

Law, Religion and Reconciliation in Africa



Edited by
M. Christian Green
Jean-Baptiste Sourou
Célestin Gnonzont



7 TRADITIONAL CHIEFLY POWER AND ITS IMPLICATIONS FOR PEACEBUILDING, RECONCILIATION AND HUMAN RIGHTS IN GHANA

Seth Tweneboah¹

INTRODUCTION

On 20 June 2023, the Ghana News Agency carried a news item, headlined “Chiefs urge for peace in Assin North”, in which the chiefly authorities in the Assin North area of Ghana’s central region cautioned political functionaries to be mindful of their utterances, as these could frustrate the peace of the area.² The caution came ahead of a parliamentary by-election to be held in the Assin North constituency.³ For a variety of reasons, the said by-election can be dubbed as a most hotly contested by-election under Ghana’s Fourth Republic. The by-election became necessary after a seven-member panel of Ghana’s Supreme Court ordered that the name of Gyakyee Quayson, the Member of Parliament of the Assin North constituency, be expunged from parliamentary records.⁴ The Supreme Court ruled that at the time Quayson filed his nomination forms, there was no evidence of him renouncing his Canadian citizenship, and he was therefore not qualified to run in the 2020 parliamentary election to represent the people of Assin North constituency in Parliament. Given that Ghana’s Parliament was a split one, with each side having equal number of representations, both the opposition and the ruling party needed this seat to augment their numbers in parliament. The process leading to the by-election was thereby characterised by high emotions and tensions, a situation that was feared to potentially mar the peace of the area in particular and the nation at large. The chiefly authorities’ call for peace and calm in the area was therefore timely and apt.

Focusing on the account above and other examples of chiefly role in society, this chapter seeks to present the traditional chiefly authority as an ambivalent embodiment of peacebuilding, reconciliation and human rights. To be sure, in spite of the increasing democratisation and the religion-state separation, the traditional chiefly office remains a keystone in the Ghanaian public sphere. Article 277 of the Ghana’s Constitution of 1992 defines a chiefly authority as “a person, who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queen mother in accordance with the relevant customary law and usage.” As a political leader of his

1 Senior Lecturer, Centre for Africa Studies, University of Education, Winneba, Ghana.

2 Ghana News Agency (GNA). 2023. “Chiefs urge for peace in Assin North”, *Newsghana.com*, 20 June.

3 A by-election is an election held to fill a vacant parliamentary seat.

4 Kenu D. 2023. “Expunging Quayson’s name: Sharp division in Parliament” *Daily Graphic*, 9 July 2023.

ethnic group, the office of the chief mediates the material and spiritual universe.⁵ The chief is also a rallying point, serving as a vehicle for political mobilisation and legal enforcement in his territory. As Justice George K. Acquah, a distinguished Supreme Court judge, has noted, the chief is the one responsible for the physical, spiritual and moral welfare of his territory and is “duty bound to offer their subjects protection from physical and spiritual invaders.”⁶ Notwithstanding the growing influence of secularism and modernising pressures, studies have maintained that owing to the revered position traditional chiefs occupy in their territory, they will continue to play a pivotal role as embodiments of patriotism, neutrality and impartiality in the public domain.⁷ The sacred office of the chief, then, has a high purchase in the political modernisation, legal enforcement and peacebuilding efforts of contemporary Ghana.

At the same time, however, the traditional chiefly power has been exercised in ways that undercut the full maturation of democratic governance and peaceful coexistence of society. Again, as custodians of religious customary norms of their territory, traditional authorities have on occasion imposed certain customary sanctions on their subjects in ways that impede the principle of religious freedom and peaceful coexistence.⁸ Ironically, when it comes to the exact nature of chieftaincy institution, extant literature has paid sufficient attention mainly to power struggles, to the neglect of other open and overt peacebuilding and reconciliatory functions of chiefs.

The goal of this chapter, therefore, is to interrogate the manner in which the sacred office of traditional chiefly actors raises a number of ambivalent concerns regarding peacebuilding and reconciliation. By concentrating attention on the experiences of Ghana’s Fourth Republican era, the chapter aims to achieve two key tasks, namely: (1) to interrogate the manner in which, as a secular state, Ghanaian political actors have tapped into the sacred nature of chiefly office as a reconciliatory pathway and (2) investigate the prospects and pitfalls of traditional chiefly office when it comes to issues of peacebuilding, reconciliation and human rights. It is the operational contention of this chapter that despite the many challenges associated

5 Rattray RS. 1929. *Ashanti Law and Constitution*. Oxford: The Clarendon Press; Busia KA. 1969. *The Position of the Chief in the Modern Political System of Ashanti: A Study of the Influence of Contemporary Social Changes on Ashanti Political Institutions*. London: Frank Cass and Co Ltd; Sarpong P. 1971. *The Sacred Stool of the Akan*. Accra: Ghana Publishing Corporation; Yankah K. 1995. *Speaking for the Chief: Okyeame and the Politics of Akan Royal Oratory*. Bloomington & Indianapolis: Indiana University Press.

6 Acquah GK. 1991-1992. “Customary Offences and the Courts”, *Review of Ghana Law* 18: 36-67.

7 Dwamena-Aboagye D. 2020. Custodians of Peace and Unity: The Chieftaincy Institution and the 2020 General Elections. Issue Paper, Institute for Democratic Governance, IP-E-006-20:1-8.

8 Atiemo AO. 2006. “International Human Rights, Religious Pluralism and the Future of Chieftaincy in Ghana”, *Exchange: Bulletin of Third World Christian Literature* 35(4):360-382; Tweneboah S. 2017. “A Clash of Legal Norms: Banishment as a Customary Religious Sanction in Ghana”, *Journal of Law, Religion and State* 5(2):87-116.

with chieftaincy institution, traditional chiefly office continues to serve as essential forum for peacebuilding and reconciliation in Ghana. In the face of the weaknesses of post-independence Africa, traditional rulers remain an uncontested alternative to formal justice delivery and peacebuilding in Ghana. The chapter, therefore, seeks to demonstrate the ambivalent nature of traditional chiefly power in relations to peacebuilding and reconciliation in Ghana.

FRAMING THE ISSUE: THE NATURE AND AUTHORITY OF THE CHIEF

The chapter takes a sociolegal approach and will draw upon Max Weber's notion of authority to understand the nature, principle and processes of traditional peacebuilding and reconciliation using the office of traditional chiefly actors as a rally point for political mobilisation and social stability. Weber's averment was that under the traditional leadership, power is legitimised by respect for long-established cultural patterns: "People obey the lord personally since his dignity is hallowed by tradition; obedience rests on piety."⁹ A leader's legitimacy, Weber posits, is based on long-standing traditions, customs and practices. Weber elucidates this by indicating that "resting on an established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them ... obedience is owed to the person of the chief who occupies the traditionally sanctioned position of authority and who is (within its sphere) bound by tradition."¹⁰

Fundamentally, power from traditional authority comes from followers accepting the system's legitimacy for a long period. In traditional and contemporary Ghanaian society, owing to the sacred foundation of the chiefly institution, challenging a chief is tantamount to impugning the authority of the ancestors of the land.¹¹ In the face of growing democratisation, the traditional chiefly office is not overwritten but rather refined, transformed and stabilised in the process of state formation and democratic governance.¹² Abamfo Atiemo, a scholar of religion, has summarised the continuous significance of chiefly actors in the Ghanaian public domain thus:

Chieftaincy in modern Ghana has more than mere ornamental relevance. It plays very important roles. It is the most effective mechanism for preserving and promoting ethnic identity and solidarity in contemporary times. The most visible symbol of identity that has become the focal point of mobilization of ethnic loyalty is the chief. Even though chiefs do not wield

9 Weber M. 1958. "The three types of legitimate rule" Translated by Hans Gerth., *Berkeley Publications in Society and Institutions* 4(1):1-11.

10 Weber M. 1978. *Economy and Society: An Outline of Interpretive Sociology*. Berkley: University of California Press, 215.

11 Rattray, *Ashanti Law and Constitution*; Busia, *The Position of the Chief of Ashanti*, Sarpong, *The Sacred Stool of the Akan*; Yankah, *Speaking for the Chief*.

12 Mawuko-Yevugah L and Attipoe HA. 2021. "Chieftaincy and traditional authority in modern democratic Ghana", *South African Journal of Philosophy* 40(3):319-335; Tieleman J and Uitermark J. 2019. "Chiefs in the City: Traditional Authority in the Modern State", *Sociology* 53(4):707-723.

any substantial practical political power under the new national political arrangement, they represent and project the values of the culturally diverse communities that make up the country of Ghana.¹³

Because traditional leaders have been in leadership position for many years, they possess rich experience. This experience can be and is actually invaluable in moments of crisis or change.

Yet, the Weberian notion of authority raises concerns about traditional authority. For Weber, traditional authority yields to the creation and preservation of inequalities in society. In the Weberian sense, traditional authority is deemed as potentially restrictive, because by assuming the chiefly office through inheritance and by having no legal rational avenues to replace it, chiefly office holders can create laws that benefit only a section of the population in their territory. As we shall see in the ensuing discussion, in Ghana and elsewhere, the office of the traditional chief frustrates the implementation of international human rights standards.¹⁴ As such, some have even proposed the need to consider scraping the institution from the public domain.¹⁵ Academic scholars have given insufficient attention to how ambivalent the traditional chiefly office is for peacebuilding and reconciliation in the contemporary Ghanaian public sphere. This scholarly lacuna is worrying, considering that Ghanaian chiefly authorities have been deemed as indispensable in the public domain. This chapter, therefore, seeks to fill in the gap by examining the crucial role of chiefly actors when it comes to settling disputes and maintaining peace.

For purposes of this discussion, the nature of traditional chiefly authority is understood best by studying the political and legal role, as well as the religious sources upon which these emanate and thrive. Traditionally, a chief is the religio-political leader of his ethnic group. Legally speaking, as already noted, Article 277 of the Constitution of 1992 defines a chief as “a person, who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queen mother in accordance with the relevant customary law and usage.” This definition is further emboldened in the Chieftaincy Act of 2008.¹⁶ In the traditional setting, however, these two definitions yield themselves to significant challenges in relation to the proper definition of who qualifies to be a chief. While the state legal system gives credence to one’s recognition as a “chief”, the traditional definition does not yield itself to such demands. In some cases, clashes occur when a group of people still think that a particular candidate continues to be their chief, even if such candidacy is not recognised by the state. As a political leader of his people, to ensure the peace and stability of his territory, the

13 Atiemo, “The Future of Chieftaincy in Ghana”, 364.

14 Atiemo, “The Future of Chieftaincy in Ghana”; Tweneboah, “A Clash of Legal Norms”.

15 Akosah-Sarpong K. 2008. “Sampson Bofo’s Chieftaincy Confusion”, *The Statesman*, 10 January. See also Boateng K. and Afranie S. 2020. “Chieftaincy: An Anachronistic Institution within a Democratic Dispensation? The Case of a Traditional Political System in Ghana”, *Ghana Journal of Development Studies* 17(1):25-27.

16 Chieftaincy Act, 2008. (Act 759.)

chief is duty-bound to either wage war or reconcile with societies that threaten the survival of his people. The chief, thus, embarks on varied political and diplomatic engagements to ensure the peace of his people.

Religiously speaking, given that the legal, political and religious realms intertwine in African indigenous cultures, the source of the chief's legal and political authority is religion.¹⁷ In Akan societies, for instance, a chief is held as a sacred actor. He sits on a throne or stool that has been sat upon by his predecessors, who are held to be the royal ancestors. The stool, which is a sacred chiefly emblem, is deified as a metaphoric soul of the land, an organising symbol giving structure and meaning to the community and the people. It is the sacred stool that connects the chief to the spirits of his ancestors, who are believed to hold the key to the welfare of the community. A chief, then, mediates the material and spiritual universe and his office is a sacred one.

Ascendancy to the stool of the ancestors is not dependent on how well one is formally educated, nor does it depend on how articulate one is in matters of global economic and financial policies. While contemporary social transformation has made possessing these qualities necessary, the tradition regarding the qualification of an Akan chief, for example, does not put emphasis on this. As J.E. Casely Hayford, a member of the Ghanaian legal elite and statesman has maintained in his *Gold Coast Native Institutions*, traditional chiefly office is elective and no king is born king.¹⁸ What this means is that while most societies may opt for a leader who is comprehensively knowledgeable in the demands of the interplay between tradition and modernity, the custom that guides the ascension to the stool of the ancestors – royalty – remains essentially the same.

Becoming a chief is, first and foremost, contingent on being a royal. Yet other qualifications, to be sure, are essential elements of occupying the sacred stool. To maintain the reverence associated with this sacred office, the position of the chief is thereby regulated by a number of rules and regulations. During the chief's installation, these regulatory frameworks are spelt out to him to order his conduct. Akan law, as observed by R.S. Rattray, a colonial anthropologist and administrator, provides for the destoolment of the chief for any private or public misbehavior.¹⁹ Some have further argued, "The founders of the Akan State Constitution in their wisdom instituted a mode of procedure whereby an unwanted and oppressive Chief, an insufficient or incapable Chief, an unmoral or easy-going Chief, could be deprived of his position permanently at any time the governed felt that there were good reasons for deposing and replacing him by a better man."²⁰

17 Busia, *The Position of the Chief of Ashanti*, ch 2.

18 Hayford JEC. 1971. *Gold Coast Native Institutions: With Thoughts upon a Healthy Imperial Policy for the Gold Coast and Ashanti*. London: Frank Cass & Co Ltd, 33.

19 Rattray, *Ashanti Law and Constitution*.

20 Danquah JB. 1928. *The Akim Abuakwa Handbook*. London: Foster Groom & Co, 1928, 68.

It is for this and other similar reasons that the Asantehene, Otumfuo Osei Tutu II, in 2008 cautioned against, and, indeed, banned, the use of academic and “big” titles in his territory and also maintained that the chiefly title, “Nana”, is more valuable than any foreign name or title.²¹ According to the Otumfuo, the king also cautioned against his chiefs using suits to attend official functions, an act he described as having the potential of bringing the sacred office of the chief into disrepute. The success of a chief, he said, does not depend on big titles but on rather how well the chief has been able to live up to expectation. For the Asantehene, the tradition regarding the office of the chief must be defended and promoted, for the time has come for the chief to make the institution look more traditional. While defending traditionalism, the Otumfuo observed that the changing realities of society demand that a chief be equipped enough to fight the modern enemies of poverty, ignorance, disease and conflict, among others – and a chief will not be fit to be regarded as such should he fail to attend to these. It is then fair to say that in the context of Akan chieftaincy institution, despite the weaknesses inherent in the tradition and customs associated with the chief’s office, the position of the chief remains cardinal.

RELIGION, LAW, POLITICS AND THE POSITION OF THE CHIEF

Throughout the history of contemporary Ghana, the chieftaincy institution can be said to be the most enduring institution, surviving the assaults of the different epochs of the country’s history. Like most of Africa, contemporary Ghana emerged as a conglomerate of diverse ethnic communities, each of which was represented by their chiefly leaders, who are believed to play an intermediary role between the living and the royal ancestors. The general belief is that social wellness is hinged on fostering a good relationship and interaction with the ancestors, the chief’s predecessors. These ancestors, as noted, are imagined as the possessors of the key to the welfare, help and protection of the community. There is also the belief that the spirit of the dead rulers protects and sustains the entire ethnic group. As an occupier of the stool of his predecessors, the chief, upon his installation serves as an intermediary between the community and his royal ancestors, on whom the community relies for help and protection.²²

As K.A. Busia, the Ghanaian sociologist and former prime minister notes, from the moment that the chief is enstooled, he becomes a sacred person. His personality and office are therefore regulated by a number of taboos, including being forbidden to strike or be struck and also from walking barefooted. Owing to his special position

21 “Otumfuo bans use of academic titles”, *ModerGhana.com* 13 May 2013. It is worth noting he Asantehene is the king or monarch of the Asante. The term “*hene*” means “king”, and “Asante” refers to the ethnic group over whom the Asantehene presides. The term “Otumfuo”, meaning “the Mighty One” is a kingly title. The term “Nana” is a generic title for all kings in Ghana. It can be used to refer to all elderly people, as well as to the ancestors. In this case, the Asante king (Asantehene) is properly addressed as Otumfuo Osei Tutu II.

22 Busia, *The Position of the Chief of Ashanti*, 26.

as the number one person in society, the chief is held as the only one who can bring all the lineages together and sacrifice to his royal ancestors on behalf of the community as a whole. To the people, this is his most important function. With the sacred office of the chief flow other administrative, economic, cultural executive, judicial and military functions.²³

The introduction of European colonial rule, however, marked the beginning of the reification and alteration of the sacred nature of the traditional chiefly office. A more legal rational authority, underpinned by European legal positivism, was introduced. Given the influential and sacred nature of the traditional political institution, a major hinderance to the colonial administration was, as British political scientist David Kimble has noted, “the whole question of Chiefs and their courts”.²⁴ The colonial administration deployed a number of legal manoeuvres as a means of not only limiting the judicial powers of the chiefs but, most importantly, suppressing his office entirely. At the beginning of the nineteenth century, for instance, it was reported that the office of “some of the older chiefs had changed almost beyond recognition in their own lifetime”.²⁵ Despite these unsettling events, the chieftaincy institution remained resilient.

The independence of Ghana in 1957 did not change matters for the office of the chief. Aware that the chief possesses significant legal and political power and commands uncritical allegiance from his ethnic community, post-independence leaders have deployed diverse means to supplant the office of the chief. Under the administration of Kwame Nkrumah, for example, he made it his political business to tour the country drawing people’s attention to the dangers of ethnicity to the new nation-state.²⁶ The Avoidance of Discrimination Act was promulgated on 31 December 1957.²⁷ This Act, among other aims, sought to illegalise the formation of political parties based on ethnic and religious considerations.

Since this period, there have been sustained attempts to discourage citizens from taking decisions and embarking on activities based on ethnic affiliations in public administrations.²⁸ By 1970, the word “tribe” had become politically anachronistic. Proposals to were made to parliament to have the word “tribe” deleted from all official records.²⁹ In spite of these efforts, the law barely made any vital impact in limiting the people’s allegiance to their natural sovereign state, its systems and actors.

23 Busia, *The Position of the Chief of Ashanti*, 37.

24 Kimble D. 1963. *A Political History of Ghana: The Rise of Gold Coast Nationalism, 1850-1928*. Oxford: Oxford University Press, 464.

25 Kimble, *A Political History of Ghana*, 466.

26 Bening, *Regional Boundaries and National Integration*, 340-41.

27 Avoidance of Discrimination Act, 1957 (No. 38 of 1957).

28 Woodman, “How Does State Law Accommodate Diversity?”, 261.

29 Ghana, “Parliamentary Debates”, col 882, 23 March 1970.

Regulation of the modern chieftaincy

Owing to its crucial role, the chieftaincy institution is regulated by a number of legal, policy and institutional frameworks. Legally, the institution is regulated by a wide range of enactments including the Ghanaian Constitution of 1992 and the Chieftaincy Act of 2008. Article 270 (1) of the Constitution provides “that the institution of chieftaincy, together with its traditional councils as established by customary law and usage, is hereby guaranteed.”³⁰ It further states that the legislative arm of government (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 purpose whatsoever; or (b) in any way detracts or derogates from the honour and dignity of the institution of chieftaincy.”³¹ Article 106(3) of the Constitution further states that: “A bill affecting the institution of chieftaincy shall not be introduced in Parliament without prior reference to the National House of Chiefs.”³² As already noted, Article 277 of the Constitution defines a chief as “a person who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief or queen mother in accordance with the relevant customary law and usage.”³³ This definition is further emboldened by Section 57 (1) of the Chieftaincy Act.³⁴ Although there has been intense scholarly disaffection about the use of the term “king” in reference to the chief, at the popular level, the people’s understanding of the term does not significantly differ.

The office of the chief is also regulated by certain institutions including the Traditional Council, the Regional House of Chiefs and the National House of Chiefs. These chiefly bodies are to be autonomous and are empowered by the Constitution. Besides these, there is also a ministry, currently the Ministry of Chieftaincy and Religious Affairs, that is responsible for chiefly affairs.

The chief and national reconciliation

Owing to the rapid social transformation, the overarching framework within which the Ghanaian chieftaincy institution operates has been described by some academic analysts as anachronistic, inefficient and dispensable.³⁵ Previous studies suggest that the wave of social change in contemporary Ghana has relegated the chiefly function, at best, to only religious and cultural roles.³⁶ Yet K.A. Busia’s observation

30 Constitution of the Republic of Ghana, 1992, art 270(1).

31 Constitution of the Republic of Ghana, 1992, art 270(1).

32 Constitution of the Republic of Ghana, 1992, art 106(3).

33 Constitution of the Republic of Ghana, 1992, art 277.

34 Chieftancy Act, 2008, s 57(1).

35 Assimeng M. 1981. *Social Structure in Ghana*. Tema: Ghana Publishing Corporation, 109.

36 Abotchie C. 2006. “Has the Position of the Chief Become Anachronistic in Contemporary Ghanaian Politics”, in Odotei IK and Awedoba AK (eds). *Chieftaincy in Ghana: Culture, Government and Development*. Accra: Sub-Saharan Publishers, 174-178.

that with the sacred office of the chief emanates other functions including the administrative, executive, judicial, and military remains relevant in contemporary public domain.³⁷ Because the position of the chief is a revered one, chiefs have played a key function in the Ghanaian political domain. In this section, I detail some of the continuous functions they have played in forestalling national peace and reconciliation. I do this by looking at four key areas of interest: national elections, labour unrests, the Dagbon crisis and presidential residence saga.

Chiefs and national elections

It is instructive that election periods constitute a significant moment in Ghana's democratic process. There are varied reasons that account for this, but only two will be offered here. First, election years are crucial periods, not only for power-seeking politicians but also for electorates. Inasmuch as many of the electorates are impoverished, a majority of them depend on elected officials for their daily sustenance. As such, significant emotions are attached to who wins an election and the process leading to the election. This situation has yielded to various kinds of political vigilantism and other forms of violence.³⁸

Second, like most of Africa, the question of ethnicity has historically been a defining factor in deciding who gets elected to particular political high office. As a result, throughout its history, in both colonial and post-independence periods, tacit and open attempts have been made to suppress ethnic allegiance in Ghana. Considering that chiefs represent the ethnic groups of their people, they have played a vital role in political mobilisation in Ghana. In every community, a political actor visits to solicit support for votes, the chief's palace becomes, as a convention, the first point of call. Studies have shown some positive association between chiefly endorsement and political outcomes.³⁹ Given the influence they wield in the public domain, chiefly actors have, on occasions, led their people to resist the president's nomination to political office on the basis that these nominees are not "one of them" or their preferred candidates.⁴⁰

Beyond this, however, chiefs representing their ethnic groups have also played an important role in restoring and maintaining social peace and democratic wellness. In particular, as was pointed out at the beginning of this chapter, during election periods, chiefs, individually and collectively, become active in appealing to their

37 Busia, *The Position of the Chief of Ashanti*, 37.

38 Tweneboah S and Clotey E. 2022. "Political Vigilante Violence as a Weapon of Empowerment among Socially Excluded Ghanaian Youth", in Boskovic M, Misev G and Putnik N (eds). *Fighting for Empowerment in an Age of Violence*. Hershey PA: IGI Global, 307-322.

39 Brierley S and Ofosu GK. 2021. "Do Chiefs' Endorsements Affect Voter Behavior?" *International Group Centre*, 23 July 2021.

40 "Chiefs demonstrate against DCE nominee" *Myjoyonline.com*, 30 April 2009; Malik Abaas Daabu MA. 2009. "Tension in Atebubu over confirmation of DCE", *MyJoyOnline.com*, 24 April 2009.

members and political actors on the need for peaceful elections.⁴¹ There have been occasions when chiefly actors have prevented potential tension, including both legal disputes and political unrest, by calling political actors in tension to order.⁴² A typical example of this occurred in January 2013, when Nana Okotwerek Bekoe IV, Apagyahene of Gomoa Akyempim Traditional Area appealed to political parties to accept the decision of the Supreme Court concerning the 2012 presidential elections. Following a petition filed at the Supreme Court by the New Patriotic Party against Ghana's Electoral Commission and then President John Mahama, tension and general anticipation of the outcome went up; hence, there was need for his chiefly intervention.

Similarly, in 2019, Asantehene, Otumfuo Osei Tutu II, in a speech at the UN High Level Forum on Culture and Peace, as part of the United Nations General Assembly, stated that his palace had to persuade the former President John Dramani Mahama to accept defeat for purposes of national peace and stability during the 2016 presidential elections, which also ended up in the Supreme Court. Many Ghanaians hailed the Asante monarch for stepping in to forestall a potential national crisis. Thus, the chiefly appeal to political party leaders in tension and their followers not to take the law into their hands, but rather allow the state's legal processes to take their course in order to promote justice and the rule of law aptly buttresses the traditional function of the chief as the only one who could bring the lineages together.⁴³

Chieftaincy and labour unrest

The office of the chief is also a helpful pathway to mediating disputes between the government and workers in Ghana. In colonial and post-independence Africa and most developing economies, labour unrest has been a defining feature of how agitated working class have demanded fairness and social justice as these workers bring to light their plight in society.⁴⁴ Some of these organised forms of protest have resulted in violent episodes, which invariably have impeded economic growth as well as undermining national security issues. These labour unrests have been framed as a social justice issue, as the unrests are underpinned by concerns of (un)fairness. Given that they have implications for the nation, there are a number of legal and institutional frameworks that seek to regulate industrial relations. In Ghana, for example, the Labour Act of 2003, the governing legislation for matters related to employment and labour mandates employers to ensure health, safety

41 "Greater Accra Regional House of Chiefs calls for peaceful election", CitiNewsroom.com, 22 November 2022. "Chief admonishes NDC aspirants to conduct decent, campaigns", *Ghanaian Times*, 6 May 2023.

42 Syme S. 2013. "NPP-NDC supporters must respect Supreme Court verdict", *Graphic.com.gh*, 28 January 2013.

43 Busia, *The Position of the Chief of Ashanti*, 36.

44 Beittel M. 1995. "Labour Unrest in South Africa, 1870-1990", *Review (Fernand Braudel Center)* 18(1):87-104.

and welfare of persons at the workplace.⁴⁵ Crucially, to create a peaceful industrial relations environment, the Labor Act provides for the establishment of the National Labour Commission. This Commission aims to facilitate the settlement of and indeed to settle as well as investigate labour-related disputes. At the institutional level, in addition to the state civil law structures, there is also the national Fair Wages and Salaries Commission, established under the Fair Wages and Salaries Commission Act of 2007.⁴⁶

Yet owing to implementation challenges, among other vital causes, there has been recurrent loss of trust and confidence between the government, the key employer and workers. This situation has led to diverse forms of strike actions in the country, in which there has been an indisputable role of chiefly actors. In particular, the first quarter of 2013 witnessed a series of strike actions in Ghana. During this period, the teachers' union in Ghana embarked on a strike action over unpaid allowances and other concerns of vital importance. Prominently, this strike action was cautiously timed to coincide with the West African Senior Secondary Examination commonly referred to in Anglophone West African as WASSCE. The situation at the time has fittingly been described thus:

Just when the Ghana National Association of Teachers (GNAT) was calling off their strike action, the Teachers and Educational Workers Union also gave a strong signal to withdraw its services. Meanwhile, the Ghana Medical Association (GMA) and the Pharmaceutical Society of Ghana (PSGH) also indicated that their members would lay down their tools, not forgetting nurses and other auxiliary staff who support healthcare delivery.⁴⁷

Given the many allegations of corruption and ostentatious lifestyle of government appointees, Ghanaian workers were unwilling to back down in their demands and the government became seemingly helpless. It was in this context that the office of the chiefs became unsurprisingly helpful in the public domain. On 14 April 2013, the National House of Chiefs appealed to the striking worker labour unions, on compassionate grounds, to rethink the strike while the government made efforts to meet their demands. According to a statement issued by the then president of the National House of Chiefs, the Wulugu Naba, John S. Nabila, the situation at the time served as a threat to the "stability, peace and development of the country."⁴⁸ While some of these chiefly appeals have been defied, there is evidence of workers rescinding their decision after the intervention of high-profile chiefly actors.⁴⁹ This mediatory role of the chief reinforces the notion that notwithstanding the increasing

⁴⁵ Labour Act, 2003 (Act 651).

⁴⁶ Fair Wages and Salaries Commission Act, 2007 (Act 737).

⁴⁷ Seniwoliba AJ. 2013. "Ghana's Numerous Workers Strikes: A Cause for Concern", *Research Journal of Education and Review* 1(8):159-171.

⁴⁸ "Chiefs appeal to labour unions to call off strike", *GhanaWeb*, 31 August 2023.

⁴⁹ Nyabor J. (2018). "KNUST lecturers call off strike after Otumfuo's intervention", *Citinewsroom.com*, 29 October 2018. However, see also "TEWU defies Otumfuo's appeal, serves notice to withdraw service Wednesday", *GhanaWeb*, 4 January 2022.

secularising and modernising pressures on traditional political institutions, in the Ghanaian public domain, chiefly actors still function as icons of peace and order, reconciling the state and its people.

The Dagbon chieftaincy crisis

Traditionally, chiefly authority is highly territorial, and as the popular saying demonstrates, chiefs know their boundaries.⁵⁰ Even so, in spite of the pressures on the institutions to transform, some chiefs have appropriately maintained their relevance beyond their territories. Some have perceptively noted that traditional chiefly actors continue to serve as the external representatives to the world outside of the boundaries of their political communities.⁵¹ I shall detail this below using the incident of the Dagbon chieftaincy crisis, a 17-year-old dispute which became a national albatross. In 12 December 2019, the media reported that the overlord of the Dagbon kingdom in Ghana's Northern region, the Yaa-Naa, Abukari Mahama II, led a delegation of chiefs from his kingdom to thank the Asantehene, Otumfuo Osei Tutu II, for the role the latter played in leading eminent chiefs to resolve the Dagbon chieftaincy crisis, thereby bringing peace and reconciling the people of the area and beyond.⁵² Thus, the Dagbon crisis was resolved.

The crisis began in March 2002, when Yaa Naa Yakubu Andani II, the overlord of Dagbon was murdered along with 30 of his elders and other members of the community after a protracted succession dispute between two royal clans, the Abudu and Andani. The perpetrators of the regicide were said to have decapitated the king and made away with parts of his body, including the head, hand and foot. What began as conflict between the two royal clans soon took a larger intra-ethnic dimension following the murder of the overlord and his elders. This situation led to the 17-year period of no overlord and unrest in the area. Significantly, the conflict was replayed in other parts of the country, in particular at Agbogbloshie, a suburb of the nation's capital Accra, where most of the residents from the conflict found refuge.⁵³ The conflict also had a national political twist to it, as the parties to the conflict were linked to the two major political parties, the National Democratic Congress and the New Patriotic Party. The politicisation of the conflict frustrated national efforts at finding a workable solution to it.

50 Berry S. 2001. *Chiefs Know Their Boundaries: Essays on Property, Power, and the Past in Asante, 1896-1996*. Portsmouth: James Curry.

51 Brempong A. 2001. *Transformations in Traditional Rule in Ghana (1951-1996)*. Legon: Institute of African Studies, 113.

52 Hope KE and Osei FK. 2019 "Yaa-Naa hails Asantehene, eminent chiefs for resolving 16-year-old Dagbon chieftaincy conflict", *Ghanaian Times*, 12 December 2019.

53 Daabu MA. 2008. "Dagbon crisis replayed at Agbogbloshie", *ModernGhana.com*, 24 October 2008; "Parliamentary Defence and Interior Committee Visits Agbogbloshie", *PeaceFMonline.com*, 29 August 2009; "Violence in Agbogbloshie, Old Fadama must end now – Ya-Na appeals", *The Independent*, 5 December 2019.

In view of its multifaceted nature, it is understandable how efforts to resolve the conflict and reconcile the parties involved becomes commendable. As part of the attempt to resolve the conflict, in 2003, the government formed a Committee of Eminent Chiefs, which was a three-member committee of chiefly actors led by the Asantehene to intervene the crisis. The choice of the Asantehene was decisive for two reasons, namely the influential position of the Asantehene and the time-honoured alliance between the Asante and the Dagbon kingdoms. The Asantehene-led committee, despite notable challenges, was able to successfully reconcile the feuding factions, bringing about a lasting peace to Dagbon and Ghana as a whole. From this angle, it is understandable why the Yaa-Na Mahama II would stretch a hand of appreciation to the Asantehene. Thus, the Dagbon crisis was resolved with, among other forces, chiefly power and influence.

The official residence and office saga

One other function the chief has played when it comes to reconciliation is the manner in which it helped resolved the controversy that greeted ex-President John Dramani Mahama's request to keep a state bungalow and an office space. On 10 January 2017, the president, who had left office barely three days earlier, wrote a letter to the newly sworn-in president, Nana Addo Dankwa Akufo-Addo concerning Mahama's withdrawal of a request for official residence and office.⁵⁴ The ex-president had earlier expressed his interest in keeping state bungalow as part of his retirement package. The letter indicated that contrary to an earlier agreement, the former president had decided to "formally withdraw both requests to continue to stay at my current place of residence, No. 3 Prestige Link, Cantonments, and also to use bungalow No. 6, 3rd Avenue, Ridge as my office." The decision to request an official residence and office generated tremendous public displeasure. After a series of media and other public discussions, including what the letter described as "the erroneous impression created by some persons in Government", the former president decided to withdraw his request.

What is significant about this whole episode was that former President Mahama copied the Asantehene, Otumfuo Osei Tutu II, in the letter, opening up diverse public interpretation and speculation. The key question of concern, as a Facebooker asked, was: "But why was Otumfuo copied and not any of the former Presidents?" Significantly, popular opinion was that the decision to copy the Asantehene was borne out of the fact that the agreement to keep the building was reached when he held a meeting between the outgoing and the incoming presidents on a peaceful democratic transition. As has been made clear already, the position of the Asantehene is one of the revered and sacred offices not only in Ghana but also in Africa. As such, state and non-state actors have appealed to his office to intervene in certain cardinal issues of national importance. His office, like other chiefly offices,

⁵⁴ "Mahama copies Asantehene in withdrawal letter over bungalow", CitiFMonline.com, 11 January 2017.

is therefore an embodiment of peace and reconciliation not only within his territory but also at the national level.

CHIEFTAINCY, LAW AND HUMAN RIGHTS

In spite of the reconciliatory role, the traditional chiefly power has been exercised in varying degrees that undercut the full maturation of democratic governance and rule of law in Ghana. This section therefore pays attention to the manner in which the sacred office of the chief raises unsettling concerns regarding peacebuilding, reconciliation, and human rights. Again, a number of reasons account for this situation. I will, however, limit myself to only two of these in the ensuing discussion, namely the vague legal protection of the office of the chief and the arbitrary exercise of chiefly powers in the form of the imposition of banishment as a customary sanction.

Legal protections of chieftaincy

From the issues discussed so far, it is understandable that the state of Ghana has ambivalent dealings with the sacred office of the chief. On the one hand, despite the subtle attempts to subordinate the chiefly office, certain legal provisions regarding the institution have made it so powerful that it raises legal and human rights concerns. It must be said that the transition from traditional rule to a modern democratic system means that the individual is no longer fully the “subject” of the chief. The individual is under the general laws of the new state. Thus, any provision in favour of the office of the chief that also impedes the flourishing of the individual’s rights becomes a matter of legal contention. As the Ghanaian jurist, Justice G.K. Acquah once noted, “Basic human rights must be respected; the rule of law and principles of natural justice must prevail in the chief’s tribunal.”⁵⁵

In fact, until 2012, when concerns were raised at the Supreme Court for its expulsion, it was an offence under Section 63(d) of the Chieftaincy Act of 2008 to refuse the chief’s call.⁵⁶ This section of the Act provided that a person who “deliberately refuses to honour a call from a chief to attend to an issue commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units or to a term of imprisonment of not more than three months or to both and in the case of a continuing offence to a further fine of not more than twenty-five penalty units for each day on which the offence continues.” In *Nana Adjei Ampofo v. A.G. and the President of the National House of Chiefs*, the judges of the Supreme Court unanimously held that while chieftaincy is a revered and constitutionally entrenched institution in Ghana, the institution has also been governed by statutes since the colonial period. The rights of even chiefly actors, the ruling said, are subject to the 1992 Constitution. The Supreme Court therefore held that Section 63(d) must

55 Acquah GK. “The Judicial Role of the Chief in Democratic Governance”, in Odotei and Awedoba (eds). *Chieftaincy in Ghana: Culture. Governance and Democracy* , 75.

56 Chieftaincy Act, 2008, s 63(d).

indeed be expunged, deleted and struck from the Chieftaincy Act on grounds of its unconstitutionality.⁵⁷

There are difficulties, however, as far as the Chieftaincy Act is concerned. Similar to concerns raised by the petitioner in the case of *Nana Adjei Ampofo v. A.G. and anor*, there are concerns that sub-sections a, b, c, e of Section 63 of this Act are equally “legally vague and overbroad and also inconsistent with the spirit and letter of Articles 14 and 21 of the Constitution of 1992.” The concern has been that Section 63(c), in particular, makes it an offence to use disrespectful or insulting language or insult a chief by word or conduct.⁵⁸ Yet this provision imposes a restriction on an individual’s freedom of speech and expression particularly under Article 21(1)(a) of the Constitution.

The imposition of banishment

The application of customary sanctions in contemporary Ghanaian society has raised a host of challenges. Some have argued that in the new society, which is democratic, if the chief is to continue to exercise his judicial role, then his judicial power must be in consonance with the demands of the state’s principles of justice.⁵⁹ Seeing their influence and power diminished in their own lifetime, some chiefs have reacted in ways that have considerable consequences. In some traditional territories, some chiefs have imposed banishment on offenders in ways that offend the peace and reconciliation of society.

On April 2016, for example, the Atebubu Traditional Council imposed a ban on the Member of Parliament (MP) for the Atebubu-Amanten constituency, Sanja Nanja, as part of customary sanction against the MP for insulting the queen mother of the area.⁶⁰ In a press release, the MP was banned from visiting the chief’s palace for any political activity. The chiefly authorities also indicated that they would not attend any function organised by the government if the MP attended. Again, the MP was banned from attending any funeral or social event organised within the Atebubu Traditional Area. According to the chiefly authorities, the banishment was meant to serve as a deterrent to others who think like the MP. It was also meant to caution those who might want to undermine the integrity and freedom of the chieftaincy institution. This situation is significant in many ways and has been explained thusly:

Banning the MP from certain defined areas of the community suggests that chiefs enjoy internal supremacy, influence, and control not only in their areas of jurisdiction but also over state authorities. This case shows that the office of the chief has more than “mere ornamental relevance.” As owners

⁵⁷ *Nana Agyei Ampofo v Attorney General and the President of the National House of Chief*, 38 Ghana Monthly Judgements 134-73 (Supreme Court 2011): 134-73.

⁵⁸ Chieftancy Act, 2008, s 63(c).

⁵⁹ Acquah, “The Judicial Role of the Chief”, 75.

⁶⁰ Adu-Gyamerah E. 2016. “Atebubu Traditional Council bans MP over unsavory comments”, *Daily Graphic*, 4 April 2016.

of the land on which the new nation state is built, chiefly actors have shown themselves to be a potent means of asserting sovereignty.⁶¹

Both the legal frameworks and legal interpretation guiding the activities of sacred chiefly office have themselves become a challenge to the implementation of certain human rights standards. Article 11(3) of the Ghanaian Constitution makes provision for the application of customary norms peculiar to a community.⁶² The challenge, however, has been to determine what really constitutes a particular community in a society that has increasingly become heterogenous, with diverse ethnic and religious groups coexisting within a jurisdiction.

CONCLUSION

Attempts have been made in this chapter to demonstrate that in contemporary Ghanaian society, a traditional chiefly authority is not only an agent of peace and reconciliation in his area but also a major voice in matters of national significance. The chapter has shown that owing to his revered position, the office of the chief has been appealed to by both state and non-state actors as a pathway to reconciliation and peace. While the chief's office is a repository of peace and reconciliation, on occasions, owing to the chief's enormous influence in society, chiefly actions have led to tensions with significant legal and human rights implications in society. On some occasions, the office of the chief has been implicated in abuses that have occurred in the name of enforcement of customary law. This shows the ambivalent nature of sacred chiefly authority in the Ghanaian public domain. Traditional chiefly authority is not only an ancestral legacy that the chief uncompromisingly defends, but it is also an enduring national relic whose value cannot be left to demise. The institution is significant not only for traditionalists but also for political leaders of the new nation-state, as political actors draw their support mainly from the chiefs.

61 Tweneboah, "A Clash of Legal Norms", 109.

62 Constitution of the Republic of Ghana, 1992, art 11(3).