

POLITICS, CHIEFTAINCY AND CUSTOMARY LAW IN GHANA

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Ghana has been recognised internationally in recent years as a country whose democratic reform efforts have not only been emblematic of successful democratisation, but which also have brought significant benefits to the country. However, the country continues to cherish and maintain ancient values and tradition, exemplified most strongly by the institution of Chieftaincy. Chieftaincy is the custodian of the customary values and norms in the country: defined as customary laws that regulate civil behavior in traditional governance. However, over the years, politics have influenced the institution of chieftaincy and customary law.



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THE CHIEFTAINCY INSTITUTION IN GHANA

Chieftaincy is one of the few resilient institutions that have survived all the three political phases of Ghana's history: pre-colonial, colonial and post-colonial times. It has also endured the turbulence of the three post-independence phases of modern Ghana: one party rule, military control, and multi-party regimes, regardless of the leaderships' attitude towards the chiefs and the broader institution. This is in contrast to other African countries, such as Uganda, where the titles of chiefs were reinstated in 1986, but without any political power, after the 1966 Constitution of Uganda abolished kings and kingdoms.

Chieftaincy is the primary substratum of Ghanaian society; consequently the political leadership dares not undermine its credibility without experiencing political and socio-cultural repercussions. According to the Centre for Indigenous Knowledge and Organizational Development (CIKOD), a local Non-Governmental Organisation which focuses on the development of indigenous institutions in Ghana, 80 per

cent of Ghanaians claim allegiance to one kind of chief or another.¹ The institution is considered to be the repository of history and traditional ways, as well as the custodian of the indigenous traditions, customs, and society of Ghana. The institution is further considered to be the bond between the dead, the living, and the yet unborn. It is a revered institution in Ghana which occupies the vacuum created by Ghana's modern political structures in terms of customary arbitration and law and enforcement at the communal level.

A critical feature of chieftaincy in Ghana is gender. The responsibilities and positions of men and women are well-defined in the institution in accordance with the tradition and custom of the people. In Northern Ghana, especially among the Dagombas three "skins" Kukulogu, Kpatuya and Gundogu are purposely reserved for women. The modes of succession to these skins are also well-defined. Among the matrilineal Akans, the top leadership positions and responsibilities are divided between men and women. For example, the heir to the stool normally is a man, but a woman shall nominate him.



Paramount chiefs in Accra: The title "chief" has a long historical trajectory. Colonial and post-independence Constitutions and military regimes have provided various definitions to suit the exigency of the regime and the time. | Source: © Isaac Owusu-Mensah, KAS.

1 | A study conducted by Centre for Indigenous and Organizational Development in 2006.

Also, positions in the Traditional Councils in Southern Ghana, with the exception of executioners, have male and female equivalents who complement each other in traditional governance. Against this backdrop, it seems necessary to explain who is a chief in Ghana. The title “chief” has a long historical trajectory. Various colonial and post-independence constitutions and military regimes have provided definitions to suit the exigency of the regime and the time. But, these changes and re-definitions share one key element, which is the recognition of the custom and tradition of the people.

The Fourth Republic Constitution and the Chieftaincy Act, 2008 Act 759, defines a chief as “a person who hailing from appropriate family and lineage, who has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queenmother in accordance with the relevant customary law and usage”. The Act further sets the minimum qualification for a chief to be a person who has never been convicted of high treason, treason, high crime or for an offence dealing with the security of the State, fraud, dishonesty or moral turpitude.² Section 58 of the Act stipulates various levels of chiefs permissible in the country into “Asantehene and Paramount Chiefs; Divisional Chiefs; Sub-Divisional Chiefs; Adikrofo; and Others Chiefs reorganized by the National House”. Any person upholding himself or herself as chief must belong to one of these categories outlined by the Act to ensure that appropriate privileges and responsibilities are assigned to him or her in accordance with the Chieftaincy Act.

CHIEFTAINCY IN PRE-COLONIAL GHANA

The present day geographic location of Ghana, with its system of administrative structures, where the executive president is supported by ten regional ministers and 216 district chief executives, was naturally not the same during pre-colonial times. Ghanaians were organised into ethnic states. The paramount chief of the ethnic group served as the executive head with the support of a council of elders. These states included the Asante State, the Dagomba State, the Gonja State, the Anlo State and many others.

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2 | Chieftaincy Act 2008, Act 756, Assembly Press, Accra, 2008.

The states were geographically different from the current regional demarcations. For example, the Asante state spanned four different regions of the contemporary Ghana.

Chieftaincy in the pre-colonial era was the main system of governance that administered combined legislative, executive, judicial, religious, and military responsibilities. These functions were vested in a chief and the Council of Elders of the community, which in turn were subject to the paramount chief or the king of the area. The lower level chiefs received instructions from the higher chiefs in all aspects of administration. The communities and divisional chiefs had responsibility to report to paramount chiefs the state of affairs of the community during an annual meeting to deliberate on the state of affairs. Although these types of institutions were not the same as those of Western institutions, in terms of structure and administrative procedures, and the substance of the responsibilities, as well as the privileges attached, they created a similar level of social and political cohesion in their respective communities as were found in Western countries at the time.

In terms of structure and administrative procedures, Ghanaian chieftaincy structures created a similar level of social and political cohesion in their respective communities as were found in Western countries at the time.

Pre-colonial Africa of course was no golden age and one should be hesitant to recommend the pre-colonial social and political system wholesale to modern Ghana; the system however exhibits a high level of democracy and protection of human rights and freedom within the context of the traditional values and cultures of the people.³ The newly founded Alternative Dispute Resolution (ADR) is a recast of time-tested pre-colonial conflict resolution mechanisms administered through the chieftaincy institution, which sought to reconcile individuals and communities as well as improve social relations beyond mere settlement of disputes of conflicting parties.⁴ The chieftaincy institution during the pre-colonial period was not regulated by any external legislation beyond the respective traditional

3 | Alexander Kaakyire Duku Frempong, "Chieftaincy, Democracy and Human Rights in Pre-Colonial Africa: The Case of the Akan System in Ghana Chieftaincy in Ghana: Culture, Governance and Development", in: Irene K. Odotei and Albert K. Awedoba (eds.), *Chieftaincy in Ghana: Culture, Governance and Development*, Sub-Sahara Publishers, Accra, 2006.

4 | Ibid.

councils. The Traditional Councils were considered independent entities with apposite sovereignty.

CHIEFTAINCY IN THE COLONIAL ERA

The chieftaincy institution during the colonial period was refined, restructured, and integrated into the British Colonial administrative hierarchy. This was for the British a cost-efficient means of facilitating control and governance. The colonial period served as the genesis of the legal framework to regulate the institution. Prior to this period, the chiefs with the support of and recommendations from their council of elders enacted laws to regulate their jurisdictions.⁵

There were three main guidelines that determined legislation regarding chieftaincy. First, the institution was tailor made to suit the British colonial requirement at the time. Secondly, attempts were made to practice a colonial policy before ordinances were introduced to legalise such practices, (ex post facto rationalisation of government action) and finally, chiefs who resisted laws of the colonial administration were deposed or deported out of the country.⁶

The colonial legislation on chieftaincy was stimulated by the necessity to deal with growing social discontentment which was increasingly threatening the position of the chief. It emanated from the agitations of the educated elites and the youth against colonial policies which were meant to exploit the indigenous population as well as to pilfer the mineral wealth of the communities through their chiefs as Colonial agents. Chiefs in these communities consequently lost the long held community reverence because they were considered traitors.

Consequently, the stability of the social order, of which the chiefs were amongst the foremost constituents, became a concern for the colonial regime.⁷ The Gold Coast (present day Ghana) became an official British Colony in 1874

5 | Henry Saidu Daannaa, "History of Chieftaincy Legislation in Ghana", a paper presented at a seminar organized by Eastern Regional House of Chiefs, 2010.

6 | Ibid.

7 | Kwame A. Ninsin, "Land, Chieftaincy, and Political Stability in Colonial Ghana", *Research Review* 2, 1986, 2.

following the Order in Council of 1856. The Order in Council defined local norms, customary law, practices, and usages. The Order became the genesis of customary law in the new British colony.

Amongst the first major legislation regarding the chieftaincy institution was the Chiefs Ordinance 1904. The preamble of the ordinance reads: "An Ordinance to facilitate the proof of the election and installation and the deposition of chiefs according to native custom."⁸ A major inroad made into the authority of the chieftaincy institution was to align their position to be dependent upon British recognition through vetting by the colonial government. The colonial regime set out to modernise the indigenous institutions and redesign them according to the British models of monarchy.⁹

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Although the British had promulgated the appropriate legislative instruments meant to give legal legitimacy to colonial activities, the native custom was highly respected and recognised by the colonial regime. The appreciation of customary law in Ghana was further fulfilled with the enactment of Native Authority Ordinance in 1932 which provided that "The Chief Commissioner may by Order made with approval of the Governor

- a) constitute any area and define the limits thereof;
- b) assign to that area any name and description he may think fit;
- c) appoint any chief or other native or group of natives to be a native authority for any area for the purpose of this ordinance; and may by the same or any subsequent order similarly made declare that native authority for any area shall be subordinate to the native authority for any other area."

The ordinance enabled the Colonial regime to create more chiefs and head chiefs. For example, some parts of current Upper East, Upper West and Volta Regions were

8 | The Chiefs Ordinance, 1904.

9 | C.E.K. Kumado, "Chieftaincy and the law in modern Ghana", *University of Ghana Law Journal*, Vol. XVIII, 1990-1992, 194-216.

considered acephalous societies, communities without any central authority system. Social controls were accomplished by communal consensus. Family units were very strong in protecting and providing for the sustenance and needs of individuals. The colonial authorities created and established “chiefs” as heads of empires, kingdoms and principalities and ascribed them with native authority for the purposes of implementing the colonial policies.¹⁰

The emergence of colonial rule in the Northern Ghana concurred with the devastation of the major centralised states of Mamprugu, Dagbon and Gonja. The slave raiding and trading activities of Samory and Babatu

pushed the three main kingdoms to the verge of disintegration.¹¹ These chiefs subsequently and enthusiastically signed agreements of protection with the British. During the pre-colonial era, people were captured and sold as slaves from two main sources,

that is, where the chiefs served as collaborators and sold slaves and where slave masters raided communities and took captives as slaves. Babatu and Samory activities in the case of Mamprugu, Dagbon and Gonja kingdoms were part of the latter. The British restored peace, order and confidence among the people. The colonial regime restructured and legitimised relations between various ethnic groups and chiefdoms within these three states.

The British restored peace, order and confidence among the people. The colonial regime restructured and legitimised relations between various ethnic groups and chiefdoms within the states of Mamprugu, Dagbon and Gonja.

Five ethnic groups, Mamprugu, Kusasi, Grunshi, Frafra and Builsa, were merged with Nayiri (Chief of Magprugu) as the paramount chief.¹² In the North West (present day Upper West Region) Wala, Dagarti and Sissala were combined under the leadership of Wa Na. Several unassimilated ethnic groups such as Nchummuru, Nawuri, Mo, Vagala were subsumed under the Gonja Chiefs. The Konkombas and Chokosis were made subjects of Ya Na¹³ of the Dagomba Kingdom. In spite of these compulsory integrations of different independent ethnic groups, each of them

10 | Nana Arhin Brempong, “Chieftaincy An Overview”, in: Odotei and Awedoba (eds.), n. 3.

11 | N.J.K. Brukum, “Chieftaincy and Ethnic Conflicts in Northern Ghana, 1980-2002”, in: Odotei and Awedoba (eds.), n. 3.

12 | P.A. Ladouceur, *Chiefs and Politicians: The Politics of Regionalism in Northern Ghana*, Longman, London, 1974, 35.

13 | Ibid.

continued to maintain their customary laws on issues such as marriage, divorce, and widowhood rites. However, major issues such as access to and ownership of land has generated unwarranted conflicts in the Northern Ghana.

CHIEFTAINCY IN POST-COLONIAL GHANA

After independence, the political leadership examined the space occupied by the institution of chieftaincy and appreciated the need to maintain it, but also to exercise a form of state control over it.

After independence the relationship between the chiefs and the central government became uncertain. The question arose as to whether chiefs should be allotted the same powers they possessed during the pre-colonial past or whether they would be accorded the same treatment granted them during the colonial period. Some schools of thought argued for the complete abolishing of the institution because of their role in aiding the colonial regime to oppress the indigenes. The political leadership at the time examined the space occupied by the institution and appreciated the need to maintain it, but also to exercise a form of state control over it.

While the constitutions of 1957 and 1960 guaranteed the institution in accordance with custom and usage, the nature of the relationship between the central government and the chiefs was more complicated. The personal idiosyncrasies of the socialist President Kwame Nkrumah surfaced strongly; he had very little reverence for the chiefs, and the perception that some Asante and Abuakwa chiefs supported the opposition party during the struggle for independence fuelled his hostility. The regime passed Act 81 which defined a chief as an individual who has been nominated, elected and installed as a chief in accordance with customary law, and is recognised by the Minister responsible for Local Government.¹⁴ The Act guaranteed powers to the Convention Peoples Party's (CPP) Government to meddle in chieftaincy matters without recourse to the Regional and National Houses of Chiefs. Chiefs were to conduct their affairs in a manner that suited the Government of the day. President Nkrumah stated that "Chiefs will run away and leave their sandals".¹⁵ However, the opposite occurred. The chiefs did not "run away". Instead, they have had the opportunity to witness changes in political

14 | Chieftaincy Act 1961, Act 81, Assembly Press, Accra, 1961.

15 | Brempong, n. 10.

leaderships while continuing to contribute to state building; indicating a highly resilient and deep-rooted institution.

The overthrow of the CPP regime gave chieftaincy a long respite. The 1969 Constitution recognised the institution with the Traditional Councils, Regional and National Houses of Chiefs. All chieftaincy matters were to be handled by the respective constituent bodies of the institution. The recognition was further enhanced with the passage in September 1971 of Chieftaincy Act, 370. The Act remained as the most substantive legal instrument regarding chieftaincy until the 2008 Chieftaincy Act was passed. The respective military regimes also embraced the institution and granted its rightful dignity, in spite of the initial skirmishes that occasionally ensued between the institution and the government. The military accepted and supported the institution as a means of acquiring political legitimacy.

The 1992 Constitution of the Fourth Republic also guaranteed the institution of chieftaincy. Article 270(1) states: "Parliament shall have no power to enact any law which

- a) confers on any person or authority the right to accord or withdraw recognition to or from a chief for any purposes whatsoever; or
- b) in anyway detracts or derogates from the honour and dignity of the institution of chieftaincy."

Articles 271 to 274 focus on the establishment, role, and jurisdictions of the Regional and National Houses of Chiefs with their corresponding functions and responsibilities. Article 276 however departs from the previous constitutions and legal frameworks on chieftaincy. It repudiates chiefs from "active" engagement in party politics. Consequently any chief who wishes to participate in "active" party politics must abdicate his or her stool or skin. The objective of this provision is to uphold the sanctity of the traditional values enshrined in the Ghanaian culture of the chieftaincy institution and protect the institution from the rancour and wrangling associated with partisan politics.

The constitution however provides an avenue to involve the chiefs in the management of the state on issues that relate to the custom and tradition of the people. Subse-

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quently, chiefs are appointed to serve on various statutory boards and commissions such as the Forestry Commission, National Aids Commission, Constitutional Review Commission, Ghana National Petroleum Corporation Board, and many more. They are appointed on an ad hoc basis to serve on emergency circumstance and planning committees. Furthermore, there is a constitutional requirement that the President of the National House of Chiefs must be a member of the Council of State, the only institutional representation on the Council of State. A representative of the National House of Chiefs in the Prisons Council, the Regional Co-ordinating Councils, and in the Land Commission, as well as the Regional Land Commission.¹⁶ The constitution is silent on the voting rights of members of the commissions, councils and boards. The members consequently work on consensus basis to ensure that all members bring along their experiences and expectation to fore and collectively responsible for the decisions of the entire panel.

The chieftaincy institution has regularly received budgetary support from the central government to meet its recurrent expenditure, including payment of an allowance for sitting chiefs as well as a monthly stipend of 80 euros per paramount chief and 60 per paramount queenmother. Every Traditional Council and Regional and National House of Chiefs is provided with administrative and technical staff who are also employees of the Civil Service of Ghana. These staffs are responsible for the management of the respective secretariat of the chiefs, as well as for providing technical guidance to the chiefs in respect of customs and traditions, the law and various instruments which may impact the work of the chiefs. They conduct research to help in conflict resolution as well as in the settlement of disputes. They further serve as the public relation officers of the chiefs.

The Ministry of Chieftaincy and Culture was established in the year 2006 to demonstrate the government's commitment to the institution. Even though the relationship between the chiefs and Government of Ghana has been

16 | Ibid.

cordial with the inception of the Fourth Republic, a recommendation by the African Peer Review Mechanism necessitated such a giant step in favour of the chiefs. The creation of the ministry afforded the chiefs direct representation in the cabinet meetings to bring issues that obstruct the workings of the institution as well as programmes and projects which will promote the institution to the attention of the government.

CUSTOMARY LAW¹⁷ AND THE LAW IN GHANA

Native law or custom was not authoritatively defined in any general statute until 1960, when the Interpretation Act defined common law as “comprised in the laws of Ghana, consist of rules of law which by custom are applicable to particular communities in Ghana, being rules included in common law under any enactment providing for the assimilation of such rules of customary law suitable for general application”.¹⁸

Customary law has distinguishing traits from other forms of laws such as the common law. Amongst these are adaptability, popularity, flexibility and communal focus.¹⁹ The scope of customary law in Ghana includes: chieftaincy, access to and ownership of lands, marriage rites, spousal rights, and succession rights. Each traditional area in Ghana has a form of customary laws that are applicable to communities in the area. The complexity of the application of customary laws has given rise to forms of adjudication that focus on the interpretation of traditional laws and norms. Woodman argues that the most trustworthy evidence in these disputes over customary law consist of previous decisions of the court.²⁰

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17 | Customary law is defined here as sets of established norms, practices and usages derived from the lives of people. Julie A. Davis and Dominic N. Dagbanja, “The Role and future of Customary Tort Law in Ghana: A cross-Cultural Perspective”, *Arizona Journal of International and Comparative Law*, Vol. 26, No. 2, 2009, 303.

18 | Interpretation Act 1960, Assembly Press, Accra 1960.

19 | Ibid.

20 | Gordon R. Woodman, “Customary Land Law in the Ghanaian Courts”, Ghana Universities Press, Accra, 1996.

To ascertain the validity of a customary law, witnesses such as chiefs, linguists and other elders learned in custom are called into court to testify on elements of the particular custom subject at issue.²¹ Local customs, which are related to natural justice, equity, and good conscience, are considered part of the customary law. For a custom to be considered in harmony with natural justice, equity and good conscience, it must not be incompatible either directly or indirectly with any law currently enforced and it must not be contrary to public policy.²²

Article 11 of the 1992 constitution stipulates the sources of law in Ghana. These are: the constitution; enactments made by or under the authority of the Parliament established by the constitution; existing laws; orders, rules and regulations made by any other authority under a power conferred by the constitution and the common law of Ghana. The common laws of Ghana include customary laws. The constitution defines customary law as rules of law which by custom are applicable to particular communities in Ghana.²³

The challenge emanating from the definition is “applicable to particular communities in Ghana”. Woodman contends that courts have declared a huge number of customary rules applicable throughout Ghana.²⁴ For example the process of installing a chief must conform to the established norms and customs of the people in the traditional area. Ollenu maintains that these rules of general applicability should not be considered components of customary law but must constitute a core part of the common laws of Ghana.²⁵ Woodman contests Ollenu’s argument, instead declaring that although these customs of general applicability may not be appropriately integrated into the customary law, its integration into the common law will be much more difficult.

21 | N.A. Ollenu and G.R. Woodman. “Ollenu’s Principles of Customary Land Law in Ghana”, Carl Press, Birmingham, 1985, xxv.

22 | C. Ogwurike, “The Sources and Authority of African Customary Law”, *University of Ghana Law Journal* III, No. 1, 1966, 11-20.

23 | *Constitution of the Fourth Republic of Ghana*, Assembly Press, Accra, 1992.

24 | Woodman, n. 20.

25 | N.A. Ollenu, *The Law of Testate and Interstate Succession in Ghana*, Sweet and Maxwell, London, 1966.

The constitution, functioning as a mechanism for including the appropriate customary laws of the country, has additionally involved the National House of Chiefs in the development of customary law. Section 49 of the Chieftaincy Act instructs the National House of Chiefs to undertake progressive study of the various Traditional Councils through the respective Regional Houses of Chiefs in order to interpret and codify customary laws with a view to better understanding the appropriate cases for a unified system of rules of customary laws in Ghana.²⁶ The National House of Chiefs through the Research Committee has over the years consulted key stakeholders to undertake this constitutional mandate.

EMERGING ISSUES

One of the main features of the institution of chieftaincy in the post-colonial era is the manifestation of inter- and intra-ethnic conflicts fuelled and perpetuated by the institution itself. For example from 1980 to 2002, Northern Ghana has recorded 22 inter-ethnic and intra-ethnic conflicts led by their chiefs. In 1980, Gonjas attacked Bator and Vagala. Gonjas engaged in ethnic war against the Nawuris and Nchumurus in 1991, 1992 and 1994. In 1992 and 1994, the Gonjas engaged in intra ethnic conflicts amongst themselves in Yapei, Daboya and Kusawgu. Nanumbas fought Komkombas in 1980, 1994 and 1995. During the period of 1988 to 1994, Mamprusi and Kusasis fought four times. The Bimobas went to war with Komba. In 2002, the Dagombas fought amongst themselves over chieftaincy succession. The primary source of these inter-ethnic conflicts has been the question of which chiefs control what land with what traditional rights. In Southern Ghana, chiefs and their elders avail themselves of the state judicial systems to settle the chieftaincy related conflicts rather than initiating and stimulating conflicts.

Some inter- and intra-ethnic conflicts are fuelled and perpetuated by the institution of chieftaincy itself. From 1980 to 2002, Northern Ghana has recorded twenty-two inter-ethnic and intra-ethnic conflicts led by their chiefs.

Although there were pockets of inter-ethnic conflicts during the pre-colonial era as mechanisms to extend the territories of an ethnic group at the expense of another ethnic group, these post independence intra/inter ethnic

26 | Chieftaincy Act 2008, n. 2.

conflicts are disquieting. They have considerably affected the membership of the Regional Houses of Chiefs, thereby creating vacancies and other disorders.

Consequently, the National House of Chiefs with the support of the Konrad-Adenauer-Stiftung and the UNDP has undertaken several projects to ensure that the appropriate lines of successions are well defined to circumvent the problems that currently bedevil this revered institution. The death of a chief opens another avenue for chieftaincy dispute, which should be mitigated in any way possible.



Queenmothers in Sunyani, Ghana: Kingmakers including queenmothers seek protection under the customary law to perpetuate chieftaincy conflicts when it is in their interest. | Source: © Isaac Owusu-Mensah, KAS.

Hagan explains three critical issues that may account for litigations and disputes in respect to stools and skins. The position of a chief in modern Ghana is a prestigious enterprise because of the social, political and cultural powers they possess although the extent of economic power is dependent on the location of the traditional council. The chiefs control and hold in trust several tracks of land for their people.

1. Affluent personalities in society with ambiguous claims to royal stools and skins often fiercely contest positions with the (legitimate) poor royal families who often refuse to succumb to the interest of the illegitimate

contestants. This generates perpetual litigation in the selection of the occupant of the stool or skin.²⁷

2. The number of legitimate royals has increased over the years and the competition has become highly intensified and divisive among various family lineages. Consequently some royal members are trained to use arms to settle disputes to elect the occupants to stools and skins.²⁸
3. The life tenure of chiefs has generated unrest among legitimate royal members who are potential candidates to the stools and skins. This unrest has led to frivolous and wasteful litigations and strife in the communities, to the extent that selection of rightful candidates to occupy vacant stools and skins is assessed on the basis of irrelevant criteria.

Table 1

Distribution of vacant seat in Regional Houses of Chiefs

| Region | Number of seats of per regional house | Disputed seats per Regional House | Percentage |
|---------------|---------------------------------------|-----------------------------------|------------|
| Ashanti | 39 | 4 | 10.3 |
| Brong-Ahafo | 49 | 16 | 32.6 |
| Central | 34 | 3 | 8.8 |
| Eastern | 11 | 3 | 27.2 |
| Greater Accra | 22 | 3 | 13.6 |
| Northern | 20 | 12 | 60.0 |
| Upper East | 17 | 4 | 23.0 |
| Upper West | 17 | 5 | 29.0 |
| Volta | 32 | 8 | 25.0 |
| Western | 22 | 6 | 27.2 |
| Total | 263 | 64 | 24.0 |

Source: National House of Chiefs, Jun 2013.

27 | George P. Hagan, "Epilogue", in: Odotei and Awedoba (eds.), n. 3.

28 | Ibid.

There is a certain extent of disharmony within the Regional Houses. A total of 64 seats are vacant out of 263 as a result of litigation.

In spite of these explanations of the sources of chieftaincy conflicts, the role played by customary law cannot be understated. Kingmakers including queenmothers and learned custom elders in the respective traditional areas seek protection under the customary law to perpetuate the conflicts when it is in their interest. The state is completely barred from interfering in the traditional succession customs of the people. Still, there is a certain extent of disharmony within the Regional Houses (table 1). A total of 64 seats are vacant out of 263, or 24 per cent of the national total of chiefs, as a result of litigation. This clearly requires state intervention, but each traditional area seeks to protect its customary law on chieftaincy and succession, which insulates them from state intervention.

REFLECTIONS FOR THE FUTURE

Chieftaincy as an institution has been integrated into the governance structures of Ghana. It is incumbent on the institution to find its relevance in the midst of westernisation of the Ghanaian youth, and the eroding of the Ghanaian culture due to growing sophistication via the evolution of and access to modern technology. In light of these challenges, the ability of the institution to be recognised transcends legal privileges and the status quo to command of reverence from the urban and rural Ghanaian.

According to Appiah²⁹, for chiefs and queenmothers in Ghana to be visible in the public sphere amongst the next generations of Ghanaians, the chieftaincy institution must develop an appropriate peer review mechanism, a system which will authorise a paramount chief from a traditional area to monitor and evaluate the custodian responsibility and programs of another traditional area, with the objective of invigorating the progress of that area. The peer review system will curtail wanton sale of stool lands to unscrupulous investors who connive with mendacious chiefs to exploit the resources of their communities.

29 | Francis Appiah, "Chiefs and African Peer Review Mechanism", speech delivered at the Upper West Regional House of Chiefs, at a seminar organised by the Upper West Regional Coordination Council, 2006.

The chieftaincy institution is encumbered with a wide array of disputes at all levels of the institution: from the small hamlet or village head to the paramount chief across the entire ten regions of the country. These flippant and costly chieftaincy disputes are the main sources of recurring and devastating conflicts in Ghana. Although political parties occasionally trigger conflicts which raise societal tensions, these incessant conflicts in the eyes of modern Ghanaians compel them to declare the chieftaincy institution to be outmoded and conflict-oriented. This corroborates the view held by Frempong³⁰ that the institutions ought to convince the people of Ghana of their relevance and make efforts to curtail this menace by resolving these superfluous conflicts.

Odotei³¹ continues to advocate for a sustainable financial arrangement and framework for the institution. According to her, this will empower the state to provide relevant resources for the institution of chieftaincy in order to insulate the institution from direct political manipulation and control. The current arrangements where the National House of Chiefs is treated similarly to any other government agency is unhelpful. The meager allowance of 80 euros per month for paramount chief must be adjusted upwards to ensure that the reverence Ghanaians have for their traditional leaders are maintained.

Customary law is a very useful source of law in Ghana; it protects communities' customs and values handed down over the centuries. This explains the constitutional responsibility entrusted to chiefs to engage their indigenes on continuous legal and traditional education regarding the relevance of respective customs within the Traditional Areas.

The historical evidence demonstrates that each political regime, from colonial engagement with the chiefs up to the Fourth Republic, has had a unique place for the institution of chieftaincy. The institution went through turbulent times in the early independence years but currently possesses latent, but considerable political, social and cultural space in the Ghanaian political system. From the

30 | Frempong, in: Odotei and Awedoba (eds.), n. 3.

31 | Frempong, n. 10.

pre-colonial era through the colonial regime and all other regimes of the Republic, the essence of customary law has been respected, recognised and promoted to be a major source of law in Ghana, especially laws in respect of land acquisition, ownership and distribution. The promotion and reform of this institution is a noble endeavor which will not only support Ghanaian democracy, but the strength, prosperity, and traditions of the Ghanaian people.