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MASTER’S THESIS

**THE EFFICACY OF TRANSNATIONAL ADVOCACY
NETWORKS ON THE ABOLITION OF THE DEATH
PENALTY IN SOUTH AFRICA AND BOTSWANA**

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THESIS APPROVAL



DECLARATION

I hereby declare that this master's thesis titled as "The Efficacy of Transnational Advocacy Networks on the Abolition of the Death Penalty in South Africa and Botswana" has been written by me in accordance with the academic rules and ethical conduct. I also declare that all materials benefited in this thesis consist of the mentioned resources in the reference list. I verify all these with my honour.

03/02/2022

Damla KIZILKOCA



ABSTRACT

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Since the late-1970s, the abolition of the death penalty has become a growing global trend due to the drastic increase of abolitionist countries. However, the death penalty is still used as a legal punishment in a great number of countries. To this end, this research aims to examine one critical factor that has affected the abolition of the death penalty: the role of civil society. The influence of civil society in the process of abolishing the death penalty is assessed through examining the role of civil society organizations (CSOs) that campaign against the death penalty.

The research examines the impact of Amnesty International (AI) and its anti-death penalty campaigns on South Africa and Botswana. AI's anti-death penalty campaigns had different outcomes in these two most successful African democracies. While the death penalty was abolished in South Africa, Botswana has continued to use it. This research argues that different characteristics in democratic institutions affect the improvement of civil society and thus, affect the influence of CSOs in the abolition of the death penalty.

In this study, a qualitative research method and comparative case study research technique are used to analyze the role of civil society in the process of the abolition of the death penalty. South Africa and Botswana are elaborated regarding their different approaches to the death penalty despite the pressure from CSOs. This research contributes to the literature by being the first study

that analyze the role of civil society in the abolition of the death penalty in South Africa and Botswana.

Keywords: Abolition of the death penalty, Death penalty, Civil society, Civil society organizations, Amnesty International, South Africa, Botswana.



ÖZET

Yüksek Lisans Tezi

Güney Afrika ve Botsvana'da İdam Cezasının Kaldırılmasında Ulusötesi

Savunuculuk Ağlarının Etkinliği

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1970'lerin sonlarından bu yana, idam cezasının kaldırılması, idam cezası karşıtı ülkelerin sayısının önemli oranda artmasıyla birlikte küresel bir eğilim haline gelmiştir. İdam cezası karşıtı ülkelerin sayısındaki artışa rağmen idam cezasını halen yasal bir ceza olarak kullanmaya devam eden çok sayıda ülke bulunmaktadır. Bu amaçla, bu tez idam cezasının kaldırılmasını etkileyen kritik bir faktörü incelemeyi amaçlamaktadır: sivil toplum. Çalışmada idam cezasına karşı kampanya yürüten sivil toplum kuruluşlarının (STK) rolü analiz edilerek, idam cezasının kaldırılması sürecinde sivil toplumun etkisi değerlendirilecektir.

Bu tez, uluslararası sivil bir örgüt olan Uluslararası Af Örgütü'nün Güney Afrika ve Botsvana hükümetlerinin idam cezasının kaldırılmasına yönelik yaklaşımları üzerindeki etkisini incelemektedir. Güney Afrika ve Botsvana, Sahra altı Afrika bölgesindeki en başarılı demokrasiler olarak görülse de Uluslararası Af Örgütü'nün bu iki ülkeye yönelik düzenlemiş olduğu idam cezası karşıtı kampanyası farklı sonuçlar doğurmuştur. Güney Afrika hükümeti 1995 yılında idam cezasını kaldırmaya karar verirken, Botsvana uygulamayı devam ettirmektedir. Bu tez, demokratik kurumlardaki farklı özelliklerin sivil toplumun gelişimini etkilediği ve dolayısıyla idam cezasının kaldırılmasında STK'ların rolünü etkilediği argümanını öne sürmektedir.

İdam cezasının kaldırılması sürecinde sivil toplumun rolünü analiz etmek için bu tezde nitel araştırma yöntemi kullanılmaktadır. Araştırmada Güney Afrika ve Botsvana, STK'ların baskısına rağmen idam cezasına yönelik

farklı yaklaşımları açısından detaylı bir şekilde incelenirken, karşılaştırmalı vaka analizi ve süreç izleme yöntemleri kullanılmıştır. Sonuç olarak bu tez, Güney Afrika ve Botswana karşılaştırması üzerinden idam cezasının kaldırılmasında sivil toplumun rolüne odaklanan ilk çalışma olması nedeniyle literatüre katkı sağlamaktadır.

Anahtar kelimeler: İdam cezasının kaldırılması, İdam cezası, Sivil toplum, Sivil toplum kuruluşları, Uluslararası Af Örgütü, Güney Afrika, Botswana.



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ABBREVIATIONS

AI	Amnesty International
ANC	African National Congress
BCM	Black Consciousness Movement
BDP	Botswana Democratic Party
BPP	Bechuanaland People's Party
COPE	Congress of the People
COSATU	Congress of South African Trade Unions
CSO	Civil Society Organization
DA	Democratic Alliance
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
IEC	Independent Electoral Commission
INGO	International Non-Governmental Organization
LRC	Legal Resources Centre
NGO	Non-governmental Organization
NP	National Party
POC	Prisoners of Conscience
SACP	South African Communist Party
SADC	Southern African Development Company
TAN	Transnational Advocacy Network
UDC	Umbrella for Democratic Change
UDF	United Democratic Front
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
UNCAT	United Nations Convention against Torture
US	United States

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Figure 1: The boomerang pattern model

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INTRODUCTION

There has been a growing global trend toward the abolition of the death penalty since the late-1970s. In four decades, the number of fully abolitionist countries has dramatically increased from 16 to 108. Moreover, there are 8 countries that are abolitionists for ordinary crimes and another 28 countries that are abolitionists in practice, which means that there is no law that prohibits the death penalty, but the country has not executed someone in ten years (Amnesty International, 2021a: 57-58). Despite the global trend toward the abolition of the death penalty, there are still a large number of countries that retain the death penalty as a legal punishment. Indeed, there are currently 55 retentionist countries that insist on using the death penalty as a legal punishment (Amnesty International, 2021a: 57-58). The question of why some countries decided to abolish the death penalty in order to keep up with this rising trend and why others chose to oppose this trend and continue to use the death penalty has gained prominence. Although research on the factors affecting the abolition and retention of the death penalty will make a significant contribution to the human rights literature, it has not received sufficient attention. Thus, the main aim of this research is to answer this question by examining one critical factor regarding the process of the abolition of the death penalty: the engagement of civil society. Although the international community and states are among the actors that affect the abolition or retention of the death penalty, this study will focus on civil society's engagement. Specifically, the role of civil society organizations (CSOs) in the abolition of the death penalty will be examined because human rights CSOs consider the use of the death penalty as the most serious human rights violation. Therefore, both local and international CSOs have been campaigning against the death penalty in order to persuade governments to respect the right to life by abolishing it.

While there are several CSOs that continue to work on the abolition of the death penalty, Amnesty International (AI) is the most influential among them as it has been launching anti-death penalty campaigns since the late-1970s. Indeed, AI played a significant role in the UN's decision to impose a moratorium on the death

penalty in 2007. Thus, it would be appropriate to analyze the role of CSOs in the process of the abolition of the death penalty by focusing on the most effective one.

As mentioned above, the literature on the abolition of the death penalty has been generally weak as the topic does not get sufficient scholarly attention. However, there is some prominent research about the topic. Generally, the abolition of the death penalty has been associated with the concept of democracy in literature (Neumayer, 2008; McGann and Sandholtz, 2012; Suh, 2015). In fact, it is not surprising that abolishing the death penalty is associated with democracy, as democratic countries are more likely to abolish the death penalty than autocratic countries. Furthermore, McGann and Sandholtz (2012: 276) argued that particular types of democracies are more likely to abolish the death penalty. They hypothesized that negotiated forms of democracy with a proportional representation system are more prone to the abolition of the death penalty (McGann and Sandholtz, 2012: 276). On the other hand, democracies with first-past-the-post election systems tend to have plebiscitarian results that can be considered as an obstacle to the abolition of the death penalty. Smaller political parties and groups are under-represented in democracies with first-past-the-post systems so that they cannot influence the agenda setting as they are not included in the decision-making process. Therefore, if the abolition of the death penalty has not been on the agenda of the government, there will not be a debate about it due to the lack of a deliberative democratic system. As a result, according to McGann and Sandholtz (2012: 278), institutions that foster a deliberative democratic system are more likely to abolish the death penalty than those that foster plebiscitarian decision-making, where the abolition may not be on the agenda due to insufficient representation.

There are also some studies related to the abolition of the death penalty in South Africa and Botswana (Bouckaert, 1996; Curry, 2006; Swartz, 2012; Macharia-Mokobi, 2016). Even though most of the studies focus separately on either South Africa or Botswana or the sub-Saharan region in general, the research by Swartz (2012) analyzed both South Africa and Botswana. The research aimed to emphasize that the death penalty has been the most cruel and inhuman punishment which conflicts with the human rights norms stressed by the United Nations Convention against Torture (UNCAT) and the Optional Protocol to the International Covenant on

Civil and Political Rights (ICCPR) (Swartz, 2012: 100). To prove that the death penalty violates the right to life, which is one of the fundamental human rights, South Africa was selected as a case study, as the state showed its intention to respect human rights by outlawing the death penalty in 1995. Furthermore, it was argued that the state of Botswana should pay attention to the challenges against the death penalty by the courts and international treaties and follow its neighbors' decision to abolish the death penalty (Swartz, 2012: 100). In the research by Curry (2006: 41), it was stated that despite being a country with a high rate of state-led executions, South Africa abolished the death penalty following the Constitutional Court's decision that it was contradictory to the new constitution which highlights the right to life. In the case of Botswana, which is often referred to as the most successful democracy in the African region, the death penalty continues to be used as a legal punishment for the crimes of murder and treason despite the challenges of the courts and *Ditshwanelo*, which is the local abolitionist CSO.

The role of CSOs regarding the protection and promotion of human rights has been a popular subject for research in the international relations literature. However, the influence of CSOs on the abolition of the death penalty has not received sufficient attention. Although there are not a great number of studies related to the role of CSOs in the abolition of the death penalty, there are still some studies that contributed to the literature by focusing on this specific topic (Allen, 2011; Marchetti, 2016; Kim, 2016; Sithole, 2016). Through the analysis of the impact of AI on the abolition process in the Philippines, Kim (2016: 2) argued that there has been a positive correlation between international non-governmental organizations (INGOs) and the abolition of the death penalty. INGOs frame the death penalty as one of the serious violations of human rights by launching anti-death penalty campaigns and lobbying retentionist states to change their policies (Kim, 2016: 10). Thus, this study indicated the ability of INGOs to influence the decisions of governments to take a pro-abolitionist stance.

Although South Africa and Botswana are analyzed in a few studies on the death penalty, the different approaches to the death penalty and the impact of CSOs' campaigns to change the attitudes of these countries have not been the subject of a study. Therefore, this research aims to fill this gap in the literature by examining the

role of CSOs in the process of the abolition of the death penalty through comparing the cases of South Africa and Botswana. Indeed, this will be the first academic study in the human rights and civil society literature that focuses on the role of CSOs in the process of abolition in South Africa and Botswana. In addition, this study will contribute methodologically to the literature as South Africa and Botswana are not compared regarding their different stance towards the death penalty and the efforts of CSOs to influence both governments' decisions on the death penalty. The study also contributes to the literature by applying Keck and Sikkink's (1998: 13) boomerang pattern to the CSOs activities in South Africa and Botswana to abolish the death penalty.

To this end, the main research question of the research is "why does CSOs' campaign against the death penalty have different results in South Africa and Botswana?". To answer this research question, both South Africa and Botswana will be examined in the framework of democratization processes, dynamics of the civil society sector and the governments' approaches towards the use of the death penalty. Through the examination of these indicators, it is expected to answer why the engagement of CSOs does not have the same impact on the attitudes towards the death penalty in South Africa and Botswana.

In this study, qualitative research method is applied to analyze the role of civil society in the process of the abolition of the death penalty. There will be a case comparison between South Africa and Botswana regarding the different attitudes towards the death penalty and the impact of CSOs in the abolition of the death penalty processes. Method of process-tracing is used in order to analyze and compare the case studies. Both primary and secondary resources are used in the research. The primary sources include the annual reports and articles of AI on the death penalty and reports of *Ditshwanelo*. The secondary resources include scientific articles, academic theses, books and news related to the topic of the study.

Cases are selected based on the most similar cases method as South Africa and Botswana have historical and political similarities, but they differ regarding the use of the death penalty as a legal punishment. In terms of historical commonality, these neighboring sub-Saharan African countries were both under the British rule prior to independence. In political terms, both countries became parliamentary

democracies following their democratization processes. Both South Africa and Botswana are considered as electoral democracies as they hold regular, free and fair elections but they do not show the same success regarding the protection of political and civil rights of their citizens. Both South Africa and Botswana have been under the rule of the same political party since their transitions to democracy which can be considered as an obstacle towards the democratic consolidation. Although South Africa and Botswana are regarded as the most successful democracies in the sub-Saharan African region, both countries are not consolidated democracies. Despite these similarities, there are some differences regarding the democratic institutions and the development of the civil society sectors in South Africa and Botswana.

In terms of the difference in democratic institutions, South Africa adopted a proportional representation system which allows for a deliberative democratic system whereas Botswana adopted a first-past-the-post system that tends to result in a plebiscitarian system which gives opposition groups little or no power. In terms of the civil society structure, while South Africa has a vibrant civil society, Botswana has a weak civil society sector. The people in South Africa played a critical role on the demolition of the apartheid regime as they joined social movements to fight against the segregationist policies of the apartheid government. In the case of Botswana, however, there is a culture of non-questioning among the citizens as they choose political leaders to make decisions on behalf of them. Thus, South Africa and Botswana differ in terms of the improvement of the civil society sectors due to their historical and cultural backgrounds.

Considering these similarities and differences between South Africa and Botswana, the main argument of the research is as follows: "differentiated democratic institutional backgrounds and the structure of civil society have caused CSOs' campaigns against the death penalty in South Africa and Botswana to have different results". This will be further discussed in the following chapters of the study.

Furthermore, there is one significant limitation that affected the quality of the research, which is the lack of resources regarding the main subject. Although there are some studies that focus on the abolition of the death penalty in Africa, South Africa and Botswana, they mostly tend to be one-case studies or analyze the whole

region. Moreover, most of the studies in the literature do not focus on the factors behind the decision to abolish the death penalty. However, this limitation regarding the lack of resources was compensated through the studies that specifically analyzed South Africa and Botswana in the framework of democracy and human rights. Moreover, AI's reports, newsletters and internet articles on South Africa and Botswana related to the death penalty helped to comprehend the use of the death penalty in a historical context.

The first chapter of the research will provide the conceptual and theoretical framework of the research. Concepts of democratization, civil society and the abolition of the death penalty will be discussed as they will help to understand the main focus of the research and answer the research question. Firstly, the concept of democratization will be discussed because there is a link between democracy and the abolition of the death penalty. Indeed, democratic transitions increase the likelihood of the abolition of the death penalty (McGann and Sandholtz, 2012: 276). Secondly, the notion of civil society will be examined, as well as its role in the democratization process. It is critical to comprehend what civil society is and how it assists in the democratization of a state that may eventually take an abolitionist stance. Lastly, the global trend towards the abolition of the death penalty will be discussed to understand the roots of this growing trend. Furthermore, the reasons for both abolishing and keeping the death penalty will be studied to understand the different attitudes of South Africa and Botswana, which will be discussed in detail in the further sections.

After the conceptual framework, there will be a discussion on the 'boomerang pattern' by Keck and Sikkink (1998:13), which is the theoretical framework of the research. The boomerang pattern is a model that aims to explain the global network among the advocacy groups that work on issues related to human rights. This model will provide the basis for understanding the role of CSOs in the process of the abolition of the death penalty. Indeed, this model will be applied to understand the AI's interaction with the local abolitionist groups in South Africa and Botswana and its strategies to pressure governments to adopt an abolitionist stance.

The second chapter will focus on the Republic of South Africa which is one of the cases of the study. South Africa will be examined in the framework of its

transition to democracy, the dynamics of the civil society sector both before and after the transition and lastly, its path towards the decision to abolish the death penalty. Despite being a country that frequently used the death penalty before its democratic transition, the historical decision on the abolition of the death penalty was taken in the aftermath of the regime change. Thus, the analysis of the case of South Africa is critical to see the effect of democratic transition on the abolition of the death penalty. In addition, the civil society sector in South Africa has also gone through some structural changes in the aftermath of the democratic transition. Due to these changes, the environment became suitable for both local and international CSOs to work together against the death penalty.

The third chapter will focus on the other case of the study which is the Republic of Botswana. Similar to the analysis of South Africa in chapter two, Botswana will be analyzed in terms of its democratic transition process, civil society sector and its stance towards the abolition of the death penalty. Through the examination of Botswana's democratic transition process and the civil society sector, the government's retentionist policies in terms of the death penalty will be discussed. Although Botswana has been the oldest and one of the most successful democracies in the sub-Saharan African region, it continues to apply the death penalty as a punishment for serious crimes. Therefore, this chapter provides the reasons behind Botswana's negative stance towards the abolition of the death penalty.

The fourth chapter will provide a case comparison of South Africa and Botswana in terms of the role of CSOs in the abolition of the death penalty. Although both South Africa and Botswana have been among the most democratic countries in the sub-Saharan African region, the two countries differ in their stance on the most serious human rights issue: the right to life. As a result, these countries will be compared to determine why they differ in their use of the death penalty and how CSOs influenced them. Different attitudes towards the death penalty will be discussed through the differences in democratic institutions and the impact of international and local CSOs. The main goal of the research is to examine the role of CSOs in affecting the abolition of the death penalty. Therefore, the influence of AI, which is the leading organization regarding the abolition of the death penalty, on

South Africa and Botswana will be analyzed in the framework of the boomerang pattern.

The final section of the study is the conclusion part, in which there will be an evaluation of the main aim of the research and the findings that were gathered as a result of the comparison of the cases. Based on the comparison of South Africa and Botswana, the study answers the research question by highlighting two factors that affect the involvement of civil society in the process of the abolition of the death penalty. The differences in democratic institutions and in the civil society structure in South Africa and Botswana will be highlighted to explain why the anti-death penalty campaigns of AI and the local abolitionist groups did not have the same impact in these most successful democracies in the sub-Saharan African region.

CHAPTER ONE

CONCEPTUAL AND THEORETICAL FRAMEWORK

1.1. CONCEPTUAL FRAMEWORK

1.1.1. Democratization

Even though democratic backsliding is the current trend in the world, democracy still manages to be the dominant form of government. The picture prior to the early-20th century, however, was quite different because the number of democratic countries was not numerous until the mid-1970s. With the third wave of democratization in 1974, which is discussed by Samuel Huntington in his famous book called *The Third Wave: Democratization in the Late Twentieth Century*, the number of democratic countries started to increase dramatically. According to Huntington (1991: 12), around 30 countries turned into democracies during the third wave of democratization and the number of democracies in the world was doubled. Moreover, Diamond (1999: 4-5), pointed out that more than 60 authoritarian countries shifted to democracy during the last decades of the 20th century. Naturally, this dramatic shift from authoritarian regimes to democratic regimes has gained an important attention in democratization literature.

In order to fully grasp the democratization concept, a prior discussion on democracy is needed. Therefore, the meaning and basic characteristics of democracy will be discussed in the light of the literature. It will be followed by the discussion of the democratization concept and its three phases: liberalization, transition and the consolidation of democracy. By discussing the basic assumptions of these concepts, it will be easier to understand the democratization concept.

Democracy, in linguistics, is a Greek word that means “rule by the people”. Basically, democracy refers to a government of the people that they are the decision-makers in terms of choosing the government accordingly to their own interests. However, a variety of definitions can be found in literature from the studies of different thinkers and scholars. Therefore, one can find a different aspect of democracy by looking through different definitions that contribute to the general

idea. For instance, Schumpeter (1950: 269) defined democracy as “institutional arrangements for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for people’s vote”. With this definition, Schumpeter highlighted the power of individuals regarding their roles in decision making through elections. Therefore, this definition of Schumpeter can be considered as a basic definition of democracy in general. While Schumpeter highlighted the notions of competition and elections, most definitions of democracy now include the respect for civil liberties as an important premise (Mainwaring, 1992: 4). Therefore, the notions such as of freedom of speech, freedom of conscience, freedom of press and alike are as equally important as elections because a democratic regime can ensure free elections, but it cannot be fully democratic unless it does not assure these rights. According to Diamond (2004), on the other hand, democracy refers to a system of government that contains four key elements. First one is a political system that enables the selection and replacement of the government through fair and free elections. Second one refers to the importance of the citizens’ activeness in taking part of politics and civic life. Third one emphasizes the protection of the human rights. Last but not least, Diamond highlighted the importance of a rule of law that enables the equal exercising of laws and procedures to all citizens (Diamond, 2004). Even though Diamond highlighted these four elements as key requirements of democracy, the list can be enlarged due to the complexity of identifying a regime as democratic.

In its most basic definition, the concept of democratization refers to a country’s transition from a non-democratic regime to a democratic one. As Schmitz and Sell (1999: 25) argued that it is a process that starts with a regime change with the goal of establishing a firm and stable democracy. It can be understood from this definition that the process of democratization requires some prerequisites such as the regime type of the country that experiences this process or the completion of this process with a fully democratic regime. Regards to these prerequisites, Linz and Stepan (1996: 46) pointed out three certain attributes of democratization concept which are “the existence of authoritarian, sultanistic, totalitarian type of regime, which is in the process of dismantling, an ideal democratic regime to be built, which

may of course change according to the definition adopted and a transformation process in between”.

As history shows, democratic transitions generally took place globally in waves rather than separately. Huntington defined “a wave of democratization as a group of transitions from nondemocratic to democratic regimes that occur within a specified period of time and that significantly outnumber transitions in the opposite directions during that period of time” (Huntington, 1991: 15). He came up with three waves of democratization that saw the acceleration of democracies and two reversal waves in which the number of democracies was in decline. The first wave of democratization which refers to a time period between 1820 and 1926 had seen 29 democratic countries. As Huntington (1991: 12) referred, the first ‘reverse wave’ occurred as a result of Mussolini’s coming to power in Italy in 1922. It is called as a reverse wave of democratization because the number of democratic countries in the world decreased to 12 by 1942 (Huntington, 1991: 12). The newly formed democracies collapsed after the World War I because they could not resist the rise of communist and fascist movements that reject democracy by nature.

The second wave of democratization started with the victory of Allied Powers after the end of World War II in 1945. This wave of democratization had seen 36 democracies, but the number of democratic countries decreased to 30 due to another reverse wave in 1960s. Finally, the third wave of democratization started in 1974 with democratic transitions of Portugal, Spain and Greece. Then, it spread through Latin America, Asia, Eastern Europe and Sub-Saharan Africa. That is why the third wave of democratization can be considered as a significant turning point due to the radical increase in new democracies. In 1974, as the report of Freedom House in 2012 illustrated that out of 152 countries, there are 41 countries that considered as ‘free’, 48 of them were ‘partly free’ and 63 of them were ‘not free’. In 1996, however, the number of democracies increased to 118 out of 191 countries. Throughout the years, however, the world has continued to witness more democracies.

In 1996, when the third wave of democratization started to stall, there were 79 free, 59 partly free and 53 not free countries out of total 191 countries (Freedom House, 2012: 839-840). This data supports the argument that there has been a

growing tendency towards a more democratic world during the third wave. In its latest report in 2020, Freedom House pointed out that 42.6% of the world states are free, 32.3% of them are partly free and 25.1% of them are not free (Freedom House, 2020: 6). These current numbers show that there has been a backsliding in democratization trend and some of the reasons for democratic backsliding are the rise of populist governments, increase in the support of far-right parties and weakening of democratic institutions by the state. As a body of literature discussed that even though third wave was not followed by a reverse wave, 'hybrid democracies' came to existence in the aftermath. The term hybrid democracy refers to a political system that has been gone through the process of democratic transition but continue to keep practices and institutions from the old authoritarian regime. Therefore, there has been a deficiency in terms of the quality of democratic system, but there has not been a return to the autocracy following the end of the third wave.

1.1.1.1. Phases of Democratization

As mentioned above, democratization has been commonly distinguished into three phases which are the periods of liberalization, transition and consolidation. The former two refer to the initial time period between the dissolution of the non-democratic regime and the establishment of democratic regime. The latter, on the other hand, refers to the process that democracy starts to be predominantly legitimate by the citizens (Diamond, 1994: 15). Thus, it eventually becomes "the only game in town" (Linz and Stepan, 1996: 5). Therefore, as Sorensen (1993: 13) pointed out that the shift from an authoritarian regime to a democratic one is a complex prolonged process that consists of three phases. As Korkmazarslan (2007: 9) argues, the phases of democratization demonstrate different but sometimes overlapping qualities and the themes of each phase are different from one another. On the one hand, main motive during both the liberalization and the transition period is the change of the status-quo; during the consolidation period, on the other hand, strengthening and deepening the new democratic regime is the main motive (Korkmazarslan, 2007: 10). Hence, a discussion on each of these phases is necessary to comprehend the whole democratization process.

Democratization process starts with the disintegration of the authoritarian regime and this phase is known as the liberalization. Liberalization, however, is not considered as a phase of democratization in some sources that divide democratization into two phases. The reason behind this argument relies on the idea of distinguishing liberalization and democratization from each other. According to this body of literature, democratization refers to a process that covers fundamental changes in terms of power structures in order to provide an accountable system to the people. Liberalization, on the other hand, is a narrow movement that but may evolve into the subsequent and more advanced phases of democratization, which are rather radical in character as compared to the previous (Korkmazarslan, 2007: 10). On the contrary, liberalization may not always lead to a democratization.

As mentioned above, transition refers to a shift from the processes of the old non-democratic regime to democratic structures. It is the stage where actors such as political leaders, elites, coalitions, or the masses go through a series of deliberative discussions on deciding the new rules, institutions and procedures. Transition that carried out from above and below foster certain differences that affect the stability and consolidation of democracy (Korkmazarslan, 2007: 11). Thus, the features of transition are important regarding the future condition of the new democratic regime.

The process after the completion of democratic transition is followed by the democratic consolidation period. Basically, the crucial point of the democratic consolidation period is to assess the firmness of the newly established democratic regime. Therefore, the institutions that have been established during the transition period must be stabilized, advanced and accepted by the masses. Even though there is no general understanding about when a country can be accepted as a consolidated democracy, Linz and Stepan (1996: 5) argue that a country becomes a consolidated democracy when democracy is broadly accepted by its citizens and there is no possibility to return to the old authoritarian regime. Furthermore, they pointed out five collaborative arenas that need to boost each other for a democracy to be fully consolidated. However, they also mentioned an additional factor which is the precondition of being a state at first. Basically, if there is no state than there is no need for any form of governance. Thus, there cannot be a consolidated democracy if there is no state. After referring the problem of stateness as an additional factor, they

examined the five conditions that are needed for a consolidated democratic regime. First, all of the conditions have to accredit “the development of a free and lively civil society” (Linz and Stepan, 1996: 7). With this first condition, Linz and Stepan made clear that an active civil society is crucial for a democratic regime to be consolidated. In a case of a seizure or any non-democratic action, civil society will most likely provide an alternative to state power and it can end the non-democratic regime. Second condition is the need of a political society that acquires a relative autonomy so that it can increase the legitimacy of the democratic regime through exercising control over public power and state apparatus. Development of the core institutions of a political society such as political parties, elections and rules of elections, political leadership, interparty alliances and legislature should be seriously taken into consideration for the society to be able to decide and keep an eye on the democratic government (Linz and Stepan, 1996: 8). Third, in order to provide a guarantee for citizens regarding their freedoms and rights, there must be a rule of law. Fourth, a state bureaucracy is needed for the newly established democratic government to comply with its promises. Fifth, an “institutionalized economic society” must exist for a democracy to be consolidated (Linz and Stepan, 1996: 7).

The next part will focus on the concept of civil society and its role in the process of democratization. There is no precise definition of the civil society, therefore different definitions of the concept will be discussed at first. By looking at different definitions in literature, it will be easier to understand the concept of civil society and its basic assumptions. After that, the role of civil society in democratization process will be discussed in the light of the literature.

1.1.2 Civil Society

The concept of civil society is highly related to the concepts of democracy, democratization, democratic transition and democratic consolidation. In fact, it will not be wrong to say that civil society can be considered as one of the critical requisites for democratization. Before examining the relations between civil society and democratization, it is needed to understand what civil society refers to. However,

there is no precise definition of civil society because it can differ in different time periods and places.

To analyze and understand the concept of civil society, it is crucial to evaluate it accordingly with the country, region, or a specific time period. For example, the perception of civil society in Europe and Middle East cannot exactly be the same due to basic differences between two regions such as politics, culture and alike. Therefore, civil society should be analyzed in the light of these factors. In literature, there are some definitions of civil society that helps to understand the basic assumptions of the concept. According to Walzer (1992: 1), for example, the term civil society refers to “an uncoerced human association and also the set of relational networks” that are established on behalf of family, interest and ideology. This definition of Walzer can be considered as one of the basic definitions of civil society that explains civil society and its existence. On the other hand, Shils (1991: 4) argued that the term civil society indicates a part in society that has its own existence apart from family and state.

Civil society encompasses a variety of self-governing organizations; it is connected to state through a legal framework and it covers all of the civil society channels in a society (Shils, 1991: 5). These three attributes of the concept of civil society are depended upon the maturation of democracy. In terms of analyzing the relations between civil society and democracy, Grugel (2002: 93) also emphasized that the concept of civil society is used to explain the contribution of social activity and societal organizations in terms of their efforts to promote democracy, democratization and the consolidation of democracy afterwards. Similar to the arguments of Walzer and Shils, Cohen and Arato (1994: 19) also argued that the state and legal order should define the boundaries of civil society. According to Cohen and Arato (1994: 19), civil society can only make more contributions to the development of democracy if its boundaries are not challenged by the state. In addition, they argued that democracy can only be improved to its best extent at the level of civil society, because the operating of the organizations of civil society demonstrates a higher degree of egalitarianism and participatory approach unlike the organizations in political realm.

The concept of civil society has been associated with the democratization literature in terms of its role in the democratization period of a country. Therefore, there has been a noticeable scholarly attention on the role of civil society both during the periods of transition to democracy and the consolidation of democracy. White (1994: 379), for example, studied on the role of CSOs in democratization period and he highlighted the critical influence of CSOs in terms of the development of democracy. As White (1994: 379) suggests, there are several types of civil society, therefore it is crucial to make a distinction between them. According to White (1994: 379), a distinction should be made between modern interest groups such as trade unions and traditional groups based on kinship, ethnicity and culture. The other types of civil society to be distinguished are formal organizations and informal social networks, advocacy groups that have a political role and groups that outside the political arena, legal and illegal organizations and lastly associations that accept the status quo and associations that aim to change the status quo through changing the political regime. These CSOs can support the authoritarian regimes and act against the democratic development due to the environment that they exist (White, 1994: 380). Therefore, it cannot be argued that a strong civil society would not be conducive to democratic maturity in all circumstances. Also, it would not be accurate to argue that a weak civil society could not contribute to democratization.

Linz and Stepan also contributed to the democratization literature by discussing the role of civil society in democratic consolidation period. They defined civil society as the “arena of the polity where self-organizing groups, autonomous from the state, articulate values and associate to advance their interests” (Linz and Stepan, 1996: 17). They referred to civil society as a necessity for democratic consolidation. Civil society by itself, however, is not enough and it should be supported by a political society, rule of law, state bureaucracy and institutionalized economic society (Linz and Stepan, 1996: 18). Similar to Linz and Stepan, Diamond, also made important contributions to the democratization literature by focusing on the effects of civil society in terms of developing and consolidating democracy. He defined civil society as “the realm of organized social life that is open, voluntary, self-generating, largely self-supporting, relatively autonomous from state and bound by a legal order or set of shared values” (Diamond, 1999: 221). With this definition

Diamond indicated the possibility of citizens to unite under the umbrella of civil society in order to exchange information, to express their interests and to convey their demands to the state officials (Diamond, 1994: 5). By exchanging views and expressing interests under the CSOs, for example, people can pressure the government officials to take decisions to improve democracy.

As Diamond (1994: 5) argued, vast mobilization of civil society creates a serious pressure and it has been an important source of a democratic change in several countries such as South Korea, Chile, Poland, South Africa and some more. Rather than expressing their objections individually, citizens joined to the student movements, churches, trade unions, human rights organizations, women's groups and some other associations to collectively challenge autocracy. Furthermore, Diamond argued that there are various sets of organizations that civil society covers and these organizations can be formal and informal such as economic, cultural, informational and educational, interest-based organizations like trade unions, developmental organizations that aim to improve the life standards of the people, issue-oriented organizations that established around a single issue like the protection of environment and civic organizations (Diamond, 1994: 6). In this study, however, issue-oriented organizations will be the focus point regarding their role on the improvement of human rights.

How civil society can contribute to the development of democracy is an important question to be answered. Therefore, discussing the abilities and methods of civil society is needed to understand its role on democracy. Diamond (1994: 11) claimed that the emergence and persistence of democracy is more likely if there is an "active pluralistic, resourceful, institutionalized and democratic civil society" that effectively balances its relations with the state. Furthermore, Diamond came up with 12 features of the democratic functions of civil society to provide a better understanding of how civil society contributes to democracy. First one refers to the civil society's ability of checking, limiting and monitoring the state power. Secondly, civil society contributes to the role of political parties in terms of stimulating participation. Thirdly, civil society contribute to the development of democracy through education. Fourthly, apart from the political parties, civil society provides numerous channels for the presentation of interest. Fifth, it lightens the main

polarities of political conflict and thus exceed clientelism. Sixth, it sets up cross-cutting interests that will reduce the polarities. Seventh, it has the function of recruiting and training new political leaders. Eighth, it creates organizations which put democracy-building as their main goals. Ninth, it spreads information and empowers citizens to stand up for their interests and ideas. Tenth, it provides a base for reform policies. Eleventh, it plays a role in conflict mediation and resolution. Twelfth, it boosts “the accountability, responsiveness, inclusiveness, effectiveness and hence legitimacy of the political system by fulfilling the above listed items” (Diamond, 1999: 239-250).

As mentioned above, there are various sets of organizations that civil society covers. However, CSOs, namely AI, will be the focus point of this study. In relation to its contribution to the development of democracy, AI’s role in the protection and promotion of human rights, especially the abolition of the death penalty, will be discussed in further sections.

1.1.3. The Abolition of the Death Penalty

Human rights have been accepted as universal rights since 1948 with the adoption of Universal Declaration of Human Rights (UDHR) by the United Nations (UN) General Assembly. Since then, the promotion and protection of human rights has become a global concern that increasingly expands. As Short (1999: 721) mentioned that human rights law encompasses a wide range of issues such as economic, political, cultural, social and so on. The rights of children, women’s rights, abolishment of person-trafficking are some of the human rights norms that instruments have been struggled to be improved (Short, 1999: 721). However, the use of the death penalty, also known as the capital punishment, has been one of the most critical topics that human rights organizations and institutions have been fighting against. It is a way of punishing a person who is convicted as an offender by the criminal court so that the person would be executed due to his or her actions. Even though, the death penalty has been used as a method of punishment for centuries, there has been a growing trend in terms of abolishing it. As Schabas (1997: 724) noted that, the use of the death penalty has been firmly restricted by the

international law following the World War II and a significant number of countries have been bounded by international conventions on the abolishment of the death penalty. From then on, the world has moved toward to the abolition of the death penalty. This trend has been strongly supported by the human rights organizations such as AI and Human Rights Watch (HRW) and also by the UN which is one of the most influential international governmental organizations.

One of the most important international instruments in terms of outlining and highlighting the rights of individuals is the ICCPR. The Covenant is a multilateral treaty that adopted by the UN General Assembly in 1966 and has entered into force in 1976. Parties of the ICCPR are committed to respect the civil and political rights of every human being. Some of the civil and political rights are the right to life, freedom of torture, freedom of speech, freedom of assembly, right to fair trial and so on. The death penalty, however, is not prohibited by the ICCPR, but it puts some limitations to the exercise of the death penalty. According to Article 6, the death penalty must be used only if there is a serious crime such as intentional killing. Furthermore, it cannot be applied if a fair trial has not been granted, other rights that are subjected to the ICCPR have been violated, the offender is under the age of 18 and the offender is pregnant. In addition to the ICCPR, there are some other international instruments that favor the abolition of the death penalty including the Second Optional Protocol to the ICCPR, Protocol No. 6 and No. 13 to the European Convention on Human Rights and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

The abolitionist movement has been a growing trend since the late-1970s. According to the AI's data on the death penalty, abolitionist movement gained a momentum between 1977 and 1991 and abolitionist states increased from 16 to 48. Although stated as abolitionists, not all states have abolished the death penalty by law or for all crimes. To avoid this ambiguity, AI has developed a system in which countries are classified accordingly by their behavior towards the death penalty. According to the classification of AI, there are abolitionist for all crimes that prohibited the death penalty by law, abolitionist for ordinary crimes that holds the death penalty for exceptional crimes, abolitionist in practice that have the death penalty in law for common crimes but have not executed anyone in the past 10 years

and retentionist that retain the death penalty for ordinary crimes. Currently, there are 108 fully abolitionist countries, 8 abolitionist countries only for the ordinary crimes, 28 countries that are abolitionist in practice and 55 retentionist countries that still utilize the death penalty as a punishment (Amnesty International, 2021a: 57-58). Given that just 48 states had abolished the death penalty until 1991, this statistic is noteworthy.

China, Iran, Egypt, Iraq and Saudi Arabia are the states where most of the executions took place in 2020 (Amnesty International, 2021a: 58). AI published that at least 458 executions were recorded in 2020, but the number of executions that took place in China is unknown, so the total number of executions is expected to be higher (Amnesty International, 2021a: 9). In addition to these authoritarian countries, however, the sixth country where most executions took place in the world in 2020 was the United States (US) which is a democratic state. In the case of the US, the death penalty has been a part of its culture and both governmental and public support for the death penalty have further strengthened the state's retentionist policy. Although executions continue to take place, this picture shows that more than half of the states are abolitionists and the idea of considering the death penalty as the most cruel and inhuman punishment is widely accepted in the world.

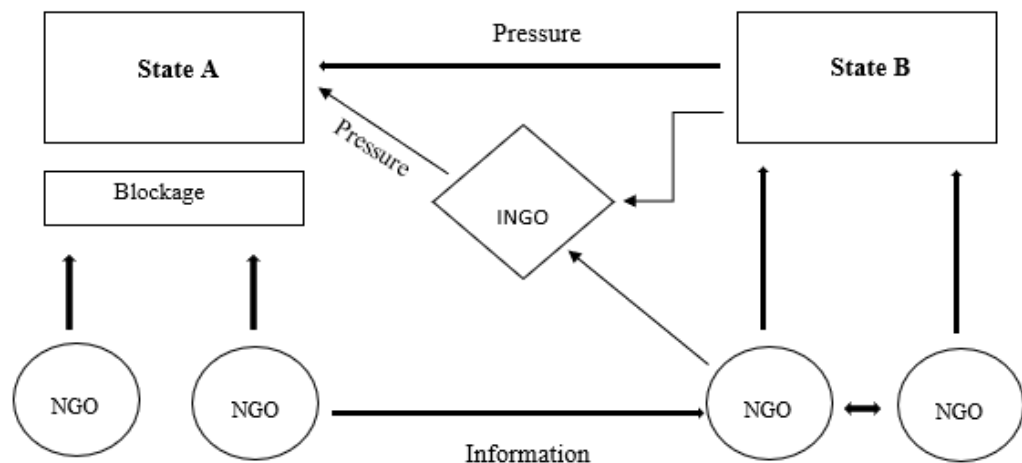
The abolition of the death penalty has often been associated with the concept of democracy. The link between democracy and the abolition of the death penalty is natural, as democratic countries are more prone to protect human rights than autocratic countries. However, there is no certainty that all democratic countries will abolish the death penalty. Indeed, there are several democratic countries that retain the death penalty as a legal punishment. Another factor that contributed to the improvement in the abolition of the death penalty is the role of CSOs that encourage countries to abolish the death penalty by framing it as a serious violation of human rights. The role of CSOs in the process of the abolition of the death penalty will be discussed in the framework of 'boomerang pattern' by Keck and Sikkink (1998: 13) that illustrates the global advocacy network among the local and international CSOs regarding the campaigning against human rights violations. The boomerang pattern and its basic premises will be discussed in the following part.

1.2. THEORETICAL FRAMEWORK

1.2.1. The Boomerang Pattern

Keck and Sikkink (1998: 13) explained international human rights activism with a model called the "boomerang pattern". The boomerang pattern shows the cooperation between local non-governmental organizations (NGOs) and INGOs by which the former reaches out to the latter in order to address the violation of human rights in their countries (Keck and Sikkink, 1998: 12). Keck and Sikkink (1998: 8-10) argued, when there was a violation of human rights in a state where NGOs were oppressed, they sought help from like-minded international allies in order to pressure their governments to change their behaviors. Through the boomerang pattern model, therefore, local and international organizations create an advocacy network, which Keck and Sikkink termed as transnational advocacy networks (TANs). TANs refer to the collaboration of organizations across national boundaries that come together to deal with a specific issue. Major TAN actors include INGOs, NGOs, churches, social movements, labor unions and the media. These actors link to each other based on shared values, common discourse and information exchange. In fact, exchanging information is crucial for the connection of TANs. The diagram prepared by Keck and Sikkink is as follows:

Figure 1: The Boomerang Pattern model



Source: Adapted from Keck and Sikkink (1998: 13). *Activists Beyond Borders*. Ithaca, NY: Cornell University Press.

As the figure shows, NGOs in State A cannot pressure the government as they have been blocked by the state. Therefore, NGOs in State A interact through information exchange with like-minded NGOs in State B, which do not face any blockage from their state. This interaction between NGOs in different states initiates the human rights advocacy network in which the organizations in State B share the related information with both State B and INGOs that will pressure State A. Thus, NGOs whose power is restricted by their own governments can form a global human rights network and put pressure on their governments through other states or international organizations.

It is expected from governments to protect the rights of people, but they are mostly the reason why these rights are violated in the first place. Therefore, people and local CSOs apply for international assistance when governments violate human rights. Thus, international CSOs and INGOs are important actors for people and local organizations to reach in order to express their concerns (Keck and Sikkink, 1998: 10). Although the boomerang pattern does not prove the impact of TANs on governments' decisions, it gives information on how local and global advocacy groups work together to change states' behavior regarding a particular human rights issue.

According to Keck and Sikkink (1998: 16), TANs developed some strategies to pressure and persuade governments, such as information politics, symbolic politics, leverage politics and accountability politics. Firstly, TANs use the appropriate information to get to the right place quickly and reliably through information politics. Secondly, TANs make an appeal to an audience by using symbols or telling stories that describe the situation through symbolic politics. Thirdly, TANs call on the most powerful actors to influence the situation through material and moral leverage via leverage politics. In terms of material leverage, powerful actors can provide military and economic assistance and they can start a name and shame campaign as a form of moral leverage. Lastly, TANs keep powerful actors committed to their principles and policies through accountability politics. Thus, the global network between local and international human rights organizations is capable of creating a cycle of norm diffusion between states and the international community (Keck and Sikkink, 1998: 24). Through the global advocacy network for

human rights, CSOs enhance norm implementation through pressuring states that violate human rights and through monitoring states' compliance with international human rights norms. As a result, CSOs can affect governments to change their policies that violate human rights through lobbying. CSOs can do this by applying information, symbolic, leverage and accountability politics.

In this study, the boomerang pattern will be used as a theoretical explanation to analyze the role of CSOs in the process of the abolition of the death penalty. As the study specifically focuses on AI's influence on South Africa's and Botswana's stances towards the use of the death penalty, the boomerang pattern will be used to examine the network between AI and the local abolitionist groups in these two sub-Saharan African countries. However, the different impacts of AI's anti-death penalty campaigns in South Africa and Botswana will not be explained through the boomerang pattern as the model cannot give any insights related to the different attitudes of governments. Thus, the boomerang pattern only helps to understand the basic strategies of AI to be able to influence the governments of South Africa and Botswana through cooperating with like-minded local groups in these countries.

CHAPTER TWO

THE REPUBLIC OF SOUTH AFRICA

This chapter focuses on South Africa which is one of the cases of the research. South Africa will be examined regarding its process of democratic transition, dynamics of the civil society both before and after the transition and lastly, its journey on the abolition of death penalty. Before starting the discussion on the democratic transition of South Africa, country's history with autocracy under the apartheid regime will be examined. This will make the democratic transition in South Africa more comprehensible. It will be better to examine the differences regarding the policies and actions of the government both under the democratic and non-democratic regimes to create more robust understanding of South Africa's motivation for a regime change. In addition, civil society also differs in the two regime periods so that there are significant differences in terms of inclusiveness, activeness and effectiveness of South African civil society sector. Lastly, South Africa's decision on abolishing the death penalty will be discussed as it can be seen as a result of country's transition to a democratic regime. While it is one of the countries where the death penalty is most frequently applied under the apartheid regime, with democratization South Africa became an abolitionist state. After country's transition to democracy, civil society sector has also gone through some structural changes and the regime change provided a more flexible environment for CSOs. Therefore, under a democratic South African government, the role of CSOs in politics has become important as they started to act freely and legitimately. In the case of abolishing death penalty, both local and international CSOs worked together by exchanging information, educating citizens and lobbying to make government to take actions.

2.1. COUNTRY PROFILE

The Republic of South Africa is a country located in the southernmost part of the African continent. The neighboring countries of South Africa are Namibia, Botswana, Zimbabwe, Mozambique and Eswatini and it completely surrounds

Lesotho to the east. According to the data of the World Bank, the population of South Africa is over 59 million in 2021 (World Bank, n.d.-a). South Africa is one of the most ethnically diverse countries as it encompasses a variety of cultures, religions and languages.

Formerly, South Africa was a colony of both the Dutch and the British. In 1910, South Africa was given nominal independence under the Union of South Africa, created by Britain. However, the country completely gained its independence from Britain in 1961 and the Republic of South Africa was established. In the meantime, it was under the rule of the National Party (NP) that applied segregationist policies that was referred as the apartheid regime. By the time South Africa held its first democratic elections in 1994, it also initiated its transition to democracy. From then on, South Africa has become a parliamentary representative democracy which will be discussed in the following parts of this chapter. In economic terms, South Africa is among the most industrialized countries in the African region. It has a highly diversified economy mostly based on the sectors of finance and business, manufacturing, wholesale and retail trade and mining.

2.2. THE APARTHEID ERA IN SOUTH AFRICA

The policy of apartheid dates back to 1948 when it was first introduced by the NP of the South Africa and the policy lasted in 1994, was composed of segregationist policies that were in line with the idea of the separation of different racial groups in terms of social, economic and political spheres of life. It was against the non-white population, who constitutes the majority of the population and based on the aim of assuring white supremacy over the other races in the country. Under the apartheid regime, South African government made laws that created an unequal development of different races by forcing whites and non-whites to live separately, to use different public facilities, to work in different racial areas and so on.

Racial discrimination, however, was introduced to South Africa before the apartheid regime. On the contrary, South Africa has a long history with racial segregation that goes back to the early 1800s. Several social and legal choices taken by British and Dutch colonial authorities in the years leading up to apartheid

maintained the racial segregation. Even though discrimination based on race and ethnicity had become a part of the political identity of South Africa, discriminative policies were intensified with the apartheid regime. Repression of blacks, coloreds and Indians was fostered under the rule of the NP as these vulnerable people were highly marginalized due to the policies of the white-dominated party.

As mentioned above, during the 19th century, non-white population of South Africa were restricted with laws regarding their actions such as the prevention of voting, running businesses, owning lands etc. As a result of the Population Registration Act in 1950, for example, South African population was classified into four groups which were Bantu (black population in South Africa), White, Colored (people with mixed races) and Asian. Under this act, it was aimed to protect superiority of white population over the non-white population in South Africa. Indeed, there were a series of land acts strengthening the supremacy of the white minority over the lands of the country. Thus, this act considerably extended the discrimination between the races.

Under the apartheid regime, non-white population had suffered from other prohibitions other than the right to own lands as well. For example, the regime banned the marriages between the people with different races or ethnicities. In fact, any social integration of different races was not allowed. Black people had to live in the places that were separated from the white people. Moreover, black people were not allowed to manage businesses. In order to reside and work in the areas that are belonged to white population, black people needed a legal permission. Vulnerable groups were also excluded from the government, public institutions, public transportation, health care services and so on. Therefore, there was a high level of discrimination towards the non-white people that constituted the majority of South Africa's population. These repressive policies of the apartheid government contributed to the resistance that will increase exponentially in the future.

After years of ruling under the apartheid regime, there was a significant momentum in abandoning the regime in South Africa in the early 1990s. Releasing of Nelson Mandela from prison, who was an important figure in South African politics and removal of the ban on the African National Congress (ANC), which was the political opposition, accelerated the process of weakening the apartheid regime

(Harshe, 1993: 1980). Even though there was a stable opposition to the apartheid regime both within the South Africa and around the world, laws of the regime remained in power until the 1990s. The end of the apartheid was gradually started in 1991 with the abolition of the legislations by the government of President Frederik Willem de Klerk.

As mentioned above, Mandela is an important figure regarding the fight against the autocratic system and culture of discrimination in South Africa. After his release from imprisonment in Robben Island on February 11, 1990, Mandela continued his campaign against the apartheid regime. However, it took over four years to finally demolishing the apartheid regime and starting South Africa's democratic transition. Eventually, Mandela became the first black South African president in the country's first multiracial parliamentary election in 1994.

On his journey to success of liberating South Africa, Mahatma Gandhi had affected Mandela's ideas and his campaign on the fight against the apartheid regime. Gandhi's ideologies of passive resistance, nonviolence and his fight for the basic human rights of the Indian people influenced the ideas of Mandela in various ways. Indeed, Mandela was a practitioner of Gandhi's philosophical ideologies so that he was named as '*Gandhi of South Africa*' (Seth, 2020). Therefore, it will not be wrong to argue that Gandhi's ideas guided Mandela on his journey of liberating South Africa. Both Mandela and Gandhi believed that regardless of religion and ethnicity, those who were oppressed must fight together against the oppressors. They both believed in the power of non-violent protests in terms of changing the behaviors of the oppressors (Seth, 2020). However, the apartheid regime used excessive force and violence on the vulnerable groups so that Mandela's passive resistance turned into an armed resistance. As he indicated that due to this violent behavior of the government, there was no other option besides the use of violence.

As a result of Mandela's success against the apartheid regime, he established a united and inclusive government in South Africa. F. W. de Clerk, for instance, who was the last president during the apartheid system, appointed as the deputy president of the new government. It can be argued that South Africa, after the defeat of the apartheid regime, started to become a more inclusive country with its multi-ethnic and multi-racial population.

In addition to domestic dynamics, international pressure also played a role in terms of weakening the apartheid regime. As a result of the growing international pressure, some laws of the apartheid system were abolished by the de Klerk government. UN, for instance, had issued a denunciation on the apartheid regime in 1973 and the situation reached a boiling point in 1976 when the police in Soweto opened fire on students (Adhamy, 2021). Thus, South Africa had suffered from the sanctions of international organizations and advanced industrial states. On the one hand, UN applied sanction on the arms sales and on the other hand, the US and the United Kingdom (UK) applied economic sanctions (Adhamy, 2021).

To sum up, both domestic and international factors and actors contributed to the collapse of the apartheid government of South Africa. The collapse of the government, however, was neither hostile nor the result of a civil war. Despite its highly multi-ethnic identity, on the contrary, South Africa's democratic transition was peaceful as the country followed a negotiated way of transition between political groups that represented each part of the society. South Africa's democratic transition will be further analyzed in the next part below.

2.3. DEMOCRATIZATION OF SOUTH AFRICA

Following the third wave of democratization in the 1990s, sub-Saharan African countries engaged in a regime change process in which they shifted the single-party or military systems to multi-party and democratic systems (Lynch and Crawford, 2011: 275). Although these processes of regime changes made African countries more democratic compared to their previous authoritarian regimes, democratic systems in these countries suffer from '*profound flaws*' (Herbst, 2001: 358). Generally, sub-Saharan African states are successful in terms of holding free and fair elections and respecting basic civil liberties, but the democratic regimes in these countries have some democratic deficiencies such as violation of media freedom and suppression on minorities. As Collier and Levitsky (1997: 430) argued that new political regimes in Latin America, Asia, former Soviet states and Africa carry some of the essential aspects of democracy, but they also differ from each other in terms of the level and quality of democracy. In fact, most of them are not accepted

as a fully democratic countries compared to the democratic regimes of advanced countries (Collier and Levitsky, 1997: 430). Among scholars, therefore, this causes a problem in terms of describing the concept of democracy. Collier and Levitsky (1997: 431) came up with the term “democracy with adjectives” to explain the variety of democracies such as electoral, clientelist, semi-authoritarian and so on. Newly established political regimes in Africa have also been included to this categorization because they mostly meet with minimal criteria of democracy despite containing severe flaws (Collier and Levitsky, 1997: 431). Naturally, new political regimes in African countries that established after democratic transition, are more liberal than former authoritarian regimes. Even the most democratic countries in Sub-Saharan Africa which are Mauritius, Botswana and South Africa have critical problems that are resulting in democratic deficiencies. According to Schedler (2013: 158), despite meeting with some of the basic assumptions of democracy, most of the countries’ regimes are called as “multiparty elections without democracy”. Even though they regularly hold fair and free elections, they mostly have problems related to corruption, human rights, oppression on media which are completely contradictory to the nature of democracy.

Prior to its transition to democracy, there was a negative assumption that a regime change was unlikely for South Africa. South Africa’s multi-ethnic structure and its years-long of experience of autocratic regime under the apartheid government, that deepened the segregation between races, can be seen as the most important reasons behind this argument. However, this assumption was falsified in the mid-1990s when the ANC, which has been the ruling party since then, started a deliberate process that aimed to transform the minority rule (Giliomee, 1995: 84). Heribert Adam, who is an author that is known for his studies on Southern Africa and ethnic conflicts, declared that “in South Africa, unlike in other split countries, a huge majority of both sides agreed conceptually on a secular multiparty democracy in an undivided state” (Giliomee, 1995: 83). Despite being a multiethnic country that encompasses a variety of different cultures, religions and languages, South Africa is one of the few countries in the African region that never experienced a coup d’etat. In contrast to other countries with divided societies, two sides agreed on a secular and multiparty democracy under a united South African state. Therefore, South

Africa's transition to democracy is regarded as a negotiated transition as it occurred through series of negotiations between de Klerk government and ANC (Guelke, 2009: 418; Stokke, 2018: 5). In addition to NP which represented the ruling whites and the ANC which represented the black and Asian South African population, there was also Inkatha Freedom Party that participated in the negotiations to represent the black population of Zulu (Inman and Rubinfeld, 2013: 4). The negotiations began in the early 1990s and ended in 1994, when the country's first democratic elections were held.

During the negotiations, there were two alternatives for the new constitution of South Africa. First one is a centralized democracy that all decisions are made by a single government which is elected by the majority vote. Second one is a decentralized democracy that government and constitutional provinces participate in decision making process together. At the end of the negotiations, second alternative was adopted and a federal system was established in South Africa.

South Africa has become a parliamentary representative democracy in 1994. The president, who has been elected by the National Assembly, is both the head of the state and the head of the government. The president must also have the National Assembly's vote of confidence to stay in charge. Citizens, on the other hand, elect the legislatures of the nine South African provinces. It has three capital cities: Pretoria as the administrative capital, Cape Town as the legislative capital and Bloemfontein as the judicial capital of the country. When considering its history of racial inequality under the apartheid regime, South Africa has significantly improved its domestic policies accordingly to eliminate this issue. The Constitution, adopted in 1996, was an important proof that demonstrated country's intention to heal the social and economic injustices between the citizens (Ramsamy, 2014: 23). In fact, one of the most fundamental factors behind the success of South Africa's democratic transition and these policy changes is its constitution which has been considered as one of the most democratic constitutions in the world as it prioritizes access to water, healthcare, education and so on. The Constitution of South Africa, which is still in effect, includes principles such as equality in races, minority rights and majoritarian

democracy¹. It also indicates the structure of the newly established Republic of South Africa and prioritizes the protection of human rights and explains how to provide accountability.

In terms of its transition to democracy, South Africa has been considered as a model country for other sub-Saharan African countries. However, whether South Africa is a consolidated democracy or not is debated and it is considered as a flawed democracy. Indeed, as the country still suffers from non-democratic regulations and issues such as corruption and insufficient healthcare services, it must deal with these problems to become a consolidated democracy. According to Garcia-Rivero, Kotzé and Du Toit (2002: 163), a country's perception of democracy is crucial to understand its process of democratic consolidation. Although there is a perception that South Africa has a dense modern democracy and has the world's most democratic constitution that prioritize rights to security, health, water and so on, the democratic identity of South Africa is not apparently clear (Ramsamy, 2014: 25). Thus, South Africa is still working on the improvement of its democratic identity. To create a democratic consolidation, as Ramsamy (2014: 15) argued, the citizens that trust to institutions have "political tolerance and perceive their rights are protected". Furthermore, he discussed about the findings that demonstrate the willingness of South African citizens to enlarge political rights to political opponents. Although this might indicate that South African citizens have a specific degree of political tolerance, they also perceived the governmental institutions, where they enlarge their rights, to not implement their duty appropriately (Ramsamy, 2014: 17). A greater and decisive engagement of governmental institutions to the rights and participation of citizens are needed because the legitimacy would be negatively affected due to the distrust to the government by the citizens.

In terms of making country more liberal by demolishing the apartheid regime, South Africa's democratic system can be considered as successful. There has been a number of legislations and frameworks that guarantee all of the South African citizens political, social and economic rights. However, there is an argument about

¹ According to Lijphart (1994: 2), majoritarian democracy refers to a type of democratic system in which the majority wields political power. For further information; Lijphart, A. (1994). Democracies: Forms, performance, and constitutional engineering. *European Journal of Political Research*, 25(1), 1-17.

South African politics that it has disregarded the basic services such as providing water, electricity and health. These services are needed for social and economic equality and the system has evolved into an elite system focused on patronage. Indeed, there are still cases related to racist and ethnic-based violations in South Africa, even though it has legally defeated violence, racism and ethnicity. Thus, South Africa successfully and peacefully completed its transition to democracy, but still there are problems remained from the past and cause serious damage to country's democratic system.

In contrast to its success in transition to democracy, there are also assessments that indicate the necessity of government's mission to consolidate inclusive and prominent components of democracy. In order to consolidate a more stable democracy, South African government needs to work on social and economic delivery services and avoid decision-making process to be limited to the parliament. Indeed, decision-making process and South Africa's democratic system are suffered and restricted by the dominance of ANC as it has been limiting the competitiveness. South Africa's culture of protests and citizens' participation to politics are important factors in terms of holding the government accountable for its actions and policies.

As Ramsamy (2014: 37) argued, electoral success and laws that enable freedom and equality for citizens are the two most important standards for a procedural democracy in a country. South Africa has been showing electoral success by holding fair and free elections since the establishment of the new regime in 1994. The second standard, however, needs to be worked on as there is a lack of satisfaction of South African people in terms of their socio-economic rights. As Garcia-Rivero, Kotzé and Du Toit (2002: 168) pointed out, in order to fulfill its socio-economic policies, South Africa has to meet significant aspects of democracy other than electoral success. Furthermore, he also indicated that if ANC, which has been the ruling party since the democratization, does not satisfy citizens' needs, it might lose its legitimacy and its place as the ruling party (Garcia-Rivero et al., 2002: 168). However, it should not be forgotten that South Africa's robust political protest culture may have an impact on the government's leadership. If the people are unsatisfied, the government demonstrates a kind of accountability and promotes political engagement in civil society (Garcia-Rivero et al., 2002: 170). As its history

shows, political protests are important characteristic of South African people and they are likely to be mobilized under a populist leader. To this point, it is believed that South Africa could also end up abolishing the government due to the lack of legitimacy similar to some of the Latin American countries (Garcia-Rivero et al., 2002: 176).

As David Saks (2009: 46) also pointed out that despite the countries successful, free and fair elections, there are some serious questions regarding the corruption and the legitimacy of President Zuma due to his actions. Opposition parties, Democratic Alliance (DA) and the Congress of the People (COPE), can receive some support because of their plausible actions and this can sign an advent of a competitive political environment in South Africa after the decades of ANC dominance in elections and decision-making in the parliament. This political stagnation in South Africa has been a significant obstacle regarding the country's consolidation of democracy.

Even though South Africa has shifted towards a multiparty democratic system, it has been under the rule of the same party since its first political elections. Therefore, it can be argued that under the ruling of ANC government since 1994, South Africa has a de facto one-party system which is contradictory for a democratic state. In addition, as some arguments indicate that the foundational principle of ANC is a type of government centered around people. The ANC, the South African Communist Party (SACP) and the Congress of South African Trade Unions (COSATU), which formed a tripartite alliance, have a profound dedication to the people. This act is perceived as a populist characteristic which is both an advantage and a drawback in policy formation. However, some argue that ANC propagates this principle to increase its popular support and to legitimize its form of government serving only for elites. Despite the background thoughts of ANC, the existence of tripartite alliance reinforces accountability and diversification of democratic society by including the views of other significant organizations into government. According to Nel and van der Westhuizen (2004: 65), trade unions and COSATU are effective actors that need to be more influential in state governance for a more people-centered type of government.

As mentioned earlier, South Africa's transition to democracy is considered as a negotiated transition that was mostly maintained between the government and the opposition (Harshe, 1993: 1981). Furthermore, as Stokke (2018: 5) mentioned, South Africa, with Indonesia, is considered as one of the successful examples of a pacted democratic transition due to its citizens' active role in movements. In South Africa, people participate in these movements mainly for the protection of their socio-economic and humanitarian rights. In addition, these movements have been against the continuing problems related to democracy and social justice in the aftermath of South Africa's transition to democracy (Jones and Stokke, 2005: 78; Alexander, 2010: 4; Stokke, 2018: 9). Other than government and opposition, therefore, civil society sector also contributed to the democratization of South Africa by enabling citizens to get information and express themselves. Especially in terms of human rights issues, there has been a noticeable improvement in the country after the collapse of the apartheid regime. Even though there are issues related to corruption, freedom of expression and insufficient public delivery services, South Africa has been considered as an advocate of human rights and a leading figure in the Africa region after its democratic transition. It has a vibrant civil society, an independent press as well as regular, free and fair elections which are significant factors that positively affect the development of democracy. It is often referred as a 'rainbow nation' which implicates the multicultural structure of the country with different races, ethnicities, cultures and languages represented under the South Africa's liberal democratic system. In South Africa's democratic system, civil society sector plays a significant and efficient role. The next part includes the development of civil society between the 1960s and 2000s and its contribution to democratization in South Africa.

2.4. CIVIL SOCIETY IN SOUTH AFRICA

In the literature of democratization, as Fioramonti and Fiori (2010: 85) mentioned, civil society is considered as an important factor to bring a political change. In a broader sense, an active civil society is crucial in terms of nurturing democratization. Because an active civil society sector leads to a more inclusive democratic regime. In South Africa, for example, Nelson Mandela who was

imprisoned for 27 years was released directly thanks to a mass movement of civic associations, church related organizations, trade unions and student movements (Fioramonti and Fiori, 2010: 84). In addition, the success of social movements, in terms of providing a political change, has been proved in South Africa for several times as the citizens mostly tend to defend their socio-economic rights through these movements. Black Consciousness Movement (BCM) of the mid-1960s, for example, is one of the most successful movements in South Africa's history that had significant contribution on the weakening and ending of the apartheid regime. It was a movement that aimed to raise awareness among black people in terms of rejecting any system that make them feel like foreigners in their own countries and violate their human dignity (Nengwekhulu, 1976: 2). In addition, BCM also aimed to encourage black people to defend their political, social and economic rights that were violated by the oppressors. Therefore, it was an alarm that mobilized black people to start fighting against the apartheid regime for their liberation. Eventually, black people became more cohesive and united, so this pushed black consciousness to the forefront of South Africa's anti-apartheid movement.

The role of civil society, both locally and globally, regarding the collapse of the apartheid regime in South Africa was significant. CSOs created a highly mobilized environment that was against the apartheid system which was discriminative and repressive against the non-white population in South Africa. Therefore, they put pressure on the government to change its non-democratic policies. Thus, as Gumede (2018) pointed out, CSOs have become more and more critical in terms of defending the rights of the citizens against any infringements and abuses of power by the authorized people.

According to Gumede (2018), civil society in South Africa, compared to other developing countries, is highly diversified and decisive so that its main goals are assisting democratic institution, fighting against corruption and keeping the government accountable. That is why CSOs in South Africa are important actors regarding the protection and strengthening of democracy. Furthermore, Gumede (2018) also argued that Constitution of South Africa put civil society in an important spot which can observe democratic institutions, monitor human rights and inform citizens about their rights. South Africa is a country with high adult illiteracy rates

which is around 4.7 million adults (*International Literacy Day 2021 / South African Government, 2021*). Therefore, CSOs take responsibility to educate the citizens about their rights. Otherwise, political leaders could use ignorance of citizens to enrich themselves. By exploiting the illiteracy of citizens, leaders easily blame the former apartheid system to cover their failures and corruption. That is why educating citizens about their rights is important to prevent political leaders to misuse their power. Indeed, if there is no active CSO, the scenario in South Africa regarding the retrieval of democratic rights, decrease in public service and increase in corruption would be even worse. In general, civil society in South Africa has been pursuing a hard work on protecting democracy and its institutions. CSOs have aimed to protect and support democratic institutions because they have been mostly corrupted by the ANC leaders for their own interests. Furthermore, CSOs have provided alternatives to public service in order to compensate the state failures by uncovering the hidden information and abolishing the laws which remained from the apartheid regime that were harmful to citizens' democratic rights.

When looking at the civil society sector in South Africa, effects of both global and national factors can be seen. End of the apartheid regime and start of the democratic transition period are the two important time periods that affected the civil society in South Africa. Naturally, after a shift from a non-democratic regime to a democratic one, CSOs have had to set their agendas accordingly to the new dynamics. According to Fioramonti and Fiori (2010: 84), civil society faces both structural and strategical transformation with the arrival of democracy. Democracy's arrival into the scene has resulted with a change in civil society's stance towards the state, its policy goals and actions. Considering the process of democratic consolidation, CSOs have altered their key objectives, mode of operating regarding the socio-economic rights and strategies of mobilization (Fioramonti and Fiori, 2010: 91). In order to understand the development of civil society sector in South Africa, it is crucial to look at the sector both in the apartheid era and the post-apartheid era. Therefore, civil society in South Africa under both periods will be discussed in the following part.

2.4.1. Civil Society under the Apartheid Regime

Apartheid era in South Africa has caused the creation of new CSOs that differed from the organizations of former ruling eras. During the apartheid regime, CSOs in South Africa mostly opposed to the regime and its policies on race and ethnicity. In fact, civil society groups could only focus on the issues related to race, ethnicity and unfair conditions among people in terms of social, economic, political spheres of life because these were the most critical issues that vulnerable people suffered from. Most of the CSOs took the responsibility of monitoring the illegitimate government and fighting against its unfair policies. Even though apartheid regime pushed CSOs to work towards some mutual aims, there was a center and disarranged margins all around South Africa to deal with a variety of issue areas. Also, in a country under the rule of an autocratic regime, like South Africa under the rule of apartheid government, CSOs had limited power and mostly fought for their own survival. However, in a democratic country, CSOs are most likely to be legitimate and can apparently oppose the state by pursuing their strategies in a more flexible environment. Under a democratic system, organizations are also differentiated and work on various areas such as health, education and environment in addition to protection and promotion of human rights.

Even though CSOs were independent from the state, they were still dependent on ANC to take down the apartheid regime through gaining popular legitimacy and leadership role. They were on a mission to bring down the apartheid system, to fight on behalf of the poor and to improve the lives of disadvantaged communities in South Africa. Among these, there were anti-apartheid movements, led primarily by the United Democratic Front (UDF) which was an umbrella organization of CSOs formed by the oppressed and exploited groups. It was a united front included trade unions, student organizations and churches that brought a cohesive and collective action against the state oppression. Its main goal was to abolish the systemic racism in the country and to establish a united South Africa where there would have been no segregation between the races (Vorster, 2015: 4). Organizations led by whites that were either with multi-racial or without racial identities arose in solidarity with these anti-apartheid CSOs. Some of them were calling for a robust

human and civil rights culture in the country. Some of them organized their protests on a variety of issues, including labor conditions, excessive rents, environmental degradation, urban services and so on. These issues were strongly politicized during the conflict and their concerns stretched beyond the question of state authority. Local circumstances and complaints, as well as concerns of absolute survival in numerous places within the country, have turned into an overarching political mobilization strategy.

2.4.2. Civil Society after South Africa's Transition to Democracy

After South Africa's transition to democracy in 1994, it was considered as a positive sign for CSOs to act in a better environment. However, this regime change also meant that CSOs had to restructure themselves. As mentioned before, CSOs were independent from the apartheid state, but dependent on ANC in terms of funding. After ANC's coming to power with democratic transition, CSOs had to consider their dependency on the party in order to be independent from the state. They can only oppose to the state objectively by protecting the principle of impartiality.

Towards the end of the 1990s, CSOs started to realize that the promises made by the ANC during the transition period were not fulfilled. Therefore, the mutual relationship between civil society and ANC during the apartheid era had turned into an adversary relationship². Thus, civil society sector embraced its characteristic of independency from the state and took back its place against the state to make the voice of the citizens to be heard, to keep the government accountable and to work on keeping democracy stable.

South Africa has a dynamic civil society so that CSOs are free to register and operate. Accordingly, politicians routinely receive information from CSOs on proposed legislation. In the period after 1994, CSOs have continued to keep the

² According to Young (2000: 151), an adversarial relationship refers to the relationship between the non-profit organizations and the governments in which non-profit organizations pressure governments to change the public policy and to keep the government accountable. In turn, the governments seek to persuade the behaviors of the non-profit organizations. For further information; Young, D. R. (2000). Alternative models of government-nonprofit sector relations: Theoretical and international perspectives. *Nonprofit and voluntary sector quarterly*, 29(1), 149-172.

newly established democratic government accountable. However, they had faced many costs because of defending the human rights. Anti-democratic forces within the ANC administration have frequently condemned CSOs and activists for holding government and leaders responsible, urging that they be outlawed and accusing them of being fronts for apartheid-era organizations or foreign adversaries (Gumede, 2018).

The civil society sector in South Africa has continued to grow regarding the number of the local organizations and their connection with the international organizations. In order to meet the needs of society, several local community-based organizations emerged in South Africa. Also, people established cooperatives with the aim of reducing poverty. In addition, social movements became an effective way of expressing dissatisfaction on issues even though they lacked formality and structure. Between the late 1990s and early 2000s, social movements were highly engaged in the global wave of protests. In 2001, for example, social movements demonstrated their effectiveness by the campaigns about sustainable development at the World Summit on Sustainable Development. On the one hand, citizens were disappointed with the failure of ANC regarding the public service delivery and on the other hand, trade unions and traditional CSOs were also inadequate. Social movements, therefore, became a new hope for citizens as these movements were democratic and participatory. They mostly focused on the social and economic rights of the citizens and protested the public service delivery.

Another implication was the financing problem since many industrial states, governed by populist and right-wing administrations, have drastically decreased financial support to African and South African CSOs in recent years. Depriving CSOs of financing would exacerbate corruption, weak governance and violence in Africa which has been most likely to damage the industrialized states, because of huge migrations of Africans to European countries in search of employment, safety and peaceful living. Despite the struggle of poor financing, civil society continues to fight against corruption, to protect citizens from the exploitation of government and to help the vulnerable people by fighting on behalf of them (Gumede, 2018).

Despite these negative implications of the regime change over CSOs, they have still managed to affect the politics in South Africa. For example, CSOs fought

firmly against the corrupt and power-hungry South African presidents. Since its transition to democracy in 1994, South Africa and ANC have had seen five and four presidents respectively. Civil society showed its potential to bring a political change by forcing two of the presidents out of power (Gumede, 2018). First, Zuma was taken to the court by the CSOs for several times during his presidency between 2009 and 2018 due to corruption and using institutions to his own interests. In addition to CSOs' pressure on Zuma, ANC opponents of Zuma utilized civil society mobilization against him to prevent Zuma's designated successor, his ex-wife Nkosazana Dlamini-Zuma, from succeeding him and finally compelled him to quit presidency (Gumede, 2018). Second, Thabo Mbeki, who was the second president of South Africa, did not let public hospitals to medicate HIV cases. Therefore, he faced serious protests from the civil society. Protests merged with the critics of Mbeki within the party to prevent his possible re-election as a president after the end of his presidential term in 2008.

Other than standing against the unlawful actions of the presidents, CSOs have also involved in variety of issue areas by launching campaigns. In 2017, there was another successful campaign by CSOs that prevented the government of Zuma to fulfill a nuclear deal with Russia. Thus, CSOs prevented citizens to face unfair costs in terms of South African Rand³ and catastrophic scenarios of economy. CSOs put pressure over the government to make it equally implement socio-economic, health, food and housing-related rights. In what is now known as the Grootboom case, for instance, the Legal Resources Centre (LRC) and a coalition of CSOs successfully petitioned the courts in 2000 to force the government in order to build homes "for persons with no access to land" (Gumede, 2018). Civil society groups in South Africa also fought against the sexist and racist issues that were already in conflict with the Constitution. South Africa joined African nations in the UN General Assembly in 2016 to oppose the UN Human Rights Council's nomination of an 'Independent Expert on Sexual Orientation and Gender Identity'. CSOs in South Africa, on the other hand, mobilized to send an open letter to the then-Minister of International Relations and Cooperation in 2016, urging the department to break with

³ The Rand is the currency of South Africa.

the conservative African lobby and take a pro-gay rights stance in accordance with the Constitution of 1996.

In conclusion, CSOs had gone through some structural changes after South Africa's democratic transition. Despite the negative implications, civil society sector has enjoyed acting in a more flexible environment under a democratic regime. Thus, South Africa had seen a more active and effective civil society after its transition. With the efforts of CSOs, there have been noticeable improvements in the country's stance towards human rights, education, public services, etc. According to Freedom House (n.d.) since the end of the apartheid, South Africa has been considered worldwide as a proponent of human rights and a leader to other African countries in the continent. Although South Africa has made great progress in the field of human rights, it has still great problems related to this issue. Therefore, both CSOs and the South African government need to work on these issues collaboratively for further improvement of human rights. Undoubtedly, South Africa showed its intention to respect human rights and human dignity by abolishing the death penalty after democratic transition.

2.5. ABOLITION OF THE DEATH PENALTY IN SOUTH AFRICA

Despite being one of the countries with the highest records of political executions in the world, abolition of death penalty was an immediate action just after South Africa's democratic transition. Death penalty in South Africa was highly associated with the apartheid system that used it more as a means of terror instead of a punishment against crimes. As French (1995) stated, the connection between death penalty and the apartheid system can be understood from the arguments of the black people who had suffered from death penalty more than anyone even if the accusations were not true. That is why abolishing death penalty was one of the first implementations that the Constitutional Court focused on. Furthermore, president of the court pointed out that the efficiency of death penalty was not definite in terms of deterring crimes when it was compared to the sentence of life imprisonment (French, 1995). Therefore, the new Constitution which gave priority to human rights cannot allow such a barbaric punishment to deter crimes when there have been other ways to

do it. Therefore, abolishing death penalty was one of the first actions of the newly established Constitutional Court of South Africa in 1995.

Leading political party of South Africa, ANC, had also pioneered the fight against apartheid, therefore Court's decision of abolishing death penalty was a remarkable victory for the party with the aim of strengthening democracy. In addition, ANC is a black dominated party and determined not letting death penalty to be applied to the citizens ever again. Political groups that were dominated by the whites, however, were mostly in favor of the use of death penalty and negatively reacted to the decision of abolishing it. Indeed, undeniably many people alongside with NP, which is a white dominated party under the presidency of F.W. de Klerk, supported the death penalty (French, 1995). It is no surprise that NP aimed to bring death penalty back because South Africa was governed under the ruling of NP during the apartheid regime. Prior to the complete abolition of death penalty, however, de Klerk government and the ANC agreed on a moratorium on death penalty in 1990. After five years of moratorium, South Africa completely abolished death penalty on 6 June 1995 by the decision of the Constitutional Court. This historical decision is known as the *case of S v Makwanyane* in which two people accused of murders which brings contestation of the convictions and penalties at the Supreme Court's Appellate Division. The Appellate Division, on the other hand, dismissed the appeals by stating that the circumstances of the murders justified that the accused received the worst possible legal punishment: the death penalty. After that, lawyer of the accused was asked to investigate whether this clause was in accordance with the Republic of South Africa Constitution of 1993. He stated that it was not, claiming that it was in violation of the constitution's section 9 and 11(2) clauses.

South Africa's Interim Constitution specifically highlighted the importance of human rights and human dignity. Yet death penalty, which was completely conflicting with the essence of constitution, was not outlawed. The court, however, decided to invalidate section 277(1)(a) of the Criminal Procedure Act 51 of 1977 which had validated the use of death penalty. The Court prevented the state and all its organs from executing any individual already sentenced to death under any laws so determined to be unconstitutional (Milk Studios, 2020). Furthermore, other similar provisions in different articles were also overruled with the aim of making South

Africa a fully abolitionist state. This was the first significant decision of the new court in terms of politics following South Africa's democratic transition.

This decision had also been highly controversial as most of the citizens were in favor of death penalty. However, the court showed its role as an impartial arbitrator of the Constitution by outlawing death penalty which reaffirmed its dedication to its responsibilities. Arthur Chaskalson, who was the first president of South Africa's new Constitutional Court in 1994, stated that death penalty was a harsh, barbaric and degrading punishment in the framework of South Africa's constitution. Furthermore, he added that constitutional adjudication would be pointless if public opinion had such a decisive influence on court's decisions. Chaskalson also revealed that the abolishment of death penalty was unanimously approved by the court. The court indicated that right to life and human dignity were two of the most important human rights, therefore all people should enjoy these rights alongside with other political, economic and social rights that were also mentioned on the Interim Constitution of South Africa. It can be argued that this was an appropriate decision for a country that had just shifted its non-democratic political system to a democratic one and formulated a constitution that showed its intention on recognizing and improving human rights. Furthermore, right to life and human dignity are the rights emphasized in the constitution. Therefore, keeping the criminal out of these rights would be contradictory to the essence of the decision. Therefore, in order for all people to enjoy these and other rights, death penalty cannot be used as a punishment for anybody including the criminals.

The decision of abolishing the death penalty was a significant improvement in terms of human rights in South Africa. As mentioned before, the country had a long history with death penalty and misused it on the marginalized non-white population under the apartheid regime. In fact, South Africa was mentioned as a '*death factory*' as the number of judicial killings was excessive (Bouckaert, 1996: 287). Fortunately, death penalty was completely contradicted to the new democratic constitution of South Africa and the decision to repeal was not delayed. The abolition of death penalty in South Africa, however, cannot be explained solely through the democratic transition. In fact, CSOs and especially AI, played important roles

regarding the fight against death penalty, which will be discussed in the chapter four of the study.



CHAPTER THREE

REPUBLIC OF BOTSWANA

This chapter focuses on the other case of the study: Republic of Botswana. In this chapter, Botswana will be examined regarding its democratic transition process, civil society sector and its stance towards the abolition of the death penalty. After giving brief information about Botswana, the chapter will start with the discussion of Botswana's road to independence. Botswana is a rare case in democratization studies as the country started its democratic transition at the same time when it declared its independence from Britain in 1966. It was an early time for a democratic transition when compared with the other South African countries in which democratization took place around 1989. Therefore, firstly it is important to look at the pre-colonial and colonial periods of Botswana to understand its path towards democratization. The next part of the chapter will be on the discussion over Botswana's democratic transition and development of its democratic system. This will be followed by the discussions of the civil society sector in Botswana both during the colonial and democratic periods. Finally, Botswana's stance towards the abolition of death penalty will be discussed. Despite being the oldest and one of the most successful democracies in sub-Saharan African region, Botswana continues to apply death penalty as a punishment for serious crimes such as murder. Therefore, Botswana's negative stance towards the abolition of death penalty and the reasons behind it will be discussed in the last part of the chapter.

3.1. COUNTRY PROFILE

The Republic of Botswana is a country located in Southern Africa. It is a landlocked country bordering by South Africa, Namibia, Zimbabwe and Zambia. According to the World Bank's data, the population of Botswana is around 2.3 million in 2021 (World Bank, n.d.-b). It is a former British protectorate and became an independent state in 1966. It is the oldest uninterrupted multi-party democracy in the sub-Saharan African region as the country held its first free and fair political election after the declaration of its independence. After its transition to democracy,

Botswana adopted the political system of parliamentary representative democracy, which will be discussed in detail in the next section of this chapter. The current president of Botswana is Mokgweetsi Masisi who became the fifth president of the country in 2018. It has been a politically stable state as the elections have been regular, free and fair since the establishment of the democratic regime. In terms of the economy, however, Botswana has gone through a massive development as the country had been one of the poorest economies in the world prior to its independence. With the emergence and development of diamond mining, Botswana has been able to develop its economy and make it known as an 'African miracle'. Currently, Botswana's economy is mostly dominated by the diamond industry as it is one of the world's largest diamond producers. In addition to diamond production, cattle farming and tourism contribute to the economy of Botswana as well.

3.2. ROAD TO INDEPENDENCE

Prior to its independence in 1966, Botswana had been a protectorate of Britain since 1885. In fact, it was known as Bechuanaland until it gained its independence. It was renamed Botswana after declaring independence from Britain, which means "the land of the Tswana" as the country's majority ethnic tribe (Mwakikagile, 2009: 73).

The Bechuanaland became a protectorate in 1885 as a result of its request of assistance from Britain. During the new imperialism period in 1880s, European powers started to colonize Africa which is referred as 'the scramble for Africa'. Although Britain had no interest in the Bechuanaland territory, its response was positive for the aim of protecting the territory from a possible German invasion. In order to pursue its strategic and economic interest in Southern Africa, Britain needed to prevent the formation of an alliance between Germans in Southwest Africa and Boers in Transvaal⁴. Establishment of the Bechuanaland protectorate, therefore, was in the interests of both Bechuanaland and Britain. After eliminating German and Boer interests, Britain became disinterested in the country and its development. In fact, Britain left the rule of people to the chiefs as it was before. The capital of the

⁴ The Transvaal Republic was a state established in the South African region by the Dutch Boer community between 1857 and 1902.

country back then was not in the territory of Bechuanaland, but it was Mafikeng in South Africa. Therefore, it is no surprise that in terms of racial relations, Botswana was heavily influenced by South Africa (Makgala, 2007: 2). Furthermore, there were attempts by the British to include Bechuanaland in Rhodesia and Union of South Africa, but this did not happen as a result of the resistance of the Tswana rulers. The idea of incorporation of Bechuanaland to South Africa was completely disappeared due to the election of nationalist government that adopted the apartheid regime in 1948 and departed from the Commonwealth in 1961. Indeed, the resistance of the Tswana rulers and people to protect their territorial integrity formed the basis of an independent and democratic Botswana (Tlou, 2006: 1). In contrast to the ethnic structures of the other African states, Botswana has a more homogenous ethnicity as the people from Tswana or Setswana tribe make up most of the population. As the research of Pariona (2017) shows that, there are three major ethnic groups in Botswana which are Tswana (79% of the population), Kalanga (11%) and Basarwa (3%). Other ethnic groups of Basubi, Bakgalagadi, Bayei, Bambukushu and Baherero comprise the 7% of the population (Pariona, 2017). Thanks to its relatively less ethnic diversity and conflict, Bechuanaland, whose population is mostly composed of Tswana tribe, did not have to deal with internal conflicts during the independence period.

Bechuanaland needed to be politically and economically improved as the country remained under the control of its own leaders and Britain. Through the years, there had been a growing nationalist spirit among the leaders and Tswana people. Supporters of Seretse Khama, who was a chief of the protectorate and later the first president of Botswana, started to organize movements in the 1950s. Khama was exiled from Bechuanaland by the British government as a result of his marriage with a British woman. In 1956, however, Khama denied his status of chieftainship and returned to the country. In 1962, however, Khama founded the Bechuanaland Democratic Party that is currently known as the Botswana Democratic Party (BDP). However, BDP was the second political party that was established in Botswana. In the early 1960s, a legislative council and the first political party of the country which was the Bechuanaland People's Party (BPP) was founded. These developments show that the country has started a political development process in the 1960s. The idea of

a democratic government in Botswana was accepted by Britain and consequently it started to accelerate political change. The capital of the country, for example, was moved from Mafeking in South Africa to Gaborone which is located near to Botswana – South Africa border. The most important political development occurred in 1965 when the country held its first general elections. As a result of the elections, Bechuanaland became a self-governing democratic state under the elected government of BDP with Khama being the prime minister. Finally, the country gained its independence and became the Republic of Botswana with its first politically elected president Khama in 1966. As an African country that became independent and democratic at the same time, Botswana has been referred as a unique country considering its environment surrounded by undemocratic neighbors. Further information related to the democratization of Botswana will be discussed in the following section.

3.3. DEMOCRATIZATION OF BOTSWANA

Botswana's transition to democracy when it declared its independence from the British rule in 1966 makes Botswana the oldest democracy in sub-Saharan African region. Unlike Botswana, many Southern Africa countries started their democratic transformation processes in 1989 when the third wave of democratization spread to sub-Saharan Africa. Furthermore, as Sandner (2016) states although the majority of African countries' fights for independence involved civil wars, Botswana's road to independence was peaceful.

After the independence of Botswana, it has become a multi-party system with representative democracy. Similar to South Africa, president of the Republic of Botswana has been both the head of the government and the head of the state. The government is in charge of executive authority whereas; legislative authority is left to the responsibility of the parliament and the administration. The judiciary is separate from both the executive and legislative branches. Democracy has become one of Botswana's four foundational pillars alongside with unity, self-reliance and development. These four principles were the guidance to the formulation of a democratic constitution in Botswana.

Since its independence, political elections have been regularly held in Botswana where opposition parties freely compete and all citizens, without any discrimination, enjoy their rights to vote. Therefore, Botswana's political system fulfills the minimal criteria of democracy which are the regular, free and fair elections. These kinds of democratic systems are called as 'deviant democracies' since the standard necessities that are indicated by the modernization perspective are not met, but they managed to adopt a democratic system while their neighboring countries remained undemocratic (Doorenspleet and Kopecký, 2008: 706). Botswana's turn into a democratic country in the early 1960s was a time period that Huntington referred as the second reverse wave of democratization that many democratic countries turned back to the authoritarian regimes (Doorenspleet and Kopecký, 2008: 702-703). However, this argument of Huntington is not precise as the moves from democratic to non-democratic governments do not outweigh transitions in the reverse direction. Doorenspleet and Kopecký (2008: 703) named this time period as an 'intermezzo', meaning that there were transitions to both democratic and authoritarian regimes. Thus, democratization of Botswana occurred in an elusive time when there was no apparent democratic or reverse wave. Despite this unstable time period and a non-democratic environment, Botswana managed to become an electoral democracy by going through a deviant transition (Good and Taylor, 2008: 752). However, having a functioning electoral democratic system does not mean that Botswana is a full-fledged democracy. On the contrary, Botswana is characterized as 'illiberal authoritarianism' and 'presidentialism' that shaped by top-down structures (Good and Taylor, 2008: 751). Furthermore, Good (2016: 2) pointed out that Botswana's democracy has authoritarian and elitist tendencies as a result of four interconnected and mutually supporting factors, namely development, growth, elite corruption and presidentialism.

The unsuitable conditions of the environment of Botswana complicated its democratic transition process in terms of geographic, political and economic reasons (Good and Taylor, 2008: 751-752). In geographical terms, Botswana was a new democracy in an environment with countries under the rule of hostile minority governments. Those countries have been, South Africa which was under the rule of apartheid regime; South-West Africa (now Namibia), Rhodesia (renamed as

Zimbabwe in 1979) and Angola which was under the control of Portugal and Mozambique (Good and Taylor, 2008: 750). Since the country was surrounded completely by non-democratic neighboring countries, the general environment was not suitable for an independent and democratic Botswana.

In economic terms, Botswana was among the poorest countries in the world by the time it declared its independence (Sebudubudu and Lotshwao 2009: 4). As Good and Taylor (2008: 751) indicated that Botswana had a poor resource of cattle industry which dominated the rural areas. Prior to its independence, Botswana had only less than 100 km of roads and 22 university graduates who studied in South Africa because there was no university in Botswana (Good and Taylor, 2008: 751; Acemoglu, Johnson and Robinson, 2012: 80). Even the capital of Botswana was not in the country but at Mafeking in South Africa (Good and Taylor, 2008: 751). Unlike South Africa and Rhodesia, Botswana was neglected by the British government for not providing development resources. By the time of independence, therefore, Botswana was an underdeveloped country in terms of its institutional structure.

Botswana had one of the poorest economies in the world prior to its independence, but it has gone through a remarkable economic growth in the aftermath of its independence. In fact, Botswana's current economic growth is among the highest economic growths in the world (Dionne, 2016). Botswana's poor economy based on cattle resources turned into an economy based on mineral resources which paved the way for its economic success. Specifically, mineral industry, most importantly diamond production, has been the most important factor regarding the economic development of Botswana (Acemoglu, Johnson and Robinson, 2012: 83). A large scale of diamond production started in the early 1970s, and over the years Botswana has become a leading country in diamond production. Although smaller contribution is made compared to diamond, Botswana's copper, gold, nickel etc. production has also played a role regarding its economic growth. Due to its impressive economic growth, Botswana has been considered as an African success story among political economists and scholars (Dionne, 2016). Some scholars argued that a country's level of economic development has no significant relationship with the democratic transition of that country (Przeworski and Limongi, 1997: 157; Przeworski, Alvarez, Cheibub and Limongi, 2000: 1954). From this

perspective, therefore, a country's democratic transition can occur at any level of economic development. Boix and Stokes (2003: 518), however, challenged this argument by stating that the level of economic development increases the likelihood of a country's transition to democracy. Furthermore, economic development has also a positive impact on the maintenance of the newly established democratic regime (Boix and Stokes, 2003: 524). In the case of Botswana, therefore, economic growth further solidified its democracy. High level of success in economy and politics, however, does not mean that Botswana has no socioeconomic problems that are harmful to its democratic consolidation.

There has been a need to expand the economy of Botswana as the diamond industry has become elusive. Although Botswana had a remarkable economic growth, the country suffers from the issues of high unemployment rate, inequality and poverty. In addition to these issues, HIV/AIDS has been a serious problem regarding Botswana's health, education and labor sectors. From a broader perspective, however, Botswana has been referred as "an African success story" or "an African miracle" by political economists due to its exceptional economic growth in both the sub-Saharan African context and a more general context (Acemoglu, Johnson and Robinson, 2012: 80; Samatar, 1999: 34).

In political terms, before declaring its independence from Britain, Botswana was not familiar to an electoral system in which the political leaders are elected through popular vote. It was under the rule of inherited chiefs as they both controlled patronage and served as brokers with the colonial powers. Furthermore, the chiefs fortified cattle ranches and enriched themselves at the cost of the peasants. In order to remain in power, chiefs monopolized the governmental institutions, banned political parties and pursued the old ethnic relations in which non-Tswana groups were under the control of the traditional tribe of Tswana. However, this strategy failed because of the death of Chief Tshekedi Khama during the early stages of the constitutional negotiations. After that, the chiefs gave up their status and started to support BDP which assured them to protect their positions.

Despite the unfavorable conditions that mentioned above, an electoral democratic system was established in Botswana. Although Botswana completed its transition to democracy during the time of its independence from the colonial powers

and established a minimal democracy despite of the deviant circumstances, it has been unsuccessful in terms of consolidation of democracy. Botswana's success of being an electoral democracy is not sufficient to consolidate democracy as the country suffers from low levels of voter turnout, weak civil society and growing illiberalism⁵ (Good and Taylor, 2008: 759). The nation nevertheless suffers from a number of significant democratic obstacles. In terms of citizens' participation in politics, there is no discrimination regarding the citizens' participation in politics as both white minority and other minorities are free to engage in politics. Lack of high levels of civic participation in the elections, however, has been one of the maintaining weaknesses of democratic system in Botswana. When looking at the political elections in Botswana, the voter turnout did not exceed 50% in most of them. Specifically, low voter turnout is highly common among the country's youth. Despite the efforts of Independent Electoral Commission (IEC) to increase the voter registration since its establishment in 1997, low levels of voter turnout have been intensified due to the lack of a strong civil society sector in Botswana. A weak civil society means that there is no sufficient action to educate citizens in terms of their participation to political elections. In contrast to majority of the African countries in the region, democratic transition of Botswana started when the country declared its independence. Therefore, there was no involvement of the citizens, civil society sector or opposition groups. Thus, a weak civil society and political opposition became a part of Botswana's political culture.

Another obstacle towards the democratic consolidation of Botswana has been corruption which can be seen already in most of the African countries. Even though the government of Botswana has been linked to corruption compared to the advanced democracies, it has been one of the least corrupted country in the region as it has shown high levels of accountability and transparency. Indeed, the Transparency International (2019) ranked Botswana as the 35th among the 180 countries in its Corruption Perceptions Index regarding the level of corruption. This makes Botswana the least corrupted sub-Saharan African country. However, Botswana is

⁵ As De Walle and Butler (1999: 18) defined, illiberalism is a democratic system characterized by competitive elections and a lack of political and civil liberties. For further information; De Walle, N. V., & Butler, K. S. (1999). Political parties and party systems in Africa's illiberal democracies. *Cambridge Review of International Affairs*, 13(1), 14-28.

not a corruption-free country and corruption is still one of the issues that are needed to be improved by the government. Furthermore, it has been advised to give more autonomy to monitoring groups such as the IEC in order to undertake government initiatives with more transparency. In addition, it has been classified as 'free' country by Freedom House since 1973. However, due to the decline in transparency and accountability in the executive branch of Botswana, there has been a deterioration of political rights.

Institutional foundations are considered as important indicators for a country's democratic consolidation process. Regarding the case of Botswana, one of the institutional foundations is the electoral system which has been successful as the country has been holding regular free and fair elections since its independence. Furthermore, Botswana's parliamentary system is another foundation that plays an important role regarding the democratic consolidation in terms of policy formulation and the use of state power (Van der Nest, 1999: 24). The president of Botswana, however, attained too much power by being the only one in charge of the executive power. Therefore, there have been great concerns regarding the power of the presidents as they might use the state resources for their own good. In the case of Botswana, President Khama utilized state resources for his own good and mainly for preserving his status and power. Under the rule of the Khama government, Botswana acted in a nondemocratic manner which contradicted with its constitutional pillars. Some of the nondemocratic actions of the ruling party were mostly related to use of violence as it was accused of harassing, assassinating, or threatening the opposition leaders and such kind of actions (Schedler, 2001: 70-71). These practices of the government were completely in contradiction with the country's governing system of democracy. In the case of Botswana, BDP is implementing radical strategies in order to preserve its place as the dominant party which highly affects the democratic consolidation in a negative way.

Botswana's electoral system has also affected the consolidation of democracy as it restricts the political competition in the country. Since its independence, Botswana has been using the first-past-the-post system as its electoral system. It is an electoral system that produces single party government as the party with the most votes becomes the only winner of elections and gets the seats of the parliament. This

electoral system, therefore, creates a dominant party system and does not provide any representation for the opposition groups as they receive no legislative seat. In turn, most of the issues related to human rights or socio-economic rights cannot be deliberated in the parliament. Thus, Botswana's democratic consolidation is negatively affected due to the lack of representation of the voices of vulnerable and opposition groups. Furthermore, despite being a multi-party republic, Botswana has been under the rule of BDP government since the establishment of the republic in 1966. In fact, this can be seen as a democratic deficiency despite the success of Botswana in terms of holding regular, free and fair elections.

According to Huntington (2012: 266), the party that came to power in the first election in the transition to democracy should peacefully hand over power to the winners of the elections when it loses. Thus, the winners of the election will peacefully hand over power when they lose a subsequent election. This is what Huntington refers as the 'two turnover test' that aims to measure whether democracy is established in a country or not (Huntington, 2012: 266). Therefore, Botswana, which has not yet experienced another party rule other than the BDP, could not complete this test. When looking at the African continent, it can be noticed that there is a tendency of being one party dominant democratic state due to the quality of political elections. Naturally, opposition parties in Botswana have been remained weak as they cannot portray themselves as a viable alternative to BDP. Even BDP showed in its 2004 election manifesto by stating that "there is no alternative" other than itself (Lekalake, 2016: 3). For the first time since the first elections in Botswana's history, however, BDP was not able to win two-thirds majority of the parliamentary seats in the 2014 general elections. Accordingly, Umbrella for Democratic Change (UDC) was able to win 17 of the 57 seats in the parliament (Lekalake, 2016: 3).

Despite of the democratic deficiencies mentioned above regarding the democratic system, Botswana managed to preserve its image of labelling as an "African success story" because of the scope, speed and persistence of its socio-economic and political growth, compared to the regional failures (Acemoglu, Johnson and Robinson, 2012: 80). Botswana has been the oldest and still ongoing democracy in the African continent. This is a serious achievement that has been

maintained for almost sixty years despite of the aforementioned democratic challenges, economic weaknesses and the unfavorable environmental conditions. Civil society of Botswana which will be discussed in the following can be considered as another obstacle towards the democratic consolidation of the country.

3.4. CIVIL SOCIETY IN BOTSWANA

Unlike the economic and political success of Botswana, civil society sector in the country has been weak both before and after its democratic transition. As Holm, Molutsi and Somolekae (1996: 49) argued that rivalry between the elites dominated the politics during the pre-colonial, colonial and post-independence periods of Botswana. Until the democratization of Botswana, civil society in the country was not considered as legitimate.

In a country's democratic transition and democratic consolidation processes, civil society's role is an important indicator as it bears the role of stabilizer and it keeps the government accountable to the society (Kumar, 2011: 26). Even though the civil society sector in Botswana is a work in progress that has not been able to fulfill its mission, it has managed to accomplish tangible outcomes in some areas that contributed to the development of the country. Indeed, it would be inaccurate to ignore the assistance of civil society in Botswana on the influence of public over the policy making process (Holm, Molutsi and Somolekae, 1996: 52). Botswana's civil society undertakes an important task to promote issues to be discussed on the national agenda which is mostly shaped by the ethnic matters. Furthermore, development of the civil society in Botswana has taken a long-term process and has become more effective compared to the other historical time periods of the country. As Holm, Molutsi and Somolekae (1996: 56) argued that democracy and civil society in Botswana have existed and worked in conjunction with each other. Therefore, in order to develop and ultimately consolidate democracy in Botswana, a strong civil society is needed; and for a stronger and more influential civil society, a robust democracy is needed.

CSOs are important elements of civil society as they raise awareness among citizens about issues related to human rights, environment, labor rights etc. By doing

so, CSOs can mobilize people to take part of their campaigns against a specific issue. Thus, CSOs can take their campaigns to an international level and influence the decision-making process by exerting stronger pressure on the state. Although in the 1990s, CSOs started to grow rapidly in terms of quantity and activeness, the situation in Botswana was different. Indeed, there was a growing development regarding the number of new indigenous CSOs. Some of the organizations such as the Botswana Network of AIDS Service Organizations, Humana People to People and Botswana Network of People Living with HIV/AIDS focused on the HIV/AIDS related issues, as the most serious problems in Botswana, through launching campaigns in order to raise awareness. There are also numerous organizations in Botswana which have focused on gender related issues such as the Botswana Council of Women, Women Against Rape and Women's NGO Coalition. When looking at the influence of CSOs over the government of Botswana, however, they have not been as much influential actors as it is expected since they have faced structural and financial problems.

Furthermore, CSOs in Botswana have been relatively weak because of the country's four decades-long social and political instability and the unquestioning behavior of the citizens which became a part of the culture (Mogalakwe and Sebudubudu, 2006: 210). Although Britain declared its sovereignty over Botswana in 1895, the chiefs in Botswana took decisions and ruled the country without being under the control of the society and the institutions until the 1950s. In fact, citizens of Botswana preferred their chiefs to take decisions on behalf of them before Botswana's independence and transition to democracy. Thus, it has become a political culture of Botswana as the citizens have not been involved in the decision-making process. That was previously left to the chiefs before the democratic transition and now it has been left to the president and parliament.

Botswana's parliamentary democracy is based on its traditional political structure which has embraced the male supremacy in terms of discussing the issues, making policies and setting the agenda. Women, younger men and minorities have been excluded from the political processes (Molutsi and Holm, 1990: 325). It is entirely up to the chiefs to set the agenda, through discussing the issues with their relatives and a council. Thus, political decisions were made by the chiefs and the political elites in Botswana which means that public was not included in discussions

and formulation of policies. The public, who was excluded from political life, did not have the consciousness of questioning and accepted that they did not have a voice in the decision-making process. Thus, non-questioning has become a culture in Botswana and the political elites have been considered to be the most authoritative in terms of making decisions.

As Molutsi and Holm (1990: 326) argued that the government of Botswana applied some corporatist tactics which strengthened its status and power. As mentioned above, government and the ministries were responsible from policy-making process, communication processes and channels, creation and control of non-state groups. Thus, politics in Botswana belonged to the chiefs and elites as normal citizens were not allowed to participate it. Therefore, civil society in Botswana has remained weak as it has suffered from limited capacity to be organized. There has been few political groups and private newspapers which are weak, so there is no culture of organized groups. Decision makers do not tend to deliberate policies with the public. However, periodically, chiefs organize conferences to persuade public in order to make them believe that there is no alternative option.

The culture of non-questioning has been also linked to the non-participation of the Botswana people in the elections. As mentioned before, low levels of voter turnout have been a challenge regarding the democratic system of Botswana. Therefore, the system in the country lacks participation of citizens in democratic processes. In essence, civil society plays an important role in terms of educating the citizens about their social and political rights, human rights and democracy in general. Moreover, it also provides knowledge about the structure and functioning of the government and electoral system of the country. In order to educate and encourage citizens to participate in political elections in Botswana and to increase the voter turnout, civil society and IEC have been working together. Therefore, citizens are informed on the upcoming elections, regulations and procedures of the electoral system.

Despite of the weakness of civil society and CSOs in Botswana, one particular CSO among the others has become relatively powerful and influential. *Ditswanelo*, also known as Botswana Centre for Human Rights, is the most effective CSO that has been actively campaigning against the human rights abuses, HIV/aids,

gender related issues, strengthening and developing civil society and death penalty. Therefore, *Ditshwanelo* stands out as a significant organization as it has pioneered the fight against violation of human rights in Botswana through launching campaigns to lobby the government to take actions regarding the improvement of human rights. Furthermore, *Ditshwanelo* also aims to strengthen civil society and good governance in Botswana.

Ditshwanelo has a disadvantage in terms of financial assistance as it is not funded by the government but mostly by the volunteers and donor agencies. However, donors reduced their financial assistance as Botswana had been categorized as an upper middle-income country in 2005 (Lekorwe and Mpabanga, 2007: 3; McCaig, McMillan, Verduzco-Gallo and Jefferis, 2015: 2). Thus, financial issue has been a great obstacle regarding the effectiveness of the organization. Despite the financial and other structural difficulties, *Ditshwanelo* has been working on the issues related to human rights by promoting and assisting people in Botswana since its establishment in 1993. *Ditshwanelo* specifically highlights the human dignity as a principle which must be ensured to all people by the government of Botswana. According to the organization, for a country like Botswana which is one of the leading democracies in Africa, it is necessary to pay attention to provide equality, accountability and human rights as important elements achieving democracy and democratic consolidation.

Ditshwanelo has been actively advocating for the abolition of death penalty in Botswana since its establishment. In 1999, *Ditshwanelo* started an educational campaign that aimed to raise awareness among people regarding the abolition of death penalty. For the education of public in terms of the abolition of death penalty, *Ditshwanelo* distributed pamphlets that explained the reasons to abolish the death penalty. It prepared and published newspaper inserts and made t-shirts. Furthermore, the organization held a panel discussion about the abolition of death penalty at the University of Botswana. Even though the majority of the citizens in Botswana still favor the maintenance of death penalty as a legal punishment, these efforts of *Ditshwanelo* have been considerable. Indeed, the organization continues to work on the abolition of death penalty alongside with the other issues that need to be improved in Botswana.

3.5. ABOLITION OF DEATH PENALTY IN BOTSWANA

Despite the growing global trend of abolishing the death penalty, there are 13, out of 54, retentionist African countries that continue to use death penalty as a legal punishment for ordinary crimes. Botswana has been one of the retentionist African countries that implements death penalty for the crime of murder. In fact, Botswana has been the only retentionist country among the 16 member countries of the Southern African Development Company (SADC). Most of Botswana's neighbors are also abolitionists: South Africa and Namibia are abolitionist for all crimes and Zambia is abolitionist in practice. Besides Botswana, Zimbabwe, Lesotho and Swaziland are the countries that retain the implementation of the death penalty in sub-Saharan African region.

When looking at the history of Botswana, one can notice that the death penalty has become a culture in the country. Prior to the independence of Botswana, the chief had the authority to implement death penalty to punish the crimes of murder, sorcery, conspiracy and incest. During the period of under the British rule as a protectorate, death penalty became a part of Botswana's general criminal law (Macharia-Mokobi, 2016: 4). Furthermore, after the independence and democratic transition of Botswana, death penalty has continued to be used by the government as a legal punishment in the cases of murder. Death penalty became a rule with the Penal Code of Botswana in 1964. Under the Penal Code of Botswana, the crimes that are punished by the death are murder, treason and encouraging a foreigner to invade Botswana. Furthermore, offenses of assisting the enemy and rebellion are subjected to the death penalty if found guilty by a military court. Executions are carried out in the form of hanging and generally occur some years after the trials. However, there are some limitations regarding the implementation of death penalty in Botswana. The death penalty cannot be applied to the person who is under the age of 18 at the time the crime was committed. Similarly, death penalty cannot be applied to pregnant women. If the court confirms that the woman convicted of murder is pregnant, the death penalty is not applicable and the woman is sentenced to life in prison.

Although not all executions are known in Botswana, one execution in average is carried out annually. From its independence in 1966 to 2016, there were 50 known executions that took place in Botswana (Macharia-Mokobi, 2016: 21). According to

the data from the World Coalition Against the Death Penalty (n.d.), seven executions carried out in Botswana between the years of 2019 and 2021. Three of the executions took place in 2021 and currently there are 51 individuals who are sentenced to death.

As mentioned above, the leading local CSO that works on the human rights issues in Botswana is *Ditshwanelo* which has been advocating for human rights in the country since its establishment in 1993. Indeed, the organization has been working steadily towards the abolition of death penalty in Botswana. *Ditshwanelo* also lobbies government to participate international treaties. In fact, Botswana is among the signatory countries of few international agreements on the implementation of death penalty such as the International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination Against Women, ICCPR, Rome Statute of the International Criminal Court and UN Convention Against Torture. However, Botswana's abolition of the death penalty is not binding unless these international agreements are incorporated by law into Botswana's domestic law. Thus, death penalty in Botswana remains constitutional.

Even though the constitution of Botswana allows the accused persons to be represented by attorneys, in some cases these people cannot afford attorneys. *Ditshwanelo*, therefore, acts for these people to get legal representation in the cases of death penalty and child abuse. The government pays for the expenses of the accused people that could not afford an attorney for them to be represented at the court. This is a service called the Pro Deo counsel provided by the High Court for criminal matters such as murder and treason which may result in the accused being condemned to death. As *Ditshwanelo* pointed out, however, the sufficiency of the counsel is in question as there are some issues related to the system. First, attorneys that assigned to these types of cases are often inexperienced, so they cannot be able to represent a person sentenced to death properly. Second, Pro Deo attorneys are not well motivated to represent their clients as their wages are below from an average attorney fee. Lastly, the counsel has troubles to be appropriately prepared for the cases due to the lack of resources.

The abolition of death penalty in Botswana is still a debated issue. In fact, there are both local and international pressures to encourage the government of

Botswana to abolish the death penalty. However, there are considerable obstacles regarding the idea of abolition of death penalty in Botswana such as constitutional savings clause, public opinion that is in favor of retaining the death penalty, inadequate legal representation of accused people in capital cases, the process of clemency and secret executions (Macharia-Mokobi, 2016: 56-60).

According to the 2021 report of Statistics Botswana (2021), the rates of homicide murders notably increased from 4.1% in 2018 to 6.7% in 2019. Due to the country's high crime rates, the people of Botswana believe that a deterrent punishment, such as the death penalty, is needed. Death penalty has been a part of Botswana's political culture since the pre-colonial years. Therefore, the death penalty can be seen as part of the customary culture for the Botswana people and as a deterrent punishment for crimes. In addition, South Africa's experience with the abolition of death penalty has also strengthened the public opinion on the maintenance of death penalty in Botswana as it has high rates of crimes such as murder and robbery. In fact, the number of murder in South Africa between 2018 and 2019 was 21.022 and it increased by 1.4% to 21.325 between 2019 and 2020 (South African Police Service, 2020). These high murder rates in South Africa, therefore, may have further convinced the people in Botswana that a deterrent punishment is required. As a result, public support for death penalty further encourages the government of Botswana to remain retentionist. In fact, public's positive stance towards the implementation of death penalty has been publicly stated by the president of Botswana which indicates the effect of the public opinion on the retentionist stance of the government.

Botswana's stance towards the abolition of death penalty will be discussed in the following chapter by comparison with the attitude of South Africa on the abolition. Thus, the challenges towards the death penalty in Botswana and why did they fail will be analyzed in the next chapter.

CHAPTER FOUR

COMPARING CASES: SOUTH AFRICA AND BOTSWANA

This chapter will provide a case comparison between South Africa and Botswana in terms of the role of CSOs in the abolition of the death penalty. Despite being the most democratic countries in the sub-Saharan African region, the two countries differ in their attitudes towards the most serious human rights issue: the right to life. While the death penalty was abolished in South Africa in 1995, it has been still used as a legal punishment for the crimes of murder and treason in Botswana. Although these two countries have historical and political similarities, the differences in their democratic institutions and civil society structure help to explain their different approaches to capital punishment. The main aim of the research is to examine the role of CSOs in affecting the abolition of the death penalty. Therefore, the influence of AI, which is the leading organization regarding the abolition of the death penalty, on South Africa and Botswana will be analyzed.

To understand the role of CSOs in the abolition of the death penalty, it is crucial to look at the campaigns of the organizations. Thus, the question is how AI managed to affect the process of abolition of the death penalty in South Africa but failed in Botswana. To answer this question, the strategies of AI regarding its global campaign against the death penalty will be analyzed in the framework of Keck and Sikkink's 'boomerang pattern'. Both AI and local abolitionist organizations will be examined in this framework to explain the different attitudes of South Africa and Botswana towards the death penalty.

4.1. AMNESTY INTERNATIONAL AND THE ABOLITION OF THE DEATH PENALTY

AI is an independent INGO that aims to protect and promote human rights around the world. It is a voluntary and grassroots human rights advocacy organization with more than 2 million members, 5 million activists and 50 international offices around the world. Therefore, AI is a global movement that puts the fight against any kind of human rights violation as its primary mission. AI's main

aim is to achieve a world in which all people enjoy all the human rights that are subjected to the UDHR and other human rights standards. In order to achieve this goal, AI undertakes researches and takes actions to prevent and end the abuses of human rights as its mission.

This UK-based organization was founded by a lawyer, Peter Benenson, in 1961 when his article called 'The Forgotten Prisoners' was published in The Observer newspaper. This article was a reaction to the imprisonment of two Portuguese students because they toasted to freedom by the decision of the government under the National Union Party in 1960. With the publication of this article, a campaign was launched and gained a significant response around the world. Thus, the idea of creating a global solidarity for justice and freedom was born. Benenson (1961: 21) came up with the term 'prisoners of conscience (POCs)' to define these Portuguese students and he further explained the term POCs as follows: "Any person who is physically restrained (by imprisonment or otherwise) from expressing (in any form of words or symbols) any opinion which he honestly holds and which does not advocate or condone personal violence". The term POCs was started to be used more frequently as AI continued to collect and exchange information, launch campaigns, write letters to the governments in order to defend people that were jailed because of their beliefs and opinions. In its first years, AI focused on POCs, but through the years it started to deal with any kind of human rights abuses in the world.

AI is an advocacy network that primarily collects and distributes information that can be considered proof of human rights abuses. By publicizing the information, or threatening governments about publicizing the information, AI mostly "shames and names" governments to make them comply with international law. This is what Keck and Sikkink (1998: 18-23) referred to as information politics and leverage politics in their explanation of the global advocacy network. AI collaborates with the local advocacy organizations to gather usable information through information politics. By leverage politics, AI uses this information to shame and name governments in order to pressure them to change their attitudes. AI aims to persuade both government officials and their constituents in terms of encouraging them to put human rights into consideration in the process of policy construction. This is the core

strategy of AI to protect and promote human rights. AI claims that governments are responsible to protect and promote human rights and they are obliged to abide by the international human rights laws that they have agreed to.

The abolition of the death penalty is one of the main issues that AI has been making campaigns for years. AI is opposed to death penalty in all circumstances with no exception. Therefore, who is blamed, the nature of the crime, method of execution or any other thing is not considered as an exception because the death penalty is not acceptable in any case. AI considers the death penalty as the “ultimate cruel and barbaric punishment” which must be prevented in all countries (Amnesty International, 2021b). Basically, AI claims that the death penalty does not comply with human rights and particularly breaches rights such as the right to life, freedom from torture and violence and freedom from cruel treatment or punishment. These rights are subjected to the UDHR and AI insists that these rights must be protected and all people must enjoy these rights. International law restricts the use of death penalty to the most serious crimes, but AI regards death penalty as the ultimate invasion of human rights and it should not be used in any circumstances as a punishment. Therefore, AI has devoted itself to the idea of a world full of abolitionist states and it has been launching global campaigns against the death penalty since the late-1970s.

The number of abolitionist states was only 16 when AI started to campaign against the death penalty (Amnesty International USA, n.d.). Currently, there are 108 fully abolitionist countries, 8 abolitionist countries only for the ordinary crimes, 28 countries that are abolitionist in practice and 55 retentionist countries that still use death penalty as a legal punishment (Amnesty International, 2021a: 57). Since the late 1970s, more than two-thirds of the world’s countries have been abolitionist in law or practice, according to these figures. Even if there have been some setbacks, the worldwide trend toward abolition of death penalty is not decreasing.

Through its annual reports and articles on its website, AI exposes governments that continue to use death penalty as a punishment. In its annual reports, AI examines every single country in terms of its performance regarding human rights. The issue of death penalty holds an important place in these reports. AI shares both the improvements and challenges in the implementation of death penalty in each

of them. In its latest annual report, AI stated that Egypt, Iran, Iraq and Saudi Arabia have been the countries where death penalty has been commonly imposed (Amnesty International, 2021a: 58).

AI follows different strategies regarding its stance against death penalty. It launches advocacy and campaign-based projects in several regions such as Africa, Central Asia, Americas and so on. Moreover, it enhances national and international standards that are against the use of death penalty. For example, AI supported the adoption of the UN General Assembly's resolution on the death penalty moratorium⁶. In fact, AI was identified as the main organization that had influenced the issue at the UN level. It can be argued that AI will not miss a chance to collaborate with other organizations to abolish death penalty. Therefore, it supports national, regional and global actions that are in line with the abolitionist movement.

As mentioned above, AI considers death penalty as the “ultimate cruel and inhuman punishment” and that is why the organization opposes the use of death penalty in any case without an exception. For an organization that prioritizes the protection of human rights as its mission, the use of death penalty is not acceptable, because it breaches two of the basic human rights which are the right to life and the right to live free from torture. Even though these rights are subjected to the UDHR by the UN, the world is not still death penalty free. Through the years, in fact, abolitionist countries have outnumbered retentionist ones, but AI's final aim is to reach the point where no country uses death penalty as a punishment at all. For over six decades, in order to realize its goal, AI has been dealing with this issue by monitoring the states, launching campaigns against the use of death penalty, publishing annual reports, using social media to raise awareness on the issue, “*shaming and naming*” the countries that use capital punishment and so on.

Furthermore, AI points out five reasons for abolishing the death penalty. First, Amnesty International (2021b) argues that the death penalty is irreversible and there is always a possibility of executing an innocent person. Second, countries that use death penalty claim that it is a means to deter crime, but AI argues that there is

⁶ The first resolution of the UN moratorium on the death penalty was presented by the European Union to the General Assembly and it was approved on December 18, 2007, with 104 out of 187 votes in favor of the resolution. Even though it was only a call for a global suspension, not the abolishment, of the death penalty in the world, the resolution was considered as a first step to reach a death penalty free world. For further information please see: <https://www.un.org/press/en/2007/ga10678.doc.htm>.

no evidence that shows the death penalty is more effective in terms of deterring crime than other punishment methods such as life imprisonment (Amnesty International, 2021b). Third, death penalty is mostly used in distorted judicial systems, which refers to an execution that takes place after an unfair trial and AI argued there has been several cases in which people were executed after unfair trials and poor legal representation (Amnesty International, 2021b). Fourth, death penalty is discriminatory which means that the less advantaged groups of people in terms of their socio-economic backgrounds, races, ethnicities or religions are the ones that have suffered from the punishment (Amnesty International, 2021b). Fifth and last, AI argues that the death penalty is used as a political tool by the authorities to strengthen their power by punishing political opponents (Amnesty International, 2021b).

Since the late 1970s, AI has been campaigning to abolish the death penalty all around the world. AI monitors its use by all states to expose and hold to account governments that continue to use the ultimate cruel and inhuman punishment. Every year, AI publishes reports in which it analyzes the current trends regarding the death penalty in every country. The organization's work to oppose the death penalty takes many forms, including targeted, advocacy and campaign-based projects in Africa, Asia-Pacific, Americas, Europe and Central Asia regions; strengthening national and international standards against its use, supporting the successful adoption of resolutions on a moratorium on the use of the death penalty by the UN General Assembly; and applying pressure on cases that face imminent execution. Thus, AI supports any action that contributes to the increasing trend of abolishing the death penalty at national, regional and global level.

One of the successful anti-death penalty campaigns of AI is saving Hafez Ibrahim, who is from Yemen, from execution for two times. Even though he claimed that he was innocent, he was sentenced to death in 2005 and 2007. With the campaigns of AI, the President of Yemen was persuaded and the execution of Hafez Ibrahim was stopped (Amnesty International, 2021b). There are several examples similar to this case and it shows that AI can influence decision-makers to withdraw their decisions on the execution of someone. Therefore, being heard by AI is crucial for someone who is sentenced to death, because AI has the mission to launch global campaigns to share the story and stop the execution.

The following section will compare the cases of South Africa and Botswana, with an emphasis on the influence of CSOs, namely AI, in the abolition of the death penalty. Although these two countries are the leading democracies in Africa, CSOs maintained a more successful campaign in South Africa to abolish the death penalty, but they could not have the same effect in Botswana. The difference in the attitudes toward the death penalty and the involvement of CSOs in the process of abolition that resulted in opposite ways in South Africa and Botswana will be examined in the framework of the boomerang pattern.

4.2. EMPIRICAL COMPARATIVE ANALYSIS OF THE CASES

Different democratic institutions in South Africa and Botswana resulted in different democratic systems regarding the involvement of opposition parties and civil society actors to affect the decision-making process. Furthermore, despite judicial bodies in South Africa and Botswana challenged the use of the death penalty as a legal punishment, their involvement in the process resulted with different outcomes. Different approaches of the use of the death penalty in South Africa and Botswana will be discussed through comparing these cases in the framework of democratic institutions, involvement of the judicial courts and the influence of CSOs.

4.2.1. Democratic Institutions

The link between democracy and the norm of abolishing the death penalty cannot be denied, as democratic states mostly respect human rights and thus, people's right to life. Indeed, the possibility of abolishing death penalty increases with a country's transition to democracy (McGann and Sandholtz, 2012: 280). Therefore, one of the factors that affect the country's decision to abolish the death penalty is democratic transition, as it increases the likelihood of the abolition of the death penalty. Since authoritarian governments insist on keeping the death penalty and do not respect human rights as democratic governments do, the abolition of death penalty has traditionally been linked with democratic countries. However, not all democratic countries have abolished the death penalty. When comparing the cases

of South Africa and Botswana, both of which are democratic and have been the leading democracies in the sub-Saharan African region. However, South Africa abolished the death penalty in 1995, whereas Botswana has continued to use it today. Thus, it can be argued that although the relationship between democracy and the abolition of death penalty is ambiguous, the diversity of countries' democratic institutions can affect their attitudes towards the death penalty.

The explanation of why some democracies are abolitionist while others are retentionist can be explained by institutional differences. According to McGann and Sandholtz (2012: 276), the death penalty is more likely to be abolished in particular types of democracies than others. In fact, negotiated forms of democracy with a proportional representation system are more prone to the abolition of the death penalty (McGann and Sandholtz, 2012: 279). Moreover, democracies that are referred to as presidentialism with first-past-the-post⁷, or single-member plurality voting election systems tend to have plebiscitarian results. Thus, institutions that encourage a deliberative democratic system are more likely to lead to the abolition of death penalty than those that encourage plebiscitarian decision-making in which the abolition might not be on the agenda due to poor representation. Although both South Africa and Botswana became parliamentary democracies following their democratic transitions, they have adopted different election systems.

South Africa adopted a proportional representation system that allows smaller parties to be represented in the parliament, whereas Botswana adopted the first-past-the-post system in which the larger party is over-represented while the minority parties are under-represented. Therefore, institutional differences regarding the democratic systems of South Africa and Botswana can explain their different attitudes towards the abolition of the death penalty. In the case of South Africa, the ANC, which has been the ruling party since the country's democratic transition, engaged in a series of negotiations with the opposition parties regarding the abolition of the death penalty. Thus, it can be argued that the democratic structure of South Africa enabled other parties, groups and CSOs to engage in politics by affecting the

⁷ As Blais and Masicotte (1996: 42) argue, the candidate with the most votes wins the election in first-past-the-post or plurality systems in which opposition candidates are underrepresented. For further information, please see: Blais, A., & Massicotte, L. (1996). Electoral systems. *Comparing democracies*, 2, 40-69.

political agenda as they could bring some issues to the consideration of the government. On the contrary, the abolition of the death penalty has not been debated in Botswana since its democratization and it has not been on the agenda of the ruling party, the BDP, which favors retaining the punishment. Despite the efforts of *Ditshwanelo* and international humanitarian organizations to encourage the government to change its attitude towards the death penalty, the government of Botswana insists on its retentionist attitude.

4.2.2. The Judicial Challenges Against the Death Penalty

In South Africa, death penalty was abolished with the decision of the Constitutional Court in 1995 when the president of the court stated that death penalty was harsh, barbaric and contradictory regarding the constitution of South Africa. In South Africa's constitution, the right to life and human dignity are the most emphasized fundamental human rights. Therefore, in order for all individuals to enjoy these and other fundamental human rights, the death penalty cannot be employed as a punishment for anybody. As a result of this decision by the Constitutional Court, a historical decision to abolish the death penalty was taken.

In the case of Botswana, there were also some interventions and signals by the courts to challenge the order of executions. However, none of them has been effective enough to persuade the government of Botswana to change its retentionist attitude towards the death penalty. One of the challenging cases to the application of the death penalty as punishment is *State v Ntesang*, in which the judge acknowledged that the method of execution, which was hanging, might be regarded as torture or inhuman treatment. Despite the decision to execute by hanging, the judge stressed the resolutions of the UN about the global trend of elimination of the death penalty with the aim of encouraging the Botswana government to reconsider abolishing it (Swartz, 2012: 101). This action of the court, however, did not affect the attitude of the government of Botswana.

The other challenging case was related to the issue of prolonged death rows. Prolonged trials also increase the inhuman and degrading treatment of the accused on death row by the government of Botswana. In the *Kobedi v State case*, which is one

of the first cases to challenge the death penalty in Botswana, the appellant waited on the death row for 56 months. In fact, as Swartz (2012: 105) argues, the death sentence might be claimed to be illegal since it violates Article 7 of the Botswana Constitution, which protects against cruel and degrading treatment. Thus, the execution of the appellant after a prolonged confinement on death row would be an inhumane and degrading punishment. Therefore, the Botswana Court of Appeals concluded that the death penalty could be regarded as unconstitutional due to the problem of prolonged death row and it was acknowledged in the *Kobedi case* that the prohibition of cruel or degrading punishment could be disregarded (Swartz, 2012: 103).

As Swartz (2012: 104) pointed out, the judge pointed out in the *case of Mosarwa v the State* that there was a growing global trend towards the abolition of the death penalty which was clearly expressed by the UN. However, it was not the responsibility of the courts to re-write the constitution. The Constitution of Botswana mandates that if a court of competent jurisdiction imposes the death penalty, such a decision must be maintained. The Court of Appeal in Botswana emphasizes its role as an interpreter of the constitution and therefore, it does not have the legislative function to re-write the constitution, which is the responsibility of the government's legislative branch. However, if the appeal court decides not to impose such a punishment, it may overturn the death penalty and impose the appropriate sentence (Swartz, 2012: 104). The death penalty has been frequently stated by the Court of Appeal of Botswana that it is cruel, barbaric and inhuman. Therefore, it can be expected that the Court of Appeal in Botswana may play a key role in the abolition of the death penalty as a result of this stance.

In the case of South Africa, it was the *case of S v Makwanyane* where the president of the court stated that there has been no evidence that shows the death penalty has been more effective than life imprisonment in terms of the deterioration of crimes. Thus, the death penalty in South Africa was abolished with the decision of the Constitutional Court (Swartz, 2012: 102). In the case of Botswana, however, the courts' challenges were not effective enough to persuade the government to change its policies regarding the death penalty.

4.2.3. The Role of CSOs in the Abolition of the Death Penalty

4.2.3.1. South Africa

CSOs were critical actors in terms of influencing South Africa's stance towards the abolition of the death penalty. The role of CSOs was critical because there were only a few local groups that defended the abolition and these groups were not as influential as the international CSOs such as AI and HRW. In particular, AI played the role of chief organization by collecting and circulating information in the South African case of abolishing the death penalty. The local groups helped the AI by enabling to reach enough and credible information to take this issue in South Africa to the international stage. Therefore, through applying its information, symbolic, leverage and accountability politics, AI highlighted the need to abolish the death penalty in South Africa.

AI regards the death penalty as unacceptable in any condition, therefore it has been working on the abolition of the death penalty for many years. The most important contribution of AI to change or end a human rights violation is to disseminate credible information by publishing newsletters, reports and statistical data about the related issue. In addition to publication of annual reports in which AI shares the death penalty updates country by country, it also prepares newsletters that illustrate the global campaign for the abolition of death penalty and investigate the executions in each state. In the South African case, AI published several reports on death penalty and executions in the country between the years of 1991 and 1993 (Warren, 2020: 9). AI urged the South African government to abolish the death penalty and mobilized people to send telegrams, faxes and letters to the president to take action. By publishing these reports on executions, AI guided the way for a death penalty free South Africa with its powerful international campaigns. Furthermore, South Africa continued to be subjected to these newsletters several times on its way to complete abolition.

As the chief of information, AI played a critical role by disseminating information and lobbying states for a policy change. As Keck and Sikkink (1998: 15) argued, rather than local and small advocacy groups, INGOs that are capable of

appealing to and impacting a wider audience play the leadership role in these advocacy networks. INGOs are suitable for the leadership role as they can use their power of influence to reach credible information and draw international attention to the issues. In South Africa, which had a fragmented system, where different authorities controlled the executions, AI's role as a leader was important in terms of organizing the local network. In general, AI has called for an action to mobilize and organize the local network in South Africa at the end of its reports and newsletters.

By encouraging states and local groups to take further action, AI proved its critical role regarding the promotion of the campaigns and the enlargement of the sphere of the network. As Warren (2020: 9) stated, advocacy networks work around two indicators: information and action. It is appropriate to argue that this assumption also fits the AI's efforts to call for an action as the organization continued to publish current progress on the abolition of the death penalty in South Africa. To call for an action, AI usually encourages people and local groups to speak up for their demands by sending letters, telegrams and e-mails to the government officials. Therefore, people would write letters either in English or their own languages to stand against the governments' decisions that conflict with human rights.

In 1993, for example, the South African Parliament decided to end the moratorium on the death penalty. This decision was interpreted as a sign of the return of executions in South Africa and AI immediately warned of the danger by publishing a newsletter that can be used as a guide to oppose the South African Parliament's decision. Basically, AI recommended people to express their concerns about the revival of executions because of the Parliament's decision to lift the moratorium on the death penalty by sending telegrams and faxes. Although the South African Ministry of Justice indicated that this decision did not mean that executions would start directly, the concern about the ambiguity of the status of the death penalty might cause many prisoners to be sentenced to death. In its newsletters, AI referred to the approval of the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* by the South African government in January 1993. Specifically, AI informed the local abolitionist groups such as *Lawyers for Human Rights and Society for the Abolition of the Death Penalty* on the necessity of this action.

Even though local abolitionist groups are mostly the ones that need information from global organizations, in some cases INGOs depend on the information of these local groups and organizations. For example, AI included a case taken by *Lawyers for Human Rights* in one of the bulletins titled with 'Death Penalty in Practice' in 1991. This case was about a South African man, Alpheus Sekoboane, for whom *Lawyers for Human Rights* guided the application of petition for compassion. However, Sekoboane's application was not approved and he could not escape from execution. *Lawyers for Human Rights* reported this case to AI and the case was presented to the world as a result of the information exchange between a local organization and an international organization. The 'boomerang pattern' can be seen in this interaction of information exchange between local and international abolitionist organizations. Through pressuring and mobilizing the network in South Africa, AI showed its usage of the politics of leverage and accountability. One of the most important roles of AI is to be able to make weaker groups' voices heard at the global stage. In the South African case, for example, AI's speech at the 47th Session of the UN Commission on Human Rights in 1991 was directly about the human rights in South Africa (Warren, 2020: 10). The fact that judicial executions were decreasing in South Africa was praised by AI during the speech. According to Keck and Sikkink (1998: 23-24), these actions by AI are classified as leverage and accountability politics. Through leverage politics, AI aims to mobilize international institutions through shaming the norm-violating states to be internationally investigated. Through accountability politics, AI aims to persuade and influence governments, institutions and other actors to change their stance on norm-violating issues.

Local groups' collaboration with international organizations is based on their needs regarding the improvement of their campaigns. These groups can be in the need of financial resources, a channel to get international attention or a way to widen the scope of their network. Therefore, local groups usually team up with international actors to meet their needs and eventually achieve their goals. *The South African Network* pursued hard work with AI until the state's decision to completely abolish death penalty in 1995 (Warren, 2020: 10). Keck and Sikkink's 'advocacy network model' is appropriate to explain the joint work of South African local groups and AI.

On the one hand, there were local groups that transmitted information on the issues related to death penalty to AI and on the other hand, there was AI that constantly used the information to publish reports and newsletters to put international pressure on South African government. Thus, there is no doubt that the efforts of local and international civil society groups contributed to the government of South Africa's decision on the complete abolition of death penalty.

4.2.3.2. Botswana

As stated by AI, despite the abolitionist trend in the sub-Saharan Africa, Botswana retains death penalty as a punishment against crimes such as murder and treason (Amnesty International, 2021c). As AI states, death penalty is an ultimate cruel and barbaric punishment and there is no precise evidence of its effect in decreasing the rates of crimes. Therefore, life imprisonment is a more humane punishment compared to death penalty. By 'naming and shaming' the government of Botswana, AI keeps pressuring the authorities to establish a moratorium on death penalty as a first step towards its complete abolition. Similar to the case of South Africa, AI has been pursuing its leverage politics through 'naming and shaming' the government of Botswana due to its executions. In addition, by gathering information from the local organizations about the accused people that sentenced to death, AI uses its symbolic politics as it shares the stories of the accused people with the international audience.

Furthermore, AI advises the government of Botswana to improve its judicial system and fair trial process rather than resorting to death penalty in order to punish the criminals and deter crimes (Amnesty International, 2021d). Indeed, as a country that has been referred to as a role model to other countries in the region, AI emphasized the importance of the abolition of death penalty in Botswana by stating that "there is no space for the death penalty in a country like Botswana, which has demonstrated a great leadership role on some difficult political issues, including by denouncing impunity for human rights violations on the African continent" (Amnesty International, 2021d).

When the execution of two people in Botswana was announced in 2020, AI's Director for East and Southern Africa stated that the death penalty, which was already widely practiced in Botswana, had increased even more under Masisi's presidency (Amnesty International, 2021d). By publishing reports and news that 'name and shame' the president and the government, AI aims to demonstrate that the people's right to life is not respected in Botswana and the government does not consider changing its attitude.

According to Holm, Molutsi and Somolekae (1996: 58-59), civil society in Botswana was characterized as weak and it continued to lobby the bureaucracy rather than the politicians. Some of the CSOs are partly sponsored by the government, while some of them are funded by international donors. However, neither the government nor foreign donors fund membership-based groups. These organizations are severely under-resourced since they rely only on member donations. However, the organizations' financial difficulties do not prevent them from carrying out their missions. Despite its lack of funding, *Ditshwanelo* has grown to become a powerful human rights group in Botswana. However, the groups' capacity to successfully work on the issues they want to change is limited by the scarcity of resources.

Until 1997, the abolition of death penalty was not seriously debated in Botswana. However, *Ditshwanelo* initiated a nationwide campaign called "*Who has the right to kill?*" that advocated for the abolition of death penalty in Botswana. The momentum of the debate on the abolition of death penalty in Botswana increased as a result of this campaign, which showed people that there was a growing international sentiment against the application of death penalty. The people of Botswana, however, have been strongly opposed to the idea of abolishing death penalty. The campaign reached a climax when *Ditshwanelo* and the organization's attorneys persuaded the High Court of Botswana to grant a stay of execution to two accused prisoners only hours before the execution. Furthermore, this was a remarkable moment for the campaign against death penalty because it was the first time in the history of Botswana that a judicial body intervened on the president's order of execution (Curry, 2006: 43). *Ditshwanelo* continued to inform the High Court in terms of unfair trials in the appeals procedure and it managed to convince the court as the death sentences were overturned and new trials were scheduled. However, a

second trial for the two men, who were still imprisoned, was not convened until 2005 and *Ditshwanelo* urged the court by indicating that the constitutional right of fair trial had been violated once again. Consequently, the judge dismissed the murder allegations and ordered the release of the prisoners as they had been imprisoned without trial for more than five years (Curry, 2006: 43).

The government of Botswana often relies on the public's positive stance towards the use of death penalty in terms of justifying its retentionist attitude. However, public opinion is not sufficient to explain the government of Botswana's retentionist policies as it has the responsibility of protecting human rights. In the case of South Africa, the public was also in favor of the death penalty, but as a newly established democracy, the government outlawed the death penalty to show its intention to protect and improve human rights. In fact, the public of South Africa still favors the death penalty and calls for the government to go back to its retentionist policies. Therefore, the government of Botswana should not justify its policies regarding the use of the death penalty through public opinion and should modify its policies accordingly to the improvement of human rights in the country. Local and international organizations, pioneered by *Ditshwanelo* and AI, continue campaigning for the abolition of death penalty in Botswana. In addition, unlike the insistence of the government and the public in Botswana on using the death penalty as a valid punishment against crimes, the courts, in some cases, have taken a stance on limiting the death penalty. Even though the courts are not able to abolish the death penalty as it is protected by the law, they can assure the executions to take place as a result of fast and fair trials. However, neither CSOs nor the courts manage to affect the government of Botswana, not just in terms of abolishing the death penalty but also regarding fair trials and procedures (Curry, 2006: 43). For example, according to one of the reports by AI (1995: 1) on Botswana, five accused people were executed in Botswana in 1995 despite the appeals for clemency by their attorneys, *Ditshwanelo* and AI. After the executions, AI, which directly appealed to President Masire to save the lives of them, immediately published a report stating that both local and international organizations learned of the decision only the day before the executions (Amnesty International, 1995: 1). As a result, although prisoners have the right to demand clemency in Botswana, an effective legal process is not carried out due to

the inability of their lawyers, relatives and relevant CSOs to access sufficient information.

Another case that was carried out in secrecy is the execution of a South African woman, named Marietta Borsch, in 2001. The government of Botswana secretly executed the woman despite her family's appeals to the president for clemency. As a result, the government of Botswana's attitude reinforced *Ditshwanelo*'s and international organizations' lobbying against Botswana's unfair death penalty proceedings. Despite all of its efforts, however, *Ditshwanelo* has not been able to change the government's approach to death penalty.

4.3. COMPARATIVE ANALYSIS ON THE CASES

The analysis of the role of CSOs in the process of abolition of the death penalty through the comparison of the cases of South Africa and Botswana revealed that the democratic institutions and the structure of the civil society sector in each country are effective factors regarding the ability of CSOs to influence policymakers. In the case of South Africa, which was under the apartheid regime for over four decades, the abolition of the death penalty gained momentum with the democratic transition. The apartheid regime was demolished due to civil resistance led by an effective leader, Nelson Mandela. These movements against the apartheid regime took place mostly with the participation of black people because they were most affected by segregationist policies. In fact, the executions in South Africa were highly associated with the apartheid regime because it was the black population that suffered the most. Thus, the newly established government under the rule of Mandela as the president was eager to show its intention to be disconnected from the past by improving human rights issues. Therefore, the environment in South Africa was suitable for CSOs such as AI to pursue successful campaigns against death penalty. Through information and leverage politics, AI gathered and disseminated credible information to pressure the South African government by 'naming and shaming' campaigns. Eventually, death penalty was outlawed in South Africa by the decision of the Constitutional Court in 1995.

However, in the case of Botswana, AI has not been as influential regarding its campaign against the death penalty as it was in the case of South Africa. One of the main reasons is related to the differences in democratic institutions in these countries. Although both South Africa and Botswana have adopted parliamentary democratic systems, South Africa has adopted a proportional representation system whereas Botswana has adopted a first-past-the-post system. Democracies with a proportional representation system are more likely to abolish the death penalty as they allow the participation of smaller groups in the decision-making process. However, the abolition of death penalty is less likely in democracies with first-past-the-post systems that mostly result in plebiscitarian outcomes (McGann and Sandholtz, 2012: 278). Thus, the abolition of death penalty has not been seriously debated in Botswana due to its electoral system that does not allow opposition groups to be represented.

Unlike South Africa, Botswana's democratic transition started in the mid-1960s when it declared independence from the British rule. Therefore, there was no civil society involvement in the democratization process of Botswana, which caused debates over the phenomenon of weak civil society and the behavior of non-questioning as a part of the country's culture. Despite this inappropriate environment, however, one local organization, *Ditshwanelo*, has managed to become relatively powerful. *Ditshwanelo* has been advocating for the abolition of death penalty since the late-1990s. To pressure the government of Botswana, *Ditshwanelo* and AI have been working together by exchanging information and sharing the stories of the accused people sentenced to death with the international audience. Although there were some attempts by the court to challenge the death penalty, none of them has been effective sufficiently to change the retentionist attitude of the government of Botswana.

In conclusion, while CSOs pursued a successful campaign against the death penalty in South Africa, both local and international CSOs could not persuade the government in Botswana to give up its stance towards the death penalty. Despite being referred to as one of the leading democracies in the sub-Saharan African region, Botswana has been the only democratic sub-Saharan African country which firmly supports and uses the death penalty as a legal punishment.

CONCLUSION

Through this study, it was aimed to analyze the role of civil society in the process of the abolition of the death penalty through examining the impact of the anti-death penalty campaign of AI in South Africa and Botswana. Although the international community and states can be considered as influential actors that affect a state's decision on the abolition or retention of the death penalty, this study focused on the influence of civil society. To examine the role of civil society, AI's campaigning against the death penalty was focused on as it has been the most influential international CSO that has been fighting against the death penalty since the late-1970s. In fact, AI's contribution to the growth of the abolition of the death penalty trend in the world is that the number of abolitionist countries has dramatically increased since the 1970s. Furthermore, AI had an impact on the UN's decision on the global moratorium on the death penalty in 2007. Thus, it has been appropriate to examine the effect of AI regarding the approaches of South Africa and Botswana towards the use of the death penalty. Specifically, the main aim of the research is to reveal why the anti-death penalty campaigns of AI had an impact on the South African government's decision on the abolition of the death penalty, but have not been able to influence the government of Botswana's stance towards the death penalty.

This study aligns itself with the general tendency to associate the abolition of the death penalty with democracy. As democratic countries respect human rights more than autocratic countries, they are also more prone to abolishing the death penalty as it violates one of the most important human rights: the right to life. However, despite being considered as the leading democracies in the sub-Saharan African region, South Africa and Botswana have approached the use of the death penalty in opposite directions. On the one hand, South Africa decided to abolish the use of the death penalty in 1995, and on the other hand, Botswana has insisted on applying the death penalty as a punishment against the crimes of murder and treason. Thus, this study aims to examine the difference between these two democratic countries in Africa regarding their stances on the death penalty and the role of civil society in influencing both the governments of South Africa and Botswana.

In this regard, the influence of CSOs on the abolition of the death penalty in South Africa and Botswana have been analyzed in the framework of both countries' democratic transition processes, civil society structures and approaches to the use of the death penalty as a legal punishment. The argument that democracies are more likely to abolish the death penalty does not apply to Botswana, which completed its democratic transition in the late-1960s but has continued to apply the death penalty today. Thus, an examination of South Africa and Botswana regarding their experiences of democratization is crucial to understand the democratic systems in these countries and to see whether there are some differences that affect the governments' stance towards the death penalty. Furthermore, the development of the civil society sector is also linked to the democratic environment in a country. Therefore, it is important to assess the development of the civil society sector in South Africa and Botswana following their democratic transitions to see how influential CSOs are in terms of affecting the governments' policies.

The first chapter provided the conceptual and theoretical frameworks of the study. Regarding the conceptual framework, concepts of democratization, civil society and the abolition of the death penalty are discussed. Discussions on these concepts helped to analyze the main subject of the research and provided insights that made the comparison of the cases more reasonable. Firstly, the concept of democratization was discussed as the study aligned with the argument of the natural link between democracy and the abolition of the death penalty. Even though Botswana became a democratic country in 1966, it has maintained to apply the death penalty, unlike its neighbor, South Africa, which abolished the death penalty one year after its democratization in 1994. Therefore, what democracy refers to and the phases of democratization are discussed to understand the effect of the path towards democracy on the involvement of CSOs in the process of the abolition of the death penalty in South Africa and Botswana. Secondly, the concept of civil society and its role in the democratic transition are examined to understand what civil society is and how it assists in the democratization of a state that may eventually take an abolitionist stance. Lastly, the global trend towards the abolition of the death penalty is discussed to understand the roots and elements of this growing trend.

Regarding the theoretical framework, Keck and Sikkink's boomerang pattern, which is a model that explains the global network of advocacy groups, is discussed as it will be adapted to explain the strategies and efforts of CSOs on the abolition of the death penalty. Specifically, this model provided the basis to examine the interaction and cooperation between AI, which is an international and influential human rights advocate and the local abolitionist groups in South Africa and Botswana regarding their strategies to pressure governments to adopt an abolitionist stance.

The second chapter of the study focused on the Republic of South Africa based on the analysis of its democratic transition, civil society sector both before and after the democratic transition and the path towards the abolition of the death penalty. Although the death penalty was frequently applied by the South African government under the apartheid regime, the historical decision on the abolition of the death penalty was taken following the country's democratic transition. Thus, this chapter revealed that the case of South Africa is suited to the argument that the likelihood of abolishing the death penalty increases with a country's transition to democracy. Furthermore, the chapter argued that some structural changes occurred in the civil society sector of South Africa in the aftermath of the democratic transition. Before the democratic transition, South Africa had an active civil society that played an important role in demolishing the apartheid regime, as the social movements under the leadership of Nelson Mandela strongly fought against the regime. Following the democratization of South Africa, however, civil society has continued to improve as the new democratic environment became more suitable for civil society groups to pursue their work on specific issues. Indeed, both local and global human rights organizations have been actively working in order to improve human rights in South Africa. Regarding the abolition of the death penalty, AI was able to pursue its strategies to persuade the South African government to abolish the death penalty through lobbying it by anti-death penalty campaigns, cooperating with local abolitionist groups to exchange information and taking the issue to the international level.

The third chapter focused on the Republic of Botswana and followed the same structure which was applied to South Africa in the second chapter. Botswana

was analyzed in the framework of its democratic transition process, the dynamics of the civil society sector and its stance toward the use of the death penalty. The chapter revealed that despite being the oldest and one of the most successful democracies in the region, the government of Botswana insists on the use of the death penalty as a legal punishment. Therefore, the argument of the linkage between democracy and the abolition of the death penalty was not suitable for the case of Botswana. Thus, Botswana's path towards democratization was examined as it was different than most of the sub-Saharan African countries. Unlike the majority of the countries in the region that became democratic in the early-1990s, Botswana became a democratic country in 1966 when it declared independence from Britain. Therefore, the environment was not suitable for an autocratic country to become democratic as it was surrounded by non-democratic countries. Botswana's transition to democracy was managed by the tribal chiefs and the colonial government of Britain, so there was no civic involvement in the process. Indeed, Botswana's citizens preferred that their chiefs make political decisions on their behalf. This attitude of the citizens created a culture of non-questioning as they became disinterested in politics. In turn, this culture of non-questioning further affected the improvement of the civil society sector in Botswana. As it was discussed in the chapter, civil society in Botswana remained weak even after the democratic transition. As a result, despite the efforts of a relatively influential local abolitionist organization, *Ditshwanelo* and AI's name and shame campaigns, Botswana's stance towards the use of the death penalty has not been changed. Indeed, a country that is considered as a success story is the only country in the sub-Saharan African region to retain the death penalty.

The fourth chapter provided a case comparison of South Africa and Botswana in terms of the role of CSOs in the abolition of the death penalty. Although South Africa and Botswana are regarded as the most democratic countries in the sub-Saharan African region, there is a difference in terms of respecting the most serious human rights issue: the right to life. In this chapter, therefore, South Africa and Botswana were compared to reveal why they differed in their use of the death penalty and how CSOs influenced them. The chapter argued that the differences in democratic institutions affected the likelihood of civil society to be involved in politics. Thus, CSOs were able to influence the government of South Africa, in

which a deliberative democratic system was created as a result of adopting a proportional representation system that allowed the representation of small opposition groups. Regarding Botswana in which the first-past-the-post system was adopted, smaller groups have little or no representation, so they cannot participate in politics. As a result, AI was able to lobby the government of South Africa to abolish the death penalty through name and shame campaigns and by disseminating the information gathered from local organizations to international organizations such as the UN. However, AI has not been able to influence the government of Botswana to change its attitude towards the death penalty.

As a result of comparing the cases of South Africa and Botswana to analyze the role of civil society in the process of the abolition of the death penalty, the following arguments have been found. Although there is a link between democracy and the abolition of the death penalty, the cases of South Africa and Botswana showed that not all democracies are willing to outlaw the death penalty. Therefore, it is crucial to consider the democratic transition process and the democratic structure of a country to understand its motivation to abolish or to keep the death penalty. The analysis of the role of CSOs in the process of abolition of the death penalty through the comparison of the cases of South Africa and Botswana revealed that the democratic institutions and the structure of the civil society sector in each country are effective factors regarding the ability of CSOs to influence policymakers.

Regarding the case of South Africa, the abolition of the death penalty gained momentum with the country's democratic transition. The apartheid regime was demolished due to civil resistance under the leadership of Nelson Mandela. Thus, the effectiveness of the civil society sector can be seen during the democratization period of South Africa. In the aftermath of democratization, civil society in South Africa further improved and this paved the way for AI's campaigns on the abolition of the death penalty to have an impact on the government. Through information and leverage politics, AI gathered and disseminated credible information to pressure the South African government through naming and shaming campaigns. However, both AI and local abolitionist groups have not been able to influence the government of Botswana as in the case of South Africa. The main argument of the study that explains this difference between South Africa and Botswana is built upon the

different democratic institutions. As mentioned before, the democratic system in South Africa is more deliberative due to the adoption of proportional representation system, which gives opposition groups the opportunity to represent their policies. However, Botswana's democratic system is not deliberative due to the first-past-the-post system that only gives power to the ruling party. Thus, CSOs were able to pursue their advocacy for the abolition of the death penalty in South Africa in a more flexible and freer environment. In addition, the civil society sector has been strong in terms of fighting for political change in South Africa. In the case of Botswana, however, the abolition of the death penalty has not been seriously debated as the ruling party, BDP, has never considered abolishing it. Although there were some challenges to the use of the death penalty by the courts and CSOs in Botswana, they were not able to influence the government as in the case of South Africa, where the death penalty was abolished by the decision of the constitutional court.

To sum up, the hypothesis of this study is as follows: "differentiated democratic institutional backgrounds and the structure of civil society have caused CSOs' campaigns against the death penalty in South Africa and Botswana to have different results". In light of the comparison between South Africa and Botswana, it can be seen that the ability of CSOs to pressure these two governments to change their attitudes towards the use of the death penalty was highly affected by the different democratic environments that were created by the different democratic institutions. To this end, civil society sectors have also improved accordingly to the democratic environment so that civil society in South Africa is vibrant, whereas in Botswana it remains weak.

With this study, it is aimed to fill the literature gap related to civil society and human rights. Although there are a few studies that focus on the abolition of the death penalty and the role of CSOs in the process, there is no study that aims to explain the different attitudes of democratic states regarding the use of the death penalty. Thus, this study contributed to the literature by discussing the role of CSOs, mostly AI, in the process of the abolition of the death penalty through comparing the cases of South Africa and Botswana. Furthermore, this study provides a methodological contribution to the literature by being the first study to compare the cases of South Africa and Botswana in terms of their different attitudes towards the

use of the death penalty. Finally, this study contributes to the civil society and human rights literature by analyzing the anti-death penalty campaigns of AI in South Africa and Botswana through the use of the boomerang pattern by Keck and Sikkink.

Furthermore, there is one significant limitation that affected the quality of the research, which is the lack of resources regarding the main subject. Although there are some studies that focus on the abolition of the death penalty in Africa, South Africa and Botswana, they mostly tend to be one-case studies or analyze the whole region. Moreover, most of the studies in the literature do not focus on the factors behind the decision to abolish the death penalty. However, this limitation regarding the lack of resources was compensated through the studies that specifically analyzed South Africa and Botswana in the framework of democracy and human rights. Moreover, AI's reports, newsletters and internet articles on South Africa and Botswana related to the death penalty helped to comprehend the use of the death penalty in a historical context. As a result, this research proposes a unique study by being the first example that focuses on the analysis of the role of civil society in the process of the abolition of the death penalty by comparing the cases of South Africa and Botswana, which are the most successful democracies in the sub-Saharan African region but adopted opposite approaches towards the use of the death penalty.

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