

ISSUES IN DEMOCRATIC DEVELOPMENT - 2010



# GHANA'S TRADITIONAL AUTHORITIES in Governance and Development

 **IDEAG** INSTITUTE FOR  
DEMOCRATIC  
GOVERNANCE

  
THE AFRICAN CAPACITY  
BUILDING FOUNDATION

 **G-rap**  
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## Preface and Acknowledgements

Since the 1992 Constitution came into force, a number of issues keep cropping up from the nation's attempt to engage in democratic governance and development. The issues include the relationship between the executive and parliament, the powers of the executive, the role of the media in democratic development, and decentralization, and democratic development. Some of the issues are quite recent and specific to democratic governance and development. Others predate the nation's transition from military rule to a democratic society. Some of the issues pertain to institutions that are already going through a process of introspection and adjustment in response to a barrage of reservations expressed by the public in respect of their performance. The role of other institutions has engaged the attention of the public without clear answers to the problems they pose for the effective practice of democratic governance.

In particular, the role of chieftaincy in the governance of this country has engaged public attention since colonial times. During the 1951-1986 period chieftaincy's claims to leadership and representation of society was vehemently contested under the raging tide of the newly unleashed democratic power of the people. But even after that period of radical politics, chieftaincy has fared no better either under military or democratically elected civilian government. Both civilian and non-civilian political elites assumed that the institution would capitalize on its natural claims to leadership and representativeness to play a dynamic role in the governance and development of the modern nation-state. They did not initiate concrete steps to integrate the institution into the formal structure of state power as the colonial state had done under the system of indirect rule.

This ambiguity surrounding the role of chieftaincy in democratic development has provoked greater public debate since the 1992 Constitution came into force, and the country embarked on the road toward a democratic society. The position of chieftaincy has remained intriguing because even though it continues to enjoy considerable support and loyalty from society the 1992 Constitution does not mainstream the position and functions of chiefs in the formal governance structures which may subject them to the same rules of transparency, accountability and responsibility as it does for other public office holders. Yet the democratic society that the country is committed to building is one in which the standards of good governance should be rigorously enforced to ensure that the wellbeing and security of the citizenry would remain the supreme guide in the conduct of public affairs, and all public office holders/bearers are subject to the sovereign power of the people as prescribed by the fundamental law of the land.

In deed the position of the chieftaincy institution in the governance of the country poses a paradox which is that even as its role in governance is mired in ambiguity, it still continues to perform important functions. As one of the reviewers of this research report observed,

As an independent state, Ghana disengaged chiefs from government. But chiefs have authority and command the support of their people. The people recognize and invest in chieftainship -

- The power of ethnic identity and cultural pride
- The power of community cohesion and leadership
- The power of ownership of land and resources
- The power of sustaining the social system and cultural norms and values

Identified with the customs and traditions of the people, chiefs rule the minds and emotions of the citizens. They have a major stake in governance.

(.....) Emerging from the colonial era, chieftaincy continued as the institution around which the people of Ghana, especially rural dwellers organized their lives. Thus, though chieftaincy has lost its role in government and has lost the power to hold court and imprison miscreants, chiefs continue to ensure settlement of disputes and the general wellbeing of their loyal citizens. (See review by George P. Hagan 2010: 9-10)

### Elaborating further on this paradox this reviewer states:

The Chieftaincy Institution is not a government institution, but its functions represent a vital complement to the functions of government in the lives of rural dwellers. .... (its functions) devolve on them by tradition and the constitution of chieftaincy. But were central and local government structures even to perform as they should, they would not provide the cultural content and value of the service that chiefs give to their subjects, which are, to give them a sense of cohesion, identity, history and place in the multi-ethnic state. (bid: 10)

It is precisely the inconsistency between an institution that has been "disengaged from government" or "is not a government institution" and yet performs government functions, or at least "provide content and value" to a range of services that would be normally provided by government that underpins the confusion in the public mind about its role as a governance body.

The research for this report was organized to investigate this misty area, against the backdrop of growing calls by contemporary Ghanaian chiefs for a more clearly defined role in the political governance of their areas of jurisdiction and in the social and economic development of the country. In deed, in recent times some chiefs in the country have initiated major development projects that are intended to provide access to education, jobs and improved living standards to their people and the general body of citizens of the nation.

The research was conducted within a clearly defined conceptual framework: both governance and development were defined as the working tools. And chieftaincy was defined in accordance with the Constitution. The premise for accepting this definition is that despite local peculiarities that have resulted from specific histories of the respective cultural zones of the country, the Constitution confers a working definition that makes chieftaincy more or less homogeneous and accordingly a uniform national institution. The following sample of Regional Houses of Chiefs and Traditional Councils was selected.

# 1

## INTRODUCTION

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The 1992 Constitution is premised on the democratic principle that the power to govern emanates from the people who express their consent through the ballot box. Political parties are the vehicle for securing the consent of the people. The key governance institutions have been spelt out in the Constitution. The principal ones operating at the national level are the executive, legislature, judiciary, and Council of State. The District Assembly is the hub of governance at the local level. There are several governance institutions whose functions are specific and restricted to well-defined areas within the total governance architecture. There are, for example, service councils which govern the security services such as the police, armed forces, and prisons; and also the Public Services Commission, which is responsible for the public services generally.

In the Constitution chieftaincy is not treated as part of the governance architecture of the state. Unlike other governance institutions, it is not established by the Constitution. The Constitution rather guarantees its existence, conceding the fact that the basis of its existence lies in customary law; therefore chieftaincy predates the Constitution. Secondly, because it is not regarded as an integral part of the modern state, it is confined to customary matters related to its standing in society. Furthermore, the state cannot decide on matters that affect chieftaincy without first consulting the National House of Chiefs. The disqualification of chiefs from engaging in party politics is, therefore, an indirect way of excluding them from the country's governance structures and processes except in strictly customary matters.

As with previous constitutions, the 1992 Constitution reserves participation in governance to people elected by the citizens of this country. The other governance institutions that are not elected either come directly or indirectly under the authority of elected institutions. The service councils are a good example. They are chaired by the President or Vice-President and also report to Parliament from time to time. Others like the Commission for Human Rights and Administrative Justice are chaired by people appointed by the President. Chieftaincy does not fall within any of these categories. Rather, as provided by the Constitution, individual chiefs serve on selected governance institutions such as the Council of State, Prisons Council and Regional Coordinating Councils as representatives of the National House of Chiefs or Regional House of Chiefs. Chiefs serve in their individual capacities on a number of commissions, committees, boards, and corporations as appointees of the government. In sum, chieftaincy is not part of the formal governance institutions of the modern Ghanaian state.

With regard to local government, Article 242(d) of the Constitution provides that the President shall appoint not more than 30 per cent of the members of a District Assembly **in consultation with traditional authorities and other interest groups in the district.** (Italics are mine.) Significantly, the Constitution regards traditional authorities as one of the interest groups that may exist in a district and not a special group whose claim to serve on the district councils is superior to the claims the other groups may have.

## Chieftaincy, Governance and Development

The institution of chieftaincy<sup>1</sup> is deeply embedded in Ghanaian society, constituting a complex of rules, ideologies, and roles. The chief is the ultimate authority in this institution which is also the fulcrum of various sub-identities within the Ghanaian nation-state. In traditional idiom, chieftaincy embodies government and the law. Since pre-colonial times the authority of the chief has been defined by customary law. Wiredu's exposition on the representative principle embedded in the mode of representation in traditional society<sup>2</sup> postulates a homogeneous social organization in which all clans are equal and command equal influence. Nonetheless, it is equally true that representation within the power structure of the political community was not based on universal franchise which is underpinned by the democratic principles of autonomy and equality of all members of the political community. As Dunn and Robertson (1973: 177) point out, "there is some ranking of the segment (clan) to which they (the members) belong in terms of their representation on the stool".

As the nation-state of Ghana evolved, the colonial regime took steps to adapt chieftaincy to its goal of controlling the colonized people and exploiting their natural resources. The imposition of civil authority signified the emergence of a superior authority based on civil law rather than custom. The power of the chief diminished in tandem with this change, eventually becoming a subordinate authority to the colonial state. The subordination of chiefly authority to the colonial state became more pronounced as the new political power developed paraphernalia of civil institutions - e.g. courts, army, police and bureaucracy - by which it enforced its authority on the basis of civil rather than customary law. This shift in the locus of political power away from chiefs to the colonial state did not occur by incorporating chieftaincy in the nascent colonial state. In the mind of the Akan, for example, the colonial state was Aban<sup>3</sup> - a state power that was both distant and alien. In effect the colonial state stood outside traditional society; chieftaincy was not regarded as an integral part of the colonial state; and the chief functioned at the fringes of the colonial state serving as an instrument of colonial rule - enabling the colonial state to pursue the purposes of the colonial mission. This was the essence of indirect rule. As an agent, the chief was expendable; hence a chief was the one who was recognized as such by the colonial government, or ceased to be one when recognition was either withdrawn or denied.

The republican movement which unfolded with the independence struggle of the 1950s further undermined chieftaincy as a local power that exercised political, judicial and economic power within its jurisdiction. The incursion of some chiefs into partisan politics during the 1950s and 60s legitimized the government's policy of deconstructing the institution of chieftaincy with the aim of depriving it of its political, legal and economic powers and leaving it as an essentially ornamental cultural institution.

<sup>1</sup> The term chieftaincy is used in this context to refer to traditional authorities - that is, one in which a "chief" [defined by Article 277 of the 1992 Constitution as "a person, who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and ensconced, enskinned or installed as a chief or queen mother in accordance with the relevant law and usage"] holds final authority.

<sup>2</sup> See Wiredu (1999) on the representative principle in traditional African society.

<sup>3</sup> According to Dunn and Robertson, (1973: 36; *passim*) the Akan associate *aban* with this higher authority - the state - and distinguish it from chieftaincy, which is the local authority.

From the Local Governance Ordinance of 1951 through the State Councils Ordinances of 1952 to the Chieftaincy Act of 1961, the government redefined the authority and role of chiefs, and limited their legislative and executive powers to purely customary matters.

However, those drastic attempts to take away the powers of chiefs could not completely subdue chieftaincy: the institution persisted as the symbol of the community and identity - "the clearest expression of the corporate political identity of the community." (Dunn and Robertson, op. cit: 222) After the overthrow of the First Republic, chieftaincy was greatly bolstered by the Constitutions of 1969 and 1979 as well as new Acts of Parliament which emanated from those constitutions. The Chieftaincy Act (1971) Act 370, for example, created the houses of chiefs and traditional councils as a platform for governance, but confined their powers and functions to customary matters. The 1992 Constitution went beyond the usual constitutional guarantees for the institution: it sought to protect chiefs against the vicissitudes of party politics by proscribing their participation in partisan politics. In reality, however, the Constitution confirmed the ambiguity that has characterized the relations between chieftaincy and the state regarding the provision of a formal role of the former in governance and development.

In sum, even though the Ghanaian state has, since colonial times, become the central power for ensuring good governance and development, chieftaincy has not been integrated in it, either at the national level, or at the local level where it is deeply rooted. In particular, the failure to integrate chieftaincy even in local-level state structures - namely, the district assemblies and unit and zonal committees, poses a serious challenge to the design of an effective and dynamic local governance structure. Chieftaincy is generally recognized as a local community institution, "The basis of such authority as the chief enjoys is ... still embedded in the intricate multiplex relationships within the community ..." (Dunn and Robertson, op. cit: 222.) The Akuffo-Addo Constitutional Commission also recognized the value of chieftaincy as essentially local.<sup>4</sup> Why then should Ghana's political establishment fail to integrate it in local governance structures even if only to emphasize its intrinsically local character?

The blanket exclusion of chiefs from national and local politics through the Constitution would seem to suggest that the nation's political class does not actually want to see chiefs engage in the governance and development of the country. Hence, they have abandoned even the limited incorporation of chieftaincy into the colonial state through the system of indirect rule. Two explanations may be inferred from this disposition on the part of the political class: i) The rules and norms that regulate chieftaincy make it incompatible with governance in a democratic state, implying that because of this incompatibility chieftaincy cannot form part of the democratic state. ii) The institution lacks the capacity to provide the necessary leadership for development in a democratic state. The Akuffo-Addo Constitutional Commission alluded to this lack of capacity in its *Memorandum on the Proposals for a Constitution for Ghana* (1968) when it lamented the generally poor level of education and enlightenment among Ghanaian chiefs. In the Commission's view, this had resulted in "the failure of chiefs to adapt the institution to bring it in line with the modern democratic process" (page 643). Dunn and Robertson, on the other hand, observed the following as further attributes of the (stereotypical Akan) chief:

<sup>4</sup> See Dunn and Robertson, op. cit: Chapter 5, footnote 13.

He is "an aging man of family and property, a dignified figure in his ornate kente cloth and sandals, uneducated but wise without being over-serious, a man with time on his hands to enjoy his political craft and the gin with which his supplicants are expected to ply him" (page 194). In other words, chiefs are unable to exercise effective leadership in developing the modern Ghanaian society because of these limitations. The Akuffo-Addo Commission recommended compulsory education for all stool heirs to improve the level of education and enlightenment among the new generation of chiefs in this country. The Commission assumed that education was enough to modernize and democratize chieftaincy for integration into the democratic state, and thereby enable chiefs to contribute effectively to the governance and development of the country.

This governance report examines the extent to which chieftaincy has functioned as a de facto governance and development institution despite the fact that it is not an integral part of the formal structures of governance and development. Has chieftaincy transcended the contradiction existing between its governing principles, norms and rules on one hand and on the other, those of a modern democratic state, including the rules governing recruitment into office, representation, as well as the exercise of power and authority with transparency and accountability? The report is located in this contradiction between an institution that is governed by traditional principles and the modern Ghanaian state which is underpinned by democratic principles. As the Akuffo-Addo Commission's position on the role of chieftaincy in modern democratic processes suggests, once chiefs become educated the institution would assume its governance and developmental roles in a democratic state. It presumes that the rules, norms and procedure that govern decision making in traditional polity – which require consultation and consensus building among the various clans or groups – will automatically be brought in line with those that govern decision making in a modern state. In the context of these contrasting principles that underpin traditional and modern polities respectively, how could chieftaincy submit to the rules of good governance? For example, would citizens be free to scrutinize the actions of their chief? Would chiefs become accountable to their citizens in accordance with the principles of good governance? Chiefs may take decisions through consultation or by consensus. However, with regard to the rules of governance, would they feel obliged to consult the rank and file of citizens? Through what structures would they consult and be held accountable? Would chiefs regard their people as free, equal and autonomous members of the political community, and acknowledge their inherent right to reason and make free choices in the governing and development processes? The Commission appears to believe that the rules, norms and procedure that underpin governance in traditional society are amenable to those of the modern democratic state, and that once chiefs are educated and enlightened, the institution would automatically renew itself in line with the imperatives of the democratic state. The report therefore takes cognizance of the changes in the socio-economic profile of persons who are ascending to the office of a chief in various traditional jurisdictions of the country, and how this has shaped the role of the institution in the governance and development of the country.

The two closely related concepts that define the objective and scope of this study are governance and development, which we discuss briefly below.

### Governance and development

Since 1989 when the World Bank placed the issue of good governance on the agenda of political reform in Africa, the meaning of the term has metamorphosed considerably. Currently it is used with reference to the manner in which power is exercised in managing a nation's affairs to ensure transparency, accountability of the governing elite to the citizens, citizen or popular participation, guarantee of freedoms and rights of citizens, ensure access to information, and so on. In practice, the term emphasizes the need to raise the democratic quality of governing a nation by making it participatory, transparent and accountable, and ensuring equitable development through responsible application of national resources. Good governance is therefore used to include participatory and equitable development.

However, the idea of development alone connotes, in a narrow sense, a set of actions aimed at improving the living conditions of the people. Citizens of this country expect their elected representatives or the political class generally at both national and local levels to negotiate with the government to finance the construction of schools, health centres, roads, markets, piped water and other socio-economic infrastructure which, in their view, would improve their condition of life. Development is therefore understood as the provision of a range of socio-economic infrastructure that the people want in order to improve their living conditions. In this report, a chief's contribution to development should be understood as success in negotiating for the provision of social or economic infrastructure or facilities for citizens within his jurisdiction.

The report is based on information collated partly through library/desk research, and then evaluated and analyzed. Data sources included the archives of the Traditional Councils, the Regional and National Houses of Chiefs, and the Ministry of Chieftaincy and Culture. To determine how the institution of chieftaincy has adapted itself to the challenges posed by the emergence of the modern democratic state, especially in the wake of the 1992 Constitution, and by its own internal and external dynamics, the authors reviewed published and unpublished works on the institution as well as the record of proceedings of Traditional Councils, Regional and National Houses of Chiefs. In this connection, the authors explored the evolution of new or modified structures intended to enhance citizen participation in governance: or how the institution as a whole has positioned itself to participate in the processes of governance and development. Where new governance structures have developed or evolved, the authors investigated the relationship between such structures and the relevant structures of the state at either the national or district levels. Paramount chiefs preside over Traditional Councils, and also constitute the Regional and National Houses of Chiefs where decisions and activities regarding governance and development are addressed. The president and one member of selected Traditional Councils, Regional Houses of Chiefs and the National House of Chiefs were interviewed to clarify issues on the role of chiefs in governance and development. The authors investigated policies or decisions chiefs make in pursuit of good governance and analyzed the dynamics of the processes such decisions might have gone through. What development issues do they address and how?

The following organs of chiefs were selected for the desk research and interviews:

- i. National House of Chiefs
- i. Two Regional Houses of Chiefs: the Eastern Region House of Chiefs and Northern Region House of Chiefs
- i. Three Traditional Councils selected randomly from the other regions: Ada Traditional Council (Big Ada) (Greater Accra Region), Ho-Asogli Traditional Council (Ho) (Volta Region), and Esikado Traditional Council (Sekondi) (Western Region)

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## 2 PROFILE OF PARAMOUNT CHIEFS

The Constitutional Commission (chaired by Justice Edward Akufo-Addo) suggested that the observed lack of capacity to provide the necessary leadership for development in a democratic state was due to the generally low level of education and enlightenment among Ghanaian chiefs. In the Commission's view, this had resulted in the "failure of the chiefs to adapt the institution to bring it in line with the modern democratic process" (para. 643). Other authorities on chieftaincy, including Bamfo (2000) and Adjaye and Misawa (2006), have advocated the need for the chief to have a good education. For instance, Adjaye and Misawa (2006: 8) state that "minimum educational requirements must be set for chiefs, and where this is too late, continuing education must be provided so that chiefs might become effective representatives and advocates for their communities..." Bamfo (2000: p. 161) reiterates the importance of a minimum level of education for contemporary chiefs when he states that "royal birth is important but not sufficient in securing a chieftaincy title... If the presumptive heir does not possess an acceptable level of education, he may not enjoy the sympathy of the electors". According to these authorities, a low level of education and a low level of enlightenment limit the capacity of chiefs to play an effective leadership role in the governance and development of the country. These observations were made in the late 1960s and early 1970s. The presumption was that chiefs would develop themselves adequately in response to the challenges of governance and development in a modern democratic society. The Akufo-Addo Commission's report put it tersely:

If chieftaincy is to play an effective and useful role in our community and if the institution is to be able to withstand the full impact of the development of modern political, economic and social institutions, a determined effort has to be made to educate stool and skin heirs to the highest possible standard to equip them with the requisite mental faculties so that when they become chiefs they will be in a position to modernize the institution and re-orientate it to fit into the administrative and social structure of modern democratic government. Without appropriate steps being taken in this direction to give the institution a modern look, chieftaincy, as we see it today, will drift progressively into a state of decadence and ultimately become a spent force in our community. The future of chieftaincy thus lies in the hands of the chiefs themselves and of all the stool and skin families throughout the country. (Emphasis in the original.) (Para. 643)

This chapter reviews the educational and occupational profile of contemporary paramount chiefs with a view to determining the level of educational attainment and enlightenment of a typical Ghanaian paramount chief. The focus is on the paramount chief because of the leadership position he occupies from the level of the Traditional Council to the National House of Chiefs. The review is important to the extent that it establishes the probability of a causal link between educational attainment and enlightenment on one hand, and on the other hand, contribution to the governance and development of the country.