

**Presentations by Resource Persons at the 4th Tripartite Seminar on
'Deepening the Democratic Process in Ghana – The Role of Chiefs'
held at the Elmina Beach Resort from the 31st May – 1st June 2005
Konrad Adenauer Foundation with the National House of Chiefs**

Index	Page
Resourcing the Chieftaincy Institution to enhance Performance by Hon. Kwadwo Baah Wiredu, Minister for Finance and Economic Planning	2
Legal Problems militating against the Administration of Chieftaincy in Ghana – The Chieftaincy Amendment Bill by Hon. J. Ayikoi Otoo, Attorney General and Minister for Justice	3
Meeting the constitutional Responsibilities of the Chieftaincy Institution through Research by Naa Prof. J. S. Nabila Wulugu Naba and Chairman of the Research Committee of the National House of Chiefs	4
Chiefs as Partners in Development – Traditional Authorities vis-à-vis District Assemblies by Hon. Charles B. Bintim, Minister for Local Government and Rural Development	5
The Role of Chiefs in Land Administration by Hon. Dominic Fobih, Minister for Lands, Forestry and Mines	6

1. **Resourcing the Chieftaincy Institution to enhance Performance** – by the Minister for Finance and Economic Planning, Hon. Kwadwo Baah Wiredu

Mrs. Cynthia Asare Bediako, a Deputy Director at the Ministry of Finance and Economic Planning, presented a paper on the above topic on behalf of the Minister for Finance and Economic Planning, Hon. Kwadwo Baah Wiredu. Mrs. Bediako apologized on behalf of the Minister for his inability to be present due to an equally important assignment.

The Hon. Minister expressed his gratitude to the Konrad Adenauer Foundation (KAF) for being supportive over the years in the organisation of seminars for Nananom, Member of the Executive and Parliament to enhance good governance and development in the country.

The Minister stressed on the importance of Nananom as agents and partners of change in nation building and indicated the willingness of Government to work with them so as to enhance the development of the country. He observed that a new dawn on Chieftaincy had produced a new generation of chiefs who had introduced a new sense of dynamism and vision in to the Chieftaincy institution. He lauded this new generation of chiefs for embarking upon many development initiatives such as Education Endowment Funds, Health Foundations, Environmental Protection and aforestation initiatives.

The Minister admitted that there were many areas within the Chieftaincy institution that could or needed to be resourced if one considered the multi faceted role the institution played in our national agenda for development.

One area of concern to the Minister was capacity building. Explaining this point further, he admitted that representation of Chiefs on District Assemblies was woefully inadequate considering the complex nature of social problems confronting Nananom. It was therefore very crucial according to him, to enhance the capacity of our traditional authorities to do more. In this connection, he asked Nananom to assess their capacity needs and come up with proposals, which could be supported by Government to further enhance their capacities to perform.

Touching on resource allocation, the Minister emphasized that Government could only do what it hoped to do only if the national cake was big enough to go round. In that direction, he invited Nananom to come up with innovative ideas and ventures that could help the Government to mobilize resources in the country to meet our needs. He cited the tourism industry as an area where Nananom could help develop to boost the national economy.

Still on the national economy, the Minister saw as a challenge to Nananom the fast depletion of our forest resources and the degradation of the environment. To ameliorate the situation, the minister urged Nananom to support Government agencies to ensure that the exploitation of our natural resources was done in a planned and systematic manner.

2. **‘Legal Problems militating against the Administration of Chieftaincy in Ghana – The Chieftaincy Amendment Bill’** – by Hon. J. Ayikoi Otoo, Attorney General and Minister for Justice

The Minister expressed his pleasure to be with Nananom and other stakeholders to share with them some thoughts regarding the legal problems militating against the administration of chieftaincy with reference to the Chieftaincy Amendment Bill.

The Minister traced the history and the role of Chieftaincy during the Pre-Colonial, Colonial and Post-Independence eras.

In deepening, the democratic process as regards the role of chiefs, the Minister posed the question; “what was the way forward?”

In answering the question, the Minister stated that there was at the moment a new Chieftaincy Bill, which was yet to go to Parliament. He explained that it was a new Bill, which took account of the present law – Chieftaincy Act, 1971 (Act 370) – its difficulties and functions. He added that the Bill was aimed at bringing the current law on Chieftaincy into conformity with the provisions of the 1992 Constitution. He gave the highlights of the Bill and said it dealt, among other things, with the National House of Chiefs, the Regional Houses of Chiefs, Traditional Councils and the Divisional Councils, with special reference to their jurisdiction, Judicial Committees and their procedures.

He made reference to Section 1(9) of the current Chieftaincy Act, which fixed the tenure of office of the President, Vice President and other members of the National House of Chiefs at 3 years and stated that the Bill intended to increase the tenure of office to 4 years to conform with Article 89 (2) (b) of the 1992 Constitution, which made the President of the National House of Chiefs a member of the Council of State which tenure of office was 4 years.

He took note of a suggestion that a Traditional Council be allowed to impose appropriate customary sanctions on a Divisional or a subordinate chief who exhibited gross disrespect to a Paramount Chief of a Traditional Area, Traditional Council or a member of a Traditional Council and said that currently, that matter was dealt with on a conventional basis. His view was that it should remain that way but if Nananom thought otherwise, the sanction could be clearly spelt out.

On the preservation of stool property, the Minister explained that the power vested in the Minister responsible for Chieftaincy Affairs to order the possession of stool property by an Executive Instrument had been taken away by the Bill and same vested in the Resident acting on the advice of the National House of Chiefs.

On the request for an interpretation of the meaning of “active party politics” the Minister was of the view that it should be left to the Courts. Perhaps, what appeared to be a major landmark of the Bill was its attempt to prohibit a chief from being charged with contempt for any statement or act done in good faith in relation to valid or legitimate customary proceedings or practices.

He assured Nananom that copies of the Draft Bill would be made available to them for their study and further comments before it was introduced to Parliament.

3. **‘Meeting the constitutional Responsibilities of the Chieftaincy Institution through Research’** – by Naa Prof. J. S. Nabila Wulugu Naba and Chairman of the Research Committee of the National House of Chiefs

In a paper jointly prepared by Naa Prof. J. S. Nabila and Dr. H. S. Daanaa, Principal Research Officer, Chieftaincy Secretariat and presented by the former, the constitutional obligations of the National House of Chiefs and the execution of its research responsibilities were discussed. Focusing on the main research responsibilities of the National House of Chiefs the paper quoted article 272 (b) and 272 (c) of the 1992 Constitution which states:

272 (b) “to undertake the progressive study, interpretation and codification of customary law with a view to evolving in appropriate cases, a unified system of rules of customary law, and compiling the customary laws and lines of succession applicable to each stool or skin.

272 (c) “to undertake an evaluation of traditional customs and usages with a view to eliminating those customs and usages that are outmoded and are socially harmful”.

The paper also mentioned Article 106 (3) of the Constitution which require Parliament to refer to the National House of Chiefs for advice on Bill relating to Chieftaincy and Article 26 (2) which prohibits cultural practice which dehumanise persons, thereby re-echoing the responsibilities on Nananom contained in Article 272.

According to the paper the research responsibilities of the National House of Chiefs are undertaken by its Research Committee, in accordance with the Standing Orders of the House.

Touching on the execution of the research duties of the National House of Chiefs, Prof. Nabila said that the Research Committee had dealt with a large number of Chieftaincy Declaration Forms in respect of enstoolments, destoolments, abdications and deaths of Chiefs for the purpose of meeting the requirement of Section 51 (1) of the Chieftaincy Act 1971, Act 370.

The paper again mentioned a research project aimed at codifying the lines of succession to stools and skins. So far according to the paper Paramount Stools including both the male and females stools, where applicable, had been covered.

Again, the paper said, through the effort of the Research Committee, the National House of Chiefs had decided to publish a Chieftaincy Bulletin as a means of giving public notification of chiefs whose names had been entered in the National Register of Chiefs in accordance with Article 270 (2b) of the 1992 Constitution.

The paper identifies funding, transportation and explosive chieftaincy disputes and their attendant insecurity in some areas where research into the lines of succession to stools and skins was being conducted as the major problems.

On the way forward, the paper made a number of suggestions, which included:

- more financial support especially from the Government of Ghana

- more commitment of Nananom to the project
- public education on the codification exercise etc.

4. **‘Chiefs as Partners in Development – Traditional Authorities vis-à-vis District Assemblies’** – by the Minister for Local Government and Rural Development, Hon. Charles B. Bintim

The Minister for Local Government and Rural Development, Hon. Charles B. Bintim thanked Nananom and the organisers for inviting him to share some thoughts with them on the above subject. He indicated that the concept of participation in local level governance by indigenous institutions especially Chieftaincy was not new in this country. He traced the involvement of chiefs in local governance (indirect rule) during the British Colonial Administration. The Hon. Minister said it was in recognition of the vital role that the institution of Chieftaincy has played in our pre-independence period and had continued to play in the post-independence era that the framers of the 1992 Constitution of Ghana in Chapter 232, Articles 270 – 275 guaranteed the establishment, preservation and insulation of the chieftaincy institution from undue interference.

On galvanising human and material resources, the Minister identified festivals as potential tools in the hands of Nananom to facilitate the process of mobilising people for nation building. He added that it was for this and other reasons that the Government treasured the institution of Chieftaincy as partners in development and had recognised the strategic role chiefs played as focal points for mobilising communities for communal labour and developmental purposes.

Hon. Bintim pointed out that chiefs were by legislation directly or indirectly part of the decentralisation system with representations on the Regional Co-ordinating Councils, District Assemblies, Sub-District Councils and Unit Committee. He, however, said the crucial challenge was how to make the provisions on Nananom’s representation on the above-mentioned bodies practically workable.

The Minister said for us to succeed as a prosperous state, the Government embarked on the decentralisation programme as the preferred option for local administration and governance. He added that the Government was therefore counting on the co-operation, understanding, goodwill and support of Nananom towards the successful implementation of the decentralisation process.

According to the Minister, it was a matter of great concern to Government that developmental projects in certain communities had been frustrated and derailed, largely due to chieftaincy disputes, litigation and disunity. He therefore appealed to Nananom to strive to settle all disputes amicably without resorting to violence and also with the support of Presiding Members, opinion leaders and District Assemblies developed early warning systems to avert conflicts in their communities. This, he said, would accelerate the pace of development in our communities in particular and the nation as a whole.

5. **‘The Role of Chiefs in Land Administration’** – by the Minister for Lands, Forestry and Mines, Hon. Dominic Fobih

The Minister for Land, Forestry and Mines, Hon. Prof. Dominic Fobih expressed his gratitude to Konrad Adenauer Foundation for its support for the seminar and other initiatives aimed at deepening Ghana’s democratic process.

On the title of his presentation ‘the Role of Chiefs in Land Administration’ the Minister said it was not only relevant but also timely in view of the current state of land management and administration in the country.

He said the importance of land to the socio-economic, political and cultural development of the country could not be overemphasised. He however indicated that one could not ignore the problems that beset the land sector and which were too widespread and debilitating to be ignored.

On Nananom role in land administration, the Minister quoted Articles 267 (1) of the 1992 Constitution, 164 (1) of the 1969 Constitution and 190 (1) of the 1979 Constitution and said these articles guaranteed Nananom a role in the administration of land in Ghana.

The Minister explained the various land holding interest (right) operating in Ghana. According to him, customary held lands were usually under some communal ownership and held in trust for the community by the Traditional Authority. He said the highest interest in such lands, known as ‘allodial’ title which was vested in the Stool (in many parts of Southern Ghana) or the Skin (in much of Northern Ghana) was the ultimate title to the land beyond which there was not superior title. He went further to say that in other Traditional Areas, however, the ‘allodial’ interest was vested in sub-groups (Stools, Sub-Stools, Clans and Families) as well as individuals.

In order to address the problems confronting the land sector, the Minister said the Government was currently embarking on the Land Administration Project (LAP) which was its Programme for implementing the National Land Policy.

On the long term goal of the National Land Policy, achievable within the next 15 – 25 years, the Minister said it was aimed at stimulating economic development, reducing poverty and promoting social stability by improving security of land tenure. He added that the first phase of the project (2004 – 2008) would lay the foundation for the implementation of the long-term land administration reform.

The Minister enumerated the benefits Nananom would derive from the LAP as follows:

- a. That Nananom’s capacity would be strengthened to manage theirs lands through the Customary Land Secretariats (CLSs) being established
- b. That Nananom would benefit from the demarcation surveying and registration of allodial land boundaries
- c. That Nananom would benefit immensely in the area of removal of sources of conflict through harmonisation of legal and policy framework, inventorying of state acquired and occupied lands, reducing the backlog of land cases in the courts, improving relation with tenant and migrant farmers, strengthening local Alternative Disputes

Resolution (ADR) mechanism and generally involved traditional authorities in decision-making on lands.

- d. That Nananom would also benefit from Deeds Registries being established in the ten regions to facilitate the recording and registration of land transactions.

The Minister asked Nananom to be proactive when it comes to the surveying and demarcation of allodial land boundaries by ensuring the safety of the surveying teams and help with clearing the boundary lines as well as in the dissemination of information to their citizens to avoid suspicion and delay of work.

In conclusion, Hon. Fobih urged Nananom, as custodians of lands, to ensure equity and fair play and be accountable in the administration of land as well as sell the concept of land as tradable asset to their people.