their decision to down their tools and abandon their operations the country.

1.3 Purpose of the study

The purpose of this research is to assess the legal framework of NGOs in Ghana focusing on the registration challenges of NGOs operating in the Greater Accra Region.

1.4 Research Questions

1. What is the legal framework governing community, national and international NGOs operating in Ghana?

2. How do the different NGOs perceive the legal framework and to what degree the legal framework is conducive or problematic for them in their operations?

3. To what degree and how is the legal framework conducive for governing NGOs in Ghana in accordance with the National Policy on Strategic Partnerships with NGOs?

1.5 Significance of Study

This study contributes to existing studies on NGOs in Ghana. There are limited studies on legal framework of NGOs in Ghana. The existing studies on NGOs have focused on NGO operations appreciating the extent of the activities and the challenges affecting the execution of their set mandates (Porter, 2003; Fonjong, 2007; Yarrow, 2011) indicating a gap in studies on the legal framework of NGOs. Thus, this study focusing on the legal framework of NGOs in Ghana

intends to fill this lacuna in the literature. In addition, the findings of the study are expected to direct future research on the NGOs in Ghana.

This research's focus on the legal framework as contained in the National Policy on Strategic Partnerships with NGOs is expected to ignite debates on the challenges sourced from the policy. It is expected that the findings will present NGOs experiences with the legal framework, and this will inform policy and stakeholders engagements to address the highlighted shortcomings in the policy. The expected consequence of the policymakers and stakeholders' engagements is a comprehensive policy to fully define the role of NGOs and their relationship with government and its delegated regulatory authorities.

1.6 Organization of the study

This study is structured into six major chapters. In the first chapter, the background and the problem of the study is highlighted. The chapter also detailed the objectives and the questions guiding the study as well as the relevance of the study. In the second chapter of the study, the theoretical framework guiding the study is discussed and the existing literature reviewed. The third chapter focused on the study area, highlighting NGO operations in Ghana and the legal framework guiding their operations. The fourth chapter detailed the methods adopted for the study. The research design, sampling procedure and techniques are highlighted in this chapter. The data collection processes, and analysis was also specified. The fifth chapter detailed the presentation of the results of the data analysis as well as the discusses of these results within the light of the literature and theories considered for the study. The sixth chapter draws conclusions and extending relevant recommendations for future studies and practice.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter reviews related literature on the legal framework of NGOs in Ghana. This chapter begins, by discussing the theoretical framework guiding the study and proceeds to conceptualize NGOs and the legal framework guiding their operations. The chapter also presents the empirical review of existing literature on the relationship between NGOs and the legal framework.

2.1 Stakeholder Theory

This research is guided by the theoretical lens of the stakeholder theory. The stakeholder theory as espoused by Freeman (2001) entails that managements' job is to ensure that the organization considers societal interests other than financial gain for shareholders. It asserts that in order to manage stakeholders for the long-term success of the firm, managers must understand their interests and relationships. The aforementioned, in Freeman's opinion, is important because managerial actions touch a wide range of individuals or groups, just as the objectives of an organization may be postponed or impacted by the actions of a wide range of individuals or groups.

According to Freeman et al. (2010), the theory is divided into four elements: managerial, normative, instrumental, and descriptive. They also claim that these four aspects are interconnected rather than different. The descriptive section of the theory explains the characteristics and behavior of an organization. The instrumental method focuses on identifying stakeholders and how they will be managed to achieve the organization's goals. The instrumental approach's concept of stakeholder collaboration fosters greater stakeholder trust, greater effectiveness, and more predictable results. The managerial strategy responds to the needs of the organization's employees.

The normative approach is a method for identifying the purpose of an organization and discussing the morality of that organization's behavior (Phillips, 2003).

Stakeholder theory generally tries to promote justice in an organization by ensuring that all stakeholders are treated equally, regardless of their contributions and overall contribution (Phillips, 2003). The stakeholder theory encourages accountability in organizations by attempting to tackle accountability challenges such as reporting and transparency, social audit, self-regulation, and performance assessment as well as performance evaluation among others in a synthesized manner (Dhanani & Connolly, 2012). The stakeholder theory provides a foundation for arguments in favor of stakeholder responsibility. The stakeholder theory, which promotes stakeholder involvement, demonstrates the importance of looking at organizations beyond their profit-generating capacity and beyond investors (Phillips, 2003).

According to Friedman and Miles (2006), the stakeholder theory has been the subject of extensive debate since its conception, resulting in the formation of numerous interrelated fields, some of which have been marred with confusion. The political stakeholder theory is one such development. This has to do with the government's role as a shareholder (Buchholz & Rosenthal, 2004). Political stakeholder theory is explained by the state's superiority over all other stakeholders due to their position as people's representatives. The state's exclusive compulsive powers and capacities provide it an advantage over both state and non-state actors (Parmar et al., 2010). States can influence other key parties directly and indirectly by putting in place predefined interactions among them, in addition to laying out the regulations that governs diverse entities. Thus, the regulations within the political stakeholder theory are the government's altruistic motive for ensuring that the interests of the people are safeguarded (Flak & Rose, 2005).

According to Rose, Flak, and Sæbø (2018), the political stakeholder theory is important in the issue of the legal framework of NGOs because it directly addresses the importance of incorporating stakeholders in operations, which can therefore improve overall accountability to government acting as representatives of the people. In this research, political stakeholder theory is used in explaining the legal framework regulating NGO operations in Ghana. The premise is that the NGOs (helping to improve the lives of the Ghanaian people) operate within an environment enabled by the Ghanaian government (stakeholder of the interest of the Ghanaian people). This operational environment is guided by the National Policy on Strategic Partnerships with NGOs which dictates the relationship between the NGOs, the government regulatory authority and their service to the Ghanaian people.

2.2 Competition and Conflicts Between the State and the NGOs

Gary (1996) reveals that in the competition between African governments and NGOs, authoritarian states have a natural competitive edge. These continuous competition and tensions between the state and NGOs will escalate as a result of the weakened sovereignty of the less developed Southern states and the redirection of governmental funding to NGOs as tools of global social welfare. Dupuy, Ron and Prakash, (2016) advance that African governments are increasingly looking for measures to regulate and monitor non-governmental organizations operations in their countries. To the authors, this represents a dilemma for these government, as in one hand the government recognize the role of the NGOs in achieving their developmental agenda as well as NGOs access to foreign donors. However, the governments are also concerned about the threats of these NGOs to their hegemony as such look to introduce policies to curtail a challenge to their authority. African governments frequently have less authority when it comes to regulating NGOs (Gary, 1996).

NGOs may also face criticism when their roles change from service delivery to advocacy because public authorities, especially in repressive states, may view this role-change as a violation of the conditions of the agreement between the two parties (Batley & Rose, 2011; Banks & Hulme, 2012). This is a regular occurrence for countries where NGOs have been granted access based on their service delivery functions. For instance, the Mengistu regime only allowed non-governmental organizations to offer social development activities as a result of the drought in Ethiopia. However, after challenging the government's resettlement strategy, a French non-governmental organization was ejected (Hailu, 2016).

In addition, according to Gary (1996), government efforts to control and co-opt are contrasted with modest successes for NGO autonomy in Ghana. Under the Rawlings and the PNDC authoritative rule, NGOs, like other segments of civil society, operated in a political environment that was largely restrictive. NGOs and other autonomous organizations, like the church or trade unions, were seen by the PNDC as possible threats to a regime that had a shaky hold on power in the early phases of the revolution. Several NGO activists were briefly detained during the early stages of the PNDC revolution.

Bawole and Hossain (2015) advanced that both NGOs and local government view each other with skepticism. The authors posit that mutual mistrust exists, and each agency harbors certain unfavorable thoughts on certain facets of their interactions. NGOs accuse local governments of displaying elements of corruption and resource waste and manifested when the local government officials engage in political gymnastics and "bureaucratic" tendencies. Equally, the local government officials accuse NGOs of corruption, implementing unsustainable programs, and having a narrow focus.

Due to the mistrust, both parties tread carefully in their collaborations. In other words, they will collaborate when there are no vital interests to safeguard. frequent changes in local government leadership, bureaucratic tendencies of public sector officials, and excessive political manipulation account for NGOs' negative attitudes toward local government. On the other side, the main causes of the local government's negative attitudes toward NGOs are their inability to mainstream their funds into the coffers of the local government, propensity to operate in districts without their knowledge, and refusal to be transparent about their financial situation (Bawole & Hossain, 2015).

2.3 Conceptualizing Non-Governmental Organizations

NGOs are distinct organizations as their activities, organization, structure, resources, leadership, membership, ideologies, and aspirations vary. This makes their uniform categorization a difficult task. Lewis (2010) argues that labels abound in the world of non-governmental organizations. Although "NGO" is a commonly used phrase, several other terms, including "non-profit," "voluntary," and "civil society," are also interchangeable. According to Willetts (2002), the word "non-governmental organization," or NGO, was first used in 1945 when the UN needed to differentiate between the participation rights for international private groups and those for intergovernmental specialized agencies in its Charter.

Holloway (2001) advance that NGOs are distinct from public institutions and corporate bodies in that they are formed to augment, compliment, and suggest alternatives to public - sector continued development. Similar to this, Edwards and Fowler (2002) defined NGOs as a subcategory of civic organizations distinguished by their formal government registration, reliance on donations from the public (typically in addition to government grants), and use of a board of trustees as opposed to an elected board of directors as their method of governance.

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In addition, Jenei and Kuti (2008) argues that NGOs are self-governing (autonomously managed) and by definition non-governmental (third sector/voluntary sector). However, presently within the context of government and private development partnership different versions of NGOs have emerged. These emerging relationships include government-organized NGOs (GONGOs) in poorer countries; quasi-NGOs (QUANGOS) primarily based in industrialized countries; and the donor organized NGOs (DONGOs). There has been a significant surge in the size and number of DONGOs due to the increasing donors' interest in NGOs particularly from the 1980s and early 1990s (Jenei & Kuti, 2008). Also, Dugle, Akanbang and Salakpi (2015) dichotomized NGOs into advocacy and operational NGOs. The distinction between the two is that the former is concerned with change indirectly through political system influence whilst the latter is concerned with making change directly through projects.

Furthermore, Lewis (2003) advance that non-governmental organizations (NGOs) have gained recognition as significant "third sector" actors. This recognition has come from NGOs exemplary actions in the areas of development. Examples include post-disaster reconstruction efforts following the Indian tsunami or the West African Ebola outbreak, as well as campaigns for aid and trade reform and debt cancellation for developing countries. As these instances demonstrate, NGOs are best recognized for engaging in two different, yet frequently related, types of activity: delivering aid to individuals in need and planning policy lobbying and public campaigns to promote social change. The promotion of democratic ideals, the settlement of disputes, the protection of human rights, cultural preservation, environmental activism, policy analysis, research, and information dissemination are further specialized tasks that NGOs play. (Lewis, 2003)

Moreover, according to Lewis (2003), one key component of NGOs' distinctiveness is the environment in which they work. Many NGOs working in the area of development operate in unstable, dangerous, or conflict-prone regions or 'failed' states that could be wary of their presence. The setting also involves cultural aspects of management because many operational NGOs engage with populations substantially different from their own and may increasingly integrate workers from a variety of backgrounds (Lewis, 2003). The "aid industry," consists of groups of bilateral and multilateral funders, intergovernmental bodies, and non-governmental organizations that promote development and humanitarian action. Many NGOs get funded to undertake development activities or take part in development projects and programs, while some NGOs participate as self-funded policy advocates. Non-governmental groups that participate in the aid industry are prone to a number of organizational challenges (Lewis & Opoku-Mensah, 2006).

Based on the highlighted conceptualizations, non-profit organizations, voluntary organizations, and civil society groups are just a few of the titles that are frequently used to refer to non-governmental organizations. NGOs come in different forms, from small ones to international ones, and from those that receive funding from private independent sources to those that receive funding from the government, such as GONGOS, QUANGOS, and DONGOS. The NGOS in Ghana are sometimes interchangeable as civil society organizations, non-profit and voluntary organizations, which are clearly seen as non-profit organizations established by individuals or groups with the aim of contributing to the socio-economic growth of the country.

2.4 Legal Framework Guiding the Operations of NGOs

The way governments are created in different countries has an impact on the laws that have been enacted. Others are restricting and controlling, while others are enabling. It should be emphasized that several of the chosen countries' constitutions uphold civic, political, and economic

freedom, independent of the current ruling government. In countries, where the government and civil society, non-governmental organizations, and NGOs operate together, legislative laws are linked with the constitution. Legislations do not always match with the constitution in countries where relations are tense and suspicious, and the legal system can thus be termed as "repressive." The legislative framework often addresses registration, whether required or not, funding (local and foreign), auditing, termination, freedom of association, and criminal sanctions. These factors have the power to facilitate or stifle the growth of non-governmental organizations (Ismail, 2017).

Thomas, Chhetri and Hussaini (2008) indicates that, by the 1990s, a broad range of actors, including INGOs, were pushing for more responsibility on a global scale. In addition to the sheer quantity of NGOs, the amount of money moving via INGOs, and NGOs was viewed as a crisis that needed to be resolved. As a result, the nature of accountability and its significance to the legitimacy of INGOs and NGOs are currently up for discussion among academics and practitioners. In practice, international non-governmental organizations (INGOs) are defined by national legal frameworks. National legislation specifies which groups qualify as non-governmental organizations (NGOs) and necessitates registration with a central body. Furthermore, Thomas et al. (2008) contend that recent developments of these legal systems have become more regulatory, and that they are progressively requiring accountability norms and procedures, many of which include the management of money. The history of the laws governing international and domestic NGOs in South Asia demonstrates this trend of first registration to financial accounting to growing responsibility and regulation (Thomas et al., 2008).

In relation to the study conducted by Ismail (2017), he reveals that the United States is one of the countries considered best practice because of its permissive regulatory structure, which allows NGOs to operate in both the economic and political arenas. It might be said that the United

States has the most influential non-governmental groups and civil society (NGOs). This is due to both a favorable cultural atmosphere and a flexible legislative system. As previously indicated, NGOs are permitted to engage in political and economic activities under the current legal framework. Furthermore, the statute makes no distinction between domestic and international NGOs. American ideological obligations and respect for individualism are most likely to blame for the liberal legal framework. The United States is a fervent believer in the importance of a strong civil society free of official authority for democracy (Ismail, 2017).

Furthermore, Moyo (2009) advance that, in Angola, the Angolan civil society management system is governed by the Constitutional Review Law No. 12/91. The Law of Association (No. 14/91) was followed by the Decree Law No. 5/01, which regulates institutions and organizations serving the public good. The Regulatory Decree Law No. 84/02, which governs NGOs' operations as well as their accountability, taxation and registration was also passed to impact the management civil societies. In Mozambique, the registration and taxation are governed by the Law of Association No. 8/91. Additionally, Decree Law No. 55/98 specifies and governs the legal framework for how international organizations must operate. The rules governing the press and media, for example, have an effect on the operations of civil society (Moyo, 2009)

According to Moyo (2009), Uganda's major statute controlling civil society is the NGO Act (2006). Also, there are two more frameworks that have an impact on the activities of civil society in Uganda: the NGO Regulations enacted in 2008 and the NGO Policy enacted in 2009. In Zimbabwe, the NGO Bill of 2004 was intended to be the primary law controlling Zimbabwe's civil society, however it was never passed. However, elements of that measure have come up again in other pieces of legislation, such as the Electoral Act and Constitutional Amendment No. 18. Civil society was impacted by laws like the Public Order Security Act and the Access to Information

and Protection of Privacy Act, among others. The minister in charge of NGOs in Zimbabwe once issued a memo/letter declaring civil society activity illegal.

The law that governs civil society in the DRC, in addition to the Constitution, is Law No. 004/2001, which governs the registration process for groups. The right to liberty is protected by Clause 12 of the Mauritius Constitution, while the right to freedom of assembly and association is guaranteed by Section 13. Civil society legislation includes the Civil Code, the Registration of Associations Act (4/465, 1979), the Cooperatives Act, and the Companies Act. The Industrial Relations Act, the Income Tax Act, the Public Collection Act, and the Public Gathering Act, to name a few, all have an impact on civil society. The Seychelles' civil society is governed under the Registration of Associations Act (Moyo, 2009).

2.5 Relationship between NGOs and the legal framework Governing their operations

Existing studies have identified the relationship between NGOs and the legal framework governing their operations in communities and countries, and these are discussed in the ensuing paragraphs.

2.5.1 Lengthy Registration Process

Bromideh (2011) reveals that in Iran, the Ministry of Interior, Social Welfare Organization, National Youth Organization, Ministry of Culture, and Islamic Guidance are currently the five governmental organizations that can register a non-governmental organization. This variety, as well as non-integrated communication among them, has resulted in confusion and a lengthy registration process for non-governmental organizations. The regulations governing the creation and management of non-governmental organizations in Iran, on the other hand, have been criticized for being overly complicated and cumbersome in several ways. Bromideh (2011) argues that the legal system consists of various, disjointed decision-making centers. Second, the process

for registering and regulating NGOs frequently deviates from what is needed by law, resulting in needless delays in the processing of financial grants and permissions as well as the annual and periodic regulation of NGOs. Third, there has not been enough judicial oversight of administrative issues involving non-governmental organizations.

According to Yusupov (2020), even though the review period for constituent documents has been reduced to one month in Uzbekistan, the registration process can be lengthy because judicial authorities do not list all the inadequacies on the first application and continue to refuse NGO registration based on new and vaguely defined errors in the organization's charter or other founding documents. If necessary, the registering authority may send the application documents to "relevant organizations for expert examination," which must respond within 20 days of receipt of the documents. However, these "expert organizations" and the criteria for reviewing self-initiated NGOs' registration paperwork remain ambiguous, and third-party expert organizations' decisions are rarely published to applicants (Yusupov, 2020).

In addition, Kilby (2006) advances that non-governmental organizations are faced with challenges right from the point of making formal registrations to ensure they comply with the laws of the countries they are operating in. In some instances, the process is clear but is made difficult by bureaucrats who are appendages of the government. Edele (2005) reiterates this position by establishing that the time spent for registration is duplicated and made complicated in repressive regimes who want to limit foreign interference in their countries.

2.5.2 Legislation Restricting NGOs' Activities

Maria Beatriz (2000) states Non-Governmental Organizations focusing on development, are a subset of the larger category of nonprofit organizations (also called the Third Sector). Traditionally, NGOs have been described in terms of what they are, not or in relation to other

organizations that can be clearly differentiated from them. Though NGOs are defined as non-profit organizations that do not belong to the government and are not profitable, yet NGOs operate in the private sector to serve "public and social interests." Since they are classified as organizations, there is a need for a legal framework. Several governments have enacted legal mechanisms to guide the NGO activities in their countries. Musila (2019) reveals that, over the past fifteen years, eleven African countries have passed legislation restricting NGOs' legal activities. Six of these African countries have seen attempts to adopt such regulations fail in the legislature, the courts, or as a result of executive withdrawal, meanwhile seven countries have proposed or are studying limits. These rules aim to limit NGOs in a number of ways, including by limiting the flow of foreign funding, restricting the hiring of foreigners, making it more difficult for organizations to register, and allowing government influence in the sector while constructing operational barriers.

According to Hayman, Crack, Okitoi and Lewis (2014), in many countries, there has been a growing interest in understanding the facts that determine how international and local NGOs function. There is widespread consensus at a high level about the importance of expanding civil society participation in policy-making processes, leading to commitments to create an enabling environment for civil society to function. Musila (2019) maintains that such measures are contributing to the reversal of democratic gains made during the early 1990s wave of democracy across the continent. Negative actions are reversing the openings created by the Arab Spring in North Africa (Salamey, 2015). In situations when authorities use oppressive tactics too frequently, the presence of organized civil society has a direct impact on individuals' ability to hold governments accountable and protect human rights.

Hayman et al. (2014) argue that progressive legislation is being passed in several countries to help with this. However, in many countries, regulations governing the functioning of non-

governmental organizations (NGOs) are ineffective or poorly administered (Charnovitz, 2012). This reflects broader social, political, and economic limits on citizens' ability to express themselves and hold government officials accountable. Musila (2019) advances that restrictions on NGO activities are a part of a larger regime strategy to limit participatory democracy and deter opposition to authoritarian leaders and ruling parties in Africa and other parts of the world. The author posits that while NGOs have had some success in the past, Sierra Leone and Egypt were the most recent countries to implement laws that restricted NGO operations laws in 2017 and 2018. Equally, Ethiopia's new Civil Society Proclamation, which was enacted in February 2019, is especially important because it represents a vast improvement from the infamous 2009 Civil Society Proclamation (Musila, 2019).

Egypt, Burundi, Tanzania Sudan, Rwanda, Ethiopia, Zambia, Tunisia, Algeria, South Sudan, Uganda, and Sierra Leone are among the 12 African countries, according to Musila (2019), that have passed legislation or policies that have imposed unreasonable limits on nongovernmental organizations (NGOs). Six countries— Malawi, Egypt, Zambia, Sudan, Mozambique, and Rwanda, —have proposed or appear to be implementing restrictive NGO legislation, while Congo-Brazzaville, Angola, Zimbabwe, Kenya, Malawi, and Nigeria have already passed restrictive legislation only to have it rejected by the legislature, ruled invalid by the courts or revoked by the executive. These laws and regulations are intended to give the government control over civil society, especially non-governmental organizations (NGOs) that deal with governance and human rights issues.

2.5.3 Discrepancies in the Execution of the Legal Frameworks

Although there are some discrepancies in execution, the legal framework in Kosovo is supportive of NGOs. Human rights violations, a dearth of political commitment to adequately

execute existing laws, limited organizational capacity, and the withdrawal of external aid are all major problems for NGOs. Closer cooperation with the European Union has resulted in some favourable results. Hayman et al. (2014) add that Egypt's civil society is large and diversified, and it is changing as new types of civil society activism emerge. Egypt is undergoing a constitutional transition, and adjustments to the regulatory framework affecting civil society are being implemented. As a result, many local actors and international NGOs are taking a wait-and-see approach (Hayman et al., 2014).

In the words of Kelly (2019), the 2019 Organization of Civil Societies Proclamation has liberalized NGO legislation in Ethiopia (CSO Proclamation). The preceding laws placed restrictions on the activities of non-governmental organizations (NGOs) with international donors, specifically NGOs focusing on the areas of community engagement and human rights. Some of these restrictions are expected to be eliminated under the new legislation. However, registration still remains mandatory. At the time of writing, Kenya's more liberal Public Benefit Organizations (PBO) Act of 2013 had not yet been enacted. The 1990 Non-Governmental Organizations Coordination Act continues to be in effect. NGOs are required to register. Kelly (2019) also adds that there are distinct regulatory criteria for non-governmental organization (NGO) establishment and operation in Wales, Kenya, Ethiopia, Uganda, Tanzania, England, and Rwanda. In majority of the countries analyzed, legislation has made it essential, or made it more difficult, to register non-governmental organizations (NGOs), as well as imposed more stringent reporting requirements. However, initiatives to lift limits on NGOs have been made in Kenya and Ethiopia, however they have not yet been fully implemented (Kelly, 2019).

CHAPTER THREE

STUDY AREA

3.0 Introduction

This chapter reviews related literature on the legal framework of NGOs in Ghana. This chapter begins, by discussing NGOs and their operations in Ghana. The chapter also details the legal framework guiding NGO operations in Ghana.

3.1 NGOs and their Operations in Ghana

Abdul-Korah (2015) reveals that non-profit organizations have conducted and still perform a variety of services in many different nations. NGOs do not only play a significant part in the economy, but they also play critical roles as service providers in the fields of healthcare, education, social assistance, cultural entertainment, and training. By identifying and drawing attention to socioeconomic, environmental, political, and human rights violations, these NGOs also play a crucial role in lobbying by putting pressure on governments and policymakers to develop suitable policies to deal with societal problems.

Non-governmental organizations (NGOs) in Ghana are civil society organizations that are established autonomously of the government but voluntarily register under particular regulations to obtain legal status to carry out non-profit, public-benefit purposes (Draft National Policy, 2004). The ability to obtain public development money, whether from external donors or government MDAs, as well as tax exemptions and the ability to account for their usage in non-profit operations, is facilitated by registration. Non-governmental organizations (NGOs) in Ghana might be local, national, or worldwide, secular, or religious, membership-based, or not (Draft National Policy, 2004). Similarly, an NGO, according to Ghana's 2007 NGO Policy Guidelines, is an autonomous, non-profit, non-political organization whose major goal is to improve the socio-economic fortunes

of the communities without any discrimination against religion, politics, or ethnicity of these communities. The NGOs are not taxed by the national government (Twumasi & Seshie, 2021)

Over the past ten years, the number of non-governmental organizations (NGOs) operating in Ghana have multiplied dramatically. Around 4463 non-governmental organizations (NGOs) of various categories (community, national, and international) have been registered by the Ghanaian Social Welfare Department to contribute their fair contribution to rural and urban development (Bawole & Hossain, 2015). In response to the challenges and opportunities of decreasing poverty, promoting human development, and enhancing democratic government in the nation, NGOs have increased in both number and breadth of operations. Equally, in addition to participating in several initiatives designed to promote social change and development at the local, district, regional, national, and international levels, NGOs have initiated projects in rural and urban areas to assist marginalized and disadvantaged individuals (Draft National Policy, 2000).

Despite the fact that non-profit organizations are welcomed as development partners at all levels of government in Ghana, there is little information readily available concerning them to help with the formulation of policies, including their institution and legal recognition, staffing, funding, governance structures, operations, and benefits specified by the law. According to Afrane and Filipovitch (2016), Ghanaian NGOs are predominantly young, with the large percentage of them operating as stand-alone organizations at local or indigenous levels with no regulatory or legal mechanism in place to control and monitor their operations. Thus, effective regulation of NGOs in Ghana is dependent on addressing this situation. In comparison with other countries, the geographical scope of non-profit organizations in Ghana is comparable to that of those in Kenya, but they are vastly different from those in the United States of America in terms of their expenditure structures (Afrane & Filipovitch, 2016).

According to Lewis, Kanji and Themudo (2020), non-governmental organizations (NGOs) have increased their visibility at the local, national, and international levels because of their development. The large number of NGOs begin small and grow into larger, more complicated entities over time. A single person action, or a group of people who share common values band together to address a problem. When non-governmental organizations (NGOs) initially rose to prominence in the late 1980s, they appealed to a wide range of stakeholders concerned about the socio-economic growth for a variety of reasons. Lewis et al. (2020) adds that, certain NGOs have become the institutionalized ends of 'domesticated' social movements.

Aside from the progress made by NGOs in Ghana, they are saddled with corruption. Abdul-Korah (2015) states that, NGOs in Ghana, with the exception of their international counterparts, are plagued by corruption and lack public trust to the point where no one will give voluntarily or to charity without being concerned about how the money will wind up in someone's pocket. Nonprofit organizations provide healthcare and other social services in their capacity as service providers. The government maintains responsibility for providing in the following areas: cultural entertainment, low-income housing, emergency services, higher education, community development, employment, and training (Abdul-Korah, 2015).

3.2 Legal Framework governing NGO operations in Ghana

In Ghana, NGOs are required to register as companies to enable the government to provide supervision and control of their activities. Previously, the government set up with an NGO Bill in 1993 to help formalize their activities (Dugle et al., 2015). These NGO Bill was mandated by the Companies Code, 1963 (Act 179) regulated the creation and registering of NGOs. The registration process was two phases. First, the NGOs had to apply for a certificate from the Registrar General's Department in order to start doing business and incorporate. NGOs had to apply to become limited

liability businesses (LLCs). In addition, the NGO had to register with the Department of Social Welfare. In addition, the local government authorities at the district, municipal, and metropolitan level were also empowered to accredit NGOs. The failure to distinguish NGOs (non-profit organizations) from the other profit-oriented companies made regulating NGO operations in Ghana extremely difficult and expressed as a major issue among the members of the Ghana Association of Private Voluntary Organizations in Development (GAPVOD), who were constantly lobbying for an NGO law in Ghana (Kingman & Awity, 2003)

The present National Policy on Strategic Partnerships with NGOs was developed to provide a definite legal framework to define NGOs and their activities in Ghana. Registration followed the same two-phase process as with the Company Code Act (179). NGOs must first get a certificate from the Ministry of Justice, Attorney General, and Registrar General's Department authorizing them to do business and operate as a corporation. Next, they must register as a national or international NGO with the Non-Profit Organization Secretariat (NPOs). The annual renewal of registration is a change from the previous registration process; failing to renew results in the NGO's operations being suspended and its name being removed from the register. In addition to the above NGO registration requirements, the NGOs have to adhere to other codes such as the NGO Policy Regulation and the Ghanaian Company's Code. Furthermore, the policy affords the District, Municipal, Metropolitan Assemblies as well Regional Co-ordinating Councils (RCC) to serve as additional governmental regulators of NGO activity in Ghana.

CHAPTER FOUR

METHODOLOGY

4.0 Introduction

This chapter details the research methodology applied in the study. It presents the method used in assessing the legal framework of NGOs in Ghana. The research design, population, sample, sampling technique(s), the processes of data collection, and data analysis are all discussed in this chapter.

4.1 Research Design

According to Kothari (2004) research design is the theoretically designed structure through which the study is conducted. It is primarily the pivot point for data collection, measurement, and analysis. Research design is the plan for a study and the framework of an investigation. To put it another way, it lays the groundwork for data collection and analysis. This study is conducted along the tenets of qualitative research methods. A qualitative research design, according to Mayer (2015), is an encompassing word for a variety of interpretive strategies that aim to characterize, decipher, interpret, and otherwise come to terms with the meaning of certain naturally occurring occurrences in the social environment, as opposed to their prevalence. Thus, the meaning that people construct about their works and the experiences they have in the world is of interest to qualitative researchers (Mayer, 2015). Hence, this study employed the qualitative approach to appreciate the legal framework of NGOs in Ghana focusing on the registration challenges. The increasing number of NGOs coupled with the limited knowledge of NGO's registration challenges in the country informed the choice of Ghana as the case study.

4.2 The Population of the Study

The term "population" refers to the total number of cases that match a set of requirements. In a field of study, it refers to all of the subjects within that field of study. Furthermore, a research population is a collection of all accessible people or subjects who possess one or more attributes that are relevant to the research (Kothari, 2004). According to the Non-Profit Organization Secretariat there are 4286 NGOs in Ghana with 1823 Community-based: 2304 National-based, and 159 international-based. The table below details the shares of the NGOs and their regions of operations in Ghana. It can be observed that considerable number of NGOs are in the Greater Accra region.

Table 1: NGOs in Ghana

Region	Community Based	National Based	International Based
Ashanti	119	234	8
Brong Ahafo	53	34	1
Central	247	117	1
Eastern	131	84	3
Greater Accra	870	1617	131
Northern	145	93	6
Upper East	45	34	3
Upper West	25	21	2
Volta	125	49	3
Western	63	19	1

(Source: Non-Profit organization Secretariat, 2022)

Thus, the study's target population included all the NGOs in Ghana whilst the accessible population consisted of NGOs in the Greater Accra Region. Due to the size of the target population, it was necessary to select a sample from the accessible population.

4.3 Selection of Respondents

This study employed the non-probability sampling technique in selecting respondents for the study. Specifically, the study used the purposive sampling technique. Purposive sampling is a form of non-probability sampling in which researchers choose survey participants based on their own judgment (Vehovar, Toepoel, & Steinmetz, 2016). In this regard, this study purposively chose Managements of NGOs and a representative from the Non-Profit Organizations Secretariat as sample for the study. The Non-Profit Organizations Secretariat (NPO Secretariat), with mandate from the Non-Profit Organization Policy 2020, has taken over the registration duties of the Department of Social Welfare and has the responsibility of regulating the non-profit organizations in Ghana. The rationale for this choice is that this group of individuals are well versed in the operations of the NGOs and informed about the NGOs registration processes. In selecting the representative from the government institution, the NPO secretariat was approached with an introductory letter provided from the University (see appendix). A member of the secretariat team was selected to provide government views on NGO operation in Ghana.

The sample of nine respondents from the NGO sector were selected for the interview process. With reference to their numerical strength as highlighted in Table 1, the distribution of respondents from each area of operation was as follows: 4 – national; 3 – community-based and 2 – international. The NPO secretariat website provides an exhaustive list of NGOs in Ghana. This list details the registered NGOs under each area of operation. In selecting the respondents, the initial process involved selecting the national-based section of this list, applying the region filter

as a result only the national-based NGOs operating in the Greater Accra region were displayed. From this list, with particular attention to their thematic area, a random sample of the NGOs were selected, and their names were googled to establish lines of contacts. These NGOs were contacted and briefed on the nature of the study. The search for respondents from the national-based NGOs ended after six respondents indicated their willingness to participate (four of the respondents were to be interviewed and the two served as backup respondents in case any of the four withdrew their initial consent to participate). The same process was used to select the respondents for the community and international based NGOs. The table below details the selected respondents for the study.

Table 2: The sampled respondents of the study

Respondent	Type of NGO	Thematic areas
1	National	Education
2	National	Health/ Population
3	National	Entrepreneurship Training
4	Community	Education Services for Needy Students
5	Community	Women and Children
6	International	Community/Rural Development
7	National	Health/ Population, Street Children
8	Community	Education/Vocational Skills
9	International	Poverty Reduction/ Equality
10	Non-Profit Secretariat	State Legislation

(Source: Fieldwork, 2022)

4.4 Data Collection

This study relied on both primary and secondary data. The primary data was collected from the sampled NGOs through in-depth interviews. The in-depth interview allowed for an appreciation of the experienced registration challenges of the sampled NGOs. The study also interviewed a

representative of the Non-Profit Organization Secretariat. The interview guides were developed with inspiration from existing literature and guided within the current research questions. The secondary data was sourced from the collection and analysis of documents from government reports, historical documents, scholarly publications, grey literature, and newspaper articles on legal framework defining NGO operations in Ghana. The secondary data was collected to triangulate the results of the interviews.

4.5 Data Analysis

The analysis of the data was thematic. The interviews were transcribed. The interview notes were treated to open coding to highlight the labels attached to the transcript notes. The labels were categorized into themes. Data analysis was conducted thematically to explore NGOs experiences with the legal framework. The analysis went beyond the description of the experiences as included an appreciation of the emerging challenges related to the NGOs experience with the legal framework. The stakeholder theory was used to unearth the relationship of NGOs to the legal framework. There was some level of distinction between the responses of the three groups of NGOs: community-based, national, and international. The difference in opinion was evident in their perception of the legal framework and its influence on their operations.

4.6 Ethical Issues

This study adhered to all ethical considerations. An introductory letter from the Norwegian University of Life Sciences was sent to the NGOs to inform them about the nature of the research and this served as a boost for the legitimacy and genuineness of the research. The letter also helped in getting access to the NPO secretariat. These letters were sent to request the necessary information and audience that was needed for a successful study. Moreover, the respondents participated in the study voluntarily. All information provided by the respondents was treated as

strictly anonymous and confidential, as such all personal identifying characteristics were excluded during the data analysis process and report.

4.7 Limitations

The current study's design had drawbacks, like with the majority of studies. The first limitation was the access to data. The respondents were initially reluctant in participating in the study and this affected the timeline for the data collection and the completion of the subsequent chapters for the research. The respondents were constantly assured that the study would uphold the ethical principles of confidentiality as such the information provided will not contain self-identifying information that can be traced back to them or their NGOs. Another limitation of the study can be sourced in the selection of the respondents for the interviews. The inclusion of representatives of NGOs who are no longer in operations would have provided another dimension in explaining the influence of the legal framework in their present status quo.

CHAPTER FIVE

RESULTS AND DISCUSSION

5.0 Introduction

This chapter highlights the results and discussion of the findings of the study. The analysis and interpretation were limited to the objectives of the study and discussed within the context of existing literature. First, the study established NGOs perspectives on the legal framework governing their operations in Ghana. Second, the study highlighted how the NGOs perceived the legal framework as necessity in legitimizing their operations. This interactions with the legal framework translate to the challenges of the annual renewal of the registration, lack of funds for registration, limited access to information and lack of government support which affects their operations. Finally, the Non-Profit Organization (NPO) secretariat monitors NGO operations using state sponsored legislation, and this protects the interests of Ghanaians against the reach of exploitative NGOs.

5.1 The legal framework governing national and international NGOs operation in Ghana

The Non-Profit Organization (NPO) Secretariat provides the legal framework governing NGOs operation in Ghana. This is sourced from the procedures governing the registration and licensing of NGOs in Ghana. Registration is the act of forming a company as a limited by guarantee company with the Registrar of Companies under the Companies Act, 2019 (Act 992), whereas licensing is the process of the Non-Profit Organization Secretariat (NPOS) granting an organization permission to function as NGOs. In the registration stage, the process begins with the incorporation under the Companies Act. This involves registration with the Registrar General Department, and the relevant Government Ministries, and the Metropolitan, Municipal and District Assemblies (MMDAs) based on their status as national, international, or community-based NGOs.

The respondents detail the registration process.

> *"So, when you want to register, you have to register it as a company with the Registrar General and this involves passing through the processes of registering any organizations for legal purposes. First, at the registrar's office, you have to come up with a name for your company to avoid duplication of company names. When the name is established as unique, you are allowed to register the name, and this makes you legally recognized by government. The next stop is to move to the corresponding ministry that your work will be affiliated with and register with them. For instance, if you work in the environmental domain, you have to go to the Ministry of Environment to be registered as they are the government body responsible for environmental activities in the country." (Respondent, 2)*

Another respondent providing additional information, explained that

> *"After registering our NGO with the Registrar General, as a community-based NGO we had to register with the Social Welfare department of the District Assembly we were going to operate in" (Respondent, 5)*

It is important to stress that the respondents acknowledged that completing the registration phase did not give the organization mandate to operate as an NGO but provides a necessary certification for the licensing process at the NPOS. The registration process was similar for all the NGOs (community based, national, and international). The additional registration with the Government Ministries, and the Metropolitan, Municipal and District Assemblies (MMDAs) is to notify these relevant bodies of the presence of the NGO within their domain. These relevant government agencies provide additional regulation to the operation of the NGOs.

The final stage in the registration to operate as an NGO in Ghana is the application for operation license at the Non-Profit Organization Secretariat (NPOS). The licensing process involves NGOs completing and submitting the appropriate registration forms at the NPO secretariat and paying a non-refundable fee. Detailing their experiences at the NPO secretariat, a respondent explains that

> *"At the NPO, we had to submit our certificate of incorporation from the Registrar General Office, the constitution of our NGO, and an old brochure of our operations. We also had to write an official letter to the director of the NPO declaring our interest to be registered as NGOs" (Respondent, 3)*

Another respondent explains that

> *"I had to present information such as a national ID card, house addresses as well as provide the details of my TIN (Tax Identification Number). The members of my board, which comprised at that time a secretary, president, and secretary also had to provide similar details. We also had to provide the physical and the mailing address of our NGO." (Respondent, 5)*

The registration with the NPO differed slightly for the international NGOs. In addition to presenting similar documents and paying the foreign rate registration fee, they had to provide documentation to support their operations in their country of origin.

> *"Also, we had to provide a certificate to prove that we are licensed to operate in our home country. We also had to sign an MOU (Memorandum of Understanding) between the organization and NPO" (Respondent 6)*

The NPO secretariat issues an initial three-month provisional license to the NGO as it conducts a fit test. This test involves the verification of the information provided by the NGOs.

This involves assessing the criminal record of the applicant and the executive body of the NGO and inspecting the physical address of the NGOs to authenticate the information they provided. With the expiration of the provisional license and satisfactory results from the fit test, the Ngo is issued a license valid for a year.

In accordance with the need ensure responsible operations and to keep the operations of NGOs within nationally acceptable legal dictates, registration was found to be a requirement for the legitimate operation of NGOs in Ghana. The study identified that the legal framework included both a registrations and licensing, making it a multi-process which could be longer or shorter depending on whether the organisation is community based, national or international. The registration process begins with registration at the Registrar General's Department, then sector or ministry-specific registrations and local assembly registrations. This finding explains the finding of Bawole and Hossain (2015) which presented those 4463 non-governmental organisations (NGOs) of various categories (local, national, regional, and international) have been registered by the Ghanaian Social Welfare Department. The finding of this current study makes it clear that, the registered organisation with the Social Welfare Department only represented NGOs within department or ministry. Their number of NGOs (that is 4463) is thus expected to be lesser than total number of registered and licensed NGOs in Ghana since there would be other NGOs registered with other state departments depending on their core areas of operation.

Even though there may be distinct regulatory criteria for Non-Governmental Organization (NGO) establishment and operation (Kelly, 2019), this study identified that NGOs operating within the same jurisdiction as was the case in Ghana operated under the same or similar legal frameworks and requirements whether they were community based, national, and international. The study however adds to the literature by emphasising that in Ghana, international NGOs in

Ghana were required to provide certificate or proof that they are licensed to operate in our home country. This is important to ensure that compliance management of international NGOs is localised, multi-layered and compliant with international standards of operation (Thomas et al., 2008). The study further clarifies the process of registration by indicating that beyond registration, NGOs were only qualified to operate after they have been licensed by the NPO secretariat.

Even though in a recent work by Twumasi and Seshie (2021) it was established that NGOs had to be registered as a company limited by guarantee, the respondents in this study did not give these specifics on the nature of registration required at the Registrar General's department. As well, in Twumasi and Seshie (2021), NGOs and not-for-profit organisations in Ghana are not taxed by government, but this study identified that one key document required for registration was a Tax Identification Number (TIN). The study did not clearly ascertain if this document was required for filing taxes, thus contradicting the finding of Twumasi and Seshie (2021). It must be noted that the initial explanation of the legal frameworks governing NGOs' operation tended to be limited to the registration process. The NGOs generally did not initially note active regulative outcomes of the legal frameworks until further probes were made to that effect in the subsequent sections.

5.2 NGOs perception of the legal framework and its influence on their operations.

5.2.1 NGOs perception of the legal framework

The NGO's acknowledged the importance of the legal framework in their operations. The general position is that adherence to the legal framework legitimizes their operations. The registration process offers them the certificate and mandate to operate within the confines of the law. The certificate served as a calling card in dealing with donors and other governmental agencies as it validates the operations of the NGO.

A respondent explains that

"The registration gives you hundred percent legal backing to operate as an NGO in the country. It makes your operations easier as people know that the NPO is responsible for your actions" (Respondent, 1)

Another respondent reported that

"Prior to our registration with the NPO secretariat, we were organizing a fundraiser to raise the needed capital to fund one of our projects. We went to an organization to solicit for funds and the head of the organization queried us for our NPO certificate number and stuff. He explained that without the certificate number, the organization does not recognize our NGO. We experienced similar rejections at other organizations. We had to register to avoid future incidences." (Respondent, 2)

Another respondent echoed similar sentiments, saying

"I have seen a lot of difference in how the local community leaders deal with us before and after registration. Before registration, they were very skeptical, and we had to constantly assure them that the NGO was for their benefit. But now, when we introduce ourselves and include a copy of our certificate, we are warmly received. This has made our work easier." (Respondent, 5)

The NGO scene is rich with instances of individuals using their organization as get rich schemes: soliciting funds from donors and using these funds for their own personal benefits at the expense of the intended purpose. Thus, the NPO certificate validates the operations of the NGO and creates an impression in the mind of donors and the general public that the NGOs are subject to the regulations of the NPO secretariat. As such their investments and interests in the NGOs will be safeguarded. From the foregoing, the registration was found to be beneficial to NGOs in diverse

ways. This is because it ensures the legitimisation or validation and acceptance of NGOs among local actors, partners, and donors.

The registration improves credibility and eases fundraising activities. Registration removes suspicion and earns the organisations a better acceptance within their sectors of operation as is suggested in the Draft National Policy (2004) on NGOs in Ghana that the ability to obtain public development money, whether from external donors or government MDAs, as well as tax exemptions and the ability to account for their usage in non-profit operations, is facilitated by registration. The findings re-echo the findings of Hayman et al. (2014) that even though there may some discrepancies in how the law is applied, legal frameworks in Kosovo support NGOs.

5.2.2 NGOs challenges with the legal framework

Despite the general consensus on the legitimacy the legal framework offers to their operations, NGOs encounter challenges sourced from their interactions with the legal framework. These section highlights these registration challenges affecting the operations of the NGOs in Ghana.

5.2.2.1 The Annual Renewal

The NGOs are expected to renew their license annually and this process has been highlighted by the respondents as a challenge to their operations. The NPO secretariat requires NGOs to provide an annual audited financial statement, an operational report, proof of payment of the renewal fee, a record of changes in NGO mandate and a task clearance certificate. The respondents revealed that they do not have qualms with the concept of renewal but with the annual ritual and getting some of the required documents for the registration.

A respondent revealed that

"We did our last renewal last August, and it was a bit problematic for us. First, some of the founders were not working or working in an informal sector so it was exceedingly difficult to provide their pay slip for the tax clearance. Without this task clearance, the NGO license will not be renewed. We had to reduce the number of Board of Directors from five to two as we could only get tax clearance for two. And with that we were able to renew our license" (Respondent, 5)

Also, the annual renewal process though very necessary was seen as a duplication of the registration process. This position was explained by a respondent as

"Every year we have to renew our license with the same documents with minor updates. I understand the plan is to regulate the NGO scene, but the renewal license is the same every year and, in my opinion, it is a means to get money from the NGOs who we must emphasize do not have money in abundance." *(Respondent, 8)*

Another respondent echoed similar sentiments and made suggestions to improve the process.

"The NPO annual renewal process is the same every year and it is not a regular practice in every country. For example, we plan to expand our operations to Togo, and in the country, NGOs only register once, and this is valid for a lifetime. I know that it comes with its problems, but the NPO secretariat can arrive at a compromise and make NGOs in Ghana renew their license after two or three years" (Respondent, 9)

Bromideh (2011) argues that the procedure of registering and regulating NGOs often differs from what is required by law, causing unnecessary delays in the administration of permits and financial grants, as well as the yearly and periodic regulation of NGOs. Similarly, in this study

identified annual renewal processes at the NPO secretariat. This process includes a submission of annual financial statement, operational report, proof of payment of renewal fees, a record of mandate changes in the organisation and task clearance certificates at the secretariat are some of the hurdles NGOs had to deal with. The work agrees with the accountability procedures in place for NGOs in South Asia (Thomas *et al.,* 2008). The findings on this are also related to what prevails in Uzbekistan for example where the registration process can be lengthy because judicial authorities do not list all the inadequacies on the first application and continue to refuse NGO registration based on new and vaguely defined errors in the organization's charter or other founding documents (Yusupov, 2020).

In Ghana however, the registration process seems quite clearer because compared to countries like Iran where the Ministry of Interior, Social Welfare Organization, National Youth Organization, and Ministry of Culture and Islamic Guidance are among the five governmental organizations that can register a non-governmental organization. The that these organisations are numerous and not integrated makes the registration processes quite lengthy and confusing for organisations (Bromideh, 2011). Beyond the registration challenges captured elsewhere within the literature, this study highlights the situation of registration renewals and thus throws some light on an existing ongoing monitoring activity in Ghana in conformity with the stakeholder thesis. Again, even though these processes may seem hectic or stifling, compliance to them has been suggested in the Draft National Policy (2004) to yield benefits such as improvements in gaining public development money, whether from external donors or government MDAs, as well as tax exemptions.

5.2.2.2 Lack of funds for registration

The problem with access to financial support was reported as a challenge for the NGOs in the registration process. This was particularly true for the community and national based NGOs but not for the international NGOs as they had ample support from their parent NGO. The issue with inadequate finances comes from the inability of the NGOs to raise funds to meet operation demands. The registration process requires paying for registration forms at both the Registrar General and at the NPO secretariat. These coupled with paying for the other registration documents has a detrimental effect on their meagre resources.

A respondent concedes that

> *"A major challenge for our NGO is with funds. We do not have funding for a whole year. We do not have access to grants. Our activities are not sponsored by any organization. It was difficult for us to raise the initial money to do the registration and now it is practically impossible to do the yearly renewal as we do not have the necessary funds to do it" (Respondent, 8)*

Another respondent asserts that

> *"This year we have not been able to do any project yet because of the lack of funds. However, the date for the renewal is near and we will have to find money to pay for services like the financial report from the NPO accredited accounting firm and other things. I do not think it will be easy explaining to the NPO that our fees should be waived because we cannot pay" (Respondent, 2)*

The responses also suggest that the payment of registration fees has suffered instances of bureaucratic coercion as present in other Government agencies. The NGOs are pressured to make additional backhand payments to the registration officials to fasten the registration process.

"As you are aware, we have a back door problem in Ghana, where people always want you to charge you higher fees to get things done. I have heard other NGO heads complain that they have paid extra cedis to register their NGOs" *(Respondent, 4)*

Another respondent echoes similar concerns saying

"At the NPO secretariat, we struggled with registration, so we were advised to see somebody to assist us in the registration process. This individual was supposed to make the process easier, but he came at an extra fee. It was obvious, the officials made the process difficult for us so they can indirectly benefit from their referral with this facilitator" *(Respondent, 6)*

Considering that the finding of this study confirms the hypothesis captures within the Draft National Policy (2004) that registration makes fundraising easier, it becomes interesting also to note that some of the NGOs face difficulties in meeting the financial demands for registration. This implies that the legal framework for NGOs in Ghana may be described as both facilitating and inhibiting financial strengths of NGOs such that the NGOs that could afford initial registration and process fees become more financially stable than local ones for example who face the most challenges in raising funds to go through these processes. It is also interesting that, it was local NGOs that faced challenges in terms of funding. The finding suggest that local NGOs do not have access to funds as do their international counterparts as such government can reevaluate the registration fee at an appreciable level to afford these NGOs the opportunity to continue operating.

Even though there is no evidence from this study that the government system in Ghana has a restrictive legislation on NGO activities as has been found by Musila (2019), local NGOs which may be financially struggling may face more challenges because of their inability to raise funds to

meet legal and regulative framework processes. The finding however did not investigative the assertion of Musila (2019) that NGOs were restricted in some African countries from seeking international funding for their operations.

5.2.2.3 Limited Access to Information

Information on the registration process is the essential part of starting the registration process and ultimately adhering to the legal framework. Thus, the absence or limited access to this information is a challenge. All the respondents revealed that they struggled with getting information on the processes of registration. The challenge of access to information was particular prominent for their initial registration as NGOs. This concern is highlighted in their experiences. A respondent reported that

> *"The information about registration is scattered, when we were registering, we had no idea what to bring, we enquired from others but the information they provided was not complete. We go to the registrar office, and we were asked to submit our registration documents, we did not know we had to provide our post mail address. We had to create a new post mail address and present the information the next day." (Respondent, 1)*

Another respondent advanced a similar position, saying

> *"There is no connection between the registration process with the Registrar General and the NPO secretariat. After registration with the Registrar General, we thought we were registered as NGOs, but this was not the case. When we went to the NPO, it came as a big surprise to us that we had to present our documents because we thought our information will be transferred to the NPO secretariat. This delayed our registration process" (Respondent, 5)*

NGOs knowledge of the registration process is essential in successfully completing the exercise. Thus, the unavailability of these information implied that NGOs had to rely on trial-and-error approach at the NPO secretariat. All at an extra cost to their resources. The findings above reflect the failure of the government authorities to make information about registration easily accessible to the NGOs and the public. This finding confirms the work of Barr, Fafchamps and Owens (2005) who advanced that limited knowledge of information on registration affects NGO operation because they have to navigate the legislation and monitoring from the regulatory agencies.

5.2.2.4 Limited Support from Government

NGOs are non-profit organization as such are heavily reliant on support for their survival. This support is usually from government, donors, crowdsourcing, membership fees and private donations. This support can be in the form of subsidies, monetary, logistics among others. These limited support affect NGOs operations as they have to rely on their own meagre funds to meet the concerns of the regulators.

A respondent explained that

> "*We do not get any support from government. We received some book donations from the USA, and we went to the post office to pick them up. We explained to them that we are an NGO and we do not pay tax, but they insisted we have to pay to get the books, eventually, we had to pay. Even though we raised our concerns with the NPO about our concerns, nothing has been done yet because other NGO heads have confirmed they have experienced similar problems since we made our complaint" (Respondent, 5)*

Another respondent explained that

"Even with our certificates, we still struggle with fund raising especially online crowd funding on platforms such as Facebook and GoFundMe. This partly because the certificates provided by the NPO secretariat cannot be verified within an online database but through a request through the secretariat. Most donors are not willing to go through the request process and as such most NGOs in Ghana lose these funding. Though the NPO has it list of NGOs in good standing, the secretariat must do more to improve the online presence of Ghanaian NGOs" (Respondent, 2)

A respondent concludes that

"We do not get any benefits from Government. There are no opportunities for working in non-profit which involves volunteering your time and resources for the betterment of society. If blood donors can enjoy some benefits, I government can also come up with something for NGO volunteers to benefit from". (Respondent, 8)

Even though a review of the legal framework documents guiding NGO operations show that registrations free NGOs from tax obligations and that government sees NGOs as development partners (Draft National Policy, 2004), the support from government seemed ineffective to the cause of NGOs in Ghana. These call for government support is a major concern for the community-based NGOs. These NGOs are birthed from the philanthropic ideals of individuals or like-minded individuals. Thus, these NGOs do not have the structures to solicit funds as such clamor for additional sponsorship from government to aid them in continuing their operations. It is also interesting that local NGOs in Ghana faced funding difficulties in Ghana, confirming the finding of Abdul-Korah (2015) who traced this situation to corruption in these organizations. If the

assertion of Abdul-Korah (2015) is worth going by, it can be asserted further in this study that local NGOs which were suspected of being corrupt would find it more difficult to raise funds from local donors for their operations. Even though this study did not find the issue of corruption, it seems a tenable assertion conspiring that is the local NGO categories that faced these difficulties the most.

5.3 How Conducive is the legal framework for governing NGOs in Ghana?

From the interviews, it was observed that none of the respondents (with the exception of the NPO official) were aware that the National Policy on Strategic Partnerships with NGOs existed. The respondents acknowledged the importance of NPO monitoring on NGO operations in Ghana.

A respondent explained that

"The NPO is striving to improve the image of NGOs in Ghana. The fit test conducted are supposed to verify the information provided by the NGO to safeguard the interest of the people. The renewal process is also expected to keep NGOs up to task about their operations" (Respondent, 10)

Another respondent echoing the above sentiments explained that

"The NPO monitoring of the NGOs is good. The strict monitoring will flush out the criminals in the system, which is people who intend to use the NGOs to scam and dupe people. The strict processes mean your criminal plans will easily be exposed." (Respondent, 5)

Another respondent concluded that,

"Compared to the old processes, the NPO monitoring is the best. They can easily trace executives in the NGOs because their personal information has been

submitted in the registration. This means that when you take money in the name

of the NGO, misuse it for your own personal gain, you will be easily arrested"

(Respondent, 2)

The National Policy on Strategic Partnerships with NGOs is a government policy to regulate NGO operations in Ghana. The Policy mandates the NPO secretariat as the licensing body for NGOs in Ghana and provides them with the ammunition to monitor and regulate both national and international NGOs in Ghana. The policy is expected to bridge the relationship between NGOs and governments' regulatory behavior. The rational for this strategic collaboration is to deal with the instances of NGOs abusing the goodwill of their organizations and exploiting the very communities they claim to want to improve. In addition to its licenses, the NPO publishes the names of NGOs in good standing and those that have been backlisted. This list is helpful for donors to make their contributions to the cause of reputable NGOs in the country. All the three highlighted types of NGOs share similar sentiments on the need for the monitoring. It was not revealed if each group received preferential treatments when dealing with the NPO secretariat.

Interestingly, the study identified a general lack of knowledge on the legal frameworks for monitoring and regulating NGO activities among NGO operators. This situation poses a challenge to the full use and benefit that may accrue to these organizations if they had the needed knowledge or information. In Ghana, earlier works on the subject by Anku-Tsede (2014) for example only examined how regulation of Financial NGOs (FNGOs) but not general situation among NGOs as was done in this current work. The study therefore improves existing knowledge on regulations within the NGO general sector in Ghana. In general, the findings suggest that there is a cordial relationship between Ghana government and NGOs as the former recognizes the latter as an integral tool in realizing their shared goal of alleviating poverty.

CHAPTER 6

CONCLUSION AND RECOMMENDATION

6.0 Introduction

This chapter presents the study's conclusion based on the study objectives and data analysis. That is, the legal framework governing national and international NGOs operating in Ghana; how the NGOs perceive the legal framework; to what extent the legal framework is conducive or problematic for NGOs in their operations; and to what extent and how is the legal framework conducive for governing national and international NGOs in Ghana in accordance with the National Policy on Strategic Partnerships with NGOs and future research; are summarized in this chapter.

6.1 Conclusion

The qualitative approach was used in this study to appreciate the legal framework of NGOs in Ghana, with a focus on registration challenges. The increasing number of NGOs, combined with a lack of knowledge about the country's NGO registration challenges, influenced the choice of Ghana as the case study. The study used the purposive sampling technique and relied on both primary and secondary data. The data was analyzed thematically. The interviews were written down. To highlight the labels attached to the transcript notes, the interview notes were subjected to open coding. The labels were then categorized into themes for the analysis.

The study reveals that there are legal frameworks governing national and international NGOs operating in Ghana. All NGOs are required to register before they can operate within the territory of Ghana. Though completing the registration phase did not grant the organization the mandate to operate as an NGO, it rather provided the organization with the necessary certification for the licensing process at the NPOS. The registration procedure is the same for all NGOs, be

they community-based, national, or international. NGOs are required to undergo some additional registration with government ministries and metropolitan, municipal, and district assemblies (MMDAs). This is to notify these bodies of the NGO's presence within their domain. These relevant government agencies regulate the operations of non-governmental organizations (NGOs).

The study shows that NGOs viewed the legal framework as essential in legitimizing their operations. The NGOs are also required to present information such as a national ID card, addresses, and the details of their TIN (Tax Identification Number), names and addresses of board members, including the details and addresses of the secretary and president. According to the study, physical location address and mailing address are also part of the registration requirements. This process of registration, which is scattered across government agencies, makes the whole registration process lengthy and cumbersome. This, coupled with red-tapism, is making it difficult for the NGOs in Ghana.

The study showed that NGOs recognized the value of the legal framework in their operations. Most of the responses show that adherence to the legal framework legitimizes their operations because the registration process provides them with the certificate and authority to operate legally. As it validates the NGO's operations, the certificate serves as a calling card when dealing with donors and other governmental agencies. Despite the general consensus on the significance of the registration, the study shows that the NPO secretariat requiring NGOs to provide a number of documents for registration and renewal of their licenses, particularly financial and operational documents, has been identified as a challenge to the operations of most NGOs. As well as access to financial support, the absence or limited access to information for the registration process coupled with inadequate support from the government were also identified as other challenges for NGOs.

The respondents recognized the significance of NPO monitoring on NGO operations in Ghana. The study indicates that the NPO is working to improve the image of non-governmental organizations in Ghana. The fit test being conducted is supposed to validate the information provided by the NGO in order to protect the people's interests. The renewal process is also expected to keep non-governmental organizations (NGOs) on track with their operations. This shows that there is a positive relationship between NGOs and the government and its agencies. This positive relationship is also expressed in the National Policy on Strategic Partnerships. The National Policy on Strategic Partnerships with NGOs is a government policy in Ghana that governs NGO operations. The Policy establishes the NPO secretariat as the licensing body for NGOs in Ghana and arms it with the tools it needs to monitor and regulate both national and international NGOs in Ghana. In addition to licenses, the NPO publishes the names of active NGOs as well as those that have been delisted. This list help donors make financial and technical contribution to only of reputable non-governmental organizations in the country.

6.2 Recommendations

Based on the findings of the study, the following recommendations are put forth.

1. The government and its agencies should make the registration process less cumbersome by centralizing the registration process so that NGOs who submit their documents for registration at the centralized registration center will get them registered at the local government level as well, instead of the NGOs going to the local government level registering afterward at the NPO and at the ministry. This would make it easier for the NGOs to get legal registration and not operate illegally.

2. Furthermore, the annual renewal of the NGOs should be extended to every five years with constant monitoring of the activities of the NGOs and checking of their books instead of requiring them to be registered every year. This would provide the NGOs with peace of mind to concentrate on their activities, which would be of benefit to the country and its populace.

3. Again, the government should take a more serious interest in the operations of NGOs in Ghana and provide them with technical and financial support to enhance their operations. This support should not come with strings attached, such as not criticizing the government of the day or being subjected to the control of the government. The support should be made legal so that all subsequent governments are obligated to support it.

4. Given the small number of respondents in this study, it is necessary to broaden the scope of the study by increasing the number of respondents. Further research in rural areas in Ghana should consider using a mixed method approach to reach a comprehensive conclusion on the subject under study.

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## APPENDIX

INTERVIEW GUIDE

FOR NGO

1. Briefly explain the history of your NGO.

   probe (goals, membership, funding, years of operation, status: local or international)

2. What are the requirements for operating an NGO in Ghana?

   probe (administrative: office, employees /volunteers or financial: funding)

3. Please describe your NGOs registration process

   probe (documents presented, length of registration, access to information)

5. How would you describe the registration process?

6. Is the registration process different for local or international NGOs?

7. What strategies have you adopted to streamline the registration process?

8. What challenges did you encounter during the registration process?

9. What initiatives have you adopted to address the challenges from the registration process?

10. Are you aware of the yearly renewal of registration? What do you make of that process?

11. How would you describe the operating environment of NGOs in Ghana with regards to the monitoring mechanisms of Governments' regulating authorities?

12. How has the NGO regulation and legislation affected your operations as an NGO?

13. Are you aware of the Government of Ghana's National Policy on Strategic Partnerships with NGOs?

    probe (source of the awareness; the nature of the policy)

14. How has the National Policy on Strategic Partnerships with NGOs affected your operations as an NGO?

FOR OFFICIALS AT NON-PROFIT ORGANIZATION SECRETARIAT

1. How does the NPO classify NGOs in Ghana? What is the rationale behind the classifications?

2. How will you describe the operating environment of NGOs in Ghana?

3. What are the requirements for operating an NGO in Ghana?

4. Could you please describe the process/mode of registration?

5. Why do you ask NGOs to renew their certificate? What are the requirements for the certificate renewal?

6. What do you do to ensure that registered NGOs without a valid certificate are not in operation?

7. What happens to non-compliant NGOs in Ghana?

8. What are the monitoring mechanisms used by the NPO to ensure NGOs compliance with government regulations?

9. What challenges does your agency face in its attempt to monitor and regulate the activities of NGOs in Ghana?

10. How does the National Policy on Strategic Partnerships with NGOs affect your NGOs accountability systems?

Introductory Letter from the Norwegian University of Life Sciences
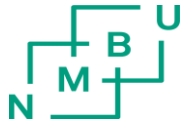
Norwegian University of Life Sciences
Faculty Landscape and Society (LANDSAM)
Department of International Environment
and Development Studies (Noragric)

To Whom It May Concern

Ref.:   29 July 2022
Anette Virtanen

Letter of Introduction

This is to confirm that Mr. Henry Kofi Sarpong is currently enrolled as a full-time student in the two-year study program: Master of Science in Global development Studies, at the Faculty of Landscape and Society (LANDSAM) at the Norwegian University of Life Sciences (NMBU). Students in this program are encouraged to go for fieldwork to conduct their own research and data collection for their Master's thesis.

Henry Kofi Sarpong research will address the following topic: *Legal Framework of NGOs: The Registration Challenges of NGOs In Ghana. (A Case Study of NGOs Operating in The Greater Accra Region).* According to his research proposal, the fieldwork will be conducted in the Greater Accra Metropolis. His research proposal is approved by the Department of international Environment and Development Studies (Noragric) and his thesis will count towards 30 credits (ECTS) of her 120 credit Master's degree. His supervisor is Professor Ruth Haug.

We kindly ask you to assist our student where necessary and appreciate your facilitation of her fieldwork. If you have any questions, please contact study administration at LANDSAM.

Sincerely,

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